C-570-991
Administrative Review
POR 1/1/15 – 12/31/15
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November 27, 2017

MEMORANDUM TO: Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy 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 Preliminary Results of Countervailing Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

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I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (PRC). The period of review (POR) is January 1, 2015, through December 31, 2015. The mandatory respondents are Hebei Jiheng Chemical Co., Ltd. (Hebei Jiheng), Heze Huayi Chemical Co., Ltd. (Huayi), and Juancheng Kangtai Chemical Co., Ltd. (Kangtai). We preliminarily find that the respondents received countervailable subsidies during the POR related to certain programs.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days after publication of these preliminary results.

II. BACKGROUND

On November 13, 2014, the Department published in the *Federal Register* a CVD order on chloro isos from the PRC.[1] Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b), in

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Order*, 79 FR 67424 (November 13, 2014) (*Order*).

November 2016, the Department received timely requests to conduct an administrative review of the CVD order on chloro isos from the PRC from three interested parties: 1) Huayi; 2) Kangtai; and 3) the petitioners in this proceeding,[2] which requested reviews of Hebei Jiheng, Huayi, and Kangtai.[3] On January 7, 2016, in accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice of initiation of administrative review for Hebei Jiheng, Huayi, and Kangtai.[4]

Because this review only covers three companies as available resources permitted, we issued questionnaires to Hebei Jiheng, Huayi, and Kangtai as mandatory respondents. However, Hebei Jiheng was unresponsive to the Department's original questionnaire. Therefore, as discussed below, we are preliminarily applying adverse facts available (AFA) to Hebei Jiheng in this administrative review.

On February 27, 2017, the Department issued the initial questionnaire to the Government of the PRC (the GOC) and the three mandatory respondents.[5] From March 13, 2017, through April 12, 2017, the Department received timely responses from the GOC, Huayi and Kangtai.[6] Subsequently, the Department issued additional supplemental questionnaires to the GOC, Heze Huayi and Kangtai between April 12, 2017, and September 25, 2017. The Department received timely responses to these supplemental questionnaires between April 26, 2017 and October 2, 2017.

On July 17, 2017, the Department partially extended the deadline for these preliminary results until October 31, 2017.[7] On October 16, 2017, the Department fully extended the deadline until November 30, 2017.[8]

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[2] The petitioners in this proceeding are U.S. domestic producers of chloro isos: Bio-Lab, Inc., Clearon Corporation, and Occidental Chemical Corporation (collectively, the petitioners).

[3] *See* Hyuai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Request for Administrative Review," dated November 29, 2016; Kangtai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Request for Administrative Review," dated November 29, 2016; the petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China: Request for Administrative Review of Countervailing Duty Order," dated November 24, 2016.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294 (January 13, 2017) (*Initiation*).

[5] *See* the Department's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Questionnaire for 2nd Administrative Review," dated February 27, 2017 (Initial CVD Questionnaire).

[6] *See* Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III – Identifying Affiliated Companies," dated March 13, 2017 (Huayi's AFFR); Kangtai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III – Identifying Affiliated Companies," dated March 13, 2017 (Kangtai's AFFR); the GOC's Letter, "GOC Initial CVD Questionnaire Response: Second Administrative Review of the Countervailing Duty Order on Certain Chlorinated Isocyanurates from the People's Republic of China (C-570-991)," dated April 12, 2017 (the GOC's IQR); Huayi Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III Questionnaire Response," dated April 12, 2017 (Huayi's April 12, 2017 IQR); Kangtai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III Questionnaire Response," dated April 12, 2017 (Kangtai's April 12, 2017 IQR).

[7] *See* Memorandum regarding Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Second Countervailing Duty Administrative Review, dated July 17, 2017.

[8] *See* Memorandum regarding Chlorinated Isocyanurates from the People's Republic of China: Full Extension of Deadline for Preliminary Results of Second Countervailing Duty Administrative Review," dated October 16, 2017.

III. SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (TCCA) ($Cl_3(NCO)_3$); (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3$ X $2H_2O$); and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular and solid *(e.g.,* tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

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

On October 25, 2007, the Department published its final determination on coated free sheet paper from the PRC.[9] In *CFS from the PRC*, the Department found that:

> . . . given 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.[10]

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.[11] Furthermore, on March 13, 2012, Public Law 112-99 was enacted which confirms that the Department has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as the PRC.[12] The effective date of the enacted legislation makes clear that this provision applies to this proceeding.[13]

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[9] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and accompanying IDM (*CFS from the PRC*).
[10] *Id*. at Comment 6.
[11] *See*, *e.g.*, *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*) and accompanying IDM at Comment 1.
[12] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[13] *See* Public Law 112-99, 126 Stat. 265 §1(b).

