C-570-089
Investigation
POI: 1/1/2017 – 12/31/2017
Public Document
E&C/IV: Team

DATE: November 19, 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 Steel Racks from the People's Republic of China

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SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain steel racks (steel racks) 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).

BACKGROUND

A. Initiation and Case History

On June 20, 2018, we received an antidumping duty (AD) and countervailing duty (CVD) petition concerning steel racks from China, filed in proper form, on behalf of the Coalition for Fair Rack Imports (the petitioner).[1] We describe the supplements to the *Petition* in the CVD Initiation Checklist.[2] Pursuant to section 702(b)(4)(A)(ii) of the Act, we invited representatives

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[1] *See* Letter, "Steel Racks from the People's Republic of China – Petition for the Imposition of Antidumping and Countervailing Duties," dated June 20, 2018 (*Petition*).
[2] *See* Memorandum, "Countervailing Duty Investigation Initiation Checklist: Steel Racks from the People's Republic of China," dated July 10, 2018 (Initiation Checklist); *see also Certain Steel Racks from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 33201 (July 17, 2018) (*Initiation Notice*).

of the Government of China (GOC) for consultations with respect to the *Petition*.[3] On July 10, 2018, we initiated a CVD investigation on steel racks from China.[4]

In the *Initiation Notice*, we stated that in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to potential respondents.[5] Commerce further stated that it normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data from the Harmonized Tariff Schedule of the United States (HTSUS) subheading(s) listed in the scope of the investigation.[6] On July 5, 2018, we released CBP data under Administrative Protective Order (APO) and indicated that interested parties wishing to comment on the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.[7] No parties submitted comments on the CBP data.

However, on July 11, 2018, because the CBP data was reported in mixed units of measurement, Commerce issued quantity and value (Q&V) questionnaires to 24 potential respondents that appeared in the CBP data and which were identified in the *Petition* with a complete address.[8] Commerce confirmed that 16 of the Q&V questionnaires were successfully delivered.[9] Of these potential respondents, 13 did not respond to the Q&V questionnaire (non-responsive companies). Additionally, Commerce posted the Q&V questionnaire, along with filing instructions, on the Enforcement and Compliance website. Commerce received timely filed Q&V questionnaire responses from 33 exporters and producers of the subject merchandise.

On August 9, 2018, we selected Nanjing Dongsheng Shelf Manufacturing Co., Ltd. (Dongsheng), Nanjing Huade Storage Equipment Manufacture Co., Ltd. (Nanjing Huade), and Tangshan Apollo Energy Equipment Company, Ltd. (Tangshan Apollo) as mandatory respondents, and issued our CVD questionnaire.[10] We issued the Initial Questionnaire addressed to the GOC via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] In the cover letter to the questionnaire, we notified the GOC that Commerce had selected Dongsheng, Nanjing Huade, and Tangshan Apollo

[3] *See* Letter, "Countervailing Duty Petition on Certain Steel Racks from China," dated June 20, 2018.
[4] *See Initiation Notice,* 83 FR 33201 (specifying an applicable date of July 10, 2018).
[5] *Id.* at 33203.
[6] *Id.*
[7] *See* Memorandum, "Steel Racks from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated July 5, 2018.
[8] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China Petition: Quantity and Value Questionnaires," dated July 17, 2018.
[9] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China: FedEx Delivery," dated August 20, 2018.
[10] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Respondent Selection," dated August 9, 2018 (First Respondent Selection Memorandum).
[11] *See* Letter, "Countervailing Duty Investigation of Steel Racks from China: Amended Countervailing Duty Questionnaire," dated August 9, 2018 (Initial Questionnaire).

as mandatory respondents in this investigation and stated that the GOC "is responsible for forwarding copies of this cover letter and questionnaire to these respondent companies."[12]

On August 16, 2018, based on initially overlooked record evidence demonstrating that Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd. (Jiangsu Kingmore) had a higher quantity and value of sales of subject merchandise to the U.S. during the POI than Dongsheng, we deselected Dongsheng as a mandatory respondent, selected Jiangsu Kingmore as a mandatory respondent, and issued our CVD questionnaire via ACCESS with corresponding instructions to the GOC.[13]

On August 24 and 30, 2018, respectively, Nanjing Huade [14] and Jiangsu Kingmore informed Commerce that they would not participate in this investigation.[15] As a result of having a single remaining respondent after selecting the three largest producers and/or exporters pursuant to section 777A(c)(2) of the Act, on August 30 and September 4, 2018, respectively, we selected Dongsheng[16] andXiamen Aifei Metal Manufacturing Co., Ltd. (Aifeimetal) as mandatory respondents.[17] On September 26, 2018, Commerce received a letter from the GOC stating that the GOC received direct confirmation from Tangshan Apollo that it would not continue participating in this proceeding.[18]

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[12] *Id.* at 1.
[13] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Amended Respondent Selection," dated August 9, 2018 (Second Respondent Selection Memorandum); *see also* Letter, "Countervailing Duty Investigation of Steel Racks from China: Amended Countervailing Duty Questionnaire," dated August 16, 2018.
[14] *See* Letter, "Steel Racks from the People's Republic of China - Notice of Intent Not to Participate," dated August 24, 2018.
[15] *See* Letter, "Notice of Non-Participation in Investigation: Steel Racks from the People's Republic of China," dated August 30, 2018.
[16] *See* Memorandum, Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Selection of Additional Respondent," dated August 30, 2018.
[17] *See* Memorandum, Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Second Selection of Additional Respondent," dated September 4, 2018.
[18] *See* Letter, "Government of China's Initial Questionnaire Response as regards Tangshan Apollo - Steel Racks from the People's Republic of China," dated September 26, 2018.

Between August 23, 2018, and November 13, 2018, we received timely questionnaire responses from Aifeimetal,[19] Dongsheng,[20] and the GOC.[21] On October 30, 2018, Dongsheng and the petitioner submitted benchmark data for calculation of benefits relating to the provision of inputs for less than adequate remuneration (LTAR).[22]

On October 31, 2018, the petitioner requested that we align the final CVD determination in this investigation with the final determination in the companion AD investigation of steel racks from China.[23] Between November 7, 2018, and November 13, 2018, Dongsheng and the petitioner submitted pre-preliminary comments.[24]

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[19] *See* Letter, "Section III Identifying Affiliates Questionnaire Response: Steel Racks from the People's Republic of China," dated September 25, 2018 (Aifeimetal ACQR); Letter, "Response to Section III of the Department's Countervailing Duty Questionnaire: Steel Racks from the People's Republic of China," dated October 14, 2018 (Aifeimetal IQR); Letter, "Response to Section III of the Department's Countervailing Duty First Supplemental Questionnaire: Steel Racks from the People's Republic of China," dated October 25, 2018 (Aifeimetal October 25, 2018 SQR); Letter, "Response to Section III of the Department's Countervailing Duty Second Supplemental Questionnaire: Steel Racks from the People's Republic of China," dated November 2, 2018 (Aifeimetal November 2, 2018 SQR); Letter, "Response to Section III of the Department's Countervailing Duty Third Supplemental Questionnaire: Steel Racks from the People's Republic of China," dated November 13, 2018 (Aifeimetal November 13, 2018 SQR).

[20] *See* Letter, "Steel Racks from the People's Republic of China- Section III Identifying Affiliates Questionnaire Response," dated August 23, 2018 (Dongsheng ACQR); Letter, "Steel Racks from the People's Republic of China-Supplemental Questionnaire Response," date October 5, 2018 (Dongsheng October 5, 2018 SQR); Letter, "Steel Racks from the People's Republic of China- Section III Questionnaire Response- LTAR Programs on Hot-Rolled and Cold-Rolled Steels," dated October 15, 2018 (Dongsheng LTAR Submission); Letter, "Steel Racks from the People's Republic of China- Dongsheng First Supplemental Questionnaire Response," dated October 29, 2018 (Dongsheng First SQR); Letter, "Steel Racks from the People's Republic of China- Dongsheng Second Supplemental Questionnaire Response," dated October 29, 2018 (Dongsheng Second SQR); Letter, "Steel Racks from the People's Republic of China- Dongsheng Third Supplemental Questionnaire Response," dated November 5, 2018 (Dongsheng Third SQR); Letter, "Steel Racks from the People's Republic of China - Dongsheng Fourth Supplemental Questionnaire Response," dated November 9, 2018 (Dongsheng Fourth SQR).

[21] *See* Letter, "Government of China's Initial Questionnaire Response as regards Dongsheng and Xiamen Aifei Steel Racks from the People's Republic of China," dated October 15, 2018 (GOC IQR); Letter, "Government of China's Initial Questionnaire Response as regards Sections II.E.a and II.E.b Steel Racks from the People's Republic of China," dated October 17, 2018 (GOC October 17, 2018 QR); Letter, "Government of China's Supplemental Questionnaire Response Steel Racks from the People's Republic of China," dated October 30, 2018 (GOC October 30, 2018 SQR); Letter, "Government of China's Second Supplemental Questionnaire Response Steel Racks from the People's Republic of China," dated November 2, 2018 (GOC November 2, 2018 SQR); Letter, "Government of China's Third Supplemental Questionnaire Response Steel Racks from the People's Republic of China," dated November 7, 2018 (GOC November 7, 2018 SQR).

[22] *See* Letter, "Steel Racks from the People's Republic of China- Benchmark Submission," dated October 31, 2018 (Dongsheng Benchmark Submission); Letter, "Certain Steel Racks from the People's Republic of China: LTAR Benchmark Data," dated October 31, 2018 (Petitioner Benchmark Submission); Letter, "Certain Steel Racks from the People's Republic of China: LTAR Benchmark Data," dated November 2, 2018 (Petitioner Benchmark Revision).

[23] *See* Letter, "Certain Steel Racks from the People's Republic of China: Request to Align Final Countervailing Duty and Antidumping Determinations," dated October 31, 2018.

[24] *See* Letter, "Steel Racks from the People's Republic of China - Pre-Preliminary Comments," dated November 7, 2018; Letter, "Certain Steel Racks from the People's Republic of China: Comments in Anticipation of the Preliminary Determination," dated November 7, 2018; Letter, "Steel Racks from the People's Republic of China – Pre-Preliminary Rebuttal Comments," dated November 13, 2018.

