C-570-978
Administrative Review
POR: 1/1/2016 – 12/31/2016
Public Document
E&C/I: Team

DATE: July 3, 2018

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: Wendy J. Frankel
Director, U.S. Customs and Border Protection Liaison Unit
Antidumping and Countervailing Duty Operations
Enforcement and Compliance

SUBJECT: Decision Memorandum for the Preliminary Results of 2016
Countervailing Duty Administrative Review of High Pressure
Steel Cylinders from the People's Republic of China

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on high pressure steel cylinders from the People's Republic of China (China). The period of review (POR) is January 1, 2016, through December 31, 2016. The mandatory respondent is Beijing Tianhai Industry Co., Ltd. (BTIC). This is the first administrative review of the CVD order on high pressure steel cylinders from China.

If these preliminary results are adopted in the final results of this 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 by no later than 120 days after the publication of these preliminary results.

II. Background

On June 21, 2012, we published the CVD order on high pressure steel cylinders (steel cylinders) from China.[1] On June 7, 2017, we published a notice of opportunity to request an administrative review of the CVD order on steel cylinders from China for the period January 1, 2016, through December 31, 2016.[2] On June 13, 2017, and June 30, 2017, we received timely review requests from Norris Cylinder Company (the petitioner) and BTIC respectively.[3] On August 1, 2017, we published the notice initiating an administrative review of BTIC.[4] On September 28, 2017, we released CBP entry data and requested comments from interested parties.[5] No party provided comments. Consistent with section 777A(e) of the Act, we are individually examining BTIC, the only company for which an administrative review was requested.

On November 2, 2017, we issued the Initial Questionnaire to the Government of China (GOC) and BTIC.[6] Between November 28, 2017, and June 25, 2018, we received timely questionnaire and supplemental questionnaire responses from the GOC[7] and BTIC.[8] On June 4, 2018, the petitioner and BTIC submitted information related to benchmark price and interest rate data for

[1] *See High Pressure Steel Cylinders from the People's Republic of China: Countervailing Duty Order*, 77 FR 37384 (June 21, 2012).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 26441 (June 7, 2017).
[3] *See* Letter from the petitioner, "High Pressure Steel Cylinders from the People's Republic of China Request for Administrative Review and Entry of Appearance," June 13, 2017; *see also* Letter from BTIC, "Request for the Fifth Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C-570-978 (POR: 01/01/16-12/31/16)," June 30, 2017.
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 35749 (August 1, 2017).
[5] *See* Commerce Memorandum, "Release of U.S. Customs and Border Protection Data," September 28, 2017.
[6] *See* Letter from Commerce, "High Pressure Steel Cylinders from the People's Republic of China: 2016 Administrative Review Countervailing Duty Questionnaire," November 2, 2017 (Initial Questionnaire).
[7] *See* Letter from the GOC, "GOC Initial CVD Questionnaire Response: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C-570-978," December 27, 2017 (GOC December 27, 2017 IQR); *see also* Letter from the GOC, "GOC First Supplemental Questionnaire Response: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C-570-978," May 15, 2018 (GOC May 15, 2018 SQR); *see also* Letter from the GOC, "GOC First Supplemental Questionnaire – Response to Other Subsidies Questions: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C-570-978," May 21, 2018 (GOC May 21, 2018 SQR); *see also* Letter from the GOC, "GOC Third Supplemental Questionnaire Response: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C-570-978," June 25, 2018 (GOC June 25, 2018 SQR).
[8] *See* Letter from BTIC, "BTIC Affiliation Response: Administration Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)," November 28, 2017 (Affiliation Response); *see also* Letter from BTIC, "BTIC Initial Questionnaire Response: Administration Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)," December 28, 2017 (BTIC December 28, 2017 IQR); *see also* Letter from BTIC, "BTIC First Supplemental Response: Fifth Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)" June 6, 2018 (BTIC June 6, 2018 SQR); *see also* Letter from BTIC, "BTIC First Supplemental Response: Fifth Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)" June 7, 2018 (BTIC June 7, 2018 SQR).

programs involving the provision of goods for less than adequate remuneration (LTAR) and loans.[9]

On January 17, 2018, Commerce received new subsidy allegations (NSA) from the petitioner.[10] The GOC commented on the petitioner's NSA on January 29, 2018.[11] Commerce released its analysis of the NSAs,[12] in which we initiated investigations of two additional programs, and sent the NSA questionnaires to the GOC and BTIC on April 5, 2018;[13] we received timely responses from the GOC and BTIC.[14]

On February 5, 2018, we postponed the deadline for issuing the preliminary results of this administrative review to July 3, 2018.[15]

III. Scope of the Order

The merchandise covered by this order is seamless steel cylinders designed for storage or transport of compressed or liquefied gas ("high pressure steel cylinders"). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("DOT")-approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by this order have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of this order are high pressure steel cylinders manufactured to U-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also

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[9] *See* Letter from the petitioner, "Benchmark Data Submission of Petitioner Norris Cylinder Company," June 4, 2018; *see also* Letter from BTIC, "BTIC Benchmark Submission: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)," June 4, 2018.
[10] *See* Letter from the petitioner, "High Pressure Steel Cylinders from the People's Republic of China- New Subsidy Allegation," January 17, 2018 (NSA Allegation).
[11] *See* letter from the GOC, "GOC Comments on New Subsidy Allegations: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)," January 29, 2018.
[12] *See* Memorandum, "Analysis of New Subsidy Allegations," April 4, 2018 (NSA Memorandum).
[13] *See* letter to the GOC, "High Pressure Steel Cylinders from the People's Republic of China: New Subsidy Allegation Questionnaire," April 5, 2018, *see also* letter to BTIC, "High Pressure Steel Cylinders from the People's Republic of China: New Subsidy Allegation Questionnaire," April 5, 2018 (NSA Questionnaire).
[14] *See* letter from the GOC, "GOC NSA Questionnaire Response: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, (C-570-978), April 26, 2018 (GOC NSA QR); *see also* letter from BTIC, "BTIC New Subsidy Allegation Response: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, (C-570-978), April 26, 2018.
[15] *See* Memorandum, "High Pressure Steel Cylinders from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review; 2016," February 5, 2018.

excluded from the order are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the order is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

IV. Application of the Countervailing Duty Law to Imports from China

On October 25, 2007, Commerce published its final determination on coated free sheet paper from China, finding that:

> . . . given the substantial difference between the Soviet-style economies and China's economy in recent years, Commerce's previous decision not to apply the CVD law to the Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.[16]

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[17] Furthermore, on March 31, 2012, Public Law 112-99 was enacted which confirms that Commerce has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as China.[18] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[19]

V. DIVERSIFICATION OF THE PRC'S ECONOMY

Concurrently with this decision memorandum, Commerce is placing the following excerpts from the *China Statistical Yearbook* from the National Bureau of Statistics of China on the record of this investigation:[20] Index Page; Table 14-7: Main Indicators on Economic Benefit of State-owned and State-holding Industrial Enterprise by Industrial Sector; Table 14-11: Main Indicators on Economic Benefit of Private Industrial Enterprise by Industrial Sector. This information reflects a wide diversification of economic activities in the PRC. The industrial sector in the PRC alone is comprised of 37 listed industries and economic activities, indicating the diversification of the economy.

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[16] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS Paper from China*) and accompanying issues and decision memorandum (IDM) at Comment 6.
[17] *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) and accompanying IDM at Comment 1.
[18] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[19] *See* Public Law 112-99, 126 Stat. 265 1(b).
[20] *See* Memorandum, "Additional Documents Memorandum," dated concurrently with this memorandum.

