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Administrative Review
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DATE: November 4, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh CJM
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review: Drill Pipe from the People's Republic of China

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I. Summary

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on drill pipe from the People's Republic of China (PRC). The period of review (POR) is January 1, 2013, through December 31, 2013. The respondent is Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. (Yida I&E) and its cross-owned affiliates Shanxi Yida Special Steel Group Co., Ltd. (Yida Special Steel) and Shanxi Yida Petroleum Equipment Manufacturing Co., Ltd. (Yida Petroleum) (collectively, the Yida Group). We preliminarily find that the Yida Group received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days from the date of publication of the notice of these preliminary results.

II. Background

On March 3, 2011, we published a CVD order on drill pipe from the PRC.[1] On March 3, 2014, we published a notice of "Opportunity to Request Administrative Review" of the CVD order for the period January 1, 2013, through December 31, 2013.[2]

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[1] *See Drill Pipe from the People's Republic of China: Countervailing Duty Order*, 76 FR 11758 (March 3, 2011).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 11757 (March 3, 2014).

On March 28, 2014, we received a request to conduct an administrative review from Yida I&E, a Chinese exporter of subject merchandise.[3] In accordance with 19 CFR 351.221(c)(1)(i), we published a notice initiating this administrative review of Yida I&E on April 30, 2014.[4] We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Act.

On May 19, 2014, we issued the initial questionnaire to the Government of the PRC (GOC) and Yida I&E.[5] On June 9, 2014, Yida I&E submitted its response to the company affiliation questions.[6] Yida I&E notified the Department that it would file a questionnaire response for itself and its cross-owned affiliates Yida Special Steel and Yida Petroleum.[7] The GOC and the Yida Group submitted their responses to the initial questionnaire on July 16 and 17, 2014, respectively.[8] On July 24, 2014, we issued supplemental questionnaires to the GOC and the Yida Group.[9] The GOC and the Yida Group submitted responses to the first supplemental questionnaires on August 7 and 14, 2014, respectively.[10] On August 25, 2014, we issued a second supplemental questionnaire to the Yida Group and received the response on September 8, 2014.[11]

III. Scope of the Order

The products covered by this order are steel drill pipe and steel drill collars, whether or not conforming to American Petroleum Institute (API) or non-API specifications. Included are finished drill pipe and drill collars without regard to the specific chemistry of the steel (*i.e.*, carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. Also included are unfinished drill collars (including all drill collar green tubes) and unfinished drill pipe (including drill pipe green tubes, which are tubes meeting the following description: seamless tubes with an outer diameter of less than or equal to 6 5/8 inches (168.28 millimeters), containing between 0.16 and 0.75 percent molybdenum, and containing between 0.75 and 1.45

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[3] This public document and all other public documents and public versions generated in the course of this review by the Department and interested parties are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at http://iaaccess.trade.gov and in the Central Records Unit, room 7046 of the main Department of Commerce building.
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 24398 (April 30, 2014).
[5] *See* Letters from the Department to the GOC and Yida I&E regarding "Countervailing Duty Initial Questionnaire" (May 19, 2014).
[6] *See* Letter from Yida I&E regarding "Response to Section III Identifying Affiliated Companies" (June 9, 2014) (Yida I&E Affiliates Response).
[7] *Id*.
[8] *See* Letter from the GOC regarding "Initial Questionnaire Response" (July 16, 2014) (GOC IQR), and Letter from Yida Group regarding "Initial Questionnaire Response" (July 17, 2014) (Yida Group IQR).
[9] *See* Letter from the Department to the GOC regarding "First Supplemental Questionnaire" (July 24, 2014); and Letter from the Department to Yida Group regarding "First Supplemental Questionnaire" (July 24, 2014).
[10] *See* Letter from the GOC regarding "First Supplemental Questionnaire Response" (August 7, 2014) (GOC First SQR), and Letter from Yida Group regarding "First Supplemental Questionnaire Response" (August 14, 2014) (Yida Group First SQR). On August 15, 2014, Yida Group submitted electricity exhibits that were inadvertently excluded from the August 14, 2014, submission. *See* Letter from Yida Group regarding "Supplemental Response" (August 15, 2014).
[11] *See* Letter from the Department to Yida Group regarding "Second Supplemental Questionnaire" (August 25, 2014), and Letter from Yida Group regarding "Second Supplemental Questionnaire Response" (September 8, 2014).

percent chromium). The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States (HTSUS) categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.