B. Postponement of Preliminary Determination

On August 22, 2018, based on a request by the petitioner,[25] Commerce postponed the deadline for the preliminary determination until November 19, 2018, in accordance with section 703(c)(1) and (2) of the Act and 19 CFR 351.205(e).[26]

C. Period of Investigation

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

SCOPE COMMENTS

In accordance with the Preamble to Commerce's regulations,[27] we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage.[28] We received several comments concerning the scope of the AD and CVD investigations of steel racks from China. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, the deadline for which is currently scheduled for January 16, 2019.[29] We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is steel racks and parts thereof, assembled, to any extent, or unassembled, including but not limited to, vertical components (*e.g.*, uprights, posts, or columns), horizontal or diagonal components (*e.g.*, arms or beams), braces, frames, locking devices (*i.e.*, end plates and beam connectors), and accessories (including, but not limited to, rails, skid channels, skid rails, drum/coil beds, fork clearance bars, pallet supports, column and post protectors, end row and end aisle protectors, corner guards, row spacers, and wall ties). Subject steel racks and parts thereof are made of steel, including, but not limited to, cold and/or hot-formed steel, regardless of the type of steel used to produce the components and may, or may not, include locking tabs, slots, or bolted, clamped, or welded connections.

Steel rack components can be assembled into structures of various dimensions and configurations by welding, bolting, clipping, or with the use of devices such as clips, end plates, and beam connectors, including, but not limited to the following configurations: 1) racks with upright frames perpendicular to the aisles that are independently adjustable, with positive locking beams parallel to the aisle spanning the upright frames with braces; and 2) cantilever racks with

[25] *See* Letter, "Certain Steel Racks from the People's Republic of China: Request to Postpone Preliminary Determination," dated August 9, 2018.
[26] *See Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Postponement of Preliminary Determination*, 83 FR 43848 (August 28, 2018).
[27] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (Preamble).
[28] *See Initiation Notice*, 83 FR at 33201.
[29] *See Steel Racks and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 83 FR 53606 (October 24, 2018).

vertical components parallel to the aisle and cantilever beams or arms connected to the vertical components perpendicular to the aisle. Steel racks may be referred to as pallet racks, storage racks, stacker racks, retail racks, pick modules, selective racks, or cantilever racks and may incorporate moving components and be referred to as pallet-flow racks, carton-flow racks, push-back racks, movable-shelf racks, drive-in racks, and drive-through racks. While steel racks may be made to ANSI MH16.l or ANSI MH16.3 standards, all steel racks and parts thereof meeting the description set out herein are covered by the scope of this investigation, whether or not produced according to a particular standard.

The scope includes all steel racks and parts thereof meeting the description above, regardless of

(1) dimensions, weight, strength, gauge, or load rating;
(2) vertical components or frame type (including structural, roll-form, or other);
(3) horizontal support or beam/brace type (including but not limited to structural, roll-form, slotted, unslotted, Z-beam, C-beam, L-beam, step beam, and cantilever beam);
(4) number of supports;
(5) number of levels;
(6) surface coating, if any (including but not limited to paint, epoxy, powder coating, zinc, or other metallic coatings);
(7) shape (including but not limited to rectangular, square, corner, and cantilever);
(8) the method by which the vertical and horizontal supports connect (including but not limited to locking tabs or slots, bolting, clamping, and welding); and
(9) whether or not the steel rack has moving components (including but not limited to rails, wheels, rollers, tracks, channels, carts, and conveyors).

Subject merchandise includes merchandise matching the above description that has been finished or packaged in a third country. Finishing includes, but is not limited to, coating, painting, or assembly, including attaching the merchandise to another product, or any other finishing or assembly operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof. Packaging includes packaging the merchandise with or without another product or any other packaging operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof.

Steel racks and parts thereof are included in the scope of this investigation whether or not imported attached to, or included with, other parts or accessories such as wire decking, nuts, and bolts. If steel racks and parts thereof are imported attached to, or included with, such non-subject merchandise, only the steel racks and parts thereof are included in the scope.

The scope of this investigation does not cover: 1) decks, *i.e.*, shelving that sits on or fits into the horizontal supports to provide the horizontal storage surface of the steel racks; 2) wire shelving units, *i.e.*, shelves made from wire that incorporate both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create a finished unit; 3) pins, nuts, bolts, washers, and clips used as connecting devices; and 4) non-steel components.

Specifically excluded from the scope of this investigation are any products covered by Commerce's existing antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from the People's Republic of China. *See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Antidumping Duty Order*, 80 Fed. Reg. 63,741 (October 21, 2017); *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 Fed. Reg. 63,745 (October 21, 2017). Also excluded from the scope of this investigation are bulk-packed parts or components of boltless steel shelving units that were specifically excluded from the scope of the *Boltless Steel Shelving Orders* because such bulk-packed parts or components do not contain the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) packaged together for assembly into a completed boltless steel shelving unit.

Merchandise covered by this investigation is currently classified in the HTSUS under the following subheadings: 7326.90.8688, 9403.20.0080, and 9403.90.8041. Subject merchandise may also enter under subheadings 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

V. 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 August 15, 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 steel racks from China.[30]

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.[31]

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[30] *See Steel Racks from China*, 83 FR 40552 (August 15, 2018) (ITC Prelim).

[31] *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 at Comment 6.

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[32] 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.[33] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[34]

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.[35] This information 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.

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, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an 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

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[32] *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 Issues and Decision Memorandum at Comment 1.
[33] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[34] *See* Public Law 112-99, 126 Stat. 265 §1(b).
[35] *See* Memorandum, "China Statistical Yearbook Memorandum," dated concurrently with this memorandum.

manner."[36] 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."[37] At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

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."[38] It is Commerce's practice to consider information to be corroborated if it has probative value.[39] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[40] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[41] Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.[42]

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 Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[43]

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

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[36] *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).
[37] *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.
[38] *See, e.g.*, SAA at 870.
[39] *Id.* at 870.
[40] *Id.* at 869.
[41] *Id.* at 869-870.
[42] *See* section 776(c)(2) of the Act.
[43] *See* section 776(d)(3) of the Act.

B. Application of AFA: Non-Responsive Q&V Questionnaire Recipients

As noted above, Commerce issued Q&V questionnaires to 24 companies identified in the Petition via Federal Express (FedEx).[44] We confirmed that 16 of the 24 Q&V questionnaires were delivered.[45] Of the 16 companies that we confirmed had questionnaires delivered to them, only three timely responded to our request for information.[46] Therefore, the following 13 Q&V recipients did not respond to our request for information: Designa Inc.; Dongguan Baike Electronic Co., Ltd.; Ezidone Display Corp. Ltd.; Fenghua Huige Metal Products Co., Ltd.; Formost Plastic Metal Works (Jiaxing) Co., Ltd.; Ningbo Bocheng Home Products Co., Ltd.; Ningbo Joys Imp. & Exp. Co., Ltd.; Ningbo Li Zhan Import & Export Co.; Qingdao Haineng Hardware Products Co., Ltd.; Qingdao Huatian Hand Truck Co., Ltd.; Qingdao Zeal-Line Stainless Steel Products Co., Ltd.; Seven Seas Furniture Industrial (Xiamen) Co., Ltd.; and Shijiazhuang Wells Trading & Mfg. Co., Ltd.

We preliminarily determine that the non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding. Thus, Commerce will rely on facts otherwise available in making our preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act.[47] Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, each of these companies did not cooperate to the best of its ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

As facts otherwise available with an adverse inference, we find the non-responsive companies used and benefited from all programs at issue in this proceeding. For the five initiated upon programs that were used by the cooperating mandatory respondents, we have found the programs to be specific and to provide a financial contribution.[48] For the remaining programs that we initiated upon, and for the subsidies self-reported by the respondents, the GOC did not respond to our CVD questionnaire and/or supplemental questions on these programs. By not responding to our requests for information regarding these programs, the GOC withheld information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding. It also failed to cooperate by not acting to the best of its ability. Therefore, relying on sections 776(a)(2)(A)-(C) and 776(b) of the Act, we find that these programs constitute financial contributions and meet the specificity requirements of the Act.

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[44] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China Petition: Quantity and Value Questionnaires," dated July 17, 2018.
[45] *See* Memorandum, "Countervailing Duty Investigation of Steel Racks from the People's Republic of China: FedEx Delivery," dated August 20, 2018.
[46] *Id*.
[47] For the derivation of the preliminary AFA subsidy rate assigned to the companies who did not respond to the Q&V questionnaire, *see* Appendix; *see also* Preliminary Calculation Memorandum.
[48] As discussed below, we are finding the Policy Loans and Provision of Land in Economic Development Zones (EDZs) for LTAR programs to be specific without resorting to facts available and adverse inferences. For the remaining programs, our specificity determination is based on adverse facts available.

Accordingly, we are including all programs in the determination of the AFA rate for the non-responsive companies.[49] We selected an AFA rate for each program 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 the non-responsive companies. 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 the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections below.

C. Application of AFA: Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo

As discussed above in the section "Initiation and Case History," we selected Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo as mandatory respondents. Each of the above companies failed to provide a response to Commerce's questionnaire. Moreover, the GOC did not respond to our Initial Questionnaire with respect to Jiangsu Kingmore, Nanjing Huade and Tangshan Apollo. As noted above, for the five initiated upon programs that were used by the cooperating mandatory respondents, we have found the programs to be specific and to provide a financial contribution. For the remaining programs that we initiated upon, and for the subsidies self-reported by the respondents, the GOC did not respond to our CVD questionnaire and/or supplemental questions on these programs. By not responding to the Initial Questionnaire, Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo and the GOC withheld information that was requested of them, failed to provide information by the established deadlines, and significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act, we are basing the subsidy rate for Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo, as well as our findings regarding specificity and financial contribution for certain programs, by selecting from among the facts otherwise available on the record.

Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to our requests for information, Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo, and the GOC did not cooperate to the best of their ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo, and the GOC do not obtain a more favorable result by failing to cooperate than if they had fully complied with Commerce's requests for information. The application of AFA is consistent with Commerce's practice.[50] As facts otherwise available with an adverse inference,

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[49] *See* Appendix.

[50] *See, e.g., Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Preliminary Affirmative Determination*, 80 FR 68843 (November 6, 2015), and accompanying Issues and Decision Memorandum at "Initiation and Case History" and "Use of Facts Otherwise Available and Adverse Inferences," unchanged in *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) (*CORE from China*), and accompanying Issues and Decision Memorandum at "Case History" and "Use of Facts Otherwise Available and Adverse Inferences." *See also 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), and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."

we find that all of the programs at issue in this proceeding are countervailable with respect to Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo. Therefore, all programs provide a financial contribution within the meaning of sections 771(5)(B) 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. Accordingly, we are including each of these programs in the determination of the AFA rate for Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo.[51] We selected an AFA rate for each of the 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 Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo. 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 the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections below.

