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May 31, 2017

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

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Aluminum Extrusions from the People's Republic of China and Rescission of Review, in Part; 2015

I. Summary

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC). The period of review (POR) is January 1, 2015 through December 31, 2015. This administrative review was requested by the Aluminum Extrusions Fair Trade Committee, *et al.* (the petitioner) and 14 other interested parties.[1] The two mandatory respondents are: (1) tenKsolar (Shanghai) Aluminum Co., Ltd. (tenKsolar); and (2) Changzhou Jinxi Machinery Co., Ltd. (Changzhou Jinxi).

As explained in the "Use of Facts Otherwise Available and Adverse Inferences" section below, we have relied on total adverse facts available (AFA) to determine the subsidy rate for Changzhou Jinxi and tenKsolar. Additionally, we have preliminarily determined the subsidy rate for cooperative non-selected companies based on the rate established for cooperative non-selected companies in *Aluminum Extrusions 2014 Review*.[2] If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise entered during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended

[1] *See*, *e.g.*, the Petitioner's letter "Aluminum Extrusions from the People's Republic of China: Request for Administrative Review," dated May 31, 2016.
[2] *See Aluminum Extrusions from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 81 FR 92778 (December 12, 2016) (*Aluminum Extrusions 2014 Review*).

(the Act), we intend to issue the final results no later than 120 days after publication of these preliminary results.

II. <u>Background</u>

On May 26, 2011, we published a CVD order on aluminum extrusions from the PRC.[3] On May 2, 2016, we published a notice of "Opportunity to Request Administrative Review" of the CVD order for the calendar year 2015.[4] We received requests for review of 204 companies. Based on timely requests for review, and in accordance with 19 CFR 351.221(c)(1)(i), we published a notice initiating this administrative review on July 7, 2016.[5] On October 5, 2016, the petitioner withdrew its request for administrative review of 186 companies.[6] No other company withdrew its request for review. On January 13, 2017, the Department initiated an administrative review of one additional company that had been inadvertently omitted from the *Initiation Notice*.[7] We are rescinding the review with respect to the 186 companies requested by the petitioner.[8] Therefore, in total, 18 companies remain under review.[9]

In the *Initiation Notice*, we stated our intention to select respondents based on CBP data for U.S. imports during the POR.[10] However, as explained in the *Initiation Notice*,[11] as well as in memoranda subsequently placed on the record of this review,[12] because of data inconsistencies stemming from the wide variety of individual aluminum extrusion products included in the scope of the *Order*, we were precluded from relying on volume data in determining the largest PRC exporters of subject merchandise. Instead, we issued quantity and value (Q&V) questionnaires

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[3] *See Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (the *Order*).
[4] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 81 FR 26206 (May 2, 2016).
[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 44260 (July 7, 2016) (*Initiation Notice*).
[6] *See* the Petitioner's letter "Aluminum Extrusions from the People's Republic of China: Withdrawal of Request for Administrative Review," dated October 5, 2016.
[7] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294 & n.10 (January 13, 2017) (*Corrected Initiation Notice*).
[8] *See* "Partial Rescission of Review," below.
[9] The following companies remain under review: (1) Changzhou Jinxi, (2) tenKsolar, (3) Classic & Contemporary Inc., (4) Daya Hardware Co., LTD, (5) Dongguan Golden Tiger Hardware Industrial Co., Ltd., (6) ETLA Technology (Wuxi) Co., Ltd., (7) Global Hi-Tek Precision Limited, (8) Jiangsu Zhenhexiang New Material Technology Co., Ltd., (9) Johnson Precision Engineering (Suzhou) Co Ltd, (10) Kam Kiu Aluminium Products Sdn. Bhd., (11) Ningbo Haina Machine Co., Ltd., (12) Ningbo Innopower Tengda Machinery Co., Ltd., (13) Ningbo Yinzhou Sanhua Electric Machine Factory, (14) Precision Metal Works LTD., (15) Summit Heat Sinks Metal Co., Ltd., (16) Suzhou New Hongji Precision Part Co. Ltd., (17) Taishan City Kam Kiu Aluminium Extrusion Co., Ltd., and (18) Wuxi Huida Aluminum Co., Ltd.
[10] *See Initiation Notice*.
[11] *Id*.
[12] *See* Memorandum, "2015 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China," dated January 17, 2017 (Respondent Selection Memorandum).

to seven companies accounting for the largest import values, as reflected in the CBP data.[13] In addition, as indicated in the *Initiation Notice*, we posted a Q&V questionnaire to the Department's web site. We received timely Q&V responses from 15 companies, including eight voluntary Q&V responses. We also received letters of certification of no shipments from 15 companies.[14]

On January 17, 2017, the Department selected Changzhou Jinxi and tenKsolar for individual examination, based on information received in the Q&V responses.[15] On January 17, 2017, the Department also issued the Initial Questionnaire and instructed the Government of the People's Republic of China (GOC) to forward the Initial Questionnaire to the two mandatory respondents.[16] We received tenKsolar's response to the affiliations questions in the Initial Questionnaire on February 3, 2017.[17] Changzhou Jinxi did not respond to the Initial Questionnaire. On February 24, 2017, we issued a supplemental questionnaire regarding tenKsolar's Affiliations Response,[18] to which tenKsolar responded on March 6, 2017.[19] On February 28, 2017, based on information contained in tenKsolar's Affiliations Response, we issued a letter to tenKsolar informing it that we would require it to submit questionnaire responses for unaffiliated suppliers of aluminum extrusions, Kunshan TongTuo RuDa Hardware Device Co., Ltd. (Tongtuo) and Jiangyin Zehua Technology Aluminum Technology Co. Ltd. (Zehua).[20] We received tenKsolar's response to Section III of the Initial Questionnaire on March 2, 2017.[21] We also received the GOC's Initial Response on March 2, 2017.[22] On March 16,

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[13] *See* Memorandum, "Issuance of Quantity and Value Questionnaires," dated October 6, 2016 (Q&V Issuance Memorandum). Three companies in the top ten companies with the largest import values, based on CBP data, submitted voluntary Q&V responses; thus, seven Q&V questionnaires were sent to the remaining companies in the top ten.

[14] Between July 25, 2016 and August 31, 2015, the Department received no shipment certification letters from the following companies: (1) Danfoss Micro Channel Heat Exchangers (Jia Xing) Co., Ltd.; (2) China Square Industrial Ltd; (3) Xin Wei Aluminum Company Limited; (4) Guangdong Xin Wei Aluminum Co., Ltd; (5) Xin Wei Aluminum Co.; (6) Traffic Bric Network LLC; (7) Justhere Company Limited; (8) Sunmodo New Energy Equipment Co., Ltd.; (9) Ningbo Yili Import & Export, Co., Ltd.; (10) Permasteelisa Hong Kong Limited; (11) Permasteelisa South China Factory; (12) Guang Ya Aluminium Industries Co., Ltd.; (13) Foshan Guangcheng Aluminium Co., Ltd.; (14) Kong Ah International Company Limited; and (15) Guang Ya Aluminium Industries (Hong Kong) Limited.

[15] *See* Respondent Selection Memorandum.

[16] *See* Letter to the GOC, "2015 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated January 17, 2017 (Initial Questionnaire).

[17] *See* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China: tenKsolar Affiliated Companies Response," dated February 3, 2017 (tenKsolar's Affiliations Response).

[18] *See* Letter to tenKsolar, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: First Supplemental Questionnaire to tenKsolar (Shanghai) Co., Ltd.," dated February 24, 2017.

[19] *See* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire Response," dated March 6, 2017 (tenKsolar's First Supplemental Questionnaire Response).

[20] *See* Letter to tenKsolar, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Unaffiliated Producer Supplier Responses," dated February 28, 2017.

[21] *See* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China: Section III Questionnaire Response," dated March 2, 2017 (tenKsolar's Section III Questionnaire Response).

[22] *See* GOC Letter, "Aluminum Extrusions from China; 5th CVD Administrative Review GOC Initial Questionnaire Response," dated March 2, 2017 (the GOC's Initial Response).

2017, the petitioner filed deficiency comments on tenKsolar's questionnaire responses,[23] as well as on the GOC's questionnaire responses.[24] On April 11, 2017, we received comments from interested parties regarding price data for glass and aluminum extrusions for use as benchmark data.[25] On April 21, 2017, we issued a supplemental questionnaire to the GOC,[26] to which the GOC responded on May 2, 2017.[27] On April 21, 2017, and April 24, 2017, we received rebuttal comments from tenKsolar and the petitioner, respectively, regarding price data for glass and aluminum extrusions for use as benchmark data.[28] On April 21, 2017 and April 27, 2017, we issued supplemental questionnaires to tenKsolar regarding tenKsolar's Section III Questionnaire Response.[29] On May 1, 2017, we received a self-described "very limited response" from tenKsolar to both the Department's Second Supplemental Questionnaire and Third Supplemental Questionnaire, as well as notice from tenKsolar of the withdrawal of its counsel from this proceeding.[30]

III. Partial Rescission of Review

For those companies for which all review requests were timely withdrawn, we are rescinding the administrative review, pursuant to 19 CFR 351.213(d)(1). Those companies are listed in Attachment II of the *Federal Register* notice issued concurrently with this decision memorandum.