V. Subsidies Valuation Information

A. Allocation Period

Commerce 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 AUL in this proceeding is 12 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[21] This AUL applies unless a party claims and establishes that it does not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. No party in this review disputed the allocation period. We notified the respondents of the 12-year AUL in the initial questionnaire and requested data accordingly.[22]

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

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce 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.

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 section of Commerce's regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to Commerce's regulations further clarifies Commerce's cross-ownership standard. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

> {T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-

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[21] *See* U.S. Internal Revenue Service Publication 946 (2017), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

[22] *See* Initial Questionnaire at II-1.

> 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.[23]

Thus, Commerce'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 Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.[24]

BTIC

BTIC responded to our questionnaire on behalf of itself; Tianjin Tianhai High Pressure Container Co., Ltd. (Tianjin Tianhai); Langfang Tianhai High Pressure Container Co., Ltd. (Langfang Tianhai); Beijing Jingcheng Machinery Electric Holding Co., Ltd. (Jingcheng Holding); and Beijing Jingcheng Machinery Electric Co., Ltd. (Jingcheng Company) (collectively, BTIC Group).[25] These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.

Under 19 CFR 351.525(b)(6)(iii), we will attribute subsidies bestowed on a parent or holding company to the consolidated sales of the parent or holding company and its subsidiaries. BTIC identified Jingcheng Holding as the holding company and ultimate owner of BTIC and its affiliates. BTIC also identified Jingcheng Company as an intermediate holding company that is owned by Jingcheng Holding and is the direct owner of BTIC. Finally, BTIC identified itself as a parent company over the producers, Tianjin Tianhai and Langfang Tianhai. Accordingly, in accordance with 19 CFR 351.525(b)(6)(iii), we are attributing subsidies received by BTIC to its consolidated sales and we are attributing subsidies received by Jingcheng Holding and Jingcheng Company to the consolidated sales of the BTIC Group.

In accordance with 19 CFR 351.525(b)(6)(ii), we are attributing subsidies received by each of the two cross-owned producers of subject merchandise, Tianjin Tianhai and Langfang Tianhai, to the sum of the total sales of BTIC and each cross-owned producer.

C. Denominators

In accordance with 19 CFR 351.525(b)(1) – (5), Commerce considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs in this administrative review are explained in

[23] *See Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[24] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).
[25] *See* Affiliation Response at 4.

further detail in the preliminary calculations memorandum prepared for these preliminary results.[26]

VI. Benchmarks and Discount Rates

We are examining loans received by the respondents from Chinese policy banks and state-owned commercial banks (SOCBs). We are also examining non-recurring, allocable subsidies.[27] The derivation of the benchmark interest rates and discount rates used to measure the benefit from these subsidies are discussed below.

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

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the 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, Commerce uses comparable commercial loans reported by the company as a benchmark.[28] If the firm did not have any comparable commercial loans during the period, Commerce's regulations provide that we "may use a national average interest rate for comparable commercial loans."[29]

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 Paper from China*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[30] In an analysis memorandum dated July 21, 2017, Commerce revisited its assessment of the lending system in China.[31] Based on this re-assessment, Commerce has concluded that, despite reforms to date, the GOC's role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding our use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondent 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, we are selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.[32]

[26] *See* Memorandum, "Preliminary Results Calculations for Beijing Tianhai Industry Co., Ltd.," (Preliminary Calculation Memorandum) dated concurrently with this memorandum.
[27] *See* 19 CFR 351.524(b)(1).
[28] *See* 19 CFR 351.505(a)(3)(i).
[29] *See* 19 CFR 351.505(a)(3)(ii).
[30] *CFS Paper from China* and accompanying IDM at Comment 10.
[31] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China: Review of the PRC's Financial System Memorandum," June 13, 2018 at Attachment 1.
[32] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*), and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS Paper from China* and later updated in *Thermal Paper from China*.[33] Under that methodology, we first determine which countries are similar to China in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS Paper from China*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2005 through 2009, China fell in the lower-middle income category.[34] Beginning in 2010, however, China was classified in the upper-middle income category and remained there from 2011 to 2016.[35] Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2005-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2016. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.[36]

After Commerce 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 2005-2009, 2011-2016, the results of the regression analysis reflected the expected result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.[37] For 2010, however, the regression does not yield that outcome for the China's income group.[38] 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 in *CFS Paper from China* to compute the benchmarks for the years from 2005-2009, 2011-2016. 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

[33] *See CFS Paper from China 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 from China*), and accompanying IDM at 8-10.
[34] *See* World Bank Country Classification, http://data.worldbank.org/about/country-and-lending-groups (World Bank Country Classification); *see also* Memorandum, "Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China: Interest Rate Benchmark Memorandum," June 13, 2018 (Interest Rate Benchmark Memorandum).
[35] *See* World Bank Country Classification.
[36] *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)).
[37] *See* Interest Rate Benchmark Memorandum.
[38] *Id.*

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 2010-2016 and "lower middle income" for 2005-2009.[39] First, we did not include those economies that Commerce 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 removed 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 Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[40] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[41]

B. Long-Term RMB-Denominated Loans

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, Commerce 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.[42]

In *Citric Acid from China* 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.[43] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[44]

C. Foreign-Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, we are following the methodology developed over a number of successive proceedings involving China. For U.S. dollar (USD) short-term loans, we used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rate for companies with a BB rating.

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[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *See, e.g., Thermal Paper from China* IDM at 10.
[43] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from China*), and accompanying IDM at Comment 14.
[44] *See* Interest Rate Benchmark Memorandum.

D. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we are using as the discount rate the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.[45]

E. Benchmarks to Determine the Adequacy of Remuneration

We selected benchmarks for determining the benefits from the provision of hot-rolled steel, seamless tube steel, and standard commodity billets and blooms (standard billets) and high quality chromium molybdenum alloy steel billets and blooms (CrMo billets) at LTAR in accordance with 19 CFR 351.511. The basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR is set forth in 19 CFR 351.511(a)(2). 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 purchases from 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 below, we are relying on "tier two" (world market) prices for the input benchmarks for these programs.

We received submissions from certain parties to consider using the data they provided as "tier two" benchmarks for hot-rolled steel, seamless tube steel, and standard and CrMo billets).[46] Specifically, the petitioner submitted pricing data from UN Comtrade for HTS subheadings 7304.59 (tubes, pipes, hollow profiles, seamless, of iron (other than cast iron) or steel) as a potential benchmark for seamless tube steel; 7224.90 (other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel), 7208.52 (Iron or non-alloy steel; (not in coils), flat-rolled, of a width 600mm or more, hot-rolled, without patterns in relief, of a thickness of 4.75mm or more but not exceeding 10 mm) for standard and CrMo billets; 7208.53 (Iron or non-alloy steel; (not in coils), flat-rolled, of a width 600mm or more, hot-rolled, without patterns in relief, of a thickness of 3mm or more but less than 4.75mm) and 7208.54 (Iron or nonalloy steel; (not in coils), flat-rolled, of a width 600mm or more, hot-rolled, without patterns in relief of a thickness of less than 3mm) as a potential benchmark for hot rolled steel. The petitioner also provided a potential benchmark for CrMo billets based on pricing information from Metal Bulletin Research.