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.[52] When selecting AFA rates, section 776(d) of the Act provides that we 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 Commerce considers reasonable to use, including the highest of such rates.[53] 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).[54] If no such rate exists, we then determine if

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[51] *See* Appendix.
[52] *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 Preliminary Decision Memorandum 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 Issues and Decision Memorandum at "VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies"; *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 Issues and Decision Memorandum at "Application of Facts Available, Including the Application of Adverse Inferences."
[53] *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 Issues and Decision Memorandum 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").
[54] 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*

there is a similar/comparable program (based on the treatment of the benefit) in any 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 non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.[55]

Commerce's methodology is consistent with Section 502 of the Trade Preferences Extension Act of 2015 (TPEA), which the President of the United States signed into law on June 29, 2015. Section 502 of the TPEA added new subsection (d) to section 776 of the Act. Section 776(d)(1)(A) of the Act states that when applying an adverse inference in selecting from the facts otherwise available, we may (i) use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or (ii) if there is no same or similar program, use a countervailable subsidy for a subsidy rate from a proceeding that we consider reasonable to use. Thus, section 776(d)(1)(A) of the Act expressly allows for our existing practice of using an adverse facts available hierarchy in selecting a rate "among the facts otherwise available" in CVD cases, should the facts warrant such a selection.

Section 776(d)(2) of the Act authorizes Commerce to rely on the highest prior rate under certain circumstances. In deriving an adverse facts available rate under section 776(d)(1)(A) of the Act described above, the provision states that we "may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available."[56] No legislative history accompanied this provision of the TPEA. Accordingly, we are left to interpret this "evaluation by the administering authority of the situation" language in light of existing agency practice, and the structure and provisions of section 776(d) of the Act itself.

The Act anticipates a two-step process for determining an appropriate adverse facts available rate in CVD cases: 1) Commerce may apply its hierarchy methodology, and 2) Commerce may apply the highest rate derived from this hierarchy to a respondent, should it choose to apply that hierarchy in the first place, unless, after an evaluation of the situation that resulted in the use of adverse facts available, Commerce determines that the situation warrants a rate different than the rate derived from the hierarchy be applied.[57]

In applying the adverse facts available rate provision, it is well established that when selecting the rate from among possible sources, we seek to use a rate that is sufficiently adverse to

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Countervailing Duty Determination, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

[55] *See Shrimp from China* and Issues and Decision Memorandum, at 13-14.

[56] Section 776(d)(2) of the Act.

[57] This differs from antidumping proceedings, for which no hierarchy applies, under section 776(d)(1)(B). Under that provision, "any dumping margin from any segment of the proceeding under the applicable antidumping order" may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in a timely manner. This ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[58] Further, "in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin."[59] It is pursuant to this knowledge and experience that we have implemented our adverse facts available hierarchy in CVD cases to select an appropriate adverse facts available rate.[60]

In applying its adverse facts available hierarchy in CVD investigations, Commerce's goal is as follows: in the absence of necessary information from cooperative respondents, we are seeking to find a rate that is a relevant indicator of how much the government of the country under investigation is likely to subsidize the industry at issue, through the program at issue, while inducing cooperation. Accordingly, in sum, the three factors that we take into account in selecting a rate are: 1) the need to induce cooperation, 2) the relevance of a rate to the industry in the country under investigation (*i.e.*, can the industry use the program from which the rate is derived), and 3) the relevance of a rate to a particular program, though not necessarily in that order of importance.

Furthermore, the hierarchy (as well as section 776(d)(1) of the Act) recognizes that there may be a "pool" of available rates that we can rely upon for purposes of identifying an adverse facts available rate for a particular program. In investigations for example, this "pool" of rates could include the rates for the same or similar programs used in either that same investigation, or prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that "pool" of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

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[58] *See* Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1, at 870, reprinted in 1994 U.S.C.C.A.N 4040, 4090; *see also Essar Steel*, 678 at 1276 (citing *F. Lii De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) (finding that "{t}he purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate" with Commerce's investigation, not to impose punitive damages.'") (*De Cecco*).

[59] *See De Cecco*, 216 F.3d at 1032.

[60] We have adopted a practice of applying this hierarchy in CVD cases. *See e.g., Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017) and accompanying Issues and Decision Memorandum at 28-31 (applying the adverse facts available hierarchical methodology within the context of CVD investigation); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015) and accompanying Issues and Decision Memorandum at 11-15 (applying the adverse facts available hierarchical methodology within the context of CVD administrative review). However, depending on the type of program, we may not always apply the AFA hierarchy. *See e.g., Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016) and accompanying Issues and Decision Memorandum at 7-8 (applying, outside of the adverse facts available hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

Under the first step of Commerce' investigation hierarchy, we apply the highest non-zero rate calculated for a cooperating company for the identical program in the investigation. Under this step, we will even use a *de minimis* rate as adverse facts available if that is the highest rate calculated for another cooperating respondent in the same industry for the same program.

However, if there is no identical program match within the investigation, or if the rate is zero, then we will shift to the second step of its investigation hierarchy, and either apply the highest non-*de minimis* rate calculated for a cooperating company in another countervailing duty proceeding involving the same country for the identical program, or if the identical program is not available, for a similar program. This step focuses on the amount of subsidies that the government has provided in the past under the investigated program. The assumption under this step is that the non-cooperating respondent under investigation uses the identical program at the highest above *de minimis* rate of any other company using the identical program.

Finally, if no such rate exists, under the third step of Commerce's investigation hierarchy, we apply the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.[61]

In all three steps of Commerce's adverse facts available investigation hierarchy, if we were to choose low adverse facts available rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the "reward" for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce's investigation adverse facts available hierarchy (which is different from selecting the highest possible rate in the "pool" of all available rates), we strike a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.[62]

Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an adverse facts available rate under section 776(d)(1) of the Act; that is, after "an evaluation of the situation that resulted in the application of an adverse inference," we may decide that given

[61] In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

[62] It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and accompanying Issues and Decision Memorandum at 2, dated October 17, 2007 ("As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and Policy lending programs of the other producer/producer in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed…"). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as adverse facts available under its hierarchy.

the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

There are no facts on this record that suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as adverse facts available. As explained above, we are preliminarily applying adverse facts available because Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo, and each of the companies that failed to submit a response to the Q&V questionnaire chose not to cooperate by not providing the information we requested. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.

In applying AFA to determine a net subsidy rate for the non-cooperating companies, we applied the methodology detailed above. We began by selecting, as AFA, the highest calculated program-specific above-zero rates determined for mandatory respondents in the instant investigation. Accordingly, we are applying the subsidy rate calculated for mandatory respondents for the following programs:

- Policy Loans
- Provision of Electricity for LTAR
- Provision of Cold-Rolled Steel for LTAR
- Provision of Hot-Rolled Steel for LTAR
- Provision of Land in Economic Development Zones for LTAR
- Subsidy Fee from the Nanjing Social Insurance Management Center
- 2017 Upgrade Advanced Development Special Funds from the Jiangning District Bureau of Commerce
- 2016 Development Economic Performance Assessment Award from the Jiangning District Bureau of Commerce
- Inefficient Land Revitalization Subsidy from the Nanjing Hengxi Street Authority
- Funds of Loan with Discounted Interest from Bureau of Finance
- Subsidy Due to Super Typhoon Meranti
- Labor Cooperation Rewards from Tong’an District Labor and Employment Center
- Social Security of the Labor and Social Security Center of Tong’an District Labor and Employment Center
- Xiamen Municipal Bureau of Commerce Premium and Credit Investigation Fee
- Funds Subsidy from Tong'an District Business Bureau
- Social Security Replenishment
- Social Security Replenishment of the Tong’an District Labor and Employment Center
- Post-Disaster Reconstruction Grant

In determining an AFA rate for the following income tax reduction programs on which we initiated an investigation, we are finding, as AFA, that the non-cooperating companies 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
- Preferential Income Tax Policy for Enterprises in the Northeast Region
- Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development

The standard income tax rate for corporations in China in effect during the POI was 25 percent.[63] 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 five 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 import tariff and value-added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.[64]

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 programs from other CVD proceedings involving China:

- Export Loans
- Treasury Bond Loans
- Preferential Lending to Producers and Exporters Classified as "Honorable Enterprises" or Similar Designations
- Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
- Debt-to-Equity Swaps
- Value-Added Tax (VAT) and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
- Provision of Land to State-Owned Enterprises (SOEs) for LTAR
- Provision of International Shipping Services for LTAR
- The State Key Technology Project Fund
- Foreign Trade Development Fund Grants
- Export Assistance Grants
- Export Interest Subsidies
- Grants for Energy Conservation and Emission Reduction
- Grants for the Retirement of Capacity
- Grants for Relocating Production Facilities

For this preliminary determination, we were similarly able to match all of Aifeimetal's and Dongsheng's self-reported subsidies for which we did not calculate a rate in the instant

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[63] *See* CVD Initiation Checklist at 14.
[64] *See, e.g.*, *Aluminum Extrusions Final* and accompanying Issues and Decision Memorandum, at "Application of Adverse Inferences: Non-Cooperative Companies."

investigation to similar programs from other China CVD proceedings. A full list of such self-reported subsidies is contained below in Appendix 1.[65]

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for the non-cooperating companies to be 150.49 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

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."[66] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[67]

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.[68] 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.[69]

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.[70]

In the absence of record evidence concerning the non-responsive companies' usage of the subsidy programs at issue due to their decision not to participate in the investigation, we have reviewed the information concerning Chinese subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this investigation. The relevance of these rates is that they are actual calculated subsidy rates for Chinese programs, from which the non-responsive companies could

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[65] With respect to Aifeimetal's self-reported subsidies, we have combined programs that had identical or nearly identical names, and which were received in the same year.
[66] *See* SAA at 870.
[67] *Id*.
[68] *Id*. at 869-870.
[69] *See* section 776(d) of the Act.
[70] *See, e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, we have corroborated the rates we selected to use as AFA to the extent practicable pursuant to section 776(c)(1) for this preliminary determination.

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

As discussed below, under "Programs Preliminarily Determined to be Countervailable," we are investigating the provision of cold-rolled and hot-rolled steel for LTAR. We requested that the GOC provide information necessary to determine whether the specific companies that produced the cold-rolled and hot-rolled steel that Aifeimetal and Dongsheng purchased during the POI are "authorities" within the meaning of section 771(5)(B) of the Act.[71]

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,"[72] in order to provide a complete response to our questions regarding the input producers. The GOC did not provide a full response with respect to either Aifeimetal's or Dongsheng's input producers.

