C-570-030
Investigation
POI: 1/1/14 – 12/31/14
Public Document
E&C/OVI: JC

May 16, 2016

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 the Final Affirmative Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the People's Republic of China

I. SUMMARY

The Department of Commerce (Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-rolled steel flat products (cold-rolled steel, or subject merchandise) from the People's Republic of China (PRC), as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The mandatory respondents in this investigation are Angang Group Hong Kong Co., Ltd. (Angang Hong Kong), and Benxi Iron and Steel (Group) Special Steel Co., Ltd. (Benxi Iron and Steel). Petitioners are AK Steel Corporation, ArcelorMittal USA EEC, Nucor Corporation, Steel Dynamics, Inc., and the United States Steel Corporation (collectively, Petitioners).

II. BACKGROUND

A. Case History

On December 22, 2015, we published the *Preliminary Determination* in this investigation.[1] In the Preliminary Decision Memorandum, we stated that case briefs or other written comments for

[1] *See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the People's Republic of China: Preliminary Affirmative Determination, Preliminary Partial Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79558 (December 22, 2015) (*Preliminary Determination*).

all non-scope issues may be submitted via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than 30 days after the publication of the *Preliminary Determination*.[2] No parties submitted a case brief. We recommend that you approve the positions we describe in this memorandum.

C. Period of Investigation

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

III. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances.[3] The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement ("width") of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc*.), the measurement at its greatest width or thickness applies.

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[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the People's Republic of China," dated December 15, 2015 (Preliminary Decision Memorandum) at 20 – 21; *see also Preliminary Determination* at 79560.

[3] Since the Preliminary Determination, eight interested parties (*i.e.*, JFE Steel Corporation, Electrolux Home Products, Inc., Electrolux Home Care Products, Inc., ArcelorMittal USA LLC, AK Steel Corporation, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation) commented on the scope of the investigation. The Department reviewed these comments and made no changes. *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Final Scope Comments Decision," dated concurrently with this final determination.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;[4]
- Tool steels;[5]
- Silico-manganese steel;[6]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland*.[7]
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.[8]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500,

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[4] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[5] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[6] Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[7] *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as "a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths."

[8] *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 Fed. Reg. 71,741, 71,741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as "cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied."

7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050.

The products subject to this investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

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

IV. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

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 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.[9]

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. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[10] 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."[11]

[9] On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this investigation.
[10] *See, e.g.*, *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), and accompanying Issues

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[12] It is the Department's practice to consider information to be corroborated if it has probative value.[13] In analyzing whether information has probative value, it is the Department's practice to examine the reliability and relevance of the information to be used.[14] However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.[15]

Finally, under the new section 776(d) of the Act, when applying an adverse inference, the Department may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the Department considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[16]

For purposes of this final determination, we are applying AFA with respect to Angang Hong Kong, Benxi Iron and Steel, Qian'an Golden Point Trading Co., Ltd. (Qian'an Golden Point), a non-selected exporter which did not respond to the Department's request for clarification with respect to its shipments of subject merchandise to the United States during the POI, and the GOC, as outlined below.

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and Decision Memorandum at "V. Use of Facts Otherwise Available and Adverse Inferences;" *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).

[11] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA).

[12] *See*, *e.g.*, SAA at 870.

[13] *See* SAA at 870.

[14] *See*, *e.g.*, SAA at 869.

[15] *See* SAA at 869-870.

[16] *See* section 776(d)(3) of the Act.

A. Application of AFA: Angang Hong Kong, Benxi Iron and Steel, Qian'an Golden Point, and the GOC

As discussed in the *Preliminary Determination*, we applied AFA with respect to Angang Hong Kong, Benxi Iron and Steel, Qian'an Golden Point, and the GOC.[17] Specifically, neither Angang Hong Kong nor Benxi Iron and Steel responded to the Department's primary questionnaire, nor the new subsidy allegation (NSA) questionnaire.[18] Qian'an Golden Point did not respond to the Department's request for clarification with respect to its POI shipments of subject merchandise to the United States.[19] Also, the GOC has not participated in this investigation, having neither responded to the Department's primary questionnaire, nor the NSA questionnaire. Therefore, we continue to determine that each of these three companies and the GOC withheld information that had been requested and failed to provide information within the deadlines established. By not responding to the questionnaire or, in the case of Qian'an Golden Point, the Department's request for clarification of its U.S. shipments of subject merchandise, each of these companies significantly impeded this proceeding. Thus, in reaching a determination, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act, we based, and we continue to base, the CVD rates for these companies and our findings regarding specificity and financial contribution by the GOC on facts otherwise available.

Moreover, we determined, and continue to determine, that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by Angang Hong Kong, Benxi Iron and Steel, and the GOC not responding to the primary questionnaire, nor the NSA questionnaire, and Qian'an Golden Point not responding to the Department's request for clarification, each of these companies and the GOC did not cooperate to the best of their ability to comply with the requests for information in this investigation. Accordingly, we continue to determine that use of AFA is warranted.

