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Investigation
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October 30, 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 Fine Denier
Polyester Staple Fiber 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 fine denier polyester staple fiber (fine denier PSF) 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 May 31, 2017, the Department received a countervailing duty (CVD) and antidumping duty (AD) petition concerning imports of polyester staple fiber from the PRC, filed in proper form by DAK Americas LLC, Nan Ya Plastics Corporation, America, and Auriga Polymers, Inc. (the petitioners).[1] On June 20, 2017, the Department initiated the CVD investigation of fine denier

[1] *See* "Letter to the Secretary of Commerce from the petitioners re: "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Petition for the Imposition of Antidumping and Countervailing Duties," dated May 31, 2017 (the Petitions).

PSF from the PRC.[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 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 number 5503.20.0025 during the POI, and released the data to the interested parties for comment on June 22, 2017.[5] On July 6, 2017, the petitioners filed comments on the CBP data.[6] No other parties submitted comments.

Based on our analysis of the CBP data, and taking the petitioners' comments into consideration, we determined that the CBP data are an appropriate basis on which to select respondents for individual examination in this investigation.[7] As outlined in the Department's Respondent Selection Memorandum, based upon the CBP data, the Department selected Jiangyin Hailun Chemical Fiber Co. Ltd. (Hailun) and Jiangyin Huahong Chemical Fiber Co. Ltd. (Huahong) as mandatory respondents.[8] Consistent with section 777A(e)(2)(A)(ii) of the Act, Hailun and Huahong accounted for the largest import volumes of the subject merchandise under consideration during the POI. On July 24, 2017, the Department issued a CVD questionnaire to the Government of the PRC.[9]

On August 8, 2017, Hailun and Huahong timely filed their affiliation questionnaire responses to the Department's Initial CVD Questionnaire.[10] On August 14, 2017, and August 28, 2017,

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[2] *See Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 29029 (June 27, 2017) (*Initiation Notice*).
[3] *See* Countervailing Duty Investigation Initiation Checklist: Fine Denier Polyester Staple Fiber from the People's Republic of China (PRC CVD Initiation Checklist), dated June 20, 2017 (CVD Initiation Checklist).
[4] *See Initiation Notice*, 82 FR at 29032.
[5] *See* Department Letter to all interested parties, dated June 22, 2017.
[6] *See* Petitioners' Letter re: Fine Denier Staple Fiber from the People's Republic of China – Petitioners' Respondent Selection Comments, dated July 5, 2017 (Petitioners' Respondent Selection Comments).
[7] *See* Memorandum, "Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Respondent Selection," dated July 24, 2017 (Respondent Selection Memorandum). For further discussion of the arguments submitted by all interested parties, *see* Respondent Selection Memorandum at 2-5.
[8] *Id*., at 6.
[9] *See* Department Letter re: Countervailing Duty Questionnaire, dated July 24, 2017 (Initial CVD Questionnaire).
[10] *See* Hailun's August 8, 2017 Affiliation Response (Hailun AFFR); *see also* Huahong's August 8, 2017 Affiliation Response (Huahong AFFR).

Hailun and Huahong, respectively, timely submitted their supplemental affiliation responses.[11] On September 8, 2017, the Government of the PRC, Hailun, and Huahong timely filed their full responses to the Department's Initial CVD Questionnaire.[12] The Government of the PRC, Hailun, and Huahong filed responses to additional supplemental questionnaires between August 14, 2017, and October 23, 2017, as discussed below.

B. Postponement of Preliminary Determination

On August 8, 2017, based on a request by the petitioners,[13] the Department postponed the deadline for the preliminary determination to the full 130 days permitted under sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).[14]

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,[15] 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.[16]

We received comments concerning the scope of the AD and CVD investigations of fine denier PSF from 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 December 18, 2017.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3. decitex (more than 3 denier, inclusive) currently

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[11] *See* Hailun's August 14, 2017 Supplemental Affiliation Response (Hailun August 14, 2017 SAFFR); *see also* Huahong's August 28, 2017 Supplemental Affiliation Response (Huahong August 28, 2017 SAFFR).
[12] *See* Government of the PRC's September 8, 2017 Initial Questionnaire Response (Government of the PRC September 8, 2017 IQR); Hailun's September 11, 2017 Initial Questionnaire Response (Hailun September 11, 2017 IQR); and Huahong's September 8, 2017 Initial Questionnaire Response (Huahong September 8, 2017 IQR).
[13] *See* Petitioners' Letter re: "Fine Denier Polyester Staple Fiber from the People's Republic of China – Petitioners' Request for Postponement of the Preliminary Determinations," dated July 26, 2017.
[14] *See Fine Denier Polyester Staple Fiber from the People's Republic of China and India: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 82 FR 37048 (August 8, 2017).
[15] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*AD Preamble*).
[16] *See CVD Initiation*, 82 FR at 29030.

classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bi-component fiber with a polyester core and an outer, polyester sheath that melts at a significantly lower temperature than its inner polyester core currently classified under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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 July 21, 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 fine denier PSF from the PRC.[17]

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

On October 25, 2007, the Department published its final determination in *CFS PRC Final*, 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.[18]

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.[19] 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.[20] The

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[17] *See Fine Denier Polyester Staple Fiber from China, India, Korea, and Taiwan: Investigation Nos. 701-TA-579 and 731-TA-1369 (Preliminary)*, Publication 4709, July 2017; *see also Fine Denier Polyester Staple Fiber from China, India, Korea, and Taiwan*, 82 FR 33925 (July 21, 2017).

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

[19] *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 IDM at Comment 1.

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

effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[21]

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.[22] The Department finds the AUL in this proceeding to be 9.5 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2016), "Appendix B - Table of Class Lives and Recovery Periods" (IRS Pub. 946).[23] The 9.5-year period corresponds to IRS Pub. 946 asset class, under "28.0 "Manufacture of Chemicals and Allied Products." The Department notified the respondents of the 10-year AUL in the Initial CVD Questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period. Consistent with past practice, in order to appropriately measure any allocated subsidies, the Department will use a 10-year AUL period in this investigation.[24]

Accordingly, 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

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[21] *See* Public Law 112-99, 126 Stat. 265 §1(b).

[22] *See* 19 CFR 351.524(b).

[23] *See* U.S. Internal Revenue Service Publication 946 (2016), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

[24] *See Issues and Decision Memorandum: Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 70 FR 40000 (July 12, 2005) at Comment 4.

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 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]

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]

Hailun

Hailun Chemical responded to the Department's original and supplemental questionnaires on behalf of itself and Jiangyin Bolun Chemical Fiber Co., Ltd. (Bolun); Jiangyin Fenghua Synthetic Fiber Co., Ltd. (Fenghua); Jiangsu Hailun Petrochemicals Co., Ltd. (Hailun Petrochemical); Jiangyin Huamei Special Fiber Co., Ltd. (Huamei); Jiangyin Huasheng Polymerization Co., Ltd. (Huasheng); Jiangyin Huaxing Synthetic Co., Ltd. (Huaxing); Jiangying Huayi Polymerization Co., Ltd. (Huayi); Jiangsu Sanfangxiang Group Co., Ltd. (Sanfangxiang Group); Jiangsu Sanfangxiang International Trading Co., Ltd. (Sanfangxiang Trading); Sanhai International Trading PTE Ltd. (Sanhai); Jiangyin Xingsheng Plastic Co., Ltd. (Xingsheng Plastic); Jiangyin Xingtai New Material Co., Ltd. (Xingtai); Jiangsu Xingye Plastic Co., Ltd. (Xingye Plastic); Jiangsu Xingye Polytech Co., Ltd. (Xingye Polytech); Jiangyin Xingyu New Material Co., Ltd. (Xingyu); Jiangyin Xinlun Chemical Fiber Co., Ltd. (Xinlun); Jiangyin Xinyuan Thermal Power Co., Ltd. (Xinyuan Thermal); and Jiangyin Yunlun Chemical Fiber Co., Ltd. (Yunlun) (collectively, Hailun companies). These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of Sanfangxiang Group's majority shareholding in all of the above-named companies.[27]

Summary of Attribution of Subsidies to Hailun

Sanfangxiang Group is a parent holding company located in Sanfangxiang Village, Zhouzhuang Town, Jiangyin, China. Sanfangxiang Group also supplied monoethylene glycol (MEG) and purified terephthalic acid (PTA), primarily dedicated inputs for the production of

[25] *See Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[26] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[27] *See* Hailun AFFR at 4-5.

fine denier PSF to at least one cross-owned producer/exporter during the POI. Sanfangxiang Group has majority shareholding in all cross-owned producers/exporters and cross-owned input providers.

Hailun Chemical, Bolun, Fenghua, Xinlun, Yunlun, and Huamei were producers of subject merchandise during the POI. Bolun and Fenghua reported receipt of subsidies during the AUL period. Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we attributed subsidies that these companies received to the combined sales (net of intercompany sales) of each of all the producers of subject merchandise.

Because Sanfangxiang Group is the parent company, pursuant to 19 CFR 351.525(b)(6)(iii), we are attributing all subsidies reported by Sanfangxiang Group to the combined sales of the parent company and the six PSF producing companies discussed above.

