



C-570-971

Administrative Review
POR: 01/01/2014—12/31/2014
Public Document
AD/CVD Office VIII: Team

December 30, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results in the
Countervailing Duty Administrative Review of Multilayered Wood
Flooring from the People's Republic of China: 2014

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of multilayered wood flooring (MLWF) from the People's Republic of China (PRC), as provided in section 703 of the Tariff Act of 1930, as amended (Act).

II. BACKGROUND

A. Case History

On December 8, 2011, the Department published the CVD *Order* on wood flooring from the PRC.¹ On December 1, 2015, we published a notice of "Opportunity to Request Administrative Review" of the CVD *Order*.² We received several timely requests for an administrative review. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice initiating the review on February 9, 2016.³

¹ See *Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011); see also *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012), wherein the scope of the *Order* was modified (collectively, *Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 75058 (December 1, 2015).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 6832 (February 9, 2016) (*Initiation Notice*).

On March 15, 2016, we released and requested comments on data obtained from U.S. Customs and Border Protection (CBP) regarding entries of the subject merchandise from the PRC during the period of review (POR) for all of the exporters and/or producers for which a review was requested.⁴ On March 22, 2016, Dalian Penghong Floor Products Co., Ltd. (Penghong), Fine Furniture (Shanghai) Limited (Fine Furniture), Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Wood Industry Limited Company of Shanghai/ Linyi Youyou Wood Co., Ltd. (collectively Youyou), submitted comments.⁵ On August 5, 2016, we selected Penghong and Fine Furniture as mandatory respondents in this administrative review.⁶

We issued initial and supplemental questionnaires to the Government of the PRC (GOC), Penghong, and Fine Furniture between August 5, 2016, and November 10, 2016. Penghong and Fine Furniture submitted affiliation responses, initial responses, and supplemental responses between August 19, 2016, and October 27, 2016. The GOC submitted an initial response and supplemental responses between September 22, 2016, and November 17, 2016.

B. Postponement of Preliminary Results

The Department postponed the deadline for the preliminary results until December 30, 2016, in accordance with sections 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).⁷

C. Period of Review

The POR is January 1, 2014, through December 31, 2014.

D. Rescission of Review, In Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. Jiangsu Keri Wood Co., Ltd. (Jiangsu Keri) withdrew its request for review on February 22, 2016, *i.e.*, within the 90-day

⁴ See Memorandum entitled “Release of Customs and Border Protection (CBP) Data,” dated March 15, 2016.

⁵ See Letters to the Department entitled “Multilayered Wood Flooring from the People’s Republic of China: Comments on CBP Data and Respondent Selection,” from Penghong, “Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Comments on Customs and Border Protection Data,” from Fine Furniture, and “Multilayered Wood Flooring from the People’s Republic of China: Comments on Customs and Border Protection Data,” from Youyou, dated March 22, 2016, respectively.

⁶ See Memorandum entitled “Countervailing Duty Administrative Review: Multilayered Wood Flooring from the People’s Republic of China: Respondent Selection: 2014,” dated August 5, 2016.

⁷ See Memorandum entitled “Multilayered Wood Flooring from the People’s Republic of China: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review,” dated August 17, 2016 (postponing the preliminary results until December 12, 2016); and Memorandum entitled “Multilayered Wood Flooring from the People’s Republic of China: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review,” dated December 9, 2016 (further postponing the preliminary results until December 30, 2016).

deadline.⁸ As no other party requested an administrative review of Jiangsu Keri, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with respect to Jiangsu Keri.

E. Intent to Rescind, in Part, the Administrative Review

Six companies under review reported that they made no shipments of subject merchandise to the United States during the POR.⁹ To test these claims, the Department issued no-shipment inquiries to CBP requesting that it provide any information that contradicts the no-shipment claims. We have not received information to date from CBP to contradict Changbai Mountain's, Shenyang Senwang's, and Jiangsu Yuhui's claims of no sales, shipments, or entries of subject merchandise to the United States during the POR.¹⁰ Because these companies timely filed their no-shipment certifications and CBP has not provided information to contradict the companies' claims, we preliminarily intend to rescind the review of these companies. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of these companies in the final results of review.