The Department is, consistent with the *Preliminary Determination*, continuing to find all programs in this investigation to be countervailable—that is, they provide a financial contribution within the meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of section 771(5)(B) of the Act, and are specific within the meaning of section 771(5A) of the Act.[20] We are, therefore, including these programs in the determination of the AFA rate.[21] We selected an AFA rate for each of these programs and included them in the determination of the AFA rate applied to Angang Hong Kong, Benxi Iron and Steel, and Qian'an Golden Point. The Department has previously countervailed these programs.[22] Additionally, the

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[17] *See Preliminary Determination* and accompanying Preliminary Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."
[18] *See* Memorandum to the File from John Corrigan, International Trade Compliance Analyst, "Countervailing Duty Questionnaire Delivery to Mandatory Respondents," dated October 16, 2015.
[19] *See* Memorandum to the File from John Corrigan, International Trade Compliance Analyst, "Clarification of Shipments to the United States," dated October 26, 2015.
[20] *See* Preliminary Decision Memorandum at "Application of AFA: Angang Hong Kong, Benxi Iron and Steel, Qian'an Golden Point and the GOC."
[21] *See* Appendix I.
[22] *See infra* notes 26-69.

current record information provides additional bases to find, as AFA, that these programs constitute financial contributions and meet the specificity requirements of the Act.[23]

When selecting AFA rates, section 776(d) of the Act provides that the Department may use a countervailable subsidy rate applied for the same or similar program in a countervailing duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Where Angang Hong Kong, Benxi Iron and Steel and Qian'an Golden Point have failed to participate in this investigation, consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.[24]

When selecting rates for programs other than those involving income tax exemptions and reductions, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, and the rate is not zero. However, we do not have a cooperating mandatory respondent in this investigation. If there is no identical program above zero calculated for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).[25] If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any program that could conceivably be used by the non-cooperating companies.[26]

In determining the AFA rate we will apply to Angang Hong Kong, Benxi Iron and Steel, and Qian'an Golden Point, we are guided by the Department's methodology detailed above. We begin by calculating the program rate for the following income tax reduction programs on which the Department initiated an investigation; we applied an adverse inference that each of the three companies referenced above paid no income tax during the POI.

- Preferential Income Tax Program for High-and New-Technology Enterprises (HNTEs)
- Preferential Income Tax Program for HNTEs in Designated Zones
- Preferential Deduction of Research and Development (R&D) Expenses for HNTEs
- Preferential Income Tax Subsidies for FIEs – 'Productive' FIEs

[23] *See* CVD Initiation Checklist; *see also* New Subsidy Allegations.
[24] *See, e.g., Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from the PRC*), and accompanying Issues and Decision Memorandum (Shrimp IDM) at 13-14; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").
[25] For purposes of selecting AFA program rates, we normally treat rates less than 0.5% to be *de minimis*. *See, e.g., Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."
[26] *See* Shrimp IDM at 13-14.

- Preferential Income Tax Subsidies for FIEs – High or New Technology FIEs
- Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs

The standard income tax rate for corporations in the PRC in effect during the POI was 25 percent.[27] Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, the six programs, combined, provide a 25 percent benefit). Consistent with past practice, the 25 percent AFA rate does not apply to tax credit, tax rebate, or import tariff and VAT exemption programs because such programs may not affect the tax rate.[28]

For all other programs not mentioned above, we are applying, where available, the highest above-*de minimis* subsidy rate calculated for the same or similar/comparable programs in a PRC CVD investigation or administrative review. For this final determination, we are able to match, based on program names, descriptions, and benefit treatments, the following programs to the same programs from other PRC CVD proceedings, although in a change from the *Preliminary Determination*, we updated the program-specific AFA rates for "Provision of Electricity for LTAR" and "Import Tariff and Value-Added Tax (VAT) Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries," based on more recent PRC CVD investigations:

- Provision of Land-Use Rights for Less than Adequate Remuneration (LTAR)[29]
- Provision of Electricity for LTAR[30]
- Import Tariff and Value-Added Tax (VAT) Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries[31]
- Provision of Steam Coal for LTAR[32]

[27] *See* CVD Initiation Checklist, at 18.
[28] *See, e.g.*, *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Extrusions from the PRC*), and accompanying Issues and Decision Memorandum (Extrusions IDM) at "Application of Adverse Inferences: Non-Cooperative Companies."
[29] *See Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009), and accompanying Issues and Decision Memorandum at 22.
[30] *See 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 Issues and Decision Memorandum (Isos IDM) at 22; *see also Certain Uncoated Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 81 FR 3110 (January 20, 2016), and accompanying Issues and Decision Memorandum at 20, Appendix.
[31] *See New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010) (*Tires from the PRC Preliminary Results*) ("C: VAT and Import Duty Exemptions on Imported Material"), unchanged in *New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011) (*Tires from the PRC Final Results*); *see also Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin From the People's Republic of China: Final Affirmative Determination*, 81 FR 13337 (March 14, 2016) (*PET Resin from the PRC Final Results*) and accompanying Issues and Decision Memorandum at 17.
[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 Issues and

- Provision of Coking Coal for LTAR[33]
- Export Seller's Credits from State-Owned Banks[34]
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment[35]

We are able to match, based on program type and benefit treatment, the following programs to similar/comparable programs from other PRC CVD proceedings:

- Policy Loans to the Cold-Rolled Steel Industry (Government Policy Lending)[36]
- Preferential Loans to State-Owned Enterprises[37]
- Export Loans[38]
- Treasury Bond Loans[39]
- Preferential Loans for Key Projects and Technologies[40]

Decision Memorandum (Citric Acid IDM) at 15.

[33] *See Certain Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 57444 (September 21, 2010), and accompanying IDM at 32.

