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Investigation
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September 18, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Certain Cold-
Drawn Mechanical Tubing of Carbon and Alloy Steel from the
People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the People's Republic of China (PRC), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On April 19, 2017, the Department received a countervailing duty (CVD) petition concerning imports of cold-drawn mechanical tubing from the PRC and India, and an antidumping duty (AD) petition concerning imports from the PRC, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland filed in proper form by ArcelorMittal Tubular Products, Michigan Seamless Tube, LLC, PTC Alliance Corp., Webco Industries, Inc., and Zekelman



Industries, Inc. (collectively, the petitioners).¹ On May 9, 2017, the Department initiated the CVD investigation of cold-drawn mechanical tubing from the PRC and India.² The initial allegations and supplements to the Petition are described in the CVD Initiation Checklist.³

In the *Initiation Notice*, we stated that, following the standard practice in CVD investigations, we would, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) entry data for specified Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation during the period of investigation (POI).⁴ Section 777A(e)(1) of the Act directs the Department to calculate individual countervailable subsidy rates for each known producer/exporter of the subject merchandise. However, when faced with a large number of producers/exporters, and, if the Department determines it is therefore not practicable to examine all companies, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise that can reasonably be examined.

The Department obtained data for entries made for U.S. imports under the HTSUS numbers 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, and 7306.50.5030 during the POI, and released the data to the interested parties for comment on May 16, 2017.⁵ On June 9, 2017, the Department limited the number of mandatory respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of subject merchandise by volume.⁶ As outlined in the Department's Respondent Selection Memorandum, based upon the CBP data, the Department selected Jiangsu Hongyi Steel Pipe Co., Ltd. (Hongyi) and Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E) as mandatory respondents.⁷

On June 9, the Department issued a CVD questionnaire to the Government of the PRC (GOC).⁸ All parties submitted timely responses to the Department's CVD questionnaire from June 22,

¹ See "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland - Petitions for the Imposition of Antidumping and Countervailing Duties," dated April 19, 2017 (Petition).

² See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 22486 (May 16, 2017) (*Initiation Notice*).

³ See Countervailing Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, dated May 9, 2017 (CVD Initiation Checklist).

⁴ See *Initiation Notice*, 82 FR at 22488.

⁵ See letter from the Department to all interested parties, dated May 11, 2017, and memorandum to the file, "Clarification to Timeline for Submission of Comments on U.S. Customs and Border Protection Import Data, Quantity and Value (Q&V) Responses, and Respondent Selection," dated May 16, 2017.

⁶ See Memorandum to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Respondent Selection," dated June 9, 2017 (Respondent Selection Memorandum).

⁷ *Id.*

⁸ See letter from the Department, "Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Countervailing Duty Questionnaire," dated June 9, 2017 (Initial CVD Questionnaire) (This questionnaire is identical to the one issued to Hongyi and Huacheng on June 8, 2017).

2017 through July 28, 2017.⁹ The Department issued supplemental questionnaires to, and received timely responses from, all parties from August 10, 2017 to September 8.¹⁰ During the same time period, the petitioners submitted comments regarding Hongyi's, Huacheng I&E's, and the GOC's questionnaire responses.

All parties filed comments concerning the appropriate benchmarks to be used in the preliminary determination from August 22, 2017 through September 1, 2017.¹¹ The petitioners filed pre-

⁹ See letter from Hongyi, "Hongyi Affiliation Response: Countervailing Duty Investigation of Cold- Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-0571)," dated June 22, 2017 (Hongyi's Affiliation Response); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Questionnaire Response to Section III Identifying Affiliated Companies," dated June 23, 2017 (Huacheng's Affiliation Response); letter from Hongyi, "Hongyi Initial CVD Questionnaire Response: Countervailing Duty Investigation on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-059)," dated July 28, 2017 (Hongyi's IQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: CVD Questionnaire Response to Section III," dated July 28, 2017 (Huacheng's IQR); letter from the GOC, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China; CVD Investigation; GOC Initial Response," dated July 28, 2017 (GOC's IQR).

¹⁰ See letter from Hongyi, "Hongyi CVD Supplemental Questionnaire Response: Countervailing Duty Investigation on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-059)," dated September 1, 2017 (Hongyi's SQR); letter from Hongyi, "*Hongyi Affiliation Response: Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-059)*," dated August 10, 2017 (Hongyi's Supplemental Affiliation Response); letter from the GOC, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China; CVD Investigation; GOC First Supplemental Response," dated September 5, 2017 (the GOC's 1st SQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Supplemental CVD Affiliated Companies Questionnaire Response," dated August 18, 2017 (Huacheng's Supplemental Affiliation Response); letter from Huacheng, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: HZB Special Materials CVD Questionnaire Response," dated August 28, 2017 (HZB Special Material's IQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: CVD Supplemental Questionnaire Response," dated September 1, 2017 (Huacheng's 1st SQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: CVD Supplemental Questionnaire Response, Question 14: SMC CVD Questionnaire Response," dated September 1, 2017 (Huacheng SMC's IQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: 3rd CVD Supplemental Questionnaire Response," dated September 7, 2017 (Huacheng's 3rd SQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: 4th CVD Supplemental Questionnaire Response," dated September 7, 2017 (Huacheng's 4th SQR); letter from Huacheng I&E, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: 5th CVD Supplemental Questionnaire Response," dated September 7, 2017 (Huacheng's 5th SQR); letter from the GOC, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China; CVD Investigation; GOC Second Supplemental Response," dated September 7, 2017 (GOC's 2nd SQR); and letter from the GOC, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China; CVD Investigation; GOC Third Supplemental Response," dated September 8, 2017 (GOC's 3rd SQR).

¹¹ See letter from the petitioners, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China – Petitioners' Comments and Submission of Factual Information Regarding Measurement of Adequacy of Remuneration," dated August 22, 2017 (Petitioners' Benchmark Comments); letter from Hongyi, "Hongyi Benchmark Data Submission: Countervailing Duty Investigation on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-059)," dated August 28, 2017 (Hongyi's Benchmark Comments); letter from Huacheng, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Benchmark Data," dated August 28, 2017 (Huacheng's

preliminary comments on September 1, 2017.¹² Hongyi filed pre-preliminary comments on September 12, 2017.¹³

B. Postponement of Preliminary Determination

On June 23, 2017, based on a request by the petitioners,¹⁴ the Department postponed the deadline for the preliminary determination to the full 130 days permitted under section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).¹⁵

C. Period of Investigation

The POI is January 1, 2016, through December 31, 2016.

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,¹⁶ we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.¹⁷ We received comments concerning the scope of the AD and CVD investigations of cold-drawn mechanical tubing on the record of all investigations from each country, including the PRC. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due no later than November 15, 2017.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is cold-drawn mechanical tubing from India. For a full description of the scope of this investigation, see Appendix I to the accompanying preliminary determination *Federal Register* notice.

Benchmark Comments); Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Rebuttal Benchmark Information," dated September 1, 2017 (Huacheng's Rebuttal Benchmark Comments).

¹² See letter from the petitioners, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China - Petitioners' Pre-Preliminary Comments and Rebuttal to Respondent's Benchmark Submission," dated September 1, 2017.

¹³ See letter from Hongyi, "Response to Petitioners' Pre-Preliminary Comments: Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China (C-570-059)," dated September 12, 2017.

¹⁴ See letter from the petitioners, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China - Petitioners' Request for Postponement of the Preliminary Determination," dated June 14, 2017.

¹⁵ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India and the People's Republic of China: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 82 FR 28641 (June 23, 2017).

¹⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁷ See *Initiation Notice*, 82 FR at 22486 through 22487.

V. INJURY TEST

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On June 9, 2017, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of cold-drawn mechanical tubing from the PRC.¹⁸

VI. APPLICATION OF THE CVD LAW TO IMPORTS FROM THE PRC

On October 25, 2007, the Department published its final determination in *CFS from the PRC*, where we found that:

{G}iven the substantial differences between the Soviet-style economies and China’s economy in recent years, the Department’s previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.¹⁹

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.²⁰ Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated as non-market economies (NMEs) under section 771(18) of the Act, such as the PRC.²¹ The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.²²

VII. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.²³ In the Department’s initial questionnaires to the GOC and the mandatory respondents, we notified the respondents to this proceeding that the AUL period would be 15 years, on the basis

¹⁸ See *Certain Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland; Determinations*, 82 FR 26812 (June 9, 2017).

¹⁹ See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum at Comment 6.

²⁰ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP PRC Final*), and accompanying Issues and Decision Memorandum at Comment 1.

²¹ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

²² See Public Law 112-99, 126 Stat. 265 §1(b).

²³ See 19 CFR 351.524(b).

of U.S. Internal Revenue Service Publication 946 (2016), “Appendix B - Table of Class Lives and Recovery Periods” (IRS Pub. 946).²⁴ The 15-year period corresponds to IRS Pub. 946 asset class, under “33.4 “Manufacture of Primary Steel Mill Products.” No parties submitted comments challenging the proposed AUL period, and we therefore preliminarily determine that a 15-year period is appropriate to allocate benefits from non-recurring benefits.

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

B. Attribution of Subsidies

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

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

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.²⁵

²⁴ See U.S. Internal Revenue Service Publication 946 (2016), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

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

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.²⁶

1. Hongyi

As discussed above, we selected Hongyi as a mandatory respondent. Hongyi reported that it is a producer and exporter of subject merchandise.²⁷ Hongyi stated that one of its cross-owned affiliates, Changzhou Hongren Precision Pipe Manufacturing Co., Ltd. (Hongren) produced subject merchandise during the POI and exported the subject merchandise to the United States during the AUL. Further, Hongyi reported that its cross-owned affiliated company, Changzhou Kemeng Mechanical Equipment Co., Ltd. (Kemeng), produced the subject merchandise during the AUL.²⁸ Accordingly, Hongyi, Hongren, and Kemeng provided responses to the Department's initial and supplemental questionnaires. Therefore, in accordance with 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Hongren and Kemeng are cross-owned entities of Hongyi. While Hongyi reported that Hongren received benefits during the AUL,²⁹ we preliminarily find that they are not measurable.³⁰ Hongyi further reported that Kemeng did not receive any benefits during the AUL and did not have income from 2014 through 2016.³¹ Thus, for this preliminary determination, we excluded Kemeng from our analysis and attributed any subsidies received by either Hongyi and/or Hongren to the sum of the two companies' total sales less any intercompany sales, in accordance with 19 CFR 351.525(b)(6)(ii).

2. Huacheng I&E

As discussed above, we selected Huacheng I&E as a mandatory respondent. Huacheng I&E responded to the Department's questionnaires on behalf of itself, and the following cross-owned affiliated companies: Zhangjiagang Huacheng Industry Pipe Making Corporation (Huacheng Industry Pipe), Zhangjiagang Salem Fine Tubing Co., Ltd. (Salem), Zhangjiagang Huacheng Investment Holding Co., Ltd. (Huacheng Investment), Zhangjiagang HZB Special Material Technology Co., Ltd. (HZB Special Material) and Zhangjiagang Huacheng Special Materials Corporation (Huacheng SMC).³²

²⁶ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁷ See Hongyi's Affiliation Response at 2 and 4; see also Hongyi's IQR at 6.

²⁸ See Hongyi's Affiliation Response at 4. See also Hongyi's IQR at 8.

²⁹ See Hongyi's IQR at Exhibit A.1.

³⁰ See memorandum to the file, "Analysis Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Jiangsu Hongyi Pipe Co., Ltd.," dated concurrently with this memorandum (Hongyi's Preliminary Calculation Memorandum) at Attachment.

³¹ See Hongyi's Supplemental Affiliation Response at 3.

³² See Huacheng's Affiliation Response at 4. See also Huacheng's IQR; HZB Special Material's IQR and Huacheng SMC's IQR.