The 15 companies that filed timely no-shipment certifications were also included in the Petitioner's timely withdrawal of its review requests, and because no party other than the petitioner requested a review of these companies, the Department is rescinding the administrative review of these companies pursuant to 19 CFR 351.213(d)(1).

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[23] *See* Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on tenKsolar's Affiliated Companies Supplemental Questionnaire Response," dated March 16, 2017; *see also* Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Deficiency Comments on Initial Questionnaire Response of tenKsolar and its Producer Suppliers," dated March 16, 2017.

[24] *See* Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Deficiency Comments on Initial Questionnaire Response of the Government of the People's Republic of China," dated March 16, 2017.

[25] *See* Petitioner Letter, "*Aluminum Extrusions from the People's Republic of China:* Submission of Factual Information - Benchmark Data," dated April 11, 2017; *see also* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China - Benchmark Submission," dated April 11, 2017.

[26] *See* Letter to the GOC, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: First Supplemental Questionnaire to the Government of the People's Republic of China," dated April 21, 2017 (Supplemental Questionnaire to the GOC).

[27] *See* GOC Letter, "Aluminum Extrusions from China; 5th CVD Administrative Review GOC 1st Supplemental Questionnaire Response," dated May 2, 2017 (GOC's Supplemental Response).

[28] *See* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China: Submission of Rebuttal Benchmark Information," dated April 21, 2017. *See also* Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Rebuttal to tenKsolar's Benchmark Data," dated April 24, 2017.

[29] *See* Letter to tenKsolar, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: First Supplemental Questionnaire to tenKsolar, Zehua, and Tongtuo," dated April 21, 2017 (Second Supplemental Questionnaire). *See also* Letter to tenKsolar, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Third Supplemental Questionnaire to tenKsolar, Zehua, and Tongtuo," dated April 27, 2017 (Third Supplemental Questionnaire).

[30] *See* tenKsolar Letter, "Aluminum Extrusions from the People's Republic of China: Letter Regarding Difficulty Responding to Supplemental Questionnaire and Withdrawal of Counsel's Notice of Appearance," dated May 1, 2017 (tenKsolar's May 1, 2017 Response).

IV. Extension of the Preliminary Results

We determined that it was not practicable to complete the preliminary results of review within the statutory time frame of 245 days after the last day of the anniversary month for which this administrative review was requested. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department extended the deadline for the preliminary results by 100 days, until May 11, 2017. The Department further extended the deadline by an additional 20 days, until May 31, 2017, in accordance with section 751(a)(3)(A) of the Act.[31]

V. Scope of the Order

The merchandise covered by the order{s} is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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[31] *See* Memorandum, "Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated May 5, 2017.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached *(e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product. An imported product will not be considered a "finished goods kit" and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters ("mm") or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and

(3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

There have been numerous scope rulings issued with regard to this *Order*. For further information, refer to the listing of these scopes rulings at the webpage entitled, Final Scope Rulings on the website of Enforcement and Compliance located at http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html.

VI. Use of Adverse Facts Available

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.[32]

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

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) 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."[33] 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."[34]

Section 776(c) of the Act provides that, 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

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[32] On June 29, 2015, the Trade Preferences Extension Act of 2015, 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). Accordingly, the amendments apply to this administrative review.

[33] *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) (*Drill Pipe from the PRC*); *see also 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).

[34] *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') at 870.

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."[35] It is the Department's practice to consider information to be corroborated if it has probative value.[36] 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.[37] However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.[38]

Finally, under section 776(d) of the Act, the Department may use any 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 administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), 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.[39]

Application of Total AFA: tenKsolar

We identified numerous deficiencies in tenKsolar's initial questionnaire response. tenKsolar did not respond to certain questions in the Initial Questionnaire and provided only a partial response to certain other questions. For these reasons, and because of questions concerning the information contained in tenKsolar's Affiliations Response and tenKsolar's Section III Response, we issued the Second Supplemental Questionnaire on April 25, 2017, addressing these deficiencies.[40] On April 27, 2017, we issued the Third Supplemental Questionnaire, in which we addressed other deficiencies in tenKsolar's Section III Response. On May 1, 2017, tenKsolar provided what it described as a "very limited response" to the questions contained in the Second and Third Supplemental Questionnaires.[41] tenKsolar provided a complete response to only one question, and a partial response to another question contained in the Second Supplemental Questionnaire.[42] tenKsolar also provided a complete response to only one question, and a partial response to another two questions, contained in the Third Supplemental Questionnaire.[43]

As explained in further detail below, questions in the Second Supplemental Questionnaire and Third Supplemental Questionnaire related specifically to information necessary for identifying the programs used by tenKsolar, Tongtuo, and Zehua, and calculating the resulting subsidy rates.

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[35] *See*, *e.g.*, SAA at 870.
[36] *Id.*, at 870.
[37] *Id.*, at 869.
[38] *Id.*, at 869-870.
[39] *See* section 776(d)(3) of the Act.
[40] The Second Supplemental Questionnaire was dated April 21, 2017; however, we issued the questionnaire on April 25, 2017. *See* Memorandum to the file, "Correspondence with Jonathan Freed Concerning tenKsolar's Bracketing-Not-Final 3rd Supplemental Questionnaire," dated May 4, 2017.
[41] *See* tenKsolar's May 1, 2017 Response.
[42] *Id.*, at 2-4.
[43] *Id.*, at 4-5.

We also requested documentary evidence of critical assertions made on the record.[44] Furthermore, we requested additional information related to the completeness of tenKsolar's responses, and tenKsolar's ambiguous responses to certain questions.[45] This information is necessary to confirm the accuracy of tenKsolar's assertions, to confirm non-use of certain programs, to calculate individual program subsidy rates for the programs reportedly used by tenKsolar, Tongtuo, and Zehua, and to calculate a net subsidy rate for tenKsolar.

tenKsolar's Failure to Provide Information Needed to Confirm Non-Use for Certain Investigated Programs, and to Calculate Subsidy Rates for All Programs

1. Complete Financial Statements

In the Department's Initial Questionnaire, we asked tenKsolar to provide complete financial statements for the last three fiscal years:

> Please provide your company's complete audited financial statements for the last three fiscal years. (Please provide the financial statements in English, if available. If they are not available in English, provide translations of the income statement, the balance sheet, the cash flow statement, the statement of change in equity, all notes thereto, and the auditor's opinion.) These should be the official financial statements filed with your government. If there is no such filing requirement, the financial statements should be those presented to banks or independent third parties. The financial statements should include the complete set of statements, *e.g.*, income statement, balance sheet, cash flow statement, statement of change in equity, all notes thereto, and the auditor's opinion. If you do not prepare audited financial statements, please provide whatever unaudited financial statements that are prepared for your board of directors, your shareholders, and for the government.[46]

tenKsolar responded by providing tenKsolar's complete audited financial statements for the last three fiscal years, and providing only Tongtuo's and Zehua's balance sheets and income statements for the last three years. However, tenKsolar did not provide Tongtuo's and Zehua's complete audited or unaudited financial statements, notes to the financial statements, statements of cash flow, statements of change in equity, notes thereto, or auditor's opinions.[47,48] tenKsolar

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[44] *See* the Second Supplemental Questionnaire at 13-16 (Questions 5, 6, 11, 17, 21, and 22).
[45] *Id.*, at 13-16 (Questions 7, 9, 12, 13, 14, 16, 17, 18, 19, 20, 21 and 22).
[46] *See* the Initial Questionnaire, at III-6.
[47] *See* tenKsolar's Section III Response, at 7-8 and Exhibit 3.
[48] Based on information contained in tenKsolar's affiliations response indicating that tenKsolar was not the producer of the subject merchandise, and that tenKsolar purchases the aluminum extrusions it exported to the United States from upstream producer-suppliers Tongtuo and Zehua, the Department requested that tenKsolar Shanghai provide complete questionnaire responses for all unaffiliated producer suppliers of aluminum extrusions. *See* Letter to tenKsolar, "Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Unaffiliated Producer Supplier Responses," dated February 28, 2017. tenKsolar also did not provide total sales reconciliations as requested in the Initial Questionnaire (*see* Initial Questionnaire, at III-7 and tenKsolar's Section III Response, at 9-10 and exhibits), but the Department did not include a request for sales reconciliations in its supplemental questionnaires.