[34] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011), and accompanying IDM at 12; *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper Investigation Amended Final*), and accompanying Ministerial Error Memorandum (MEM) at "Revised Net Subsidy Rate for the Gold Companies" (discussing revised subsidy rate for "Preferential Lending to the Coated Paper Industry"). This document is proprietary in nature. However, the public version, which has been placed on the record of this investigation, identifies the revised subsidy rate on which we are relying.

[35] *See Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32362 (June 8, 2010), and accompanying Issues and Decision Memorandum at 14.

[36] Consistent with recent investigations, we are using a single AFA rate for "Government Policy Lending" and "Preferential Loans to SOEs," because an analysis of these two allegations in this investigation reveals that they would apply to the same loans provided by state-owned commercial banks (SOCBs). *See, e.g., Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 59221 (October 1, 2014), and accompanying Issues and Decision Memorandum (GOES IDM) at 7; *see also Coated Paper Investigation Amended Final* and accompanying MEM at "Revised Net Subsidy Rate for the Gold Companies" (regarding "Preferential Lending to the Coated Paper Industry").

[37] *Id.*

[38] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014), and accompanying IDM (Citric Acid AR IDM) at 18 ("Export Seller's Credit for High-and New-Technology Products").

[39]*See Coated Paper Investigation Amended Final* and accompanying MEM at "Revised Net Subsidy Rate for the Gold Companies"; *see also Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 61607 (October 1, 2014), and accompanying IDM at 6.

[40] *See Coated Paper Investigation Amended Final* and accompanying MEM at "Revised Net Subsidy Rate for the Gold Companies" (regarding "Preferential Lending to the Coated Paper Industry"); *see also Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010), and accompanying IDM (Bricks IDM) at 8 ("Preferential Loans and Directed Credit to the Magnesia Carbon Bricks Industry").

- Preferential Lending to Cold-Rolled Steel Producers and Exporters Classified as "Honorable Enterprises"[41]
- Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program[42]
- Debt-to-Equity Swaps[43]
- Equity Infusions[44]
- Exemptions for State-Owned Enterprises (SOEs) from Distributing Dividends to the State[45]
- Loans and Interest Forgiveness for SOEs[46]
- Provision of Land to SOEs for LTAR[47]
- Provision of Hot-Rolled Steel (HRS) for LTAR[48]
- Provision of Iron Ore for LTAR[49]
- Preferential Income Tax Policy for Enterprises in the Northeast Region[50]
- Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China[51]
- Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax[52]
- Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D[53]
- Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform[54]
- VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund[55]

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[41] *Id.*
[42] *Id*.
[43] *See* Isos IDM at 13-14 ("Special Fund for Energy Saving Technology").
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *See Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) (*Sacks from the PRC*), and accompanying Issues and Decision Memorandum at "2. Government Provision of Land for Less Than Adequate Remuneration."
[48] *See Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 52301 (September 3, 2014), and accompanying IDM at "C. Provision of Steel Rounds for LTAR."
[49] *See* Citric Acid AR IDM at 24-27 ("Provision of Calcium Carbonate for LTAR").
[50] *See New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010) (*OTR Tires Preliminary AR*) ("C. VAT and Import Duty Exemptions on Imported Material"), unchanged in *New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011) (*OTR Tires Final AR*). Consistent with past practice, we are assigning this program an individual rate for this determination. *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 68858 (November 19, 2014), and accompanying Issues and Decision Memorandum (Wire Rod IDM) at 4 n.14.
[51] *See* Bricks IDM at 10 ("VAT Rebates on Purchases of Domestically Produced Equipment").
[52] *See* OTR Tires Preliminary AR, 75 FR at 64275 ("C. VAT and Import Duty Exemptions on Imported Material"), unchanged in OTR Tires Final AR, 76 FR at 23286.
[53] *Id*.; *see also* Wire Rod IDM at 6.
[54] *See* OTR Tires Preliminary AR, 75 FR at 64275 ("C. VAT and Import Duty Exemptions on Imported Material"), unchanged in OTR Tires Final AR, 76 FR at 23286; *see also* Wire Rod IDM at 6.
[55] *See* OTR Tires Preliminary AR, 75 FR at 64275 ("C. VAT and Import Duty Exemptions on Imported Material"), unchanged in OTR Tires Final AR, 76 FR at 23286.

- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring[56]
- State Key Technology Renovation Project Fund[57]
- Programs to Rebate Antidumping Legal Fees[58]
- Foreign Trade Development Grants[59]
- Export Assistance Grants[60]
- Subsidies for Development of Famous Export Brands and China World Top Brands[61]
- Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands[62]
- Grants to Loss Making SOEs[63]
- Export Interest Subsidies[64]
- Grants for Energy Conservation and Emission Reduction[65]
- Grants for Retirement of Capacity[66]
- Grants for Relocating Production Facilities[67]
- Export Buyer's Credits[68]
- Export Credit Insurance Subsidies[69]
- Export Credit Guarantees[70]

Based on the methodology described above, we determine the countervailable subsidy rate for each of the AFA companies to be 256.44 percent *ad valorem*.[71]