Hailun Petrochemical, Huayi, Huasheng, Xingsheng, Xinyuan, Huaxing, Sanfangxiang Trading, Xingye Plastic, Xingye Polytech, Xingtai, Xingyu, and Sanhai supplied inputs to the cross-owned producers/exporters identified above.[28] Therefore, we are attributing purchases of MEG and PTA for less than adequate remuneration (LTAR) where received by Hailun Petrochemical, Huayi, Huasheng, Xingsheng, Xinyuan, Huaxing, Sanfangxiang Trading, Xingye Plastic, Xingye Polytech, Xingtai, Xingyu, and Sanhai to the combined sales of the recipient input provider and the sales of the five producers of subject merchandise (net of intercompany sales). For further discussion of ownership pertaining to the Hailun companies, refer to the Hailun Preliminary Calculation Memorandum.[29]

Huahong

As discussed above, we selected Huahong as a mandatory respondent. Huahong is a domestically owned producer of fine denier PSF.[30] Huahong responded to the Department's questionnaires on behalf of itself and Jiangsu Huahong Industrial Group Co., Ltd. (Huahong Group).[31] Huahong Group is the majority shareholder of Huahong.[32] Huahong also submitted questionnaire responses on behalf of its cross-owned input suppliers, Jiangyin Hongkai Chemical Fiber Co., Ltd. (Hongkai); Jiangyin Huahong International Trade Co., Ltd. (Huahong International Trade); and Jiangyin Huakai Polyester Co., Ltd. (Huakai). For further discussion of ownership pertaining to Huahong, Huahong Group, Hongkai, Huahong International trade, and Huakai (collectively, Huahong companies), refer to the Huahong Preliminary Calculation Memorandum.[33]

[28] *See* Hailun AFFR at 4-5.
[29] *See* Memorandum, "Countervailing Duty Investigation: Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Determination Calculation Memorandum for Jiangyin Hailun Chemical Fiber Co. Ltd.," dated concurrently with this memorandum (Hailun Preliminary Calculation Memor/andum).
[30] *See* Huahong September 8, 2017 IQR at 2.
[31] *See* Huahong AFFR at 3.
[32] *Id.*
[33] *See* Memorandum, "Countervailing Duty Investigation: Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Determination Calculation Memorandum for Jiangyin Huahong Chemical Fiber Co. Ltd.," dated concurrently with this memorandum (Huahong Preliminary Calculation Memorandum).

Summary of Attribution of Subsidies to Huahong

Pursuant to 19 CFR 351.525(b)(6)(i), we attributed subsidies received by Huahong to the sales of Huahong. As explained in the Huahong Preliminary Determination Calculation Memorandum, we preliminarily find that Huahong Group is the parent company of Huahong and maintains its own operations.[34] We, therefore, attributed subsidies received by Huahong Group to its sales, consolidated with the sales of its subsidiaries, pursuant to 19 CFR 351.525(b)(6)(iii).

Pursuant to 19 CFR 351.525(b)(6)(iv), for subsidies received by an input supplier whose production of inputs is primarily dedicated to the production of the downstream subject merchandise by a cross-owned producer, the Department attributes the benefit to the combined sales of the input and downstream products produced by both corporations, excluding the sales between the two corporations. Hongkai, Huahong International Trade, and Huakai supplied PTA to use as a key input in Huahong's production of subject merchandise during the POI. As explained in the Huahong Preliminary Determination Calculation Memorandum, we preliminarily find these companies to be a cross-owned input providers to Huahong. Accordingly, pursuant to 19 CFR 351.525(b)(6)(iv), for each input supplier, we are attributing subsidies received by these input suppliers relating to the provision of purified terephthalic acid for less than adequate remuneration to total company sales for the supplier plus the sales of Huahong, net of inter-company sales.

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 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.[35]

VIII. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by Hailun and its cross-owned companies, and by the Huahong companies, from Chinese policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies received by the mandatory respondents.[36] The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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[34] *See* Huahong Preliminary Calculation Memorandum.
[35] *See* Hailun Preliminary Calculation Memorandum and Huahong Preliminary Calculation Memorandum.
[36] *See* 19 CFR 351.524(b)(1).

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.[37] 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."[38]

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 PRC Final*, 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.[39] In an analysis memorandum dated July 21, 2017, the Department has conducted a re-assessment of the lending system in China.[40] Based on this re-assessment, the Department has concluded that, despite reforms to date, the Government of the PRC'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 Chinese 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 Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Lumber Canada Final,* the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.[41]

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS PRC Final* and later updated in *Thermal Paper PRC Final*.[42] 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 the *CFS PRC Final*, this pool of countries captures the broad inverse relationship between income and

[37] *See* 19 CFR 351.505(a)(3)(i).
[38] *See* 19 CFR 351.505(a)(3)(ii).
[39] *See CFS PRC Final*, and accompanying IDM at Comment 10.
[40] *See* Memorandum, "Review of China's Financial System Memorandum," dated August 31, 2017.
[41] *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 Canada Final*), and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."
[42] *See CFS PRC Final*, and accompanying IDM 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 PRC Final*), and accompanying IDM at 8-10.

interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.[43] Beginning in 2010, however, the PRC was classified in the upper-middle income category and remained there from 2011 to 2014.[44] 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.[45]

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.[46] For 2010, however, the regression does not yield that outcome for the PRC's income group.[47] This 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 PRC Final* 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.[48] 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

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[43] *See* World Bank Country Classification, *http://data.worldbank.org/about/country-and-lending-groups* ("World Bank Country Classification"); *see also* Memorandum, "Interest Rate Benchmark Memorandum," dated October 30, 2017 (Interest Rate Benchmark Memorandum).
[44] *See* World Bank Country Classification.
[45] *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)).
[46] *See* Interest Rate Benchmark Memorandum.
[47] *Id.*
[48] *Id.*

an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[49] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[50]

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.[51]

In *Citric Acid PRC Final*, 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.[52] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[53]

The resulting inflation-adjusted benchmark lending rates are provided in the Hailun Preliminary Calculation Memorandum and the Huahong Preliminary Calculation Memorandum.

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 Government of the PRC provided non-recurring subsidies.[54] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Hailun Preliminary Calculation Memorandum and the Huahong Preliminary Calculation Memorandum.

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[49] *Id*.
[50] *Id*.
[51] *See*, *e.g.*, *Thermal Paper PRC Final* IDM at 10.
[52] *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 PRC Final*), and accompanying IDM at Comment 14.
[53] *See* Interest Rate Benchmark Memorandum.
[54] *See* Hailun Preliminary Calculation Memorandum and Huahong Preliminary Calculation Memorandum; *see also* Interest Rate Benchmark Memorandum.

C. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of MEG and PTA at 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). As discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section, we are relying on "tier two" (world market) prices for the MEG and PTA input benchmarks for these programs.

We received data submissions from the petitioners and the respondents for the Department to consider using as "tier two" benchmarks for MEG and PTA.[55] The petitioners submitted 2016 monthly world market prices of exports for MEG and PTA prices from IHS Global Trade Atlas (GTA).[56] The respondents submitted MEG and PTA prices from United Nations Statistics Divison - Commodity Trade Statistics Database (UNCOMTRADE).[57] Both the petitioners' and the respondents' data were specific to HTS subheading 2905.31 for MEG and HTS subheading 2917.36 for PTA. We are not relying on either the petitioners' nor the respondents' data because these data exclude export prices of MEG and PTA from the PRC. Instead, we are relying on 2016 monthly world market prices of exports from GTA are specific to HTS subheading 2905.31 for MEG and HTS subheading 2917.36 for PTA.[58]

With respect to ocean freight expenses, the petitioners and the respondents submitted ocean freight data for shipping a twenty-foot container to Shanghai from various ports around the world from Maersk Shipping Line, representing actual price quotes for the shipment of cargo.[59] The respondents also submitted Descartes freight rates that were provided in the *Cold-Drawn Mechanical Tubing PRC Prelim*.[60] The respondents additionally submitted information to clarify

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[55] *See* Petitioners' Letter re: "Fine Denier Polyester Staple Fiber from the People's Republic of China – Petitioners Comments and Submission of Factual Information Regarding Measurement of Adequacy of Remuneration," dated October 2, 2017 (Petitioners' Benchmark Submission) at 4-5 and Attachments 2, 3; Respondents' Letter re: "Fine Denier Polyester Staple Fiber from the People's Republic of China-Benchmark Submission," dated October 2, 2017 (Respondents' Benchmark Submission) at Exhibit 1 and Exhibit 2; Respondents' Letter re: "Fine Denier Polyester Staple Fiber from the People's Republic of China - Rebuttal Benchmark Submission," dated October 12, 2017 (Respondents' Rebuttal Benchmark Submission).
[56] *See* Petitioners' Benchmark Submission at Attachments 2, 3.
[57] *See* Respondents' Benchmark Submission at Exhibits 1, 2.
[58] *See* Hailun Preliminary Calculation Memorandum and Huahong Preliminary Calculation Memorandum.
[59] *See* Petitioners' Benchmark Submission at 6 and Attachment 4; Respondents' Benchmark Submission at Exhibit 4 and Exhibit 6.
[60] *See* Respondents' Benchmark Submission at Exhibit 3 and Exhibit 5 (citing C*ertain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44562 (September 25, 2017) (*Cold-Drawn Mechanical Tubing PRC Prelim*)).

the petitioners' ocean freight information by identifying worldwide major commercial shipping ports and information on various shipping terminology.[61]

The petitioners' and the respondents' submitted ocean freight benchmark data were specific to various products (*e.g.*, textiles, steel products, chemical products). We are adjusting the ocean freight benchmark to include only rates that could have been obtained for the MEG and PTA inputs (*i.e.*, chemical products). We are further adjusting the ocean freight benchmark to exclude aberrational data (*i.e.*, basic ocean freight rates of $10.00 and negative $115.00), and to include standard shipping charges that the respondents would have incurred (*e.g.,* terminal handling service and standard bunker adjustment factor).