Huacheng I&E reported that it is an exporter of the subject merchandise,³³ and that: Huacheng Industry Pipe is its holding company;³⁴ Huacheng Industry Pipe and Salem each produce the subject merchandise;³⁵ Huacheng Investment supplied Huacheng Industry Pipe and Salem with steel pipe billets for the production of subject merchandise;³⁶ and HZB Special Material provided Salem with cutting services for the production of subject merchandise during the POI.³⁷

As a consequence, we attributed benefits received by Huacheng I&E and its cross-owned affiliates as follows: we attributed any benefits that Huacheng I&E received to the sales of Huacheng I&E in accordance with 19 CFR 351.525(b)(5)(c).³⁸ Because Huacheng Industry Pipe is both a parent company and a producer of the subject merchandise, we attributed any benefits that it received to the combined sales of Huacheng I&E, Huacheng Industry Pipe, Salem, Huacheng Investment, HZB Special Material and Huacheng SMC, less any intra-company sales, in accordance with 19 CFR 351.525(b)(6)(ii) and (iii). Because Salem is a producer of the subject merchandise, we attributed any benefits that it received to the combined sales of Salem and Huacheng Industry Pipe, the only other producer of subject merchandise included in Huacheng I&E's cross-owned affiliates, less any intra-company sales, in accordance with 19 CFR 351.525(b)(6)(ii). Because Huacheng Investment is an input supplier to Huacheng Industry Pipe and Salem, we attributed Huacheng Investment's benefits to the combined sales of Huacheng Investment and to the sales of the downstream products produced by Huacheng Industry Pipe and Salem, less any intra-company sales, in accordance with 19 CFR 351.525(b)(6)(iv). Because Huacheng SMC provides steel billets to Huacheng Industry Pipe, we attributed Huacheng SMC's benefits to the combined sales of Huacheng SMC, Huacheng Industry Pipe, and Salem, less any intra-company sales, in accordance with 19 CFR 351.525(b)(6)(iv). Because HZB Special Material provides cutting services to its cross-owned affiliate, Salem, for the production of subject merchandise during the POI, we classified it as an input supplier, and we are attributing any subsidies to the sales of HZB Special Material and the producers of the downstream product, Huacheng Industry Pipe and Salem, less any intra-company sales, in accordance with 19 CFR 351.525(b)(6)(iv).

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent

³³ See Huacheng's Affiliation Response at 4 and Huacheng's IQR at Volume 1, page 1.

³⁴ *Id.* See also Huacheng's IQR at Volume 2, page 2, and Volume 3, page 3.

³⁵ *Id.*

³⁶ See Huacheng's IQR at Volume 1, page 3, Volume 2, page 2, Volume 3, page 3 and Volume 4, page 3.

³⁷ See Huacheng's Affiliation Response at 5-6.

³⁸ See memorandum to the file, "Analysis Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E)," dated concurrently with this memorandum (Huacheng's Preliminary Calculation Memorandum) at Attachment.

upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, see the preliminary calculation memoranda.³⁹

VIII. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by Hongyi and Huacheng I&E, and their respective cross-owned companies from PRC policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies received by the mandatory respondents.⁴⁰ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Short-Term and Long-Term Renminbi (RMB)-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.⁴¹ If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we “may use a national average interest rate for comparable commercial loans.”⁴²

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.⁴³ The Department recently conducted a re-assessment of the PRC's financial system for CVD benchmarking purposes.⁴⁴ Based on this re-assessment, the Department has concluded that, despite reforms to date, the GOC's role in the system continues to fundamentally distort lending practices in the PRC in terms of risk pricing and resource allocation, precluding the use of interest rates in the PRC for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondents from private PRC or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a PRC benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is

³⁹ See Hongyi's Preliminary Calculation Memorandum. See also Huacheng's Preliminary Calculation Memorandum.

⁴⁰ See 19 CFR 351.524(b)(1).

⁴¹ See 19 CFR 351.505(a)(3)(i).

⁴² See 19 CFR 351.505(a)(3)(ii).

⁴³ See *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 10.

⁴⁴ See memorandum to the file, “Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Review of China's Financial System Memorandum,” dated August 1, 2017, transmitting the memorandum, “Review of China's Financial System for Countervailing Duty (CVD) benchmarking Purposes,” dated July 21, 2017.

consistent with the Department's practice. For example, in *Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.⁴⁵

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and later updated in *Thermal Paper from the PRC*.⁴⁶ Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.⁴⁷ Beginning in 2010, however, the PRC was classified in the upper-middle income category and remained there from 2011 to 2014.⁴⁸ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.⁴⁹

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

In each of the years from 2003-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.⁵⁰ For 2010, however, the regression does not yield that outcome for the PRC's income group.⁵¹ This

⁴⁵ See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: *Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*), and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

⁴⁶ See *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 10; see also *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum at 8-10.

⁴⁷ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> ("World Bank Country Classification"); see also, memorandum to the file, "Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).

⁴⁸ See World Bank Country Classification.

⁴⁹ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates" (unchanged in *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 Final*)).

⁵⁰ See Interest Rate Benchmark Memorandum.

⁵¹ *Id.*

contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2014. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency's International Financial Statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2014 and "lower middle income" for 2001-2009.⁵² First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.⁵³ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.⁵⁴

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.⁵⁵

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where "n" equals or approximates the number of years of the term of the loan in question.⁵⁶ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.⁵⁷

The resulting inflation-adjusted benchmark lending rates are provided in the preliminary calculation memoranda for Hongyi and Huacheng I&E.⁵⁸

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See, e.g., *Thermal Paper from the PRC*, and accompanying Issues and Decision Memorandum at 10.

⁵⁶ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum at Comment 14.

⁵⁷ See Interest Rate Benchmark Memorandum.

⁵⁸ See Hongyi's Preliminary Calculation Memorandum at Attachment and Huacheng's Preliminary Calculation Memorandum at Attachment.

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.⁵⁹ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Hongyi's Preliminary Calculation Memorandum and Huacheng's Preliminary Calculation Memorandum.

C. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of steel rounds and billets and hot-rolled/cold-rolled coiled steel for less than adequate remuneration (LTAR) in accordance with 19 CFR 351.511. 19 CFR 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).⁶⁰ For all of the inputs, as discussed in the section entitled "Use of Facts Otherwise Available and Adverse Inferences," below, we preliminarily determine that Hongyi's and Huacheng I&E's input producers are "authorities." Therefore, prices from their producers do not constitute market-determined prices. Moreover, as discussed in the "Application of AFA: Input Industry Distortions," we are relying on "tier two" (world market) prices for the input benchmark for these programs.

The petitioners placed publicly available world-market prices obtained from the Global Trade Atlas (GTA) on the record for steel rounds and billets and hot-rolled/cold-rolled coiled steel.⁶¹ Hongyi submitted steam coal, steel billets, hot-rolled and cold-rolled steel monthly data from various sources (*i.e.*, GTA, American Metal Market (AMM), Steel Orbis, SBB-Platts, and Steelguru).⁶² Huacheng I&E concurred with Hongyi's comments in their entirety.⁶³

The average of the export prices provided by parties represents an average of commercially available world market prices for the inputs that would be available to purchasers in the PRC. Also, 19 CFR 351.511(a)(2)(ii) states that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, we averaged the prices to calculate a single benchmark by month.

⁵⁹ *Id.*; see also Interest Rate Benchmark Memorandum.

⁶⁰ See 19 CFR 351.511(a)(2).

⁶¹ See Petitioners' Benchmark Comments.

⁶² See Hongyi's Benchmark Comments.

⁶³ See Huacheng's Benchmark Comments.

1. Steel Rounds and Billets

Both Hongyi and Huacheng I&E reported purchases of steel rounds and billets during the POI for the production of subject merchandise.⁶⁴ Specifically, Huacheng I&E reported that both it and its cross-owned affiliates purchased steel rounds and billets during the POI for the production of subject merchandise, whereas Hongyi reported that it alone of its cross-owned affiliates purchased steel rounds and billets during the POI.⁶⁵

Hongyi provided benchmark prices for 2016 monthly world exports from Steelguru and Metal Expert World Steel Data (values only),⁶⁶ and Huacheng I&E and its cross-owned affiliates concurred with the use of those values for benchmarking purposes.⁶⁷ The petitioners provided benchmark prices for 2016 monthly world exports (excluding exports to and from the PRC) for HTSUS 7206.90 (iron and non-alloy steel in primary forms other than ingots), and HTSUS 7224.10 (ingots and other primary forms of alloy steel).⁶⁸ Because both of these proposed benchmark values accurately reflect the steel rounds and billets that Hongyi, Huacheng I&E and their cross-owned affiliates use in the production of subject merchandise, we are determining the benchmark for steel rounds and billets using the simple average of: 1) the weighted-average GTA data submitted by the petitioners; and, 2) the export prices reported by Hongyi from Steelguru and Metal Expert World Steel Data.⁶⁹

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect “delivered prices” and should include import and delivery charges. Hongyi reported that it purchased its steel rounds and billets on either a delivered or pick-up basis.⁷⁰ Huacheng I&E reported that it purchased its steel rounds and billets on either a delivered or pick-up basis.⁷¹ Where appropriate, we added international freight charges, VAT, and/or import duties on applicable purchases, in order to calculate the price that a respondent would have paid on the world market for these inputs.⁷² For domestic purchases that were not made on an ex-works basis, we relied on the inland freight expenses reported by the company.⁷³

⁶⁴ See Hongyi’s IQR at 25, and Exhibit F.4; see also Huacheng’s IQR at Volume 1, page 32; Volume 2 at 44-45 and Exhibits 14, 15 and 17; Volume 3 at 32 and Exhibits 10 and 11; and Volume 4, page 30 and Exhibit 8. See also HZB Special Material’s IQR at 27, and, Huacheng SMC’s IQR at 37 and Exhibit 14.

⁶⁵ See Hongyi’s IQR at 25, and Exhibit F.4; see also Hongyi’s SQR at 10-11 and Exhibit 13.a.

⁶⁶ See Hongyi’s Benchmark Comments at Exhibit 3.

⁶⁷ See letter from Huacheng, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Benchmark Data,” dated August 28, 2017 (Huacheng’s Benchmark Comments).

⁶⁸ See Petitioners’ Benchmark Comments at Attachment 3.

⁶⁹ See Hongyi’s Preliminary Calculation Memorandum at Attachment. See also Huacheng’s Preliminary Calculation Memorandum at Attachment.

⁷⁰ See Hongyi’s IQR at 25 and at Exhibit F.4.

⁷¹ See Huacheng’s IQR at Volume 1, Exhibit 12, Volume 2, at Exhibit 17, Volume 3 at Exhibit 13, Volume 4 at Exhibit 10. See also HZB Special Material’s IQR at Exhibit 10 and Huacheng SMC’s IQR at Exhibit 14.

⁷² See Huacheng’s IQR at Volume 2, Exhibits, 14, 15 and 17; Volume 3, Exhibit 10, 11 and 13; Volume 4, Exhibits 8 and 10; and, Huacheng SMC’s IQR at Exhibit 14. See also GOC’s IQR at 109.

⁷³ See Hongyi’s Preliminary Calculation Memorandum and Huacheng’s Preliminary Calculation Memorandum.

