C-570-085
Investigation
POI: 1/1/2017 – 12/31/2017
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September 14, 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: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain quartz surface products (quartz surface products) from the People's Republic of China (China), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On April 16, 2018, Commerce received a countervailing duty (CVD) petition concerning imports of quartz surface products from China, filed in proper form, on behalf of Cambria Company LLC (the petitioner).[1] The CVD petition was accompanied by an antidumping duty (AD) petition concerning quartz surface products from China. We describe the supplements to the petition in

[1] *See* "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Quartz Surface Products from the People's Republic of China," dated April 17, 2018 (petition).

the CVD Initiation Checklist.[2] On May 16, 2018, we published the initiation of the CVD investigation of quartz surface products from China.[3]

On May 31, 2018, we released the U.S. Customs and Border Protection (CBP) entry data under administrative protective order (APO), and requested comments regarding the data and respondent selection.[4] We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on CBP entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.[5]

On June 9, 2017, pursuant to section 777A(E)(2) of the Act and 19 CFR 351.204(c)(2), we selected Fasa Industrial Corporation Limited (Fasa Industrial) and Foshan Yixin Stone Co., Ltd. (Foshan Yixin) as mandatory respondents.[6] On June 8, 2018, we issued the CVD questionnaire to the Government of China (GOC), with instructions to forward the questionnaire to the mandatory respondents.[7]

Fasa Industrial did not submit its response to the "affiliated companies" section of the CVD questionnaire by the established deadline, nor did it request an extension of this deadline.[8] As a result, on June 26, 2018, we selected the next largest producer and/or exporter of subject merchandise during the POI, Foshan Hero Stone Co., Ltd. (Hero Stone), for individual examination as an additional mandatory respondent in this investigation.[9] On June 27, 2018, and July 13, 2018, we received timely responses to the "affiliated companies" section of the CVD questionnaire from Foshan Yixin and Hero Stone, respectively.[10]

Also on July 13, 2018, we received a timely response to Commerce's CVD questionnaire from Foshan Yixin.[11] On July 23, 2018, we received a timely questionnaire response from the GOC.[12]

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[2] *See* Countervailing Duty Investigation Initiation Checklist: Certain Quartz Surface Products from the People's Republic of China, dated May 7, 2018 (CVD Initiation Checklist).
[3] *See Certain Quartz Surface Products from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 22618 (May 16, 2018) (*Initiation Notice)*.
[4] *See* Commerce Letter re: Countervailing Duty Investigation of Certain Quartz Surface Products: Customs Data for Use in Respondent Selection, dated May 31, 2018.
[5] See *Initiation Notice*, 82 FR at 22621.
[6] *See* Memorandum, "Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China: Respondent Selection," dated June 7, 2018 (Respondent Selection Memorandum).
[7] *See* Commerce Letter re: Certain Quartz Surface Products from the People's Republic of China: Countervailing Duty Questionnaire, dated June 8, 2018 (Initial CVD Questionnaire).
[8] As stated below in the "Application of Total AFA" section, Fasa Industrial did not respond to our initial CVD questionnaire by the established deadline, nor did it submit any request for extension for either portion of its response.
[9] *See* Memorandum, "Selection of Third Individually-Examined Respondent in the Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China," dated June 26, 2018.
[10] *See* Foshan Yixin's June 27, 2018 Affiliation Response; and Hero Stone's July 13, 2018 Affiliation Response.
[11] *See* Foshan Yixin's July 23, 2018 Initial Questionnaire Response (Foshan Yixin July 23, 2018 IQR).
[12] *See* GOC July 23, 2018 Initial Questionnaire Response (GOC July 23, 2018 IQR); *see also* GOC's August 9, 2018 Initial Questionnaire Response.

In July and August 2018, Commerce issued supplemental questionnaires to Foshan Yixin and the GOC, and we received timely responses from July through September 2018.[13]

On August 6, 2018, the petitioner timely filed new subsidy allegations (NSAs).[14] On August 9, 2018, we received a timely questionnaire response from Hero Stone.[15] On August 14, 2018, the petitioner timely filed additional NSAs regarding Hero Stone.[16] On August 15, 2018, the petitioner, the GOC, and Hero Stone submitted data for Commerce to consider using as benchmarks in the less than adequate remuneration (LTAR) and loan program subsidy rate calculations.[17] On August 27, 2018, Hero Stone submitted rebuttal benchmark information.[18]

On September 7, 2018, we initiated an investigation of the NSAs alleged by the petitioner, and on this same date, we issued questionnaires regarding these NSAs to the GOC, Foshan Yixin, and Hero Stone.[19]

B. Postponement of Preliminary Determination

On June 29, 2018, based on a request by the petitioner,[20] Commerce postponed the deadline for the preliminary determination until September 14, 2018, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(e).[21]

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[13] *See* Commerce Letter re: First Supplemental Questionnaire for Foshan Yixin, dated July 10, 2018 (Foshan Yixin First SQ); Foshan Yixin's August 16, 2018 First Supplemental Questionnaire Response (Foshan Yixin August 16, 2018 SQR); Commerce Letter re: First Supplemental Questionnaire for GOC, dated August 9, 2018 (GOC First SQ); GOC's August 22, 2018 First Supplemental Questionnaire Response (GOC August 22, 2018 SQR); Commerce Letter re: Second Supplemental Questionnaire for GOC, dated August 24, 2018 (GOC Second SQ); and GOC's September 4, 2018 Second Supplemental Questionnaire Response (GOC September 4, 2018 SQR).
[14] *See* petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Additional Subsidy Allegations and Request for Extension of Time," dated August 6, 2018.
[15] *See* Hero Stone's Letter, "Certain Quartz Surface Products from the People's Republic of China: Initial Questionnaire Response and Response to Supplemental Questions Regarding Notification of Difficulty," dated August 9, 2018 (Hero Stone August 9, 2018 IQR).
[16] *See* petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Additional Subsidy Allegations regarding Hero-Stone," dated August 14, 2018.
[17] *See* petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Submission of Benchmark Data," dated August 15, 2017 (Petitioner's Submission of Benchmark Data); GOC's Letter, "GOC Benchmark Submission: Countervailing Duty Investigation on Quartz Surface Products from People's Republic of China (C-570-085)," dated August 15, 2018; Hero Stone's Letter, "Quartz Surface Products from the People's Republic of China: Factual Information Concerning the Adequacy of Remuneration," dated August 15, 2018 (Hero Stone Submission of Benchmark Data).
[18] *See* Hero Stone's Letter, "Quartz Surface Products from the People's Republic of China: Rebuttal and Clarification to Factual Information Concerning the Adequacy of Remuneration," dated August 27, 2018.
[19] *See* Commerce's Letter re: Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China: New Subsidy Allegations Questionnaire, dated September 7, 2018.
[20] *See* petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Request to Postpone Preliminary Determination," dated June 11, 2018.
[21] *See Certain Quartz Surface Products from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 30699 (June 29, 2018).

C. Period of Investigation

The period of investigation (POI) is January 1, 2017, through December 31, 2017.

III. INJURY TEST

Because China is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On June 6, 2018, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of quartz surface products from China.[22]

IV. APPLICATION OF THE CVD LAW TO IMPORTS FROM CHINA

On October 25, 2007, Commerce published its final determination in *CFS from China*, where we found that:

> {G}iven the substantial differences between the Soviet-style economies and China's economy in recent years, Commerce's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.[23]

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[24] Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that Commerce has the authority to apply the CVD law to countries designated as non-market economies (NMEs) under section 771(18) of the Act, such as China.[25] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[26]

V. DIVERSIFICATION OF CHINA'S ECONOMY

Concurrently with this decision memorandum, we are placing the following excerpts from the China Statistical Yearbook from the National Bureau of Statistics of China on the record of this investigation: 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.[27] This information

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[22] *See Certain Quartz Surface Products from China; Determinations*, 82 FR 26307 (June 6, 2018).
[23] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying Issues and Decision Memorandum (IDM) at Comment 6.
[24] *See, e.g., Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from China*), and accompanying IDM at Comment 1.
[25] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[26] *See* Public Law 112-99, 126 Stat. 265 §1(b).
[27] *See* Additional Documents Memorandum.

reflects a wide diversification of economic activities in China. The industrial sector in China alone is comprised of 37 listed industries and economic activities, indicating the diversification of China's economy.

VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, select from among the "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) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, 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."[28] 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."[29]

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."[30] It is Commerce's practice to consider information to be corroborated if it has probative value.[31] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and

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[28] *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).
[29] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199.
[30] *See, e.g.*, SAA at 870.
[31] *Id.* at 870.

relevance of the information to be used.[32] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[33]

In a CVD investigation, Commerce requires information from both the foreign producers and exporters of the merchandise under investigation and the government of the country where those producers and exporters are located. When the government fails to provide requested and necessary information concerning alleged subsidy programs, Commerce, in selecting from among the facts otherwise available with an adverse inference, may find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, Commerce will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit conferred, to the extent that those records are useable and verifiable.