The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

IV. Subsidies Valuation Information

A. Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(iv) directs the Department to attribute subsidies received by certain other companies to the combined sales of the recipient and other companies if: (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department's regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to the Department's regulations further clarifies the Department's cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where

> the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits). … Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[12]

[12] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade (CIT) upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[13]

Yida Group

Yida I&E filed a response on behalf of itself and two cross-owned affiliates, Yida Special Steel and Yida Petroleum.[14] Yida I&E, established in 1999, is the exporter of subject merchandise, which is produced by its affiliated companies.[15] Yida Special Steel, established in 1997, produces steel ingots and billets that are manufactured into subject merchandise by Yida Petroleum, which was founded in 2001.[16] All company offices and facilities are located in Taiyuan City, Shanxi Province, except for Yida Special Steel's Chongqing Branch, which is located in Chongqing City, one of the PRC's four municipalities.[17]

Yida I&E reported that all three companies, which are domestically-owned companies, are owned by members of a family, and that all companies are under the common control of the family.[18] Pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily find that Yida I&E, Yida Special Steel, and Yida Petroleum are cross-owned because of common ownership.

In these preliminary results, we attributed any subsidies received by Yida Special Steel, the input supplier of steel ingots and billets, according to the rules established in 19 CFR 351.525(b)(6)(iv), using as the denominator the combined sales of Yida Special Steel, Yida Petroleum, and Yida I&E, net of affiliated sales. For any subsidies received by Yida I&E, the exporter, we attributed them under 19 CFR 351.525(c), using as the denominator the combined sales of Yida Petroleum and Yida I&E, net of affiliated sales.

V. Loan Benchmark Rates

The Department is examining loans received by the Yida Group from state-owned commercial banks (SOCBs). The derivation of the benchmark rates used to value these subsidies is discussed below.

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[13] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[14] *See* Yida Group IQR (July 17, 2014), at III-2 – III-16. Yida I&E identified other affiliates, but none is involved in the production or sale of subject merchandise and, therefore, a response for those companies was not submitted. *See also* Yida I&E Affiliates Response (June 9, 2014), at 4-5.
[15] *See* Yida Group IQR (July 17, 2014), at III-2.
[16] *Id*.
[17] *See* Yida I&E Affiliates Response (June 9, 2014), at Exhibit 1.
[18] *See* Yida Group IQR (July 17, 2014), at III-2; *see also* Yida I&E Affiliates Response (June 9, 2014), at III-4. The name of the family is proprietary information.

Short-Term RMB Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark.[19] If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."[20] As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate.

For the reasons explained in *CFS from the PRC*,[21] loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). There is no new information on the record of this review that would lead us to deviate from our prior determinations regarding government intervention in the PRC's banking sector. Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice.[22]

We first developed in *CFS from the PRC*,[23] and more recently updated in *Thermal Paper from the PRC*,[24] the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. For 2001 through 2009, the PRC fell in the lower-middle income category.[25] Beginning with 2010, however, the PRC is in the upper-middle income category and remained there for 2011 to 2012.[26] Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2001 – 2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010 – 2012. As explained in *CFS from the*

[19] *See* 19 CFR 351.505(a)(3)(i).
[20] *See* 19 CFR 351.505(a)(3)(ii).
[21] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum (IDM) at Comment 10. *See also* Department Memorandum regarding "Placement of China-NME Status Memoranda on the Record" (June 18, 2014).
[22] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."
[23] *See CFS from the PRC*, and accompanying IDM at Comment 10.
[24] *See Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying IDM at 8-10.
[25] *See* World Bank Country Classification, http://econ.worldbank.org/; *see also* Department Memorandum regarding "Interest Rate Benchmark Memorandum," dated concurrently with, and hereby adopted by, this memorandum.
[26] *See* World Bank Country Classification.