Regarding inland freight, we are relying on the respondents' reported inland freight prices. For further discussion of ocean and inland freight expenses pertaining to the MEG and PTA input benchmarks, *see* Hailun Preliminary Calculation Memorandum and Huahong Preliminary Calculation Memorandum.

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.[62]

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a

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[61] *See* Respondents' Rebuttal Benchmark Submission at Exhibits 1 through 3.

[62] 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.

timely manner."[63] 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."[64]

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."[65] It is the Department's practice to consider information to be corroborated if it has probative value.[66] 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.[67] However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.[68]

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.[69]

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

A. Application of FA: Provision of MEG and PTA for Less Than Adequate Remuneration – Whether the Producers of Certain Domestic Purchases from Trading Companies were from "Authorities"

In their questionnaire responses, the Hailun companies reported "unknown" for the names of the producer of certain purchases of MEG and PTA that were made during the POI.[70] In a supplemental questionnaire, we asked the Hailun companies to describe the steps they undertook in their attempt to gather the requested producer identifications. The Hailun companies responded by describing how they ascertained the identities of the producers that they did

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[63] *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); *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).
[64] *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.
[65] *See*, *e.g.*, SAA at 870.
[66] *See* SAA at 870.
[67] *See*, *e.g.*, SAA at 869.
[68] *See* SAA at 869-870.
[69] *See* section 776(d)(3) of the Act.
[70] *See* Hailun's October 20, 2017 Supplemental Questionnaire Response (Hailun October 20, 2017 SQR) at 2.

report.[71] Specifically, for domestic purchases, if the supplier was a producer, the Hailun companies reported the supplier as the producer.[72] If the supplier was a trading company, and its affiliates did not know or have records of the producer identities, the Hailun companies reported "unknown."[73] For imported purchases, the Hailun companies used the Bill of Lading and/or the Certificate of Origin to identify the producer or the country in which the producer was located.[74]

Based on the above, because the Hailun companies were unable to identify the producer(s) of the MEG and PTA that was purchased from trading companies, the Government of the PRC was not able to provide a response to the Input Producer Appendix for those purchases. We find that the necessary information for these unidentified producers is not on the record. As such, we have no information that would enable us to determine that these producers are not "authorities" within the meaning of section 771(5)(B) of the Act. Therefore, pursuant to section 776(a)(1) of the Act, as facts available, we preliminarily find that the percentage of MEG and PTA supplied to the Hailun companies by trading companies produced by unidentified suppliers is produced by "authorities" at the same ratio of MEG and PTA by state-owned enterprises (SOEs) during the POI.[75] Therefore, we find that this portion of the MEG and PTA supplied by these "unknown" enterprises constitutes a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act and that Hailun received a benefit to the extent that the price the Hailun companies paid for the MEG and PTA produced by these producers was for LTAR. Our use of facts available in this regard is consistent with the Department's practice[76] and section 776(a) of the Act.

B. Application of AFA: Export Buyer's Credit

Government of the PRC

The Department preliminarily determines that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program because the Government of the PRC 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 Government of the PRC provide the information requested in the Standard Questions Appendix "with regard to all types of financing provided by the China ExIm under the Buyer Credit Facility."[77] The Standard Questions Appendix requested various 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.

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[71] *Id.*
[72] *See* Hailun October 20, 2017 SQR at 2.
[73] *Id.*
[74] *Id.*
[75] *See* Government of PRC September 8, 2017 IQR at 89-90 and 110-111.
[76] See *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at "Provision of Primary Aluminum for LTAR" and Comment 18.
[77] *See* Initial CVD Questionnaire at Section II, at 4.

Rather than responding to the questions in the Appendix, the Government of the PRC stated that to the best of the Government of the PRC's knowledge "{n}one of the Respondent Companies have applied for, used, or benefited from this program during the POI. Therefore, this question is not applicable."[78]

In its initial questionnaire response, the Government of the PRC 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*.[79] We requested in our Initial CVD Questionnaire that the Government of the PRC provide original and translated copies of any laws, regulations or other governing documents cited by the Government of the PRC in the Export Buyer's Credit Supplemental Questionnaire Response. This request included the 2013 *Administrative Measures* revisions (2013 Revisions) to the Export Buyer's Credit program. In its response, the Government of the PRC failed to provide the 2013 Revisions.[80] We, therefore, again requested that the Government of the PRC provide the 2013 Revisions.[81] Through its response to the Department's initial and supplemental questionnaires, the Government of the PRC 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 *Administrative Measures* revisions (2013 Revisions) because information on the record of this proceeding indicated that the 2013 Revisions affected important program changes. For example, the 2013 Revisions may have eliminated the USD 2 million contract minimum associated with this lending program.[82] By refusing to provide the requested information, and instead asking the Department to rely upon unverifiable assurances that the 2000 Rules Governing Export Buyers' Credit remained in effect, the Government of the PRC impeded the Department's understanding of how this program operates and how it can be verified.

Additional information in the Government of the PRC's initial questionnaire response also indicated that the loans associated with this program are not limited to direct disbursements through the Export-Import Bank of China (EX-IM Bank).[83] Specifically, this record information indicates that customers can open loan accounts for disbursements through this program with other banks.[84] The funds are first sent from the EX-IM Bank to the importer's account, which could be at the EX-IM Bank or other banks, and that these funds are then sent to the exporter's bank account.[85] We requested that the Government of the PRC provide a list of domestic settlement banks and third-party financial institutions through which the EX-IM Bank

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[78] Government of the PRC September 8, 2017 IQR at 12-15.
[79] *Id*., at Exhibit II-A-3-c-1 (Export Buyer's Credit Supplemental Questionnaire Response).
[80] *See* Government of the PRC September 8, 2017 IQR at 12-15.
[81] *See* Government of the PRC's October 12, 2017 Supplemental Questionnaire Response (Government of the PRC October 12, 2017 SQR) at 3.
[82] *See* Memorandum, "Placing Information on the Record," dated October 30, 2017, at Document 1 (Citric Acid Verification Report) at 2.
[83] *See* Government of the PRC September 8, 2017 IQR at Exhibit II-A-3-c-1.
[84] *Id*.
[85] *Id*.

disburses funds for this program, but it refused to do so.[86] Given the complicated structure of loan disbursements for this program, the Department's complete understanding of how this program is administered is necessary. Thus, the Government of the PRC's refusal to provide the most current 2013 Revisions, which provide internal guidelines for how this program is administrated by the EX-IM Bank, and a list of the EX-IM Bank partner banks, impeded 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 Government of the PRC's refusal to provide the 2013 Revisions and list of partner banks. Further, pursuant to section 776(b) of the Act, we find that the Government of the PRC, 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 Government of the PRC has not provided enough information to determine whether the 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 Government of the PRC's October 12, 2017 SQR indicated the Government of the PRC's refusal to provide information about the internal administration of the program.[87] The Government of the PRC is the only party that can answer questions about the internal administration of this program, and, thus, absent the requested information, the Government of the PRC's and respondent company's claims of non-use of this program are not verifiable.[88] Therefore, we determine that the Government of the PRC has not cooperated to the best of its ability and, as AFA, find that the respondents used and benefited from this program.[89]

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 Amended Final* proceeding, as the rate for these companies.[90] 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.

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[86] *See* Government of the PRC's October 16, 2017 Supplemental Questionnaire Response (Government of the PRC September 16, 2017 SQR) at 1.
[87] *See* Government of the PRC October 12, 2017 SQR at 3.
[88] *See* Hailun's September 11, 2017 IQR at "Fine Denier Polyester Staple Fiber from the People's Republic of China: Section III Questionnaire Response-Buyer's Credit," at 1 and Exhibit 15; Huahong September 8, 2017 IQR at Exhibit 8.1
[89] *See* Petition at 30 – 31.
[90] *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 Amended Final*) (revised rate for "Preferential Lending to the Coated Paper Industry" program).

C. Application of AFA for the Provision of MEG and PTA for LTAR

Government of the PRC – Whether Certain MEG and PTA Producers Are "Authorities"

As discussed below under "Programs Found to Be Countervailable," the Department examined whether the Government of the PRC provided MEG and PTA for LTAR to Hailun and Huahong. We asked the Government of the PRC to provide information regarding the specific companies that produced MEG and PTA which Hailun and Huahong purchased during the POI. Specifically, we sought information from the Government of the PRC which would allow us to analyze whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act.[91] In prior CVD proceedings involving the PRC, the Department has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for less than adequate remuneration LTAR.[92]

In addition to the Initial CVD Questionnaire, the Department issued supplemental questionnaires to the Government of the PRC regarding its response to the alleged subsidy programs.[93] In the Department's Initial CVD Questionnaire, we asked the Government of the PRC to respond to the specific questions regarding the producers of MEG and PTA and to respond to the *Input Producer Appendix* for each producer which produced the MEG and PTA purchased by Hailun and Huahong.[94] We instructed the Government of the PRC to coordinate with Hailun and Huahong to obtain a complete list of the MEG and PTA producers, including the producers of inputs purchased through a supplier.[95] Hailun and Huahong identified certain of the companies that produced and supplied the MEG and PTA purchases during the POI,[96] which the Government of the PRC confirmed in its questionnaire responses.[97]

With respect to these companies' purchases of MEG and PTA, while the Government of the PRC ultimately provided the identities of certain of the producers of MEG and PTA inputs, the Government of the PRC did not provide all of the information requested in the Initial CVD Questionnaire to the Government of the PRC. In our initial and supplemental questionnaire to the Government of the PRC,[98] the Department requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises. We address each group below.