2. Hot-Rolled/Cold-Rolled Coiled Steel

Hongyi, Huacheng I&E, and Huacheng I&E's cross-owned affiliates reported purchases of hot-rolled/cold-rolled coiled steel during the POI for the production of subject merchandise.⁷⁴ Hongyi provided benchmark prices for 2016 monthly exports from the Commonwealth of Independent States, Russia, Ukraine, and Brazil sourced from AMM, Steel Orbis, SBB-Platts and Steelguru (values only).⁷⁵ Huacheng I&E and its cross-owned affiliates concurred with the use of those values for benchmarking purposes.⁷⁶ The petitioners provided pricing data from the GTA for HTSUS subheadings 7208.27 (flat-rolled, hot-rolled pickled steel in coils, of a width >600 mm, and a thickness less than 3 mm), 7208.54 (flat-rolled, hot-rolled steel not in coils, of a width >600 mm, and a thickness less than 3 mm),⁷⁷ and 7209.16 (flat-rolled, cold-rolled steel in coils, of a width >600 mm, and a thickness >1 mm but less than 3 mm).⁷⁸

We find that both Hongyi and the petitioners' proposed benchmark values accurately reflect the world market price for hot-rolled coiled and non-coiled steel, and cold-rolled coils. However, because we initiated an investigation into the provision of hot-rolled/cold-rolled coiled steel for LTAR, we preliminarily have not used the petitioners' values for non-coiled steel in the determination of our benchmark for hot-rolled coiled steel, nor have we calculated a benefit for non-coiled steel. Therefore, we are determining the benchmark prices for hot-rolled and cold-rolled coiled steel using the simple average of: 1) the weighted-average GTA data submitted by the petitioners; and, 2) the export prices reported by Hongyi from AMM, Steel Orbis, SBB-Platts and Steelguru for hot-rolled and cold-rolled coiled steel. We have applied the resulting benchmark prices to each party's reported purchases of hot-rolled coiled steel and cold-rolled coiled steel, as appropriate.

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and should include import and delivery charges. Hongyi reported that it purchased its hot-rolled/cold-rolled coiled steel on a pick-up basis.⁷⁹ Huacheng I&E reported that HZB Special Material purchased all hot-rolled coil on a delivered basis,⁸⁰ and Huacheng SMC purchased all hot-rolled steel from domestic suppliers on either a delivered or an ex-works basis.⁸¹ Therefore, where appropriate, we added freight charges, VAT, and import duties applicable on purchases in order to calculate a price that a respondent company would have paid on the world market for these inputs. We also added inland freight from the port to the factory based on Hongyi, Huacheng I&E and its cross-owned affiliates' input purchase information,⁸² import duties as reported by the GOC, and the VAT applicable to imports of hot-rolled/cold-rolled coiled steel into the PRC.⁸³

⁷⁴ See Hongyi's IQR at 27 and Exhibits F.5, and F.6; Hongyi's SQR at 11-12 and Exhibits 14.b and 14.d. See also HZB Special Material's IQR at 28 and Exhibit 9 and, Huacheng SMC's IQR at 39 and Exhibit 15.

⁷⁵ See Hongyi's Benchmark Comments at Exhibits 1 and 2.

⁷⁶ See Huacheng I&E's Benchmark Comments.

⁷⁷ See Petitioners' Benchmark Comments at Exhibit 4.

⁷⁸ *Id.*

⁷⁹ See Hongyi's IQR at Exhibits F.5 and F.6.

⁸⁰ See HZB Special Material's IQR at 29 and Exhibit 9.

⁸¹ See Huacheng SMC's IQR at 41 and Exhibit 15.

⁸² See Hongyi's IQR at Exhibits F.4, F.5, and F.6.; see also HZB Special Material's IQR at Exhibit 9 and Huacheng SMC's IQR at Exhibit 15.

⁸³ See GOC's IQR at 136.

3. Ocean Freight

The petitioners provided Maersk Line's monthly ocean freight rates for the shipments of 20 feet full containers from a variety of world ports (*i.e.*, Hamburg, Tokyo, Cape Town, Constanta, Los Angeles) to Shanghai and also from Santos, Brazil to Los Angeles, CA between August and December 2016, and indicated that the entire 2016 data were not available.⁸⁴ Hongyi submitted Descartes' monthly ocean freight data during the POI.⁸⁵ Specifically, Hongyi provided freight rates for the shipment of 20 feet container from three U.S. ports (*i.e.*, Long Beach, CA, and Seattle, WA, and Norfolk, VA) to Shanghai. Therefore, we are preliminarily relying on the simple average of the ocean freight rates reported by the petitioners and Hongyi sourced from Maersk Shipping Line, and Descartes, representing actual price quotes for the shipment of cargo from various points around the world to Shanghai, China. The Department has used this type of data in previous cases, including *Silica Fabric PRC*.⁸⁶

IX. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" (FA) 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.⁸⁷

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

⁸⁴ See Petitioner's Benchmark Comments at 7 and Attachment 6.

⁸⁵ See Hongyi's Benchmark Comments at Exhibit 5.

⁸⁶ See *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017) and accompanying Issues and Decision Memorandum at Comment 11.

⁸⁷ On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this investigation.

induce respondents to provide the Department with complete and accurate information in a timely manner.”⁸⁸ 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.”⁸⁹

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 “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.”⁹⁰ It is the Department’s practice to consider information to be corroborated if it has probative value.⁹¹ 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.⁹² However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.⁹³

Finally, under the new 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.⁹⁴

For purposes of this preliminary determination, we are applying AFA in the circumstances outlined below.

A. Application of AFA: Export Buyer’s Credit

The Department preliminarily determines that the use of AFA is warranted in determining the countervailability of the Export Buyer’s Credit program because the GOC did not provide the requested information needed to allow the Department to fully analyze this program. In our Initial CVD Questionnaire, we requested that the GOC provide the information requested in the Standard Questions Appendix “with regard to all types of financing provided by the China Ex-Im Bank under the Buyer Credit Facility.”⁹⁵ The Standard Questions Appendix requested various

⁸⁸ 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).

⁸⁹ 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.

⁹⁰ See, e.g., SAA at 870.

⁹¹ See SAA at 870.

⁹² See, e.g., SAA at 869.

⁹³ See SAA at 869-870.

⁹⁴ See section 776(d)(3) of the Act.

⁹⁵ See Initial CVD Questionnaire at Section II, part II, at 4.

information that the Department requires in order to analyze the specificity and financial contribution of this program, including the following: translated copies of the laws and regulations pertaining to the program, identification of the agencies and types of records maintained for administration of the program, a description of the program and the program application process, program eligibility criteria, and program use data. Rather than responding to the questions in the Appendix, the GOC stated that it had confirmed “none of the U.S. customers of the mandatory respondents nor its reported affiliated companies used the alleged program during the POI... Therefore, the relevant appendix is not applicable.”⁹⁶

In its initial questionnaire response, the GOC stated that the China Ex-Im Bank confirmed that it strictly limits the provision of Export Buyer’s Credits to business contracts exceeding USD 2 million.⁹⁷ In that same response, the GOC provided a copy of its *7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China*.⁹⁸ Also, our Initial CVD Questionnaire requested that the GOC provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the Export Buyer’s Credit Supplemental Questionnaire Response.⁹⁹ This request included the 2013 *Administrative Measures* revisions (2013 Revisions) to the Export Buyer’s Credit program. Because the GOC failed to include the 2013 Revisions in its initial questionnaire response,¹⁰⁰ we requested it a second time,¹⁰¹ and, for the second time, the GOC failed to provide a copy of the 2013 Revisions.¹⁰² Through its response to the Department’s initial and supplemental questionnaires, the GOC has twice refused to provide the requested information or any information concerning the 2013 program revision, which is necessary for the Department to analyze how the program functions.

We requested the 2013 Revisions because information on the record of this proceeding indicated that the 2013 Revisions affected important program changes. By refusing to provide the requested information, and instead asking the Department to rely upon unverifiable assurances that the 2000 Rules Governing Export Buyer’s Credit remained in effect, the GOC impeded the Department’s understanding of how this program operates and how it can be verified.

Additional information in the GOC’s initial questionnaire response also indicates that the loans associated with this program are not limited to direct disbursements through the China Ex-Im Bank.¹⁰³ Specifically, this record information indicates that customers can open loan accounts for disbursements through this program with other banks.¹⁰⁴ The funds are first sent from the China Ex-Im Bank to the importer’s account, which could be at the China Ex-Im Bank or other

⁹⁶ See GOC’s IQR at 28.

⁹⁷ *Id.* at 31.

⁹⁸ *Id.* at Exhibit II-B21 (Export Buyer’s Credit Supplemental Questionnaire Response).

⁹⁹ See the Initial CVD Questionnaire at 7, question B.5.c.v.

¹⁰⁰ See GOC’s IQR at 28-33.

¹⁰¹ See letter from the Department, “Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Third Request for Additional Information Regarding the Government of the People’s Republic of China’s Response to the Department’s Initial Questionnaire,” dated September 5, 2017. See GOC’s July 5, 2017 Supplemental Questionnaire Response (GOC July 5, 2017 SQR) at 9.

¹⁰² See GOC’s 3rd SQR at 2.

¹⁰³ See GOC’s IQR at Exhibit II-B21.

¹⁰⁴ *Id.*

banks, and that these funds are then sent to the exporter's bank account.¹⁰⁵ Given the complicated structure of loan disbursements for this program, a complete understanding of how this program is administered is necessary. Thus, the GOC's refusal to provide the most current 2013 Revisions, which provide internal guidelines for how this program is administered by the China Ex-Im Bank, impede the Department's ability to conduct its investigation of this program.

Pursuant to sections 776(a)(2)(A) and (2)(C) of the Act, when an interested party withholds information requested by the Department and significantly impedes a proceeding, the Department uses facts otherwise available. We find that the use of facts otherwise available is appropriate in light of the GOC's refusal to provide the 2013 Revisions. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding of information and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted. The GOC has not provided sufficient information to determine whether the China Ex-Im Bank limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million. Such information is critical to understanding how the Export Buyer's Credits program operates and is critical to the Department's program use determination.

The GOC's 3rd SQR relays the GOC's refusal to provide information regarding the internal administration of the program.¹⁰⁶ The GOC is the only party that can answer questions about the internal administration of this program, and, thus, absent the requested information, the GOC's and respondent company's claims of non-use of this program are not verifiable. Therefore, we determine that the GOC has not cooperated to the best of its ability and, as AFA, find that the respondents used and benefited from this program.¹⁰⁷

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in the *Coated Paper PRC* proceeding, as the rate for these companies.¹⁰⁸ Additionally, based on the methodology also described above for corroborating secondary information, we have corroborated the selected rate to the extent possible and find that the rate is reliable and relevant for use as an AFA rate for the Export Buyer's Credits program.

B. Application of AFA: Input Producers are "Authorities"

As discussed under the section below under "Programs Preliminarily Determined to be Countervailable," the Department is investigating the provision of steel rounds and billets and hot-rolled/cold-rolled coiled steel for LTAR by the GOC. We requested that the GOC provide the information necessary to determine whether the specific companies that produced the steel rounds and billets and the hot-rolled/cold-rolled coiled steel that Hongyi, Huacheng I&E and

¹⁰⁵ *Id.*

¹⁰⁶ See GOC's 3rd SQR at 2.

¹⁰⁷ See Petition at 33 - 34.

¹⁰⁸ See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper PRC*) (revised rate for "Preferential Lending to the Coated Paper Industry" program).

their cross-owned affiliates purchased during the POI are “authorities” within the meaning of section 771(5)(B) of the Act.¹⁰⁹

We asked the GOC to “{p}lease coordinate immediately with the company respondents to obtain a complete list of each company’s input producers.”¹¹⁰ The GOC’s initial questionnaire response provided an incomplete list of the companies that produced steel rounds and billets and hot-rolled/cold-rolled coiled steel purchased by Hongyi, Huacheng I&E and their cross-owned affiliates.¹¹¹ In addition, it specifically provided only limited amounts of the information requested in the standard “input producer” appendix used to determine the extent of the GOC control, if any, over the producers.¹¹² For example, it did not provide capital verification reports, articles of association, by-laws, and annual reports of the input producers.¹¹³ The GOC’s 1st SQR identified the ownership structure of a number of producers of steel rounds and billets and hot-rolled/cold-rolled coiled steel,¹¹⁴ several of which were either wholly or majority owned by the state.¹¹⁵ Several companies were not among the companies that Hongyi, Huacheng I&E and their cross-owned affiliates identified as input producers, and a number were identified as privately held corporations.¹¹⁶ However, this information accounted for less than one third of the input producers reported by Hongyi, Huacheng I&E and their cross-owned affiliates, and did not address any of the cold-rolled coil producers that Hongyi, Huacheng I&E and their cross-owned affiliates identified.¹¹⁷ In addition, Huacheng I&E’s cross-owned affiliates, Huacheng Pipe, Salem and Huacheng Investment, each reported purchases of steel billets from “unknown” producers.¹¹⁸

At the outset, we note that instead of providing information for the producers of the inputs as requested, the GOC included registration information of the companies from whom the respondents purchased the inputs, which in many cases, were trading companies.¹¹⁹ The Department requested again that the GOC update this information to reflect the respondents’ input producers; however, the GOC ignored this request in its supplemental questionnaire response.¹²⁰ Consequently, the Department requested that the GOC provide the articles of

¹⁰⁹ See Initial CVD Questionnaire to the GOC at section II. See also the GOC’s 1st SQR at 7-13.