also provided no explanation as to why it only provided Tongtuo's and Zehua's balance sheets and income statements; whether these balance sheets and income statements are part of a larger complete financial statement; what types of balance sheets and income statements it provided; whether it prepared complete financial statements with audited financial statements, statements of cash flow, statements of change in equity, or notes thereto; or whether it has provided the financial statements Tongtuo and Zehua prepared for their boards of directors, shareholders, or for the government.[49]

Because we require information contained in these financial statements, we again asked tenKsolar to provide Tongtuo's and Zehua's complete audited financial statements, including notes to the financial statements, in the Second Supplemental Questionnaire.[50] We also asked why tenKsolar did not provide complete financial statements or any notes to the financial statements.[51] tenKsolar again failed to provide the requested financial statements and failed to provide any other responses to these questions.[52]

The Department requires Tongtuo's and Zehua's complete financial statements to confirm reported POR sales data, which is critical to calculating the subsidy rates of all the programs reported by tenKsolar. Additionally, the Department requires Tongtuo's and Zehua's complete financial statements to confirm tenKsolar's and the GOC's claims of the value and timing of reported subsidies benefits payments and accruals,[53] and non-use of previously countervailed programs,[54] previously investigated programs for which no countervailability finding had been made,[55] and other potential countervailable subsidies programs which the Department has not previously investigated.[56]

Moreover, tenKsolar failed to respond to our requests to identify the nature and source of the balance sheets and income statements provided, precluding us from relying upon these financial statements. Therefore, we lack reliable information to confirm the reported POR sales figures used to calculate subsidy rates for reported subsidies benefits and to confirm the non-use of all other previously countervailed or alleged subsidies programs.

2. Specific Financial Statement Items

In the Second Supplemental Questionnaire, we asked a series of questions about specific figures in tenKsolar, Tongtuo, and Zehua's balance sheets and income statements.[57] In addition, we

[49] *See* tenKsolar's Section III Response, at 7-8.
[50] *See* the Second Supplemental Questionnaire, at 4-5 (Question 4).
[51] *Id.*
[52] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[53] *Id.*, at 36-41.
[54] *See* the Initial Questionnaire, section III, at II; tenKsolar's Section III Response, at 10-26; and GOC's Section II Response, at 2.
[55] *See* the Initial Questionnaire, section III, at III; tenKsolar's Section III Response, at 26-32; and GOC's Section II Response, at 51.
[56] *See* the Initial Questionnaire, section III, at IV; tenKsolar's Section III Response, at 32-41; and GOC's Section II Response, at 58.
[57] *See* the Second Supplemental Questionnaire, at 19-20 (Questions 28 to 33).

asked tenKsolar to provide account details for Tongtuo, and Zehua's paid-in capital, other operating income and nonoperating income accounts (or the equivalent) for the last three fiscal years, and to identify each type of and each of the sources of paid-in capital, other operating income, and non-operating income contained in all accounting entries and sub-accounts. tenKsolar did not provide any responses to these questions.[58] tenKsolar failed to provide any responses to these questions.[59] The Department requires this information to confirm that the respondent did not use other unreported subsidy programs.[60]

3. Affiliations and Cross Ownership

In tenKsolar's Affiliations Response, tenKsolar responded to certain questions regarding affiliations and cross ownership.[61] tenKsolar did not identify any potentially affiliated or cross-owned companies in the PRC, and did not provide details about any if its employees, board members, or executive officers, indicating that the company is not affiliated by ownership or otherwise with other companies in the PRC.[62] In tenKsolar's Section III Response, tenKsolar provided the name of its managing director.[63] In the Department's Second Supplemental Questionnaire, we asked whether there were other names used by tenKsolar's managing director. tenKsolar did not provide any response to this question.[64] We require this information to confirm the identity of cross-owned companies, and to rule out the presence of other unreported subsidies programs.

tenKsolar's Failure to Provide Other Information Needed to Calculate Subsidy Rates for All Programs

1. Purchases of Aluminum Extrusions and Intercompany Sales

In the Department's Initial Questionnaire, we asked tenKsolar to provide a complete list of all of tenKsolar's purchases of aluminum extrusions during the POR.[65] tenKsolar responded: "tenKsolar only purchased aluminum extrusions from Zehua and Tongtuo, which have already reported their own purchase of primary aluminum and aluminum extrusion in this response, respectively."[66]

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[58] *See* Second Supplemental Questionnaire, at 19-20 (Questions 28 to 33).
[59] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[60] We note that the Department's request for information about specific financial statement items was limited to income and other figures which were large enough to potentially represent measurable benefits in the POR, or if allocated into the POR might be large enough to potentially represent measurable benefits in the POR. *See also*, *e.g.*, the section entitled "Information Regarding Zehua's Receipt of Benefits under the Deduction of Value Added Tax for Purchase Cost of Value-Added Tax Control System-Specific Equipment & Technical Maintenance Fee Program," below.
[61] *See* tenKsolar's Affiliations Response, at Attachment A.
[62] *Id.*, at Attachment A, page 1.
[63] *See* tenKsolar's Section III Response, at 6.
[64] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[65] *See* Initial Questionnaire, at III-14 to III-15.
[66] *See* tenKsolar's Section III Response, at 18-19.

Because we anticipated the need to potentially deduct intercompany sales from Tongtuo's, Zehua's, and tenKsolar's sales denominators used to calculate subsidy rates, and because we anticipated the need to allocate Tongtuo's and Zehua's subsidies rates according to tenKsolar's purchases from Tongtuo and Zehua, we requested the quantity and value of POR intercompany sales of tenKsolar, Zehua, and Tongtuo in the Second Supplemental Questionnaire.[67] tenKsolar did not provide any response to this question.[68]

Because we anticipated the need for more detailed information to allocate Tongtuo's and Zehua's subsidies to tenKsolar's sales and, potentially, to subject merchandise,[69] in the Third Supplemental Questionnaire, the Department directed tenKsolar to "{r}eport the relevant tariff numbers appropriate for and ***the quantity in weight purchased***, by tariff number, of each type of extruded aluminum input tenKsolar purchased from Zehua and Tongtuo."[70] tenKsolar responded: "{t}he U.S. entry summaries provided in Exhibit 1 all report an HTS classification of 7604.21.0000."[71] However, tenKsolar did not provide the quantity and value of such purchases.[72] Because tenKsolar made no attempt to answer the question, and because our previous request for a listing of tenKsolar's purchases of aluminum extrusions in the Department's Initial CVD Questionnaire covers the same information, tenKsolar twice failed to provide the requested information.

The individual quantities or the relative quantities of tenKsolar's purchases of from Tongtuo and Zehua and the quantity and value of the aluminum extrusions purchased from Tongtuo and Zehua are necessary to accurately allocate Zehua's and Tongtuo's subsidies to tenKsolar, to subject merchandise, and to calculate an overall subsidy rate for tenKsolar.

2. Downstream Products Produced and Exported by tenKsolar

In the Department's Initial Questionnaire, we asked tenKsolar to report its glass purchases and to respond to certain questions regarding the Glass for LTAR Program.[73] However, in tenKsolar's Section III Response, tenKsolar did not provide a response to these questions, indicating that tenKsolar used glass as an input into solar modules or solar laminate.[74] Furthermore, tenKsolar reported that it had not produced subject aluminum extrusions, and was merely the exporter, not the producer of the subject merchandise under review, but that it had produced certain products (*i.e.*, "solar laminate," "solar modules," and "solar panel products"), some or all of which are covered by the existing countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (C-570-980),

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[67] *See* Second Supplemental Questionnaire, at 20 (Question 34).
[68] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[69] In the Second Supplemental Questionnaire, we asked other questions relating to whether tenKsolar's purchases of glass under the Provision of Glass for LTAR Program and the Provision of Aluminum Extrusions for LTAR Program could be tied to subject merchandise or to non-subject merchandise. *See* Second Supplemental Questionnaire, at 12-16 (Questions 16-20).
[70] *See* Third Supplemental Questionnaire, at 4 (emphasis added).
[71] *See* tenKsolar's May 1, 2017 Response, at 4.
[72] *Id*.
[73] *See* Initial Questionnaire, at III-15 to III-16.
[74] *See* tenKsolar's Section III Response, at 2, 4-7, and 20.

and/or certain crystalline silicon photovoltaic products from the People's Republic of China (C-570-011).[75]

We needed to collect further information about tenKsolar's downstream products, including information regarding whether tenKsolar produced subject merchandise, whether tenKsolar used the Provision of Glass for LTAR Program, or whether the Provision of Glass for LTAR Program or the Provision of Aluminum extrusions for LTAR Program were tied exclusively to subject merchandise. Therefore, in the Second Supplemental Questionnaire, we asked tenKsolar questions related to its downstream products and its purchases of glass.[76,77] Notably, tenKsolar's "very limited response" to the Second Supplemental Questionnaire provided no responses to the vast majority of our questions related to tenKsolar's downstream products and purchases of glass.[78] TenKsolar responded to only one of the multi-part questions concerning its downstream products and purchases of glass, Question 16, which asked tenKsolar to: a) describe its solar modules; b) to describe the glass and aluminum components of such modules; c) to identify which antidumping and CVD orders cover the product and to explain why the product is covered by the scope of these orders; d) to explain why the product might not be covered by the scope of the aluminum extrusions order; and e) to explain whether solar modules contain subject aluminum extrusions, and to provide a description of the products according to critical elements of the scope of the aluminum extrusions order.[79]

tenKsolar responded with a statement explaining that: 1) the solar modules and solar panels which it exported were imported under and are "subject to" the order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (C-570-980) and not the aluminum extrusions order; 2) the aluminum extrusions parts which it exported as separate products were imported under the aluminum extrusions order; 3) the order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the