With respect to Dalian Xinjinghua, Henan Xingwangjia, and Xuzhou Antop, we preliminarily determine that there is sufficient evidence on the record of this review to conclude that these companies had reviewable transactions during the POR. On November 4, 2016, we placed on the record, and solicited comments on, CBP entry documentation regarding entries of subject merchandise from these companies during the POR.¹¹ As we did not receive any comments on this information, we are continuing to include these companies in this administrative review for purposes of the preliminary results.

III. SCOPE OF THE ORDER

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)¹² 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

⁸ See Letter from Jiangsu Keri, "Multilayered Wood Flooring from the People's Republic of China: Withdrawal of Review Request," dated February 22, 2016.

⁹ See Letter from Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd. (Changbai Mountain), Shenyang Senwang Wooden Industry Co., Ltd. (Shenyang Senwang), Henan Xingwangjia Technology Co., Ltd. (Henan Xingwangjia), Dalian Xinjinghua Wood Co., Ltd. (Dalian Xinjinghua), Xuzhou Antop International Trade Co., Ltd. (Xuzhou Antop), and Jiangsu Yuhui International Trade Co., Ltd., (Jiangsu Yuhui) "Multilayered Wood Flooring from the People's Republic of China: Submission of No Shipment Certifications," dated February 18, 2016.

¹⁰ See Memoranda entitled "Release of U.S. Customs and Border Protection Information Relating to No Shipment Claims Made in the 2014 Administrative Review of Multilayered Wood Flooring from the People's Republic of China," dated October 26, 2016 and December 12, 2016, stating that the CBP no shipment data query did not identify any entries of subject merchandise. Jiangsu Yuhui was inadvertently omitted from the *Initiation Notice*; therefore, we separately initiated a review of this company. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 91122 (December 16, 2016).

¹¹ See Memorandum entitled "U.S. Customs and Border Protection ("CBP") Entry Documents," dated November 4, 2016.

¹² 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.

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; 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. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.¹³ The Department finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as updated.¹⁴ The Department notified the respondents of the 10-year AUL in the initial questionnaire and requested data accordingly.¹⁵ No party in this segment of the proceeding disputed this allocation period.

Further, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm

¹³ See 19 CFR 351.524(b).

¹⁴ See *How to Depreciate Property*, U.S. Internal Revenue Service Publication 946 (2008), at Table B-2: Table of Class Lives and Recovery Periods.

¹⁵ See Initial Countervailing Duty Questionnaire, dated August 5, 2016.

producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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 regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.¹⁶

Penghong

Penghong, established in October 2004, is a foreign-invested enterprise (FIE) that responded on behalf of itself and Dalian Ruishi Wood Industry Co., Ltd. (Dalian Ruishi), its holding company, during the POR.¹⁷ Penghong reported that Dalian Ruishi did not have any operational activities during or prior to the POR. We preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership. However, because Dalian Ruishi did not have any operational activities during the POR or in prior years, and did not receive any subsidies over the AUL period, there is no attribution of subsidies. For Penghong, we are attributing subsidies it received to its sales, in accordance with 19 CFR 351.525(b)(6).

Penghong reported that, for several years during the AUL period, prior to the POR, it was majority-owned by Dalian Penghong Wood Industry Co., Ltd. (Penghong Wood). Subsequently, Penghong Wood transferred its shares in Penghong to Dalian Ruishi.¹⁸ Accordingly, the Department preliminarily finds that during this period, Penghong and Penghong Wood were cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership. Because Penghong was majority-owned by Penghong Wood for a period during the AUL, we are attributing subsidies received by Penghong Wood during this period to the combined sales of the two companies in accordance with 19 CFR 351.525(b)(6)(iii).

Penghong also reported that it became cross-owned with Dalian Shumaike Floor Manufacturing Co. Ltd (Shumaike) in April 2014, and that both companies share the common ultimate controlling owner.¹⁹ Additionally, Shumaike is a producer of the subject merchandise. Therefore, we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership, and within the meaning of 19 CFR 351.525(b)(6)(ii) because both companies produce the subject merchandise. Pursuant to the Department's attribution regulations, the Department will use the combined sales of Penghong and Shumaike as the denominator for any subsidies received by either company under 19 CFR

¹⁶ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

¹⁷ See Penghong's August 19, 2016 Affiliation Response (Penghong AFFR) at 9.

¹⁸ See Penghong's September 12, 2016 Initial Questionnaire Response (Penghong IQR) at 3.

¹⁹ See Shumaike's September 12, 2016 Affiliation Response (Shumaike AFFR) at 1, see also Penghong AFFR at 6.