BTIC provided potential benchmark information for hot-rolled steel from American Metal Market, Steel Orbis, Steel Business Briefing (SBB), and Steel Guru.[47] They provided potential

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[45] *See* Preliminary Calculation Memorandum; *see also* Interest Rate Benchmark Memorandum.
[46] *See* Letter from the petitioner, "Benchmark Data Submission of Petitioner Norris Cylinder Company," June 4, 2018 (Petitioner Benchmark Submission); *see also* Letter from BTIC, "BTIC Benchmark Submission: Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China (C-570-978)," June 4, 2018 (BTIC Benchmark Submission).
[47] *See* BTIC Benchmark Submission.

benchmark information for seamless tube steel from Metal Expert. Finally, they provided potential benchmark information for standard billets from Steel Guru and Metal Expert. The petitioner and BTIC also provided monthly ocean freight rates from various world ports to Shanghai between January 2016 and December 2016, as reported by Maersk Line and Descartes.[48]

We have evaluated the benchmark information provided for each input and for purposes of these preliminary results, we are relying upon all benchmarks as submitted with respect to hot-rolled steel, seamless tube pipe, and standard and CrMo billets. Commerce has previously used each benchmark source.[49] Further, in accordance with Commerce's regulations at 19 CFR 351.511(a)(2)(ii), we are averaging the benchmark prices for each input. This approach is consistent with *Shelving Units from China*.[50]

With respect to ocean freight expenses, the petitioner submitted ocean freight data sourced from Maersk Line for 2016; BTIC's ocean freight data was sourced from Descartes, also for 2016. The data from Maersk is based upon shipping 40-foot containers while the Descartes data is based upon shipping 20-foot containers. However, we have adjusted each set of data to develop an average price on a US dollar per metric ton basis. Therefore, for our preliminary calculations, we are relying on a simple average of both sets of ocean freight data because they are contemporaneous with our POR and have been previously used.[51] Regarding inland freight, we used the inland freight expenses that BTIC reported.[52]

G. Electricity Benchmark

We are relying on China's provincial tariff schedules for electricity supplied by the GOC[53] to derive the benchmark for measuring the benefit from electricity provided for LTAR to BTIC.

VII. Use of Facts Otherwise Available and Adverse Inferences

In a CVD proceeding, Commerce requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, Commerce may rely on adverse facts available (AFA) to preliminarily find that a financial contribution exists under the alleged program or that the program is specific.[54] However, where

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[48] *See* Petitioner Benchmark Submission at Exhibits 6-9; *see also* BTIC Benchmark Submission at Exhibit 4.

[49] *See e.g., Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 56582 (November 29, 2017) and accompanying IDM at 23 (*Tool Chests from China*); *see also 53-Foot Domestic Dry Containers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 21209 (April 17, 2015) and accompanying IDM at 22.

[50] *See 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 18 (*Shelving Units from China*).

[51] *See e.g., Tool Chests from China* and accompanying IDM at 9 and comment 7.

[52] *See* BTIC December 28, 2017 IQR at Exhibit D.2.

[53] *See* GOC December 27, 2017 IQR at Exhibit II-D-4-Q.

[54] *See, e.g., Hardwood and Decorative Plywood from the People' Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3, "Provision of Electricity."

possible, Commerce will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable.

Sections 776(a)(1) and (2) of the Act provide that Commerce 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 Commerce, 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.

Section 776(b) of the Act further provides that Commerce 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, Commerce'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 {Commerce} with complete and accurate information in a timely manner."[55] Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[56]

Section 776(c) of the Act provides that, when Commerce 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."[57] It is Commerce's practice to consider information to be corroborated if it has probative value.[58] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[59] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[60] Moreover, under section 776(c)(2) of the Act, Commerce is not required to corroborate any countervailing duty rate applied in a separate segment of the same proceeding.

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[55] *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).
[56] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.
[57] *Id.*
[58] *Id.*
[59] *Id.* at 869.
[60] *Id.* at 869-870.

Finally, under section 776(d) of the Act, Commerce 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 adverse facts available rate, Commerce 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.[61]

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

A. Application of AFA: Provision of Electricity for LTAR

The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provides a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision is specific within the meaning of section 771(5A) of the Act.

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

In its first supplemental questionnaire response, the GOC stated that the provincial price proposals are not mandated by law and that the proposals are obsolete now that the provinces have the authority to set their own prices.[62] Further, the GOC stated that, as a result of Notice

[61] *See* section 776(d)(3) of the Act.
[62] *See* GOC May 15, 2018 SQR at 6.

748, provincial pricing authorities can set the electricity prices and provincial price proposals are not mentioned in this notice.[63] Thus, according to the GOC, the NDRC no longer has any impact on prices, which are set autonomously at the provincial level.

Notice 748 is based upon consultations between the NDRC and the National Energy Administration.[64] 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.[65] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.[66] 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."[67] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[68] Articles 6 and 7, 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."[69] Finally, Article 10 directs that, "{a}dministrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment."[70]

NDRC 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.[71] Consequently, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.[72] 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.[73]

In a supplemental questionnaire, we requested that the GOC identify the legislation which may have eliminated the Provincial Price Proposals. The GOC referred Commerce to Notice 748 and Notice 3105.[74] 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

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[63] *Id.*
[64] *See* GOC May 15, 2018 SQR at Exhibit SQ13-1.
[65] *Id.*
[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *See* GOC May 30, 2018 SQR at Exhibit SQ-2.
[72] *Id.*
[73] *See, e.g.,* Notice 748 Article 10 and Notice 3105 Articles II and X.
[74] *See* GOC May 15, 2018 SQR at 6.

pricing authorities. Finally, we requested that the GOC explain how the NDRC monitors compliance with the price changes directed in Notice 748 and what action the NDRC would take were any province not to comply with the directed price changes. The GOC's response failed to explain what actions the NDRC would take in the event of non-compliance with directed price changes.[75]

As explained above, the GOC failed on several occasions to explain the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. Further, the GOC failed to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by provinces themselves. Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity, and thus, we must rely on "facts available" in making our preliminary determination.[76] Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. As a result, an adverse inference is warranted in the application of facts available.[77] In drawing an adverse inference, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, we are also drawing an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.[78] The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* the "Provision of Electricity for LTAR" section.

B. Application of AFA: Export Credit from Export-Import Bank of China: Export Buyer's Credit

We preliminarily determine that the use of AFA is warranted in determining the countervailability of the Export Credit from Export-Import Bank of China: Export Buyer's Credit program because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program.

The petitioner filed new subsidy allegations, and we initiated an investigation into this program.[79] In our NSA Questionnaire, we requested that the GOC provide the information requested in the Standard Questions Appendix, which requested various information that Commerce 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,

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[75] *See* GOC May 30, 2018 SQR at 1.
[76] *See* section 776(a)(2)(A) of the Act.
[77] *See* section 776(b) of the Act.
[78] *See* section 776(b)(4) of the Act.
[79] *See* NSA Allegation; *see also* NSA Memorandum.

a description of the program and the program application process, program eligibility criteria, and program use data. Rather than responding to the questions in the Appendix, the GOC stated that it had confirmed that "{n}one of BTIC's U.S. customers used the Export Buyer's Program during the POR. Therefore, the relevant appendix is not applicable."[80]

We, therefore, again requested the GOC provide information necessary for Commerce to conduct our review of this program, including: the application process, internal guidelines and rules governing this program, interest rates used during the POR, and whether the GOC uses third party banks to disburse/settle Export Buyers Credits. The GOC failed a second time to provide a response necessary for Commerce to analyze how the program functions.[81]

Pursuant to sections 776(a)(2)(A) and (2)(C) of the Act, when an interested party withholds information requested by Commerce and significantly impedes a proceeding, Commerce uses facts otherwise available. We find that the use of facts otherwise available is appropriate in light of the GOC's refusal to provide the requested information. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding of information and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted.