¹¹⁰ See Initial CVD Questionnaire at 16 and 20.

¹¹¹ See GOC’s IQR at 95-99, and 118-122; see also Exhibits F-21, F22, F28, and F29.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ See GOC’s 1st SQR at S-19 and S-20.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.* See also Hongyi’s IQR at Exhibits F.4, F.5 and F.6; and Huacheng’s IQR at Volume 2, Exhibits 14 and 15; Volume 3, Exhibits 10 and 11; Volume 4, Exhibit 8; HZB Special Material’s IQR at Exhibit 9; and, Huacheng SMC’s IQR at Exhibit 14 and 15.

¹¹⁸ See Huacheng’s IQR at Volume 2, Exhibits 14 and 15; Volume 3, Exhibits 10 and 11; Volume 4, Exhibit 8; HZB Special Material’s IQR at Exhibit 9; and, Huacheng SMC’s IQR at Exhibit 14 and 15. See also Huacheng’s 1st SQR at 3-4. For the “unknown” producers, we are relying on the facts otherwise available, pursuant to section 776(a)(1) of the Act, to make our determination. Specifically, we preliminarily find that the “unknown” producers are “authorities” under section 771(5)(B) of the Act at the same proportion as are the “known” producers. Because all of the “known” producers are “authorities,” we find that all of the “unknown” producers are also “authorities” under section 771(5)(B) of the Act.

¹¹⁹ *Id.*

¹²⁰ See, e.g., GOC’s 1st SQR at 14 and Exhibit S-19.

incorporation and capital verification reports of the mandatory respondents' input producers.¹²¹ The GOC provided partial information (*i.e.*, identifying the legal ownership of less than one third of the input producers). Despite the Department's requests, the GOC did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises.¹²² Consequently, due to the GOC's failure to provide the requested information, the record is incomplete as to the full extent that the GOC may exercise meaningful control over these entities and use them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.

Further, the GOC provided no information at all regarding the identification of owners, directors, or senior managers who may also be the GOC or Chinese Communist Party (CCP) officials.¹²³ The GOC did not explain the efforts it undertook to try and obtain the information.¹²⁴ Additionally, the GOC stated that "there is no central informational database to search for the requested information identifying any individual owners, members of the board of directors, or senior managers is a Government or CCP official, and the industry and commerce administration do not require the companies to provide such information."¹²⁵ Therefore, the GOC stated that it cannot obtain the information requested by the Department.¹²⁶

Further, the GOC explained that the information that the Department requested is related to personal information of individuals who are not obligated to respond to this investigation.¹²⁷ The GOC also stated that to ascertain whether an individual is a member of the CCP, the GOC would have to identify the personal information of those individuals, which requires cooperation from the individuals and may involve personal privacy issues.¹²⁸ When asked to clarify in its supplemental questionnaire, the GOC reiterated what it previously stated in its initial questionnaire (*i.e.*, citing to Article 14 of the *Regulation on Disclosure of Government Information* to support its assertion that "the legal criteria for disclosure or use of personal information as prescribed in the regulation are not met in this situation.").¹²⁹ The GOC's response, however, failed to provide the requested information.¹³⁰ In addition to not providing all of the requested information regarding government and CCP officials, the GOC also declined to answer questions about the CCP's structure and functions that are relevant to our determination of whether the producers of steel rounds and billets and hot-rolled/cold-rolled coiled steel are "authorities" within the meaning of section 751(5)(B) of the Act.¹³¹ In its initial questionnaire response, the GOC objected to our questions, stating that the CCP, along with other related organizations, is not a government organization and does not have the legal authority to regulate, or influence, the daily business or management (*i.e.*, their conduct) of any

¹²¹ See GOC's 1st SQR at 12, 14, and 15.

¹²² *Id.*

¹²³ See GOC's IQR at 95-99, and 118-122; see also Exhibits F-21, F22, F28, and F29.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ See GOC's IQR at 103-105, 127.

¹²⁷ *Id.*

¹²⁸ See, *e.g.*, GOC's IQR at 103, citing Article 14 of the *Regulation on Disclosure of Government Information* (Decree 492 of the State Council 2007).

¹²⁹ See GOC's 1st SQR at 9.

¹³⁰ See *e.g.*, GOC's IQR at 103.

¹³¹ See GOC's IQR at 95-99, and 118-122; see also Exhibits F-21, F22, F28, and F29.

company in the PRC.¹³² We asked the GOC to provide this information for a second time.¹³³ Specifically, for each input producer provided by the mandatory respondents, the Department requested revised exhibits identifying the ultimate owner. The GOC then provided revised legal ownership status of some, but not all, of the producers of steel rounds and billets and hot-rolled/cold-rolled coiled steel.¹³⁴

Moreover, in response to the Department's initial questions in the Input Producer Index, the GOC provided copies of registration information of the input suppliers obtained from the Enterprise Credit Information Publicity System (ECIPS).¹³⁵ At the outset, we note that the Department has previously verified the operation of the GOC's ECIPS and determined that it requires that the administrative authorities release detailed information of enterprises and other entities and is intended to bring clarity to companies registered in the PRC.¹³⁶ We also note that the GOC has explained to the Department in the past that this system is a national-level internal portal which went into effect in 2014.¹³⁷ Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC confirmed in its supplemental questionnaire that "the portion of the ECIPS information provided by the enterprises themselves is also considered authoritative and accurate."¹³⁸ The GOC also explained that it monitors the accuracy of the information provided by enterprises by random selection.¹³⁹ Based on the GOC's response and the Department's previous finding, it is evident that ECIPS is a government-run portal, and it is accessible and at the disposal of the GOC. Thus, we find that the GOC's withholding of information constitutes a lack of cooperation.

The information we requested regarding the role of CCP officials in the management and operations of these input producers is necessary to our determination of whether these input producers are "authorities" within the meaning of section 771(5)(B) of the Act.¹⁴⁰ While the GOC explained that it had "undertaken efforts to research the requested information," it claimed it could not obtain the requested information because it is not publicly available.¹⁴¹ Thus, the GOC reiterated its inability to obtain the requested information for the second time. However,

¹³² See, e.g., GOC's IQR at 70-78.

¹³³ See GOC's 1st SQR at 7-10.

¹³⁴ *Id.* at Exhibits S-19, and S-20.

¹³⁵ See GOC's IQR at Exhibits II-F23, and F29.

¹³⁶ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016), and accompanying Preliminary Decision Memorandum at 21-22, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017).

¹³⁷ *Id.*

¹³⁸ See GOC's 1st SQR at 11.

¹³⁹ *Id.*, citing Article 14 of Provisional Regulations on Enterprise Information Publicity.

¹⁴⁰ See memorandum to the file, "Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Public Bodies Memorandum," dated September 1, 2017 (Public Bodies Memorandum).

¹⁴¹ See GOC's 1st SQR at 9-10.

responses in prior CVD proceedings involving the PRC demonstrate that the GOC is, in fact, able to access the information that we requested.¹⁴²

Because the GOC failed to provide the information necessary to evaluate the ownership structure of the input producers from which the respondents purchased inputs, or the CCP's involvement in the producers that the GOC identified as private companies, we preliminarily determine that the GOC withheld necessary information that was requested of it. Accordingly, the Department is relying on "facts otherwise available" in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. Consequently, we preliminarily determine that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. Because the GOC's failure to provide the requested information applies to all input producers reported by Hongyi, Huacheng I&E and their cross-owned affiliates, this AFA determination applies to all non-government-owned input producers included in this investigation.

As AFA, we are finding that all non-government-owned producers of steel rounds and billets and hot-rolled/cold-rolled coiled steel for which the GOC failed to identify whether the members of the board of directors, owners or senior managers were CCP officials, are "authorities" within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rates for Hongyi and Huacheng I&E, see "Provision of Inputs for LTAR."

C. Application of AFA: Inputs are Specific

For purposes of the Department's *de facto* specificity analysis, we asked the GOC to provide a list of industries (*i.e.*, steel rounds and billets and hot-rolled/cold-rolled coiled steel) in the PRC.¹⁴³ In response to our questions concerning specificity, the GOC contends that the provision of steel rounds and billets and hot-rolled/cold-rolled coiled steel is not specific, stating that "the GOC does not collect official data regarding the industries in China that purchase or consume {input}, and that no input producer compiles or reports its sales volume and value 'by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.'"¹⁴⁴ In the case of hot-rolled/cold-rolled coiled steel, the GOC contends that it is "widely used across virtually all sectors of industry in China, and thus its use cannot be considered specific to one industry or a particular group of industries."¹⁴⁵ Moreover, the GOC explains that the selling price of both inputs are determined by negotiations between the seller and the buyer according to market principles.¹⁴⁶ Further, the GOC stated that

¹⁴² See, *e.g.*, *High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) (*Steel Cylinders from the PRC*), and accompanying Issues and Decision Memorandum at 13.

¹⁴³ See Initial CVD Questionnaire to the GOC at Section II.

¹⁴⁴ See, *e.g.*, GOC's IQR at 86-87 and 110.

¹⁴⁵ See GOC's 1st SQR at 136-137.

¹⁴⁶ See, *e.g.*, GOC's IQR at 86-87.

it does not impose any limitation on the consumption of these inputs and that the input producers are free to sell their product to any purchaser and at any price.¹⁴⁷

These contentions notwithstanding, for each of the LTAR programs discussed herein, the Department also requested that the GOC “{p}rovide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.”¹⁴⁸ In the case of both inputs, the GOC did not provide this requested information, instead stating that “{t}he GOC does not collect official data regarding the industries in China that purchase {the input} directly, nor does such data exist by standard industrial classification. In addition, to the best of the GOC’s knowledge, no {input}producer compiles its sales volume and value ‘by industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.’”¹⁴⁹ While the GOC provided some information, such as excerpts from various sources that identify all economic activities of China that includes steel producer sectors (for hot-rolled/cold-rolled coil steel),¹⁵⁰ this information is insufficient because it does not include relevant data regarding the industries that actually purchased the inputs or the value of each industry’s respective purchases for the POI and the prior two years, as we requested. Although we reiterated our request for information in a supplemental questionnaire, the GOC again failed to provide such information.¹⁵¹ The GOC’s explanation to the Department that “{t}he industries that purchase/use Steel Rounds/Billets are not limited,”¹⁵² directly contradicts with what it has previously stated, *i.e.*, “{s}teel rounds (billets in round shape that can be used to produce seamless pipe) are {used} by the seamless pipe industry.”¹⁵³

Consequently, consistent with past proceedings,¹⁵⁴ we preliminarily determine that necessary information is not available on the record. Moreover, the GOC withheld information that was requested, and, as a result, the Department must rely on “facts available” in making our preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act.

Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our repeated requests for information, and provided inconsistent and contradictory explanations as to why the information is unavailable. Consequently, we preliminarily determine that an adverse inference is warranted in the application of facts

¹⁴⁷ *Id.*

¹⁴⁸ See Initial CVD Questionnaire at section II (page II-10).

¹⁴⁹ See GOC’s IQR at 86, 110 and 138.

¹⁵⁰ *Id.* at Exhibits II-F36 and F37.