351.525(b)(6)(ii). However, because the subsidies received by Shumaike prior to becoming cross-owned are not measurable, there is no attribution of subsidies under 19 CFR 351.525(b)(6)(vi).²⁰

In addition, Penghong explained that Penghong provided or sold certain wood logs to Dalian Furui Wood Co., Ltd (Furui Wood) which were processed into sawn wood. The sawn wood was then sold back to either Penghong or Shumaike.²¹ Moreover, Penghong explained that the majority shareholder of Furui Wood is also a shareholder of Penghong. Furthermore, Furui Wood shares certain management in daily operations with Penghong, and they are located at the same address as Penghong. We preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership, with any subsidies to Furui Wood attributable to Penghong pursuant to 19 CFR 351.525(b)(6)(iv), as the above-specified inputs are primarily dedicated to the production of a downstream product. However, because Furui Wood did not receive any subsidies over the AUL period, there is no attribution of subsidies.

Fine Furniture

Fine Furniture reports that it was founded in 2000 through a share capital contribution of three parties.²² Fine Furniture has responded on behalf of itself and Great Wood (Tonghua) Limited (Great Wood).²³ 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 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 We preliminarily determine that the inputs supplied by Great Wood to Fine Furniture are primarily dedicated to the production of a downstream product and, thus, for purposes of the preliminary results, consistent with 19 CFR 351.525(b)(6)(iv), we are attributing subsidies provided to Great Wood to Fine Furniture by dividing the benefit amounts by the combined sales of Great Wood and Fine Furniture (net of intercompany sales).

1. Entered Value Adjustment

Fine Furniture reported that its affiliate Double F Limited (Double F) issued invoices with a mark-up for Fine Furniture's sales of subject merchandise to the United States.²⁶ Thus, Fine Furniture requested that the Department 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, as the Department has done in the underlying

²⁰ See Memorandum entitled "Preliminary Results Calculation Memorandum for Dalian Penghong Floor Products," dated concurrently with this memorandum (Penghong Preliminary Calculation Memorandum).

²¹ See Furui Wood's September 12, 2016 Affiliation Response (Furui Wood AFFR).

²² See Fine Furniture's September 22, 2016 Initial Questionnaire Response (Fine Furniture IQR) at 3.

²³ *Id.* at 4.

²⁴ See Fine Furniture's August 19, 2016, Affiliation Response (Fine Furniture AFFR) at 6.

²⁵ *Id.*

²⁶ See Fine Furniture IQR at 25.

investigation and previous review.²⁷

According to Fine Furniture, the adjustment is appropriate because: 1) the U.S. invoice is issued through Double F and includes a mark-up from the invoice issued from Fine Furniture to Double F; 2) the exporter, Fine Furniture, and Double F who invoices the customer 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.²⁸

The Department has previously adjusted the calculation of the subsidy rate when the sales value used to calculate that subsidy rate did 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.²⁹ Fine Furniture has supported its claim and the information permits an accurate calculation of the adjustment; therefore, we have preliminarily determined to make an adjustment to the entered value.³⁰

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to Be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

D. Loan Benchmarks and Discount Rates

The Department is examining non-recurring, allocable subsidies.³¹ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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

²⁷ *Id.* at 26.

²⁸ *Id.* at 25.

²⁹ See, *e.g.*, *Multilayered Wood Flooring from the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Partial Rescission*; 2012, 80 FR 41007 (July 14, 2015), and accompanying Issues and Decision Memorandum (IDM).

³⁰ For the details of the calculations of the adjusted values, see Memorandum to the File, "Preliminary Results Calculation Memorandum for Fine Furniture (Shanghai) Limited and Great Wood (Tonghua) Ltd.," dated concurrently with this memorandum (Fine Furniture Preliminary Calculation Memorandum).

³¹ See 19 CFR 351.524(b)(1).

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.³² 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.”³³ 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*,³⁴ loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). 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.³⁵ 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.

We first developed in *CFS from the PRC*,³⁶ and more recently updated in *Thermal Paper from the PRC*,³⁷ the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank’s classification of countries as: low income; lower-middle income; upper-middle income; and high income. For 2001 through 2009, the PRC fell in the lower-middle income category.³⁸ Beginning with 2010, however, the PRC is in the upper-middle income category.³⁹ Accordingly, as explained below, we are using the interest rates of lower middle income countries to construct the benchmark and discount rates for 2001 – 2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010 - 2013. 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

³² See 19 CFR 351.505(a)(3)(i).