The GOC June 25, 2018 SQR indicated the GOC's refusal to provide information about the internal administration of the program.[82] The GOC is the only party that can answer questions about the internal administration of this program, and thus, absent the requested information, the GOC's and respondent company's claims of non-use of this program are not verifiable. Therefore, we determine that the GOC has not cooperated to the best of its ability and, as AFA, find that the respondent used and benefited from this program.

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 calculated for a similar program in the *Coated Paper from China Investigation Amended Final* proceeding, as the rate for BTIC.[83] 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.

C. Application of AFA: GOC – Whether Certain Seamless Tube Steel Producers Are "Authorities"

As discussed below under "Programs Preliminarily Found to Be Countervailable," Commerce is investigating whether the GOC provided seamless tube steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. Specifically, we asked the GOC to identify any members of management of any input producers that are members of the

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[80] *See* GOC NSA QR.
[81] *See* GOC June 25, 2018 SQR.
[82] *Id.*
[83] *See Coated Paper from China Investigation Amended Final* (revised rate for "Preferential Lending to the Coated Paper Industry" program).

Chinese Communist Party (CCP). We requested this information from the GOC to assess the relationship between the GOC and the identified input producers of hot-rolled steel, seamless tube steel, and standard and CrMo billets.

In response to the initial questionnaire, the GOC claimed that there is no central informational database that contains that the names of CCP members that are part of management in BTIC's input suppliers.[84] Further, the GOC directed Commerce to obtain this information from BTIC's suppliers directly.[85] We requested this information a second time in a supplemental questionnaire and in response the GOC stated that it would not supply the requested information.[86] Because the GOC did not provide the requested information in either its initial questionnaire or supplemental responses, we do not have the information necessary for our analysis.

The information we requested regarding the role of CCP officials in the management and operations of the suppliers of seamless tube steel is necessary for our determination as to whether this producer is an "authority" within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP, or that it had consulted any other sources. The GOC's responses in prior CVD proceedings demonstrate that it is, in fact, able to access information similar to the information that we requested.[87] Additionally, pursuant to section 782(c) of the Act, if the GOC were unable to provide any of the requested information, it should have promptly explained to Commerce the attempts it had made to obtain this information, and proposed providing this information in an alternative form.[88] Nor did the GOC elect to supplement its initial filing when presented with a second opportunity to do so.

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that Commerce must rely on "facts otherwise available" for the preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Consequently, we find that reliance on AFA is warranted pursuant to section 776(b) of the Act. As AFA, we preliminarily find that the input suppliers of seamless tube steel for which the GOC failed to provide complete information necessary for our financial contribution analysis, are "authorities" within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rate for BTIC, see below at "Provision of Seamless Tube Steel for LTAR."

[84] *See* GOC December 27, 2017 IQR at 26.
[85] *Id.*
[86] *See* GOC May 15, 2018 SQR at 3-6.
[87] *See, e.g., High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) and accompanying IDM at 13.
[88] Section 782(c)(1) of the Act states, "{i}f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party."

D. Application of AFA: GOC – Whether the Provision of Hot-Rolled Steel, Provision of Seamless Tube Steel, and Provision of Standard and CrMo Billets is Specific

In Commerce's Initial CVD Questionnaire and third supplemental questionnaire, Commerce asked the GOC to provide a list of industries in the PRC that purchase hot-rolled steel, seamless tube steel, and standard and CrMo billets:

> Provide a list of the industries in the PRC that directly purchase hot-rolled steel{, Seamless tube steel, and standard and CrMo billet industries}, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under review are classified.

We requested this information for purposes of conducting the *de facto* specificity analysis. The GOC responded by stating that it does not collect or maintain statistics for the hot-rolled steel, seamless tube steel, and standard and CrMo billet industries.[89] However, the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.[90] Moreover, Commerce has verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in the PRC.[91] Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any PRC-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC 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 list of industries in the PRC that directly purchase hot-rolled steel, seamless tube steel, and standard and CrMo billet industries is in fact available to the GOC.

Therefore, consistent with past proceedings,[92] we preliminarily determine that necessary information is not available on the record and that the GOC has withheld information that was

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[89] *See* GOC June 25, 2018 SQR at 3-5.
[90] *See e.g.*, *Citric Acid from China*; 2013 Review.
[91] *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).
[92] *See Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012), and accompanying IDM at Comment 13.

requested of it, and, thus, that Commerce must rely on "facts available" for purposes of these preliminary results of review, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the GOC's provisions of hot-rolled steel, seamless tube steel, and standard and CrMo billets industries are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

E. Application of AFA: GOC – Whether the Hot-Rolled Steel, Seamless Tube Steel, and Standard and CrMo Billets Markets are Distorted

In Commerce's Initial CVD Questionnaire, we asked the GOC to respond to specific questions regarding the PRC hot-rolled steel, seamless tube steel, and standard and CrMo billet market for the POR. Specifically, we asked the GOC to:

- Provide the following information concerning the hot-rolled steel, seamless tube steel, and standard and CrMo billets in the PRC for the POR, 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 steam coal and the total volume and value of Chinese domestic production of steam coal.
    c. The percentage of domestic consumption accounted for by domestic production.
    d. The total volume and value of imports of steam coal.
    e. A discussion of what laws, plans, or policies address the pricing of hot-rolled steel, seamless tube steel, and standard and CrMo billet, the levels of production of these item, the importation or exportation of these items seamless tube steel, or the development of their capacity. Please state which, if any, central and sub-central level industrial policies pertain to the hot-rolled steel, seamless tube steel, and standard and CrMo billet industries.

- If there is a hot-rolled steel, seamless tube steel, or standard and CrMo billet association in the PRC, please provide the rules or guidelines under which it operates and a list of its members.

- Are there any or have there been in the POR any export or price controls or any price floors or ceilings established?

- Please state the VAT and import tariff rates in effect in 2016.

- Was there an export tariff or quota on steam coal during the POR? If so, please report the tariff rate or quota amount in effect and provide a translated copy of the regulation/law in which the export tariff rate or quota is reported.

We requested this information to inform our analysis of the degree of the GOC's presence in the market and whether such presence results in the distortion of prices.[93] With respect to hot-rolled steel, in its GOC December 27, 2017 IQR, the GOC failed to provide the value of Chinese domestic production or the value or Chinese domestic consumption of hot-rolled steel. Instead of providing the requested information, the GOC simply stated that the information was not available.[94] In addition, the GOC did not provide a discussion of any laws, plans, or policies addressing the pricing of hot-rolled steel, its levels of production, importation, exportation, or capacity development. The GOC claimed that it could not provide this information because the industry is characterized by private ownership, yet it did not provide any documentation supporting this assertion.[95] Finally, the GOC did not provide a list of industries in the PRC that directly purchase hot-rolled steel or the amounts pertaining to this. The GOC said it does not collect or maintain statistics on purchase volume of hot-rolled steel on an industry basis.[96] Further, the GOC did not indicate that it made any efforts to coordinate with others or obtain this information.