Otherwise, 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 AFA 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 non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[34] For purposes of this preliminary determination, we are applying AFA in the circumstances outlined below.

B. Application of Total AFA: Fasa Industrial

As discussed in the "Initiation and Case History" section above, we selected Fasa Industrial as a mandatory respondent in this investigation, but the company failed to provide a response to either the "affiliated companies" section of the CVD questionnaire or the initial CVD questionnaire, by the established deadlines; moreover, Fasa Industrial did not submit requests for extension for either portion of its response. Therefore, we preliminarily find that Fasa Industrial withheld information that had been requested and failed to provide information within the established deadlines. Moreover, the GOC did not respond to our initial CVD questionnaire with respect to Fasa Industrial. By not responding to any portion of the CVD questionnaire, Fasa Industrial and the GOC significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we based the CVD rate for this company and our findings regarding specificity and financial contribution by the GOC by selecting from among the facts otherwise available on the record.

Moreover, we preliminarily determine that an AFA is warranted, pursuant to section 776(b) of the Act, because by failing to respond to any portion of the CVD questionnaire and not participating in this investigation, Fasa Industrial did not cooperate to the best of its ability to comply with Commerce's requests for information pursuant to section 776(b) of the Act. Accordingly, we preliminarily determine that the use of an adverse inference in selecting from

[32] *Id.* at 869.
[33] *Id.* at 869-870.
[34] *See* section 776(d)(3) of the Act.

among the facts otherwise available is warranted to ensure that this company does not obtain a more favorable result by failing to cooperate than if it had complied with our requests for information.

As facts otherwise available with an adverse inference, we find that all programs in this proceeding are countervailable with respect to Fasa Industrial – that is, they provide a financial contribution within the meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of sections 771(5)(B) and (E) of the Act, and are specific within the meaning of section 771(5A) of the Act. Therefore, we are including each of these programs in the determination of the AFA rate for Fasa Industrial.[35] We selected an AFA rate for each of these programs based on the statutory hierarchy provided in section 776(d) of the Act and in accordance with Commerce's practice, and we included them in the determination of the AFA rate applied to Fasa Industrial. Commerce has previously countervailed these or similar programs. For a description of the selection of the AFA rate and our corroboration of this rate, *see* below under "Selection of the AFA Rate" and "Corroboration of the AFA Rate."

C. Application of Total AFA: Hero Stone

As discussed above in the section "Initiation and Case History," we selected Hero Stone as an additional mandatory respondent in this investigation after Fasa Industrial failed to respond to the initial CVD questionnaire. On July 3, 2018, counsel for Hero Stone met with Commerce officials to discuss Hero Stone's difficulties in responding to Commerce's requests for information.[36] On July 11, 2018, Hero Stone submitted a letter explaining its difficulty in responding to Commerce's initial CVD questionnaire.[37] In its letter, Hero Stone explained that it lacks "sophisticated accounting systems typically possessed by mandatory respondents in the Department's trade remedy proceedings."[38] Moreover, Hero Stone stated that it has only been in operation since 2014 and is still establishing internal accounting and finance systems.[39] However, the petitioner has provided information demonstrating that Hero Stone has been in operation since at least 2005.[40] Hero Stone also stated that its companies' accounting functions are managed primarily on a cash flow basis.[41,42]

[35] *See* Appendix, "AFA Rate Calculation."
[36] *See* Memorandum, "*Ex Parte* Meeting with Hogan Lovells US LLP," dated July 3, 2018.
[37] *See* Hero Stone's Letter, "Quartz Surface Products from the People's Republic of China: Notification of Difficulty in Responding to Questionnaire," dated July 11, 2018 (Hero Stone's Notification of Difficulty).
[38] *Id*. at 2.
[39] *Id*.
[40] *See* petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Response to Notice of Difficulties of Foshan Hero Stone Co., Ltd.," dated July 17, 2018, at 3.
[41] *See* Hero Stone's Notification of Difficulty at 3.
[42] Because many of the details regarding Hero Stone's records and accounting systems are business proprietary information that cannot be discussed here, for a detailed discussion regarding the specific deficiencies in Hero Stone's records and accounting systems, *see* Memorandum, "Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China: Additional Analysis Regarding Preliminary Determination to Apply Adverse Facts Available to Foshan Hero Stone Co., Ltd.," dated September 14, 2018 (Hero Stone BPI Memo).

Following Hero Stone's notification of its difficulty in submitting information in the form and manner requested in Commerce's CVD questionnaire, we requested that Hero Stone explain: 1) what alternative methods it had considered in responding to Commerce's CVD questionnaire; and 2) why it believed that relying on the information recorded in Hero Stone's bank statements was the best option available to Hero Stone to provide Commerce with a complete and verifiable response.[43] In its response, Hero Stone indicated that its proposed methodology was "not only an appropriate resource, but also the best and only feasible option available that can be relied upon to develop and report the detailed data and information required by {Commerce} in this investigation."[44] However, we disagree with Hero Stone that this option is feasible. Given the issues Hero Stone raises with its accounting systems and books and records, discussed in the Hero Stone BPI Memo, it is not possible for us to determine accurately the amount of countervailable benefits Hero Stone and its cross-owned affiliates received during the POI.

Under section 776(a) of the Act, Commerce may make a determination based on facts available if, among other reasons, a party significantly impedes a proceeding,[45] or provides information but the information cannot be verified.[46] We preliminarily find that, because of its self-described inadequate record keeping, the information provided cannot be verified. Accordingly, we also find that Hero Stone significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(C) and (a)(2)(D) of the Act, we based the net subsidy rate for this company and our findings regarding specificity and financial contribution by the GOC on the facts otherwise available.

Moreover, we preliminarily determine that an adverse inference in selecting from among the facts otherwise available is warranted, pursuant to section 776(b) of the Act, because by failing to keep adequate books and records, Hero Stone did not cooperate to the best of its ability. Hero Stone made a decision to begin producing and exporting subject merchandise before having established functional books and records. Hero Stone could have prioritized establishing functional books and records but chose not to do so. As a result of that decision, Hero Stone cannot cooperate to the best of its ability. While the Court of Appeals for the Federal Circuit has held that Commerce's "best of its ability" standard does not require perfection, "it does not condone inattentiveness, carelessness, or inadequate record keeping."[47] Therefore, given Hero Stone's inadequate record keeping, there is no way for Commerce to verify its reported information; accordingly, we preliminarily determine that the use of AFA is warranted.

As facts otherwise available with an adverse inference, we find that all programs in this proceeding are countervailable with respect to Hero Stone – that is, they provide a financial contribution within the meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of sections 771(5)(B) and (E) of the Act, and are specific within the meaning of section 771(5A) of the Act. Therefore, we are including each of these programs in the

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[43] *See* Commerce's Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China," dated August 1, 2018.
[44] *See* Hero Stone August 9, 2018 IQR at 1 and 5.
[45] *See* section 776(a)(2)(C) of the Act.
[46] *See* section 776(a)(2)(D) of the Act.
[47] *See Nippon Steel Corp. v. United States*, 337 F.3d 1377, 1382 (Fed. Cir. 2003).

determination of the AFA rate for Hero Stone.[48] We selected an AFA rate for each of these programs and included them in the determination of the AFA rate applied to Hero Stone. Commerce has previously countervailed these or similar programs.

Selection of the AFA Rate

It is our practice in CVD proceedings to determine an AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.[49] When selecting AFA rates, section 776(d) of the Act provides that Commerce may use a countervailable subsidy rate determined for the same or a similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.[50] Accordingly, when selecting AFA rates, if we have cooperating respondents, as in this investigation, we first determine if there is an identical program in the instant investigation and use the highest calculated rate for the identical program. If there is no identical program for which we calculated a subsidy rate above zero for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).[51] If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any

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[48] *See* Appendix, "AFA Rate Calculation." We note that while we are including Foshan Yixin's self-reported subsidy programs in the AFA rate calculation, we are not including any subsidy programs self-reported by Hero Stone because, as discussed above, we are unable to rely on its reported information.

[49] *See, e.g., Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Affirmative Countervailing Duty (CVD) Determination, Alignment of Final CVD Determination with Final Antidumping Duty Determination, and Preliminary CVD Determination of Critical Circumstances*, 83 FR 17651 (April 23, 2018), and accompanying PDM at "X: Use of Facts Otherwise Available and Adverse Inferences: Application of Total AFA: Chalco Ruimin and Chalco-SWA"; *see also Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions Final*), and accompanying IDM at "VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies"; *see also Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009), and accompanying IDM at "Application of Facts Available, Including the Application of Adverse Inferences."

