C-570-971
Administrative Review
POR: 01/01/2012 – 12/31/2012
Public Document
AD/CVD Office I: MJK / JSM

July 6, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for Final Results of Countervailing Duty Administrative Review: Multilayered Wood Flooring from the People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) has conducted an administrative review of the countervailing duty (CVD) order on multilayered wood flooring (wood flooring) from the People's Republic of China (PRC).[1] The period of review (POR) is January 1, 2012, through December 31, 2012. We find that the mandatory respondents Fine Furniture (Shanghai) Limited (Fine Furniture) and The Lizhong Wood Industry Limited Company of Shanghai (Lizhong) (also known as Shanghai Lizhong Wood Products Co., Ltd.) received countervailable subsidies during the POR. The mandatory respondents' CVD rates have been used to calculate the rate applied to the other firms subject to this review. We also are rescinding the review of one company, Changzhou Hawd Flooring Co., Ltd. (Changzhou), which certified that it had no shipments of subject merchandise to the United States during the POR.

II. BACKGROUND

On January 7, 2015, we published the *Preliminary Results* of this administrative review, in which we signaled our intent to conduct a post-preliminary analysis of certain programs.[2] Prior to the issuance of our *Preliminary Results*, on December 17, 2014, we issued a second supplemental questionnaire to the Government of the PRC (the GOC). The GOC submitted its

[1] *See Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011) (*Order*); *see also Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (*Amended Order*).
[2] *See Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Intent To Rescind the Review in Part; 2012*, 80 FR 859 (January 7, 2015) (*Preliminary Results*), and accompanying Decision Memorandum, dated December 31, 2014, at "Analysis of Programs – II. Programs For Which More Information Is Required" at 16.

response on December 31, 2014.[3] We issued third supplemental questionnaires to the GOC and Lizhong on February 2, 2015, and received responses on February 13, 2015.[4]

On March 11, 2015, we issued a Post-Preliminary Analysis,[5] and invited interested parties to file comments on the *Preliminary Results* and the Post-Preliminary Analysis. On March 19, 2015, the GOC submitted a case brief.[6] We also received letters from Fine Furniture,[7] Suzhou Dongda Wood Co., Ltd. (Dongda),[8] and Yixing Lion-King Timber Industry Co., Ltd (Lion-King).[9]

On May 5, 2015, we extended the time limit for issuing the final results of this review by 60 days to no later than July 6, 2015, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2). Subsequently, we issued a supplemental questionnaire to the GOC, to which it responded on May 22, 2015.[10]

The "Analysis of Programs" and "Subsidy Valuation Information" sections below describe the subsidy programs and the methodologies used to calculate the subsidy rates for these final results. Additionally, we analyzed the comments submitted by the GOC in its case brief, as well as those from Fine Furniture, Dongda, and Lion-King in the "Analysis of Comments" section below, which contains our responses to the issues raised by these parties. Based on the comments received, we made certain modifications to the *Preliminary Results*, which are discussed below under each program. We recommend that you approve the positions we have described in this memorandum. Below are the issues in this review for which we received comments from interested parties:

Comment 1 Specificity of the Support for Developing a National Technology Standard Program

Comment 2 Names of Companies in U.S. Customs and Border Protection Instructions

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[3] *See* Letter from the GOC, "Response of the Government of the People's Republic of China to the Department's Second Supplemental Questionnaire: Multilayered Wood Flooring From the People's Republic of China (C-570-971) (POR2)" (December 31, 2014) (G2SR).

[4] *See* Letter from the GOC, "Response of the Government of the People's Republic of China to the Department's Third Supplemental Questionnaire: Multilayered Wood Flooring From the People's Republic of China (C-570-971) (POR2)" (February 13, 2015) (G3SR); *see also* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Lizhong's Response to the Second {*sic*} Supplemental Countervailing Duty Questionnaire" (February 13, 2015).

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Post-Preliminary Analysis of Countervailing Duty Administrative Review: Multilayered Wood Flooring from the People's Republic of China" (March 11, 2015) (Post-Preliminary Analysis).

[6] *See* Letter from GOC, "Case Brief of the Government of the People's Republic of China: Multilayered Wood Flooring from The People's Republic of China" (March 19, 2015) (GOC Brief).

[7] *See* Letter from Fine Furniture, "Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People's Republic of China: Letter in Lieu of Case Brief" (March 19, 2015).

[8] *See* Letter from Dongda and Lion-King, "Multilayered Wood Flooring from the People's Republic of China: Correction of Typographical Errors" (January 8, 2015).

[9] *Id.*

[10] *See* Letter from the GOC, "Response of the Government of the People's Republic of China to the Department's Fourth Supplemental Questionnaire" (May 22, 2015) (G4SR).

III. SCOPE OF THE ORDER

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)[11] in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid curing formaldehyde finishes.) The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540;

[11] A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

IV. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

On April 4, 2014, we received a timely filed no-shipment certification from Changzhou. We submitted a no-shipment inquiry to U.S. Customs and Border Protection (CBP) for this company on April 10, 2014. We did not receive any information from CBP that contradicts the company's claim, or any comments from interested parties. Accordingly, pursuant to 19 CFR 351.213(d)(3), we are now rescinding the administrative review of this company.

V. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

In its post-preliminary analysis, the Department found the Support for Developing a National Technology Standard program countervailable, finding it to be *de facto* specific based on the limited number of recipients in Minhang District. Following the post-preliminary analysis, the GOC challenged our specificity finding, stating that section 771(5A)(D)(iii) of the Act requires that the Department "shall take into account the extent of diversification of economic activities within the jurisdiction" of the granting authority and the "length of time during which the program has been in operation." The Department recognizes that section 771(5A)(D)(iii) of the Act requires the Department to examine the extent of economic diversification within a jurisdiction and the length of time during which the subsidy program has been in operation when analyzing whether a subsidy is *de facto* specific. Subsequently, we issued supplemental questionnaires to the GOC and Lizhong asking for additional information regarding the scope of economic activities in Minhang District and the length of time that the program has been in existence.

On May 22, 2015, we received additional, new information from the GOC related to the scope of economic activities in Minhang District.[12] We have addressed that information in the "Programs Found to be Countervailable" section below.

[12] *See* G4SR at S4-1 and S4-2.