With respect to seamless tube steel and standard billets and CrMo billets, in response to the same questions above, the GOC provided the same answers.[97] Regarding the number of producers of billets and the total volume and value of domestic production accounted for by companies with majority government ownership, the GOC stated that neither SSB nor CISA collects this information.[98] However, during the investigation, the GOC noted that government-owned companies accounted for 60 percent of crude steel production.[99] In this case the GOC did not detail any efforts it made to acquire the information or find a suitable statistical substitute.

We preliminarily determine that the GOC's refusal to provide the information requested constitutes a lack of cooperation. The GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.[100] Moreover, Commerce has verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in the PRC.[101] Based on this experience, we are aware that this system is a national-level internal portal that holds certain

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[93] *See* Initial Questionnaire at II-4, II-5, II-8, II-9, II-11, and II-12.
[94] *See* GOC December 27, 2017 at 28.
[95] *Id.* at 29.
[96] *Id.* at 30-31.
[97] *Id.* at 44-47 and 60-63.
[98] *Id.* at 60.
[99] *See High Pressure Steel Cylinders from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 76 FR 64301, 64306 (October 18, 2011) (*Steel Cylinders from China*).
[100] *See e.g., Citric Acid from China*; *2013 Review*.
[101] *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).

information regarding any PRC-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC 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 hot-rolled steel, seamless tube steel, and standard and CrMo billet industries are in fact available to the GOC.

Additionally, in response to our request for a discussion of the laws, plans or policies that may be in place to address the pricing of hot-rolled steel, seamless tube steel, and standard and CrMo billet, the levels of production of hot-rolled steel, seamless tube steel, and standard and CrMo billet, the importation or exportation of hot-rolled steel, seamless tube steel, and standard and CrMo billet, and the development of hot-rolled steel, seamless tube steel, and standard and CrMo billet capacity, the GOC stated that these industries are "featured by private ownership and {are}dynamic."[102] However, the GOC did not provide any other information or documentation to support this assertion.

Because the GOC refused to provide the requested information regarding the hot-rolled steel, seamless tube steel, and standard and CrMo billet industries 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 GOC withheld necessary information with regard to the PRC steam coal industry and market for the POR and, therefore, must rely on facts otherwise available. Further, because the GOC refused to respond to our information on laws, plans, policies specific to pricing, production, cross-border trades, and development capacity of steam coal, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information necessary for our analysis of the steam coal market in the PRC, despite the fact that it was able to provide similar information in another proceeding. Consequently, we find that an adverse inference is warranted in the application of facts available.[103]

Accordingly, as adverse facts available, we preliminarily determine that the GOC's involvement in the hot-rolled steel, seamless tube steel, and standard and CrMo billet markets in the PRC results in significant distortion of the prices of hot-rolled steel, seamless tube steel, and standard and CrMo billet industries 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 hot-rolled steel, provision of seamless tube steel, and provision of standard and CrMo billet for LTAR.

For further information on these programs, *see* "Programs Found to Be Countervailable" below.

[102] *See* GOC December 27, 2017 IQR at 29, 45, and 61.
[103] *See* section 776(b) of the Act.

F. Application of FA: Pension Fund Grants and Other Subsidies

In response to our question asking BTIC to report whether it had received assistance under any other programs, BTIC identified numerous additional instances of assistance under programs not otherwise identified in our initial questionnaire.[104] However, rather than responding to our question regarding whether the GOC provided assistance to BTIC under any other programs, the GOC stated in its initial questionnaire response:

> The Department has requested information on numerous programs in this review that were involved in the original investigation. The Respondent Companies and the GOC have cooperated to the best of their ability to provide the information requested. At this point, there is no legal authority to investigate or request information on programs that were not alleged in this proceeding or which were {not} involved in the original investigation. Article 11.2 of the WTO Agreement on Subsidies and Countervailing Measures dictates that investigations may not be initiated on the basis of 'simple assertion, unsubstantiated by relevant evidence.' Sufficient evidence with regard to the existence, amount, and nature of a subsidy must be presented for Commerce to initiate the investigation of another program, consistent with Article 11.2(iii). The GOC believes, therefore, that an answer to this question is premature absent a more direct inquiry supported by credible evidence and the initiation of a discrete investigation by the Department.[105]

We issued a supplemental questionnaire to the GOC requesting full responses regarding the other programs identified by BTIC in its initial questionnaire. The GOC confirmed the usage of the programs as reported by BTIC.[106] However, GOC stated that they "will not respond to open ended questions regarding other unalleged subsidy programs for which no evidence has been submitted," and reiterated its statement regarding the WTO Agreement on Subsidies and Countervailing Measures.[107] Additionally, the GOC responded that, for all but six of the programs for which we requested full responses, that it is "not challenging the countervailability of these programs."[108] The GOC gave this same response to our supplemental questions regarding the Pension Fund Grant program.[109]

Based upon the above, we preliminarily determine that the information necessary to analyze whether the Pension Fund Grants and these reported "Other Subsidies" constitute a financial contribution and are specific is not available on the record and that the GOC has withheld information that was requested of it. Thus, we must rely on "facts available" for purposes of these preliminary results, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. In relying on the facts available in this case, we consider that the GOC's affirmative statement that it is not challenging the countervailability of the programs amounts to a concession that the

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[104] *See* BTIC December 28, 2017 IQR at 24-26 and Exhibit O.1.
[105] *See* GOC December 27, 2017 IQR at 82.
[106] *See* GOC May 21, 2018 SQR at 1.
[107] *Id.*
[108] *Id.* at 6.
[109] *See* GOC May 30, 2018 SQR at 5; *see also* BTIC December 28, 2017 IQR at 8; *see also* BTIC June 6, 2018 SQR at 15.

programs 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.

VIII. 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. Pension Fund Grants

According to BTIC, Jingcheng Holding, which owns BTIC, was a government department until 1997, when it converted into Jingcheng Holding, an SOE.[110] Employees who retired before 1997 are considered retired civil servants and remain eligible for government pensions. According to BTIC and the GOC, Jingcheng Holding is responsible for administering the pension benefits of employees who retired prior to the conversion from government department to SOE.[111] Jingcheng Holding submits an annual budget to the Beijing Finance Bureau that covers these pension benefits.[112] Once Jingcheng Holding receives the pension funds from the Beijing Finance Bureau, it distributes the entirety of the funds to eligible retirees. The Beijing Finance Bureau may also appropriate funds as a condolence payment when a retiree passes away, and can adjust the pensions for inflation.[113]

The GOC and BTIC stated several times that they are not contesting the countervailability of this program.[114] Therefore, as discussed above in the section, "Application of FA: Pension Fund Grants and Other Subsidies and Pension Fund Grants," for purposes of these preliminary results, on the basis of facts available, we find that the Pension Fund Grants provide a financial contribution and are specific. We have treated the funds received by Jingcheng Holding as a recurring benefit pursuant to 19 CFR 351.524(c). Jingcheng Holding expects to receive the pension funds it needs each year for distribution to certain legacy employees.[115] Thus, to calculate the countervailable subsidy, we followed the methodology found at 19 CFR 351.524(a). We divided the amount received by Jingcheng Holding during the POR by Jingcheng Holding's consolidated sales during the POR, which is consistent with 19 CFR 351.525(b)(6)(iii).

On this basis, we preliminarily find that BTIC received a countervailable subsidy of 0.37 percent *ad valorem* for this program.