B. Corroboration of Secondary Information

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it

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[56] *Id*.
[57] *See* Isos IDM at 13-14 ("Special Fund for Energy Saving Technology").
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] *Id.*
[63] *Id*.
[64] *Id*.
[65] *Id*.
[66] *Id.*
[67] *Id*.
[68] *See Coated Paper Investigation Amended Final* and accompanying MEM at "Revised Net Subsidy Rate for the Gold Companies" (regarding "Preferential Lending to the Coated Paper Industry"); *see also Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) (*Passenger Tires from the PRC*), and accompanying IDM (Passenger Tires IDM) at 17 ("Export Buyer's Credit from State-Owned Banks Program").
[69] *See* Isos IDM at 13-14 ("Special Fund for Energy Saving Technology").
[70] *See Coated Paper Investigation Amended Final* and accompanying MEM at "Revised Net Subsidy Rate for the Gold Companies" ("Preferential Lending to the Coated Paper Industry"); *see also* Passenger Tires IDM at 17 ("Export Buyer's Credit from State-Owned Banks Program").
[71] *See* Appendix I.

shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[72] The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.[73]

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.[74] Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[75]

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. We find the AFA rates applied here to be reliable based on their calculation and application in previous CVD proceedings pertaining to the PRC, and because no information on the record calls their reliability into question. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.[76]

In the absence of record evidence concerning Angang Hong Kong's and Benxi Iron and Steel's usage of the subsidy programs at issue due to their decision not to participate in the investigation, the Department has reviewed the information concerning PRC subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. The relevance of these rates is that they are actual calculated CVD rates for PRC programs, from which Angang Hong Kong, Benxi Iron and Steel, and Qian'an Golden Point could actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this final determination.

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[72] *See* SAA at 870.
[73] *Id*.
[74] *Id*., at 869-870.
[75] *See* section 776(d) of the Act.
[76] *See, e.g.*, *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

V. CALCULATION OF THE ALL-OTHERS RATE

Section 703(d)(1)(A)(ii) of the Act states that if the Department limits its investigation to particular respondents in accordance with 777A(e)(2)(B) of the Act, the Department will determine a single estimated country-wide subsidy rate applicable to all exporters and producers. Section 705(c)(5)(A)(i) of the Act states that the all-others rate shall be an amount equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any rates that are zero or *de minimis* or any rates determined entirely on facts available. However, section 705(c)(5)(A)(ii) of the Act states that if the countervailable subsidy rates for all exporters and producers individually investigated are zero or *de minimis* rates, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted-average countervailable subsidy rates determined for the exporters and producers individually investigated.

In this investigation, all rates for individually investigated respondents continue to be based entirely on facts available. Accordingly, we are using "any reasonable method" to establish the all-others rate. Consistent with the *Preliminary Determination*, we find that it continues to be reasonable to use an average of the weighted average countervailable subsidy rates established for mandatory respondents Angang Hong Kong and Benxi Iron and Steel, which are the same as the rate applied to non-selected exporter Qian'an Golden Point, as the all-others rate.[77] The statute expressly states that when the rates for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may average the weighted average countervailable subsidy rates for the individually investigated exporters and producers. The Department has taken this approach to calculating the all-others rate in other CVD investigations.[78]

VI. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART

The Department preliminarily determined that critical circumstances existed for Angang Hong Kong, Benxi Iron and Steel, and Qian'an Golden Point, but not for all-other exporters of cold-rolled steel from the PRC.[79] Our analysis and conclusion concerning critical circumstances remain unchanged for our final determination.

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[77] *See* Preliminary Decision Memorandum at "IX. Calculation of the All-Others Rate."

[78] *See, e.g., Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 59221 (October 1, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

[79] *See* Preliminary Decision Memorandum at "X. Preliminary Determination of Critical Circumstances."

VII. 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 determination in the Federal Register and will notify the ITC of our determination.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

16 MAY 2016
Date

Appendix I

AFA Rate Calculation

<table>
<tr><th colspan="2">Program Name</th><th>AFA Rate</th></tr>
<tr><td>1</td><td>Policy Loans to the Cold-Rolled Steel Industry</td><td rowspan="2">10.54%</td></tr>
<tr><td>2</td><td>Preferential Loans for SOEs</td></tr>
<tr><td>3</td><td>Export Loans</td><td>1.10%</td></tr>
<tr><td>4</td><td>Treasury Bond Loans</td><td>10.54%</td></tr>
<tr><td>5</td><td>Preferential Loans for Key Projects and Technologies</td><td>10.54%</td></tr>
<tr><td>6</td><td>Preferential Lending to Cold-Rolled Steel Producers and Exporters Classified as "Honorable Enterprises"</td><td>10.54%</td></tr>
<tr><td>7</td><td>Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program</td><td>10.54%</td></tr>
<tr><td>8</td><td>Debt-to-Equity Swaps</td><td>0.58%</td></tr>
<tr><td>9</td><td>Equity Infusions</td><td>0.58%</td></tr>
<tr><td>10</td><td>Exemptions for SOEs from Distributing Dividends to the State</td><td>0.58%</td></tr>
<tr><td>11</td><td>Loans and Interest Forgiveness for SOEs</td><td>2.32%</td></tr>
<tr><td>12</td><td>Provision of Land-Use Rights for LTAR</td><td>2.55%</td></tr>
<tr><td>13</td><td>Provision of Land-Use Rights to SOEs for LTAR</td><td>13.36%</td></tr>
<tr><td>14</td><td>Provision of Hot-Rolled Steel for LTAR</td><td>3.64%</td></tr>
<tr><td>15</td><td>Provision of Iron Ore for LTAR</td><td>22.32%</td></tr>
<tr><td>16</td><td>Provision of Steam Coal for LTAR</td><td>3.17%</td></tr>
<tr><td>17</td><td>Provision of Coking Coal for LTAR</td><td>5.51%</td></tr>
<tr><td>18</td><td>Provision of Electricity for LTAR</td><td>20.06%</td></tr>
<tr><td>19</td><td>Preferential Income Tax Program for HNTEs</td><td rowspan="6">25.00%</td></tr>
<tr><td>20</td><td>Preferential Income Tax Program for HNTEs in Designated Zones</td></tr>
<tr><td>21</td><td>Preferential Deduction of R&D Expenses for HNTEs</td></tr>
<tr><td>22</td><td>Preferential Income Tax Subsidies for FIEs – “Productive” FIEs</td></tr>
<tr><td>23</td><td>Preferential Income Tax Subsidies for FIEs – High or New Technology FIEs</td></tr>
<tr><td>24</td><td>Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs</td></tr>
<tr><td>25</td><td>Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment</td><td>1.68%</td></tr>
<tr><td>26</td><td>Preferential Income Tax Policy for Enterprises in the Northeast Region</td><td>9.71%</td></tr>
<tr><td>27</td><td>Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China</td><td>0.51%</td></tr>
<tr><td>28</td><td>Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax</td><td>9.71%</td></tr>
</table>