¹⁵¹ See, *e.g.*, the GOC’s 1st SQR at 13-15.

¹⁵² See GOC’s IQR at 94.

¹⁵³ See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010) (*Seamless Pipe from the PRC*), and accompanying Issues and Decision Memorandum at 18.

¹⁵⁴ See, *e.g.*, *Utility Scale Wind Towers from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422 (June 6, 2012) (unchanged in *Utility Scale Wind Towers from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012)).

available.¹⁵⁵ In drawing an adverse inference, we find that the purchasers of steel rounds and billets and hot-rolled/cold-rolled coiled steel provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act. We note that the Department has previously found a similar program (*i.e.*, the provision of steel rounds) is only provided to steel consuming industries, and thus, is only provided to a limited number of industries.¹⁵⁶ The Department also has found a similar program (*i.e.*, the provision of hot-rolled steel) is only provided to steel consuming industries, and thus, by the same logic, the provision of cold-rolled steel in the PRC is also specific.¹⁵⁷

D. Application of AFA: Input Industry Distortions

In order to determine the appropriate benchmark with which to measure the benefit of inputs provided for LTAR under 19 CFR 351.511, the Department asked the GOC several questions regarding the structure of the industries for steel rounds and billets and hot-rolled/cold-rolled coiled steel (inputs used by the mandatory respondents, Hongyi and Huacheng I&E). Among these questions, we asked for information regarding the input in the PRC in the POI and the prior two years. Specifically, we requested information on the number of producers, the total volume and value of Chinese domestic consumption and production, the total volume and value of imports of the input, among other information. We also requested that the GOC indicate whether there were export quotas or export licensing requirements in place during the POI with regard to the input. In its response, the GOC stated that the inputs (*i.e.*, steel rounds and billets, hot-rolled/cold-rolled coiled steel) are “not subject to export quota or export tariff during the POI.”¹⁵⁸ Additionally, the GOC reported export tariff rates for each input, ranging from three to twenty percent.¹⁵⁹

The Department requests such information to inform its analysis of the degree of the GOC’s presence in the market and whether such presence results in the distortion of prices. With respect to both inputs, the GOC claimed that “there is no central informational database to search for the requested information.”¹⁶⁰ Specifically, the GOC claimed that the necessary information to conduct our analysis is not available for the steel rounds and billets and the hot-rolled/cold-rolled coiled steel industries (*e.g.*, the total number of producers, total volume and value of Chinese domestic consumption and production, the percentage of domestic consumption accounted for by domestic production)¹⁶¹ When asked to provide the previously requested information, the GOC stated that it has “provided in its initial response the official data available regarding the Chinese steel rounds and billets industry to the extent it is able.”¹⁶²

¹⁵⁵ See section 776(b) of the Act.

¹⁵⁶ See *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from the PRC*), and accompanying Issues and Decision Memorandum at 15; see also *Seamless Pipe from the PRC*, and accompanying Issues and Decision Memorandum at 18.

¹⁵⁷ See, *e.g.*, *Steel Cylinders from the PRC* and accompanying Issues and Decision Memorandum at 17.

¹⁵⁸ See GOC’s IQR at 85, 109, and 137

¹⁵⁹ *Id.*

¹⁶⁰ See GOC’s IQR at 82-84, 105-107, and 131.

¹⁶¹ *Id.* at 106-108.

¹⁶² See GOC’s 1st SQR at 15.

Further, the GOC initially reported the total number of hot-rolled/cold-rolled coiled steel producers and identified the number of producers that are majority government-owned.¹⁶³ The GOC further described that the statistical scope of its data included enterprises with main business income of 20 million and above (Above-Size Enterprises) and enterprises with main business income of below 20 million (Below Size Enterprises).¹⁶⁴ The GOC also explained that 35.77 percent of the domestic production of hot-rolled/cold-rolled steel in 2016 are state-owned producers.¹⁶⁵ The Department requested the GOC to clarify the source and reporting methodology in obtaining this data. The GOC explained that the number of producers identified as state-owned were only comprised of enterprises with main business income of 20 million and above.¹⁶⁶ Thus, based on the information provided on the record, we find that the total domestic production data that the GOC provided does not represent the hot-rolled/cold-rolled coiled steel industry as a whole. Additionally, the GOC reported that neither the National Bureau of Statistics of China (SSB), nor the relevant industry association, the China Iron and Steel Association (CISA), collects or maintains the requested information.¹⁶⁷ However, in contrast to what the GOC stated in this proceeding, we note that the GOC has in the past provided data concerning the production of inputs by companies in which it maintains an ownership or management interest in other proceedings.¹⁶⁸ For example, the GOC provided that the “{the China Iron and Steel Association} accounted for approximately 71 percent of {hot-rolled steel} production in China in 2006.”¹⁶⁹ Thus, consistent with section 776(a)(2)(A) of the Act, we find that the GOC failed to provide the necessary information to conduct our distortion analysis.

Moreover, because, as explained above, the GOC failed to provide this information and withheld the information necessary to our analysis, we find that the GOC did not cooperate and act to the best of its ability. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act.

Accordingly, as adverse facts available, we preliminarily determine that the GOC’s involvement in the markets for steel rounds and billets and hot-rolled/cold-rolled coiled steel in the PRC results in significant distortion of the prices for both inputs. These prices, therefore, cannot be used as a tier one benchmark and, hence, the use of an external benchmark, as described under 19 CFR 351.511(a)(2)(ii), is warranted to calculate the benefit for the provision of steel rounds and billets and hot-rolled/cold-rolled coiled steel for LTAR.

For further information on these programs, see “Programs Found to Be Countervailable” below.

¹⁶³ See GOC’s IQR at 130.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 132.

¹⁶⁶ *Id.* at 130-132; see also GOC’s 1st SQR at 15.

¹⁶⁷ GOC’s IQR at 130-132.

¹⁶⁸ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying Issues and Decision Memorandum at 9-12.

¹⁶⁹ *Id.* at 10.

E. Application of AFA: Provision of Electricity for LTAR

As discussed below under the section “Programs Preliminarily Determined to be Countervailable,” the Department is investigating whether the GOC provided electricity for LTAR. The GOC did not provide complete responses to the Department’s questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

In order for the Department to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, the Department requested, *inter alia*: Provincial Price Proposals for the province in which mandatory respondents or any company “cross-owned” with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution. The Department requested this information to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout the PRC during the POI.

In its initial questionnaire response, the GOC stated that, as of the issuance of the “NDRC Notification on Lowering the On-Grid Price of Coal-Fired Electricity and Electricity for Industrial and Commercial-Use {2015 No. 748}”,¹⁷⁰ the NDRC no longer reviews, *i.e.* approves, electricity pricing schedules submitted to it by the provinces.¹⁷¹ Therefore, the GOC explained that the NDRC no longer determines the electricity prices in provinces within China.¹⁷² Further, the GOC stated that, as a result of Notice 748, provincial price departments develop and establish grid and electricity sales prices.¹⁷³ As such, according to the GOC, there are no provincial price proposals created and the relevant provincial agencies are only required to provide their final published electricity schedules to the NDRC for its record.¹⁷⁴ The GOC added that interprovincial and interregional electricity price adjustments and prices are based upon market

¹⁷⁰ See GOC’s IQR at Exhibit II-F38 (Notice 748).

¹⁷¹ *Id.* at 145.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ See GOC’s 1st SQR at 17.

principles and negotiations between parties.¹⁷⁵ It is within the authority of provincial pricing departments to formulate the specific price levels for different electricity users, and to set principles and a general range.¹⁷⁶ Finally, the GOC stated that the NDRC issued an updated price adjustment notice, Number 3105, on December 27, 2015.¹⁷⁷ Effective January 1, 2016, the NDRC issued a notice to establish the market-oriented pricing mechanism, Number 3169.¹⁷⁸

Article 1 contained in Notice 748 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.¹⁷⁹ Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.¹⁸⁰ Article 2 indicates that the “price space” formed due to this price reduction “{s}hall be mainly used to lower the sales price of electricity for industrial and commercial use.”¹⁸¹ Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.¹⁸² Articles 6 and 7, respectively, indicate that provincial pricing authorities “{s}hall make and distribute the on-grid price of electricity and specific plans of the price adjustment in accordance with the average standard of price adjustment in Annex 1 and submit filings to the National Development and Reform Commission,” and that the “{a}forementioned electricity price adjustment shall be enforced since April 20th, 2015.”¹⁸³ Lastly, Article 10 directs that, “Administrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment.”¹⁸⁴

NDRC Notice 3105 directs additional price reductions, and stipulates at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to the NDRC.¹⁸⁵

Article 2 of NDRC Notice 3169 provides that, when the “thermal coal price is fluctuated for more than {Renminbi (RMB)} 30 Yuan (inclusive) comparing with benchmark coal price during the cycle,” then an adjustment must be made pursuant to a “tiered regressive linkage for {the} excess portion” using a “linkage coefficient” which is also defined in Article 2.¹⁸⁶ Article 3 stipulates that “{b}enchmark on-grid electricity price of coal-fired machine unit should be strictly measured and determined by coal-electricity price linkage mechanism” using a specific formula defined in Appendix 1 of Notice 3169.¹⁸⁷ Article 3 further stipulates that the “industrial and commercial electricity price should be correspondingly adjusted; adjustment level should be determined by on-grid electric quantity of coal-fired machine unit, on-grid electric quantity of other power sources, outsourced electric quantity condition, energy-saving and eco-friendly

¹⁷⁵ See GOC’s IQR at 145.

¹⁷⁶ See GOC’s 1st SQR at 19.

¹⁷⁷ See GOC’s IQR at Exhibit II-F39. (Notice 3105).

¹⁷⁸ See GOC’s 1st SQR at Exhibit S-21 (Notice 3169).

¹⁷⁹ See Notice 748.

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ See Notice 3105.

¹⁸⁶ See Notice 3169.

¹⁸⁷ *Id.*

electricity price and other factors” using a specific formula defined in Appendix 1 of Notice 3169.¹⁸⁸

Consequently, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.¹⁸⁹ Rather, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices, by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.¹⁹⁰ Moreover, while Article IV of Notice 3169 does indicate that “local government and relevant departments should not designate the transaction price,” Articles 2 and 3 of Notice 3169 also makes clear that the NDRC stipulates the formulae by which prices are to be adjusted.

In a supplemental questionnaire, the Department requested that the GOC identify the legislation which may have eliminated the Provincial Price Proposals. The GOC referred the Department to Notice 748, Notice 3105, and Notice 3169.¹⁹¹ As discussed above, these documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces and provide specific formulae by which price adjustments must be made. They neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. Additionally, we requested that the GOC confirm whether the NDRC reviews the electricity pricing schedules submitted by the provincial governments. The GOC responded that statements made in Notice of Provincial Price Bureau on Adjusting Electricity Price “neither confirms that NDRC establishes the provincial electricity schedules nor indicates that the specific provincial electricity prices categorized by usage category and voltage levels are ‘ratified’ by the NDRC.”¹⁹² Further, the GOC explained that Notice 748 and 3015 “do not serve as the NDRC’s notice of control over the provincial electricity price adjustments, rather, such notice only indicates that the NDRC promotes electricity policy objectives at the macro level.”¹⁹³ This response does not accord with the directive language in Notice 748, as discussed above.

The Department additionally requested that the GOC explain, with supporting documentation, how the pricing values indicated in the Appendices to Notice 748 and Notice 3109 were derived, including the specific factors or information relied upon by the NDRC. In response, the GOC merely repeated its initial explanation, as discussed above.¹⁹⁴ Subsequently, the GOC failed to identify and provide the sources of information on which this explanation was based.¹⁹⁵ Further, the GOC explained that the pricing values indicated in the Appendix 3105 were derived “based on the approval of Jiangsu government and after combination of the actual situation of Jiangsu

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* at 19.

¹⁹⁰ *See, e.g.*, Notice 748 Article 10 and Notice 3105 Articles II and X.