With respect to the "length of time" of the subsidy program, Lizhong had reported that it first received benefits under the the same program, for its participation in the drafting of a national quality standard for "antique style flooring" in 2010, saying "this precise program was addressed in detail in POR 1. . ."[13] However, the GOC asserted that the program under which Lizhong reported receiving assistance in 2010 was different from the one under which Lizhong received assistance during the POR. The GOC claimed that the differently named "Support for Developing a National Technology Standard" program was established by Minhang District in 2012, during the POR, for the purpose of encouraging enterprises to participate in formulating industrial standards, and that this program is currently scheduled to be in effect through 2015.[14]

In an effort to address these conflicting statements on the record regarding whether the program was newly established, or merely renamed, during the POR, we sent the GOC a third supplemental questionnaire requesting the entirety of the document titled "the Rules to Encourage Participation in Formulation of Technology Standards." On February 13, 2015, the GOC responded, refusing to provide the document in its entirety and claiming that the excerpt of this document that they had previously submitted was the only part relevant to the Department's analysis.[15] Moreover, the GOC failed to provide any additional information, and instead reiterated its prior claims that the program was newly established during the POR.

Hence, these claims remain unsupported by the record. Indeed, there is record evidence indicating the program was already in operation prior to the POR. In its supplemental response, the GOC provided the "standards documents" related to Lizhong's participation in the program.[16] The dates on both documents indicate that these were published and implemented in 2011, *i.e.*, the year prior to the POR, which belies the GOC's claim that the program began in 2012.[17] Moreover, Lizhong provided a copy of the letter it received confirming its participation in the program; although this letter is dated in 2012, it appears to indicate that the program was initiated earlier in 2010:

> According to the File 2010 No. 87 <The Notice regarding the Program of Revising National Quality Standards> initiated by national standards committee, the Outdoors Anticorrosive Wood Floor was listed as one of the national wood industrial standards programs in 2010 (Program No. 20100537-T-432).[18]

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[13] *See* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Lizhong's Response to the First Supplemental Countervailing Duty Questionnaire" (October 16, 2014).
In AR1, Lizhong reported receiving assistance in 2010 under a program entitled "Support for Lizhong's Participation in Drafting National Quality Standard," for its participation in drafting the national quality standard for "antique style flooring." We did not pursue this program during that administrative review because the reported benefit was received prior to that POR, and did not result in an allocable benefit under 19 CFR 351.524(b)(2).
[14] *See* G2SR at 1.
[15] *See* G3SR at 1. We note that this excerpted document bears no dates of any kind and provides no explanation as to the extent and type of information that was redacted from the full document.
[16] *Id.*, at Exhibits S3-2 and S3-3.
[17] *See* G2SR at 1.
[18] *See* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Lizhong's Response to the Third Supplemental Countervailing Duty Questionnaire" (February 13, 2015), at Exhibit 1.

Thus, not only is there no substantive support for the GOC's claims that the program was newly established during the POR, but on the contrary, the substantive evidence on the record – some of it from the GOC itself – appears to contradict those claims.

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" 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) 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 selecting from among 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.

We have determined that the GOC withheld necessary information that was requested, which significantly impeded our ability to determine the length of time in which the Support for Developing a National Technology Standard program existed. Accordingly, consistent with section 776(a)(1) and 776(a)(2)(A) and (C) of the Act, the use of facts available is warranted.

Further, we have determined that the GOC failed to cooperate to the best of its ability in not providing the Rules to Encourage Participation in Formulation of Technology Standards in its entirety or otherwise providing evidence to substantiate its claims that the 2010 program, Support for Lizhong's Participation in Drafting National Quality Standard, was an entirely different program from the program benefitting Lizhong during the POR.

Accordingly, as facts available based on an adverse inference, and pursuant to section 776(b) of the Act, we have determined that the Support for Developing a National Technology Standard program has been in existence for a period longer than the POR.

In light of the fact that the programs have similar names, similar purposes, and provided assistance to the same recipient, as well as our adverse inference rejecting the GOC's claim that the program only began operation in 2012, we find that the evidence on the record supports a conclusion that the program at issue is the same as the program under which Lizhong earlier received a grant, in 2010.

As facts available, we therefore conclude that the "Support for Lizhong's Participation in Drafting National Quality Standard" program in 2010 is the same program as the Support for Developing a National Technology Standard in 2012. We have used this conclusion in our analysis of the specificity of this program, in the "Programs Found to be Countervailable" section below.

VI. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

The average useful life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 10 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as revised.[19] No party in this proceeding claimed or established that the IRS tables do not reasonably reflect the company specific AUL, as provided in 19 CR 351.524(d)(2). Accordingly, we have measured subsidies from the beginning of the AUL, *i.e.*, January 1, 2003.

B. Attribution of Subsidies

Our regulations at 351.525(b)(6)(i) state that we will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will 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 our regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to our regulations further clarifies our 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.[20]

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

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[19] *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods, publicly available at http://www.irs.gov/publications/p946/ar02.html.

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

The U.S. Court of International Trade (CIT) has upheld our 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.[21]

1. Fine Furniture

Fine Furniture was founded in 2000,[22] is a "productive" foreign-invested enterprise (FIE),[23] and responded on behalf of itself and affiliated parties, Great Wood (Tonghua) Limited (Great Wood) and FF Plantation (Shishou) Limited (FF Plantation) (collectively, the FF Companies). These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.[24] For Fine Furniture, we are attributing subsidies it received to its total sales, in accordance with 19 CFR 351.525(b)(6).

Fine Furniture identified Great Wood as a supplier of kiln-dried lumber, cut-to-size lumber, and face veneer for furniture and flooring.[25] Because the production of these products is primarily dedicated to the production of the downstream product, we are attributing subsidies received by Great Wood to the combined sales of the input and downstream products (excluding inter-company sales) produced by each company, respectively, in accordance with 19 CFR 351.525(b)(6)(iv).

Fine Furniture identified FF Plantation as a supplier of plywood cores to Fine Furniture for the production of wood flooring.[26] Because the production of these products is primarily dedicated to the production of the downstream product, we are attributing subsidies received by FF Plantation to the combined sales of the input and downstream products (excluding intercompany sales) produced by each company, respectively, in accordance with 19 CFR 351.525(b)(6)(iv).