[50] *See also Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China)*, and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

[51] For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. *See, e.g., Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.[52]

In applying AFA to determine a net subsidy rate for Fasa Industrial and Hero Stone, we applied the methodology detailed above. We began by selecting, as AFA, the highest calculated program-specific above-zero rates determined for Foshan Yixin in the instant investigation. Accordingly, we applied the subsidy rate calculated for Foshan Yixin for the following programs:

- Provision of Polyester Resin for LTAR
- Provision of Quartz for LTAR
- Provision of Electricity for LTAR
- Policy Loans to the Quartz Surface Products Industry
- 2016 Market Development Assistance (Special Fund for Domestic & Foreign Economic and Trade Development)
- 2016 Guangdong Province High-Tech Enterprise Assistance
- Foshan City's Subsidy for Recognition as High-Tech Enterprises
- Special Award for Guangdong Province's Stable Growth Structure (2016)
- High and New Technology Enterprise for Education and Training
- Gaoming District Engineering Center Assistance

In determining an AFA rate for the following income tax reduction programs on which Commerce initiated an investigation, we are finding, as AFA, that Fasa Industrial and Hero Stone paid no Chinese income tax during the POI:

- Preferential Income Tax Reductions for High and New Technology Enterprises (HNTEs)
- Preferential Deduction of Research & Development (R&D) Expenses for HNTEs
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
- Preferential Income Tax Subsidies for High or New Technology Foreign Invested Enterprises (FIEs)
- Income Tax Benefits for Domestic Enterprises Engaging in R&D
- Foshan High-Tech Industrial Development Zone Income Tax Subsidies
- Fujian Pilot Free Trade Zone Payments of Income Tax

The standard income tax rate for corporations in China in effect during the POI was 25 percent.[53] Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the seven programs, combined, provide a 25 percent benefit). Consistent with Commerce's practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or

[52] *See Shrimp from China* IDM, at 13-14.
[53] *See* CVD Initiation Checklist at 14.

import tariff and value-added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.[54]

For all other programs not identified above, we are applying, where available, the highest above *de minimis* subsidy rate calculated for the same or comparable programs in a CVD proceeding involving China. For this preliminary determination, we are able to match, based on program names, descriptions, and treatment of the benefit, the following programs to the same or similar programs from other CVD proceedings involving China:

Same programs:

- Export Loans
- Export Seller's Credits
- Export Buyer's Credits
- Preferential Loans for State-Owned Enterprises (SOEs)
- Loan and Interest Forgiveness for SOEs
- Preferential Deduction of Research and Development Expenses for High or New Technology Enterprises
- Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Provision of Land Use Rights for LTAR
- Provision of Land to SOEs for LTAR
- The State Key Technology Project Fund
- Export Assistance Grants
- Subsidies for Development of Famous Export Brands and China World Top Brands
- Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
- Export Credit Insurance Subsidies
- Export Credit Guarantees

Similar programs:

- Foshan High-Tech Industrial Development Zone Duty Exemption
- Foshan High-Tech Industrial Development Zone City Maintenance Fee Exemption
- Foshan High-Tech Industrial Development Zone Land Use Reductions
- Fujian Pilot Free Trade Zone Tariff and VAT Exemptions
- Fujian Pilot Free Trade Zone Port Tax Refund Policy
- Fujian Pilot Free Trade Zone Liberalization of Interest Rates

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for Fasa Industrial and Hero Stone to be 178.45 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

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[54] *See, e.g.*, *Aluminum Extrusions Final* IDM, at "Application of Adverse Inferences: Non-Cooperative Companies."

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, 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 defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[55] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[56]

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.[57] Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[58]

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.[59]

Commerce has reviewed the information concerning China subsidy programs in this and other proceedings. We find that, where we are applying a rate for the same or similar program, these rates are relevant to the programs in this case because they are actual calculated CVD rates for subsidy programs in China from which Fasa Industrial and Hero Stone could actually receive a benefit. Thus, we are applying subsidy rates which were calculated in this investigation or previous Chinese CVD investigations or administrative reviews. Therefore, we have corroborated pursuant to section 776(c)(1) of the Act to the extent practicable for purposes of this investigation.

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

As discussed in the section below under "Programs Preliminarily Determined to be Countervailable," Commerce is investigating the provision of polyester resin and quartz for LTAR by the GOC. We requested that the GOC provide the information necessary to determine

[55] *See* SAA at 870.
[56] *Id*.
[57] *Id*. at 869-870.
[58] *See* section 776(d) of the Act.
[59] *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

whether the specific companies that produced the polyester resin and quartz that Foshan Yixin purchased during the POI are "authorities" within the meaning of section 771(5)(B) of the Act.[60] In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.[61]

In our initial questionnaire, we asked the GOC to "{p}lease coordinate immediately with the company respondents to obtain a complete list of each company's input producers."[62] The GOC identified several companies that produced polyester resin and quartz purchased by Foshan Yixin during the POI.[63] The GOC stated that all of these companies are wholly privately-owned entities.[64] However, in its initial questionnaire response, the GOC provided only some of the information requested in the standard Input Producer Appendix used to determine the extent of the GOC control, if any, over these producers.[65] For example, the information the GOC provided lacked requested information regarding Foshan Yixin's input producers, including Articles of Incorporation, Capital Verification reports, Articles of Groupings, company by-laws, Articles of Association, business licenses, and tax registration documents.[66] When we asked the GOC to provide this information in a supplemental questionnaire, the GOC stated that "{g}iven the limited resources and timeframe available to the GOC, the GOC did not have time to translate the documents requested above for all the suppliers. In any event, the GOC does not see the requested documents as necessary for {Commerce's} analysis of the inputs for LTAR programs."[67] Additionally, the GOC stated that, because some of these input producers are individual industrial and commercial households, which are citizens engaging in business operations, it is not possible that these entities are owned by the GOC.[68] Therefore, we requested that the GOC provide us with ownership information for these industrial and commercial households, including Articles of Incorporation, Annual Reports, and company by-laws.[69] The GOC responded by stating that it "did not see the requested documents as necessary for {Commerce's} analysis of the inputs of LTAR programs."[70]

At the outset, we note that, instead of providing information for the producers of the inputs as requested, the GOC included registration information of the companies from whom Foshan Yixin purchased the inputs, which, in many cases, were trading companies.[71] We requested

[60] *See* Initial CVD Questionnaire at section II. *See also* GOC August 22, 2018 SQR at 21-27.
[61] *See e.g., CWP from China* IDM at "Hot-Rolled Steel for Less Than Adequate Remuneration"; and *Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying IDM at "Provision of Wire Rod for Less Than Adequate Remuneration."
[62] *See* Initial CVD Questionnaire at Section II, 9.
[63] *See* GOC July 23, 2018 IQR at Exhibit II.E.1 and GOC August 22, 2018 SQR at Exhibit S-LTAR.5.
[64] *See* GOC July 23, 2018 IQR at 17 and 51.
[65] *See* GOC July 23, 2018 IQR at 18-22 52-57 and Exhibits II.E.1-2 and II.E.15-16.
[66] *Id.* at Exhibits II.E.1-2 and II.E.15-16.
[67] *See* GOC August 22, 2018 SQR at 21 and 26.
[68] *Id*. at 54.
[69] *See* GOC First SQ at 3-4.
[70] *See* GOC August 22, 2018 SQR at 26.
[71] *See* GOC July 23, 2018 IQR at Exhibits II.E.2 and II.E.16.

again that the GOC provide this information for Foshan Yixin's input producers; however, the GOC again failed to provide this information in its supplemental questionnaire response.[72] Consequently, we once again requested that the GOC provide the articles of incorporation and capital verification reports of Foshan Yixin's input producers.[73] Despite our requests, the GOC did not provide the articles of incorporation and capital verification reports for any of these enterprises.[74] Consequently, due to the GOC's failure to provide the requested information, the record is incomplete regarding the full extent to which the GOC may exercise meaningful control over these entities and use them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.

Regarding the entities that the GOC identified as input producers for Foshan Yixin, we asked the GOC to provide information about the involvement of the Chinese Communist Party (CCP) in each of these companies, including whether individuals in management positions are CCP members, in order to evaluate whether the privately-owned input suppliers are "authorities" within the meaning of section 771(5)(B) of the Act.[75] While the GOC provided a long narrative explanation of the role of the CCP, when asked to identify any owners, members of the board of directors, or managers of the input suppliers who were government or CCP officials during the POI, the GOC stated that: 1) these questions are irrelevant to this proceeding and do not go to whether these suppliers at issue are "public bodies;" and 2) there is no central informational database to search for the requested information.[76]

Moreover, in response to Commerce's initial questions in the Input Producer Appendix, the GOC provided copies of registration information for the input suppliers obtained from the Enterprise Credit Information Publicity System (ECIPS).[77] At the outset, we note that Commerce has previously verified the operation of the GOC's ECIPS and determined that it requires that the administrative authorities release detailed information of enterprises and other entities and is intended to bring clarity to companies registered in China.[78] We also note that the GOC has explained to Commerce in the past that this system is a national-level internal portal which went into effect in 2014.[79] Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC confirmed in its initial questionnaire response that:

> {p}ursuant to Article 3.1 of {the *Circular of the State Council on Printing and Issuing the Reform Proposals for the Registered Capital Registration System*, the

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[72] *See* GOC August 22, 2018 SQR at 1-2.
[73] *See* GOC First SQ at 21-22.
[74] *See* GOC September 4, 2018 SQR at 2.
[75] *See* Initial CVD Questionnaire at Section II, 27-28.
[76] GOC July 23, 2018 IQR at 25-34 and 60-70.
[77] *See* GOC July 23, 2018 IQR at Exhibits II.E.2 and II.E.16.
[78] *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 (PDM) 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).
[79] *Id*.