[75] *Id*.
[76] *See* Second Supplemental Questionnaire, at 12-16 (Questions 16-20).
[77] In accordance with 19 CFR 351.525(b)(5)(i), if a subsidy is tied to the production or sale of a particular product, the Department normally will attribute the subsidy only to that product. Moreover, the Department does not normally countervail benefits found to be tied to non-subject merchandise (*see, e.g.*, *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 69 FR 51063 (August 17, 2004) (*PET Film from India*), and accompanying Issues and Decision Memorandum at Comment 8, where the Department did not countervail the benefits from a subsidy program where they were tied to non-subject merchandise. *See also Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Washers from Korea*), and accompanying Issues and Decision Memorandum at Comment 7; *Drill Pipe from the PRC*, and accompanying Issues and Decision Memorandum at Comment 6; *Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2013) (*Steel Wheels from the PRC*), and accompanying Issues and Decision Memorandum at 36; *Aluminum Extrusions from the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015) (*Aluminum Extrusions 2013 Review*), and accompanying Issues and Decision Memorandum at Comment 8; and *Aluminum Extrusions 2014 Review*, and accompanying Issues and Decision Memorandum at Comment 4.
[78] *See* tenKsolar's May 1, 2017 Response, at 2-5; and the Department's Second Supplemental Questionnaire, at 12-16 (Questions 16-20).
[79] *See* tenKsolar's May 1, 2017 Response, at 2-3; and the Department's Second Supplemental Questionnaire, at 12-13 (Question 16).

People's Republic of China (C-570-980) already includes duties related to glass provided for LTAR; and 4) it did not export glass "as a stand-alone item, but only "incorporated into a solar module." [80] tenKsolar's single response to four numbered sub-questions contained in this multi-part question provided very limited factual information. Notably, tenKsolar's response to this question did not speak to the actual description of its solar modules or other products, or any explanation regarding why its solar modules and solar panels are not covered by the scope of the aluminum extrusions order (other than that they are covered by and entered under the scope of another order).[81] tenKsolar's response provided none of the detailed information requested, information which is critically necessary to determine whether these downstream products are covered by the scope of the aluminum extrusions order, whether tenKsolar is a producer of subject downstream aluminum extrusions products, or whether the glass tenKsolar purchased is tied to non-subject merchandise.[82]

In addition, in the Second Supplemental Questionnaire, we asked four additional multi-part questions (Questions 17 through 20) containing 20 numbered sub-questions related to tenKsolar's downstream products and the glass and aluminum extrusions components thereof.[83] tenKsolar made no attempt to answer any of these questions.[84]

The information requested of tenKsolar and described above is necessary to determine: 1) whether tenKsolar purchased tempered or laminate glass, as covered by the Provision of Glass for LTAR Program; 2) whether tenKsolar's purchases of glass are tied to non-subject merchandise; 3) whether tenKsolar purchased aluminum extrusions to be incorporated into products which also contained tempered or laminate glass; 4) whether the products which tenKsolar manufactures and which contain aluminum extrusions as parts, or use aluminum extrusions as inputs, are covered by the scope of the *Order*; 5) whether tenKsolar benefited from the Provision of Glass for LTAR program; 6) whether any benefits received under the Provision of Glass for LTAR Program can be tied to non-subject merchandise; 7) whether tenKsolar benefited from the Aluminum Extrusions for LTAR Program; 8) whether any benefits received under the Provision of Aluminum Extrusions for LTAR Program can be tied to non-subject merchandise; 9) whether tenKsolar's was a producer of subject merchandise; 10) whether benefits provided to Tongtuo and Zehua should be included in our calculations; 11) whether further information is necessary to calculate benefits under the Provision of Glass for LTAR Program; 12) whether further information is necessary to calculate benefits under the Aluminum Extrusions for LTAR Program; and 13) whether tenKsolar's purchases from Tongtuo and Zehua should be considered under the Provision of Aluminum for LTAR program.

3. tenKsolar's Tax Returns

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[80] *See* tenKsolar's May 1, 2017 Response, at 2-3.
[81] *See* tenKsolar's May 1, 2017 Response, at 2-3; *see also* the Department's Second Supplemental Questionnaire, at 12-13 (Question 16).
[82] *See* the Department's Second Supplemental Questionnaire, at 12-13 (Question 16).
[83] *Id.*, at 13-14 (Questions 17Aii, 17Bii, and 18B).
[84] *See* tenKsolar's May 1, 2017 Response, at 2-4.

In the Department's Initial Questionnaire, the Department asked tenKsolar to provide complete tax returns filed during the POR, including all schedules, attachments, and amendments.[85] tenKsolar provided certain statements accompanying Zehua's and Tongtuo's tax returns filed during the POR.[86] However, tenKsolar did not provide any statements, schedules, attachments, or amendments with its own tax return. Because these documents are necessary to our analysis, and because it appeared that tenKsolar had not provided a complete response to this question, we again requested that tenKsolar provide its complete tax return filed during the POR, including all statements, schedules, attachments, or amendments.[87] tenKsolar did not provide any response to these questions.[88] These documents are necessary to confirm the non-use of any unreported tax programs, and to confirm tenKsolar's reported 2014 total sales figures.

tenKsolar's Failure to Provide Information Necessary to Calculate Subsidy Benefits for Specific Programs

tenKsolar reported subsidies under the following programs which the Department has previously found to be countervailable:[89]

1. Policy Loans (Zehua)[90]
2. Provision of Primary Aluminum for LTAR (Zehua)[91]
3. Provision of Aluminum Extrusions for LTAR (tenKsoalar, Tongtuo)[92]

Each of the deficiencies noted above prevent us from calculating subsidy rates for any of the programs reported by tenKsolar or its unaffiliated upstream suppliers of aluminum extrusions. In addition, because of certain program-specific deficiencies noted below, we are unable to calculate subsidy rates for any of the programs reported by tenKsolar or its unaffiliated upstream suppliers of aluminum extrusions, which the Department has previously found to be countervailable subsidies.

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[85] *See* Initial Questionnaire, at III-6.
[86] *See* tenKsolar's Section III Response, at 8 and Exhibit 4.
[87] *See* Second Supplemental Questionnaire, at 6 (Questions 6A and 6B).
[88] *Id.*, at 13-16 (Questions 17-20); *see also* tenKsolar's May 1, 2017 Response, at 2-4.
[89] tenKsolar also reported benefits under the "Service Charge for Tax Collection" Program and the "Deduction of Value Added Tax for Purchase Cost of Value-added Tax Control System-specific Equipment & Technical Maintenance Fee" Program. *See* tenKsolar's Section III Response, at 32-41 and Exhibit 13. *See also* GOC's Supplemental Response, at 85-87. tenKsolar did not report benefits information for the "Deduction of Value Added Tax for Purchase Cost of Value-added Tax Control System-specific Equipment & Technical Maintenance Fee" Program, and did not respond to certain supplemental questions regarding other programs; however, the GOC responded to questions regarding these programs, providing information and documentation indicating that these programs are fee-for-service programs or direct reimbursement of expenses imposed under certain GOC tax collection policies, not countervailable subsidies programs. Despite tenKsolar's failure to respond to these questions, there is no record information contradicting the information provided by the GOC, which indicates that these are not countervailable subsidies programs. Therefore, while we may collect further information about the operation and countervailability of these programs in subsequent segments of this proceeding, we have not preliminarily found these programs to be countervailable, and have not preliminarily attributed subsidies to tenKsolar or its upstream producers of aluminum extrusions.
[90] *See* tenKsolar's Section III Response, at 11 and Exhibit 7.
[91] *Id.*, at 16-18 and Exhibit 8.
[92] *Id.*, at 18-20 and Exhibit 9.