With respect to Aifeimetal, the GOC stated that the company informed the GOC that it "does not purchase hot-rolled or cold-rolled steel, but only purchases steel panels" of cold and hot-rolled steel.[73] Therefore, the GOC initially did not provide any information regarding the producer of Aifeimetal's cold-rolled and hot rolled-steel inputs, and implicitly assumed that Aifeimetal's input could not constitute cold-rolled or hot-rolled steel within the questionnaire's meaning because the input was in the form of panels or plates. We disagree with the GOC's interpretation of the questionnaire, because the petitioner's allegation was not limited to cold and hot-rolled steel in any particular form (*e.g.*, coiled). Accordingly, we again asked the GOC to provide a full response to our questions regarding the single company that Aifeimetal identified as an input producer; in response, the GOC provided limited information concerning the corporate structure of the input supplier and provided no information on the Chinese Communist Party (CCP) membership of key individuals.[74]

Specifically, the GOC provided the input producer's "Basic Registration Information" to demonstrate that the company is owned by individuals, rather than the state.[75] Additionally, the GOC argued that the requested CCP information is irrelevant and directed us to consult Aifeimetal's response for any additional information on the input producer.[76] Aifeimetal's response, in turn, contained limited information on the input producer. In particular, Aifeimetal

[71] *See* Initial CVD Questionnaire, at Section II; *see also* GOC November 2, 2018 SQR at 2-3.
[72] *See* Initial CVD Questionnaire at Section II, 9.
[73] *See* GOC October 17, 2018 QR, at 6, 39.
[74] *See* GOC November 2, 2018 SQR, at 1-2.
[75] *Id.*
[76] *See, e.g.,* GOC October 17, 2018 QR, at 8 (stating that Commerce's CCP questions are "irrelevant to this proceeding and do not go to whether the suppliers at issue are 'public bodies' for the purposes of the Department's LTAR analysis."); *see also* GOC November 2, 2018 SQR, at 1-2 (referring Commerce to the mandatory respondents' initial questionnaire responses and supplemental responses for information on input producers' corporate structure and CCP membership).

provided the input producer's business registration, articles of incorporation, and affidavits from several shareholders and the executive director stating that they are not members of the various CCP organizations enumerated in our questionnaire.[77]

The proffered information constitutes a deficient response to Commerce's questions regarding Aifeimetal's input supplier, and does not provide us with sufficient information to determine whether the input supplier is an "authority." As an initial matter, the GOC did not fully respond to our questions regarding the corporate structure of the input producers. For example, the GOC did not provide capital verification reports and/or annual reports for the POI and the two preceding years.[78] Further, the GOC did not provide the requested information regarding the CCP membership of the input producer's shareholders and key personnel. Although Aifeimetal provided limited information in response to our questions, this is insufficient. We rely on the GOC for such information because it is the GOC – not the respondent or input supplier – who is in possession of the data that would allow verification of claims regarding CCP membership.[79] For this reason, we have specifically declined to rely on affidavits for CCP information in the past, explaining that "certifications from company officials, certifying that company officials are not officials of the CCP or of the GOC … does not constitute an adequate response to our question."[80] Rather, the GOC is required to provide verifiable "government or CCP documents (for example, member lists for the CCP entities at the national and provincial levels)," or explain why "direct information of this type is not available to the GOC."[81] The GOC did not provide such information here.

The information we requested regarding the role of CCP officials in the management and operations of the respondents' input producers is necessary for our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP or that it consulted any other sources. The GOC's responses in prior CVD proceedings involving China demonstrate that it is, in fact, able to access information similar to what we requested.[82] Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any of the requested information, it should have

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[77] *See* Aifeimetal IQR at Exhibit 24 (articles of association), Exhibit 25 (business license), and Exhibit 26 (affidavits regarding positions in nine CCP entities).

[78] *See* GOC November 2, 2018 SQR, at 1-2; *see also* Initial CVD Questionnaire at Section II (requesting that the GOC provide "articles of groupings," "company by-laws," "annual reports," "business group registration," and "tax registration certificates" for all input producers).

[79] *See Utility Scale Wind Towers From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) and accompanying Issues and Decision Memorandum (rejecting the respondent's proffer of CCP information, stating that Commerce "directed *the GOC* to respond to the Producers Appendix because *it is the party to this investigation which has in its possession verifiable information on the CCP's structure and functions* that are relevant to the Department's determination of whether the producers of HRS are 'authorities' within the meaning of section 771(5)(B) of the Act.") (emphasis added); *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) and accompanying Issues and Decision Memorandum (same).

[80] *See Aluminum Extrusions from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 81 FR 92778 (December 20, 2016) and accompanying Issues and Decision Memorandum at "GOC - Whether Aluminum Extrusions Producers Are 'Authorities'".

[81] *Id.*

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

promptly explained to Commerce what attempts it undertook to obtain this information and proposed alternative forms of providing the information.[83]

As we explained in the Additional Documents Memorandum,[84] the CCP exerts significant control over economic activities in China. Thus, we find, as we have in numerous prior CVD proceedings,[85] that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the respondents' input suppliers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.

With respect to Dongsheng, the GOC explained that Dongsheng "purchased all of its hot-rolled and cold-rolled steel from trading companies, not producers," and "{b}ecause of this circumstance, Dongsheng has been unable to obtain information on the producers of these inputs from the trading companies, and thus has not been able to provide the GOC with the identity of the producers from whom the trading companies purchase these inputs."[86] Dongsheng was unable to provide information on the producers.[87] In turn, the GOC did not provide any information to allow Commerce to make a determination of whether the input producers of Dongsheng's inputs are authorities.

As a result, necessary information (*i.e.*, the identities of the producers who made the steel purchased by Dongsheng) is not on the record. As facts otherwise available, and in accordance with section 776(a)(1) of the Act, we have inferred that these unknown producers are "authorities" at the same ratio as the known producers of Aifeimetal. Because all of the known producers for Aifeimetal are "authorities," we have inferred that all of Dongsheng's unknown producers are, similarly, "authorities." Our use of facts available in this regard is consistent with Commerce's practice and section 776(a) of the Act.[88]

For the reasons discussed, we preliminary find that the input producers that supplied Aifeimetal and Dongsheng with cold-rolled and hot-rolled steel during the POI are "authorities" within the meaning of section 771(5)(B) of the Act.

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[83] Section 782(c)(1) of the Act states, "{i} f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party."

[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 Issues and Decisions Memorandum at Comment 5.

[86] *See* GOC October 17, 2018 QR, at 6, 39.

[87] *See* GOC November 2, 2018 SQR, at 1-2.

[88] *See Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 51396 (November 6, 2017) and accompanying Preliminary Decision Memorandum at 15; *see also Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37844 (August 14, 2017) and accompanying Preliminary Decision Memorandum at 50.

For details on the calculation of the subsidy rates for Aifeimetal and Dongsheng, *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 that purchase cold-rolled and hot-rolled steel in China.[89] In response to our questions concerning specificity, the GOC asserted that the provision of cold-rolled and hot-rolled steel is not specific, and stated that the GOC does not collect official data regarding the industries in China that purchase cold-rolled or hot-rolled steel directly.[90] The GOC further contends that there are "a vast number of uses" for cold-rolled and hot-rolled steel, and that the "types of consumers that may purchase {these steel products} are highly varied within the economy."[91] Moreover, the GOC states that the selling price of cold-rolled and hot-rolled steel is determined by negotiations between sellers and buyers according to market principles.[92]

These contentions notwithstanding, Commerce also requested that the GOC "{p}rovide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry."[93] The GOC did not provide this requested information for cold-rolled or hot-rolled steel purchased by the steel racks industry, instead stating that the GOC does not collect official data regarding the purchase of cold or hot-rolled steel by industry, and further that no cold or hot-rolled steel producers compile sales volumes and values by industry.[94] While the GOC provided some information, such as excerpts from various sources that identify which industries produce steel and which industries use steel in China,[95] this information is insufficient because it does not include the relative volume or value of the industry's purchases for the POI and the prior two years, as we requested.[96]

Consequently, consistent with past proceedings,[97] we preliminarily determine that necessary information is not available on the record. Moreover, the GOC withheld information that was requested, and, as a result, Commerce 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.

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89 *See* Initial Questionnaire at 9.
90 *See* GOC October 17, 2018 QR at 29, 63.
91 *Id*.
92 *Id*. at 27, 61.
93 *See* Initial Questionnaire at 8.
94 *See* GOC October 17, 2018 QR at 29, 63.
95 *Id.* at 34-35.
96 *See* Initial Questionnaire at 8.
97 *See, e.g., Utility Scale Wind Towers from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422 (June 6, 2012) (unchanged in *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers from China*)).

Further, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information.[98] Consequently, we preliminarily determine that an adverse inference is warranted in the application of facts available.[99] In drawing an adverse inference, we find that the purchasers of cold-rolled or hot-rolled steel provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act. Additionally, we note that we have previously found the provision of hot-rolled and cold-rolled steel to be provided only to steel consuming industries, and thus, are provided to a limited number of industries.[100] Accordingly, we preliminarily determine the provision of hot-rolled and cold-rolled steel to be specific pursuant to section 771(5A)(D)(iii)(I) of the Act.

F. Application of AFA: Provision of Electricity for LTAR

As discussed below under, "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 financial contribution and specificity for 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 during 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.[101] Commerce requested this information to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact

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[98] This determination is consistent with our determination 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) and accompanying Issues and Decision Memorandum at Comment 3b.

[99] *See* section 776(b) of the Act.

[100] *See, e.g., Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 56582 (November 29, 2017) (*Tool Chests from China*) and accompanying Issues and Decisions Memorandum at Comment 4.

[101] *See* Initial Questionnaire at Electricity Appendix.

price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

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).[102] 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.[103]

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.[104] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.[105] Article 2 indicates that the price reduction is "mainly used for reducing the price of industrial and commercial electricity."[106] Articles 3 and 4 specifically direct the reduction of the sales price for industrial and commercial electricity.[107] Articles 6 and 7 indicate that provincial pricing authorities will "develop and issue specific adjustment plan of electricity price and sales price in accordance with the average price adjustment standards of Annex 1" and will submit the adjustments to the NDRC, and further that the price adjustment will be enforced on April 20th, 2015.[108] Finally, Article 10 directs that "{l}ocal price departments shall organize and arrange carefully to put in place the electricity price adjustment measures."[109] 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 must report resulting prices to the NDRC.[110]

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.[111] 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.[112] The notices do not explicitly eliminate Provincial Price Proposals and do not define distinctions in price-setting roles between national and provincial pricing authorities. In a supplemental questionnaire,

[102] *See* GOC IQR at 27-28.
[103] *Id*.
[104] *Id.* at Exhibit II.E.e.5.
[105] *Id*.
[106] *Id.*
[107] *Id*.
[108] *Id.*
[109] *Id.*
[110] *Id.* at Exhibit II.E.e.4.
[111] *Id.* at 27-28.
[112] *Id.* at Exhibit II.E.e.4 and Exhibit II.E.e.5.

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 a directed price change.[113] The GOC, did however, note that "{p}rovincial authorities do submit their price schedules to the NDRC to ensure that the price adjustments follow the principles laid out by the NDRC."[114]

As explained above, the GOC's response does not constitute a full explanation regarding the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. In fact, the information provided by the GOC indicates that despite its claim that the responsibility for setting prices within each province has moved from the NDRC to the provincial governments, the NDRC continues to play a major role in setting and adjusting prices.

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 Commerce, and that the GOC significantly impeded this proceeding. Thus, we must rely on "facts available" in making our preliminary determination.[115] 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.[116] 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. We are also relying on AFA in selecting the benchmark for determining the existence and amount of the benefit.[117] 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.