> ECIPS} was established requiring the authorities for administrations for industry and commerce to publish details regarding the registration, filings, supervision and administration of enterprises and other entities. Therefore, the information obtained from ECIPS is authoritative evidence of the ownership structure of enterprises in China.[80]

The GOC also explained that it monitors the accuracy of the information provided by enterprises by selective examination.[81] Based on the GOC's response and Commerce's previous finding, it is evident that ECIPS is a government-run portal, and it is accessible and at the disposal of the GOC.

The information we requested regarding the role of CCP officials in the management and operations of these input producers is necessary to our determination of whether these input producers are "authorities" within the meaning of section 771(5)(B) of the Act.[82] Despite our repeated efforts to determine whether a CCP committee, branch, or "primary organization" has been formed within input producer enterprises, the GOC refused to provide us with such information, instead repeatedly asserting that CCP, National/Provincial/Local People's Congresses and CPPCC do not constitute governmental agencies, and further, "{e}ven if an owner, a director, or a manager of a supplier is a member or representative of any of these organizations, this circumstance would not make the management and business operations of the company in which he/she serves subject to any intervention by the GOC."[83]

As we explained in the Additional Documents Memorandum,[84] we understand the CCP to exert significant control over economic activities in China. Thus, Commerce finds, as it has in prior CVD proceedings,[85] that the information requested regarding the role of CCP officials and CCP committees in the management and operations of Foshan Yixin's privately-owned input suppliers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.

Therefore, as a result of the GOC's incomplete responses to our initial and supplemental questionnaires regarding the specific companies that produced the inputs that Foshan Yixin purchased during the POI, we determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that necessary information is not available on the record, that the GOC withheld information requested by us, and that the GOC significantly impeded this proceeding.[86] Further, as a result of these incomplete responses, we determine in accordance with section 776(b) of the Act that the GOC failed to cooperate to the best of its ability. As explained in the

[80] *See* GOC July 23, 2018 IQR at 18.
[81] *Id*. at Exhibit II.E.3.
[82] *See* Memorandum, "Countervailing Duty Investigation of Quartz Surface Products from the People's Republic of China: Public Bodies Memorandum," dated concurrently with this memorandum (Public Bodies Memorandum).
[83] *See* GOC July 23, 2018 IQR at 25-29; *see also* GOC September 4, 2018 SQR at 3.
[84] *See* Additional Documents Memorandum at Attachment III, which includes the Public Body Memorandum and its attachment, the CCP Memorandum.
[85] *See Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012,* 79 FR 78799 (December 31, 2014), and accompanying IDM at Comment 5.
[86] *See* section 776(a)(2)(A) of the Act.

Public Body Memorandum, an entity with significant CCP presence on its board or in management or in party committees may be controlled such that it possesses, exercises or is vested with governmental authority.[87] Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminary find that the Chinese domestic input producers that supplied Foshan Yixin with polyester resin and quartz during the POI are "authorities" within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rates for Foshan Yixin, *see* "Provision of Inputs for LTAR."

E. Application of AFA: Inputs are Specific

For purposes of Commerce's *de facto* specificity analysis, we asked the GOC to provide a list of industries in China that purchase polyester resin and quartz.[88] In response to our questions concerning specificity, the GOC stated that "no specificity exists in the provision of polyester resin {and quartz}. There are a vast number of uses for polyester resin {and quartz}, and the type of customers that may purchase polyester resin {and quartz are} highly varied within China's economy. The GOC does not impose any limitation on the consumption of polyester resin {or quartz} by law or by policy."[89]

Commerce asked the GOC to provide a list of industries in China that purchase polyester resin and quartz directly, and to provide the amounts (volume and value) purchased by each of the industries. Commerce requests such information for purposes of its *de facto* specificity analysis. Specifically, our questionnaire asked the GOC to:

> Provide a list of the industries in China that purchase {inputs} directly, 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 investigation are classified.[90]

The GOC provided examples of industries that used polyester resin and quartz,[91] an excerpt of a research report of the unsaturated polyester resin standard industry, and an excerpt from the People's Republic of China Building Materials Industry Standard for artificial stone.[92]

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[87] *See, e.g.*, Additional Documents Memorandum at Attachment III: Public Body Memorandum at 5.
[88] *See* Initial CVD Questionnaire at Section II, 11 and 13.
[89] *See* GOC July 23, 2018 IQR at 17 and 52.
[90] *See* Initial CVD Questionnaire at Section II, 11 and 13-14.
[91] *See* GOC July 23, 2018 IQR at 44-45 and 78-79.
[92] *Id*. at Exhibit II.E.23 and II.E.24. We note that neither the polyester resin research report nor the artificial stone industry standard excerpt was provided in English, and in response to our request for this information, the GOC

However, we find that the information submitted by the GOC is insufficient because it does not report all of the Chinese industries that purchased polyester resin and quartz and the volume and value of each industry's respective purchase for the POI, as we requested. The GOC stated that it does not collect official data regarding the industries in China that purchase polyester resin and/or quartz directly.[93]

Therefore, consistent with past proceedings,[94] we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that necessary information is not available on the record, that the GOC has withheld information that was requested of it, and that the GOC significantly impeded this proceeding. Thus, we are relying on "facts available" in making our preliminary determination. Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate to the best of its ability to comply by failing to provide us with requested information regarding the industries that purchase polyester resin and quartz. Consequently, an adverse inference in selecting from among the facts otherwise available is warranted. In so doing, we find that the GOC's provisions of polyester resin and quartz are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

F. Application of AFA: Input Industry Distortions

As discussed above, there are two inputs-for-LTAR programs in this investigation, involving polyester resin and quartz. Commerce requested that the GOC provide information concerning each of these industries in China for the POI. Specifically, we requested that the GOC provide the following information for each input:[95]

a. The total number of producers.
b. The total volume and value of Chinese domestic consumption of {input} and the total volume and value of Chinese domestic production of {input}.
c. The percentage of domestic consumption accounted for by domestic production.
d. The total volume and value of imports of {input}.
e. The percentage of total volume and (separately) value of domestic production that is accounted for by companies in which the Government maintains a majority ownership or a controlling management interest, either directly or through other Government entities. Please also provide a list of the companies that meet these criteria.

Commerce requested such information to determine whether the GOC is the predominant provider of these inputs in China and whether its significant presence in the market distorts all

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translated only the subheadings of these documents. *See* GOC August 22, 2018 SQR at 24 and Exhibits S-LTAR.3 and S-LTAR.4.

[93] *Id*. at 44 and 78.

[94] *See, e.g., Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44562 (September 25, 2017), and accompanying PDM at 22-24, unchanged in *Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 58175 (December 11, 2017).

[95] *See* Initial CVD Questionnaire at Section II, 9-10 and 12-13.

transaction prices. With respect to both inputs, the GOC claimed that "{n}either {the National Bureau of Statistics} nor relevant Associations collect data specific to {inputs}," but rather provided us with data for the statistical categories closest to polyester resin and quartz, which the GOC considers to be primary plastics and natural stone, respectively.[96] The information provided by the GOC regarding primary plastics indicates that China produced 81 percent of the primary plastics it consumed in 2017 and, therefore, 19 percent of primary plastics consumed in 2017 was imported.[97] Further, 48 percent of domestic consumption of primary plastics in 2017 is from companies the GOC identified as majority SOEs (*i.e.*, majority-owned primary plastics producers).[98] Regarding natural stone, the information provided by the GOC indicates that China produced nearly 100 percent of the natural stone it consumed in 2017, and therefore, almost none of natural stone it consumed in 2017 was imported.[99] Further, one percent of domestic consumption of natural stone in 2017 is from companies the GOC identified as majority SOEs (*i.e.*, majority-owned natural stone producers).[100]

Because the GOC provided an insufficient response to our request for information, insofar as it did not provide any information regarding companies producing primary plastic and natural stone in which the GOC maintains less than a majority interest, we issued a supplemental questionnaire to the GOC reiterating our request for such industry-specific information.[101] However, the GOC again failed to completely identify, and provide GOC ownership information regarding, the companies comprising the primary plastic and natural stone industries for which the GOC maintains less than a majority interest, again stating that it does not possess this information.[102]

In a previous proceeding, Commerce was able to confirm at verification that the GOC maintains two databases at the State Administration of Industry and Commerce one is the business registration database, showing the most up-to-date company information; a second system, "ARCHIVE," houses electronic copies of documents such as business licenses, annual reports, capital verification reports, etc.[103] Therefore, we preliminarily find that the GOC has an electronic system available to it to gather the industry-specific information Commerce requested, including the GOC's minority ownership interests in companies producing primary plastic and natural stone.[104]

Further, we preliminarily determine in accordance with section 776(a)(2)(A) that the GOC withheld necessary information that was requested of it, and thus, that Commerce must rely on facts available in these preliminary results.[105] Moreover, in accordance with section 776(b) we

[96] *See* GOC July 23, 2018 IQR at 36-37, 72, and Exhibit II.E.18.
[97] *Id*. at 38.
[98] *Id*. at 39-40.
[99] *Id*. at 73.
[100] *Id*. at 74-75.
[101] *See* GOC First SQ at 3-4 and GOC Second SQ at 3-4.
[102] *See* GOC August 22, 2018 SQR at 23-24 and GOC September 4, 2018 SQR at 3.
[103] *See, e.g., Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 11177 (March 14, 2018), and accompanying IDM at 10-11.
[104] *See* Additional Documents Memorandum.
[105] *See* section 776(a)(2)(A) of the Act.