29	Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D	9.71%
30	Stamp Exemption on Share Transfer Under Non-Tradable Share Reform	9.71%
31	VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund	9.71%
32	Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	9.71%
33	Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring	9.71%
34	State Key Technology Renovation Project Fund	0.58%
35	Foreign Trade Development Fund Grants	0.58%
36	Export Assistance Grants	0.58%
37	Programs to Rebate Antidumping Legal Fees	0.58%
38	Subsidies for Development of Famous Export Brands and China World Top Brands	0.58%
39	Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands	0.58%
40	Grants to Loss Making SOEs	0.58%
41	Export Interest Subsidies	0.58%
42	Grants for Energy Conservation and Emission Reduction	0.58%
43	Grants for Retirement of Capacity	0.58%
44	Grants for Relocating Production Facilities	0.58%
45	Export Buyer's Credits	10.54%
46	Export Seller's Credits from State-Owned Banks	4.25%
47	Export Credit Insurance Subsidies	0.58%
48	Export Credit Guarantees	10.54%
Total AFA Rate:		**256.44%**

Appendix II

Description of Programs

Below is a description of programs initiated on by the Department, as described by Petitioners.

1. **Policy Loans to the Cold-Rolled Steel Industry**

Policy banks in the PRC and state-owned commercial banks (SOBCs) make loans to cold-rolled steel producers at preferential terms as a matter of government policy. These loans are typically made at low or negative real rates of return. At least two policy banks specifically support the steel industry: the China Development Bank provides loans for key state-directed capital investment projects, while the Export-Import Bank of China (China ExIm Bank) provides policy financial support to promote exports.

2. **Preferential Loans for State-Owned Enterprises**

Government banks have provided low-interest loans to state-owned cold-rolled steel producers.

3. **Export Loans**

Export loans by the Export-Import Bank of China, GOC policy banks, and SOCBs constitute direct financial contributions from the GOC, rather than commercial loans, because the PRC banking system remains under state control and "continues to suffer from the legacies associated with the longstanding pursuit of government objectives."

4. **Treasury Bond Loans**

Each year, partly to manage the large in-flow of foreign exchange that the PRC receives from its massive foreign trade surplus, the GOC issues Treasury Bonds. In issuing these bonds, the GOC announces a variety of projects it considers high priority that will receive financial support in the form of discounted loans from the Treasury Bond proceeds.

5. **Preferential Loans for Key Projects and Technologies**

The GOC provides preferential loans to PRC steel producers for development and improvement of key steel industry projects and technologies. Further, additional policies that provide preferential loans for key projects and technologies were established in the GOC's 2006-2010 Five Year Plan. The S&T Development Plan (2006-2020) calls for increasing innovation and invention through "fiscal incentives, soft loan facilities including interest discounts and preferential loan provision, governmental investment measures, schemes for the promotion of 're-innovation' by assimilation of foreign technology…{and} the definition and implementation of PRC industry- and product-standards."

6. **Preferential Lending to Cold-Rolled Steel Producers and Exporters Classified As "Honorable Enterprises"**

The GOC encourages certain large-scale enterprises to export by classifying them as "Honorable

Enterprises" and providing them with priority access to loans on preferential terms. Large-scale enterprises with an annual export volume of over $200 million may be classified as "Honorable Enterprises" and receive preferential access to foreign trade funds. Such companies also receive lower lending rates (up to 10 percent lower) from the People's Bank of China, can retain profits in foreign exchange for twice the normal six month period before they must be repatriated and do not need to provide guarantees to the GOC. Thus, these companies enjoy greater access to capital in the form of foreign exchange that may be used in support of exports and for other purposes.

7. <u>Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program</u>

The GOC established the Northeast Revitalization Program in 2003 to revive the "old industrial base" of Dalian City and the three Northeast provinces – Liaoning, Jilin, and Heilongjiang – which together comprise the Northeast Region of the PRC. The program is intended as a "strategic restructuring and technical transformation of key enterprises in the areas of oil, petrochemical, iron and steel, automotive, shipbuilding and aircraft products manufacturing sectors in Northeast China to establish production bases of advantage {sic} industries." To implement the program, the GOC set up a special purpose bank to fund revitalization efforts, *i.e.*, the Northeast Revitalization Bank (NRB), to provide financial support in the form of loans and interest subsidies.