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[110] *See* BTIC December 28, 2017 IQR at 2 and 18.
[111] *See* GOC December 27, 2017 IQR at 12.
[112] *Id.*
[113] *See* BTIC December 28, 2017 IQR at Exhibit C.1.
[114] *See* GOC May 30, 2018 SQR at 5; *see also* BTIC December 28, 2017 IQR at 8; *see also* BTIC June 6, 2018 SQR at 15.
[115] *Id.* at 8; *see also* GOC December 27, 2017 IQR at 12.

2. *Provision of Hot-Rolled Steel for Less Than Adequate Remuneration (LTAR)*

BTIC reported that it purchased hot-rolled steel and identified the producers of the hot-rolled steel from whom it purchased during the POR.[116] The GOC reported that these hot-rolled steel producers are majority owned and controlled by the GOC. As such, we find that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[117] 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 in "Use of Facts Otherwise Available and Application of Adverse Inferences," we are preliminarily basing our finding on the government's provision of hot-rolled steel for LTAR, in part, on AFA. As AFA, we determine that the GOC's provision of hot-rolled steel is specific within the meaning of section 771(5A)(D) of the Act.

At 19 CFR 351.511(a)(2), the regulations set out the basis for identifying an appropriate market-based benchmark for measuring the adequacy of the remuneration of a government provided good or service. The potential benchmarks listed in this 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" benchmarks); (2) world market prices that would be available to purchasers in the country under investigation ("tier two" benchmarks); or (3) prices consistent with market principles based on an assessment by Commerce of the government-set price ("tier three" benchmarks). As we explained in *Lumber from Canada*, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.[118]

As discussed above, in the section "Application of AFA: GOC – Whether the Hot-Rolled Steel, Seamless Tube Steel, and Standard and CrMo Billets Markets are Distorted," we preliminarily determine, on the basis AFA, that the Chinese market for hot-rolled steel is distorted such that market prices from actual transactions within the country under investigation for hot-rolled steel are not appropriate for use as tier one benchmarks.

Turning to tier two benchmarks, *i.e.*, world market prices available to purchasers in China, both the petitioner and BTIC have submitted information on prices that they suggest are appropriate for constructing a benchmark. Based on our review of the proposed benchmarks, we are preliminarily relying on prices from Steel Orbis, SBB, Steel Guru, American Metal Market and UN Comtrade for hot-rolled strip, hot-rolled coil, and hot-rolled plate/sheet. Pursuant to 19 CFR 351.511(a)(2)(ii) we are averaging the selected prices.

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[116] *See* BTIC December 28, 2017 IQR at Exhibit D.1.
[117] *See* Memorandum, "Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China: Public Bodies Memorandum," June 13, 2018 (Public Bodies Memorandum).
[118] *See Lumber from Canada* and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, Commerce 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. Regarding delivery charges, we have included ocean freight and the freight charges that would be incurred to deliver hot-rolled steel to BTIC's plants. We have also added import duties, as reported by the GOC, and the value-added tax (VAT) applicable to imports of hot-rolled steel into China.[119] We have compared these prices to BTIC's actual purchase prices, including taxes and delivery charges.

Based on this comparison, we preliminarily determine that hot-rolled steel was provided during the POR for LTAR and that a subsidy exists in the amount of the difference between the benchmark and what BTIC paid.[120] On this basis, we preliminarily determine that BTIC received a countervailable subsidy of 0.05 percent *ad valorem* under this program.

3. *Provision of Seamless Tube Steel for LTAR*

BTIC reported that it purchased seamless tube steel for the production of subject merchandise and identified its suppliers of this input.[121] The GOC reported that certain seamless tube steel producers are majority owned and controlled by the GOC. As such, we find that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[122] 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 in "Use of Facts Otherwise Available and Application of Adverse Inferences," we are preliminarily basing our finding on the GOC's provision of seamless tube steel for LTAR, in part, on AFA. As AFA, we determine that certain tube suppliers are authorities within the meaning of section 771(5)(B) of the Act, and we determine that the GOC's provision of hot-rolled steel is specific within the meaning of section 771(5A)(D) of the Act.

We have selected our benchmark for measuring the adequacy of the remuneration in accordance with 19 CFR 351.511(a)(2). As discussed above, in the section "Application of AFA: GOC – Whether the Hot-Rolled Steel, Seamless Tube Steel, and Standard and CrMo Billets Markets are Distorted," we preliminarily determine, on the basis AFA, that the Chinese market for seamless tube steel is distorted such that market prices from actual transactions within the country under investigation for seamless tube steel are not appropriate for use as tier one benchmarks.

Turning to tier two benchmarks, *i.e.*, world market prices available to purchasers in China, both the petitioner and BTIC have submitted prices that they suggest are appropriate bases for constructing a benchmark. Based on our review of the proposed benchmarks, we are relying on

[119] *See* Preliminary Calculation Memorandum for a full explanation of how we derived the benchmark.
[120] *See* 19 CFR 351.511(a).
[121] *See* BTIC December 28, 2017 IQR at 10-11 and Exhibit D.1.
[122] *See* Public Bodies Memorandum.

prices from UN Comtrade and Metal Expert for seamless tube steel pursuant to 19 CFR 351.511(a)(2)(ii).

As explained above, Commerce adjusts the benchmark price to include delivery charges and import duties. Regarding delivery charges, we have included ocean freight and the freight charges that would be incurred to deliver seamless tube steel to BTIC's plants. We have also added import duties, as reported by the GOC, and the VAT applicable to imports of seamless tube steel into China.[123] We have compared these prices to BTIC's actual purchase prices, including taxes and delivery charges.

Based on this comparison, we preliminarily determine that seamless tube steel was provided for LTAR and that a subsidy exists in the amount of the difference between the benchmark and what BTIC paid.[124] On this basis, we preliminarily determine that BTIC received a countervailable subsidy of 21.25 percent *ad valorem* under this program.

4. *Provision of Standard Commodity Steel Billets and Blooms, and High-Quality Chromium Molybdenum Alloy Steel Billets and Blooms for LTAR*

BTIC reported purchasing standard commodity steel billets and blooms (commodity billets) and high-quality chromium molybdenum alloy steel billets and blooms (CrMo billets) (collectively, billets) for the production of subject merchandise and identified several producers of these inputs.[125] The GOC reported that these billet producers are majority owned and controlled by the GOC. As such, we find that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[126] 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.

We have selected our benchmark for measuring the adequacy of the remuneration in accordance with 19 CFR 351.511(a)(2). As discussed above, in the section "Application of AFA: GOC – Whether the Hot-Rolled Steel, Seamless Tube Steel, and Standard and CrMo Billets Markets are Distorted," we preliminarily determine, on the basis AFA, that the Chinese market for seamless tube steel is distorted such that market prices from actual transactions within the country under investigation for standard and CrMO billets are not appropriate for use as tier one benchmarks.

Turning to tier two benchmarks, *i.e.*, world market prices available to purchasers in China, both the petitioner and BTIC have submitted billet prices.[127] We have relied on a single benchmark for both standard and CrMo billets. Based on our review of the proposed benchmarks, we are

[123] *See* Preliminary Calculation Memorandum.
[124] *See* 19 CFR 351.511(a).
[125] *See* BTIC December 28, 2017 IQR at 11-12 and Exhibit D.1.
[126] *See* Public Bodies Memorandum.
[127] *See* Petitioner Benchmark Submission at Exhibit 2 and 4; *see also* BTIC Benchmark Submission at Exhibit 3.

preliminarily relying on all submitted benchmarks. Pursuant to 19 CFR 351.511(a)(2)(ii), we performed a simple averaging derived from the submitted sources.