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[91] *See* Memorandum, "Public Bodies Memorandum," dated August 31, 2017 (Public Bodies Memorandum).
[92] *See*, *e.g.*, *CWP PRC Final* IDM at "Hot-Rolled Steel for Less Than Adequate Remuneration"; *Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying IDM at "Provision of Wire Rod for Less than Adequate Remuneration."
[93] *See* Initial CVD Questionnaire, at Section II, "Input Producer Appendix;" *see also* Government of the PRC October 12, 2017 SQR at 6 through 8.
[94] *See* Initial CVD Questionnaire, at Section II, "Provision of Monoethylene Glycol for LTAR."
[95] *Id.*, at Section II, "Provision of Goods or Services for LTAR."
[96] *See* Hailun September 11, 2017 IQR at 13 and Exhibit 11; *see also* Huahong September 8, 2017 IQR at 17 and Exhibits 10.1, 10.2, 11.1, and 11.2.
[97] *See* Government of the PRC September 8, 2017 IQR at 29-30 and 53-54.
[98] *See* Initial CVD Questionnaire, at Section II, "Input Producer Appendix;" *see also* Government of the PRC October 12, 2017 SQR at 6-8.

With respect to those MEG and PTA producing enterprises that the Government of the PRC identified as majority government-owned,[99] we note that the Department made multiple requests for the Government of the PRC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.[100] The Government of the PRC provided partial information (*i.e.*, shareholder structure and business registration) with respect to certain majority government-owned enterprises. Despite the Department's requests, the Government of the PRC did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises.[101]

As explained in the Public Bodies Memorandum,[102] record evidence demonstrates that producers in the PRC that are majority-owned by the government possess, exercise, or are vested with, governmental authority.[103] Record evidence demonstrates that the Government of the PRC 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.[104] Therefore, in light of our prior findings and the Government of the PRC's failure to provide rebuttal information to the contrary, we determine that these enterprises are "authorities" within the meaning of section 771(5)(B) of the Act.

With respect to those MEG and PTA entities that were reported as being non-majority government-owned enterprises that produced MEG and PTA purchased by Hailun and Huahong during the POI, while the Government of the PRC provided website screenshots of certain business registrations for some of the input producers, the Government of the PRC did not provide other relevant documentation requested by the Department, including company by-laws, annual reports, and tax registration documents, and articles of association.[105]

Additionally, while the Department made attempts to obtain ownership and management information for all of the respondents' MEG and PTA producers, the Government of the PRC did not provide the requested information. For instance, in its September 8, 2017 IQR, the Government of the PRC refused to provide the Department with requested CCP information regarding the MEG and PTA producers.[106] In response to the Department's supplemental questionnaire, in which the Department reiterated the same requests for information, the Government of the PRC again refused to provide a complete response with regard to all requested documentation of producers of MEG and PTA in the PRC.[107]

As discussed above, the Government of the PRC did not provide complete responses to our requests for information with respect to MEG and PTA producers which the Government of the

[99] *Id.*
[100] *See* Government of the PRC October 12, 2017 SQR at 6-8.
[101] *Id.*
[102] *See* Public Bodies Memorandum.
[103] *Id.*, at 35-36 and sources cited therein.
[104] *Id.*
[105] *See* Government of the PRC September 8, 2017 IQR at 29-30 and 53-54.
[106] *Id.*, at 42-43.
[107] *See* Government of the PRC October 12, 2017 SQR at 7.

PRC claimed to be non-majority government-owned enterprises, including requests for information pertaining to ownership or management by CCP officials. Such information is necessary to our determination of whether the input producers are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the Government of the PRC withheld information that was requested of it with regard to the input purchases by Hailun and Huahong.[108] Accordingly, the Department must rely on "facts otherwise available" in reaching a determination in this respect. Further, we find that the Government of the PRC failed to cooperate by not acting to the best of its ability to comply with requests for information regarding the producers of the MEG and PTA from which Hailun and Huahong purchased during the POI because the Government of the PRC did not provide the requested information.[109] Consequently, we find that an adverse inference is warranted in the application of facts available.[110]

Thus, relying on AFA, we determine that the government and non-government owned domestic producers of the MEG and PTA by Hailun and Huahong are "authorities" within the meaning of section 771(5)(B) of the Act.

Government of the PRC – Whether the MEG and PTA Markets are Distorted

In the Department's Initial CVD Questionnaire, we asked the Government of the PRC to respond to specific questions regarding the PRC MEG and PTA industry and market for the POI.[111] Specifically, we asked the Government of the PRC to:

- Provide the following information concerning the MEG and PTA industry in the PRC for the POI, including an explanation of the sources used to compile the information:

    a. The total number of producers.
    b. The total volume and value of Chinese domestic consumption of MEG and PTA and the total volume and value of Chinese domestic production of MEG and PTA.
    c. The percentage of domestic consumption accounted for by domestic production.
    d. The total volume and value of imports of MEG and PTA.
    e. The percentage of total volume and (separately) value of domestic production that is accounted for by companies in which the Government maintains a majority ownership or a controlling management interest, either directly or through other Government entities. Please also provide a list of the companies that meet these criteria.
    f. If the share of total volume and/or value of production that is accounted for by the companies identified in paragraph "e", above, is less than 50 percent, please provide the following information:
        i. The percentage of total volume and value of domestic production that is accounted for by companies in which the Government

[108] *See* sections 776(a)(1) and (a)(2)(A) of the Act.
[109] *See* sections 776(a) and (b) of the Act.
[110] *See* section 776(b) of the Act.
[111] *See, e.g.*, Initial CVD Questionnaire, Section II, Provision of MEG and PTA for LTAR (Industry and Market Questions).

maintains some, but not a majority, ownership interest or some, but not a controlling, management interest, either directly or through other Government entities.

ii. A list of the companies that meet the criteria under sub-paragraph "i", above.

iii. A detailed explanation of how it was determined that the government has less than a majority ownership or less than a controlling interest in such companies, including identification of the information sources relied upon to make this assessment.

g. A discussion of what laws, plans or policies address the pricing of MEG and PTA, the levels of production of MEG and PTA, the importation or exportation of MEG and PTA, or the development of MEG and PTA capacity. Please state which, if any, central and sub-central level industrial policies pertain to the MEG and PTA industry.[112]

The Department requests such information to inform its analysis of the degree of the Government of the PRC's presence in the market and whether such presence results in the distortion of prices. With respect to MEG and PTA, in its Government of the PRC September 8, 2017 IQR, the Government of the PRC failed to provide the number of producers in which it maintains an ownership or management interest or the total production volumes of MEG and PTA by such producers.[113] Instead of providing the requested information, the Government of the PRC stated that "it does not have a survey system to cover all the suppliers and producers" and "does not have the statistics to respond to this question".[114]

The Department preliminarily determines that the Government of the PRC's refusal to provide the information requested constitutes a lack of cooperation. The Government of the PRC has previously provided, and the Department has verified, information from other government databases concerning the value and volume of production by enterprises producing input products.[115] The Government of the PRC's October 23, 2017 questionnaire response included an exhibit that listed by name the major MEG manufacturers in 2015.[116] Moreover, the Department has verified the operation of the Government of the PRC's "Enterprise Credit Information Publicity System," which 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.[117] Based on this experience, the Department is aware that this system is a national-level internal portal that holds certain information regarding any PRC-registered company. Among

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[112] *See, e.g.*, Initial CVD Questionnaire, Section II, Provision of MEG and PTA for LTAR (Industry and Market Questions).

[113] *See* Government of the PRC September 8, 2017 IQR at 45-47 and 64-66.

[114] *Id.*

[115] *See, e.g.*, *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015).

[116] *See* Government of the PRC October 23, 2017 SQR at Exhibit S5-2.

[117] *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).

other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The Government of the PRC has stated that all companies operating within the PRC maintain a profile in the system, regardless of whether they are private or an SOE. Therefore, we determine that information related to the operation and ownership of companies within the MEG and PTA industry is in fact available to the Government of the PRC.

Because the Government of the PRC refused to provide requested information regarding the MEG and PTA industry in the PRC, *i.e.*, information regarding the total volume and value of domestic production that is accounted for by companies in which the government maintains an ownership or management interest either directly or through other government entities, we determine that the Government of the PRC withheld necessary information with regard to the PRC MEG and PTA industry and market for the POI.[118]

In the initial questionnaire, we asked that the Government of the PRC report the percentage of domestic consumption accounted for by domestic production. In its response, the Government of the PRC reported that imports of MEG accounted for 59 percent of domestic MEG during the POI.[119] In a supplemental questionnaire, we asked whether this reported import data includes sales of MEG that were produced in the PRC and subsequently attained import designation via movement through special customs supervision areas (*e.g.*, bonded warehouse, free trade zone, bonded port, export processing zone). The Government of the PRC confirmed that the data includes sales through special customs supervision areas.[120] It also provided a chart of MEG Chinese Customs data for 2016 imports.[121] The Government of the PRC, however, did not provide information demonstrating the amount or percent of imports from non-Chinese production; nor did it provide an explanation of the categories or how the data was categorized in that chart. Therefore, we do not have record information as to what percent of domestically consumed MEG was accounted for by domestic production and what percent by imports.