Entered Value Adjustment

Fine Furniture reported that its U.S. affiliate, Double F Limited (Double F), issued invoices with a mark-up for Fine Furniture's sales of subject merchandise to the United States.[27] Thus, Fine Furniture has requested that we make an adjustment to the calculation of the subsidy rate to account for the mark-up between the export value from the PRC and the entered value of subject merchandise into the United States,[28] as we did in the *Investigation Final* and in the *First MLWF Review*.[29]

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[21] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[22] *See* Letter from Fine Furniture, "Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People's Republic of China - CVD Questionnaire Response of Fine Furniture (Shanghai) Limited, Part II: General Questions" (July 7, 2014) (FFQR) at 2.
[23] *Id.*, at 3.
[24] *See* FF Affiliation Response at 9.
[25] *Id.*, at 6 and FFQR at 3.
[26] *Id.*, at 8 and FFQR at 3.
[27] *See* FFQR at 16-17 and Exhibit 10.
[28] *Id.*, at 17.
[29] *See Multilayered Wood Flooring From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 64313 (October 18, 2011) (*Investigation Final*), and accompanying Issues and Decision Memorandum (IDM), "B. Attribution of Subsidies" at 6-8. *See also Multilayered Wood Flooring From the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative*

Citing the *Investigation Final* and the *First MLWF Review*, Fine Furniture states that the adjustment is appropriate because: 1) the U.S. invoice is issued through Fine Furniture's affiliate, Double F, and includes a mark-up from the invoice issued from Fine Furniture to Double F; 2) the exporter, Fine Furniture, and the party that invoices the customer, Double F, are affiliated; 3) the U.S. invoice establishes the customs value to which countervailing duties are applied; 4) there is a one-to-one correlation between the Double F invoice and the Fine Furniture invoice; 5) the merchandise is shipped directly to the United States; and 6) the invoices can be tracked as back-to-back invoices that are identical except for price.[30]

As indicated by Fine Furniture's reference to the *Investigation Final* and the *First MLWF Review*, the Department has adjusted the calculation of the subsidy rate when the sales value used to calculate that subsidy rate does not match the entered value of the merchandise, *e.g.*, where subject merchandise is exported to the United States with a mark-up from an affiliated company, and where the respondent can demonstrate that the six criteria enumerated above are met. Because the information submitted by Fine Furniture supports its claim and the information also permits an accurate calculation of the adjustment, we have made an adjustment to the entered value.[31]

2. Lizhong

Lizhong was founded in 2002 as a limited liability, domestically owned enterprise (DOE), and responded on behalf of itself and affiliate Linyi Youyou Wood Co., Ltd. (Youyou).[32] From its inception through the POR, Lizhong remained a DOE, shifting from an original ownership by nine individuals to an ownership by six individuals in 2012 through the end of the POR.[33] Youyou was established in 2009 as a DOE by two of the individuals with ownership in Lizhong.[34] As such, these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.[35]

Lizhong identified Youyou as a producer of wood products, such as veneer, core and unfinished multilayered wood flooring.[36] Because Lizhong and Youyou are both producers of the subject merchandise, we are attributing subsidies received by either Lizhong or Youyou to the combined sales of the two companies, in accordance with 19 CFR 351.525(b)(6)(ii).

Review; 2011, 79 FR 45178 (August 4, 2014) (*First MLWF Review*) at "B. Attribution of Subsidies" at 6-9.

[30] *See* FFQR at 16-17.

[31] Due to the proprietary nature of the adjusted values, *see* Memorandum to the File, "Preliminary Results Calculation Memorandum for Fine Furniture (Shanghai) Limited" dated December 31, 2014 (Fine Furniture Calculation Memorandum).

[32] *See* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Shanghai Lizhong/ Linyi Youyou Wood Co., Ltd. Countervailing Duty Response" (July 14, 2014) (LQR) at 8.

[33] *Id.*, at 8-9 and Exhibit 2.1.

[34] *Id.*, at 9-10.

[35] *See* Lizhong Affiliation Response at 4.

[36] *Id.*, at 2 and LQR at 9.

C. Loan Benchmarks and Discount Rates

The Department is examining long-term loans and non-recurring, allocable subsidies conferred on the respondents prior to the POR.[37] Due to the absence of countervailable loan programs or non-recurring allocable subsidies received during the POR, we have relied on the benchmark and discount rates used to value the subsidies at issue in the *First MLWF Review*,[38] as discussed below.[39]

1. Short-Term Renminbi (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.[40] 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."[41] 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*,[42] 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. As a result, loans received by the respondents from private Chinese or foreign-owned banks are 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). 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.[43] 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.

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[37] *See* 19 CFR 351.524(b)(1).
[38] *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.
[39] We note that this benchmark information was included in the Letter from Fine Furniture, "Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People's Republic of China: Response to the Department's Supplemental Questionnaire" (September 2, 2014) (FFISR) at Exhibit CVD Supp-1.
[40] *See* 19 CFR 351.505(a)(3)(i).
[41] *See* 19 CFR 351.505(a)(3)(ii).
[42] *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 IDM at Comment 10.
[43] *See, e.g., 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."

We first developed in *CFS from the PRC*,[44] and then updated in *Thermal Paper from the PRC*,[45] 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 was in the lower-middle income category.[46] Beginning with 2010, however, the PRC is in the upper-middle income category.[47] Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for the period 2001 through 2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010 and 2011. As explained in *CFS from the 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 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 through 2009, and 2011, the results of the regression-based analysis[48] 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 benchmarks for the years from 2001 through 2009, and 2011. 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 and 2011, and "lower middle income" for 2001 through 2009. First, we did not include those economies that the Department considered to be non-market economies for antidumping duty (AD) 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

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[44] *See CFS from the PRC*, and accompanying IDM at Comment 10.

[45] *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, "Benchmarks and Discount Rates" at 8-10.

[46] *See* World Bank Country Classification, http://econ.worldbank.org/. *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.

[47] *Id.*

[48] *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.

that based its lending rate on foreign-currency denominated instruments.[49] Finally, for each year for which the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[50] Because these 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 by state-owned commercial banks.[51]

2. 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.[52]

In *Citric Acid Investigation*, 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.[53] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[54]

3. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used as the discount rate the long-term interest rate calculated according to the methodology described above for the year in which the non-recurring subsidy was approved by the government.[55]

VII. ANALYSIS OF PROGRAMS

Based upon our analysis and the responses to our questionnaires, we find the following:

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[49] 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.

[50] 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, which were aberrantly high. *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.

[51] *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.