PRC, by pooling countries in this manner, we capture the broad inverse relationship between income and interest rates.

After identifying the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in the interest rate formation – the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001 – 2009, and 2011 – 2012, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates. For 2010, however, the regression does not yield that outcome for the PRC's income group. This contrary result for a single year does not lead the Department to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmark for the years from 2001 – 2009, and 2011 – 2012. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper-middle income" by the World Bank for 2010 – 2012, and "lower-middle income" for 2001 –2009.[27]

First, we did not include those economies that the Department considers to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments.[28] Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate and excluded any countries with aberrational or negative real interest rates for the year in question.[29] Because the resulting rates are net of inflation, we adjusted the benchmark rates to include an inflation component before comparing them to the interest rates on loans issued to the respondents by SOCBs.[30]

[27] *See* Interest Rate Benchmark Memorandum.
[28] For example, in certain years Jordan reported a deposit rate, not a lending rate, and Ecuador and Timor L'Este reported dollar-denominated rates; therefore, such rates have been excluded.
[29] For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rate was 34.95 percent and 37.25 percent, respectively. *See* Interest Rate Benchmark Memorandum.
[30] *See* Interest Rate Benchmark Memorandum for the adjusted benchmark rates including an inflation component.

Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.[31]

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where 'n' equals or approximates the number of years of the term of the loan in question.[32] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[33]

Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, the Department is following the methodology developed over a number of successive PRC proceedings. For U.S. dollar short-term loans, the Department used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any short-term loans denominated in other foreign currencies, we used as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where "n" equals or approximates the number of years of the term of the loan in question.[34]

VI. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available," subject to section 782(d) of the Act, if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C)

[31] *See Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008) (*Light-Walled Pipe from the PRC*), and accompanying IDM at 8.
[32] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying IDM at Comment 14.
[33] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates.
[34] *Id*., for the LIBOR rates.

significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA), information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the {AFA} rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[35] The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[36]

GOC— Provision of Electricity for Less Than Adequate Remuneration (LTAR)

The Department is examining whether the GOC provided electricity for LTAR to the Yida Group during the POR. We asked questions to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act. The GOC, however, did not provide a complete response to our requests for information regarding this program.

In the initial questionnaire, we instructed the GOC to respond to the *Electricity Appendix,* which requested the GOC to provide the provincial price proposals for each province in which the respondent companies are located and to explain how those price proposals were created.[37] Within the *Electricity Appendix,* we also asked the GOC to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals, and how the cost element increases in the price proposals and the final price increase were allocated across the province and across the tariff end-user categories.[38]

The GOC responded that it was unable to provide the price proposals because they are "working documents for the NDRC's review only."[39] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response explained theoretically how price increases should be formulated and did not explain the actual process that led to the price increases.[40] We, therefore, issued a supplemental questionnaire to the GOC restating our request

[35] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).
[36] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 at 870 (1994).
[37] *See* Initial Questionnaire (May 19, 2014), at section II, "Provision of Electricity for LTAR."
[38] *Id*., at *Electricity Appendix*.
[39] *See* GOC IQR (July 16, 2014), at 36. The NDRC is the National Development and Reform Commission.
[40] *Id*., at 36-41.

for this information.[41] In its supplemental response, the GOC did not provide the information requested.[42]

After reviewing the GOC's responses to the electricity questions, we preliminarily find that the GOC's answers are inadequate and incomplete. We further preliminarily find that the GOC withheld necessary information that was requested of it. Consequently, we must rely on the facts otherwise available for these preliminary results pursuant to sections 776(a)(1) and (a)(2)(A) of the Act.

Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information.[43] Regarding the NDRC documents, the GOC acknowledged the existence of such documents but withheld them without explaining why working documents could not be provided, particularly as the Department permits parties to submit information under protective order for limited disclosure if it is business proprietary.[44] Nor did the GOC provide any other provincial-specific documents that would have answered the Department's questions regarding electricity cost elements and pricing across the provinces and across tariff end-user categories. This missing information is necessary to a finding of a countervailable subsidy because the details required to analyze the GOC's provision of electricity are contained in the price proposals, which were not submitted.[45] We, thus, preliminarily find that an adverse inference is warranted in the application of facts available because the GOC withheld necessary information, and in so doing, failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information.[46]

In drawing an adverse inference, we preliminarily find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act and is specific within the meaning of section 771(5A)(D) of the Act. This approach is consistent with the Department's decision in the underlying investigation, first administrative review, and prior PRC CVD proceedings.[47]

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[41] *See* Letter from the Department to the GOC regarding "First Supplemental Questionnaire" (July 24, 2014).
[42] *See* GOC First SQR (August 7, 2014).
[43] *See* section 776(b) of the Act.
[44] *See, e.g.*, 19 CFR 351.306.
[45] *See Magnesia Carbon Bricks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010) (*Bricks from the PRC*), and accompanying IDM at Comment 8 (where the Department quoted the GOC as reporting that these price proposals are part of the price setting process within the PRC for electricity).
[46] *See* sections 776(a)(2)(A) and (b) of the Act.
[47] *See Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from the PRC Investigation*), and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences: GOC – Provision of Electricity for LTAR;" and *Drill Pipe from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 78 FR 47275 (August 5, 2013) (*Drill Pipe from the PRC First Review*), and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences: GOC – Provision of Electricity for LTAR." *See also Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 79 FR 56560 (September 22, 2014) (*Isos from the PRC*), and accompanying IDM at "Use of Fact Otherwise Available and Adverse Inferences – GOC;" and *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers from the PRC)*, and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences: Provision of Electricity for LTAR."

We also relied on an adverse inference in selecting the benchmark electricity tariff rates for determining the existence and amount of the benefit during the POR. We note that the GOC provided provincial data on gross domestic product per capita and electricity production/consumption[48] and requested the Department to use that data to select a benchmark that is comparable to Shanxi Province, where the Yida Group's main production facilities are located.[49] We however determine that it is appropriate to apply AFA with respect to the electricity benchmarks because the requested information, which the GOC failed to provide about the provision of electricity, also pertains to evaluating whether a benefit was conferred. As such, the application of AFA for the selection of benchmark rates is appropriate as well as consistent with the Department's approach in the underlying investigation, first administrative review, and prior PRC CVD proceedings.[50]

Specifically, we selected, as an adverse inference, the highest provincial electricity rates that were in effect during the POR as our benchmarks for determining the existence and amount of any benefit under this program.[51] The GOC provided the provincial rate schedules that were in effect during the POR.[52] We used those schedules to identify the highest provincial electricity rates in effect for the applicable user categories during the POR.[53] For details on the calculation of the subsidy rate for the Yida Group, *see* "Provision of Electricity for LTAR," below.

VII. Analysis of Programs

Based on our analysis and the responses to our questionnaires, we preliminarily determine the following:

A. <u>Program Preliminarily Determined To Be Countervailable</u>

<u>Provision of Electricity for LTAR</u>

In *Drill Pipe from the PRC Investigation* and *Drill Pipe from the PRC First Review*, we determined that this program confers a countervailable subsidy.[54] No information was submitted on the record of the instant review that contradicts the Department's prior finding. As discussed in "Use of Facts Otherwise Available and Adverse Inferences," we are basing our preliminary finding on the government's provision of electricity in part on AFA. We preliminarily determine, as AFA, that the GOC's provision of electricity is a financial contribution in the form