We asked that the Government of the PRC identify the source of its reported market data and explain how it was attained. For MEG, the Government of the PRC stated that an industry association obtained the data from a private consulting firm. The consulting firm was able to obtain production and sales data from "subordinate enterprises" of Sinopec Group, China National Petroleum Corp., and China National Offshore Oil Corporation.[122] For information outside those entities, the consulting firm collected data through public information, industry seminars, or communication with sales people.[123] For PTA, the Government of the PRC stated that an industry association obtained information from different sources, including statistical data from third parties, its membership, or the public.[124]

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[118] *See* Initial CVD Questionnaire, at Section II, "Input Producer Appendix;" *see also* Government of the PRC October 16, 2017 SQR at 3,8.
[119] *See* Government of the PRC September 8, 2017 IQR at 46.
[120] *See* Government of the PRC October 23, 2017 SQR at 2.
[121] *Id.* at Exhibit S5-7.
[122] *Id.* at 1.
[123] *Id.*
[124] *Id.* at 4.

In its supplemental questionnaire response, the Government of the PRC noted that its reported 2016 data were predictions from an industry report.[125] We asked the Government of the PRC how it verified the accuracy of these predicted data. The Government of the PRC stated that it was unnecessary for it to verify the accuracy of the data that it reported to the Department because industry associations strive to collect the most accurate information possible for their own industry knowledge and market trends.[126]

As noted above, the Government of the PRC did not report the percentage of domestic consumption accounted for by domestic production, as its import data included domestically produced goods. The Department was not informed of the inclusion of the domestic production data until seven days before the deadline for this Preliminary Determination. Further, the MEG domestic consumption values that the Government of the PRC reported are uncorroborated predictions. Thus, apart from the Government of the PRC's claim in its initial questionnaire response regarding the percent of domestic consumption accounted for by imports,[127] the Government of the PRC also confirmed in a supplemental response that these imports included domestic PRC production shipped through bonded warehouses.[128] The Government of the PRC did not provide additional explaination why it considers such domestically produced good to be characterized as imports; nor did it specify what percentage of total imports were sourced from domestic production. Therefore, we preliminarily determine that the record does not contain information indicating the relative domestic PRC consumption of MEG composed of domestic production and imports. This information is necessary to a determination as to whether the PRC MEG market is distorted. Consequently, we find that an adverse inference is warranted in the application of facts available.[129]

Accordingly, as adverse facts available, we preliminarily determine that the Government of the PRC owns or controls all of domestic production of MEG and PTA in China. As described above, we also preliminarily determine as AFA that record information regarding imports of MEG is not probative as to the level of domestic consumption accounted for by imports. For these reasons, we preliminarily determine that the significant involvement by the Government of the PRC in the MEG and PTA market in the PRC results in significant distortion of the prices of MEG and PTA such that they 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 MEG and PTA for LTAR.

For further information on this program, *see* "Programs Found to Be Countervailable" below.

D. Application of AFA: Provision of Electricity for LTAR

Government of the PRC

The Government of the PRC did not provide complete responses to the Department's questions regarding the alleged provision of electricity for LTAR. These questions requested information

[125] *Id.*
[126] *Id*. at 2.
[127] *See* Government of the PRC September 8, 2017 IQR at 46.
[128] *See* Government of the PRC October 23, 2017 SQR at 2.
[129] *See* section 776(b) of the Act.

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 Government of the PRC 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, in the Department's initial questionnaire, for each province in which a respondent is located, the Department asked the Government of the PRC to provide a detailed explanation of: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses and transmission, and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories. We asked the Government of the PRC to provide the original provincial price proposals for the applicable tariff schedule for each province in which a mandatory respondent or any reported "cross-owned" company is located for applicable tariff schedules that were in effect during the POR. [130]

Instead of providing the requested documents, the Government of the PRC stated that, "Since January 1, 2016, all the provincial governments, including Jiangsu has been given authority to prepare and publish the schedules of electricity tariff rates for their own jurisdictions under the Notices published and enforced by the NDRC, while providing the NDRC with the notices of their price schedules for their records. Thus, after January 1, 2016, there are no "Provincial Price Proposals" as requested above, and therefore, this question is no longer applicable.[131]

The Government of the PRC submitted "*Notice of National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City*), FaGai JiaGe No. 2015, 748 (*Notice 748*);"[132] "*Notice of the NDRC on Completing Price Linkage Mechanism Between Coal and Electricity,* NDRC 2015-3105 (*Notice 3105*);"[133] and "*Notice of the NDRC on Completing Price Linkage Mechanism Between Coal and Electric, NDRC 2015-3169* (*Notice 3169*)."[134] The Government of the PRC maintains that these notices demonstrate that the NDRC continues to play a central role in determining the principles and general adjustment level of each provinces' electricity sales price, while the specific electricity price of each electricity usage catalogue category is determined by provinces based on their own actual situations.

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[130] *See* Initial CVD Questionnaire at 31-32.
[131] *See* Government of PRC September 8, 2017 IQR at 72.
[132] *See* Government of PRC's October 11, 2017 Supplemental Questionnaire Response (Government of PRC October 11, 2017 SQR) at Exhibit 41-2.
[133] *See* Government of PRC September 8, 2017 IQR at Exhibit II-D-4-1.
[134] *See* Government of PRC September 8, 2017 IQR at Exhibit II-D-4-1.

Notice 748 is based upon consultations between the NDRC and the National Energy Administration.[135] Article 1 contained therein stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.[136] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts. 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."[137] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[138] 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."[139] Lastly, Article 10 directs that, "Administrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment."[140]

Notice 3105, also based upon consultations between the NDRC and the National Energy Administration, 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.[141] 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 Government of the PRC states to be the case. 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.[142]

With respect to price derivation at the provincial level, the Department requested specific information regarding how increases in cost elements led to retail price increases, the derivations of those cost increases, how cost increases were calculated, and how cost increases impacted final prices.[143] The Government of the PRC failed to provide complete responses to these requests. Specifically, it failed to provide the specific derivation of increases in cost elements and the methodology used to calculate cost element increases. Instead, the Government of the PRC asserted that, "Price adjustments are determined based on the principles stipulated in the "Electric Power Law of China" and "Price Law of China," such as "reasonable compensation of

[135] *See* Government of PRC October 11, 2017 SQR at Exhibit 41-2.
[136] *Id.*
[137] *Id.*
[138] *Id.*
[139] *Id.*
[140] *Id.*
[141] *See* Government of PRC September 8, 2017 IQR at Exhibit II-D-4-1.
[142] *See, e.g., Notice 748* Article 10 and *Notice 3105* Articles II and X.
[143] *See* Department Letter re: Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China: Request for Additional Information Regarding the Government of the People's Republic of China's Response to the July 24, 2017 Initial Questionnaire for the Government of PRC, dated September 27, 2017.

costs, reasonable determination of profits, legal incorporation of taxes, and fairly shared burdens."[144] Lastly, the Government of the PRC failed to explain how final price increases were allocated across the respondents' provinces and across tariff end-user categories.[145]

The Department requested that the Government of the PRC identify the legislation which may have eliminated the Provincial Price Proposals. The Government of the PRC referred the Department to Notice 748 and Notice 3105.[146] As discussed above, these two documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces. They neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. We requested that the Government of the PRC explain what action the NDRC would take were any province not to comply with the directed price changes. It failed to explain what actions the NDRC would take in the event of non-compliance with directed price changes.[147]

The Department asked that the Government of the PRC provide all electricity rate schedules in effect during the POI for all provinces and municipalities within the PRC. The Government of the PRC responded that, "the electricity price schedules were formulated or generated by the provinces themselves rather than by NDRC. Thus, it is not necessary, nor possible, to provide all the electricity rate schedules in effect covering the whole POI."[148] The Department asked a second time that the Government of the PRC provide all electricity schedules in effect during the POI. Instead of providing all of the schedules for all provinces and municipalities in the PRC, the Government of the PRC responded that, "All the respondents companies are located in Jiangsu Province so only electricity schedules of Jiangsu Province in effect during the period of investigation are related to the question."[149]

Comparison of electricity rate schedules that were submitted by the Government of the PRC in other investigations with the same POI demonstrate that the Government of the PRC's September 8, 2017 submission is incomplete. For example, the Government of the PRC did not provide, among others, schedules for Tianjin, Shanxi, Liaoning, Jilin, Inner Mongolia (Eastern), Inner Mongolia (Western), Heilongiang, or Hubei.

The above requested information is crucial to the Department's analysis of how prices are set within the PRC. Absent this information, we are unable to rely on the information provided by the Government of the PRC. As explained above, the Government of the PRC failed on multiple occasions to explain the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. Further, the Government of the PRC 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 Government of the PRC 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

[144] *See* Government of PRC October 11, 2017 SQR at 6, 7.
[145] *Id.* at 7.
[146] *Id.* at SQR at 1.
[147] *Id.* at SQR at 2.
[148] Government of PRC September 8, 2017 IQR at 80.
[149] Government of PRC October 11, 2017 SQR at 10.

making our preliminary determination.[150] Moreover, we preliminarily determine that the Government of the PRC 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.[151] In drawing an adverse inference, we find that the Government of the PRC'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 Government of the PRC 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.[152]

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 20.06 percent *ad valorem*, the highest rate determined for a similar program in the *Chlorinated Isos PRC Final* proceeding, as the rate for these companies.[153] 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 Provision of Electricity for LTAR program.