V. 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. The Department finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[14] The Department notified the respondents of the AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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

B. *Attribution of Subsidies*

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of another corporation in essentially the same ways it can use its own assets. This standard will normally be met where there is a majority voting interest between two corporations, or through common ownership of two (or more) corporations.[15] In certain circumstances, a large minority voting interest (for example, 40 percent) may also result in cross-ownership.[16] The Court of International Trade (the CIT) upheld the Department's authority to attribute subsidies based on whether a company could

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[14] We determined the AUL in the investigation, which no party challenged. *See Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012,* 79 FR 56560 (September 22, 2014) and accompanying IDM (*Chlorinated Isocyanurates from PRC Final Determination*) at "Subsidies Valuation Information."

[15] *See*, *e.g.*, *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

[16] *Id*.

use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.[17]

Huayi

Huayi responded to the Department's original and supplemental questionnaires on behalf of itself, a producer and exporter of the subject merchandise during the POR. It reported no cross-owned companies. Therefore, we are attributing subsidies received by Huayi to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Kangtai

Kangtai responded to the Department's original and supplemental questionnaires on behalf of itself, a producer and exporter of the subject merchandise during the POR. It reported no cross-owned companies. Therefore, we are attributing subsidies received by Kangtai to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

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). For programs found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. For a further discussion of the denominators used, *see* the preliminary calculation memoranda.[18]

VI. BENCHMARKS

The Department is reviewing the provision of electricity to the mandatory respondents at LTAR. This process requires the derivation of benchmark electricity rates. The derivation of these rates is discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section below.

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" 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

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[17] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[18] *See* Memorandum, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co., Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum; Memorandum, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Kangtai Chemical Co., Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum (collectively Preliminary Calculation Memoranda).

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.[19]

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an AFA rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[20] 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."[21]

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."[22] It is the Department's practice to consider information to be corroborated if it has probative value.[23] 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.[24] However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.[25] Moreover, under section 776(c)(2) of the Act, the Department is not required to corroborate any countervailing duty rate applied in a separate segment of the same proceeding.

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[19] Trade Preferences Extension Act of 2015 made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this review.
[20] *See, e.g., Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from the PRC*); *see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).
[21] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.
[22] *Id.*
[23] *Id.*
[24] *Id.* at 869.
[25] *Id.* at 869-70.

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.[26]

For purposes of these preliminary results, we find it necessary to apply AFA to the non-responsive mandatory respondent Hebei Jiheng and to two programs: (1) provision of electricity for LTAR; and (2) Export Buyer's Credit Program, as described below.

A. *Application of AFA to Hebei Jiheng*

As noted in the "Background" section above, the Department issued a questionnaire to Hebei Jiheng.[27] However, Hebei Jiheng did not submit a questionnaire response, and thus, did not respond to our request for information. Accordingly, we preliminary determine that Hebei Jiheng withheld necessary information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding. Therefore, the Department will rely on facts otherwise available in making our preliminary determination with respect to Hebei Jiheng, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to questionnaire, Hebei Jiheng did not cooperate to the best of its ability to comply with the request for information in this administrative review. Accordingly, we preliminarily find that use of AFA is warranted to ensure that Hebei Jiheng does not obtain a more favorable result by failing to cooperate than if it had fully complied with our requests for information.

It is the Department's practice in CVD proceedings to apply a total AFA rate for a non-cooperating company using the highest calculated program-specific rates determined for the identical or similar programs.[28] Specifically, in an administrative review, the Department applies the highest calculated above-*de minimis* rate for the identical program from any segment of the same proceeding.[29] If there is no identical program match within the same proceeding, or if the

[26] *See* section 776(d)(3) of the Act.
[27] *See* Initial CVD Questionniare at 1.
[28] *See, e.g., Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 27466 (June 15, 2017) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences." *See also Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) and accompanying IDM at 13.
[29] For purposes of selecting AFA program rates, we normally treat rates less than 0.5% to be *de minimis*. *See*, *e.g.*, *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

rate is *de minimis*, the Department uses the highest non-*de minimis* rate calculated for a similar program, based on treatment of the benefit. Absent an above-*de minimis* subsidy rate calculated for the identical or similar program from the same proceeding, the Department looks to other proceedings involving the same country and applies the highest calculated above-*de minimis* subsidy rate for the identical or similar/comparable program. Where no above-*de minimis* rate for an identical or similar program within the country has previously been calculated, the Department applies the highest calculated rate for any program from any CVD case involving the same country that could conceivably be used by the non-cooperating company.[30]

We have taken into consideration information the GOC has provided concerning the countervailability of the programs the GOC has identified as being used by other mandatory respondents. In applying AFA to Hebei Jiheng, we are guided by the Department's methodology detailed above.