¹⁹¹ *See* GOC’s 1st SQR at 17-18.

¹⁹² *Id.* at 18.

¹⁹³ *See* GOC’s IQR at 148.

¹⁹⁴ *See* GOC’s 1st SQR at 18-19.

¹⁹⁵ *Id.*

province in accordance with the spirit of the Notice 3015.”¹⁹⁶ Such statement does not reflect what is stipulated in Notice 3105; Article II plainly states that “{t}he price authority of each province (Region, Municipality) shall formulate and release specific regulation plan of on-grid price and sales price in the province (Region, Municipality) according to average regulation standard regulated in the appendix.”¹⁹⁷

In addition to our request for a detailed explanation of how the NDRC derived the price reduction amounts indicated in Notice 748 and Notice 3105, we requested that the GOC explain the factors and information the Jiangsu Province price bureau relied upon to generate their submitted price adjustments and tariffs.¹⁹⁸ In its response, the GOC repeated its previously submitted, aforementioned responses regarding price derivation, *i.e.*, that “price authorities” investigate price and cost, and that, for a variety of reasons, electricity rates reflect market supply and demand.¹⁹⁹ As part of its response to this question, the GOC again failed to provide requested sources and relevant documentation to support its statements.²⁰⁰

As explained above, the GOC failed on multiple occasions to explain the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. Further, the GOC failed to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by provinces themselves. Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity and, thus, the Department must rely on “facts available” in making our preliminary determination.²⁰¹ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our repeated requests for information. Consequently, an adverse inference is warranted in the application of facts available.²⁰² In drawing an adverse inference, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, we are also drawing an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.²⁰³ The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, see the “Provision of Electricity for LTAR” section.

¹⁹⁶ *Id.*

¹⁹⁷ See GOC’s IQR at Exhibit II-F39.

¹⁹⁸ *Id.* at 151 and at Exhibits F-38 and F-39. The Jiangsu Province price adjustment notice indicates compliance with the price reductions stipulated in Notice 748.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ See section 776(a)(2)(A) of the Act.

²⁰² See section 776(b) of the Act.

²⁰³ See section 776(b)(4) of the Act.

F. Application of AFA: Provision of “Other Subsidies”

Hongyi, Huacheng I&E and their cross-owned affiliates self-reported that they received “Other Subsidies” during the POI and AUL in their initial questionnaire responses.²⁰⁴ The GOC’s IQR stated that an answer to the Department’s question regarding “Other Subsidies” was premature absent a more direct inquiry.²⁰⁵ Therefore, we issued supplemental questionnaires requesting the GOC to provide full questionnaire responses regarding the measurable “Other Subsidies” reported by Hongyi, Huacheng I&E, and their cross-owned affiliates.²⁰⁶ In its response, the GOC provided only information regarding the years of receipt and the amounts received for the subsidies reported by respondents, *i.e.*, duplicating the information previously provided on the record by Hongyi, Huacheng I&E and their cross-owned affiliates,²⁰⁷ without providing information concerning the programs at issue. Additionally, the GOC stated that, considering time constraints, the complexity of the hierarchy, and the number of the local government entities involved, it was “unable to collect all the necessary information to provide a full response to the Standard Appendix and other relevant appendices.”²⁰⁸

Based upon the above, we preliminarily determine that the GOC has withheld information that was requested of it, and, thus, that the Department must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that these “Other Subsidies” reported by Hongyi, Huacheng I&E and their cross-owned affiliates constitute a financial contribution pursuant to section 771(5)(D) of the Act and are specific within the meaning of section 771(5A) of the Act. We determined the benefit by dividing the amount of any measurable grant applicable to the POI by the appropriate sales denominator for Hongyi, Huacheng I&E and their cross-owned affiliates. See Section X.A.10, “Other Subsidies,” below.

²⁰⁴ See Hongyi’s IQR at 32 and Exhibit A.1. See Huacheng’s IQR at Volume 1, Exhibit 15, Volume 2, Exhibit 24, Volume 3, Exhibit 20, Volume 4 page 37, HZB Special Material’s IQR at 5, and Huacheng SMC’s IQR at Exhibit 18.

²⁰⁵ See GOC’s IQR at 155.

²⁰⁶ See letter from the Department, “Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Second Request for Additional Information Regarding the Government of the People’s Republic of China’s Response to the Department’s Initial Questionnaire,” dated August 30, 2017; and, letter from the Department, “Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Third Request for Additional Information Regarding the Government of the People’s Republic of China’s Response to the Department’s Initial Questionnaire,” dated September 5, 2017.

²⁰⁷ See GOC’s 1st SQR at 2 and Exhibit S-1. See GOC’s 2nd SQR at Exhibit S2-1, and 3rd SQR at Exhibit S3-1.

²⁰⁸ *Id.*

X. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Policy Loans to the Certain Cold-Drawn Mechanical Tubing Industry

The petitioners allege that the GOC provides policy loans to the cold-drawn mechanical tubing industry.²⁰⁹ The petitioners point out that the Department has determined that the GOC provides policy loans to the seamless pipe industry, which is the same industrial sector as the subject merchandise.²¹⁰ Thus, the petitioners maintain, the Department has countervailed policy lending programs in previous investigations.²¹¹

When examining a policy lending program, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. Once that finding is made, we rely upon the analysis undertaken in *CFS from the PRC* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.²¹²

Record information indicates the GOC placed great emphasis on targeting the steel and steel pipe industry for development throughout recent years. For example, the *National 10th Five-Year Plans of Economic and Social Development of the 10th Five-Year Plan for National Economic and Social Development* (2001-2005) (10th Five-Year Plan) indicates that the acceleration of industrial restructuring and reorganization would be undertaken with the objective of the development of industrial products, including the raw materials industry.²¹³ The *National 12th Five-Year Plans of Economic and Social Development* (2011-2015) (12th Five-Year Plan) encourages the steel industry to develop the necessary inputs and products to satisfy domestic

²⁰⁹ See the Petition at Volume 3, page 21.

²¹⁰ See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, in Part*, 75 FR 57449 (September 21, 2010) (*Seamless Pipe from the PRC*), and accompanying Issues and Decision Memorandum at 15-16. See also CVD Petition at 21.

²¹¹ See, e.g., *Drawn Stainless Steel Sinks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013), and accompanying Issues and Decision Memorandum at 24-25. See also *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016), and accompanying Preliminary Decision Memorandum at 35; unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017).

²¹² See *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 8.

²¹³ See GOC's IQR at Exhibit II-B10, page 11.

demand in other key economic sectors including equipment manufacturing, automobiles, construction and transportation.²¹⁴ Moreover, the 12th Five-Year Plan also promotes the establishment of “advanced manufacturing bases with strong international competitiveness,” using a regionally-based design to “develop modern industrial clusters featuring distinctive specialized characteristics, prominent brand images, and fully-developed service platforms.”²¹⁵ The current “*National 13th Five-Year Plans of Economic and Social Development (2016-2020)* (13th Five-Year Plan) continues these objectives, and calls for focus on the steel industry, among others, “in order to use the methods of foreign investment, engineering contracting, technical cooperation, equipment export, *etc.*, carry out international production and equipment manufacturing cooperation, promote equipment, technology, standards, services to go out.”²¹⁶

Additional record evidence indicates financial support directed specifically toward certain encouraged industries, including the iron and steel industry. For example, the “*Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation* (Guo Fa {2005} No. 40)” (Decision 40) indicates that the “Catalogue for the Guidance of Industrial Structure Adjustment” is an important basis for investment guidance and government administration of policies such as public finance, taxation, and credit.”²¹⁷ Decision 40 further indicates that projects in “encouraged” industries shall be provided credit support in compliance with credit principles.”²¹⁸ The “*Catalogue for the Guidance of Industrial Structure Adjustment*” (2005) specifically includes the iron and steel industry, as encouraged,²¹⁹ and calls for, among other things, the technological development and application of alloy steel round billets.²²⁰

Further, the GOC’s Iron and Steel Plan seeks to “elevate the whole technical level of the iron and steel industry, promote the structural adjustment, improve the industrial layout, develop a recycling economy, lower the consumption of materials and energy, pay attention to the environmental protection, enhance the comprehensive competitiveness of enterprises, realize the industrial upgrading and develop the iron and steel industry into an industry with international competitiveness that may basically satisfy the demand of the national economy and social development in terms of quantity, quality and varieties. . .”²²¹ and so that “{t}he comprehensive competitiveness of iron and steel industry may reach the internationally advanced level so that China may become a large country in iron and steel production and with world-wide competitive.”²²² Large scale enterprises were to consolidate and expand production according to

²¹⁴ *Id.*, Exhibit II-B12, “12th Five-Year Plan for The National Economic and Social Development of the People’s Republic of China,” at 10.

²¹⁵ *Id.* at 10-11.

²¹⁶ See GOC’s 1st SQR at Exhibit S-8, “13th Five-Year Plan for the National Economic and Social Development of the PRC,” Chapter XX.3.

²¹⁷ *Id.* at Exhibit II-B17, “Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation (Guo Fa {2005} No. 40),” at Chapter III, Article 12. See also GOC’s 1st SQR at Exhibit S-7, “Catalogue for the Guidance of Industrial Structure Adjustment (Guo FA {2005} No. 40),” at Chapter VII., “Steel.”

²¹⁸ See GOC’s IQR at Exhibit II-B17, at Chapter III Articles 13, 14, and 17.

²¹⁹ See GOC’s 1st SQR at Exhibit S-7, Section VII.

²²⁰ *Id.* at Article 9.

²²¹ *Id.* at Exhibit S-4, “Development Policies for the Iron and Steel Industry,” (Iron and Steel Plan), at preamble.

²²² *Id.* at Chapter I, Article 1.

the GOC's directives.²²³ The Iron and Steel Plan required that government entities "improve {the} mechanism" for implementation, including strengthening the coordination "between various policies in taxation, finance, trade, land, energy conservation, {and} environmental protection" ²²⁴

In addition, Jiangsu Province's 12th Five-Year Plan specifically tasked the steel industry to develop specialty products "and products in short supply such as tube, plate, and strip materials, high-quality steel, specialty steel," and "high-end metal products."²²⁵ Jiangsu Province's Iron and Steel Plan also promoted the expansion of these same products, which would be required as inputs by the automobile, ship-building, equipment and other manufacturing sectors for both domestic and export markets.²²⁶ Consistent with national Chinese industrial policies, the Jiangsu Province Iron and Steel Plan outlined a series of measures aimed at achieving these goals, including the use of fiscal, tax, and financial incentives.²²⁷

Thus, given the evidence demonstrating the GOC's objective of developing the iron and steel industry (of which cold-drawn mechanical tubing is a part) through preferential loans, we preliminarily determine there is a program of preferential policy lending specific to producers of certain cold-drawn mechanical tubing within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are "authorities."²²⁸ The loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.²²⁹ To calculate the benefit from this program, we used the benchmarks discussed above under the "Subsidies Valuation" section.²³⁰ To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominator, as described in the "Subsidies Valuation" section above.

Hongyi, Huacheng I&E and certain of their cross-owned affiliates reported having loans from PRC SOCBs that were outstanding during the POI.²³¹ The Department preliminarily finds that these policy loans directed at the steel pipe industry confer a financial contribution and are specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. On this

²²³ *Id.* at Chapter V.

²²⁴ See the Iron and Steel Industry Twelfth Five-Year Development Plan, contained in the Petition at Exhibit CVD-10, Chapter IV, V and VIII.

²²⁵ See "Guidelines of the Twelfth Five-Year Plan for National Economic and Social Development of Jiangsu Province (2011) No. 22," (Jiangsu Province's 12th Five-Year Plan), at Chapter 2, Article 6(1), contained in the Petition in Volume III, Exhibit CVD-PRC-17, and excerpted in GOC's 1st SQR at Exhibit S-11.