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

Aifeimetal and Dongsheng reported that they received certain "Other Subsidies" during the POI.[118] The GOC did not provide information regarding these other subsidies in its initial questionnaire response.[119] Therefore, we issued a supplemental questionnaire requesting that the GOC provide a full response regarding the measurable "Other Subsidies" reported by Aifeimetal and Dongsheng. However, in its response, the GOC did not provide any of the requested information concerning the programs at issue.[120]

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

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113 *See* GOC October 20, 2018 SQR at 4.
114 *Id.*
115 *See* section 776(a)(2)(A) of the Act.
116 *See* section 776(b) of the Act.
117 *See* section 776(b)(4) of the Act.
118 *See* Aifeimetal November 2, 2018 SQR at Exhibit 1S-22; Dongsheng IQR at 23-24 and Exhibit 11.
119 *See* GOC IQR at 39.
120 *See* GOC October 30, 2018 SQR at 12-13.

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 Aifeimetal and Dongsheng constitute financial contributions, 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 "other subsidy" applicable to the POI by the appropriate sales denominator for Aifeimetal and Dongsheng, respectively. *See* "Other Subsidies," below.

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.[121] 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 12 years, on the basis of U.S. Internal Revenue Service Publication 946 (2016).[122] 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 a subsidy 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 subsidy 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), we normally attribute a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of 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

[121] *See* 19 CFR 351.524(b).
[122] *See* U.S. Internal Revenue Service Publication 946 (2016), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

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.[123]

Thus, Commerce's regulations make clear that we must look at the facts presented in each case to determine 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.[124]

Aifeimetal

As discussed above, we selected Aifeimetal as a mandatory company respondent. Aifeimetal responded to Commerce's questionnaire on behalf of itself and its cross-owned affiliates, Xiamen Massive Joy Industry Co., Ltd. (Massive Joy) and Xiamen Aifei Health-Tech Co., Ltd. (Aifei Health-Tech).[125] Massive Joy and Aifei Health-Tech satisfy the cross-ownership requirements under our attribution rules at 19 CFR 351.525(b). Specifically, Massive Joy and Aifei Health-Tech are cross-owned within the definition of 19 CFR 351.525(b)(6)(vi) and are involved in the production of subject merchandise under 19 CFR 351.525(b)(6)(ii).[126] Therefore, pursuant to 19 CFR 351.525(b)(6)(ii), benefits to Aifeimetal, Massive Joy or Aifei Health-Tech are attributed to the combined sales of the three companies, net of intercompany sales.

Although Aifeimetal identified other companies with which it was affiliated during the POI, these affiliates were not involved in either the production or sale of subject merchandise or non-subject merchandise during the POI, or otherwise meet any of the attribution conditions in our regulation. Therefore, we preliminarily determine that such affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(v).

[123] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[124] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[125] *See generally* Aifeimetal AQR.
[126] *See* Aifeimetal October 25, 2018 SQR at 4.

Dongsheng

Dongsheng identified itself as a privately-owned Chinese producer and exporter of subject merchandise.[127] Dongsheng reported no cross-owned affiliates involved or engaged in the sale, purchase, or production of subject merchandise. Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing the subsidies received by Dongsheng during the POI to its own sales.

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, when appropriate, the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* the Aifeimetal Preliminary Calculation Memorandum and Dongsheng Preliminary Calculation Memorandum.

BENCHMARKS AND INTEREST RATES

We are investigating loans received by Aifeimetal and Dongsheng from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.[128] 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, we use comparable commercial loans reported by the company as a benchmark.[129] 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."[130]

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.[131] On July 21, 2017, Commerce

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[127] *See* Dongsheng ACQR at 1-4; *see also* Dongsheng First SQR at Exhibit SQ-1.
[128] *See* 19 CFR 351.524(b)(1).
[129] *See* 19 CFR 351.505(a)(3)(i).
[130] *See* 19 CFR 351.505(a)(3)(ii).
[131] *See CFS from China* Issues and Decision Memorandum at Comment 10.

conducted a reassessment of China's financial system for CVD benchmarking purposes.[132] Based on this reassessment, Commerce has concluded that, despite the 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 Aifeimetal and Dongsheng 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.[133]

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*.[134] 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.[135] Beginning in 2010, however, China was classified in the upper-middle income category and remained there from 2011 to 2017.[136] 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.[137]

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

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[132] *See* Memorandum, "Countervailing Duty Investigation of Certain Steel Racks from the People's Republic of China: Review of China's Financial System Memorandum," dated concurrently with this memorandum.
[133] *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 Preliminary Decision Memorandum 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).
[134] *See CFS from China* Issues and Decision Memorandum at Comment 10*; see also Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from China*) and accompanying Issues and Decision Memorandum at 8-10.
[135] *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 Steel Racks from the People's Republic of China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).
[136] *See* World Bank Country Classification.
[137] *See, e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013) and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates," unchanged in *Shrimp from China*.

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.[138] For 2010, however, the regression does not yield that outcome for China's income group.[139] This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS 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 income" by the World Bank for 2010-2017 and "lower middle income" for 2001-2009.[140] First, we did not include those economies that we 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 we 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.[141] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[142]

B. Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, we 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.[143]

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

[138] *See* Interest Rate Benchmark Memorandum.
[139] *Id*.
[140] *Id*.
[141] *Id*.
[142] *Id*.
[143] *See, e.g., Thermal Paper from China* Issues and Decision Memorandum at 10.

approximates the number of years of the term of the loan in question.[144] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[145] The inflation-adjusted benchmark lending rates are contained in the Interest Rate Benchmark Memorandum, and in the Aifeimetal and Dongsheng preliminary calculation memoranda.[146]

C. 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.[147] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Aifeimetal's Preliminary Calculation Memorandum and Dongsheng's Preliminary Calculation Memorandum.

D. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of cold-rolled and hot-steel for LTAR in accordance with 19 CFR 351.511. Section 351.511(a)(2) of Commerce's regulation 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).[148]

To determine the appropriate benchmark for measuring the benefits of inputs provided at LTAR under 19 CFR 351.511, we asked the GOC several questions concerning the structure of the cold-rolled and hot-rolled steel industries.[149] In response, the GOC provided summary data for the cold-rolled[150] and hot-rolled steel[151] industries. This information included the number of domestic producers of each input, the number of such producers in which the GOC maintains an

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[144] *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 Issues and Decision Memorandum at Comment 14.
[145] *See* Interest Rate Benchmark Memorandum.
[146] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[147] *Id.*; *see* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[148] *See* 19 CFR 351.511(a)(2).
[149] *See* Initial Questionnaire, at 7-13.
[150] For cold-rolled steel, the GOC provided data covering "cold-rolled thin plate, cold-rolled thin & wide steel strip and cold-rolled narrow steel strip," which the GOC explained "together constitute the category that most approximates the category requested by the Department for 'cold-rolled steel.'" *See* GOC October 17, 2018 QR at 56.
[151] For hot-rolled steel, the GOC provided data covering "hot-rolled thin plate, hot-rolled thin & wide steel strip, and hot-rolled narrow steel strip." *See* GOC October 17, 2018 QR at 22.

ownership or management interest, the total volume of production of each input, the volume and value of imports, and the volume of exports and domestic consumption.[152]

We have recently determined that the GOC exercises significant control and influence in the steel industry. Specifically, we noted that:

> {Commerce} finds that the record information indicates that China's steel industry is characterized by significant government ownership, control and intervention. This broad government intervention across the entire market, extending to all enterprises, coupled with {Commerce's} findings regarding the leading role for SIEs in the steel sector as envisioned and implemented by the GOC, distorts and diminishes the signals faced by all enterprises. Therefore, {Commerce} finds that based on the record of these proceedings, there are no potential benchmarks from the domestic industry that can be considered 'market based' in accordance with the SCM Agreement.[153]

In this preliminary determination, we continue to find that the Chinese steel market is riddled with distortions and that steel prices within China cannot constitute market benchmarks. Further, with respect to cold-rolled steel, in this proceeding the GOC reported that of the 651 cold-rolled steel producers in operation during the POI, the GOC maintains an ownership or management interest in 118.[154] According to data provided by the GOC, these 118 producers account for 49.8 percent of cold-rolled steel production.[155] This level of GOC-controlled production is substantial. The data provided by the GOC also show that the volume of imports as a percentage of domestic production and consumption (2.76 and 2.80 percent, respectively) is insignificant.

With respect to hot-rolled steel, the GOC reported that of the 269 hot-rolled steel producers in operation during the POI, the GOC maintains an ownership or management interest in 95.[156] According to data provided by the GOC, these 95 producers account for 35.9 percent of hot-rolled steel production.[157] The data provided by the GOC also show that the volume of imports as a percentage of domestic production and consumption (3.45 and 3.92 percent, respectively) is insignificant.

Based on these facts together, we conclude that domestic prices in China for cold-rolled and hot-rolled steel are distorted such that they cannot be used as a Tier 1 benchmark. Thus, to measure the adequacy of remuneration for the provision of cold-rolled and hot-rolled steel, we are relying on world market prices as the Tier 2 benchmark provided for in 19 CFR 351.511(a)(2)(ii).

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[152] *Id.* at 23-25, 56-58.
[153] *See* Market Distortion Memorandum (contain memoranda and the final determination from "Section 129 Proceeding: United States – Countervailing Duty Measures on Certain Products from the People's Republic of China (WTO/DS437)." This memorandum was placed on the record concurrently with this preliminary determination. *See also Forged Steel Fittings from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 83 FR 50342 (October 5, 2018) and accompanying Issues and Decision Memorandum at Comment 3.
[154] *Id.* at 56-58.
[155] *Id.*
[156] *Id.* at 23-25.
[157] *Id.*

As stated in 19 CFR 351.511(a)(2)(ii), where there is more than one commercially available world market price, we will average the prices to the extent practicable. We preliminarily determine that export prices for cold-rolled and hot-rolled steel provided by the parties represent commercially available world market prices; therefore, we averaged the prices for each input to calculate a single monthly benchmark price.