³³ See 19 CFR 351.505(a)(3)(ii).

³⁴ 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.

³⁵ 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.”

³⁶ See *CFS from the PRC*, and accompanying IDM at Comment 10.

³⁷ 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.

³⁸ See Country Classification, The World Bank, <http://econ.worldbank.org/>.

³⁹ *Id.*

reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001-2009, and 2011 - 2013, the results of the regression-based analysis⁴⁰ reflected the expected, 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 have continued to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009, and 2011-2013. 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 have used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010 - 2013, and "lower middle income" for 2001-2009. First, we did not include those economies that the Department considered to be NMEs for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign currency denominated instruments.⁴¹ Finally, for each year we calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for that year.⁴²

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.⁴³

2. Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are no 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 has 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.⁴⁴

⁴⁰ See Memorandum entitled "Interest Rate Benchmark Memorandum," dated December 12, 2016 (Interest Rate Benchmark Memorandum).

⁴¹ 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.

⁴² For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rate was 34.95 percent and 37.25 percent, respectively. See Interest Rate Benchmark Memorandum.

⁴³ See Interest Rate Benchmark Memorandum for the resulting inflation-adjusted benchmark lending rates.

In *Citric Acid Investigation*, this methodology was revised by switching from a long-term markup 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.⁴⁵ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.⁴⁶

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 nonrecurring subsidy was approved by the government.⁴⁷

V. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

A. Programs Preliminarily Determined to Be Countervailable

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

The GOC reported that Penghong was the only mandatory respondent (including cross-owned companies) to have applied for, received, or accrued assistance under this program during the POR.⁴⁸ In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.⁴⁹ 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 therefore preliminarily determine 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.⁵⁰ Further, we find the grants to be specific under section 771(5A)(B) of the Act because the receipt

⁴⁴ 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.

⁴⁵ 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.

⁴⁶ See Interest Rate Benchmark Memorandum for the resulting inflation-adjusted benchmark lending rates.

⁴⁷ *Id.*

⁴⁸ See GOC IQR at 5.

⁴⁹ 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 IDM at 16-17.

⁵⁰ See 19 CFR 351.504(a).

of the grants is contingent upon export performance.⁵¹

Penghong reported receiving assistance under this program in 2014.⁵² Consistent with the *Investigation Final*, we are treating the assistance under this program as a non-recurring grant. To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants.⁵³ Penghong received both grants during the POR. Pursuant to the allocation test under 19 CFR 351.524(b)(2), we allocated the entire amount of the grants to the year of receipt, the POR. In accordance with 19 CFR 351.525(b)(2) and 19 CFR 351.525(b)(6)(ii), we attributed the 2014 benefits to Penghong and Shumaikē's combined export sales in 2014, less intercompany sales. On this basis, we preliminarily determine that Penghong received a countervailable subsidy of 0.02 percent and 0.04 percent *ad valorem* under the Famous Trade Mark Award of Dalian City and 2012 Famous Brand Award of Liaoning Province programs, respectively.⁵⁴

2. Jinzhou District 2013 New and High Technology Research & Development Plan Industrialization Special Fund

Penghong stated that it received financial assistance under this program during the POR.⁵⁵ In addition, the GOC reported that Penghong was the only mandatory respondent (including cross-owned companies) to have applied for, received, or accrued assistance under this program during the POR.⁵⁶ Moreover, in the previous review, the GOC reported that the program is industry-specific and is administered by the Jinzhou Bureau of Science and Technology and the Jinzhou Bureau of Finance in Jinzhou District to promote research and development in Jinzhou District.⁵⁷ No new information has been presented in this administrative review warranting re-consideration of the Department's previous finding. We preliminarily find that the grants provided under this program provide a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, confer a benefit pursuant to 19 CFR 351.504, and are *de jure* specific under section 771(5A)(D)(i) of the Act because, as reported by the GOC, access to the subsidy is expressly limited to specific industries.

We preliminarily find that assistance under this program meets the criteria in 19 CFR 524(c)(2) and it is appropriate to treat it as a non-recurring grant. 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 grant received in the POR was less than 0.5 percent of Penghong's total sales for 2014. Thus, in accordance with 19 CFR 351.524(b)(2), we allocated

⁵¹ See *Investigation Final* and accompanying IDM at 16-17.