E. Application of AFA: Provision of Grants and "Other Subsidies" as Specific

Government of the PRC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands and Export Assistance Grants

Huahong reported receiving grants from the Government of the PRC under the Government of the PRC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands program and Export Assistance Grants program.[154] In response to our requests for information, the Government of the PRC responded that "Given the negligible amount of the benefits received by the Jiangyin Huahong Chemical Fiber Co., Ltd., the Government of the PRC is not providing responses to the requested appendice."[155]

Based upon the above, we preliminarily determine that necessary information to determine whether these grants are specific and provide a financial contribution is not available on the record and that the Government of the PRC withheld information that was requested of it, and, thus, that the Department must rely on "facts available" in making its preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the Government of the PRC failed to cooperate by not acting to the best of its

[150] *See* section 776(a)(2)(A) of the Act.
[151] *See* section 776(b) of the Act.
[152] *See* section 776(b)(4) of the Act.
[153] *See Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, (79 FR 56560), September 22, 2014 (*Chlorinated Isos PRC Final*), and accompanying IDM at 22.
[154] *See* Huahong Group's September 8, 2017 Initial Questionnaire Response (Huahong Group September 8, 2017 IQR) at Exhibit 9.1; Huahong September 8, 2017 IQR at Exhibit 13.1 and Exhibit 15.1.
[155] *See* Government of the PRC September 8, 2017 IQR at 80-82.

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 the Government of the PRC's provision of these grants is specific within the meaning of section 771(5A)(B) of the Act and constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Government of the PRC - Special Fund for Energy Savings Technology Reform

Huahong reported receiving grants from the Government of the PRC under the Special Fund for Energy Savings Technology Reform program.[156] In response to our requests for information, the Government of the PRC responded that "Given the negligible amount of the benefits received by the Jiangyin Huahong Chemical Fiber Co., Ltd., the Government of the PRC is not providing responses to the requested appendice."[157]

Based upon the above, we preliminarily determine that necessary information to determine whether these grants are specific and provide a financial contribution is not available on the record and that the Government of the PRC withheld information that was requested of it, and, thus, that the Department must rely on "facts available" in making its preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the Government of the PRC 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 the Government of the PRC's provision of these grants is specific within the meaning of section 771(5A) of the Act and constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Government of the PRC – "Other Subsidies"

In response to Hailun's and Huahong's self-reporting of "Other Subsidies" in its initial questionnaire responses,[158] and to the Government of the PRC's statement in its initial questionnaire response that an answer to the Department's question regarding "Other Subsidies" was premature absent a more specific inquiry,[159] we issued a supplemental questionnaire to the Government of the PRC requesting full questionnaire responses regarding Hailun's and Huahong's reported "Other Subsidies." In its response, the Government of the PRC stated, "The Government of the PRC confirms the usage reported by the other respondents regarding other subsidies and is not challenging the countervailability of these programs at this time."[160]

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[156] *See* Huahong Group September 8, 2017 IQR at Exhibit 10.1; Huahong September 8, 2017 IQR at Exhibit 14.1
[157] Government of the PRC September 8, 2017 IQR at 80-82.
[158] *See* Bolun's September 8, 2017 Initial Questionnaire Response (Bolun September 8, 2017 IQR) at Exhibit 13; Fenghua's September 11, 2017 Initial Questionnaire Response (Fenghua September 11, 2017 IQR) at Exhibit 13; Hailun September 11, 2017 IQR at 14; Hailun Petrochemical's September 12, 2017 Initial Questionnaire Response (Hailun Petrochemical September 12, 2017 IQR) at Exhibit 14; Sanfangxiang Group's September 12, 2017 Initial Questionnaire Response (Sanfangxiang Group September 12, 2017 IQR); Xinyuan Thermal's September 12, 2017 Initial Questionnaire Response (Xinyuan Thermal September 12, 2017 IQR) at Exhibit 8; Huahong Group September 8, 2017 IQR at Exhibit 11; Huahong September 8, 2017 IQR at Exhibit 16.
[159] *See* Government of the PRC September 8, 2017 IQR at 83.
[160] *See* Government of the PRC October 12, 2017 SQR at 9.

Based upon the above, we preliminarily determine that necessary information to determine whether these reported "Other Subsidies" are specific is not available on the record and that the Government of the PRC 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 Government of the PRC 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 Hailun and Huahong 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.

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 Fine Denier PSF Industry

The Department is examining whether the Government of the PRC has encouraged the development of the fine denier PSF industry through financial support from SOCBs and government policy banks, such as the China Development Bank. The Department has countervailed policy lending programs in previous investigations.[161]

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 PRC* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution. [162]

Hailun and Huahong, and certain of their cross-owned companies, reported having loans from PRC SOCBs that were outstanding during the POI.[163] The Department preliminarily finds that

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[161] *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 IDM at 24-25.
[162] *See CFS PRC Final* IDM at Comment 8.
[163] *See* Bolun September 8, 2017 IQR at Exhibit 9; Fenghua September 11, 2017 IQR at Exhibit 8; Hailun September 11, 2017 IQR at 7; Hailun Petrochemical September 12, 2017 IQR at Exhibit 7; Huamei's September 11, 2017 Initial Questionnaire Response (Huamei September 11, 2017 IQR) at Exhibit 8; Huasheng's September 11, 2017 Initial Questionnaire Response (Huasheng September 11, 2017 IQR) at Exhibit 9; Huaxing's September 12, 2017 Initial Questionnaire Response (Huaxing September 12, 2017 IQR) at Exhibit 9; Huayi's September 12, 2017 Initial Questionnaire Response (Huayi September 12, 2017 IQR) at Exhibit 9; Sanfangxiang Group September 12,

these loans provide countervailable subsidies under a policy lending program directed at the fine denier PSF industry. Record information in national, provincial, and industrial policy plans indicates the Government of the PRC placed great emphasis on targeting the fine denier PSF industry for development throughout recent years.

For example, the "*11th Five-Year Plan for National Economic and Social Development*" urged the industry to increase added value through the development of "high tech, high performance, differential, green and environmental protection fibre and recovered fibre."[164] Differential fibers is a classification that includes fine denier PSF. The "*12th Five-Year Plan for National Economic and Social Development*" promoted the production of "hi-tech fibers, and new generation functional and differential fibers" and "high-performance fibers and compound materials" to nurture and develop strategic industries.[165]

The provincial government, in which the mandatory respondents are located, issued policy plans to promote key industrial sectors, including the polyester fiber industry. In the "*Jiangsu Province Outline of Eleventh Five-Year Blueprint of National Economy and Social Development*" authorities urged industries to focus on "developing new materials of synthetic fibers," as well improving the "three links of raw materials, fabrics and finished products" within the light textile industry.[166] The "*12th Five-Year Plan for National Economic and Social Development of Jiangsu Province*" encouraged the development of "high-performance fiber composite materials" in order to build an advanced manufacturing base and the industrial transformation and upgrading of the textile industry.[167] To meet these goals, Jiangsu Province promised to increase policy support by developing a plan "to carry the financial planning, finance, taxation, price, investment ... and other relevant supporting policies."[168]

Additional record evidence indicates financial support directed specifically toward certain encouraged industries, including the fine denier PSF. 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."[169] Decision 40 further indicates that projects in "encouraged" industries, such as "high-performance differential fiber" shall be provided credit support in compliance with credit principles."[170] The "*Catalogue for the Guidance of Industrial Structure Adjustment*" (2005) specifically includes

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2017 IQR at Exhibit 8; Xinlun's September 11, 2017 Initial Questionnaire Response (Xinlun September 11, 2017 IQR) at Exhibit 9; Xinsheng's September 12, 2017 Initial Questionnaire Response (Xinsheng September 12, 2017 IQR) at Exhibit 9; Yunlun's September 11, 2017 Initial Questionnaire Response (Yunlun September 11, 2017 IQR) at Exhibit 9; Huahong September 8, 2017 IQR at 9 and Exhibit 7; Huahong Group September 8, 2017 IQR at Exhibit 6.

[164] *See* Government of the PRC September 8, 2017 IQR Exhibit II-A-1-a-1 at Chapter 14, Sec. 2.

[165] *See* Government of the PRC September 8, 2017 IQR Exhibit II-A-1-a-2 at Chapter 9, Column 4 and Chapter 10, Sec.1.

[166] *See* Government of the PRC October 12, 2017 SQR, Part 2 at Exhibit 2-b.

[167] *See* Government of the PRC October 12, 2017 SQR, Part 2 at Exhibit 2-c.

[168] *Id.*

[169] *See* Government of the PRC September 8, 2017 IQR Exhibit II-A-f.

[170] *Id.*, at Chapter III Articles 13, 14, and 17.