[52] *See, e.g., Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008), and accompanying IDM, "Discount Rates" at 8.

[53] *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 Investigation*), and accompanying IDM at Comment 14.

[54] *See First MLWF Review* and accompanying IDM, "C. Attribution of Subsidies" at 6-9.

[55] *Id.*

A. Programs Found To Be Countervailable

1. Income Tax Subsidies for Foreign-Invested Enterprises Based on Geographic Location

In the *Investigation Final* and *First MLWF Review*, we found that this program conferred a countervailable subsidy.[56] Because no new information has been provided on the record of this review that would cause us to reach a different determination from the *Investigation Final*, we find that the reduced income tax rate paid by FIEs under this program confers a countervailable subsidy. The reduced income tax rate is a financial contribution in the form of revenue forgone by the GOC, and it provides a benefit to the recipient in the amount of the tax savings.[57] We further find that the reduction afforded by this program is limited to enterprises located in designated geographic regions and, hence, it is specific under section 771(5A)(D)(iv) of the Act.

Fine Furniture reported using this program during the POR.[58] To calculate the benefit, we treated the income tax savings enjoyed by Fine Furniture during the POR as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the benefit, *i.e.*, the amount of the tax savings, we compared the income tax Fine Furniture would have paid in the absence of the program (at the normal 25 percent tax rate) with the tax the company paid at the tax rate applicable to the company for the tax return filed during the POR (24 percent). To calculate the countervailable subsidy, we divided the benefits received by Fine Furniture in the POR by its sales during the POR, in accordance with 19 CFR 351.525(b)(6)(i). Neither Great Wood nor FF Plantation are located in this region, and, therefore, were not eligible for this preferential tax rate.

On this basis, we find that the FF Companies received a countervailable subsidy of 0.05 percent *ad valorem* under this program during the POR.[59]

2. Two Free, Three Half Program

In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.[60] Because no new information has been provided on the record of this review that would cause the Department to reach a different determination from the *Investigation Final*, we find that the exemption or reduction of the income tax paid by FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC, and it provides a benefit to the recipient in the amount of the tax savings, as described in section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also find that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, FIEs and, hence, is specific under section 771(5A)(D)(i) of the Act.[61]

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[56] *See Investigation Final* and accompanying IDM, "Income Tax Subsidies for FIEs Based on Geographic Location" at 11; *see also First MLWF Review* and accompanying IDM, "Income Tax Subsidies for Foreign-Invested Enterprises Based on Geographic Location" at 11-12.
[57] *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).
[58] *See* FFQR at 13-14 and Exhibits 8a and 8b; *see also* FF1SR at 15 and Exhibit 2.
[59] *See* Fine Furniture Calculation Memorandum.
[60] *See Investigation Final* and accompanying IDM, "Two Free, Three Half Program" at 12.
[61] *See CFS from the PRC* and accompanying IDM at Comment 14.

Fine Furniture reported that Great Wood used this program during the POR.[62] Great Wood was in a year of half (*i.e.*, 12.5 percent) tax reduction during 2011.[63] To calculate the benefit, we treated the income tax savings enjoyed by Great Wood during the POR as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax that Great Wood would have paid in the absence of the program (*i.e.*, at the rate of 25 percent) with the income tax the company actually paid during the POR (*i.e.*, at the rate of 12.5 percent). We divided the benefits received by Great Wood in the POR by the combined sales of Fine Furniture and Great Wood, less inter-company sales, in accordance with 19 CFR 351.525(b)(6)(iv).

On this basis, we find that the FF Companies received a countervailable subsidy of 0.04 percent *ad valorem* under this program.[64]

3. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands

In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.[65] Because no new information has been provided on the record of the instant review that would cause us to reach a different determination from the *Investigation Final*, we find that the grants provided under this program confer a countervailable subsidy. Specifically, we find the grants to be a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, and that they provide a benefit in the amount of the grants.[66] Further, we find the grants to be specific under section 771(5A)(B) of the Act because receipt of the grants is contingent upon export performance. Lizhong reported using this program in 2009 and 2012.[67]

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants.[68] Treating the year of receipt as the year of approval, we applied the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2). The 2009 and 2012 grant amounts were less than 0.5 percent of Lizhong's 2009 and 2012 export sales, respectively. Thus, in accordance with 19 CFR 351.524(b)(2), we expensed the entire amount of the grants in the respective years of receipt. We attributed the 2012 benefits to Lizhong's export sales in 2012. On this basis, we determine that Lizhong received a countervailable subsidy of 0.13 percent *ad valorem* under this program.[69]

[62] *See* FFQR at 9-11 and Exhibit 7b. The benefits Great Wood received in 2011 were received during the POR because its 2011 tax return was filed during 2012.
[63] *Id.*
[64] *See* Fine Furniture Calculation Memorandum.
[65] *See Investigation Final* and accompanying IDM, "GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands" at 16-17.
[66] *See* 19 CFR 351.504(a).
[67] *See* LQR at 17-21.
[68] *See* 19 CFR 351.524(b).
[69] *See* Memorandum to the File, "Preliminary Results Calculation Memorandum for The Lizhong Wood Industry Limited Company of Shanghai (Lizhong) (also known as, "Shanghai Lizhong Wood Products Co., Ltd.")" dated December 31, 2014 (Lizhong Calculation Memorandum).

4. Value-Added Tax (VAT) and Tariff Exemptions on Imported Equipment

In the *Investigation Final* and *First MLWF Review*, we found that this program conferred a countervailable subsidy.[70] Because no new information has been provided on the record of the instant review that would cause us to reach a different determination from the *Investigation Final*, we find that VAT and tariff exemptions on imported equipment under this program confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue forgone by the GOC, and they provide a benefit to the recipients in the amount of the VAT and tariff savings.[71] We further find the VAT and tariff exemptions under this program are specific under section 771(5A)(D)(i) of the Act, because the program is limited to certain enterprises, *i.e.*, FIEs and domestic enterprises with government-approved projects.[72]

Fine Furniture and Great Wood reported using this program in the *Investigation Final* and *First MLWF Review*, but reported receiving no additional assistance under this program during the POR.[73]

We normally treat exemptions from indirect taxes and import charges, such as the VAT and tariff exemptions, as recurring benefits, consistent with 19 CFR 351.524(c)(1), and expense these benefits in the year in which they were received.[74] However, when an indirect tax or import charge exemption is provided for, or tied to, the capital structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit to the firm over the AUL.[75] Because these VAT and tariff exemptions were received for capital equipment, we have applied the allocation rules described in 19 CFR 351.524(b), as explained below.