1. Cold-Rolled Steel

Dongsheng reported purchases of cold-rolled steel during the POI for the production of subject merchandise.[158] Aifeimetal reported purchases of cold-rolled steel panels.[159]

The petitioner provided SteelBenchmarker export prices for a broad category of cold-rolled steel, as well as Global Trade Atlas (GTA) export price data for two more specific HTSUS categories covering cold-rolled steel, not in coils.[160] The petitioner asserts that the broad category most accurately captures the price of Dongsheng's cold-rolled inputs, and that the more specific data was appropriate for Aifeimetal's input because cold-rolled panels had undergone certain processing and were not in coils.[161] Dongsheng provided MEPS (International) Ltd. (MEPS) steel prices which contained figures for cold-rolled coil.[162]

Because these proposed benchmark values accurately reflect the cold-rolled steel that Aifeimetal and Dongsheng use in the production of subject merchandise, we preliminarily calculated the benchmark for cold-rolled steel using an average of the data submitted by Dongsheng and the petitioner. We averaged the MEPS world export price data and the SteelBenchmarker data (after excluding categories that included exports from China) for Dongsheng.[163] We averaged the MEPS world export price data and the GTA data for Aifeimetal.[164]

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and include import and delivery charges. Accordingly, we added international freight charges, VAT, and import duties on applicable purchases, to calculate the price that a respondent would have paid on the world market for this input.[165]

[158] *See* Dongsheng LTAR Submission.
[159] *See* Aifeimetal IQR at Exhibit 27 through Exhibit 29.
[160] *See* Petitioner Benchmark Submission at 1-2 and Exhibits 1-5.
[161] *Id.* at 1-2.
[162] *See* Dongsheng Benchmark Submission at Exhibits 1-2.
[163] *See* Dongsheng Preliminary Calculation Memorandum.
[164] *See* Aifeimetal Preliminary Calculation Memorandum.
[165] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.

2. **Hot-Rolled Steel**

Dongsheng reported purchases of hot-rolled steel during the POI for the production of subject merchandise.[166] Aifeimetal reported purchases of hot-rolled steel panels.[167]

The petitioner provided SteelBenchmarker export prices for a broad category of hot-rolled steel, as well as GTA export price data for two more specific HTSUS categories covering hot-rolled steel not in coils.[168] The petitioner asserts that the broad category most accurately reflects the price of Dongsheng's hot-rolled input, and that the more specific HTSUS data was appropriate for Aifeimetal's input because hot-rolled panels had undergone certain processing and were not in coils.[169] Dongsheng provided MEPS Steel Prices which contained figures for hot-rolled coil and hot-rolled plate.[170]

Because these proposed benchmark values accurately reflect the hot-rolled steel that Aifeimetal and Dongsheng use in the production of subject merchandise, we preliminarily calculated the benchmark for hot-rolled steel using an average of the data submitted by Dongsheng and the petitioner. We averaged the MEPS world export price data (specific to "hot-rolled coil") and the SteelBenchmarker data (after excluding categories that included exports from China) for Dongsheng.[171] We averaged the MEPS world export price data (specific to "hot-rolled plate") and the GTA data for Aifeimetal.[172]

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and include import and delivery charges. Accordingly, we added international freight charges, VAT, and import duties on applicable purchases, to calculate the price that a respondent would have paid on the world market for this input.[173]

3. **Ocean Freight**

Dongsheng provided ocean freight rates to be considered as benchmarks.[174] No other party submitted ocean freight data or commented on the data submitted. Accordingly, for the preliminary determination, we relied on the public monthly ocean freight data provided by Dongsheng.[175]

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[166] *See* Dongsheng LTAR Submission.
[167] *See* Aifeimetal IQR at Exhibit 27 through Exhibit 29.
[168] *See* Petitioner Benchmark Submission at 1-2.
[169] *Id.*
[170] *See* Dongsheng Benchmark Submission at Exhibits 4-5.
[171] *See* Dongsheng Preliminary Calculation Memorandum.
[172] *See* Aifeimetal Preliminary Calculation Memorandum.
[173] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[174] *See* Dongsheng Benchmark Submission at Exhibits 1-2.
[175] *See* Dongsheng Benchmark Submission at Exhibit 4.

E. Land Benchmark

As explained in detail in previous investigations, we cannot rely on the use of "tier one" and "tier two" benchmarks to assess the benefits from the provision of land for LTAR in China. Specifically, in *Sacks from China*, we determined that "Chinese land prices are distorted by the significant government role in the market," and hence, no usable "tier one" benchmarks exist.[176] Furthermore, we found that "tier two" benchmarks (world market prices that would be available to purchasers in China) are not appropriate.[177]

On October 2, 2018, Commerce completed a memorandum analyzing developments in China's land market since 2007.[178] The *Land Benchmark Analysis* was prepared to assess the continued application of Commerce's land for LTAR benchmark methodology, as established in 2007 in *Sacks from China*.[179] As discussed in the *Land Benchmark Analysis*, although reforms in China's land markets have improved the use-rights of some landholders, such improvements have not been comprehensive, and reforms have been implemented on an *ad hoc* basis.[180] The reforms to date have not addressed the fundamental institutional factors that underlie the Chinese government's monopoly control over land-use, which precludes landholders from putting their land to its best use and realizing the market value of their landholdings.[181] The GOC still owns all land in China, and exercises direct control over the sale of land-use rights and land pricing in the primary market and indirect control in the secondary market.[182]

As a result, and consistent with our methodology established in *Sacks from China*, we determine that we cannot use any first-tier, domestic Chinese land prices for benchmarking purposes. We also determine that because land is generally not simultaneously available to an in-country purchaser while located and sold out-of-country on the world market, we cannot use second-tier world prices as a benchmark for land-use rights. Finally, because land prices in China are not consistent with market principles, and reflect the government's control and allocation of land-use on an administrative basis, we will continue to use land-use prices outside of China as a third-tier benchmark. Accordingly, consistent with our past practice, we are relying on the use of so-called "tier three" benchmarks for purposes of calculating a benefit for this program.

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[176] *See, e.g.*, *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (unchanged in Final) (*Sacks from China*).
[177] *Id*.
[178] *See* Memorandum, "Countervailing Duty Investigation of Certain Steel Racks from the People's Republic of China: Land for LTAR Memorandum," dated concurrently with this preliminary determination (*Land Benchmark Analysis*) (containing a memorandum titled "Benchmark Analysis of the Government Provision of Land-Use Rights in China for Countervailing Duty Purposes," dated October 2, 2018).
[179] *Id.* at 2.
[180] *Id.*
[181] *Id.*
[182] *Id.*

We are placing on the record benchmark information to value land from "Asian Marketview Reports" by CB Richard Ellis (CBRE) for Thailand for 2010.[183] We used this benchmark in the CVD investigations of *Solar Cells from China* and *IMTDCs from China*.[184] We initially selected this information in the *Sacks from China* investigation after considering a number of factors, including national income levels, population density, and producers' perceptions that Thailand is a reasonable alternative to China as a location for Asian production.[185] We find that the benchmark continues to be suitable for this preliminary determination, and we relied on it for our calculation of benefits relating to Aifeimetal's land purchases.[186]

We will continue to examine benchmark prices on a case-by-case basis, and will consider the extent to which proposed benchmarks represent prices in a comparable setting (*e.g.*, a country proximate to China; the country's level of economic development, etc.). Therefore, we invite parties to submit alternative benchmark data that is consistent with the guidance provided in *Sacks from China* and the *Land Benchmark Analysis*.[187] Parties will have seven days after the publication of this memorandum to provide information to rebut, clarify, or correct information in the *Land Benchmark Analysis* or the *Land Benchmark Data Memorandum*.

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>Provision of Cold-Rolled Steel for LTAR</u>

We are examining whether the GOC or other "authorities" within China provided Aifeimetal and Dongsheng cold-rolled steel for LTAR. Aifeimetal and Dongsheng reported that they purchased cold-rolled steel, in different forms, during the POI.[188]

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183 *See* Memorandum, "Countervailing Duty Investigation of Certain Steel Racks from the People's Republic of China: Asian Marketview Report" dated concurrently with this determination (Land Benchmark Data Memorandum) (containing "Asian Marketview Report" pricing data).
184 *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from China*) and accompanying Issues and Decision Memorandum at 6 and Comment 11; *Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 21316 (April 11, 2016) (*IMTDCs from China*) and accompanying Issues and Decision Memorandum at 13.
185 The complete history of our reliance on this benchmark is discussed in the above-referenced *Solar Cells from China* Issues and Decision Memorandum. In that discussion, we reviewed our analysis from the *Sacks from China* investigation and concluded the CBRE data remained a valid land benchmark.
186 *See* Aifeimetal Preliminary Calculation Memorandum.
187 *See Land Benchmark Analysis* at 30-31.
188 *See* Aifeimetal IQR at Exhibit 27 through Exhibit 29; *see also* Dongsheng LTAR Submission.

Financial Contribution

As discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we find that the use of AFA is warranted with respect to the status of Aifeimetal's cold-rolled steel producer as an "authority." As AFA, we find that Aifeimetal's input producer was an "authority" within the meaning of section 771(5)(B)(i) of the Act and provided financial contributions to the respondents in the form of cold-rolled steel. Applying facts available, we also determined that Dongsheng's input producers are "authorities."

Specificity

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

Benefit

We preliminarily determine that the domestic market for cold-rolled steel is distorted, and we are relying on an external benchmark for determining the benefit from the provision of cold-rolled steel for LTAR under section 771(5)(E)(iv) of the Act.

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

We compared these monthly benchmark prices to the purchase prices that Aifeimetal and Dongsheng reported for individual domestic transactions, including VAT. We determined the benefit to be the difference between the benchmark prices and the prices reported by Aifeimetal and Dongsheng, respectively. We divided the total benefits received by the companies'

[189] *See CVD Preamble*, 63 FR at 65401.

[190] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.

respective POI sales.[191] On this basis, we preliminarily calculated a net countervailable subsidy rate of 3.62 percent *ad valorem* for Aifeimetal and 0.07 percent *ad valorem* for Dongsheng.[192]

2. <u>Provision of Hot-Rolled Steel for LTAR</u>

We are examining whether the GOC or other "authorities" within China provided Aifeimetal and Dongsheng hot-rolled steel for LTAR. Aifeimetal and Dongsheng reported that they purchased hot-rolled steel, in different forms, during the POI.[193]

Financial Contribution

As discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we find that the use of AFA is warranted with respect to the status of Aifeimetal's hot-rolled steel producer as an "authority." As AFA, we find that the producer is an "authority" within the meaning of section 771(5)(B)(i) of the Act that provided financial contributions to the respondents in the form of hot-rolled steel for LTAR. Further, in applying facts available, we also determined that Dongsheng's hot-rolled steel producers are authorities within the meaning of section 771(5)(B)(i) of the Act.

Specificity

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

Benefit

We preliminarily determine that the domestic market for hot-rolled steel is distorted, and we are relying on an external benchmark for determining the benefit from the provision of hot-rolled steel for LTAR under section 771(5)(E)(iv) of the Act.

As discussed above under "Input Benchmarks," because we find that the Chinese market for hot-rolled steel was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[194] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," we 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 the inputs to the respondents'

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[191] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.

[192] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.

[193] *See* Aifeimetal IQR at Exhibit 27 through Exhibit 29; *see also* Dongsheng LTAR Submission.