²²⁶ See "Jiangsu Province Iron and Steel Industry Adjustment and Revitalization Plan Outline," (Jiangsu Province Iron and Steel Plan), at Chapter III, Article I, "Tirelessly Expand Market Demand," contained in the Petition in Volume III, Exhibit CVD-PRC-16.

²²⁷ *Id.* at Chapter IV.

²²⁸ See, e.g., *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 1.

²²⁹ See section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

²³⁰ See 19 CFR 351.505(c).

²³¹ See Huacheng's IQR at Volume 1, pages 20-23 and Exhibit 8; Volume 2 at 22-23 and Exhibits 10-11, Volume 3 at 18 and Exhibit 9, Volume 4 at 17-18 and Exhibit 7. See also Huacheng SMC's IQR at 17 and Exhibit 10. See also Hongyi's IQR at 15 and Exhibit B.1.

basis, we preliminarily determine subsidy rates of 0.34 percent and 4.65 percent *ad valorem* for Hongyi, Huacheng I&E and their cross-owned affiliates, respectively.²³²

2. Export Buyer's Credit

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our preliminary determination regarding the GOC’s provision of Export Buyer’s Credit on AFA. Thus, we determine that the GOC’s provision of Export Buyer’s Credit confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Further, we determine on the basis of AFA that the Hongyi, Huacheng I&E and their cross-owned affiliates benefited from this program during the POI within the meaning of section 771(5)(E) of the Act.²³³ On this basis, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for Hongyi, Huacheng I&E and their cross-owned affiliates, respectively.²³⁴

3. Income Tax Reduction for High or New Technology Enterprises (HNTes)

Huacheng I&E reported that Huacheng Industry Pipe and Huacheng SMC used this program during the POI.²³⁵ Under Article 28.2 of the Enterprise Income Tax Law of the People’s Republic of China and Article 93 of the Implementation Regulations for the Enterprise Income Tax Law of the People’s Republic of China, companies recognized as HNTes pay an income tax rate of 15 percent, rather than the standard corporate income tax rate of 25 percent.²³⁶ The Department previously found this program to be countervailable in the *Shrimp PRC Final* determination.²³⁷

Consistent with our determination in *Shrimp PRC Final*, we preliminarily determine that this tax incentive constitutes a financial contribution in the form of revenue forgone by the GOC and confers a benefit in the amount of tax savings, as provided under sections 771(5)(D)(ii) and 771(5)(E) of the Act. We further determine that the income tax reduction afforded by this program is limited as a matter of law to certain enterprises whose products are designated as being in “high-tech fields with state support,” and, hence, is *de jure* specific, under section 771(5A)(D)(i) of the Act.

We calculated the benefit as the difference between taxes Huacheng Industry Pipe and Huacheng SMC would have paid under the standard 25 percent tax rate and the taxes that the companies actually paid under the preferential 15 percent tax rate, as reflected on their tax returns filed

²³² See Hongyi’s Preliminary Calculation Memorandum at Attachment, and, Huacheng’s Preliminary Calculation Memorandum at Attachment.

²³³ See Petition at 29 - 31.

²³⁴ See Hongyi’s Preliminary Calculation Memorandum at Attachment, and, Huacheng’s Preliminary Calculation Memorandum at Attachment.

²³⁵ See Huacheng’s IQR at Volume 2 pages 30-32; Exhibit 4, line 24 and 26, and Exhibit 23; and, Huacheng SMC’s IQR at 23-27; Exhibit 4, line 24 and 26, and Exhibit 12.

²³⁶ See GOC June 12, 2017 IQR at 23 and Exhibits II-D1, “Enterprise Income Tax Law of the PRC, and Exhibit II-D2, “Implementation Regulations for the Enterprise Income Tax Law of the People’s Republic of China.”

²³⁷ See, e.g., *Shrimp PRC Final*, and accompanying Issues and Decision Memorandum at 25.

during the POI, as provided for under 19 CFR 351.509(a)(1) and (b)(1). We treated the tax savings as a recurring benefit consistent with 19 CFR 351.524(c)(1). We determined the margin by: 1) dividing Huacheng Industry Pipe's benefits by Huacheng Industry Pipe's total sales plus the combined sales of Salem, Huacheng Investment, and HZB Special Material less any intercorporate transactions among these parties; and 2) dividing Huacheng SMC's benefits by the combined sales value of Huacheng SMC and its producer, Salem, less any intercorporate transactions between them.²³⁸ We then added the two rates to obtain a rate of 0.72 percent *ad valorem* applicable to Huacheng I&E and its cross-owned affiliates.²³⁹

4. Income Tax Deductions for Research and Development (R&D) Expenses Under the Enterprise Income Tax Law

Under Article 30.1 of the Enterprise Income Tax Law of the PRC, which became effective January 1, 2008, companies may deduct R&D expenses incurred in the development of new technologies, products, or processes from their taxable income.²⁴⁰ Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC provides that, if eligible research expenditures do not form part of the intangible assets value, an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.²⁴¹ Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets' costs.²⁴²

Huacheng I&E reported that Huacheng Industry Pipe and Huacheng SMC used this program during the POI.²⁴³

We preliminarily determine that this program provides a countervailable subsidy. This income tax deduction is a financial contribution in the form of revenue forgone by the government, and it provides a benefit to the recipients in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D in eligible high-technology sectors and, thus, is *de jure* specific under section 771(5A)(D)(i) of the Act. The Department has previously found this program to be countervailable.²⁴⁴

To calculate the benefit from this program to Huacheng I&E and its cross-owned affiliates, we treated the tax deduction as a recurring benefit, consistent with 19 CFR 351.524(c)(1).

²³⁸ See Huacheng's Preliminary Calculation Memorandum at Attachment.

²³⁹ *Id.*

²⁴⁰ See GOC's IQR at 43-53, and, Exhibits II-D1, "Enterprise Income Tax Law of the PRC," and Exhibit II-D2, "Implementing Regulations of the Enterprise Income Tax Law of the PRC."

²⁴¹ *Id.* at Exhibit II-D2.

²⁴² *Id.*

²⁴³ See Huacheng's IQR at Volume 2, page 33 and Exhibit 4; and, Huacheng SMC's IQR at 27 and Exhibit 4.

²⁴⁴ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells PRC*), and accompanying Issues and Decision Memorandum at 17.

To compute the amount of the tax savings, we calculated the amount of tax each respondent would have paid absent the tax deductions at the tax rate that would otherwise apply (*i.e.*, 15 percent as allowed under the program, Income Tax Reductions for High- and New- Technology Enterprises, discussed above). We then divided the tax savings by the appropriate total sales denominator for each respondent.

On this basis, we calculated a countervailable subsidy of 0.19 percent *ad valorem* for Huacheng I&E and its cross-owned affiliates.²⁴⁵

5. Small and Medium Enterprises (SME) International Market Exploration/Development Fund

Hongyi and Huacheng I&E reported receiving benefits under this program in 2015 and 2016, respectively.²⁴⁶ The companies applied to, and received funds directly from, the Department of Commerce of Jiangsu Province and the Department of Finance of Jiangsu Province, under this program, which helps with SME's exhibitions at international trade fairs.²⁴⁷

The program is operated according to the *Notice of Jiangsu Province the Department of Finance and the Department of Commerce on the Application of Special Funds for Foreign Trade and Economic Development in 2016 (Su Cai Gong Mao 94)*.²⁴⁸ Pursuant to that regulation, Hongyi and Huacheng Industry Pipe qualified to receive funds under this program based upon each company being registered in Jiangsu Province, obtaining an import/export license, and being classified as an SME, *i.e.*, its imports and exports in the year prior to its application did not exceed USD 65 million.²⁴⁹

We determine that the grant received under this program constitutes a financial contribution from the GOC and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We determine that the grant received is specific under section 771(5A)(A) and (B) of the Act because the program supports the international market activities of SMEs and is contingent upon export performance.

Hongyi did not receive any benefits applicable to this program during the POI.²⁵⁰ Huacheng I&E reported that only Huacheng Industry Pipe, among its cross-owned affiliates, received benefits during the POI.²⁵¹ Therefore, to calculate the benefit, we divided the amount of funds received by Huacheng Industry Pipe under this program during 2016 by the sum of the total export sales made by Huacheng Industry Pipe and Huacheng I&E (less any intra-corporate export sales) during the POI. On this basis, we determine that Huacheng I&E and its cross-owned affiliates received a countervailable subsidy of 0.02 percent *ad valorem* under this program.²⁵²

²⁴⁵ See Huacheng's Preliminary Calculation Memorandum at Attachment.

²⁴⁶ See Hongyi's IQR at 13 and Exhibit A.1. See also Huacheng's IQR at Volume 2, page 18-19, and Exhibit 9.

²⁴⁷ See GOC's IQR at 6.

²⁴⁸ *Id.* at 7, and Exhibit II-A1.

²⁴⁹ *Id.*

²⁵⁰ See Hongyi's IQR at 13 and Exhibit A.1. See also GOC's IQR at 6.

²⁵¹ See Huacheng's IQR at Volume 2, page 18-19, and Exhibit 9.

²⁵² See Hongyi's Preliminary Calculation Memorandum and Huacheng's Preliminary Calculation Memorandum.

6. Provision of Steel Rounds and Billets for LTAR

The Department is examining whether the GOC or other “authorities” within the PRC provided Hongyi, Huacheng I&E and their cross-owned affiliates with steel rounds and billets for LTAR. Both Hongyi, Huacheng I&E and/or their cross-owned affiliates, reported that they purchased steel rounds and billets from affiliated or unaffiliated parties during the POI.²⁵³

Financial Contribution

In this administrative review, the GOC indicated that certain producers of steel rounds and billets that provided inputs to respondents are majority-owned by the government.²⁵⁴ As explained in the Public Body Memorandum, majority state-owned enterprises in the PRC possess, exercise, or are vested with governmental authority.²⁵⁵ The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.²⁵⁶ Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that company respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²⁵⁷

We are otherwise basing our determination of the GOC’s provision of steel rounds and billets for LTAR on AFA. As explained in the “Use of Facts Otherwise Available and Adverse Inferences,” we determined that certain Chinese producers that produced steel rounds and billets purchased by Hongyi, Huacheng I&E and their cross-owned affiliates during the POI are “authorities” within the meaning of section 771(5)(B) of the Act. Therefore, we determine that the GOC’s provision of steel rounds and billets provides a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act. We find that Hongyi, Huacheng I&E and their cross-owned affiliates used this program during the POI.²⁵⁸

Specificity

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section of this memorandum above, we preliminarily determine, as AFA, that the GOC is providing steel rounds and billets to a limited number of industries and enterprises, and, hence, that the subsidies under these programs are specific pursuant to section 771(5A)(D)(iii) of the Act.

²⁵³ See Hongyi’s IQR at 25-26 and Exhibit F.4; see also Huacheng’s IQR at Volume 1, page 32; Volume 2, pages 44-45 and Exhibits 14, 15 and 17; Volume 3, page 32, and Exhibits 10 and 1; Volume 4, page 30 and Exhibit 8; HZB Special Material’s IQR at 27 and Huacheng SMC’s IQR at 37 and Exhibit 14.

²⁵⁴ See GOC’s 1st SQR at Exhibit S-19.

²⁵⁵ See Public Bodies Memorandum.

²⁵⁶ *Id.*

²⁵⁷ See, e.g., *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 52301 (September 3, 2014) (*OCTG from the PRC 2012 AR*) and accompanying Issues and Decision Memorandum at 48-50.

²⁵⁸ *Id.* See also Hongyi’s IQR at 25-26 and Exhibit F.4, and Huacheng’s IQR at Volume 1, page 32; Volume 2, pages 44-45 and Exhibits 14, 15 and 17; Volume 3, page 32, and Exhibits 10 and 1; Volume 4, page 30 and Exhibit 8; HZB Special Material’s IQR at 27 and Huacheng SMC’s IQR at 37 and Exhibit 14.