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[48] *See* GOC IQR (July 16, 2014), at Exhibit 13.
[49] *Id*., at "Provision of Electricity for LTAR," response to question K.
[50] *See Drill Pipe from the PRC Investigation*, and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences: GOC – Provision of Electricity for LTAR;" *Drill Pipe from the PRC First Review*, and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences: GOC – Provision of Electricity for LTAR;" *Isos from the PRC*, and accompanying IDM at "Use of Fact Otherwise Available and Adverse Inferences – GOC;" and *Wind Towers from the PRC*, and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences - Provision of Electricity for LTAR."
[51] *See* section 776(b)(4) of the Act.
[52] *See* GOC IQR (July 16, 2014), at Exhibit 12.
[53] *See* Department Memorandum regarding "Yida Group Preliminary Calculations," dated concurrently with, and hereby adopted by, this memorandum.
[54] *See Drill Pipe from the PRC Investigation*, and accompanying IDM at "Provision of Electricity of LTAR;" and *Drill Pipe from the PRC First Review*, and accompanying IDM at "Provision of Electricity of LTAR."

of the provision of a good or service under section 771(5)(D)(iii) of the Act, and that it is specific within the meaning of section 771(5A)(D) of the Act.

Yida Special Steel and Yida I&E reported that they purchased electricity from provincial utilities.[55] Yida Petroleum reported that it purchased electricity from a company from which it leased its facility.[56] There is no information on the record indicating that this company is owned or controlled by the GOC. As such, we are not including Yida Petroleum's electricity purchases from this company in the preliminary benefit calculation for this program.

To determine the existence and amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on the companies' reported electricity consumption volumes and electricity rates.[57] We compared the rates paid by the companies for their electricity to the highest rates that they could have paid in the PRC during the POR. In accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each applicable user category (*e.g.*, large industry and general industry/commerce), voltage class (*e.g.*, below 1k, 1-10kv, and 20kv), and basic fee (*e.g.*, transformer capacity).[58] Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a user category. The selected benchmark electricity rates reflect an adverse inference, because of the GOC's failure to act to the best of its ability in providing requested information about the provision of electricity in this administrative review, as discussed in "Use of Facts Otherwise Available and Adverse Inferences." We calculated benchmark electricity payments by multiplying consumption volumes with the benchmark electricity rate corresponding to the user category, voltage class, and time period (*i.e.*, peak, normal, and valley), where applicable. We then compared the calculated benchmark payments to the electricity payments made by the companies during the POR. Where the benchmark payments exceeded the payments made by a company, a benefit was conferred. Based on this comparison, we preliminarily find that electricity was provided for LTAR to Yida Special Steel and Yida I&E.

To calculate the subsidy for Yida Special Steel, we summed the company's benefits and divided the amount by the 2013 consolidated sales for Yida Special Steel, Yida Petroleum, and Yida I&E, net of affiliate sales, as noted in "Attribution of Subsidies." For Yida I&E, we summed the company's benefits and divided the amount by the 2013 consolidated sales for Yida Petroleum and Yida I&E, net of affiliate sales, as discussed in "Attribution of Subsidies." We then added the rates calculated for Yida Special Steel and Yida I&E to determine the overall program rate. On this basis, we preliminarily calculate a countervailable subsidy rate of 3.57 percent *ad valorem* for the Yida Group.[59]

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[55] *See* Yida Group IQR (July 17, 2014), at III-13, and Yida Group First SQR (August 14, 2014), at 9-10.
[56] *Id*.
[57] *See* Yida Group IQR (July 17, 2014), at Exhibits 19 and 20, and Yida Group Second SQR (September 8, 2014).
[58] Additional information on the benchmark rates is provided in the Yida Group Preliminary Calculations.
[59] *See* Yida Group Preliminary Calculations.

B. Program Preliminarily Determined To Not Provide Benefits During the POR Central and Provincial Policy Lending to Chinese Drill Pipe Producers

In *Drill Pipe from the PRC Investigation* and *Drill Pipe from the PRC First Review*, we found that the GOC has a policy in place to encourage the development of drill pipe production through policy lending provided by SOCBs or policy banks.[60] We determined that loans provided to drill pipe producers from those institutions constitute a direct financial contribution from the GOC pursuant to section 771(5)(D)(i) of the Act, and provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans (*see* section 771(5)(E)(ii) of the Act). Further, we determined that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because the GOC's policy, as illustrated in government plans and directives,[61] is to encourage and support the growth and development of the drill pipe industry.