⁵² See Penghong IQR at 12 and Exhibits 7-1 and 8-1.

⁵³ See 19 CFR 351.524(b).

⁵⁴ See Penghong Preliminary Calculation Memorandum.

⁵⁵ See Penghong's October 27, 2016 Supplemental Questionnaire Response (Penghong SQR) at 16 and Exhibit SQ1-6.

⁵⁶ See GOC's November 9, 2016 Third Supplemental Questionnaire Response (GOC SQR) at 12.

⁵⁷ 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*; 2013, 81 FR 1169 (January 11, 2016) (*Third Administrative Review Prelim*) and accompanying Preliminary Decision Memorandum (PDM) at 9; unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review*; 2013, 81 FR 32291 (May 23, 2016) (*Third Administrative Review*).

the entire amount of the grant to the year of receipt, the POR. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the 2014 benefits to Penghong and Shumaike's annual total sales, less intercompany sales. On this basis, we preliminarily find that Penghong received a countervailable subsidy of 0.10 percent *ad valorem* under this program during 2014.⁵⁸

3. 2005 Enterprise Development Special Funds Awarded to Penghong Wood

Penghong reported that Penghong Wood, its parent company for several years during the AUL, received one-time assistance under this program in 2005.⁵⁹ In the *Third Administrative Review*, the GOC reported that certain industries and enterprises were prioritized under the program, including enterprises involved in the production of "famous brands" as designated by national or provincial government agencies.⁶⁰ No new information has been presented in this administrative review warranting re-consideration of the Department's previous finding. Therefore, we preliminarily determine that the grants provided under this program provide a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, confer a benefit pursuant to 19 CFR 351.504, and are *de jure* specific under section 771(5A)(D)(i) of the Act because, as found in the *Third Administrative Review*, access to the subsidy is limited to specific industries and enterprises.

We also preliminarily determine that assistance under this program meets the criteria in 19 CFR 524(c)(2), and it is appropriate to treat it as a non-recurring grant and to examine the assistance provided under this program during the AUL. To calculate the countervailable benefit, we treated the year of receipt, 2005, as the year of approval, and applied the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2). Because of the cross-ownership between Penghong and Penghong Wood in 2005, we used the combined sales of Penghong and Penghong Wood as the denominator for the expense test. We found the 2005 grant was greater than 0.5 percent of the reported 2005 consolidated sales. Thus, we are allocating the benefit over the average useful life, in accordance with 19 CFR 351.524(d).⁶¹

Additionally, because Penghong and Penghong Wood ceased to be cross-owned prior to the POR, we followed our practice for apportioning the benefit as described in the previous segment of this proceeding.⁶² We calculated a ratio of Penghong's sales in the year of separation to the companies' combined sales during this year to determine Penghong's portion of the overall combined entity in the year of separation. We then applied this ratio to the amount of the benefit allocated to the POR, 2014, to determine the amount of the benefit attributable to Penghong in 2014. On this basis, we preliminarily find that Penghong received a countervailable subsidy of 0.02 percent *ad valorem* under this program during 2014.⁶³

⁵⁸ See Penghong Preliminary Calculation Memorandum.

⁵⁹ See Penghong SQR at 17.

⁶⁰ See *Third Administrative Review Prelim* and accompanying PDM at 10.

⁶¹ See Penghong Preliminary Calculation Memorandum.

⁶² See *Third Administrative Review Prelim* and accompanying PDM at 10 (citing to *Citric Acid Investigation*), unchanged in *Third Administrative Review*.

⁶³ See Penghong Preliminary Calculation Memorandum.

4. Program of 2012 Technology Improvement Project Grant

Penghong stated that it received financial assistance under this program during the POR.⁶⁴ In addition, the GOC reported that Penghong was the only mandatory respondent (including cross-owned companies) to have applied for, received, or accrued assistance under this program during the POR.⁶⁵ The GOC reported that the program is regionally specific and is administered by the Jinzhou Bureau of Economic Development and the Jinzhou Bureau of Finance in Jinzhou District to encourage technological innovation in enterprises in the Jinzhou District.⁶⁶ We preliminarily determine that the grants provided under this program provide a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, confer a benefit pursuant to 19 CFR 351.504, and are *de jure* specific under section 771(5A)(D)(iv) of the Act because, as reported by the GOC, access to the subsidy is regionally specific.