Accordingly, we preliminarily determine the AFA countervailable subsidy rate for each of the non-responsive companies to be 25.187 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.[31, 32]

B. *Application of AFA to Provision of Electricity for LTAR*

As discussed below under the section "Programs Preliminarily Found to be Countervailable," the Department is reviewing whether the GOC provided electricity for LTAR. The Department has preliminarily determined that the use of AFA is warranted, in part, in determining the countervailability of the electricity program because the GOC did not provide the requested information needed to allow the Department to analyze this program.

The Department's questionnaires requested information to determine whether the provision of electricity for LTAR 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 with the meaning of section 771(5A) of the Act. Specifically, in both the Department's initial questionnaire and the supplemental questionnaire, for each province in which the mandatory respondents and any "cross-owned" affiliates are located, the Department asked the GOC 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 how the final price increases were allocated across

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[30] *Id.*; *see also, e.g., Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying IDM at "Selection of the Adverse Facts Available Rate."

[31] *See Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 73 FR 57323 (October 2, 2008) and accompanying IDM at "Funds for Outward Expansion of Industries in Guangdong Province."

[32] *See Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Affirmative Determination, and Final Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) and accompanying IDM.

the province and across tariff end-user categories. To analyze the financial contribution and specificity of this program, we further requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments.[33]

The GOC did not provide complete responses to the Department's questionnaires regarding the provision of electricity for LTAR. The GOC responded by stating that there were revisions to the program in 2015; specifically, for periods after April 20, 2015, there are no "Provincial Price Proposals" and the NDRC no longer reviewed proposed electricity pricing schedules submitted to it by provincial governments.[34] The GOC contends that the NDRC no longer exercised control over provincial electricity price adjustments and has legally begun delegating total pricing autonomy to the provinces and only ratifies prices submitted for review since April 2015.[35] However, the GOC provided no provincial-specific information in response to these questions in its initial questionnaire response and supplemental questionnaire response.[36] Instead of providing the requested documents and information, the GOC merely stated that "these proposals are drafted by the provincial governments and submitted to the NDRC. They are working documents for the NDRC's review only. The GOC is therefore unable provide them with this response."[37] Because the GOC provided no supporting documentation or other requested information, the Department was unable to analyze or confirm the alleged 2015 revision of the NDRC's role in setting electricity pricing schedules.

In its responses, the GOC actually provided record evidence that undermines its assertion that it delegated its price setting authority to the provinces. For example, the GOC placed on the record Notice 748, which is based upon consultations between the NDRC and the National Energy Administration.[38] Article 1 of Notice 748 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour. Annex 1 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."[39] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity. 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

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[33] The NDRC is the price authority at the PRC central government level. *See Chlorinated Isocyanurates from PRC Final Determination* at Comment 1.

[34] *See* the GOC's October 2, 2017 First Supplemental Questionnaire Response (the GOC's October 2, 2017 SQR), at 2 and 4.

[35] *Id.*; *see also Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37844 (August 14, 2017) (*Aluminum Foil from the PRC Preliminary Determination*) and accompanying PDM at 37-41.

[36] *See* the GOC's April 12 2017 IQR at 6-19; the GOC's October 2, 2017 SQR, at 3-8.

[37] *See* the GOC's April 12, 2017 IQR, at 6-7.

[38] *See* the GOC's October 2, 2017 SQR, at Exhibit SQR-3.

[39] *Id*.

enforced since April 20th, 2015."[40] Lastly, Article 10 directs, "Administrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment."[41]

The GOC further confirmed that, in addition to Notice 748, Article II of Notice of National Development and Reform Commission on Issuing Decisions on Establishment of Coal and Electricity Price Linkage Mechanism also provides 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.[42]

Although the GOC contends that in April 2015 it exercised its authority to delegate setting price schedules and making necessary adjustment to electricity prices to the provincial governments, the Department finds that evidence placed on the record by the GOC itself supports that it still continues to control the prices through the NDRC still using Notice 2909, which dates back to 2005, well before the alleged 2015 change, as the basis to set and calculate provincial prices.[43] Notice 2909, pursuant to Articles II and Article X of Appendix 1, stipulates that local authorities shall implement electricity price adjustments but report such adjustments to the NDRC through a consultation process.[44] Consequently, both Notice 748 and Notice 2909 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 2909 allows provincial authorities to determine and issue electricity prices without NDRC oversight and accountability contrary to the GOC's claims.[45] 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 applicable to the provinces.[46] Because the GOC failed to provide the requested information to enable the Department to analyze its alleged 2015 changes to the program and because record evidence indicates that the program in practice remains unchanged, the Department preliminary determines that it is impeded from conducting an analysis of this program.