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.[106] As AFA, we preliminarily find that the GOC's involvement in the primary plastic and natural stone industries industry through enterprises in which it owns an interest is significant. Consequently, Commerce finds that the significant level of government involvement in these sectors and the more limited, or insignificant (less than 1 percent) level of imports, respectively together indicate that Chinese prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC.[107] Therefore we preliminarily find that the use of an external benchmark (*i.e.*, "tier two" (world market) prices) is warranted for calculating the benefit for the provision of polyester resin and quartz for LTAR.

For details regarding the remaining elements of our analysis, see the "Provision of Polyester Resin for LTAR" and "Provision of Quartz for LTAR" sections, below.

G. Application of AFA: Provision of Electricity for LTAR

As discussed below under the section "Programs Preliminarily Determined to be Countervailable," Commerce is investigating whether the GOC provided 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 constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

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

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[106] *See* section 776(b) of the Act.
[107] *See Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65377 (November 25, 1998).

In its initial 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, under the *Notice of NDRC on Lowering Coal-Fired Electricity On-Grid Price and General Industrial and Commercial Electricity Price* (Notice 3105).[108] According to the GOC, the creation of this new structure has eliminated the need for Provincial Price Proposals that had previously been used by the NDRC to set prices for each province.[109]

However, both Notice 3105 and the *Notice of National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City)* (Notice 748) explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Specifically, 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.[110] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.[111] 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."[112] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[113] 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."[114] Finally, Article 10 directs that "{a}dministrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment."[115] NDRC Notice 3105 also 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.[116]

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.[117] 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.[118]

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[108] *See* GOC July 23, 2018 IQR at 86-87 and Exhibit II.E.29.
[109] *Id*. at 87.
[110] *Id.* at Exhibit II.E.30.
[111] *See* GOC August 22, 2018 SQR at Exhibit S-LTAR.7.
[112] *See* GOC July 23, 2018 IQR at Exhibit II.E.30.
[113] *Id.*
[114] *Id.*
[115] *Id.*
[116] *Id.* at Exhibit II.E.29.
[117] *Id.* at 86-87.
[118] *See, e.g.*, GOC July 23, 2018 IQR at Exhibits II.E.30 (Notice 748 Article 10) and II.E.29 (Notice 3105 Articles II and X).

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.[119] As discussed above, these two documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces. They neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. 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.[120]

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, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record, that the GOC withheld information requested by us, and that the GOC significantly impeded this proceeding. Thus, we must rely on "facts available" in making our preliminary determination.[121] Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate to the best of its ability to comply with our repeated requests for information. As a result, an adverse inference is warranted in the application of facts available.[122] In applying AFA, 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 relying on AFA in selecting the benchmark for determining the existence and amount of the benefit.[123] 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* "Provision of Electricity for LTAR," below.

H. Application of AFA: Provision of "Other Subsidies"

Foshan Yixin reported in its initial questionnaire response that it received certain "Other Subsidies" during the POI.[124] The GOC did not provide information regarding these other subsidies in its initial questionnaire response.[125] Therefore, we issued supplemental questionnaires requesting that the GOC provide a full questionnaire response regarding the

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[119] *See* GOC July 23, 2018 IQR at 87-88 and Exhibits II.E.29 and II.E.30.
[120] *See* GOC August 22, 2018 SQR at 29; *see also* GOC September 4 SQR at 4.
[121] *See* section 776(a)(2)(A) of the Act.
[122] *See* section 776(b) of the Act.
[123] *See* section 776(b)(4) of the Act.
[124] *See* Foshan Yixin July 23, 2018 IQR at 35 and Exhibit 23.
[125] *See* GOC July 23, 2018 IQR at 99.

measurable "Other Subsidies" reported by Foshan Yixin. However, in its response, the GOC did not provide any of the requested information concerning the programs at issue.[126]

Thus, we preliminarily determine that the GOC has withheld information that was requested of it and, as a result, we must rely on "facts available" in making our preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In applying AFA, we find that the "Other Subsidies" reported by Foshan Yixin constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act. We determined the benefit by dividing the amount of any measurable grant applicable to the POI by the appropriate sales denominator for Foshan Yixin. *See* "Other Subsidies," below.

VII. SUBSIDIES VALUATION

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.[127] In Commerce's initial questionnaires to the GOC and the mandatory respondents, we notified the respondents to this proceeding that the AUL period would be 15 years, on the basis of U.S. Internal Revenue Service Publication 946 (2016), "Appendix B - Table of Class Lives and Recovery Periods" (IRS Pub. 946).[128] The 15-year period corresponds to IRS Pub. 946 asset class, under "32.3 "Manufacture of Other Stone and Clay Products." No party submitted comments challenging this AUL period.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we 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) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is

[126] *See* GOC September 4, 2018 SQR at 4.
[127] *See* 19 CFR 351.524(b).
[128] *See* U.S. Internal Revenue Service Publication 946 (2016), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to 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-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.[129]

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 way it could use its own subsidy benefits.[130]

Foshan Yixin

Foshan Yixin responded to Commerce's questionnaire on behalf of itself and its affiliated input supplier Foshan Xinya Ceramic Raw Materials Trade Co., Ltd. (Xinya).[131] However, Foshan Yixin noted that, while Xinya supplied input materials to Foshan Yixin during the AUL period, the company was dissolved on May 9, 2013 (*i.e.*, prior to the POI).[132] Further, Foshan Yixin reported that Xinya did not receive any benefits during the AUL period. Therefore, while Foshan Yixin and Xinya were cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi), we find no evidence that Xinya received any countervailable subsidies attributable to Foshan Yixin during the AUL period.

[129] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[130] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[131] *See* Foshan Yixin June 27, 2018 Affiliation Response at 5-6. *See also* Foshan Yixin IQR at Vol. II, p. 3.
[132] *Id*.

Further, Foshan Yixin identified other companies with which it was affiliated during the POI.[133] However, Foshan Yixin stated that these affiliates were either not involved in the production or sale of subject merchandise or did not use any of the subsidy programs identified in Commerce's CVD questionnaire.[134] Therefore, we preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(iv). As a result, we have not included them in our subsidy analysis.

Hero Stone

Hero Stone responded to Commerce's questionnaire on behalf of itself and its affiliated trading company, Foshan Quartz Stone Imp & Exp Co., Ltd. (Foshan Quartz).[135] In addition, Hero Stone's affiliated producer, Mingwei Quartz New Environmental Protection Materials Co., Ltd. (Mingwei), separately responded to Commerce's questionnaire.[136] Hero Stone stated that its shareholders are the same as those of Foshan Quartz.[137] Regarding Mingwei, Hero Stone stated that this company is majority owned by the same shareholders as Hero Stone.[138] Therefore, we preliminarily find that Hero Stone, Foshan Quartz, and Mingwei are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). Further, as discussed above, while we based the subsidy rate for Hero Stone in this investigation on AFA, we would attribute any subsidy received by Mingwei to the consolidated sales of both Hero Stone and Mingwei, pursuant to 19 CFR 351.525(b)(6)(ii). Further, in accordance with 19 CFR 351.525(c), we would cumulate the benefit from subsidies to Foshan Quartz with the benefits from subsidies to Hero Stone.

Finally, Hero Stone identified other companies with which it was affiliated during the POI.[139] However, Hero Stone stated that these affiliates were not involved in either the production or sale of subject merchandise during the POI.[140] Therefore, we preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(iv).