We also preliminarily determine that assistance under this program meets the criteria under 19 CFR 351.524(c)(2), and it is appropriate to treat it as a non-recurring grant. 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 grant received in the POR was less than 0.5 percent of Penghong’s total sales for 2014. Thus, in accordance with 19 CFR 351.524(B)(2), we allocated the entire amount of the grant to the year of receipt, the POR. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the 2014 benefits to Penghong and Shumaike’s annual total sales, less intercompany sales.⁶⁷ On this basis, we preliminarily find that Penghong received a countervailable subsidy of 0.20 percent *ad valorem* under this program during 2014.

5. Potential Danger Rectification Fund for Safe Production

Penghong stated that it received financial assistance under this program during the POR.⁶⁸ In addition, the GOC reported that Penghong was the only mandatory respondent (including cross-owned companies) to have applied for, received, or accrued assistance under this program during the POR.⁶⁹ The GOC reported that the program is regionally specific and is administered by the Jinzhou Administration of Work Safety and the Jinzhou Bureau of Finance in Jinzhou District to promote research and development in Jinzhou District.⁷⁰ We preliminarily determine that the grants provided under this program provide a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, confer a benefit pursuant to 19 CFR 351.504, and are *de jure* specific under section 771(5A)(D)(iv) of the Act because, as reported by the GOC, access to the subsidy is regionally specific.

We also preliminarily determine that assistance under this program meets the criteria in 19 CFR 351.524(c)(2) and it is appropriate to treat it as a non-recurring grant. To calculate the

⁶⁴ See Penghong SQR at Exhibit SQ1-5.

⁶⁵ See GOC SQR at 3.

⁶⁶ *Id.* at 1.

⁶⁷ See Penghong Preliminary Calculation Memorandum.

⁶⁸ See Penghong SQR at Exhibit SQ1-7.

⁶⁹ See GOC SQR at 10.

⁷⁰ *Id.* at 10.

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 grant received in the POR was less than 0.5 percent of Penghong’s total sales for 2014. Thus, in accordance with 19 CFR 351.524(b)(2), we allocated the entire amount of the grant to the year of receipt, the POR. In accordance with 19 CFR 351.525(b)(6)(ii), we attributed the 2014 benefits to Penghong and Shumaikē’s combined annual total sales, less intercompany sales.⁷¹ On this basis, we preliminarily find that Penghong received a countervailable subsidy of 0.18 percent *ad valorem* under this program during 2014.

6. Allowance for Attorney’s Fees

Fine Furniture reported receiving an allowance from the GOC in 2011, 2012, 2013, and 2014 under this program, which is intended to support Chinese enterprises involved in U.S. antidumping proceedings.⁷² In return for these grants, Chinese enterprises allow the GOC access to their business proprietary legal documents related to antidumping proceedings.⁷³ The GOC reported that the program was terminated on January 1, 2014.⁷⁴ However, the GOC corroborated Fine Furniture’s reporting that it received assistance under this program during the AUL and POR.⁷⁵

Consistent with the Department’s prior review of this program, we preliminarily find that the grants provided under this program confer a countervailable subsidy in the form of a direct transfer of funds from the government in accordance with section 771(5)(D)(i) of the Act, and that they provide a benefit in the amount of the grants.⁷⁶ Further, we continue to find the grants to be export-specific under section 771(5A)(B) of the Act because the receipt of the grants is limited to companies that export.⁷⁷

As noted, the GOC corroborated that Fine Furniture received a grant during the POR but the GOC did not provide information regarding the approval dates for total grant amounts received, stating only that the program was operated on an annual basis.⁷⁸ Notwithstanding the GOC’s failure to provide the requested information, as Fine Furniture reported having received grants in various years, we continue to find that assistance under this program meets the criteria in 19 CFR 351.524(c)(2) and that it is therefore appropriate to treat these grants as non-recurring. Therefore, we calculated the benefit received in each year. We first applied the “0.5 percent test,” pursuant to 19 CFR 351.524(b)(2).⁷⁹ We divided the grants received by Fine Furniture by that year’s respective export sales. Because the result was less than 0.5 percent for the grants received during the AUL, we allocated those benefits to the respective years of receipt. To calculate the countervailable subsidy rate for 2014, we divided the grant amount received in

⁷¹ See Penghong Preliminary Calculation Memorandum.