1. Other Forms of Financing

In the Initial Questionnaire, the Department asked tenKsolar to report all forms of financing outstanding at any point during the POR, including, but not limited to: interest expenses on bank promissory notes, invoice discounting, and factoring of accounts receivable.[93] tenKsolar explained that tenKsolar and Tongtuo did not have any outstanding loans during the POR and reported Zehua's outstanding commercial loans, but did not explain whether tenKsolar, Tongtuo, or Zehua had other forms of financing.[94] Because we needed to confirm that tenKsolar, Tongtuo, and Zehua had appropriately reported all financing, in the Second Supplemental Questionnaire, we asked tenKsolar to explain whether tenKsolar, Tongtuo, or Zehua had any other form of financing during the POR and to report all financing associated with all financial expenses reported in tenKsolar, Tongtuo, and Zehua financial statements.[95] tenKsolar did not provide any response to this question.[96] This information is necessary to make an accurate and reliable calculation of tenKsolar's, Tongtuo's, and Zehua's benefits under the policy loans program.

2. The Provision of Aluminum Extrusions for LTAR Program

In the Initial Questionnaire, we asked tenKsolar to report all of its purchases of aluminum extrusions during the POR and to respond to certain questions regarding the Aluminum Extrusions for LTAR Program.[97] tenKsolar did not provide a response to the Department's question with respect to its own purchases of aluminum extrusions, stating: "tenKsolar only purchased aluminum extrusions from Zehua and Tongtuo, which have already reported their own purchase of primary aluminum and aluminum extrusion in this response, respectively."[98] As explained above, in the Second Supplemental Questionnaire, we asked tenKsolar questions related to its downstream products and its purchases of tempered and laminate glass.[99] As

[93] *See* Initial Questionnaire, at III-8.
[94] *See* tenKsolar's Section III Response, at 11.
[95] *See* Second Supplemental Questionnaire, at 6 (Question 7A).
[96] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[97] *See* Initial Questionnaire, at III-14 to III-15.
[98] *See* tenKsolar's Section III Response, at 18 to 9.
[99] *See* Second Supplemental Questionnaire, at 12-16 (Questions 16-20). As explained in *Aluminum Extrusions 2013 Review* and *Aluminum Extrusions 2014 Review*, the Provision of Glass for LTAR Program does not cover all types of glass, but only tempered and laminate glass *See*, *e.g.*, *Aluminum Extrusions 2013 Review* at 62-66; and *Aluminum Extrusions 2014 Review*, at 72. *See also* Memorandum, "Decision Memorandum for the New Subsidy Allegations on the Provision of Aluminum Extrusions for LTAR and Provision of Glass for LTAR Programs in the Third (2013) Administrative Review," dated May 9, 2017, at Attachment, Memorandum "Countervailing Duty Administrative Review of Aluminum Extrusions from the People's Republic of China: Decision Memorandum on New Subsidy Allegations," dated April 1, 2015 (2013 NSA Memorandum), at 4. Also, in accordance with 19 CFR 351.525(b)(5)(i), if a subsidy is tied to the production or sale of a particular product, the Department normally will attribute the subsidy only to that product. Moreover, the Department does not normally countervail benefits found to be tied to non-subject merchandise *See*, *e.g.*, *PET Film from India*, and accompanying Issues and Decision Memorandum at Comment 8, where the Department did not countervail the benefits from a subsidy program where they were tied to non-subject merchandise. *See also Washers from Korea*, and accompanying Issues and Decision Memorandum at Comment 7; *Drill Pipe from the PRC*, and accompanying Issues and Decision Memorandum at Comment 6; *Steel Wheels from the PRC*, and accompanying Issues and Decision Memorandum at 36; *Aluminum Extrusions 2013 Review*, and accompanying Issues and Decision Memorandum at Comment 8; and *Aluminum*

explained above, tenKsolar responded to only one of these questions, which asked tenKsolar to describe its solar modules, to describe the glass and aluminum components of its solar modules, and to provide other information which might allow us to determine whether tenKsolar benefited from this program.[100] As described above, tenKsolar's response to this question is inadequate because it did not fully respond to the Department's request for information. tenKsolar did not describe its solar modules or the aluminum extrusions components of these products, which are necessary for us to determine whether any of tenKsolar's solar products are covered by the aluminum extrusions order, whether tenKsolar is, therefore, a producer of aluminum extrusions, or whether tenKsolar's purchases of aluminum extrusions can be tied exclusively to subject merchandise.[101] In addition, as explained above, we asked four other multi-part questions (Questions 17 through 20) containing 20 numbered sub-questions related to its downstream products and the glass and aluminum extrusions components thereof.[102] Finally, we asked a multi-part question regarding Tongtuo's processing of aluminum extrusions inputs.[103] tenKsolar made no attempt to answer any of these questions.[104]

In addition, regarding Zehua's purchases of aluminum extrusions, in tenKsolar's Section II Response, tenKsolar responded: "Zehua did not purchase aluminum extrusions ***for the production of the subject merchandise*** during the POR."[105] Because we needed to confirm that Zehua did not have purchases of aluminum extrusions for any other purpose, we asked tenKsolar to confirm that Zehua did not purchase aluminum extrusions during the POR, or report all of Zehua's purchases of aluminum extrusions.[106] tenKsolar did not provide any response to this question.[107]

The above information is necessary: 1) to confirm that tenKsolar has reported the purchases of aluminum extrusions inputs made by actual producers of the subject merchandise; 2) to confirm that tenKsolar has identified the ultimate producers of the aluminum extrusions inputs it purchased; 3) to determine whether tenKsolar benefited from the Provision of Aluminum Extrusions for LTAR program; 4) to determine whether any benefits received under the Provision of Aluminum Extrusions for LTAR Program can be tied to non-subject merchandise; 5) to confirm that tenKsolar reported all of its upstream suppliers' purchases of aluminum extrusions; 6) to determine whether further information is necessary to calculate benefits under the Provision of Aluminum Extrusions for LTAR Program; and 9) to make an accurate and reliable calculation of tenKsolar's, Tongtuo's, and Zehua's benefits under the provision of aluminum extrusions for LTAR program.

Extrusions 2014 Review, and accompanying Issues and Decision Memorandum at Comment 4.

[100] *See* tenKsolar's May 1, 2017 Response, at 2-5; *see also* the Department's Second Supplemental Questionnaire, at 12-13 (Question 16).

[101] *Id*.

[102] *See* Second Supplemental Questionnaire, at 13-14 (Questions 17Aii, 17Bii, and 18B).

[103] *Id*., at 10-11 (Question 14).

[104] *See* tenKsolar's May 1, 2017 Response, at 2-4.

[105] *See* tenKsolar's Section III Response, at 18-19.

[106] *See* Second Supplemental Questionnaire, at 8 (Question 10C).

[107] *See* tenKsolar's May 1, 2017 Response, at 2-4.

3. The Provision of Glass for LTAR Program

As explained above in the section entitled "Downstream Products Produced and Exported by tenKsolar," in the Initial Questionnaire, we asked tenKsolar to report all of its purchases of glass during the POR and to respond to certain questions regarding the Glass for LTAR Program.[108] However, in tenKsolar's Section III Response, tenKsolar did not provide any response to these questions.[109]

As explained above, in the Second Supplemental Questionnaire, we asked tenKsolar multiple questions related to its downstream products and its purchases of tempered and laminate glass.[110] However, tenKsolar responded to only one of these questions, Question 16, which asked tenKsolar to describe its solar modules, to describe the glass and aluminum components of its solar modules, and to provide other information which might allow us to determine whether tenKsolar benefited from this program.[111] As described above, tenKsolar's response to this question is inadequate because it was not fully responsive to the Department's request for information. tenKsolar did not describe its solar modules or the glass and aluminum extrusions components of these products, which are necessary for us to determine whether any of tenKsolar's solar products are covered by the aluminum extrusions order and whether therefore, tenKsolar's purchases of glass are tied exclusively to non-subject merchandise.[112] In addition, we asked four other multi-part questions (Questions 17 through 20) containing 20 numbered sub-questions related to its downstream products and the glass and aluminum extrusions components thereof.[113] tenKsolar made no attempt to answer any of these questions.[114] Finally, tenKsolar did not respond to our supplemental requests for complete responses to the questions contained in the "Provision of Glass for LTAR" section of the Department's Initial Questionnaire related to tenKsolar's tempered and laminate glass purchases.[115]

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[108] *See* Initial Questionnaire, at III-15 to III-16.
[109] *See* tenKsolar's Section III Response, at 2, 4-7, and 20.
[110] *See* Second Supplemental Questionnaire, at 12-16 (Questions 16-20). As explained in *Aluminum Extrusions 2013 Review* and *Aluminum Extrusions 2014 Review*, the Provision of Glass for LTAR Program does not cover all types of glass, but only tempered and laminate glass. *See*, *e.g.*, *Aluminum Extrusions 2013 Review*, and accompanying Issues and Decision Memorandum at 62-66; and *Aluminum Extrusions 2014 Review*, and accompanying Issues and Decision Memorandum at 72. *See also* 2013 NSA Memorandum, at 4. Also, in accordance with 19 CFR 351.525(b)(5)(i), if a subsidy is tied to the production or sale of a particular product, the Department normally will attribute the subsidy only to that product. Moreover, the Department does not normally countervail benefits found to be tied to non-subject merchandise. *See*, *e.g.*, *PET Film from India*, and accompanying Issues and Decision Memorandum at Comment 8, where the Department did not countervail the benefits from a subsidy program where they were tied to non-subject merchandise. *See also Washers from Korea*, and accompanying Issues and Decision Memorandum at Comment 7; *Drill Pipe from the PRC*, and accompanying Issues and Decision Memorandum at Comment 6; *Steel Wheels from the PRC*, and accompanying Issues and Decision Memorandum at 36; *Aluminum Extrusions 2013 Review*, and accompanying Issues and Decision Memorandum at Comment 8; and *Aluminum Extrusions 2014 Review*, and accompanying Issues and Decision Memorandum at Comment 4.
[111] *See* tenKsolar's May 1, 2017 Response, at 2-5.
[112] *Id.*, at 2-5.
[113] *See* Second Supplemental Questionnaire, at 13-14 (Questions 17Aii, 17Bii, and 18B).
[114] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[115] *Id.*, at 2-4.