[194] *See CVD Preamble*, 63 FR at 65401.

production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of hot-rolled steel into China, as provided by the GOC. Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.[195]

We compared the monthly benchmark prices to the purchase prices that Aifeimetal and Dongsheng reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Aifeimetal and Dongsheng. We divided the total benefits received by the companies' respective POI sales.[196] On this basis, we preliminarily determine a net countervailable subsidy rate of 1.20 percent *ad valorem* for Aifeimetal and 4.44 percent *ad valorem* for Dongsheng.[197]

3. <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, in part. 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, where applicable) used by Aifeimetal and Dongsheng. Additionally, we identified and applied the peak, normal, and valley rates within a category, where applicable.

Consistent with our approach in *Wind Towers*, we first calculated Aifeimetal's and Dongsheng'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.[198] Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by Aifeimetal and Dongsheng during the POI from the monthly benchmark variable electricity costs.[199]

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[195] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[196] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[197] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[198] *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 Issues and Decision Memorandum at 21-22.
[199] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.

To measure whether Aifeimetal and Dongsheng received a benefit with regard to their base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the 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 Aifeimetal and Dongsheng 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 Aifeimetal's and Dongsheng's variable electricity payments and base rate payments.[200] To calculate the net subsidy rate attributable to Aifeimetal and Dongsheng, we divided each company's benefit by its respective POI sales. On this basis, we preliminarily calculated a net countervailable subsidy rate of 0.81 percent *ad valorem* for Aifeimetal and a rate of 0.24 percent *ad valorem* for Dongsheng.[201]

4. <u>Policy Loans</u>

We are investigating whether the GOC subsidizes producers of steel racks through the provision of policy loans at preferential rates. According to the petitioner, China's policy banks and SOCBs make loans to producers of steel racks at preferential terms as a matter of government policy.[202] The petitioner states that industry groupings encompassing steel racks production – such as the steel and iron industry – are the subject of strategic industry planning at the national and sub-national levels[203] and have been designated as "key" industries for government support.[204] As explained below, we preliminarily determined that steel racks producers in China have received policy loans during the POI.

When examining a loan program, we look 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, especially with regard to certain encouraged sectors.[205] Where such plans or policy directives exist, it is our practice to find that a policy lending program specific to the named industry (or producers that fall under that industry) exists.[206] Once that finding is made,

[200] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[201] *See* Aifeimetal Preliminary Calculation Memorandum; *see also* Dongsheng Preliminary Calculation Memorandum.
[202] *See* Petition, Volume III at 2-6, 13-15.
[203] *See* Petition, Volume III, at 2; *see, e.g.*, Petition, Volume III, at Exhibit III-5 (stating that, under the Iron and Steel Industry Development Policy, "metal products" are considered products falling within the broader "iron and steel industry"; further explaining that, under the Iron and Steel Industry Adjustment and Revitalization Plan, the GOC will "{i}mprove the expansionary policies for related industries such as equipment {manufacturing}" and will "increase the demands from such {related} industries as automobile, shipbuilding and equipment manufacturing."), and Exhibit III-4 through Exhibit III-6 (containing various national-level governmental planning documents related to the steel industry), and Exhibit III-22 (containing a provincial-level governmental planning document relating to the steel industry; noting that "quality foundry pig iron products and steel equipment" are targeted under the plan).
[204] *See* Petition, Volume III, at 6 (citing Exhibit III-19, which lists "steel and iron" and "equipment manufacturing" as "key fields" for development).
[205] *See Citric Acid from China* Issues and Decision Memorandum at Comment 14.
[206] *See CFS from China* Issues and Decision Memorandum at Comment 8; *see also Thermal Paper from China* Issues and Decision Memorandum at "Government Policy Lending Program."

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 financial contributions from "authorities" within the meaning of section 771(5)(B) of the Act.

Aifeimetal and its cross-owned affiliates and Dongsheng reported having loans from Chinese SOCBs that were outstanding during the POI.[207] We preliminarily find that these loans provide countervailable subsidies under a policy lending program directed at industries that encompass steel racks production, such as the steel industry and the equipment manufacturing industry. Record information indicates the Government of the China placed great emphasis on targeting these segments of the manufacturing sector.

For example, the "12th Five-Year Outline of the Guidelines for National Economic Development of the People's Republic of China" encourages an optimization of the industrial layout in order to "transform and improve the consumer goods industry, and promot{e} the enlargement and enhancement of manufacturing industries," including the creation of "advanced manufacturing bases with international competitiveness" and the development of "a number of modern industry clusters with distinctive characteristics, a prominent brand image and a sound service platform."[208] It also highlights the maintenance of "the current advantage in export markets" and indicates that the GOC will "speed up the nurturing of new advantages," including encouraging "enterprises to build up international sales channels to increase their ability to expand international market shares" and "actively develop emerging markets and promote the diversification of the export market."[209]

Provincial planning documents indicate that steel racks producers in Fujian and Jiangsu are the target of preferential financing. The "Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan" is intended to "encourage provincial users to purchase steel and non-ferrous metal products produced by the province's enterprises, and promote industrial development by expanding domestic demand."[210] The plan further stipulates that policy measures taken in support of the plan should include "{i}ncreas{ing} credit support for the development of steel and non-ferrous metals industries."[211] The Jiangsu Province, similarly, has a stated policy of encouraging "small-and-medium-sized iron and steel enterprises" to become "mechanized assembly manufacturers of metal goods."[212] Jiangsu Province plan further calls for the GOC to "vigorously stabilize and expand the demand for industrial-use steel from the automobiles, ships, equipment, etc. that leading manufacturers require" and "{a}ctively grasp opportunities for adjustment to iron and steel product export policies and vigorously expand the export market and increase indirect exports."[213] One of the means the Jiangsu Province must rely on to accomplish these goals is to

[207] *See* Aifemetal October 25, 2018 SQR at Exhibit 1S-12; Dongsheng IQR at Exhibit 6.
[208] *See* GOC IQR at Exhibit II.B.2
[209] *Id.*
[210] *See* GOC October 30, 2018 SQR at Exhibit S1-E.1.
[211] *Id.*
[212] *Certain Tool Chests and Cabinets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 43331 (September 15, 2017) and accompanying Preliminary Determination Memorandum at 34.
[213] *Id.*

increase financing for supported enterprises through a variety of mechanisms, including commercial bank loans.[214]

Accordingly, given the policy and plans discussed above, we preliminarily determine that there is a program of preferential policy lending specific to producers of steel racks within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are "authorities."[215] The loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.

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 each respondent would have paid on comparable commercial loans.[216] In conducting this comparison, we used the interest rate benchmarks described above in the section "Benchmarks and Interest Rates." On this basis, we preliminarily calculated a countervailable subsidy of 2.08 percent *ad valorem* for Aifeimetal and 0.11 percent *ad valorem* Dongsheng.[217]

5. <u>Provision of Land in Economic Development Zones (EDZs) for LTAR</u>

We are investigating whether the GOC subsidizes producers of steel racks through the provision of land at preferential rates. Aifeimetal reported acquiring land-use rights during the AUL period.[218]

In our initial questionnaire, we requested information on the "Provision of Land Use Rights in Economic Development Zones for LTAR" program.[219] The GOC responded that "{t}o the best of the GOC's knowledge, none of the Respondent Companies … are located in any Economic Development Zones. Therefore, the above questions are not applicable."[220] Aifeimetal, similarly stated that it does not have a facility within an Economic Development Zone; it also did not respond to the portion of the Land in EDZs question where we ask: "{p}lease be sure to specify whether the acquired land is located in a *special economic* and/or development zone."[221] However, Aifeimetal did provide certain information on the land-use rights acquired during the AUL period by itself and its cross-owned affiliates.[222]

In our supplemental questionnaire, we directly asked the GOC whether Aifeimetal was in a special economic zone (SEZ); the GOC acknowledged that Aifeimetal was, in fact, in a SEZ, but asserted that SEZs "are not within the concept of EDZs as these concepts refer to different types

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[214] *Id.*
[215] *See CFS from China* Issues and Decision Memorandum at Comment 8,
[216] *See* 19 CFR 351.505(a).
[217] *See* Aifeimetal Preliminary Calculation Memorandum; Dongsheng Preliminary Calculation Memorandum.
[218] *See* Aifeimetal IQR at Exhibit 34.
[219] *See* Initial Questionnaire.
[220] GOC IQR at 38.
[221] *See* Aifeimetal IQR at 22 (emphasis added).
[222] *Id*. at Exhibit 34.

of areas."[223] However, the petitioner's allegation regarding the provision of land in EDZs noted that "some reports divide economic development zones into six types: *special economic zones*, economic and technological development zones, high-tech industrial development zones, free trade zones, export processing zones, and bonded logistic zones," and further stated that the allegation refers to "*EDZ or similar economic zones*."[224] Therefore, the petitioner's allegation covers land in SEZs.

In a supplemental response, the GOC provided the *Resolution of the Standing Committee of the National People's Congress on Approving the Regulations on Special Economic Zones in Guangdong Province.*[225] This document discusses the preferential assignment of land in the SEZs in Guangdong province, and states that land in the SEZs "shall be provided according to actual needs, and preferential treatment shall, based on different types of business and use be given…"[226] The GOC stated that there is no equivalent SEZ regulation for Fujian Province, and explained that "the administration of the Xiamen SEZ within Fujian Province also refers to the Regulations on SEZ in Guangdong Province above."[227]

For this preliminary determination, we find that the GOC has policies in place to provide land to producers in the Xiamen SEZ, including Aifeimetal, for LTAR. Aifeimetal obtained its land from government authorities.[228] Therefore, we preliminarily determine that the entities that provided land-use rights to Aifeimetal are "authorities" within the meaning of section 771(5)(B) of the Act, and that Aifeimetal received a financial contribution in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act. We find that the Xiamen SEZ is under the broader jurisdiction of the Fujian Province and the Xiamen municipality.[229] Accordingly, we find benefits deriving from the provision of land-use rights for LTAR within the zone to be specific within the meaning of section 771(5A)(D)(iv) of the Act.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first multiplied the Thailand industrial land benchmarks discussed above, by the total land area of the land-use rights held by Aifeimetal. We then subtracted the price actually paid for the land, as reported by Aifeimetal, to derive the total unallocated benefit. We next conducted the "0.5 percent test" provided for under 19 CFR 351.524(b)(2) for the year of the relevant land-rights agreement by dividing the total unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales, and therefore allocated the benefits to the POI. We allocated the total benefit amounts across the terms of the land-use agreements, using the standard allocation formula of 19 CFR 351.524(d), and determined the amounts attributable to the POI.[230]

[223] *See* GOC October 30, 2018 SQR at 9.
[224] *See* Petition, Volume III, at 44, 47.
[225] *See* GOC October 30, 2018 SQR at Exhibit S1-B.2.
[226] *Id*. at Article 12.
[227] *See* GOC November 7, 2018 SQR at 2.
[228] *See* Aifeimetal IQR at Exhibit 34 (identifying the name of the "seller" as a government authority).
[229] *See* GOC November 7, 2018 SQR at Exhibit S3-1 (indicating that the Fujian Province delegated authority over the zone to the Xiamen Municipal People's Government) and Exhibit S3-2 (promulgating SEZ regulations for four districts within broader Xiamen).
[230] *See* Aifeimetal Preliminary Calculation Memorandum.