Consequently, for these preliminary results, we find that the GOC withheld necessary information that was requested of it, and thus, that the Department must rely on facts otherwise available in making our determination, pursuant to sections 776(a)(1) and (a)(2)(A) of the Act. Moreover, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Specifically, the GOC did not explain why it was unable to provide the requested information. Consequently, an adverse inference is warranted in the application of facts available under section 776(b) of the Act.

C. *Application of AFA to Export Buyer's Credit Program*

As discussed below under the section "Programs Preliminarily Found to be Countervailable," the Department is reviewing the Export Buyer's Credit Program. The Department has preliminarily

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40 *Id.*
41 *Id.*
42 *See* the GOC's October 2, 2017 SQR, at Exhibit SQR-3.
43 *Id.* at Exhibits SQR-1, SQR-3-4.
44 *Id.* at Exhibit SQR-1.
45 *Id.* at Exhibits SQR-1, SQR-3.
46 *Id.*

determined that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program because the GOC did not provide the requested information needed to allow the Department to analyze this program.

After receiving the initial responses identified above regarding non-use of the program, the Department issued supplemental questionnaires requesting further information on this program. Specifically, we asked the GOC to provide a list of all partner/correspondent banks involved in disbursement of funds under the Export Buyer's Credit program.[47] In its supplemental questionnaire response, the GOC continued to claim that none of the U.S. customers of the respondent companies used export buyer's credits from China Ex-Im during the POR.[48] Instead of providing the list of banks which partner with China Ex-Im to disburse funds as requested by the Department, the GOC stated that it "is unable to provide the information requested because China Ex-Im has determined that none of the respondent companies' customers received Export Buyer's Credits or otherwise used this program during the POR."[49]

In addition, we also requested that the GOC report the interest rates established during the POR for this program for all types of financing provided by China Ex-Im, all loan terms and all denominations.[50] Instead of providing the requested information, the GOC stated the question was "Not applicable" because none of the respondents' U.S. customers used this program.[51] We again requested this information from the GOC, clarifying that the Department was not requesting that the GOC provide respondent-specific information, but was requesting information on the interest rates established during the POR for every type of financing that all companies received under this program.[52] In response, the GOC simply restated its original position of non-use.[53]

Moreover, record information originally indicated that for a business contract to be supported by the Export Buyer's Credit, the contract amount must be more than two million U.S. dollars.[54] However, subsequent information placed on the record indicates that the GOC revised this program in 2013 to eliminate this minimum requirement.[55] We requested that the GOC provide original and translated copies of any laws, regulations or other governing documents regarding this alleged 2014 revision to the program.[56] As a response, the GOC provided the following document: *GOC 7th Supplemental Response* in the *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China* (ACCESS barcode: 3503880-01) (Export Buyer's Credit Supplemental Questionnaire Response).[57] However, this document was

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47 *See* the Department's Letter, "Second Supplemental Questionnaire for the GOC," dated September 25, 2017 (the GOC's Second SQ), at 7.
48 *See*, *e.g.*, the GOC's October 2, 2017 SQR, at 8-9.
49 *Id*. at 9.
50 *See* the Department's Initial Section II Questionnaire, at II-6.
51 *See* the GOC's April 12, 2017 IQR, at 20.
52 *See* the GOC's Second SQ, at 7.
53 *See* the GOC's October 2, 2017 SQR, at 9.
54 *See* the GOC's April 12, 2017 IQR, at Exhibit F-3, "Rules Governing Export Buyer's Credit of the Export-Import Bank of China."
55 *Id*. at Exhibit F-1.
56 *See* the Department's Original Section II Questionnaire, at II-6.
57 *See* the GOC's IQR, at 20, Exhibit F-1

not responsive to our question and did not include any information regarding the 2013 program revision, which is necessary for the Department to analyze how the program functions.[58]

Further, the GOC has not provided information with respect to (1) whether it uses third-party banks to disburse/settle Export Buyer's Credits, (2) the interest rates it used during the POR, and (3) whether the China Ex-Im limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million. Such information is critical to understanding how Export Buyers Credits flow to/from foreign buyers and the China Ex-Im. The nature of the GOC's responses to the Department's information requests indicates that any further attempts to request this necessary information again from the GOC would be futile. Absent the requested information, the GOC's and the respondents' claims of non-use of this program are not verifiable.[59]

Therefore, we preliminarily find that the GOC has not cooperated to the best of its ability and, as AFA, find that Huayi and Kangtai used and benefited from this program, despite the claims of non-use and certifications of non-use from the respondents' customers.[60] Although the Department has accepted certifications of non-use from the respondents' customers to determine countervailability in prior reviews, as discussed above, this program was apparently amended in 2013.[61] To fully analyze whether the current program is run in the same manner, as we have discussed in prior segments of this proceeding and also in other proceedings investigating this program,[62] the Department must be able to review the amendments to the program. Because the GOC has not provided the requisite information regarding the program's amendments, the Department was unable to do so.