⁷² See Fine Furniture IQR at 14.

⁷³ *Id.*

⁷⁴ See GOC IQR at 7.

⁷⁵ *Id.*

⁷⁶ See, e.g., *Third Administrative Review Prelim*, unchanged in *Third Administrative Review*.

⁷⁷ See GOC IQR at 7.

⁷⁸ *Id.*

⁷⁹ See Fine Furniture Preliminary Calculation Memorandum.

2014 by Fine Furniture’s export sales during the POR. On this basis, we preliminarily find that Fine Furniture received a countervailable subsidy of 0.62 percent *ad valorem* under this program during the POR.⁸⁰

7. Provision of Electricity for Less Than Adequate Remuneration (LTAR)

Section 776(a) of the Act provides that the Department shall, subject to section 782(d) of the Act, use the “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person withholds information that has been requested; 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; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.⁸¹ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this review.⁸²

We are applying adverse facts available (AFA) under section 776(b) of the Act for this program for the following reasons. In the underlying investigation of this administrative review, the petition contained information indicating that the GOC provided electricity for LTAR and that, pursuant to section 771(5A)(D)(iv) of the Act, the subsidy was regionally specific.⁸³ We initiated an investigation of this program and determined that this program conferred a countervailable subsidy based, in part, on facts available as the GOC did not provide the requested original price proposals 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.⁸⁴ Specifically, in the *Investigation Final*, pursuant to section 776(b) of the Act, as AFA, 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

⁸⁰ *Id.*

⁸¹ See 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).

⁸² *Id.*, 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

⁸³ See Letter to the Department from the Coalition for American Hardwood Parity, “Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China,” dated October 21, 2010.

⁸⁴ See *Investigation Final* and accompanying IDM, at Comment 4.

specific within the meaning of section 771(5A) of the Act.⁸⁵

In the current administrative review, the GOC has not provided the above-referenced price proposals and, instead, reported that “Proposals of this kind are drafted by the provincial governments and submitted to the NDRC. They are working documents for the NDRC’s review only. The GOC is therefore unable provide them with this response.”⁸⁶ As no new information has been presented in this administrative review warranting reconsideration of the Department’s investigation finding, and because the GOC continues to withhold the requested documentation, we continue to find that the GOC’s provision of electricity is countervailable on the same bases as in the underlying investigation. Further, in the first administrative review following the investigation, the Department clarified its finding, based in part on facts available, that this program is regionally specific within the meaning of 771(5A)(D)(iv), consistent with similar findings regarding the program in other investigations, also based in part on facts available.⁸⁷

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 mandatory respondents’ reported consumption volumes and rates paid. 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.*, “general,” “industry,” and “commerce”) and voltage class of the respondents (*e.g.*, 1-10 kilovolts), as well as the respondents’ “base charge” (maximum demand and/or transformer capacity). We then compared what the respondents, and cross-owned affiliates, as appropriate, paid for electricity during the POR to what they would have paid at the benchmark electricity rates by dividing the difference by the company’s total sales during the POR. On this basis, the Department preliminarily determines that Penghong and Fine Furniture received countervailable subsidy rates of 0.89 and 1.29 percent *ad valorem*, respectively.⁸⁸

B. *Programs Which Provided No Measurable Benefit During the POR*

Patent Support⁸⁹

Fine Furniture reported receiving an allowance from the GOC for the years 2008 through the POR under this program.⁹⁰ According to the GOC, this program was established in 2003, administered by the Shanghai Intellectual Property Administration (SIPA), and is intended to facilitate patent registration and intellectual property protection relating to invention and innovation in Shanghai.⁹¹ Applicants who meet the relevant requirements submit an application

⁸⁵ *Id.*

⁸⁶ See GOC IQR at 10.

⁸⁷ See *Multilayered Wood Flooring from the People’s Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review*; 2011, 79 FR 45178 (August 4, 2014), and accompanying IDM at Comment 3.

⁸⁸ See Penghong Preliminary Results Calculation Memorandum, and Fine Furniture Preliminary Results Calculation Memorandum.

⁸⁹ See GOC IQR at II-5 where the GOC identified this program as for previously identification of patent programs as “Patent Fund” and “Patent Application Support.”

⁹⁰ See Fine Furniture IQR at 23.