As explained above, Commerce adjusts the benchmark price to include delivery charges and import duties. Regarding delivery charges, we have included ocean freight and the freight charges that would be incurred to deliver billets to BTIC's plants. We have also added import duties, as reported by the GOC, and the VAT applicable to imports of billets into China.[128] We have compared these prices to BTIC's actual purchase prices, including taxes and delivery charges.

Based on this comparison, we preliminarily determine that commodity billets were provided for LTAR and that a subsidy exists in the amount of the difference between the benchmark and what BTIC paid.[129] On this basis, we preliminarily determine that BTIC received a countervailable subsidy of 0.86 percent *ad valorem* under this program.

5. Provision of Electricity for LTAR

Commerce has investigated and determined that this LTAR program confers a countervailable subsidy in several prior China investigations.[130] As discussed in "Use of Facts Otherwise Available and Application of Adverse Inferences," we are preliminarily basing our finding on the government's provision of electricity, in part, on AFA. As AFA, we determine that the GOC's provision of electricity is a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act and that it is specific within the meaning of section 771(5A)(D) of the Act.

BTIC reported using this program, and provided data on their electricity consumption and the electricity rates paid during the POR. In deriving the benchmark,[131] we selected the highest non-seasonal provincial rates in China during the POR for each applicable user category (*e.g.*, "large industrial user," and "normal industrial and commercial user"), voltage class (*e.g.*, 1-10kv, 35kv), time period (general, peak, normal, and valley), and basic fee (*e.g.*, "base charge/ maximum demand") as provided by the GOC. We selected the highest non-seasonal provincial rates in China during the POR as AFA, which, as discussed above, we applied 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 investigation. We calculated benchmark electricity payments by multiplying consumption volumes by the benchmark electricity rate corresponding to the user category, voltage class, and time period (*i.e.*, peak, normal, and valley), where applicable. We then compared the calculated benchmark payments to the actual electricity payments made by the company during the POR. Where the benchmark payments exceeded the payments made by the company, a benefit was conferred. Based on this comparison, we preliminarily find that electricity was provided for LTAR to BTIC.

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[128] *See* Preliminary Calculation Memorandum.
[129] *See* 19 CFR 351.511(a).
[130] *See, e.g., Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009), and accompanying IDM at 22-23.
[131] *See* 19 CFR 351.511(a)(2).

To calculate the countervailable subsidy rates for the POR, we divided the benefit amount by the appropriate sales denominator for the POR. On this basis, we preliminarily determine that BTIC received a countervailable subsidy of 1.73 percent *ad valorem*.[132]

6. Preferential Loans for SOEs

BTIC reported receiving loans during the POR.[133] We have previously found this program countervailable.[134] The GOC reported no change in this program from the original investigation and thus, we continue to find this program provides a countervailable benefit.[135] Consequently, we preliminarily find that loans from state-owned and controlled banks (SOCB) to state-owned enterprises (SOE) under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act. Further, we preliminarily find that this program is specific in accordance with section 771(5A)(D)(i).

The GOC provides 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.[136] To calculate the benefit under the preferential loans for SOEs program, we used the benchmarks described under "Subsidies Valuation – Benchmarks and Discount Rates" above.[137] On this basis, we preliminarily find that BTIC received a countervailable subsidy of 1.53 percent *ad valorem*.

7. Export Credit from Export-Import Bank of China: Export Buyer's Credit

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, our preliminary determination regarding the GOC's provision of Export Buyer's Credit is based on AFA. Thus, we determine that the GOC's provision of the Export Buyer's Credit confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Further, we determine on the basis of AFA that BTIC benefited from this program during the POR within the meaning of section 771(5)(E) of the Act. On this basis, consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for BTIC, a rate calculated for the same or similar program in another CVD proceeding involving imports from China.[138]

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[132] *See* Preliminary Calculation Memorandum.
[133] *See* BTIC December 28, 2017 IQR at 15-16 and Exhibit L.1.
[134] *See Steel Cylinders from China IDM* at 14.
[135] *See* GOC December 27, 2017 IQR at 74.
[136] *See* section 771(5)(E)(ii) of the Act.
[137] *See also* 19 CFR 351.505(c).
[138] *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 from China*) (revised rate for "Preferential Lending to the Coated Paper Industry" program).

8. Other Subsidy Programs

BTIC reported that it or a cross-owned company received various grants under other subsidy programs either during the POR or over the AUL.[139] As stated above in the section, "Use of Facts Otherwise Available and Adverse Inferences," Commerce has preliminarily determined that the grants provided to BTIC under the programs listed below are countervailable based upon the GOC's affirmative statement that they "are not challenging the countervailability of these programs."[140] BTIC received several grants that were expensed during the POR. The individual grants and their respective subsidy rates are as follows:

	Program Name	**Recipient Company**	**Subsidy Rate**
1	Government subsidies of Double Independent enterprises	BTIC	0.08%
2	Energy audit award of Beijing energy conservation and environmental protection center	BTIC	0.17%
3	Patent funding of Chaoyang District	BTIC	0.03%
4	Short-term export credit insurance premium support funds	BTIC	0.01%
5	Government subsidies for Beijing's foreign trade and economic cooperation	BTIC	0.05%
6	The National Development and Reform Commission, The withdrawal subsidies of the second batch polluting enterprises adjustment	BTIC	0.34%
7	Tianjin 8.12 explosion interest subsidy	Tianjin Tianhai	0.05%
8	Tianjin 8.12 explosion infrastructure (doors, windows, glass, etc.) subsidies	Tianjin Tianhai	0.09%
9	Grants for Chief technician studio of the Trade Technician College from Beijing Human Resources and Social Security Bureau	Jingcheng Holding	0.01%
10	Incentives for technical innovation	Jingcheng Holding	0.01%
11	Refund of Land Use Right Assignment Fee for Demolition and Relocation of Beijing Jingcheng Heavy Industry Co., Ltd.	Jingcheng Holding	0.23%
12	Refund of Land Use Right Assignment Fee for Demolition and Relocation Demolition and Relocation of Beijing Jingcheng Heavy Industry Co., Ltd.	Jingcheng Holding	0.09%
13	Refund of Land Use Right Assignment Fee for Beijing Switchgear Factory	Jingcheng Holding	0.08%
14	Refund of Land Use Right Assignment Fee for Demolition and Relocation of Factory located at the Third East Ring	Jingcheng Holding	0.09%

[139] *See* BTIC December 28, 2017 IQR at Exhibit O-1.
[140] *See* GOC May 21, 2018 SQR at 6.

15	Industry Adjustment Funds Handed in by Beijing Switchgear Factory	Jingcheng Holding	0.07%
16	Job Stabilization Subsidy	Langfang Tianhai	0.02%
17	Social Insurance Subsidies for SMEs that Recruit Graduates in the Period of Job-Hunting	Langfang Tianhai	0.02%

B. Programs Found to be Not Countervailable

1. Service Charge for Tax Collection

BTIC reported that it receives a fee from the GOC for its role in collecting income tax from its employees and remitting the tax to the GOC.[141] The requirement that BTIC fulfill this function, as well as the fee it receives for doing so, are provided for in Article 11 of the Individual Income Tax Law.[142] A government purchase of services does not constitute a financial contribution under section 771(5)(D) of the Act, which refers to "purchasing goods" only, and as explained in the *CVD Preamble*.[143] Based on the information provided, we conclude this represents a fee-for-service arrangement, or the direct reimbursement by the GOC for expenses imposed on the company under certain GOC tax collection policies. Therefore, we preliminarily determine that this program is not countervailable.