Pursuant to sections 776(a)(2)(A) and (a)(2)(C) of the Act, when an interested party withholds information requested by the Department and/or significantly impedes a proceeding, the Department uses facts otherwise available to reach a determination. Because the GOC withheld the requested information described above, thereby impeding this proceeding, we preliminarily determine that the use of facts available is appropriate. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding 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.

Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.[63] When selecting rates in an administrative review, we first determine if there is an identical program from any segment of

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[58] *Id*. at 20, Exhibits F1-F3.

[59] The CIT recently sustained our finding that "only the GOC, and in particular the PRC Ex-Im, could provide and verify the information needed to determine whether a benefit was conferred to Respondents during the POI from the Export Buyer's Credit Program." *See Changzhou Trina Solar Energy Co. v. United States*, 195 F. Supp. 3d 1334, 1355 (CIT 2016).

[60] *See* Huayi's April 12, 2017 Initial Questionnaire Response (April 12, 2017 IQR), at Exhibit 2; Kangtai's April 12, 2017 Initial Questionnaire Response (Kangtai's April 12, 2017 IQR), at Exhibit 15.

[61] *See* the GOC's Initial Section II Response, at Exhibit F-1.

[62] *See*, *e.g.*, *Truck and Bus Tires from the PRC* at Comments 2 through 6.

[63] *See*, *e.g.*, *Shrimp from the PRC* and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate for an uncooperative respondent").

the proceeding and use the highest calculated rate for the identical program (excluding *de minimis* rates). If no such identical program exists, we then determine if there is a similar program (based on the treatment of the benefit) within the same proceeding and apply the highest calculated rate for the similar program, excluding *de minimis* rates. Where there is no similar program, we apply the highest calculated rate from any non-company specific program in any CVD case involving the same country, but we do not use a rate from a program if the industry in the proceeding cannot use that program.[64] In relying on AFA for the selection of a subsidy rate, we note that there is no identical program in this review for which we have calculated a rate; nor has the Department calculated a rate for this program in any other CVD proceeding involving China. On this basis, we are using an AFA rate of 0.87 percent *ad valorem*, the highest rate determined for a similar program in this proceeding as the rate for this program, applicable to both respondent companies.[65]

D. *Self-Reported Grants*

As discussed in further detail in the "Programs Preliminarily Determined to Be Countervailable" section below, only Huayi reported receiving benefits under grant programs not initiated on by the Department.[66] The Department requested information from the GOC regarding certain of these grants on several occasions.[67] The GOC failed to give a complete response regarding any of these grant programs, stating that it was either unable to identify the programs expressly reported by the respondents or unable to produce certain requested information regarding identifiable programs, depending on the program.[68]

In order to conduct the analysis of whether a program is specific and a financial contribution under sections 771(5A) and 771(5)(D) of the Act, respectively, it is essential that the government provides a complete response to the questions that are contained in the Standard Questions Appendix to enable the Department to conduct statutory analyses to determine if an alleged program is countervailable. To that end, government cooperation is essential because the government has sole access to the information required for a complete analysis of specificity and financial contribution with respect to government subsidy programs. By failing to provide complete responses to the Standard Questions Appendices, as we requested, the Department finds that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests, and, consequently, an adverse inference is warranted in the application of facts available under section 776(b) of the Act. Based on application of AFA regarding these programs, we preliminarily determine that the GOC provided the subsidies listed in the Analysis of Programs, Self-Reported Grants section below, that these subsidies constitute a financial contribution under section 771(5)(D)(i) of the Act, and that these subsidies are specific under section 771(5A) of the Act.

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[64] *See Shrimp from the PRC* IDM at 13-14.
[65] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*, 82 FR 27466 (June 15, 2017) and accompanying IDM at Comment 2.
[66] *See* Huayi's April 12, 2017 IQR, at Exhibit 14.
[67] *See* the GOC's First SQ, at Other Programs.
[68] *See* the GOC's Letter, "Second Supplemental Questionnaire Response: First Administrative Review of the Countervailing Duty Order on Certain Chlorinated Isocyanurates from the People's Republic of China (C-570-991)," dated November 22, 2016.

VII. ANALYSIS OF PROGRAMS

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

A. *Programs Preliminarily Determined to Be Countervailable*

1. *Electricity for LTAR*

Both of the respondents reported using this program during the POR. For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are basing our determination regarding the government's provision of electricity, in part, on AFA.

In a CVD case, the Department requires information from both the foreign producers and exporters of the merchandise under investigation and the government of the country where those producers and exporters are located. When the government fails to provide requested and necessary information concerning alleged subsidy programs, the Department, as AFA, may find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, the Department will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit conferred, to the extent that those records are useable and verifiable. Huayi and Kangtai both provided data on the electricity the companies consumed and the electricity rates paid during the POR.[69] Therefore, the Department was able to utilize this information in calculating the extent of benefits received under the Electricity for LTAR program.