C. Denominators

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

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[133] *Id.* at 5-6.
[134] Foshan Yixin reported that one of its affiliates, Foshan New Yixin Stone Company Limited (New Yixin), is located in Hong Kong. We requested information regarding whether New Yixin used any of the subsidy programs identified in Commerce's questionnaire. In response, Foshan Yixin stated that New Yixin did not do so. *See* Foshan Yixin SQR at 1.
[135] *See* Hero Stone August 9, 2018 IQR at 1.
[136] *Id*. at Volume III.
[137] *See* Hero Stone July 13, 2018 Affiliation Response at Exhibit 1.
[138] *Id*.
[139] *Id.*at 2-3 and Exhibit 1.
[140] *Id.*

upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* Foshan Yixin's Preliminary Calculation Memorandum.

VIII. BENCHMARKS AND INTEREST RATES

Commerce is investigating loans received by Foshan Yixin from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.[141] The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, Commerce uses comparable commercial loans reported by the company as a benchmark.[142] 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."[143]

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from 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.[144] Commerce recently conducted a reassessment of China's financial system for CVD benchmarking purposes.[145] Based on this reassessment, 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 the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by Foshan Yixin 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, Commerce selected an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.[146]

[141] *See* 19 CFR 351.524(b)(1).
[142] *See* 19 CFR 351.505(a)(3)(i).
[143] *See* 19 CFR 351.505(a)(3)(ii).
[144] *See CFS from China* IDM at Comment 10.
[145] *See* Memorandum, "Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China: Review of China's Financial System Memorandum," dated concurrently with this memorandum, transmitting Memorandum, "Review of China's Financial System for Countervailing Duty (CVD) Benchmarking Purposes," dated July 21, 2017.
[146] *See, e.g., Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 46754 (October 6, 2017), and accompanying PDM at 21, unchanged in *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 16055 (April 13, 2018).

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and later updated in *Thermal Paper from China*.[147] 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 from China*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, China fell in the lower-middle income category.[148] Beginning in 2010, however, China was classified in the upper-middle income category and remained there from 2011 to 2017.[149] Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2017. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.[150]

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 2003-2009 and 2011-2017, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.[151] For 2010, however, the regression does not yield that outcome for China's income group.[152] This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *from China* to compute the benchmarks for the years from 2001-2009 and 2011-2017. 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, and they are included in that agency's International Financial Statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle

[147] *See CFS 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.
[148] *See* World Bank Country Classification, http://data.worldbank.org/about/country-and-lending-groups (World Bank Country Classification); *see also* Memorandum, "Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).
[149] *See* World Bank Country Classification.
[150] *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 PDM at "Benchmarks and Discount Rates," unchanged in *Shrimp from China*.
[151] *See* Interest Rate Benchmark Memorandum.
[152] *Id*.

income" by the World Bank for 2010-2017 and "lower middle income" for 2001-2009.[153] 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 remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year 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.[154] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[155]

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.[156]

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.[157] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[158]

The resulting inflation-adjusted benchmark lending rates are provided in the preliminary calculation memorandum for Foshan Yixin.[159]

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.[160] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Foshan Yixin's Preliminary Calculation Memorandum.

[153] *Id*.
[154] *Id*.
[155] *Id*.
[156] *See, e.g., Thermal Paper from China* IDM at 10.
[157] *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.
[158] *See* Interest Rate Benchmark Memorandum.
[159] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[160] *Id.*; *see also* Interest Rate Benchmark Memorandum.

C. Input Benchmarks

As discussed below, we selected benchmarks for determining the benefit from the provision of polyester resin and quartz for LTAR in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).[161] For both of these inputs, as discussed above under "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily determine that each of Foshan Yixin's domestic input producers of polyester resin and quartz are "authorities." Therefore, prices from its domestic input producers do not constitute market-determined prices. Moreover, as discussed in the "Application of AFA: Input Industry Distortions," we are relying on "tier two" (world market) prices for the input benchmark for these programs.

As discussed below, the petitioner placed publicly available world-market prices obtained from the UN Comtrade system on the record for unsaturated polyester resin, natural quartz sand, and artificial quartz sand.[162] Hero Stone submitted world-market prices obtained from the UN Comtrade system on the record for natural quartz sand.[163]

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

1. Polyester Resin

Foshan Yixin reported purchases of polyester resin during the POI for the production of subject merchandise.[164] The petitioner provided benchmark prices, obtained from UN Comtrade data, for 2017 monthly world exports for HTSUS 3907.91 (polyesters, unsaturated, in primary forms).[165] Because these proposed benchmark values accurately reflect the polyester resin that Foshan Yixin uses in the production of subject merchandise, we preliminarily determined the benchmark for polyester resin using the weighted-average UN Comtrade data submitted by the petitioner.[166] No other interested party provided benchmark prices for polyester resin.

[161] *See* 19 CFR 351.511(a)(2).
[162] *See* Petitioner's Submission of Benchmark Data.
[163] *See* Hero Stone Submission of Benchmark Data.
[164] *See* Foshan Yixin July 23, 2018 IQR at 26, and Exhibit 14.
[165] *See* Petitioner's Submission of Benchmark Data at Attachment 1.
[166] *See* Foshan Yixin's Preliminary Calculation Memorandum.

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and include import and delivery charges. Foshan Yixin reported that its purchase prices of polyester resin were all freight inclusive (*i.e.*, "delivered prices").[167] Where appropriate, we added international freight charges, VAT, and/or import duties on applicable purchases, in order to calculate the price that a respondent would have paid on the world market for this input.[168]

2. <u>Quartz</u>

Foshan Yixin reported purchases of quartz sand during the POI for the production of subject merchandise.[169] Hero Stone provided benchmark prices, obtained from UN Comtrade data, for 2017 monthly world exports for HTSUS 2505.10 (sands; natural, silica and quartz sands, whether or not colored).[170] The petitioner provided benchmark prices, obtained from UN Comtrade data, for 2017 monthly world exports for HTSUS 2505.10 (sands; natural, silica and quartz sands, whether or not colored) and 2017 annual world exports for HTSUS 2506.10 (quartz; other than natural sands).[171]

We find that both Hero Stone's and the petitioner's proposed benchmark values reflect world market prices for quartz sand.[172] Therefore, we preliminarily determined the benchmark prices for quartz sand using the simple average of: 1) the weighted-average UN Comtrade data submitted by the petitioner; and 2) the weighted-average UN Comtrade data submitted by Hero Stone.

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and include import and delivery charges. Foshan Yixin reported that its purchase prices of quartz sand were all freight inclusive (*i.e.*, "delivered prices").[173] Where appropriate, we added international freight charges, VAT, and/or import duties on applicable purchases, in order to calculate the price that a respondent would have paid on the world market for this input.[174]

3. <u>Ocean Freight</u>

No interested party provided ocean freight rates to be considered as benchmarks. Therefore, for the preliminary determination, we relied on the public monthly ocean freight rate data from

[167] *See* Foshan Yixin July 23, 2018 IQR at 27.
[168] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[169] *See* Foshan Yixin July 23, 2018 IQR at 28, and Exhibit 17.
[170] *See* Hero Stone Submission of Benchmark Data.
[171] *See* Petitioner's Submission of Benchmark Data at Attachments 2 and 3.
[172] In its Letter, "Quartz Surface Products from the People's Republic of China: Rebuttal and Clarification to Factual Information Concerning the Adequacy of Remuneration," dated August 27, 2018, Hero Stone provided a declaration that its affiliated producer, Mingwei Quartz, only used natural quartz sand (*i.e.*, HTSUS 2505.10) in its production process, there is no information on the record regarding the type of quartz sand used by Foshan Yixin in its production process.
[173] *See* Foshan Yixin July 23, 2018 IQR at 27.
[174] *See* Foshan Yixin's Preliminary Calculation Memorandum.

Maersk Line for 2017, which Commerce used in *Steel Wheels from China*, because it is contemporaneous with our POI.[175]

IX. 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. <u>Preferential Income Tax Program for HNTEs</u>

Foshan Yixin reported that it used this program during the POI.[176] Under Article 28 of the Enterprise Income Tax Law of the People's Republic of China and Article 93 of the Implementing Regulations for the Enterprise Income Tax Law of the People's Republic of China, companies recognized as HNTEs pay an income tax rate of 15 percent, rather than the standard corporate income tax rate of 25 percent.[177] The Department previously found this program to be countervailable in *Shrimp from China*, and no record evidence provided in the instant investigation warrants a change to this finding.[178]

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

We calculated the benefit as the difference between the taxes Foshan Yixin would have paid under the standard 25 percent tax rate and the taxes that the company actually paid under the preferential 15 percent tax rate, as reflected on its tax return filed during the POI, as provided for under 19 CFR 351.509(a)(1) and (b)(1). We treated the tax savings as a recurring benefit, consistent with 19 CFR 351.524(c)(1). We determined the subsidy rate by dividing Foshan

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[175] *See* memorandum to the file, "Countervailing Duty Investigation: Certain Quartz Surface Products from China, Placement of Data on the Record," dated concurrently with this memorandum, placing on the record the memorandum, "Countervailing Duty Investigation of Certain Steel Wheels from the People's Republic of China: Preliminary Determination Analysis for Xiamen Sunrise Wheel Group Co., Ltd.," dated August 24, 2018.
[176] *See* Foshan Yixin July 23, 2018 IQR at 21.
[177] *See* GOC August 22, 2018 SQR at Exhibit S-TAX.1, "Enterprise Income Tax Law of the PRC," and GOC September 4, 2018 SQR at Exhibit S2-TAX, "Implementing Regulations for the Enterprise Income Tax Law of the People's Republic of China."
[178] *See, e.g.*, *Shrimp from China* IDM at 25.