Market Distortion

As discussed in the “Use of Facts Otherwise Available and Adverse Inferences,” section above, we have preliminarily determined, as AFA, that the domestic market for steel rounds and billets is distorted, and we are relying on an external benchmark for determining the benefit from the provision of steel rounds and billets for LTAR under section 771(5)(E)(ii) of the Act.

Benefit

As discussed above in the “Input Benchmarks,” because the Department is finding that the PRC markets for steel rounds and billets were distorted by government involvement, we are selecting external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.²⁵⁹ Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under “tier two,” the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents’ production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of steel rounds and billets into the PRC, as provided by the GOC.²⁶⁰ Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.²⁶¹

We compared these monthly benchmark prices to the purchase prices that Hongyi, Huacheng I&E and their cross-owned affiliates reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Hongyi, Huacheng I&E and their cross-owned affiliates. We divided the total benefits received by the appropriate consolidated sales denominator.²⁶²

On this basis, for the steel rounds and billets for LTAR, we preliminarily determine a net countervailable subsidy rate of 22.68 percent *ad valorem* for Hongyi and 15.95 percent *ad valorem* for Huacheng I&E.²⁶³

7. Provision of Hot-Rolled/Cold-Rolled Coiled Steel for LTAR

The Department is examining whether the GOC or other “authorities” within the PRC provided Hongyi, Huacheng I&E and their cross-owned affiliates with hot-rolled/cold-rolled coiled steel for LTAR. Both Hongyi, Huacheng I&E and their cross-owned affiliates, reported that either they or their cross-owned affiliates purchased hot-rolled/cold-rolled coiled steel from affiliated

²⁵⁹ See *CVD Preamble*, 63 FR at 65401.

²⁶⁰ Consistent with *Citric Acid PRC; 2011 Review*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. See *Citric Acid PRC; 2011 Review*, and accompanying Issues and Decision Memorandum at 90.

²⁶¹ See GOC’s IQR at Exhibit II-F12.

²⁶² See Hongyi’s Preliminary Calculation Memorandum at Attachment. See also Huacheng’s Preliminary Calculation Memorandum at Attachment.

²⁶³ *Id.*

or unaffiliated parties during the POI.²⁶⁴ Specifically, Huacheng I&E reported that HZB Special Material purchased cold-rolled coils during the POI for the production of subject merchandise,²⁶⁵ and that Huacheng SMC purchased hot-rolled coils for the production of subject merchandise during the POI.²⁶⁶

Financial Contribution

In this administrative review, the GOC indicated that certain producers of hot-rolled coiled steel that provided inputs to respondents are majority-owned by the government.²⁶⁷ As explained in the Public Body Memorandum, majority state-owned enterprises in the PRC possess, exercise, or are vested with governmental authority.²⁶⁸ The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.²⁶⁹ Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that company respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²⁷⁰

We are otherwise basing our determination of the GOC’s provision of hot-rolled coiled steel and cold rolled coiled steel for LTAR on AFA. As explained in the “Use of Facts Otherwise Available and Adverse Inferences,” we determine that certain Chinese producers that produced hot-rolled coiled steel and cold-rolled coiled steel purchased by Hongyi, Huacheng I&E and their cross-owned affiliates during the POI are “authorities” within the meaning of section 771(5)(B) of the Act. Therefore, we determine that the GOC’s provision of hot-rolled/cold-rolled coiled steel provide a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act. We find that Hongyi, Huacheng I&E and their cross-owned affiliates used these programs during the POI.²⁷¹

Specificity

Additionally, as explained in the “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the GOC is providing hot-rolled/cold-rolled coiled steel to a limited number of industries and enterprises, and, hence, that the subsidies under these programs are specific pursuant to section 771(5A)(D)(iii) of the Act.

²⁶⁴ See Hongyi’s IQR at 27-28 and Exhibit F.5 and F.6; see also HZB Special Material’s IQR at 28, and Exhibit 9, and Huacheng SMC’s IQR at 39 and Exhibit 15.

²⁶⁵ See HZB Special Material’s IQR at 28.

²⁶⁶ See Huacheng SMC’s IQR at 39.

²⁶⁷ See GOC’s 1st SQR at Exhibit S-20.

²⁶⁸ See Public Bodies Memorandum.

²⁶⁹ *Id.*

²⁷⁰ See, e.g., *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 52301 (September 3, 2014) (*OCTG from the PRC 2012 AR*) and accompanying Issues and Decision Memorandum at 48-50.

²⁷¹ See Hongyi’s IQR at 27-28 and Exhibits F.5 and F.6; see also HZB Special Material’s IQR at 28, and Exhibit 9, and Huacheng SMC’s IQR at 39 and Exhibit 15.

Market Distortion

Further, as discussed in the “Use of Facts Otherwise Available and Adverse Inferences,” we have preliminarily determined, as AFA, that the domestic market for hot-rolled/cold-rolled coiled steel is distorted through the intervention of the GOC. Thus, we are relying on an external benchmark for determining the benefit from the provision of hot-rolled/cold-rolled coiled steel for LTAR under section 771(5)(E)(ii) of the Act.

Benefit

As discussed above in the “Input Benchmarks,” because the Department is finding that the PRC market for hot-rolled/cold-rolled coiled steel was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*. Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under “tier two,” the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included ocean freight and inland freight that would be incurred to deliver inputs to the respondents’ production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of hot-rolled/cold-rolled coiled steel into the PRC, as provided by the GOC.²⁷² Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.²⁷³

We compared these monthly benchmark prices to the purchase prices paid by Hongyi, Huacheng I&E and their cross-owned affiliates for individual domestic transactions, including VAT and delivery charges. We determined the benefit as the difference between the benchmark prices and the prices reported by Hongyi, Huacheng I&E and their cross-owned affiliates. We divided the total benefits received by the appropriate consolidated sales denominator.²⁷⁴

On this basis, for the provision of hot-rolled/cold-rolled coiled steel for LTAR, we preliminarily determine a net countervailable subsidy rate of 0.42 percent *ad valorem* for Hongyi and 0.19 percent *ad valorem* Huacheng I&E.²⁷⁵

8. Provision of Electricity for LTAR

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our preliminary determination regarding the GOC’s provision of electricity for LTAR on adverse facts available. Therefore, we preliminarily determine that the GOC’s provision of electricity confers a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act and is specific under section 771(5A)(D) of the Act.

²⁷² Consistent with *Citric Acid PRC; 2011 Review*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. See *Citric Acid PRC; 2011 Review*, and accompanying Issues and Decision Memorandum at 90.

²⁷³ See GOC’s IQR at 136.

²⁷⁴ See Hongyi’s Preliminary Calculation Memorandum at Attachment. See also Huacheng’s Preliminary Calculation Memorandum at Attachment.

²⁷⁵ *Id.*

For determining the existence and amount of any benefit under this program, we selected the highest non-seasonal provincial rates in the PRC for each electricity category (*e.g.*, “large industry,” “general industry and commerce”) and “base charge” (either maximum demand or transformer capacity) used by the respondent. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.

Consistent with our approach in *Wind Towers PRC*,²⁷⁶ we first calculated the respondents’ variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid by the respondent during each month of the POI.²⁷⁷ Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by the respondents during the POI from the monthly benchmark variable electricity costs.

To measure whether the Hongyi or Huacheng I&E received a benefit with regard to their base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the companies by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the companies’ consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the companies during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from the respondent’s variable electricity payments and base rate payments.²⁷⁸

To calculate the net subsidy rates attributable to Hongyi, Huacheng I&E and their cross-owned affiliates, we divided the benefit by total POI sales of the respondent producers as described in the “Subsidies Valuation” section above. On this basis, we preliminarily determine that the Hongyi and Huacheng I&E received countervailable subsidy rates of 0.94 percent and 0.74 percent *ad valorem*, respectively.²⁷⁹

9. “Other Subsidies”

Hongyi, Huacheng I&E and certain of its cross-owned affiliates self-reported receiving various non-recurring grants from the GOC during the POI or during the AUL period.²⁸⁰ As discussed in the “Use of Facts Available and Adverse Inferences” section above, the Department preliminarily determines that these grants constitute a financial contribution under section

²⁷⁶ See *Utility Scale Wind Towers from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers PRC*).

²⁷⁷ See *Wind Towers PRC*, and accompanying Issues and Decision Memorandum at 21-22.

²⁷⁸ See Hongyi’s Preliminary Calculation Memorandum; see also Huacheng’s Preliminary Calculation Memorandum.

²⁷⁹ *Id.*

²⁸⁰ See Hongyi’s IQR at Exhibit A.1; see also Huacheng’s IQR at Volume 1, Exhibit 16, Volume 2, at Exhibit 24, Volume 3, Exhibit 20, and Volume 4 at 37. See also HZB Special Material’s IQR at 5, and Huacheng SMC’s IQR at Volume 6, Exhibit 18.

771(5)(D)(i) of the Act, and that they are specific under section 771(5A) of the Act. The Department further preliminarily determines that these grants each confer a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a). To calculate the benefit received under these programs, the Department followed the methodology described in 19 CFR 351.524. Grants under the programs listed below were received by the mandatory respondents during the POI. To calculate the *ad valorem* subsidy rate for these grants, the Department divided the benefit conferred under each of these programs by the appropriate POI sales denominator – total sales or total export sales – depending on the nature of the subsidy program.

Hongyi and Huacheng I&E and certain of its cross-owned companies self-reported receiving measurable benefits under multiple programs.²⁸¹ Based on the methodology outlined above, the Department preliminarily determines a cumulative *ad valorem* subsidy rate of 0.77 percent 0.31 percent for Hongyi, and 0.31 percent for Huacheng I&E and its cross-owned affiliates for these programs, respectively.²⁸²

B. Programs Preliminarily Determined Not to Be Used by Hongyi and Huacheng I&E

1. Preferential Loans for State-Owned Enterprises (SOEs)
2. Export Loans from Chinese State-Owned Banks
3. Export Seller's Credits from Export-Import Bank of China
4. Export Credit Guarantees from Export-Import Bank of China
5. Treasury Bond Loans
6. Exemptions for SOEs from Distributing Dividends
7. Debt Forgiveness to Hengyang Steel Tube and Tianjin Pipe (Group) Corporation (TPCO) and Hengyang
8. Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization
9. Income Tax Deductions/Credits for Purchase of Special Equipment
10. Import Tariff and VAT Exemptions on Imported Equipment in Encouraged Industries
11. VAT Rebates for Foreign Invested Enterprises (FIEs) Purchasing Domestically-Produced Equipment
12. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
13. VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund
14. Government Provision of Land to SOEs for LTAR
15. Government Provision of Land in Special Economic Zones (SEZs) for LTAR
16. Government Provision of Iron Ore for LTAR
17. Government Provision of Coking Coal for LTAR
18. GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands
19. Special Fund for Energy Savings Technology Reform
20. The State Key Technology Project Fund
21. Grants for Energy Conservation and Emission Reduction

²⁸¹ See Hongyi's Preliminary Calculation Memorandum and Huacheng's Preliminary Calculation Memorandum.

²⁸² *Id.*

22. Grants for the Retirement of Capacity
23. Grants for the Relocation of Productive Facilities
24. SME Technology Innovation Fund
25. Export Assistance Grants
26. Grants to Hunan Valin Iron and Steel Group Co., Ltd.

XI. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

XII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.²⁸³ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.²⁸⁴

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁸⁵ This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.²⁸⁶ Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be

²⁸³ See 19 CFR 351.224(b).

²⁸⁴ See 19 CFR 351.309(c)(1)(i) and (d)(1).

²⁸⁵ See 19 CFR 351.309(c)(2) and (d)(2).

²⁸⁶ See 19 CFR 351.310(c).

determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.²⁸⁷ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,²⁸⁸ on the due dates established above.

XIII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted in response to the Department's questionnaires.

XIV. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒

☐

Agree

Disagree

9/18/2017

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

²⁸⁷ See 19 CFR 351.303(b)(2)(i).

²⁸⁸ See 19 CFR 351.303(b)(1).