As discussed above, the GOC did not provide the information requested by the Department as it pertains to the provision of electricity for LTAR program, despite multiple requests for such information. We find that, in light of the GOC's non-response, the GOC withheld information requested by the Department as described in section 776(a)(2)(A) of the Act, and also did not act to the best of its ability, as described in section 776(b) of the Act. Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to the provision of electricity in the PRC, and determine that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act. To determine the existence and amount of any benefit from this program, we relied on the respondents' reported information on the amounts of electricity used, and the rates the respondents paid for that electricity, during the POR. We compared the rates paid by the respondents for their electricity to the highest rates that they could have paid in the PRC during the POR.[70]

To calculate the benchmark, we selected the highest rates in the PRC for the type of user (*e.g.*,

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[69] *See*, *e.g.*, Huayi's April 12, 2017 IQR, at Exhibit 7; Kangtai's September 25, 2017 Third Supplemental Questionnaire Response, (Kangtai's September 28, 2017 SQR), at Exhibit SQ-9.

[70] *See* Memorandum regarding Countervailing Duty Review of Chlorinated Isocyanurates from the People's Republic of China: Preliminary Selection of Electricity Benchmarks (Preliminary Benchmark Memo), dated concurrently with this memorandum.

"General Industry," "Heavy Industry," "Base Charge/Maximum Demand") for the general, high peak, peak, normal, and valley ranges, as provided by the GOC.[71] The electricity rate benchmark chart is included in the Preliminary Benchmark Memo. This benchmark reflects an adverse inference, which we drew as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this review.[72]

To measure whether the mandatory respondents received a benefit under this program, the Department first calculated the electricity prices the respondents paid by multiplying the monthly kilowatt hours or kilovolt amperes consumed for each price category by the corresponding electricity rates charged for each price category. Next, we calculated the benchmark electricity cost by multiplying the monthly consumption reported by the respondents for each price category by the highest electricity rate charged for each price category, as reflected in the electricity rate benchmark chart. To calculate the benefit for each month, we subtracted the amount paid by the respondents for electricity during each month of the POR from the monthly benchmark electricity price. We then calculated the total benefit for each company during the POR by summing the monthly benefits for each company.[73]

To calculate the subsidy rate pertaining to the GOC's provision of electricity for LTAR, we divided the benefit amount calculated for each respondent by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section above, and in the Preliminary Calculation Memoranda. On this basis, we preliminarily determine a countervailable subsidy of 3.81 percent *ad valorem* for Huayi, and 1.53 percent *ad valorem* for Kangtai.[74]

2. *Export Buyer's Credit from the Export-Import Bank of China*

Based upon the application of AFA discussed above, we preliminarily determine the Export Buyers Credit program to be countervailable.

We requested information on this program in the initial countervailing duty questionnaire,[75] and the GOC responded that this program was not used during the POR.[76] Mandatory respondents, Huayi and Kangtai, reported that their U.S. customers did not use this program, and provided certifications from their U.S. customers in support of their non-use assertion.[77] Subsequent to these responses, as discussed below, the Department requested additional information concerning

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[71] *See* the GOC's April 12, 2017 IQR, at Exhibits E-14, E-15.
[72] *See, e.g., Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 51775 (August 26, 2015) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences"; *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences"; *Chloro Isos Investigation Final* IDM at "Use of Facts Otherwise Available and Adverse Inferences.".
[73] *See* Preliminary Calculation Memoranda.
[74] *Id*.
[75] *See* the Department's CVD Questionnaire for the GOC.
[76] *See* the GOC's April 12, 2017 IQR at 19.
[77] *See*, *e,g*., Huayi's April 12, 2017 IQR, at 8; Kangtai's April 12, 2017 IQR, at 8.

these programs,[78] but we find the GOC's responses to be insufficient;[79] and therefore the preliminary application of AFA is warranted.

As an initial matter, the Department has accepted certifications of non-use from the respondents' customers to determine countervailability in prior segments of this proceeding and in other cases.[80] However, in 2013, this program was amended, and in recent cases the Department has determined that to fully analyze whether the current program is run in the same manner, the Department must review the amendments to the Export Buyer's Credit Program.[81] We requested information about this program and the amendments from the China Export-Import Bank (China Ex-Im), who is the primary entity that possesses the supporting information and documentation as the lender, that are necessary for the Department to fully understand the operation of the program. Such information is a prerequisite to the Department's ability to verify the accuracy of the respondents' claimed non-use of the Export Buyers Credit program.[82] However, we did not receive the requested information from either China Ex-Im or the GOC. Without the requested information and documentation necessary for the Department to develop a complete understanding of this program, s we cannot verify the GOC's claims that the respondent companies did not use this program. Further, without a full understanding of the involvement of third party banks, the respondent companies' (and their customers') claims of non-use are also not verifiable.[83] As noted below, the facts of this review are nearly identical to that of other recent countervailing duty cases where this program has been examined and the GOC failed to cooperate with our requests for information. For these reasons, we preliminarily determine a countervailable subsidy of 0.87 percent *ad valorem* for Huayi, and 0.87 percent *ad valorem* for Kangtai.[84]