For Fine Furniture and Great Wood, we applied the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2), for each of the years in which exemptions were reported (treating the year of receipt as the year of approval). For the years in which the amount of VAT and tariff exemptions was less than 0.5 percent of the appropriate sales value, we expensed the exempted amounts in the year of receipt, consistent with 19 CFR 351.524(b)(2). For those years in which the VAT and tariff exemptions were equal to or greater than 0.5 percent of the appropriate sales value, we allocated the benefit over the AUL, consistent with 19 CFR 351.524(b)(1). We used the discount rate described above in the "Discount Rates" section to calculate the benefit for the POR.

To calculate the countervailable subsidy for the VAT and tariff exemptions received by Fine Furniture, we divided the benefits received in, or allocated to, the POR by its sales during the POR, in accordance with 19 CFR 351.525(b)(6)(i). For Great Wood, all of its VAT and tariff exemptions were less than 0.5 percent of the appropriate sales value, and were thus expensed in the year of receipt, consistent with 19 CFR 351.524(b)(2).

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[70] *See Investigation Final* and accompanying IDM, "VAT and Tariff Exemptions on Imported Equipment" at 12-13; *see also First MLWF Review* and accompanying IDM, "Value Added Tax (VAT) and Tariff Exemptions on Imported Equipment" at 12-13.
[71] *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1).
[72] *See CFS from the PRC* and accompanying IDM at Comment 16.
[73] *See* FFQR at 11.
[74] *See e.g., Investigation Final* and accompanying IDM at 13.
[75] *See* 19 CFR 351.524(c)(2)(iii) and 19 CFR 351.524(d)(2).

On this basis, we find that the FF Companies received a countervailable subsidy of 0.30 percent *ad valorem* during the POR.[76]

5. Provision of Electricity for Less than Adequate Remuneration (LTAR)

In the underlying investigation, the petition contained information indicating that the GOC provided electricity for LTAR and that the subsidy was regionally specific, pursuant to section 771(5A)(D)(iv) of the Act.[77] It was on this basis that we initiated our investigation of this subsidy program.[78] In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.[79] Specifically, we found that the GOC did not provide the requested original price proposals for 2006 and 2008 for each province in which a mandatory respondent or any reported "cross-owned" company was located, and that because the requested price proposals are part of the GOC's electricity price adjustment process, the documents were necessary for the Department's analysis of the program.[80] Therefore, as adverse facts available, pursuant to sections 776(a) and (b) of the Act, we determined that the GOC's provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act and was specific within the meaning of section 771(5A) of the Act.[81]

In the *First MLWF Review*, no new information was presented to warrant reconsideration of that finding and, thus, we again found that the GOC's provision of electricity was a financial contribution within the meaning of section 771(5)(D) of the Act.[82] No new information has been provided on the record of this review that warrants reconsideration of the determination from the *Investigation Final* or the *First MLWF Review*.[83] Therefore, we find that the GOC's provision of electricity is a financial contribution in the form of a good or service under section 771(5)(D)(iii) of the Act.

With respect to the specificity of the subsidy, the information on the *Investigation Final* record pertained to the regional specificity of this program.[84] This is consistent with our determination

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[76] *See* Fine Furniture Calculation Memorandum.
[77] *See First MLWF Review*, and accompanying IDM, "Provision of Electricity for Less than Adequate Remuneration (LTAR)" at 13-14.
[78] *See Multilayered Wood Flooring from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 70719 (November 18, 2010) (*Initiation Notice*); *see also First MLWF Review*, and accompanying IDM, "Provision of Electricity for Less than Adequate Remuneration (LTAR)" at 13-14.
[79] *See Investigation Final* and accompanying IDM, "GOC – Electricity" at 2-3, and "Provision of Electricity for LTAR" at 13-14.
[80] *Id.*
[81] *Id.*
[82] *See First MLWF Review*, and accompanying IDM, "Provision of Electricity for Less than Adequate Remuneration (LTAR)" at 13-14.
[83] *See* Letter from the GOC, "Response of the Government of the People's Republic of China to the Department's Questionnaire: Multilayered Wood Flooring From the People's Republic of China (C-570-971)" (July 14, 2014) (GQR) at 15-22 and Letter from the GOC, "Response of the Government of the People's Republic of China to the Department's Supplemental Questionnaire: Multilayered Wood Flooring From the People's Republic of China (C-570-971)" (October 9, 2014) at 1.
[84] *See First MLWF Review*, and accompanying IDM, "Provision of Electricity for Less than Adequate Remuneration (LTAR)" at 13-14.

in *Wire Strand from the PRC*[85] that this subsidy program is regionally specific "within the meaning of" section "771(5A)(D)(iv) of the Act."[86] Accordingly, consistent with the facts available on the record of the underlying investigation, the *Investigation Final*, the *First MLWF Review*, and our determination in *Wire Strand from the PRC*, we determine that the GOC's provision of electricity is "limited to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy," in accordance with section 771(5A)(D)(iv) of the Act.

To determine the existence and the 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 consumption volumes and rates paid.[87] To calculate the electricity benchmark, in accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each user category (*e.g.*, "large industry," "general industry and commerce," *et cetera*) and voltage class of the respondents (*e.g.*, 1-10 kilovolts (kv)), as well as the respondents' "base charge" (maximum demand and/or transformer capacity). We then compared what the respondents paid for electricity during the POR to what they would have paid at the benchmark prices.[88] Based on this comparison, we find that electricity was provided for LTAR, and that a benefit was provided in the amount of the difference between what the companies paid and what they would have paid at the benchmark rate.

To calculate the countervailable subsidy resulting from the provision of electricity for LTAR, we divided the benefit by the appropriate sales denominator. On this basis, we find that the FF Companies received a countervailable subsidy of 0.60 percent *ad valorem*, and Lizhong received a countervailable subsidy of 0.77 percent *ad valorem* under this program during the POR.[89]

6. Minhang District Pujiang Town Enterprise Support

In the *First MLWF Review*, we found that this program conferred a countervailable subsidy.[90] Because no new information has been provided on the record of this review that would cause us to reach a different determination from the *First MLWF Review*, we continue to find that grants under this program confer a countervailable subsidy. The exemptions are a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act, confer a benefit pursuant to 19 CFR 351.504, and are specific under section 771(5A)(D)(i) of the Act because, as reported by the GOC, it is limited to enterprises engaged in industrial business that have paid above a minimum level of tax.[91]

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[85] *See Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*Wire Strand from the PRC*), and accompanying IDM at "Federal Provision of Electricity for LTAR" at 9.