Both Yida I&E and Yida Special Steel reported that they had loans provided by SOCBs or policy banks outstanding during the POR.[62] We examined whether a benefit was conferred under this program by comparing the amount of interest that each company paid on its outstanding loans to the amount of interest that it would have paid on comparable commercial loans.[63] In conducting this comparison, we used the interest rates described in the "Loan Benchmark Rates" section above. Based on our comparison of interest rates, we preliminarily determine that no benefits were provided under this program to Yida Special Steel and Yida I&E.[64]

In its initial response, the GOC stated that there was one change to this program since the Department's last examination of policy lending, *i.e.*, the *Interim Measures for the Administration of Working Capital Loans* (*Working Capital Measures*) promulgated by the China Banking Regulatory Commission in February 2010.[65] The GOC claims that the *Working Capital Measures* show that no industrial policy is required to be considered when a bank issues a credit loan to a borrower for the latter to use as working capital.[66] Because we preliminarily determine that no benefit was provided under this program during the POR, we need not address the GOC's argument about a change to the policy lending program as a result of the *Working Capital Measures*.

[60] *See Drill Pipe from the PRC Investigation*, and accompanying IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers," and *Drill Pipe from the PRC First Review*, and accompanying IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."
[61] For a discussion of the GOC's plans and directives, *see Drill Pipe from the PRC Investigation*, and accompanying IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."
[62] *See* Yida Group IQR (July 17, 2014), at III-9.
[63] *See* 19 CFR 351.505(a).
[64] *See* Yida Group Preliminary Calculations.
[65] *See* GOC IQR (July 16, 2014), at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."
[66] *Id*.

C. Programs Preliminarily Determined Not To Be Used

We preliminarily find that the Yida Group did not use the following programs during the POR:

- Export Loans from Policy Banks and State-Owned Commercial Banks
- Treasury Bond Loans
- Preferential Loans for State Owned Enterprises (SOEs)
- Preferential Loans for Key Projects and Technologies
- Preferential Lending to Drill Pipe Producers and Exporters Classified as Honorable Enterprises
- Debt-to-Equity (D/E) Swaps
- Loans and Interest Forgiveness for SOEs
- Two Free, Three Half Tax Exemption for Foreign Invested Enterprises (FIEs) Exemption from City Construction Tax and Education Tax for FIEs
- Local Income Tax Exemption and Reduction Programs for Productive FIEs Income Tax Reductions for Export-Oriented FIEs
- Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
- Reduction In or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
- Import Tariff and Value-Added Tax (VAT) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Export Incentive Payments Characterized as "VAT Rebates"
- VAT Rebates to Welfare Enterprises
- Provision of Green Tubes for LTAR
- Provision of Steel Rounds for LTAR
- Provision of Hot-Rolled Steel for LTAR
- Provision of Coking Coal for LTAR
- Provision of Land-Use Rights within Designated Geographical Areas for LTAR
- Provision of Land to SOEs for LTAR
- Provision of Electricity at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Provision of Water at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Technology to Improve Trade R&D Fund
- Outstanding Growth Private Enterprise and Small and Medium-sized Enterprises
- Development in Jiangyin Fund
- GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
- Scientific Innovation Award
- Development Fund Grant
- State Key Technology Project Fund
- Export Assistance Grants
- Programs to Rebate Antidumping Legal Fees
- Grants and Tax Benefits to Loss-Making SOEs at National and Local Level

- Subsidies Provided to Drill Pipe Producers Located in Economic and Technological Development Zones (ETDZs) in Tianjin Binhai New Area
- Subsidies Provided to Drill Pipe Producers Located in ETDZs in Tianjin Economic and Technological Development Areas
- Subsidies Provided to Drill Pipe Producers Located in High-Tech Industrial Development Zones

VIII. Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

November 4, 2014
(Date)