"all kinds of differential, functional chemical fiber, high-tech fiber" and "fiber and new non-fiber polyester), and the development of production technology within it, as encouraged.[171] Further, the "Catalogue for Industrial Structure Adjustment" (2013 revision)" encouraged production of "melt direct spinning on-line adding and other continuous process production differentiation" for polyester fibers, including the "development, production and application of polyethylene terephthalate" fiber.[172]

Further, the Government of the PRC also promulgated plans targeted specifically to the Chinese chemical fiber industry. In the "Chemical Fiber Industry Twelfth Five-Year Plan," the Government of the PRC called upon the industry to "achieve diversification and efficient production" of polyester fiber and "actively promote the liquid spinning technology."[173] This plan also urged the chemical fiber industry to "expand the international market, and form a number of large enterprise groups with strong international competitiveness."[174] To achieve these goals, the Government of the PRC promised to "support and encourage enterprises through the introduction of strategic investors, mergers, acquisitions, listing and financing, etc."[175]

Thus, given the record evidence demonstrating the Government of the PRC's objective of developing the chemical fiber sector, and more specifically the fine denier PSF industry, through preferential loans, we preliminarily determine there is a program of preferential policy lending specific to producers of fine denier PSF 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." 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.[176] To calculate the benefit from this program, we used the benchmarks discussed above under the "Subsidy Valuation" section.[177] 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.

On this basis, we preliminarily determine subsidy rates of 6.02 percent and 4.07 percent *ad valorem* for Hailun and Huahong, respectively.

2. <u>Export Buyer's Credit</u>

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are basing our preliminary determination regarding the Government of the PRC's provision of Export Buyer's Credit on AFA. Thus, we determine that the Government of the PRC'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

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[171] *See* Government of the PRC October 12, 2017 SQR, Part 2 at Exhibit 7-1.
[172] *Id*. at Exhibit 7-b.
[173] *See* Government of the PRC October 12, 2017 SQR at Exhibit S2-5.
[174] *Id.*
[175] *Id.*
[176] *See* section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).
[177] *See* 19 CFR 351.505(c).

determine on the basis of AFA that Hailun and Huahong benefited from this program during the POI within the meaning of section 771(5)(E) of the Act.[178] On this basis, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for Hailun and Huahong.

3. **Import Tariff and VAT Exemptions on Imported Equipment for Encouraged Industries**

The Circular of the State Council on Adjusting Tax Policies on Imported Equipment (GUOFA {1997} No. 37) exempts FIEs and certain domestic enterprises from VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into a prescribed list of non-eligible items, in order to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.[179] As of January 1, 2009, the Government of the PRC discontinued VAT exemptions under this program, but companies can still receive import duty exemptions.[180] Over the AUL, Hailun and Huahong reported receiving VAT and tariff exemptions under this program.[181] The Department has previously found VAT and tariff exemptions under this program to confer countervailable subsidies.[182]

Consistent with these earlier cases and the Government of the PRC's IQR, we preliminarily determine that VAT and tariff exemptions on imported equipment confer a countervailable subsidy.[183] The exemptions constitute a financial contribution in the form of revenue foregone by the Government of the PRC and they provide a benefit to the recipient in the amount of VAT and tariff savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the VAT and tariff exemptions afforded by the program are specific under section 771(5A)(D)(i) of the Act, because the program is limited to certain enterprises, *i.e.*, domestic enterprises involved in "encouraged" projects.

Huahong reported using this program during the AUL.[184] Since these exemptions are provided for, or tied to, the capital structure or capital assets of a firm, the Department treated them as a non-recurring benefits and applied our standard methodology for non-recurring grants to calculate the subsidy rate.[185] Specifically, where the benefits exceeded 0.5 percent of the relevant sales of that year, we allocated the amount of the VAT and/or tariff exemptions over the AUL.[186] In the years that the benefits received by each company under this program did not exceed 0.5 percent of relevant sales for that year, we expensed those benefits in the years that they were received, pursuant to 19 CFR 351.524(b)(2). We used the discount rates described in

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[178] *See* Petition at 29 – 31.
[179] *See* Government of the PRC September 8, 2017 IQR at 16.
[180] *Id*., at 44 and 53.
[181] *See* Huasheng's September 11, 2017 Initial Questionnaire Response (Huasheng September 11, 2017 IQR) at 9 and Exhibit 10; Huayi's September 11, 2017 Initial Questionnaire Response at 10 and Exhibit 14; Hailun Petrochemical September 11, 2017 IQR at 9 and Exhibit 8; Huahong September 8, 2017 IQR at Exhibit 9.1 and 9.2.
[182] *See, e.g.*, *Wire Decking from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 39202 (June 10, 2010), and accompanying IDM at 25-27.
[183] *See* Government of the PRC September 8, 2017 IQR at 16-23.
[184] *See* Huahong September 8, 2017 IQR at Exhibit 9.2.
[185] *See* 19 CFR 351.524(b).
[186] *See* 19 CFR 351.524(c)(2)(iii) and (d)(2).

the section "Subsidies Valuation" above to calculate the amount of the benefit allocable to the POI. Those benefits expensed or allocated to the POI were then used as the basis for calculating the net subsidy rate by dividing the total POI benefit by the total sales denominator. On this basis, we calculated a subsidy rates of 0.20 percent *ad valorem* for Hailun and 0.07 percent *ad valorem* for Huahong.

4. <u>Government Provision of MEG and PTA for LTAR</u>

The Department is examining whether the Government of the PRC or other "authorities" within the PRC provided the Hailun companies or the Huahong companies with PTA and MEG for LTAR.

Financial Contribution

The Government of the PRC reported certain producers of MEG and PTA to be majority-owned by the government.[187] As explained in the Public Bodies Memorandum, majority state-owned enterprises in the PRC possess, exercise, or are vested with governmental authority.[188] As such, we find that the Government of the PRC 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. Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act and that the 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.

As discussed above in section "Use of Facts Otherwise Available and Adverse Inferences," we find that the Government of the PRC's refusal to provide certain information regarding the remaining MEG and PTA producers from whom respondents sourced their input purchases warrants the use of AFA. As AFA, we find that these remaining producers are "authorities" within the meaning of section 771(5)(B)(i) of the Act and that the respondents received financial contributions from them.

As described above, in the "Use of Facts Otherwise Available and Adverse Inferences" section of this memorandum, for purchases of MEG and PTA where Hailun reported "unknown" for the producer information, we are determining that, as facts available, the "unknown" producers are also "authorities" at the same ratio as the known domestic producers. Because all of the known domestic producers are "authorities," we find that all of the unknown MEG and PTA are also "authorities" within the meaning of section 771(5)(B) of the Act.

Specificity

The Government of the PRC reported that MEG is primarily used for producing polyester.[189] In 2015, the production of polyester accounted for 88.5 percent of apparent consumption of MEG in

[187] *See* Government of the PRC September 8, 2017 IQR at at Exhibit II-D-2-MI-A-1 and Exhibit II-D-2-PI-A-1.
[188] *See* Public Bodies Memorandum.
[189] *See* Government of the PRC September 8, 2017 IQR at 49.

the PRC.[190] The Government of the PRC also reported that PTA is mainly used in the polyester industry, with 76 percent of PTA used to produce polyester fiber in the PRC market.[191] Accordingly, we preliminarily determine that the subsidies under these programs are specific pursuant to section 771(5A)(D)(iii) of the Act.

Market Distortion

As discussed above at "Use of Facts Otherwise Available and Adverse Inferences," we have determined that, as AFA, the domestic market for MEG and PTA is distorted through the significant intervention, ownership and involvement of the Government of the PRC in these markets.

Additionally, we asked that the Government of the PRC provide a discussion concerning the laws, plans, or policies that address the pricing of MEG and PTA, the levels of production of MEG and PTA, the importation or exportation of MEG and PTA, or the development of MEG and PTA capacity.[192] The Government of the PRC responded that it could not provide a "precise" response to the Department's questions concerning the laws, plans, or policies that address the pricing of MEG and PTA, the levels of production of MEG and PTA, the importation or exportation of MEG and PTA, or the development of MEG and PTA capacity.[193] We asked in a supplemental questionnaire why the Government of the PRC could not provide a response to the Department's questions on this matter. The Government of the PRC responded by stating that there are no laws, plans or policies addressing the pricing of MEG and PTA, the levels of production of MEG and PTA, the importation or exportation of MEG and PTA or the development of MEG and PTA capacity.[194]

In response to our questions concerning industrial-level policies pertaining to the MEG industry, the Government of the PRC pointed to the *Petrochemicals Industrial Adjustment and Promotion Plan*, which covers 2009-2011. This plan identifies petrochemicals as a pillar industry and includes statements of "strictly control the new distribution of refined ethylene," and striving to get "8 sets of ethylene plant major projects" up and running, stabilize domestic supply of raw materials in the petrochemical industry. The plan also lists specific financial instruments to "alleviate the difficulties of enterprise liquidity" and support "key enterprises carrying out restructuring to implement technological transformation."[195] Under the heading of "Focus on the development of leading industries," the 12th Five Year Plan for Jiangsu states, "Petrochemical industry: *vigorously develop fine chemical products*, key transformation and upgrading of salt chemical industry, coal chemical industry, marine chemical and agricultural chemicals, improve the refined rate of products, focus on refining oil and ethylene, building large-scale ethylene production base, and large petrochemical industry chain."[196]

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[190] *See* Government of the PRC September 8, 2017 IQR at 49.
[191] *Id.* at 68.
[192] *See* Government of the PRC September 8, 2017 IQR at 47-48 and 66.
[193] *Id*.
[194] *See* Government of the PRC October 16, 2017 SQR at 1 and 7.
[195] *See* Government of the PRC September 8, IQR at Exhibit II-A-1-c.
[196] *See* Government of the PRC October 12, 2017 SQR at Exhibit 2-c.