[86] *Id.*, at 9 and Comment L "Federal Provision of Electricity for LTAR" at 33.

[87] For the FF Companies, *see* FFQR at 13-14 and Exhibits 8-9; *see also* FF1SR at 15. For Lizhong, *see* LQR at 22-25 and Exhibits 10-11; *see also* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Lizhong's Response to the First Supplemental Countervailing Duty Questionnaire" (October 16, 2014) at Exhibit 17.

[88] These benchmarks were derived from the GQR at Exhibit 4. *See* Fine Furniture Calculation Memorandum and Lizhong Calculation Memorandum for detailed description of the benchmarks employed.

[89] *See* Fine Furniture Calculation Memorandum and Lizhong Calculation Memorandum.

[90] *See First MLWF Review* and accompanying IDM, "Minhang District Pujiang Town Enterprise Support" at 16.

[91] *Id.*

Lizhong reported receiving funds under this program in the *First MLWF Review* and reported that it had received additional assistance under this program during the POR.[92]

To calculate the countervailable benefit, we treated the year of receipt as the year of approval, and applied the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2). The grants received in each year, including the POR, were less than 0.5 percent of Lizhong's respective annual total sales. Thus, in accordance with 19 CFR 351.524(b)(2), we expensed the entire amount of the grants to the year of receipt. We attributed the 2012 benefits to Lizhong's total sales in 2012. On this basis, we find that Lizhong received a countervailable subsidy of 0.05 percent *ad valorem* under this program during 2012.[93]

7. Support for Developing a National Technology Standard

Established by the Minhang District government, this program provides a "stipend" or grant from the District government to enterprises that participate in the development of international, national and local industrial technology standards.[94] Operating under the direction of the Minhang Bureau of Quality and Technical Supervision, with funding from the Minhang District Bureau of Finance, Lizhong reported receiving funds under this program from the GOC during the POR.[95] The GOC reported that Lizhong met the eligibility criteria by taking part in two standard formulation processes.[96] The GOC further reported that 23 companies received assistance under this program during the POR,[97] which it later corrected as 23 standards-writing projects in which 18 companies participated, with some companies participating on more than one such project.[98]

We find that the assistance Lizhong received under this program constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act,which conferred a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). In the Post-Preliminary Analysis, we preliminarily found that this grant was *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the number of enterprises that received payment from the District government to develop industrial standards during the POR was limited, *i.e.*, 23 of 1,251 enterprises in Minhang District.[99]

Section 771(5A)(D)(iii) of the Act provides that we "shall take into account the extent of diversification of economic activities within the jurisdiction" of the granting authority and the "length of time during which the subsidy program has been in operation" when evaluating the *de*

[92] *See* LQR at 25, 27-28, and Exhibit 12.
[93] *See* Lizhong Calculation Memorandum. We note that Lizhong's assistance under this program in years prior to the POR accounted for less than 0.5 percent of the appropriate sales value, and was thus expensed in the year of receipt, consistent with 19 CFR 351.524(b)(2).
[94] *See* G2SR at 1-2.
[95] *See* LQR at 36-38.
[96] *See* G2SR at 7.
[97] *Id.*
[98] *See* G4SR at 2.
[99] *See* Post Preliminary Analysis at 3; *see also* G2SR at 7; *see also* G3SR at 2.

facto specificity factors. [100] The SAA states that the "Administration intends that these additional criteria serve to inform the application of, rather than supersede or substitute for, the enumerated specificity factors. (That is, while they are not additional indicators of whether specificity exists, these criteria may provide a clearer context within which the *de facto* factors would be analyzed)."[101]

The SAA also states that "with respect to economic diversification, in determining whether the number of industries using a subsidy is small or large, Commerce could take account of the number of industries in the economy in question."[102] If there were only two or three industries in the economy in question, then the fact that only a limited number of industries benefited from a subsidy might be more a function of the limited economy than the *de facto* specificity of the subsidy program. The information provided by the GOC adequately demonstrates that Minhang District, which is part of Shanghai, has a diverse economy, with 1,251 enterprises operating in 33 different industries.[103] Accordingly, this factor does not detract from the Department's determination that this subsidy is *de facto* specific because only a limited number of industries among the numerous and diverse industries operating within Minhang District have benefitted from this program.

With respect to the length of time during which the subsidy program has been in operation, the SAA states that the "Administration interprets the criterion concerning the duration of a subsidy program to mean that where a new subsidy program is recently introduced, it is unreasonable to expect that use of the subsidy will spread throughout the economy in question instantaneously."[104]

As discussed above under "Use of Facts Otherwise Available and Adverse Inferences," the GOC has claimed in its submissions that this subsidy program commenced during the POR, but has not addressed contrary evidence on the record indicating otherwise. As noted, the Department twice requested additional documentation from the GOC regarding this program, but the GOC declined our request. Nor has the GOC submitted any other documentation that adequately substantiates its claim or that refutes the contrary evidence on the record, as cited to above. Accordingly, consistent with sections 776(a) and (b) of the Act, the Department has applied facts available with an adverse inference based on the available record documentation to determine that this subsidy program was in operation before the POR, most likely since 2010. Thus, we determine that this program was not new in 2012, the POR. As such, the number of recipients of assistance under this program could not have been limited by the limited amount of time that the program has been in operation. Rather, we find that the limited number of recipients is indicative of *de facto* specificity under section 771(5A)(iii)(1).

To calculate the benefit, we first determined whether the grant received by Lizhong exceeded 0.5 percent of its sales in the year in which it was approved, consistent with 19 CFR 351.524(b).

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[100] *See also* Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911 (1994) at 914.
[101] *Id.* at 931.
[102] *Id.*
[103] *See* G4SR at 2 and Exhibit S4-1.
[104] *Id.*, at 931-932.