8. <u>Debt-to-Equity Swaps</u>

The GOC has provided massive subsidies to certain cold-rolled steel producers through debt-to-equity swaps. Specifically, the GOC and local governments have repeatedly intervened to help large cold-rolled steel producers avoid paying their debt, by repaying or forgiving loans in return for equity interests at concessionary terms. These swaps have involved the GOC's four "asset management companies" created specifically to dispose of non-performing loans in key industries.

9. <u>Equity Infusions</u>

In 2005 Baosteel issued five billion new public shares, of which two billion were placed with private investors and three billion were purchased by Baosteel Group, Baosteel's wholly state-owned parent company and majority shareholder. Unlike the shares sold to private investors, the shares sold to Baosteel Group were subject to trading restrictions. The new share issuance was intended to fund the subsequent acquisition of certain Baosteel Group assets and equity investments. This two-part process – the new share issuance and subsequent acquisition of Baosteel Group holdings – provided two separate, substantial subsidies to Baosteel. First, state-owned Baosteel Group likely paid an overvalued price for its three-fifths portion of the new share issuance. Any amount paid over fair market value would constitute a subsidy. Second, Baosteel likely used the funds raised to purchase state-owned Baosteel Group assets and equity investments at below-market prices, thereby receiving a second subsidy.

10. <u>Exemptions for SOEs from Distributing Dividends to the State</u>

Pursuant to GOC policy, SOEs do not have to pay dividends to the government (*i.e.*, their owner) even when they earn profits. Consequently, SOEs are able to finance massive investments through retained profits.

11. <u>Loans and Interest Forgiveness for SOEs</u>

Cold-rolled steel producers and exporters have increasingly been the beneficiaries of significant preferential lending by PRC policy banks and SOCBs.

12. <u>Provision of Land-Use Rights for LTAR</u>

All land in the PRC belongs to the government (*i.e.*, either national or local governments, or through a "collective" at the township or village level), and government land agencies across the PRC control the allocation of land through the granting of land-use rights. The GOC's steel policies direct government agencies to provide such land-use rights to favored projects and producers, including the cold-rolled steel industry.

13. <u>Provision of Land to SOEs for LTAR</u>

SOEs have not only received land for LTAR, but have actually received it for free from the GOC. SOEs in the PRC can receive "allocated" land-use rights, which are transferred from the government to an SOE for a one-time charge and do not expire.

14. <u>Provision of Hot-Rolled Steel for LTAR</u>

The GOC subsidizes PRC producers of higher value-added steel products by supplying these producers with lower value-added inputs such as hot-rolled steel, stainless steel coil, wire rod, or steel billets for LTAR. The GOC subsidizes cold-rolled steel producers in the PRC by having state-owned and controlled suppliers that supply hot-rolled steel to these producers for LTAR.

15. <u>Provision of Iron Ore for LTAR</u>

The GOC subsidizes PRC cold-rolled steel producers that produce their own steel by supplying them with iron ore for LTAR.

16. <u>Provision of Steam Coal for LTAR</u>

Coal is a priority state resource in the PRC that is controlled by the GOC. The GOC's national coal policy provides that coal for energy production (*i.e.*, thermal or steam coal) should be provided on a more favorable basis to five specific sectors or industries in compliance with the GOC's industrial policies. The GOC coordinates coal production and preferential supplies of coal to "prioritized" key industries, and uses its control of coal resources (and its state-owned coal producers) in the PRC to keep the price of steam coal in the PRC artificially low.

17. <u>Provision of Coking Coal for LTAR</u>

The Department has previously determined that the GOC provides coking coal to steel producers, many of which are producers of cold-rolled steel, for LTAR. State-owned mines in the PRC dominate coking coal supplies and SOEs are the primary source of coking coal for the PRC cold-rolled steel industry.

18. **Provision of Electricity for LTAR**

The GOC's National Development and Reform Commission (NDRC), rather than individual provinces in the PRC, is responsible for setting provincial electricity rates. Such rates vary by location including between various provinces in the PRC. There is a reasonable basis to believe that the NDRC is using preferential electricity rates as an industrial policy tool so that obsolete steel producers pay higher electricity rates than producers that the GOC wishes to encourage.

19. **Preferential Income Tax Program for High and New Technology Enterprises**

Under Article 28.2, companies designated as high- or new-technology enterprises (HNTEs) are entitled to a reduced income tax rate of 10 percent instead of the normal national corporate tax rate of 25 percent. Many cold-rolled steel producers, such as Hunan Valin Lianyuan Iron & Steel Co., Ltd., are designated as HNTEs and likely benefit from this program.

20. **Preferential Income Tax Program for HNTEs in Designated Zones**

Under Article 57 and the "notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in the Pudong New District of Shanghai," the GOC exempts HNTEs from income taxes for the first two years after earning a profit from production, and pay only half of the standard tax rate for the next three years if located in a special economic zone (*i.e.*, the Hainan, Shantou, Shenzhen, Xiamen, Zhuhai) or the Pudong New District of Shanghai. Certain cold-rolled steel producers are located in some of these special economic zones and, thus, are eligible for this subsidy.

21. **Preferential Deduction of Research and Development (R&D) Expenses for HNTEs**

Under this program based on the 2008 corporate tax law, HNTEs may deduct 50 percent of their total R&D expenses from their taxable income. Eligible expenses include design costs, expenses for materials and fuel consumed through R&D activities, wages, salaries, and benefits for personnel engaged in R&D activities, depreciation expenses on instruments and equipment, and many other expenses.