The above information is necessary to determine: 1) whether tenKsolar purchased tempered or laminate glass, the types of glass which are covered by the Provision of Glass for LTAR Program; 2) whether tenKsolar purchased aluminum extrusions which it incorporated into products which also contained tempered or laminate glass; 3) whether tenKsolar benefited from the Provision of Glass for LTAR program; 4) whether any benefits received under the Provision of Glass for LTAR Program can be tied to non-subject merchandise; and 5) whether further information is necessary to calculate benefits under the Provision of Glass for LTAR Program.

4. The Import Tariff and Value Added Tax Exemptions for Foreign Invested Enterprises and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries Program

In the Initial Questionnaire, we asked certain questions regarding the Import Tariff and Value Added Tax (VAT) Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries Program.[116] In tenKsolar's Section III Response, tenKsolar reported that itself and its two unaffiliated producers did not apply for, use or benefit from this Program during the POR or in any of the preceding 11 years.[117] However, because tenKsolar had reported that it was an FIE and that the industry in which it had operated was an "encouraged" industry, we asked tenKsolar to explain how it determined that tenKsolar has not received benefits under this program and to explain whether tenKsolar imported equipment or used imported equipment during the POR or the preceding 11 years.[118] tenKsolar did not provide any response to these questions.[119] This information is necessary to confirm non-use of this program.

5. The Provision of Land-Use Tax for Firms Located in the Zhaoqing New and High-Tech Industrial Development Zone Program

In the Initial Questionnaire, we asked certain questions regarding the Provision of Land-Use Tax for Firms Located in the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ) Program.[120] In tenKsolar's Section III Response, tenKsolar responded: "This question is not applicable to tenKsolar Shanghai because tenKsolar Shanghai and the two unaffiliated producers did not purchase any land use rights in the ZHTDZ."[121] Because tenKsolar did not indicate whether it leases any such land use rights, we asked tenKsolar to confirm that it did not lease any land-use rights in the ZHTDZ.[122] tenKsolar did not provide any response to these questions.[123] This information is necessary to confirm non-use of this program.

[116] *See* the Initial Questionnaire, at III-9.
[117] *See* tenKsolar's Section III Response, at 12.
[118] *See* the Second Supplemental Questionnaire, at 4 (Question 2).
[119] *See* tenKsolar's May 1, 2017 Response, at 2-4.
[120] *See* the Initial Questionnaire, at III-10.
[121] *See* tenKsolar's Section III Response, at 13-14.
[122] *See* the Second Supplemental Questionnaire, at 16 (Question 21).
[123] *See* tenKsolar's May 1, 2017 Response, at 2-4.

6. Freight Expenses

In the Initial Questionnaire, we asked certain questions regarding tenKsolar's, Zehua's, and Tongtuo's freight expenses for shipping aluminum extrusions, glass, and other products or inputs from the nearest ocean port to their factory complexes.[124] As explained above, tenKsolar did not provide any response to our questions regarding glass. Further, regarding the Provision of Primary Aluminum Program, in tenKsolar's Section III Response, tenKsolar responded:

> tenKsolar Shanghai attempted to obtain the requested worksheet and monthly support as requested by the Department, but Zehua stated that they do not keep the records and details available to calculate the actual per-metric ton freight expenses during the POR. However, they only know that the average per-metric ton freight expense to the port is around 167 RMB.[125]

Regarding the Provision of Aluminum Extrusions for LTAR Program and Tongtuo's purchase of aluminum extrusions, tenKsolar responded: "Tongtuo did not incur any freight expenses for aluminum extrusions from the nearest seaport to its factory because the suppliers are responsible for delivering aluminum extrusions to tenKsolar's production facility. Tongtuo also did not incur any freight expenses for shipping a closely-related input product or finished product to or from the nearest seaport during the POR."[126]

In tenKsolar's Section III Response, tenKsolar did not provide the actual freight expense for any of its products or inputs, did not explain the source or the nature of the 167 RMB freight expense estimate provided for Zehua, did not provide any documentary support for this figure, did not indicate whether it could provide freight expenses for shipping other products or inputs to or from the nearest seaport. Accordingly, we asked tenKsolar to provide information regarding other types freight expenses, the products or inputs Tongtuo and Zehua incurred freight expenses for, Tongtuo's and Zehua's accounts and financial statement figures which might contain freight expense information, information about freight expenses from Tongtuo's and Zehua's records, and to provide the distance to the nearest seaport from Zehua's and Tongtuo's factory complexes.[127] tenKsolar did not provide any response to these questions.[128] The above information is necessary to accurately value tenKsolar's freight expense and by extension to calculate accurate glass and aluminum extrusions benchmarks.

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[124] *See* the Initial Questionnaire, at III-14.
[125] *See* tenKsolar's Section III Response, at 18.
[126] *Id.*, at 19-20.
[127] *See* Second Supplemental Questionnaire, at 16 (Question 21).
[128] *See* tenKsolar's May 1, 2017 Response, at 2-4.

Use of Total Facts Available for tenKsolar

As explained above, in the sections entitled "Complete Financial Statements" and "Specific Financial Statement Items," tenKsolar failed to respond to our requests for Tongtuo's or Zehua's complete or audited financial statements and to answer questions regarding Tongtuo's or Zehua's complete or audited financial statements, or the income statements and balance sheets provided, for which we continue to have very limited information. As explained in the section entitled "Affiliations and Cross Ownership," above, tenKsolar also failed to answer specific questions related to affiliations and cross-ownership. For these reasons, we cannot rely on tenKsolar's responses to confirm non-use of subsides programs which the Department has been previously found to be countervailable and for which tenKsolar reported non-use. In addition, as explained above, tenKsolar's responses were deficient in several other ways, which preclude us from using record information to determine subsidies benefits or calculating subsidies rates for any of the countervailable subsidies programs reported by tenKsolar or its upstream producers of aluminum extrusions, or allocating such benefits to tenKsolar's sales.

For these reasons, we preliminarily determine that necessary information, *e.g.*, complete financial statements (including information regarding affiliations, cross ownership, subsidy programs, and benefit amounts), other information regarding affiliations, and information necessary to calculate subsidy rates for reported countervailable subsidy programs are not on the record within the meaning of section 776(a)(1). Moreover, we preliminarily determine that tenKsolar has withheld information that was requested of it within the meaning of section 776(a)(2)(A) of the Act. Because tenKsolar did not answer many of our supplemental questions, we find that tenKsolar failed to provide information within the deadlines established and failed to provide information in the form and manner requested by the Department within the meaning of section 776(a)(2)(B) of the Act. In addition, because tenKsolar has failed to provide critical information and documents about its responses, as requested, we find that tenKsolar provided information that cannot be verified within the meaning of 776(a)(2)(B) of the Act. Finally, we preliminarily determine that, by not responding to our questions, tenKsolar significantly impeded this review within the meaning of section 776(a)(2)(C) of the Act. Accordingly, and given tenKsolar's failure to comply with multiple requests by the Department to provide Tongtuo's and Zehua's complete or audited financial statements, and tenKsolar's failure to respond to supplemental questions regarding affiliations, its financial statements, and specific information contained therein, the Department must rely on "facts available" in making its preliminary determination with respect to all countervailable subsidy programs that tenKsolar could have used, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act (i.e. "total facts available").

Application of Adverse Inferences for tenKsolar

For the reasons stated above, we preliminarily determine that tenKsolar failed to cooperate by not acting to the best of its ability to comply with our requests for information. Section 782(c) of the act provides that "if an interested party, promptly after receiving a request for information from {the Department}, notifies {the Department} that it is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, {the Department} shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party." However, tenKsolar did not inform the Department of difficulties in responding to the any of the questions contained in the Department's Second Supplemental Questionnaire or the Department's Third Supplemental Questionnaire, but rather, waited until the deadline for submission of tenKsolar responses to alert the Department.[129] tenKsolar stated that its reason for not complying with our requests for information was that "the costs of responding cannot be borne by tenKsolar at this time."[130] However, tenKsolar not only failed to notify the Department of any difficulties or suggest alternative forms in which it could submit the information early enough for us to consider any modifications to the reporting requirements,[131] but also never asked for additional time to answer these questions.[132] Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act.