Because it did not, we allocated the amount of the grant to the year of receipt (*i.e.*, the POR) pursuant to 19 CFR 351.524(b)(2). On this basis, we find that Lizhong received a countervailable subsidy rate of 0.04 percent *ad valorem*.[105]

B. Programs Found To Be Not Countervailable

8. Tax Deduction under Article 96 of the Enterprise Income Tax Law

Established in 2008 under the *Enterprise Income Tax Law*, the purpose of this tax deduction is to encourage the employment of disabled workers by offsetting the tangible and intangible costs arising from such employment.[106] The GOC reported that the total amount of wages paid to disabled workers in a tax year is allowed to be deducted twice from the taxable income of the year.[107] Fine Furniture reports that its cross-owned affiliate, Great Wood, claimed the deduction under this program in its income tax return filed during the POR.[108] Information provided by the GOC indicates that Great Wood employed seven disabled workers.[109]

The GOC reported that assistance under this program was provided to Great Wood pursuant to Articles 8 and 30 of the *Enterprise Income Tax Law*,[110] Articles 34 and 96 of the *Enterprise Income Tax Regulations*,[111] and the *Circular of the Ministry of Finance and the State Administration of Taxation On Preferential Treatment in Enterprise Income Tax for Employing the Disabled*.[112] In particular, Article 96 of the *Enterprise Income Tax Regulations* states that "the enterprise could deduct all the salary payment for the disabled employees in light of true situation and again deduct additional 100 {percent} of the aforesaid salary payment," *i.e.*, double the normal deduction for wages if the wages are for disabled employees.[113]

In the Post-Preliminary Analysis, we found that this program was not *de jure* specific, consistent with the conditions under section 771(5A)(D)(ii) of the Act. Furthermore, we also found that this program was not specific under the factors in section 771(5A)(D)(iii) as the eligibility criteria indicate that it is generally available to any company that hired disabled persons, with no other criteria further limiting the availability and usage of the tax incentive. Such a determination is consistent with our prior findings regarding similar programs.[114]

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[105] *See* Post-Preliminary Analysis.
[106] *See* G2SR at 11.
[107] *Id.*, at 20.
[108] *See* FF1SR at 11.
[109] *See* G2SR at 17.
[110] *Id.*, at Exhibit S2-2.
[111] *Id.*, at Exhibit S2-3.
[112] *Id.*, at Exhibit S2-4.
[113] *Id.*, at Exhibit S2-3.
[114] *See, e.g., Certain Welded Carbon Steel Standard Pipe From Turkey: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 16439, 16442 (April 1, 2010), unchanged in *Certain Welded Carbon Steel Standard Pipe from Turkey: Final Results of Countervailing Duty Administrative Review*, 75 FR 44766 (July 29, 2010), in which we found that a program exempting a company from paying its share of insurance premiums if it employed handicapped workers was not specific because the exemption was "available to all employers who employ handicapped workers in jobs appropriate for their professions and physical and psychological status." *See also Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Germany*, 67 FR 55808 (August 30, 2002), and accompanying Issues and

Because we have determined that this program is not *de jure* or *de facto* specific under section 771(5A)(D) of the Act, for these final results, we find that it is not countervailable.

C. Programs Found to Be Not Used or to Provide No Measureable Benefit During the POR

9. Certification of National Inspection-Free on Products and Reputation of Well Known Firm – Jiashan County
10. International Market Development Fund Grants for Small and Medium Enterprises
11. Local Income Tax Exemption and Reductions for "Productive" FIEs
12. Provision of Electricity at LTAR for FIEs and "Technologically Advanced" Enterprises by Jiangsu Province
13. Minhang District Little Giant Enterprise Support
14. Technology Innovation Support

VII. ANALYSIS OF COMMENTS

Comment 1: Specificity of the *Support for Developing a National Technology Standard* Program

GOC Comments

First, the GOC argues that section 771(5A)(D)(iii)(I) of the Act requires a rationale for believing a program is specific in conjunction with the presence of one or more *de facto* specificity factors. As such, the GOC contends that the Department must articulate its reasons for believing that a subsidy is specific in conjunction with its *de facto* specificity finding. The GOC submits that the Department did not provide such a rationale in finding the Support for Developing a National Technology Standard program *de facto* specific in the Post-Preliminary Analysis.

Next, the GOC states that the Department must take into account the extent of diversification of economic activities within the jurisdiction of the authority providing the subsidy, and the length of time during which the program has been in operation. The GOC argues that the Department did not take either of these factors into account in the Post-Preliminary Analysis, and contends that questions regarding the number of recipient companies and industries and the amount of assistance approved under the program do not adequately address the extent of diversification of economic activities within Minhang District, nor do questions concerning the total number of enterprises in Minhang District. Thus, the GOC argues that the Department cannot hold the GOC liable for the lack of records by industry, and contends that the industrial sector to which a support recipient belongs is not important.

Finally, the GOC notes that this program only came into effect in 2012 and that rendering *de facto* specificity findings based on a limited number of recipients in the first year of a program is invalid, citing to the SAA statement that "it is unreasonable to expect that use of a subsidy will spread throughout an economy in question instantaneously." Given the newness of the program, the GOC contends that the Department must additionally demonstrate that "the authority

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Decision Memorandum, at Comment 19.

administering the program may be favoring certain enterprises or industries over others," in order to find *de facto* specificity.

Department Position:

We agree that in a *de facto* specificity analysis, section 771(5A)(D)(iii)(I) of the Act and the relevant section of the SAA require the Department to account for the extent of economic diversification within the jurisdiction of the granting authority (Minhang District) and the relative newness of a program (*Support for Developing a National Technology Standard*). As an initial matter, we continue to find that this grant conferred under the program is a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant.[115] Regarding specificity, a review of the "Rules to Encourage Participating in Formulation of Technology Standards" indicates that assistance under this program is not limited to certain enterprises, industries or groups thereof, and thus not *de jure* specific pursuant to section 771(5A)(D)(i) of the Act.[116] As such, we must examine whether there are reasons to believe that a subsidy may be specific as a matter of fact.[117]

In determining whether a program is *de facto* specific, we examine the four *de facto* specificity factors under section 771(5A)(D)(iii) of the Act.[118] We conduct this examination sequentially, finding *de facto* specificity if one or more of the factors exists.[119] Section 771(5A)(D)(iii) of the Act also provides that we take into account the extent of diversification of economic activities within the economy in question and the length of time during which a subsidy program has been in operation when evaluating the four *de facto* specificity factors.[120] The SAA allows that where the economy lacks diversity and the subsidy program is relatively new, the evaluation of *de facto* specificity factors (*i.e.*, limited number of users, dominant users, or disproportionately large user) may not be indicative of specificity. However, the SAA also makes clear that the additional criteria of economic diversity and the relative newness of a program "serve to inform the application of, rather than supersede or substitute for, the enumerated specificity factors."[121]