22. **Preferential Income Tax Subsidies for Foreign Invested Enterprises – "Productive" Foreign-Invested Enterprises (FIEs)**

Despite the implementation of the new Enterprise Income Tax Law (EITL) in 2008, which officially superseded the old FIE Tax Law, FIEs have likely continued to benefit from various incentives that were provided under the older Foreign-Invested Enterprise Tax Law (FIE Tax Law). Specifically, Article 9 of the FIE Tax Law delegates to China's provincial and local governments the authority to provide exemptions and reductions of local income taxes for "productive" FIEs. Eligibility criteria vary by province and the relevant governmental authorities administer the application process. Cold-rolled steel producers may have benefitted from this program.

23. Preferential Income Tax Subsidies for Foreign Invested Enterprises – High or New Technology FIEs

Under this program, FIEs designated as HNTEs that are established in high or new technology industrial development zones are entitled to a reduced income tax rate of 15 percent. Such enterprises are also eligible for additional tax preferences administered by the governments of the development zones themselves. Several FIE cold-rolled steel producers designated as HNTEs are located in these zones and would therefore be entitled to tax exemptions and reductions under the program.

24. Preferential Income Tax Subsidies for Foreign Invested Enterprises – Export Oriented FIEs

Under this program an FIE may continue to pay half of its applicable income tax rate following the expiration of "Two Free, Three Half" tax subsidies if exports constitute 70 percent of the company's sales. Export-oriented enterprises in specially designated zones that are already eligible to pay half the standard income tax rate may receive a further rate reduction through this program pursuant to the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises.

25. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment

The GOC offers preferential income tax policies to domestic enterprises if they upgrade their manufacturing operations with equipment made in the PRC. Such enterprises may deduct 40 percent of the purchase price of the domestic equipment from their next year's income tax obligation. In circumstances where the income tax due is less than 40 percent of the price of the equipment, the remainder of the price may be deducted in subsequent years, for a period of up to five years.

26. Preferential Income Tax Policy for Enterprises in the Northeast Region

Under the Northeast Tax Preference Policy, enterprises located in specific areas of the Northeast region may 1) reduce the depreciation life of fixed assets by up to 40 percent for tax purposes thereby increasing the annual amount of depreciation expense which may be deducted from the company's income tax; and 2) shorten the period of amortization of intangible assets by up to 40 percent for tax purposes, resulting in a larger annual tax deduction for amortization expense.

27. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China

Under this program, the GOC has directed provincial and local governments to forgive the tax arrears of enterprises located in "old industrial bases of Northeast China." Specifically, this program forgives all tax liabilities incurred prior to December 31, 1997, which remained in arrears as of December 6, 2006, for enterprises located the Liaoning, Jilin, and Heilongjiang Provinces as well as Dalian Municipality. The scope of tax forgiveness also includes "surcharges for overdue tax payment" – *e.g.*, interest and penalties on overdue taxes, and applies to both state-owned and private enterprises alike.

28. **Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax**

The GOC taxes enterprises that invest in fixed assets pursuant to the "Provisional Regulations on Fixed Assets Investment Orientation Regulatory Tax." The tax is levied on the amount of fixed capital investment made in a given year, but the actual tax rate paid by an enterprise varies from zero to 30 percent "in accordance with the state industrial policy and in light of the scale of the project" of fixed asset investment. For example, a zero-percent tax rate is applied to fixed capital investment in projects urgently needed by the state. Additionally, projects encouraged by the state and renewal and transformation projects are subject to preferential tax rates of five and ten percent, respectively. The GOC has identified the steel industry as a key industry to be supported pursuant to government industrial policies, and cold-rolled steel producers have benefitted from this program.

29. **Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D**

Under this program, domestic enterprises in certain industries whose research and development expenses increased 10 percent or more from the previous year may offset 150 percent of such expenses from their income tax obligation. The income tax subsidy is available to domestically-owned enterprises engaged in R&D of new products, new technologies and new crafts, which have increased 10 percent or more from the previous year.

30. **Stamp Exemption on Share Transfer Under Non-Tradable Share Reform**

To promote non-tradable share reform in the PRC, the GOC waives the stamp tax otherwise due upon the transfer of non-tradable bonus shares.

31. **VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund**

Through the "Circular of the Ministry of Finance and State Tax Administration on Printing and Distributing the Regulations on Relevant Issues with Respect to Expansion of VAT Deduction Scope in the Northeast Areas," the GOC allows businesses in the Northeast region of the PRC that are engaged in equipment manufacturing, petrochemical, metallurgical, and selected other industries to deduct from the VAT they pay for sales of finished goods, the amount they paid in VAT for purchases of fixed assets. PRC cold-rolled steel producers, Angang and Benxi Iron and Steel (among others), are located in the Northeast region and likely received such benefits.

32. **Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries**

To encourage foreign investment and to introduce advanced technology, the GOC provides a subsidy to FIEs and to certain domestic enterprises in the form of VAT and import tariff exemptions on imported equipment. These subsidies are limited to FIEs and certain domestic enterprises that undertake "encouraged" projects as set forth in the "Catalogue of Industries for Guiding Foreign Investment." These same subsidies are also available to PRC producers of cold-rolled steel, as the "{d}evelopment and application of cold continuous rolling wide band steel" is listed as an "encouraged" project.

33. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

The GOC imposes a deed tax on transfers of land and real estate. In the context of an ownership transfer by means of an asset sale, as opposed to a stock sale, a deed tax of three to five percent is levied on the amount of the purchase price, and the purchaser is responsible for paying the tax. The GOC's "Notice of the Ministry of Finance and the State Administration of Taxation on Several Deed Tax Policies Concerning Enterprise Reorganization and Restructuring," exempts this deed tax where the transfer of ownership occurs as part of the restructuring or merger of an SOE. Information reasonably available indicates that, for example, state-owned PRC cold-rolled steel producers Baosteel and Wuhan acquired land and real estate as part of mergers directed by the GOC.

34. State Key Technology Project Fund

This program was created pursuant to state circular Guojingmao Touzi (1999) No. 886. Funds from this program are given to qualifying enterprises to provide: (1) technology renovation in key industries, enterprises and products; (2) facilitation of technology upgrades; (3) improvement of product structure; (4) improvement of quality; (5) increase of supply; (6) expansion of domestic demand; and (7) development of the state economy. Recipients of these funds are mainly selected from large SOEs and state holding enterprises among 512 key enterprises, 120 pilot enterprise groups, and the leading enterprises in industries. Cold-rolled steel producers, such as Hunan Valin, Angang, and Baosteel, have received significant assistance from this fund.

35. Foreign Trade Development Fund Grants

This program provides grants to support projects undertaken by exporting enterprises in order to improve export performance. Exporting companies located in the Northeast Region of the PRC are eligible to receive subsidies under this program. PRC cold-rolled steel producer Angang is located in the Northeast Region, and likely received subsidies under this program.

36. Export Assistance Grants

Companies in the PRC receive such grants provided by the GOC to assist in the development of export markets or to recognize export performance.

37. Programs to Rebate Antidumping Legal Fees

The PRC's Fair Trade Department of Zhejiang Province offers professional advice to local enterprises and has set up a fund for fighting antidumping litigation. In awarding the grants, the government considers whether the company made export sales and was subject to an antidumping investigation.

38. Subsidies for Development of Famous Export Brands and China World Top Brands

These programs provide grants, loans, and other incentives to enterprises in the PRC, in part to implement an industrial policy of promoting the development of global PRC names and to increase global sales of PRC merchandise. These subsidy programs are explicitly tied to exports and constitute prohibited subsidies under the SCM Agreement. Cold-rolled steel producers such as Angang and Baosteel (among others) have been recognized by the GOC as Famous Export Brands.

39. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands

"Sub-central" (*i.e.*, provincial and local) governments in the PRC provide funds to support companies with products designated as famous brands.

40. Grants to Loss-Making SOEs

The GOC has two programs, one local and one national, to subsidize loss-making SOEs with grants and tax benefits. These programs are intended to maintain employment.

41. Export Interest Subsidies

The Department has investigated and countervailed the provision of export interest subsidies provided by provincial governments in prior cases. It is reasonable to conclude that PRC cold-rolled steel producers located in Liaoning Province (such as Angang, Baosteel, and Benxi) benefitted from the Liaoning, Guangdong, and Zhenjiang province programs.

42. Grants for Energy Conservation and Emission Reduction

The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for using financial subsidies to promote high energy-efficient products. The plan targets specific "key industrial sectors," including the steel industry.

43. Grants for the Retirement of Capacity

The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for accelerating and eliminating "backward production capacity" in certain industrial sectors, including the elimination of 48 million metric tons of steel production. In 2013, the State Council issued the "Guiding Opinion on Resolving the Problem of Severe Excess Capacity," which called for establishing special funds to accelerate the elimination of backwards capacity and to also support industries with excess production capacity.

44. Grants for Relocating Production Facilities

As part of the GOC's 12th Five-Year Steel Development Plan, the PRC has been locating urban-based steel producers to locations outside of their current city. The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for the relocation for "heavy polluting enterprises" and for measures to optimize the "regional spatial layout" of "key industries," including the steel industry.

45. Export Buyer's Credits

State-owned banks in the PRC disburse export buyer's credits to purchasers of PRC exports and concessional loans for large infrastructure projects that are tied to the procurement of goods from the PRC. The terms of this financing are highly concessional and below the rates at which

Organisation for Economic Co-operation and Development-member export credit agencies provide financing.

46. <u>Export Seller's Credits from State-Owned Banks</u>

Information from the state-owned China ExIm Bank shows that the Bank provides export seller's credits to PRC companies for exporting certain products, particularly high- and new-technology products. POSCO claims these products include cold-rolled steel, considering that cold-rolled steel is among the products listed in the GOC's "Catalogue of Chinese High-Technology Products for Export."

47. <u>Export Credit Insurance Subsidies</u>

The China Export & Credit Insurance Corporation (Sinosure) is a state-funded policy-oriented insurance company that was established to promote the PRC's foreign trade and economic cooperation. The GOC's "Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilizing Export Credit Insurance," directed Sinosure to increase its support of export products listed in the GOC's "Catalogue of Chinese High-Tech Products for Export," which includes cold-rolled steel.

48. <u>Export Credit Guarantees</u>

The China ExIm Bank and Sinosure each provide export credit guarantees which, according to information from the Bank, have "played a key role in supporting Chinese companies to go global" and promoted "the export of new- and high-tech products" such as cold-rolled steel.