Section 782(d)(1) of the Act provides that if a respondent submits further information in response to the Department's notice of a deficiency, and the Department finds that such response is not satisfactory, the Department may, subject to 782(e) of the Act, disregard all or part of the original and subsequent responses. tenKsolar's May 1, 2017 Response is severely deficient and, therefore, not satisfactory within the meaning of Section 782(d)(1) of the Act. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department, if: (1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and (5) the information can be used without undue difficulties. tenKsolar's May 1, 2017 response is so incomplete that it cannot serve as a reliable basis for calculating a subsidy rate and cannot be used without undue difficulties. Furthermore, for the reasons stated above, we find that tenKsolar has not demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department. Accordingly, we have declined to consider the information submitted by tenKsolar and have applied total AFA to determine a subsidy rate for the company.

Application of Total AFA: Changzhou Jinxi

As discussed in the "Background" section above, Changzhou Jinxi was selected, along with tenKsolar, as one of the two mandatory respondents in this review. However, Changzhou Jinxi provided no response to the Initial Questionnaire. Additionally, the GOC not did submit requested information related to Changzhou Jinxi in response to the Department's Initial Questionnaire. Based upon the fact that Changzhou Jinxi did not respond to our Initial

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[129] *See* tenKsolar's May 1, 2017 Response.
[130] *Id.*, at 1.
[131] tenKsolar submitted its "very limited response" at 4:27 PM in the day of the deadline, 33 minutes before the time when the deadline was to expire. *See* tenKsolar's May 1, 2017 Response.
[132] *See* tenKsolar's May 1, 2017 Response.

Questionnaire, the fact that the GOC did not respond to any of our questions regarding Changzhou Jinxi, and the lack of any other information submitted on the record of the kind necessary to identify countervailable subsidies used by Changzhou Jinxi or to calculate subsidy rates for Changzhou Jinxi, we preliminarily determine that necessary information is not on the record within the meaning of section 776(a)(1). Moreover, we preliminarily determine that Changzhou Jinxi and the GOC have withheld information that was requested of it within the meaning of section 776(a)(2)(A) of the Act. Also, because Changzhou Jinxi did not provide any responses to the Initial Questionnaire, and because the GOC did not provide any responses to the Initial Questionnaire with respect to Changzhou Jinxi, we find that both the GOC and Changzhou Jinx failed to provide information within the deadlines established and failed to provide information in the form and manner requested by the Department within the meaning of section 776(a)(2)(B) of the Act. Finally, we preliminarily determine that, by not responding to our questions, Changzhou Jinxi and the GOC significantly impeded this review within the meaning of section 776(a)(2)(C) of the Act. Accordingly, given Changzhou Jinxi's failure to respond to the Department's requests for information, the Department must rely on "facts available" in making its preliminary determination with respect to all countervailable subsidy programs that Changzhou Jinxi could have used, in accordance with sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act.

Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Department's questionnaires, neither Changzhou Jinxi, nor the GOC, cooperated to the best of their ability to comply with the Department's requests for information in this administrative review.

Selection and Corroboration of AFA Rates for tenKsolar and Changzhou Jinxi

In drawing an adverse inference, we find that tenKsolar and Changzhou Jinxi benefited from each of the programs which were previously found to be countervailable in prior segments of this preceding, unless we have subsequently found the program to be not countervailable.[133] We are, therefore, including these programs among those we look to in determining the AFA rate.[134] Further, we selected an AFA rate for each such program in determining the AFA rate that we applied to tenKsolar and Changzhou Jinxi.

For the purpose of calculating the AFA rate for the preliminary results of review, the Department finds that all programs that have been countervailed in this proceeding, including those previously countervailed in prior segments of this proceeding, remain 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 771(5A) of the Act.

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[133] *See*, *e.g.*, *Certain Cold-Rolled Carbon Steel Flat Products from Korea; Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002), and accompanying Issues and Decision Memorandum at "Methodology and Background Information;" *see also Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2017), at 60646-47.
[134] *See* Appendix I.

Furthermore, 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.[135] When selecting rates in an administrative review, we first determine if there is an identical program from any segment of the proceeding and use the highest calculated rate for any respondent for the identical program (excluding *de minimis* rates).[136] If no such identical program exists, we then determine if there is a similar program (based on the treatment of the benefit) within the same proceeding and apply the highest calculated rate for the similar program, excluding *de minimis* rates. Where there is no comparable program in the proceeding at issue, we look outside the proceeding (but within the same country) for the highest non-*de minimis* calculated rate for the identical program. If there is no identical program in any other CVD proceeding involving the same country, we look for the highest non-*de minimis* rate for a similar/comparable program from another proceeding. If that option is not available, we apply the highest calculated rate from any non-company specific program, but we do not use a rate from a program if the industry in the proceeding cannot use that program.[137]

Section 776(c) of the Act provides that, 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 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."[138] The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.[139]

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.[140] Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the

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[135] *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 at 13; *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").
[136] 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 "Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "Grant Under the Elimination of Backward Production Capacity Award Fund."
[137] *See e.g.*, *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78788 (December 31, 2014), and accompanying Issues and Decision Memorandum at 15-16. *See also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying Issues and Decision Memorandum at 14.
[138] *See* SAA, at 870.
[139] *Id*., at 870.
[140] *Id*., at 869-870.

interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[141]

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. 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.[142]

In determining the AFA rate applied to tenKsolar and Changzhou Jinxi, we are guided by the Department's methodology detailed above. Accordingly, as AFA, for each of the following countervailable subsidy programs for which the Department has calculated an above *de minimis* subsidy rate for a cooperative mandatory respondent in this proceeding, we have used the highest calculated above *de minimis* rate for any cooperative mandatory respondent for the identical program. For all programs for which the Department has not calculated an above *de minimis* subsidy rate for a cooperative respondent in this proceeding, we have used the highest above *de minimis* rate for a similar program (based on the treatment of the benefit) calculated for a cooperative mandatory respondent in any segment of this proceeding. For all programs for which the Department has not calculated an above *de minimis* rate under an identical or similar program for a cooperative mandatory respondent in this proceeding, we have used the highest above *de minimis* calculated rate for the identical program in a CVD case involving the PRC. For all programs for which the Department has not calculated an above *de minimis* subsidy rate under the identical program in a CVD case involving the PRC, we have used the highest above *de minimis* calculated rate for a similar/comparable program in a CVD case involving the PRC. For all programs for which the Department has not calculated an above *de minimis* rate for the an identical or similar/comparable program in any CVD case involving the PRC, we have used the highest calculated rate from any non-company specific program in a CVD case involving the PRC that the company's industry could conceivably use.[143]

Due to deficiencies in the record evidence concerning tenKsolar and Changzhou Jinxi's usage of the subsidy programs at issue, as well as tenKsolar's and Changzhou Jinxi's failure to cooperate in providing this information, we reviewed the information concerning subsidy programs in prior segments of this proceeding and in other PRC proceedings. Where we have a found program-type match (*i.e.*, same or similar programs), we utilized these programs in determining AFA rates for tenKsolar and Changzhou Jinxi (*i.e.*, the programs and their rates are relevant). We find this to be a reasonable basis for calculating AFA, because such rates reflect the actual behavior of cooperative respondents in this segment or in previous segments of this proceeding.

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[141] *See* section 776(d) of the Act.
[142] *See, e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).
[143] *See* Memorandum, "AFA Calculation Memorandum for the Final Results," dated concurrently with this memorandum (AFA Calculation Memorandum), for a table detailing the derivation of the AFA rate applied, and the sources of the AFA rates applied to specific countervailable subsidy programs.

The relevance of those programs and rates is that they are actual calculated CVD rates for PRC subsidy programs from which the non-cooperative respondents could actually receive a benefit. Due to the lack of participation by tenKsolar and Changzhou Jinxi and the resulting lack of record information concerning its use of various subsidy programs, the Department has corroborated the rates it selected to use as AFA, to the extent practicable.