⁹¹ See GOC IQR at 16-17; see also Fine Furniture IQR at 14.

form together with other materials, and grants are conferred according to the outcome of the SIPA's decisions.⁹² The GOC corroborated Fine Furniture's reporting that it received assistance under this program during the POR.⁹³

To determine the existence and the amount of any benefit under this program pursuant to section 771(5A)(D)(iv) of the Act and 19 CFR 351.504, we relied on the Fine Furniture's reported grant amounts. As Fine Furniture reported having received grants in various years, we preliminarily determine that assistance under this program meets the criteria in 19 CFR 351.524(c)(2) and that it is therefore appropriate to treat it as a non-recurring grant. Therefore, we first applied the "0.5 percent test," pursuant to 19 CFR 351.524(b)(2). We divided the grants received by Fine Furniture by that year's respective export sales. Because the result was less than 0.5 percent for the grants received during the AUL, we allocated those benefits to the respective years of receipt. To calculate the countervailable subsidy rate for 2014, we divided the grant amount received in 2014 by Fine Furniture's total sales during the POR. This calculation resulted in a non-measurable benefit.⁹⁴

C. Programs Preliminarily Determined to Be Not Used

1. Income Tax Subsidies for Foreign-Invested Enterprises (FIEs) Based on Geographic Location
2. Two Free, Three Half Program⁹⁵
3. Value Added Tax (VAT) and Tariff Exemptions on Imported Equipment
4. Certification of National Inspection-Free on Products and Reputation of Well Known Firm – Jiashan County
5. International Market Development Fund Grants for Small and Medium Enterprises
6. Minhang District Little Giant Enterprise Support
7. Minhang District Pujiang Town Enterprise Support
8. Technology Innovation Support
9. Support for Developing a National Technology Standard

⁹² See GOC IQR at 20.

⁹³ *Id.* at 17.

⁹⁴ See Fine Furniture Preliminary Calculation Memorandum.

⁹⁵ The Department previously evaluated this program under 19 CFR 351.526 and made a program-wide change determination that this program was terminated as of January 1, 2014. See, e.g., *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), and accompanying IDM at 32-33 and Comment 15.

10. Jinzhou New District 2012 Technology Innovation Award
11. Technical Innovation Fund from Linyi Bureau of Finance
11. Local Income Tax Exemption and Reductions for “Productive” FIEs
12. Provision of Electricity at LTAR for FIEs and “Technology Advanced” Enterprises by Jiangsu Province
13. Program of Loan Interest Discount
14. Program of Provincial Famous Brand and New Product
15. Program of VAT Refunds for Production and Processing Comprehensive Utilization Products by Using Three Leftover Materials and Down-Graded Small Woods
16. Party Members’ Activities Fund

VI. Preliminary *Ad Valorem* Rate for Non-Selected Companies Under Review

The statute and the Department’s regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all others rate in an investigation. We also note that section 777A(e)(2) of the Act provides that “the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all others rate under section {705(c)(5) of the Act}.” Section 705(c)(5)(A) of the Act instructs the Department to calculate an all others rate using the weighted average of the subsidy rates established for the producers/exporters individually examined, excluding any zero, *de minimis*, or facts available rates. In this review, the final subsidy rates calculated for the two mandatory respondents are above *de minimis* and neither was determined entirely under facts available.

Calculating the non-selected rate by weight-averaging the rates of the respondents, using respondents’ proprietary sales, however, risks disclosure of this proprietary information. Therefore, for these final results, we calculated the rate for the non-selected companies by averaging the rates of Dalian Penghong Floor Products Co., Ltd. and Fine Furniture (Shanghai) Limited using publicly-ranged sales data.⁹⁶ Accordingly, for each of the 104 companies for

⁹⁶ See Memorandum to The File entitled, “Calculation of the Non-Selected Rate for the Preliminary Results of Review; 2014,” dated concurrently with this notice.

which a review was requested and not rescinded, but were not selected as mandatory respondents and that did not fail to cooperate, we derived a final subsidy rate of 1.68 percent *ad valorem*.⁹⁷

VII. RECOMMENDATION

We recommend that you approve the preliminary findings described above.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

12/30/2016

Date

⁹⁷ For a list of the non-selected companies, see *Multilayered Wood Flooring from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, Rescission of Review, in Part, and Intent to Rescind the Review in Part; 2014*, signed concurrently with this decision memorandum.