2. Compensation for Demolition and Relocation Concerning Land No. 10

BTIC reported that, in 2010, it received compensation based on a contractual agreement between the BTIC and the GOC for the government's demolition and required movement of factories on this land.[144] Consistent with Commerce's previous determination in *Tool Chests from China*,[145] absent an allegation that the compensation represents more than adequate remuneration, there is no basis to find a benefit to the respondent. We have not had such an allegation in this review. Thus, we preliminarily determine that this program is not countervailable.

C. Programs Preliminarily Determined Not to Confer a Measurable Benefit During the POR

Commerce preliminarily determines that the following programs did not confer a measurable benefit for the mandatory respondent during the POR:

[141] *See* BTIC December 28, 2017 IQR at 24.
[142] *Id*. at Exhibit O.2.
[143] *See CVD Preamble* at 63 FR 65348, 65351
[144] *Id*. at 25.
[145] *See Tool Chests from China: Final Affirmative Countervailing Duty Determination* and accompanying IDM at Comment 11.

1. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries[146]

2. Other Subsidies:
    a. Award for Beijing Industry and Trade Technician College
    b. Award for Tax Sources of 2012
    c. Boiler Improvement Grants Allocated by Environmental Sanitation Bureau
    d. Coal -fired Boilers Improvement Grants Allocated by Environmental Sanitation Bureau
    e. Compensation for Demolition and Relocation Concerning Fulicheng
    f. Compensation for Demolition and Relocation of Beijing Switchgear Factory
    g. Compensation Funds for Rearranged Workers handed in by subsidiaries
    h. Compensation Funds for Termination of Employment Agreement from Beijing First Machine Tool Plant
    i. Consolation Money from Beijing Veteran Cadres Bureau for the 70th Anniversary of the Victory of the Anti-Japanese War
    j. Employment Stabilization Subsidies
    k. Employment Stabilization Subsidies of Pilot Enterprises
    l. Enterprise Development Fund
    m. Finance Grants for Adjustment and Withdrawal of Enterprises in Disadvantages
    n. Finance Grants for Bankruptcy
    o. Finance Grants for Beijing Insulation Materials Factory
    p. First Secretary living allowance of State-owned Assets Supervision and Administration Commission
    q. Funds for Bankruptcy
    r. Funds of Compensation for Demolition and Relocation Handed in by Beijing Powder Metallurgy Research Institute
    s. Funds of Compensation for Demolition and Relocation Handed in by Beijing Switchgear Factory
    t. Golden Sun Project Subsidies from Ministry of Finance
    u. Golden Sun Project Subsidies from Municipal Finance Bureau
    v. House Allowance for Vacating Houses
    w. Housing Allowance Allocated by Bureau of Retired Veteran Cadres
    x. Housing Subsidies for Nonstandard Apartments and Non-matched Houses of Difficult Municipal Enterprise
    y. Industry Adjustment Fund for Beijing Forklift Factory
    z. Industry Adjustment Fund for Beijing Heavy-duty Electric Factory
    aa. Industry Adjustment Fund for Beijing Switchgear Factory
    bb. Industry Adjustment Fund for Beiren Group
    cc. Industry Adjustment Fund for Electric and Mechanical General Factory
    dd. Industry Adjustment Funds handed in by Beijing Switchgear Factory
    ee. Interest Discount from Finance Bureau
    ff. Local Education Funds from Municipal Finance Bureau

[146] *See* BTIC June 7, 2018 SQR at Exhibit S2-7.

gg. Project Special Funds
hh. Public Finance Budget Funds
ii. Refund of Land Use Right Assignment Fee for Beijing Heavy-duty Electric Factory
jj. Refund of Land Use Right Assignment Fee for Demolition and Relocation
kk. Refund of Land Use Right Assignment Fee for Demolition and Relocation of Beijing Electric and Mechanical General Factory
ll. Relocation Funds for Veteran Cadres
mm. Return of Enterprise Income Tax for Purchasing Equities of Beijing Huade Hydraulic Industrial Co., LTD.
nn. Scientific Research Subsidy for 3D Printing Project
oo. Special Funds for Project
pp. Special Funds for Project (Supporting Plan Project)
qq. Special Personnel and Labor Supporting Funds for Beijing Jingcheng Environment Protection Co., Ltd.
rr. Subsidies for Electrical and Mechanical Quality Monitoring Center
ss. Subsidies for Science and Technology Innovation Projects of 2011 from Municipal Finance Bureau
tt. Subsidies to Employees of Financial Straits for Holidays from Municipal Finance Bureau
uu. Transformation Housing Subsidies for Electrical and Mechanical Research Institute

D. Programs Preliminarily Determined to be Not Used During the POR

Commerce preliminarily determines that the following programs were not used by BTIC during the POR:

1. Provision of Land and/or Land Use Rights to SOEs at LTAR
2. "Two Free, Three Half" Program for Foreign-Invested Enterprises (FIEs)
3. Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone
4. Subsidies Provided in the Tianjin Binhai New Area (TBNA) and the Tianjin Economic and Technological Development Area
5. Beijing Industrial Development Fund
6. Loan and Interest Forgiveness for SOEs
7. The State Key Technology Renovation Project Fund
8. Circular on Issuance of Foreign Trade Development Support Fund
9. Rebates for Export and Credit Insurance Fees
10. GOC and Sub-Central Grants, Loans, and Other Incentives for Development of Famous Brands and China Top World Brands
11. Preferential Lending to Steel Product Producers Under the Ninth Five-Year Plan
12. Treasury Bond Loans
13. Preferential Lending to Steel Cylinders Producers and Exporters Classified as "Honorable Enterprises"
14. Income Tax Reductions for Export-Oriented FIEs
15. Preferential Tax Programs for FIEs that are Engaged in Research and Development

16. Income Tax Reduction for FIEs that Reinvest Profits in Export-Oriented Enterprises
17. Local Income Tax Exemption and reduction Programs for "Productive" FIEs
18. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
19. VAT Refunds for FIEs Purchasing Domestically Produced Equipment
20. VAT Exemptions for Central Region
21. Provision of Welded Tube Steel for LTAR
22. Export Credit from Export-Import Bank of China: Export Sellers's Credit

IX. DISCLOSURE AND PUBLIC COMMENT

We intend to disclose to parties in this proceeding the calculations performed in reaching the preliminary results within five days of the publication of these preliminary results.[147] Interested parties may submit written comments (case briefs)[148] 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.[149] Rebuttal briefs must be limited to issues raised in the case briefs.[150]

Parties who submit case briefs or 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.[151] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days of publication of these preliminary results in the *Federal Register*. 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 intend to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a date, time, and location to be determined.[152]

Parties must file their case and rebuttal briefs and any hearing requests, electronically using ACCESS. Electronically filed documents must be 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, we intend 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.

[147] *See* 19 CFR 351.224(b).
[148] *See generally* 19 CFR 351.303 (for general filing requirements).
[149] *See* 19 CFR 351.309(c)(1)(ii)(d)(1).
[150] *See* 19 CFR 351.309(d)(2).
[151] *See* 19 CFR 351.309(c)(2), (d)(2).
[152] *See* 19 CFR 351.310.

X. CONCLUSION

Based on our analysis, we recommend adopting the preliminary results described above. If this recommendation is accepted, we will publish the preliminary results of review in the *Federal Register*.

☒	☐
Agree	Disagree

7/3/2018

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