Yixin's benefit by its total sales during the POI.[179] On this basis, we preliminarily determined a countervailable subsidy rate of 1.00 percent *ad valorem* for Foshan Yixin.[180]

2. **Provision of Polyester Resin for LTAR**

Commerce is examining whether the GOC or other "authorities" within China provided Foshan Yixin with polyester resin for LTAR. Foshan Yixin reported that it purchased polyester resin during the POI.[181]

Financial Contribution

As discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we find that the GOC's refusal to provide certain information regarding the domestic producers of polyester resin provided to Foshan Yixin warrants the use of AFA. As AFA, we find that these producers are "authorities" within the meaning of section 771(5)(B)(i) of the Act that provided financial contributions to the respondents in the form of polyester resin for LTAR.

Specificity

As explained above in the section "Use of Facts Otherwise Available and Adverse Inferences", we preliminarily determined, as AFA, that the GOC is providing polyester resin to a limited number of industries and enterprises, and, hence, that the subsidies under these programs are specific pursuant to section 771(5A)(D)(iii) of the Act.

Market Distortion

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

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for polyester resin was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[182] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "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. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the

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[179] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[180] *Id.*
[181] *See* Foshan Yixin July 23, 2018 IQR at 26-27 and Exhibit 14.
[182] *See CVD Preamble*, 63 FR at 65401.

respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of polyester resin into China, as provided by the GOC.[183] Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.[184]

We compared these monthly benchmark prices to the purchase prices that Foshan Yixin reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Foshan Yixin. We divided the total benefits received by Foshan Yixin's POI sales.[185] On this basis, we preliminarily determined a net countervailable subsidy rate of 27.79 percent *ad valorem* for Foshan Yixin.[186]

3. <u>Provision of Quartz for LTAR</u>

Commerce is examining whether the GOC or other "authorities" within China provided Foshan Yixin with quartz for LTAR. Foshan Yixin reported that it purchased quartz during the POI.[187]

Financial Contribution

As discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we find that the GOC's refusal to provide certain information regarding the domestic producers of quartz provided to Foshan Yixin warrants the use of AFA. As AFA, we find that these producers are "authorities" the meaning of section 771(5)(B)(i) of the Act that provided financial contributions to the respondents in the form of quartz for LTAR.

Specificity

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

Market Distortion

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

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[183] Consistent with *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid 2011 AR*), we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
[184] *See* GOC July 23, 2018 IQR at Exhibit II-F12.
[185] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[186] *Id*.
[187] *See* Foshan Yixin July 23, 2018 IQR at 28-29 and Exhibit 17.

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for quartz was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[188] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "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. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of quartz into China, as provided by the GOC.[189] Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.[190]

We compared these monthly (or annual, where monthly prices were not provided) benchmark prices to the purchase prices that Foshan Yixin reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Foshan Yixin. We divided the total benefits received by Foshan Yixin's POI sales.[191] On this basis, we preliminarily determined a net countervailable subsidy rate of 4.44 percent *ad valorem* for Foshan Yixin.[192]

4. **<u>Provision of Electricity for LTAR</u>**

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

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

Consistent with our approach in *Wind Towers*, we first calculated Foshan Yixin's variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid during each month of the POI.[193] Next, we calculated the benchmark variable electricity

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188 *See CVD Preamble*, 63 FR at 65401.
189 Consistent with *Citric Acid 2011 AR*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
190 *See* GOC July 23, 2018 IQR at Exhibit II-F12.
191 *See* Foshan Yixin's Preliminary Calculation Memorandum.
192 *Id*.
193 *See Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers*), and accompanying IDM at 21-22.

costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by Foshan Yixin during the POI from the monthly benchmark variable electricity costs.

To measure whether Foshan Yixin received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the company by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company's consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by Foshan Yixin during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from Foshan Yixin's variable electricity payments and base rate payments.[194] To calculate the net subsidy rate attributable to Foshan Yixin, we divided the benefit by its total POI sales. On this basis, we preliminarily determined a net countervailable subsidy rate of 0.57 percent *ad valorem* for Foshan Yixin.[195]

5. Policy Loans to Quartz Surface Products Industry

We are investigating whether the GOC subsidizes producers of quartz surface products through the provision of policy loans at preferential rates. According to the petitioner, China's policy banks and SOCBs make loans to producers of quartz surface products at preferential terms as a matter of government policy.[196] Moreover, the petitioner asserts, the GOC provides preferential policy lending to quartz surface products producers through central government plans that are implemented through local government programs and measures, including Guangdong province's Implementation Plan and government directives in Foshan City.[197] As explained below, we preliminarily determined that producers of quartz surface products in China have received policy loans during the POI.

Foshan Yixin stated that it did not receive any policy loans during the POI, but that it did receive loans from a local bank.[198] We asked Foshan Yixin and the GOC to provide copies of national industrial plans and/or policies that were in place from January 1, 2003, through the POI, that include the quartz surface products industry. The GOC and Foshan Yixin did not provide these documents; the GOC states that it has never released any national industrial policy or plan specific to quartz surface product producers.[199] However, upon review of the various planning documents on the record, we have found that the quartz surface products industry is consistently identified as an industry or product for development or encouragement. The NDRC's "Catalogue for Guiding Industry Restructuring," Category I, "Encouragement" highlights the quartz industry as one of the GOC's encouraged industries.[200] In particular, section XII.8,

[194] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[195] *Id.*
[196] *See* Petition at 35-36.
[197] *Id*. at 37.
[198] See Foshan Yixin July 23, 2018 IQR at 16.
[199] See GOC July 23, 2018 IQR at 6 and Foshan Yixin July 23, 2018 IQR at 17.
[200] *See* GOC July 23, 2018 IQR at Exhibit II B.3.

"Building Materials," lists "manufacturing technology development and production of high-purity quartz raw materials, quartz glass materials and their products" as an encouraged sector.[201]

Moreover, the "Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation (2005) No. 40" (Decision 40) indicates that the "Catalogue for the Guidance of Industrial Structure Adjustment" is an important basis for investment guidance and government administration of policies such as public finance, taxation, and credit."[202] Decision 40 further indicates that projects in "encouraged" industries shall be provided credit support in compliance with credit principles."[203] The "Catalogue for the Guidance of Industrial Structure Adjustment" (2005) specifically includes the high-tech industry as "encouraged." The quartz surface products industry is considered to be a "High and New Technology Enterprise.[204] Additionally, as discussed above, Foshan Yixin has received benefits under the preferential income tax program for high and new technology enterprises (HNTE), which further evidences that the quartz surface products industry is a high-tech industry.

When examining a loan program, Commerce looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support objectives or goals, including especially with regard to the encouraged sectors.[205] Where such plans or policy directives exist, it is our practice to find that a policy lending program exists that is specific to the named industry (or producers that fall under that industry).[206] Once that finding is made, we rely upon the analysis undertaken in *CFS from China* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.

The petition alleges, and the record supports finding, that the GOC's Commercial Banking Law requires that commercial banks in China provide loans in accordance with "the needs of the national economy and the social development and under the guidance of the state industrial policies."[207] Based on the NDRC's catalog of industries to be encouraged, we preliminarily find that lending by SOCBs to the quartz surface product industry constitutes policy lending and that this policy lending is *de jure* specific, pursuant to section 771(5A)(D)(i) of the Act, because it is limited to an enterprise or industry as a matter of law.

The GOC states that the bank from which Foshan Yixin reported receiving loans which were outstanding during the POI is majority owned by private owners.[208] Thus, it is not one of the "Big Four," *i.e.*, the Bank of China, the China Construction Bank, the Industrial Commercial

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[201] *Id*.
[202] *Id.* at Exhibit II B.6, Article 7.
[203] *Id*. at Exhibit II B.6, page 1.
[204] *See* Petition at 42-43.
[205] *See Citric Acid from China* IDM at Comment 14.
[206] *See CFS from China* IDM at Comment 5; *see also Thermal Paper from China* IDM at "Government Policy Lending Program."
[207] *See* GOC August 22, 2018 SQR at Exhibit S-LOAN.10, "Law of the People's Republic of China on Commercial Banks" at Chapter IV, "Basic Rules Governing Loans and Other Businesses," Article 34.
[208] *See* GOC August 22, 2018 SQR at 6.