Loan Programs
Export Buyer's Credit
Export Seller's Credit
Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
Policy Loans to Chinese Aluminum Extrusions Producers

Provision of Goods and Services for LTAR
Allocated Land-Use Rights for SOEs
Provision of Aluminum Extrusions for LTAR
Provision of Electricity for LTAR to FIEs Located in the Nanhai District of Foshan City
Provision of Glass for LTAR
Provision of Land-Use Rights and Fee Exemptions To Enterprises Located in the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ) for LTAR
Provision of Land-Use Rights for LTAR for Enterprises Located in the Yongji Circular Economic Park
Provision of Land-Use Rights in the Liaoyang High-Tech Industry Development Zone
Provision of Land-Use Rights to Enterprises Located in the South Sanshui Science & Technology Industrial Park for LTAR
Provision of Primary Aluminum for LTAR
Provision of Steam Coal for LTAR

Purchase of Goods and Services for More than Adequate Remuneration (MTAR)
Purchases of Aluminum Extrusions for MTAR

Income Tax Programs
Preferential Tax Policies for the Development of Western Regions of China (aka, Go West Campaign)
Preferential Tax Policies for the Opening and Development of Beibu Gulf Economic Zone of Guangxi Zhuang Autonomous Region (Local Income Tax Exemption)
Preferential Tax Program for FIEs Recognized as HNTEs
Preferential Tax Program for High or New Technology Enterprises
Provincial Tax Exemptions and Reductions for "Productive" FIEs
Tax Reduction for Export-Oriented FIEs
Tax Reductions for FIEs in Designated Geographic Locations
Tax Reductions for FIEs Purchasing Chinese-Made Equipment
Tax Reductions for Technology- or Knowledge-Intensive FIEs

Tax Credit and Tax Rebate Programs

Accelerated Depreciation for Enterprises Located in the Northeast Region
Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
Tax Offset for Research & Development
Tax Refunds for Enterprises Located in the ZHTDZ
Tax Refunds for Tax Refunds for Reinvesting of FIE Profits in Export-Oriented Enterprises

Other Tax Programs
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises using Imported Equipment in Encouraged Industries
Refund of Value Added Tax on Products Made through Comprehensive Utilization of Resources
VAT Rebates on FIE Purchases of Chinese-Made Equipment

Grant Programs
Advantaged Traditional Manufacturing Industry Transformation and Upgrading Model Enterprise Award (Industry Upgrading Model Award)
Assistance for Science Research and Technology Development Planning Projects of Nanning Municipality
Assistance for R&D projects under Funds of Nanning Municipality for Foreign Trade Development
Assistances for R&D projects under Funds of Nanning Municipality for Foreign Trade Development
Awards of Guangxi Autonomous Region for Advancement of Science and Technology
Awards of Guangxi Autonomous Region for Emission Reduction of Main Pollutants
Awards of Guangxi Autonomous Region for New Products
Awards of Nanning Municipality for New Products
Awards to Key Enterprises for Large Consumption of Electricity
Beijing Industry Development Fund
Clean Production Technology Fund
Development Assistance Grants from the ZHTDZ Local Authority
Enterprise Technology Center Fund
Exemptions from Administrative Charges for Companies in the ZHTIDZ
Expanding Production and Stabilizing Jobs Fund of Jiangsu Province
Expanding Production and Stabilizing Jobs Fund of Jiangsu Province
Export Increase Fund
Export Rebate for Mechanic, Electronic, and High-Tech Products
Financial Supporting Funds of Nanning Municipality for Technology Renovation for Production Safety
Financial Assistance (interest subsidy) of Nanning Municipality for Key Technology Renovation
Fund for Economic, Scientific, and Technology Development
Fund for SME Bank-Enterprise Cooperation Projects
Funds for Projects of Science and Technology Professionals serving the Enterprises
Funds of Guangxi Autonomous Region for Enterprises' Technology Renovation
Funds of Nanning Municipality for Technology Innovation
GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands

Grants for Listing Shares: Liaoyang City (Guangdong Province), Wenzhou Municipality (Zhejiang Province), and Quanzhou Municipality (Fujian Province)
Grants to Cover Legal Fees in Trade Remedy Cases in Zhenzhen
Guangxi Awards for Private Enterprises designated as Pilot Innovation-oriented Enterprises
Guangxi Technology R&D Funds
Guangzhou Engineering Technology R&D Center Fund
Guangzhou Innovation Enterprise Fund from Guangzhou
Import and Export Credit Insurance Supporting Development Fund for Changzhou
Industrial Development Fund
Intellectual Property Reward
International Market Exploration Fund (SME Fund)
Nanhai District Grants to High and New Technology Enterprises
National Funds for Construction of Ten "Key Energy Saving Projects", "Key Demonstration Bases for Recycling Economy and Resource Saving" and "Key Industrial Pollution Control Projects"
National Funds for the Industry Revitalization and Technology Renovation of the Key Fields
Northeast Region Foreign Trade Development Fund
PGOG Science and Technology Bureau Project Fund (aka, Guangdong Industry, Research, University Cooperating Fund)
PGOG Special Fund for Energy Saving Technology Reform
Private Enterprise Award
Provincial Fund for Fiscal and Technological Innovation
Provincial Loan Discount Special Fund for SMEs
Refund of Land-Use Tax for Firms Located in the ZHTDZ
Special Fund for External Economy
Special Fund for Significant Science and Technology in Guangdong Province
Special Funds for the Development of Five Industries
Special Funds of Guangxi Autonomous Region for Production Safety (Supporting Fund for Eliminating Potential and Seriously Dangerous Projects)
Special Funds of Guangxi Autonomous Region for Small Highland of Talents
Special Funds of Guangxi Beibu Gulf Economic Zone for the Development of Key Industries
Special Funds of Nanning Municipality for Academic and Technical Leaders of the New Century
Special Funds of Nanning Municipality for Small Highland of Talents
Special Reward Fund for Industrial Economy Transformation and Upgrading of the Whole District
State Key Technology Renovation Project Fund
Supporting Funds for Trade with the Minority Nationalities and Production of Goods Specially Needs by Minority Nationalities
Supporting Funds of Nanning Municipality for "Informatization-industrialization Integration" and Development of Information Industry
Technical Standards Awards
Technology Innovation Assistance Fund (Niulanshan Industrial Development Center - Technology Products Fund)
Trade Promotion and Brand Building Fund
Working Capital Loans Discount

VII. ***Ad Valorem* Rate for Non-Cooperative Companies Under Review**

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for tenKsolar and Changzhou Jinxi to be 198.61 percent *ad valorem*.[144]

VIII. ***Ad Valorem* Rate for Cooperative Non-Selected Companies Under Review**

There are 16 companies for which there remain outstanding review requests, which the Department has not selected as individually examined mandatory respondents, which have provided all the information requested by the Department, as applicable, and which have cooperated fully in this review. The Act and the Department's regulations do not directly address the establishment of rates to be applied to cooperative companies not selected for individual examination where the Department has limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for cooperative 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)(i) of the Act instructs the Department to calculate an all others rate which is "equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates {based entirely on facts available under section 776 of the Act}." Accordingly, the Department's normal practice in administrative reviews for determining the rate for respondents not selected for individual examination has been to average the weighted-average net subsidy rates for the selected companies, excluding rates that are zero, *de minimis,* or based entirely on facts available.[145] However, section 705(c)(5)(ii) of the Act provides that "{i}f the countervailable subsidy rates established for all exporters and producers individually investigated are zero or *de minimis* rates, or are {based entirely on facts available}, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the {rates} determined for the exporters and producers individually investigated."

In this review, we did not calculate the non-selected rate using the rates of tenKsolar and Changzhou Jinxi because the preliminary subsidy rates for both tenKsolar and Changzhou Jinxi are based entirely on AFA. In past reviews, the Department has determined that a reasonable method to use when all the rates of selected mandatory respondents are zero or *de minimis* or based entirely on facts available is to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available.[146]

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[144] *See* AFA Calculation Memorandum for a table detailing the derivation of the AFA rate applied.
[145] *See, e.g.*, *Aluminum Extrusions 2013 Review*; *Aluminum Extrusions 2014 Review*; and *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).
[146] *See, e.g.*, *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part*," 79 FR 5140 (August 27, 2014) (*Circular Welded Pipe From Turkey*); and *Certain Frozen Warmwater Shrimp from*

However, if a non-selected respondent has its own calculated rate that is contemporaneous with such previous rates, the Department has found it appropriate to apply that calculated rate to the non-selected respondent, even when that rate is zero or *de minimis.*[147] Therefore, in accordance with the Department's past practice,[148] we have preliminarily based the rate for cooperative non-selected companies on the rate established for cooperative non-selected companies in *Aluminum Extrusions 2014 Review*.[149] As such, for each of the 16 companies for 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 16.08 percent *ad valorem.*[150]

Conclusion

We recommend applying the above methodology for these preliminary results.

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__________ __________

Agree Disagree

5/31/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 74 FR 47191, 47194-95 (September 15, 2009) (*Shrimp from Vietnam*).

[147] *See, e.g.*, *Circular Welded Pipe from Turkey* and *Shrimp from Vietnam.*

[148] *Id*.

[149] *See Aluminum Extrusions 2014 Review*.

[150] *See Aluminum Extrusions 2014 Review*. For a list of the non-selected companies, *see Aluminum Extrusions from the People's Republic of China: Preliminary Results, of Countervailing Duty Administrative Review and Preliminary Intent to Rescind, in Part; 2015*, dated concurrently with this memorandum.