In response to our questins concerning industrial policies pertaining to the PTA industry, the Government of the PRC pointed to the *Chemical Fiber Industry Twelfth Five-Year Plan*, which covers 2010-2015.[197] As part of its policy measures, this plan identifies strengthened industrial policy guidance, improved ability to guarantee raw materials, and giving "full play" to the role of industry associations. The plan also encourages integrating upstream resources to build a large base of chemical fiber raw materials.[198] The Department requested and the Government of the PRC provided the Chemical Fiber Industry "Thirteenth Five-Year" Directive Opinion, which states, "Support enterprises through horizontal joint and vertical integration to achieve reorganization and optimization of stock assets.[199] The large scale, competitive fine terephthalic acid-polyester enterprises, caprolactam-nylon enterprises can be extended through the industrial chain to achieve the integrated production of refining, chemical fiber and textile, improving the industrial chain control and comprehensive competitiveness."[200]

As described above, we have determined that, as AFA, the domestic market for MEG and PTA is distorted through the significant intervention, ownership and involvement of the Government of the PRC in these markets. Also described above, the policy plans on the record of this investigation support a finding that the Government of the PRC had policies in place through the AUL and POI specific to pricing, production, cross-border trades, and development capacity of MEG and PTA.

Benefit

In order to determine the existence and amount of any benefit conferred by the producers to the respondent companies pursuant to section 771(5)(E)(iv) of the Act, we followed the methodology described in 19 CFR 351.511(a)(2) to identify suitable benchmarks for MEG and PTA. The Department's regulations at 19 CFR 351.511(a)(2) set forth the basis for identifying appropriate market determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services. The potential benchmarks listed in the regulation, in order of preference, are: (1) market prices from actual transactions within the country under investigation for the government-provided good (*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) prices consistent with market principles based on an assessment by the Department of the government-set price (tier three).[201]

As discussed above, because the Department is finding that the PRC markets for MEG and PTA were distorted by significnant government involvement in these markets, 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

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[197] *See* Government of the PRC October 16, 2017 SQR at 7 and Exhibit 5.
[198] *See* Government of the PRC October 12, 2017 SQR at Exhibit 5.
[199] *See* Government of the PRC's October 23, 2017 Supplemental Questionnaire Response (Government of the PRC SQR) at Exhibit S5-11-2.
[200] *See* Government of the PRC's October 23, 2017 Supplemental Questionnaire Response (Government of the PRC SQR) at Exhibit S5-11-2.
[201] *See* 19 CFR 351.511(a)(2).

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 MEG and PTA into the PRC, as provided by the Government of the PRC.[202] Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.

We compared these monthly benchmark prices to the Hailun companies' and the Huahong companies' reported purchase prices for individual domestic transactions, including VAT and delivery charges.[203] Based on this comparison, we preliminarily determine that a benefit exists for Hailun and Huahong in the amount of the difference between the benchmark prices and the prices the Hailun and Huahong companies paid. We divided the total benefits by the appropriate consolidated sales denominator, as discussed in the "Subsidies Valuation Information" section.

For the reasons discussed above, we have calculated a subsidy rate of 4.16 percent *ad valorem* for Hailun for the provision of MEG for LTAR.[204] The Hailun companies reported only self-produced or foreign purchases of PTA during the POI, and we did not calculate a subsidy rate for these purchases.[205]

For the reasons discussed above, we have calculated subsidy rates of 0.41 percent and 12.43 percent *ad valorem* for Huahong for the provisions of MEG and PTA for LTAR, respectively.[206]

5. <u>Government of the PRC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands</u>

Huahong reported receiving assistance under this program.[207] The Department has countervailed this program in previous investigations. As described above, as AFA, we determine that this grant confers a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of

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[202] Consistent with *Citric Acid PRC; 2011 Review*, we have used the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011,* 79 FR 108 (January 2, 2014), and accompanying IDM at 90.
[203] *See* Bolun September 8, 2017 IQR at Exhibit 10; Fenghua September 11, 2017 IQR at Exhibit 9; Hailun September 11, 2017 IQR at 11; Huasheng September 11, 2017 IQR at Exhibit 16; Huaxing September 12, 2017 IQR at Exhibit 13; Huayi September 12, 2017 IQR at Exhibit 10; Sanfangxiang Group September 12, 2017 IQR at Exhibit 10; Sanfangxiang Trading's September 12, 2017 Initial Questionnaire Response at Exhibit 7; Sanhai's September 11, 2017 Initial Questionnaire Response at Exhibit 6; Xingtai's September 11, 2017 Initial Questionnaire Response at Exhibit 8; Xingye Plastic's September 11, 2017 Initial Questionnaire Response at Exhibit 8; Xingye Polytech's September 11, 2017 Initial Questionnaire Response at Exhibit 7; Xingyu New Material's September 11, 2017 Initial Questionnaire Response at Exhibit 8; Xinlun September 11, 2017 IQR at Exhibit 10; Xinsheng September 12, 2017 IQR at Exhibit 10; Yunlun September 11, 2017 IQR10 at Exhibit 9; Huahong September 8, 2017 IQR at Exhibit 10.1 and Exhibit 10.2; Huahong Group September 8, 2017 IQR at Exhibit 7.
[204] *See* Hailun Preliminary Calculation Memorandum.
[205] *Id.*
[206] *See* Huahong Preliminary Calculation Memorandum.
[207] *See* Huahong Group September 8, 2017 IQR at Exhibit 9.1; Huahong September 8, 2017 IQR at Exhibit 13.1.

the Act, and is specific under section 771(5A)(B) because it is contingent upon export, consistent with our determination in Aluminum Extrusions 2013 Review.[208] To calculate the benefit received under this program, the Department followed the methodology described in 19 CFR 351.524.

To calculate the *ad valorem* subsidy rate for this grant, the Department divided the benefit conferred under this programs by Huahong's total export sales in the year it was incurred. On this basis, we calculated a rate of 0.05 percent for Huahong.

6. Export Assistance Grants

Hauhong reported receiving export assistance grants.[209] As described above, as AFA, we determine that these grants confer a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of the Act, and are specific under section 771(5A)(B) because they are contingent upon export. To calculate the benefit received under this program, the Department followed the methodology described in 19 CFR 351.524.

To calculate the *ad valorem* subsidy rate for this grant, the Department divided the benefit conferred under this programs by Huahong's total export sales in the year it was incurred. On this basis, we calculated a rate of 0.01 percent for Huahong.

7. "Other Subsidies"

Hailun and Huahong reported receiving various non-recurring grants from the Government of the PRC during the POI and throughout the AUL period.[210] 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 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.

Hailun, Huahong, and certain of their cross-owned companies self-reported receiving benefits under multiple programs. Based on the methodology outlined above, the Department

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[208] *See Aluminum Extrusions from the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015), and accompanying IDM at 48.
[209] *See* Huahong September 8, 2017 IQR at 21.
[210] *See* Bolun September 8, 2017 IQR at Exhibit 13; Fenghua September 11, 2017 IQR at Exhibit 13; Hailun September 11, 2017 IQR at Exhibit 14; Hailun Petrochemical September 11, 2017 IQR at Exhibit 14; Sanfangxiang Group September 12, 2017 IQR at Exhibit 14; Huahong Group September 8, 2017 IQR at Exhibit 11; Huahong September 8, 2017 IQR at Exhibit 16.

preliminarily determines a cumulative *ad valorem* subsidy rate of 0.75 percent for Hailun.

The calculation of the benefit received by the Huahong companies resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on Huahong's overall subsidy rate.[211] Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Huahong.[212]

B. Programs Preliminarily Determined to Not to Confer a Measurable Benefit to Hailun or Huahong

1. Special Fund for Energy Savings Technology Reform

Huahong reported that it used this program.[213] To calculate its benefit, we divided the amount of the assistance received by Huahong by the company's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[214]

2. VAT Rebates for FIEs Purchasing Domestically-Produced Equipment

Huasheng reported that it used this program during the AUL.[215] To calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. Because the benefit passed the "0.5 percent expense test," we allocated the benefit over the AUL. To calculate the benefit for the POI, we divided the amount of the benefit that is allocable to the POI by the appropriate sales denominator. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[216]

C. Programs Preliminarily Determined Not to Be Used by Hailun and Huahong

1. Export Loans from Chinese State-Owned Banks
2. Export Credits from Export-Import Bank of China: Export Seller's Credit
3. Export Credits from Export-Import Bank of China: Export Credit Guarantees
4. Income Tax Reduction for High or New Technology Enterprises
5. Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law
6. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund
7. Provision of Land in Special Economic Zones for LTAR
8. The State Key Technology Renovation Project Fund
9. SME International Market Exploration/Development Fund
10. SME Technology Innovation Fund

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[212] *See CFS PRC Final.*
[213] *See* Huahong September 8, 2017 IQR at 20.
[214] *See* Huahong Preliminary Calculation Memorandum.
[215] *See* Huasheng September 11, 2017 IQR at 10.
[216] *See* Hailun Preliminary Calculation Memorandum.

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.[217] 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.[218]

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.[219] 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.[220] 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 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.

[217] *See* 19 CFR 351.224(b).
[218] *See* 19 CFR 351.309(c)(1)(i) and (d)(1).
[219] *See* 19 CFR 351.309(c)(2) and (d)(2).
[220] *See* 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[221] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,[222] 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

10/30/2017

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

[221] *See* 19 CFR 351.303(b)(2)(i).
[222] *See* 19 CFR 351.303(b)(1).