Bank of China, or the Agricultural Bank of China. In *Aluminum Extrusions 2010-11 AR*,[209] and again in *Tetra from China*,[210] we stated that the banking system in China continues to be affected by the legacy of government policy objectives, which continues to undermine the ability of the big four SOCBs and the rest of the domestic banking sector to act on a commercial basis, and allows continued government involvement in the allocation of credit in pursuit of those objectives. We have no evidence on the record of the instant investigation that would cause us to re-evaluate this conclusion. Therefore, we reached the same preliminary finding here, consistent with our findings in *CFS from China*, that SOCBs outside the "Big Four" SOCBs are public authorities within the meaning of section 771(5)(B) of the Act.[211]

Thus, we preliminarily find that policy loans from SOCBs constitute financial contributions from "authorities" within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act. We continue to find that the GOC's predominant role in the banking industry market renders domestic loan interest rates unusable as benchmarks. Foshan Yixin provided information regarding its loans that were outstanding during the POI.[212] To determine whether a benefit was conferred under section 771(5)(E)(ii) of the Act, we compared the amount of interest paid during the POI on these loans to the amount of interest that the company would have paid on comparable loans.[213] In conducting this comparison, we used the interest rate benchmarks described above in the section "Benchmarks and Interest Rates." On this basis, we preliminarily determined a countervailable subsidy of 0.37 percent *ad valorem* for Foshan Yixin.[214]

6. "<u>Other Subsidies</u>"

Foshan Yixin self-reported receiving various non-recurring grants from the GOC during the POI.[215] These grants are as follows:

1) 2016 Market Development Assistance (Special Fund for Domestic & Foreign Economic and Trade Development);
2) 2016 Guangdong Province High-Tech Enterprise Assistance;
3) Utility Model Patent Assistance;
4) Foshan City's Subsidy for Recognition as High-Tech Enterprises;
5) Special Award for Guangdong Province's Stable Growth Structure (2016);
6) High and New Technology Enterprise for Education and Training; and
7) Gaoming District Engineering Center Assistance.

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[209] *See Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014) (*Aluminum Extrusions 2010-11 AR*), and accompanying IDM at Comments 6 and 7.
[210] *See Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 62594 (October 20, 2014) (*Tetra from China*), and accompanying IDM at Comment 1.
[211] *See CFS from China* IDM at Comment 10.
[212] *See* Foshan Yixin July 23, 2018 IQR at 16 and Exhibit 10.
[213] *See* 19 CFR 351.505(a).
[214] *See* Foshan Yixin Preliminary Calculation Memorandum.
[215] *See* Foshan Yixin July 23, 2018 IQR at Exhibit 23; *see also* Foshan Yixin August 16, 2018 SQR at Exhibit 7.

As discussed above in the section "Use of Facts Available and Adverse Inferences," we preliminarily determined that these grants constitute a financial contribution under section 771(5)(D)(i) of the Act and are specific under section 771(5A) of the Act. Further, we preliminarily determined that each of these grants confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a). To calculate the benefit received under these programs, Commerce followed the methodology described in 19 CFR 351.524. To calculate the *ad valorem* subsidy rate for these grants, Commerce divided the benefit conferred under each of these programs by the appropriate POI sales denominator – Foshan Yixin's total sales or total export sales – depending on the nature of the subsidy program.

Foshan Yixin self-reported receiving measurable benefits under multiple programs.[216] Based on the methodology outlined above, we preliminarily determined a cumulative *ad valorem* subsidy rate of 0.21 percent for Foshan Yixin for these programs.[217]

B. Programs Preliminarily Determined Not to Be Used by Foshan Yixin

1. Export Loans
2. Export Seller's Credits
3. Export Buyer's Credits
4. Preferential Loans for SOEs
5. Loan and Interest Forgiveness for SOEs
6. Preferential Deduction of Research and Development Expenses for HNTEs
7. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
8. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
9. Income Tax Benefits for Domestic Enterprises Engaging in Research and Development
10. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
11. Provision of Land-Use Rights for LTAR
12. Provision of Land to State-Owned Enterprises for LTAR
13. The State Key Technology Project Fund
14. Export Assistance Grants
15. Subsidies for Development of Famous Export Brands and China World Top Brands
16. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
17. Export Credit Insurance Subsidies
18. Export Credit Guarantees
19. Foshan High-Tech Industrial Development Zone Income Tax Subsidies
20. Foshan High-Tech Industrial Development Zone Duty Exemption
21. Foshan High-Tech Industrial Development Zone City Maintenance Fee Exemption

[216] *See* Foshan Yixin's Preliminary Calculation Memorandum.
[217] *Id.*

22. Foshan High-Tech Industrial Development Zone Land Use Reductions
23. Fujian Pilot Free Trade Zone Payments of Income Tax
24. Fujian Pilot Free Trade Zone Tariff and VAT Exemptions
25. Fujian Pilot Free Trade Zone Port Tax Refund Policy
26. Fujian Pilot Free Trade Zone Liberalization of Interest Rates
27. Preferential Income Tax Subsidies for FIEs
28. Preferential Income Tax Subsidies for “Productive” FIEs
29. Preferential Income Tax Subsidies for Export-Oriented FIEs

X. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒ ☐

Agree	Disagree

9/14/2018

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

APPENDIX

AFA Rate Calculation

Program Name	AFA Rate (%)
Direct Tax Exemptions and Reductions	
Preferential Income Tax Reductions for HNTEs	25.00[218]
Preferential Deduction of R&D Expenses for HTNEs	
Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment	
Preferential Income Tax Subsidies for High or New Technology FIEs	
Income Tax Benefits for Domestic Enterprises Engaging in R&D	
Foshan High-Tech Industrial Development Zone Income Tax Subsidies	
Fujian Pilot Free Trade Zone Payments of Income Tax	
Indirect Tax Programs	
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	9.71[219]
Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax	1.51[220]
Loan Programs	
Policy Loans to the Quartz Surface Products Industry	0.37
Export Loans	10.54[221]
Export Seller's Credits	12.95[222]
Export Buyer's Credits	10.54[223]
Preferential Loans for State-Owned Enterprises	10.54[224]
Loan and Interest Forgiveness for SOEs	10.54[225]

[218] The standard income tax rate for corporations in China in effect during the POI was 25 percent. Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the seven programs, combined, provide a 25 percent benefit)

[219] *See Glycine from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 83 FR 44863 (August 27, 2018) (*Glycine from China*), and accompanying PDM at Appendix.

[220] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying IDM at 7.

[221] *See Glycine from China* PDM at Appendix.

[222] *See Certain Steel Wheels from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 44573 (September 4, 2018) (*Steel Wheels from China*), and accompanying PDM at Appendix.

[223] *Id.*

[224] *See Glycine from China* PDM at Appendix.

[225] *Id.*

LTAR Programs		
	Provision of Land Use Rights for LTAR	5.24[226]
	Provision of Land to SOEs for LTAR	13.36[227]
	Provision of Polyester Resin for LTAR	27.79
	Provision of Quartz for LTAR	4.44
	Provision of Electricity for LTAR	0.57
Grant Programs		
	The State Key Technology Project Fund	0.58[228]
	Export Assistance Grants	0.58[229]
	Subsidies for Development of Famous Export Brands and China World Top Brands	0.58[230]
	Sub-Central Government Programs to Promote Famous Export Grands and China World Top Brands	0.58[231]
	2016 Market Development Assistance	0.02
	2016 Guangdong Province High-Tech Enterprise Assistance	0.03
	Foshan City's Subsidy for Recognition as High-Tech Enterprises	0.03
	Special Award for Guangdong Province's Stable Growth Structure (2016)	0.01
	High and New Technology Enterprise for Education and Training	0.09
	Gaoming District Engineering Center Assistance	0.03
Other Export Subsidies		
	Export Credit Insurance Subsidies	0.00[232]
	Export Credit Guarantees	0.19[233]
	Foshan High-Tech Industrial Development Zone – Duty Exemption	9.71[234]
	Foshan High-Tech Industrial Development Zone – City Maintenance Fee Exemption	0.73
	Foshan High-Tech Industrial Development Zone – Land Use Reductions	0.73

[226] *See Countervailing Duty Investigation of Stainless Steel Flanges from the People's Republic of China: Preliminary Affirmative Determination*, 83 FR 3124 (January 23, 2018) (*Flanges from China*), and accompanying PDM at Appendix.
[227] *Id.*
[228] *Id.*
[229] *Id.*
[230] *Id.*
[231] *Id.*
[232] *See Steel Wheels from China* PDM at Appendix.
[233] *Id.*
[234] *See Flanges from China* PDM at Appendix.

	Fujian Pilot Free Trade Zone Liberalization of Interest Rates	2.04[235]
	Fujian Pilot Free Trade Zone – Tariff and VAT Exemptions	9.71
	Fujian Pilot Free Trade Zone – Port Tax Refund Policy	9.71
	Total AFA Rate:	**178.45%**

[235] *See Steel Wheels from China* PDM at Appendix.