In accordance with section 771(5A)(D)(iii) of the Act, the Department analyzed the economic diversification data provided by the GOC. According to information provided by the GOC in its most recent supplemental response, the data adequately demonstrate that Minhang District is diverse and the subsidy is limited, whether on an industry or enterprise basis.[122] There are 33 different industries in operation in the district and the companies that received assistance under this program operate in only 18 of these industries. Moreover, there are 1,251 enterprises in operation in the district, and only 18 enterprises received assistance. These facts support our conclusion that the program is *de facto* specific based on the limited number of users.

With respect to the "length of time" of the subsidy program, as explained above, the GOC stated

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[115] *See* 19 CFR 351.504(a).
[116] *See* G2SR at Exhibit S2-1.
[117] *See* section 771(5A)(D)(iii) of the Act.
[118] *See* SAA at 931-932.
[119] *Id.*
[120] *Id.*
[121] *Id.*
[122] *See* G4SR at Exhibit S4-2.

that the "Support for Developing a National Technology Standard" program, which provided funding to Lizhong during the POR, was established in 2012 and is to be terminated by the end of 2015.[123] However, in a questionnaire response, Lizhong stated that it had reported receiving benefits in 2010 under "this precise program," *i.e.* the "Support for Lizhong's Participation in Drafting National Quality Standard" program in the first administrative review.[124] The Department asked the GOC to clarify this apparent discrepancy in the GOC's response and to provide evidence to support its claim that this is a new program. However, the GOC elected not to do so, claiming that the program under which Lizhong reported receiving assistance in 2010 was different from the one under which it received assistance during the POR.

Because we twice asked the GOC to provide documentation regarding the 2012 program and it elected not to do so, we have based our determination upon the facts available on the record, including the GOC's failure to provided the necessary information, as requested. In light of the GOC's failure to cooperate to the best of its ability, we have also employed an adverse inference in selecting from the available fact for purposes of this issue, and determined that the "Support for Lizhong's Participation in Drafting National Quality Standard" program in 2010 is the same program as the "Support for Developing a National Technology Standard" in 2012. *See* Section V. Use of Facts Otherwise Available and Adverse Inferences. Accordingly, because we have determined the program was not newly established in the POR, we conclude that the pool of potential users during the POR is not limited as a result of the alleged limited amount of time that the program has been in operation of the program for purposes of a specificity determination.

Because we find that Minhang District is economically diverse and that the program existedbefore the POR, and most likely since at least 2010, the Department finds that the additional criteria of economic diversity and program duration pose no issue that detracts from a finding of *de facto* specificity based on the enumerated factors under sections 771(5A)(D)(iii)(I)-(III) of the Act. As earlier discussed, the GOC provided information and clarification indicating that 18 out of a total of 1,251 enterprises above a certain size in Minhang District, representing 18 out of 33 industry sectors, were approved for and received assistance under this program in 2012.[125] Consequently, we continue to find that this program is *de facto* specific because the industries and enterprises that received assistance under the program are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Comment 2 Names of Companies in U.S. Customs and Border Protection Instructions

Dongda and Lion-King Comments

Dongda and Lion-King submit that the Department included inadvertent errors in the spelling of their respective names in the *Preliminary Results*. Dongda and Lion-King point to their entry of appearance in this proceeding as evidence of how their respective names should have been spelled, and request that these errors be corrected. Dongda and Lion-King also state that they are aware of no companies with the names as spelled in the *Preliminary Results*, and argue that it is

[123] *See* G4SR at 3.
[124] *See* Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: Lizhong's Response to the First Supplemental Countervailing Duty Questionnaire" (October 16, 2014) at 3-4.
[125] *See* G2SR at 7, G4SR at 2 and S4-1 and S4-2.

clear that the Department intended to include Dongda and Lion-King, rather than the incorrectly spelled companies.

Fine Furniture Comments

Fine Furniture requests that the Department include the name of its affiliate, Double F, in the cash deposit and liquidation instructions to CBP that will be issued after these final results. Fine Furniture argues that this is necessary because Double F is listed on all import documentation submitted to CBP for shipments of subject merchandise during the POR. Fine Furniture explains that the U.S. invoice is issued through Double F, and this invoice establishes the customs value to which CVD duties are applied. Fine Furniture contends that including both company names (*i.e.*, Fine Furniture and Double F) on the CBP instructions will avoid confusion and unnecessary time correcting mistakes that could be made as a result of Double F's name not being included on the instructions. Finally, Fine Furniture states that the Department granted a similar request in a recent administrative review of the AD order of wood flooring from the PRC.

Department Position:

We have corrected the names as requested by Dongda and Lion-King.[126] Regarding Fine Furniture's request, however, we are not granting Fine Furniture's request to list its Hong Kong affiliate, Double F, in the cash deposit and liquidation instructions to CBP.[127] In the *Investigation Final*, the *First MLWF Review*, and these final results, we granted Fine Furniture's request for an entered value adjustment.[128] Thus, we have based our subsidy rate calculations on the customs value to which CVD duties are applied to all subject merchandise produced by Fine Furniture upon importation into the United States. In this manner, we are already accounting for entries of subject merchandise that Fine Furniture is supplying through its Hong Kong affiliate, Double F, as the exporter of record. Therefore, listing Double F separately is unnecessary.

[126] *See* Letter from Suzhou Dongda Wood Co., Ltd. and Yixing Lion-King Timber Industry Co., Ltd., "*Multilayered Wood Flooring from the People's Republic of China: Correction of Typographical Errors*" (January 8, 2015).
[127] *See* Letter from Fine Furniture , "Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People's Republic of China: Letter in Lieu of Case Brief" (March 19, 2015).
[128] *See Investigation Final* and accompanying IDM, "EV Adjustment" at 7; *see also First MLWF Review* and accompanying IDM, "*Entered Value Adjustment*" at 7.

VIII. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these Department positions are accepted, we will publish the final results in the *Federal Register*.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 JULY 2015
(Date)