3. *Grant Programs*

Heze reported receiving benefits under the Grants for the Application of Patents program for certain patents it applied for during the POR. The Department has preliminarily determined a 0.006 percent countervailing subsidy rate for this program.

4. *Self-Reported Grant Programs*

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78 *See* the Department's Letter, "Third Supplemental Questionnaire for the GOC," dated September 25, 2017.
79 *See generally* the GOC's October 2, 2017 SQR.
80 *See*, *e.g.*, *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 51775 (August 26, 2015) and accompanying IDM at Comment X.
81 *See*, *e.g.*, *Truck and Bus Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 8606 (January 27, 2017) (*Truck and Bus Tires from the PRC*) and accompanying IDM at Comments 2-6.
82 *See*, *e.g.*, *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) and accompanying IDM at Comment 6; *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014) and accompanying IDM at Comment 16.
83 *Id*.
84 *See* Preliminary Calculation Memoranda.

Huayi reported receiving various non-recurring grants during the POR. Kangtai did not report receiving various non-recurring grants during the POR and the AUL. Huayi self-reported receiving grants under the following programs:[85]

a. Market Development Fund for Middle-and-Small Sized Enterprise
b. Award for Conquering Dangerous Chemicals
c. South Four Laker Ecological Environment

As discussed in the "Use of Facts Available and Adverse Inferences" section above, the Department preliminarily determines that, based on application of AFA, the GOC provided a financial contribution under these programs within the meaning of section 771(5)(D)(i) of the Act, and that these programs are specific under section 771(5A) of the Act. The Department further preliminarily determines that, based on application of AFA, these grants each confer a benefit equal to the amount of the grant reported by the respondents in accordance with 19 CFR 351.504(a).

We determined that the benefit received under these programs was equal to the amount of the grant pursuant to 19 CFR 351.504(a). Furthermore, to determine whether the grant benefit was to be expensed in the year or receipt or allocated over the AUL, the Department followed the methodology described in 19 CFR 351.524. Grants under the programs listed above were received by the mandatory respondents during the POR. To calculate the *ad valorem* subsidy rate for these grants, the Department divided the benefit conferred under each of these programs by the appropriate sales denominator – total sales or total export sales for the year in which the grant was received – and allocated the benefit as discussed above and described in "Subsidies Valuation" section, above.[86] Further discussion on the methodology used to calculate the *ad valorem* subsidy rate under these programs is included in the Preliminary Calculation Memoranda.

The Department preliminarily determines that certain grants under the following programs conferred a measurable benefit upon Huayi during the POR:

a. Market Development Fund for Middle-and-Small Sized Enterprise:

This program was granted to Huayi by the local government for export promotion purposes. The Department has preliminarily determined a 0.05 percent countervailing subsidy rate for this program.

b. Award for Conquering Dangerous Chemicals:

This program was granted by the Juancheng County government for plant redistribution. The Department has preliminary determined a 0.08 percent countervailing subsidy rate for this program.

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[85] *See generally* Huayi's April 12, 2017 IQR.
[86] *See* Preliminary Calculation Memoranda.

c. South Four Laker Ecological Environment:

This program was granted by the Juancheng County for waste management. The Department has preliminary determined a 0.62 percent countervailing subsidy rate for this program.

B. *Programs Preliminarily Not Used During the POR*

The Department preliminarily determines that the following programs were not used by the mandatory respondents during the POR:

1. Grants under the Haixing County Science and Technology Research & Development Plan Project
2. Special National Bond Fund for Energy Conservation and Waste Recycling Projects
3. Export Buyer's Credits from the Export-Import Bank of China (China Ex-Im), Special National Bond Fund for Energy Conservation and Waste Recycling Projects
4. Export Seller's Credits from China Ex-Im
5. Shandong Industrial Structure Adjustment Entrusted Loan
6. Corporate Income Tax Law Article 33: Reduction of Taxable Income for the Revenue Derived from the Manufacture of Products that are in Line with State Industrial Policy and Involve Synergistic Utilization of Resources
7. Enterprise Income Tax Reduction for High and New Technology Enterprises
8. Land and Land Usage for Foreign Invested Enterprises ("FIEs") in National Economic and Technological Zones at Preferential Rates
9. "Two Free/Three Half" Program for FIEs
10. Income Tax Benefits for FIEs Based on Geographic Location
11. Value Added Tax and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
12. VAT refunds for FIEs on purchases of Chinese-made equipment
13. Preferential direct tax treatment on purchases of domestically produced equipment for FIEs
14. Policy Loans under the Chlor-alkali Industry Second Five Year Plan
15. Stamp Tax exemption on share transfers under Non-Tradable Share Reform
16. State Key Technology Renovation Project Fund
17. Shareholder loans (debt forgiveness)
18. Discounted Loans for Export-Oriented Enterprises
19. VAT rebate on domestically produced equipment
20. VAT exemption on imports by encouraged industries
21. Preferential lending for industrial readjustment
22. Export credit insurance from Sinosure
23. Preferential loans provided by China Ex-Im "Going-out" for Outbound Investments
24. Foreign Trade Development Fund
25. "Famous Brands" program
26. Preferential policies to attract foreign investment in Jiangsu Province
27. Outline of light industry restructuring and revitalization plan in Jiangsu Province
28. Jiangsu province grants for legal fees in foreign trade remedy proceedings
29. Shandong Province: grants to enterprises exporting key product

30. The Clean Production Technology Fund
31. Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
32. VAT Tax Rebate for Comprehensive Utilization of Resources

VIII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the publication of these preliminary results.[87] Interested parties may submit written comments (case briefs)[88] within 30 days of the issuance of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[89] Rebuttal briefs must be limited to issues raised in the case briefs.[90] Parties who submit case ore rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[91]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.[92] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[93] Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.[94] All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

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[87] *See* 19 CFR 351.224(b).
[88] *See generally* 19 CFR 351.303 (for general filing requirements).
[89] *See* 19 CFR 351.309(c)(1)(ii)(d)(1).
[90] *See* 19 CFR 351.309(d)(2).
[91] *See* 19 CFR 351.309(c)(2), (d)(2).
[92] *See* 19 CFR 351.310(c).
[93] *See* 19 CFR 351.310.
[94] *See* 19 CFR 351.310(c).

IX. CONCLUSION

We recommend applying the above methodology for these preliminary results.

☒ Agree ☐ Disagree

11/27/2017

X Carole Showers

Signed by: CAROLE SHOWERS

Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance

Appendix

AFA Calculation Rate for Jiheng

Program Name	AFA Rate	Source
Grants for Export Credit Insurance	0.05%	Chlorinated Isos Investigation
Special Fund for Energy Saving Technology	0.62%	Chlorinated Isos AR1
Grants Under the Haixing Country Science and Technology Research & Development	0.02%	Chlorinated Isos Investigation
Special National Bond Fund for Energy Conservation and Waste Recycling Projects	0.62%	Highest Rate for Similar Program Based on Benefit Type
Export Seller's Credits from China Ex-Im	0.87%	Chlorinated Isos AR1
Export Buyer's Credits from China Ex-Im	0.87%	Chlorinated Isos AR1
Electricity for LTAR	20.06%	Chlorinated Isos Investigation
Corporate Income Tax Law Article 33: Reduction of Taxable Income for the Revenue Derived from the Manufacture of Products that Are in Line with State Industrial Policy and Involve Synergistic Utilization of Resources	0.14%	Chlorinated Isos Investigation
Grants under the Haixing County Science and Technology Research & Development Plan Project	0.62%	Highest Rate for Similar Program Based on Benefit Type
Special National Bond Fund for Energy Conservation and Waste Recycling Projects	0.62%	Highest Rate for Similar Program Based on Benefit Type
VAT Tax Rebate for Comprehensive Utilization of Resources	0.06%	Chlorinated Isos Investigation
Shandong Industrial Structure Adjustment Entrusted Loan	0.13%	Chlorinated Isos Investigation
Enterprise Income Tax Reduction for High and New Technology Enterprises	0.14%	Highest Rate for Similar Program Based on Benefit Type
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises	0.14%	Highest Rate for Similar Program Based on Benefit Type

VAT Refunds for FIEs Purchasing Domestically-Produced Equipment	0.14%	Highest Rate for Similar Program Based on Benefit Type
VAT Exemptions on Equipment for Central Region	0.14%	Highest Rate for Similar Program Based on Benefit Type
Grants for the Application of Patents	0.006%	Calculated Rate for Heze Huayi
Market Development Fund for Middle-and Small Sized Enterprise	0.05	Highest Rate for Similar Program Based on Benefit Type
Award for Conquering Dangerous Chemicals	0.08%	Highest Rate for Similar Program Based on Benefit Type
South Four Lakes Ecological Environment	0.62%	Highest Rate for Similar Program Based on Benefit Type
Total AFA Rate	**25.18%**	