On this basis, we preliminarily determine a subsidy rate of 2.02 percent *ad valorem* for Aifeimetal.[231]

6. "Other Subsidies"

Aifeimetal and Dongsheng self-reported various non-recurring subsidies from the GOC during the POI.[232] The subsidies self-reported by Aifeimetal, which conferred a measurable benefit, are as follows (rates included in parentheses):

(1) Interest Discount from the Bureau of Finance (0.15%)
(2) Super Typhoon Meranti Subsidy (0.26%)
(3) Labor Cooperation Rewards from Tong'an District Labor and Employment Center (0.01%)
(4) Social Security Funds from Tong'an District Labor and Employment Center (0.01%)
(5) Xiamen Municipal Bureau of Commerce Premium and Credit Investigation Fee (0.14%)
(6) Tong'an District Business Bureau Subsidy (0.08%)
(7) Social Security Replenishment Funds (0.01%)
(8) Social Security Replenishment Funds from Tong'an District Labor and Employment Center (0.01%)
(9) Post-Disaster Reconstruction Grant (0.05%)

The subsidies self-reported by Dongsheng, which conferred a measurable benefit, are as follows:

(1) Subsidy Fee from the Nanjing Social Insurance Management Center (0.01%)
(2) 2017 Upgrade Advanced Development Special Funds from the Jiangning District Bureau of Commerce (0.03%)
(3) 2016 Development Economic Performance Assessment Award from the Jiangning District Bureau of Commerce (0.06%)
(4) Inefficient Land Revitalization Subsidy from the Nanjing Hengxi Street Authority (0.08%)

As discussed above in the section "Use of Facts Available and Adverse Inferences," we preliminarily determine that these subsidies 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 determine that each of these subsidies 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, we followed the methodology described in 19 CFR 351.524. To calculate the *ad valorem* subsidy rate for these subsidies, we divided the benefit conferred under each of these programs by the appropriate POI sales denominator.

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[231] *Id.*
[232] *See* Aifeimetal October 25, 2018 SQR at Exhibit 1S-22; Dongsheng IQR at Exhibit 11.

Based on the methodology outlined above, we preliminarily calculated a cumulative *ad valorem* subsidy rate of 0.72 percent for Aifeimetal and a rate of 0.18 percent for Dongsheng for these programs.[233]

B. Programs Preliminarily Determined Not to be Used or Not to Confer a Measurable Benefit on Aifeimetal and Dongsheng[234]

1. Preferential Income Tax Reductions for HNTEs
2. Preferential Deduction of R&D Expenses for HNTEs
3. Preferential Income Tax Policy for Enterprises in the Northeast Region
4. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
5. Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development
6. Export Loans
7. Treasury Bond Loans
8. Preferential Lending to Producers and Exporters Classified as "Honorable Enterprises" or Similar Designations
9. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
10. Debt-to-Equity Swaps
11. VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
12. Provision of Land to SOEs for LTAR
13. Provision of International Shipping Services for LTAR
14. The State Key Technology Project Fund
15. Foreign Trade Development Fund Grants
16. Export Assistance Grants
17. Export Interest Subsidies
18. Grants for Energy Conservation and Emission Reduction
19. Grants for the Retirement of Capacity
20. Grants for Relocating Production Facilities

Additionally, Aifeimetal and Dongsheng reported receiving benefits under various self-reported programs that did not confer a measurable benefit.[235] Based on the record evidence, we preliminarily determine that the benefits from certain programs were fully expensed prior to the POI or are less than 0.005 percent *ad valorem* when attributed to the respondents' applicable sales, as discussed in the "Attribution of Subsidies" section above. Full lists of these programs are contained in the respondents' calculation memoranda, and are provided in the AFA calculation in the Appendix.[236]

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[233] *See* Aifeimetal Preliminary Calculation Memorandum; Dongsheng Preliminary Calculation Memorandum.
[234] In addition to the programs listed below, Dongsheng also did not use the program titled "Provision of Land in EDZs for LTAR." As noted above, however, Aifeimetal did use the program.
[235] *See* Aifeimetal October 25, 2018 SQR at Exhibit 1S-22; Dongsheng IQR at Exhibit 11.
[236] *See* Aifeimetal Preliminary Calculation Memorandum; Dongsheng Preliminary Calculation Memorandum.

CONCLUSION

We recommend that you approve the preliminary findings described above.

☒ ☐

____________ ____________
Agree Disagree

11/19/2018

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
Income Tax and Other Direct Tax Subsidies	
Preferential Income Tax Program for HNTEs	25.00[237]
Preferential Deduction of Research and Development (R&D) Expenses for HNTEs	
Preferential Income Tax Policy for Enterprises in the Northeast Region	
Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory	
Income Tax Benefits for Domestically Owned Enterprises Engaging in R&D	
Indirect Tax Programs	
Value-Added Tax (VAT) and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund	9.71[238]
Preferential Lending	
Policy Loans to the Steel Racks Industry	2.08
Export Loans	10.54[239]
Treasury Bond Loans	10.54[240]
Preferential Lending to Exporters Classified as "Honorable Enterprises" or Similar Designations	10.54[241]
Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Plan	2.05[242]

[237] The standard income tax rate for corporations in China during the period of investigation was 25 percent. Thus, the highest possible benefit for all income tax reduction or exemption programs combined is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, finding that the five programs, combined, provide a 25 percent benefit).

[238] *See New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010), unchanged in the final (*see New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011)).

[239] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from China*).

[240] *Id.*

[241] *Id.*

[242] *See Aluminum Extrusions from the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015), and accompanying Issues and Decision Memorandum (*Aluminum Extrusions AR 2013 Final*).

	Debt-to-Equity Swaps	0.62[243]
LTAR Programs		
	Provision of Land to State-Owned Enterprises	5.24[244]
	Provision of Land in Economic Development Zones	2.02
	Provision of Hot-Rolled Steel for LTAR	4.44
	Provision of Cold-Rolled Steel for LTAR	3.62
	Provision of International Shipping Services	5.34[245]
	Provision of Electricity for LTAR	0.81
Grant Programs		
	The State Key Technology Project Fund	0.62[246]
	Foreign Trade Development Fund Grants	0.62
	Export Assistance Grants	0.62
	Export Interest Subsidies	0.62
	Grants for Energy Conservation and Emission Reduction	0.62
	Grants for Retirement of Capacity	0.62
	Grants for Relocating Production Facilities	0.62
Self-Reported Subsidies		
	Subsidy Fee from Nanjing Social Insurance Management Center	0.01
	2017 Upgrade Advanced Development Special Funds from Jiangning District Bureau of Commerce	0.03
	2016 Development Economic Performance Assessment Award from Jiangning District Bureau of Commerce	0.06
	Inefficient Land Revitalization Subsidy from Nanjing Hengxi Street Authority	0.08
	Funds of Loan with Discounted Interest from Bureau of Finance	0.15
	Subsidy Due to Super Typhoon Meranti	0.26
	Labor Cooperation Rewards from Tong'an District Labor and Employment Center	0.01
	Social Security of the Labor and Social Security Center of Tong'an District Labor and Employment Center	0.01
	Xiamen Municipal Bureau of Commerce Premium and Credit Investigation Fee	0.14

[243] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 27466 (June 15, 2017) (*Isos from China 2014*) ("Special Fund for Energy Saving Technology").
[244] *See Countervailing Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 82 FR 53473 (November 16, 2017).
[245] *See Calcium Hypochlorite from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 74064 (December 15, 2014) and accompanying Issues and Decision Memorandum at "Shipping for LTAR."
[246] For all grant programs, we assigned a rate of 0.62. *See Isos from China 2014*.

	Funds Subsidy from Tong'an District Business Bureau	0.08
	Social Security Replenishment	0.01
	Social Security Replenishment of the Tong’an District Labor and Employment Center	0.01
	Post-Disaster Reconstruction Grant	0.05
	2015 Labor Collaboration Reward	0.62
	Yellow Label Car Early Retirement Subsidy	0.62
	Yellow Label Car JX6461D Scrapped in Advanced	0.62
	Return of Social Security	0.62
	Land Subsidy from Bureau of Economic and Information	0.62
	2016 Xiamen City Subsidy for Purchasing Freight Elevator	0.62
	Labor Collaboration Reward from Labor and Employment Center	0.62
	2017 Labor Collaboration Reward	0.62
	Funds of Loan with Discounted Interest from Bureau of Finance	0.62
	Subsidy Due to Super Typhoon Meranti	0.62
	Social Security Subsidy	0.62
	Labor Service Labor Incentives from Bureau of Labor	0.62
	Support Funds for Credit Insurance	0.62
	CITIC Support Fund	0.62
	Agricultural Training Grant	0.62
	Support Funds for Credit Insurance in 2006	0.62
	Financial Support	0.62
	Government Subsidy	0.62
	Support Funds for Credit Insurance in 2007	0.62
	Support for Going Abroad	0.62
	Export Support	0.62
	Credit Insurance Support	0.62
	Export Subsidy	0.62
	Loan Discount	0.62
	2010 Payment from Bureau of Finance	0.62
	Support from Bureau of Finance	0.62
	Transfer from Bureau of Finance	0.62
	Loan Interest	0.62
	Government Support	0.62
	Credit Insurance Premium	0.62

	Grants from Employment Center	0.62
	2011 Payment from Bureau of Finance	0.62
	2012 Replenishment of Social Security	0.62
	Accounting Management Service Fee	0.62
	Award from Bureau of Economic and Trade	0.62
	Credit Insurance Premium and Credit Investigation Fee	0.62
	Non-operating Income	0.62
	Accounting Income	0.62
	2013 Replenishment of Social Security	0.62
	Transfer from Accounting Center	0.62
	2014 Replenishment of Social Security	0.62
	Transfer from Accounting Service Center	0.62
	2014 Export Credit Insurance Subsidy	0.62
	Small and Medium-Sized Support Funds	0.62
	Exploring the International Market	0.62
	2015 Replenishment of Social Security	0.62
	2015 Labor Cooperation Rewards from the Tong'an District Labor and Employment Center	0.62
	2015 Social Security Replenishment of the Tong'an District Labor and Employment Center	0.62
	2015 Social Security Subsidy from Tong'an District Labor and Employment Center	0.62
	Subsidy for Credit Evaluation from Center Enterprise Association	0.62
	Support Funds for Import & Export Insurance	0.62
	Financial Subsidy from the Financial Special Accounts of the Xiamen Municipal Finance Bureau	0.62
	Agricultural Training Subsidy for Tong'an District Labor and Employment Center	0.62
	Enterprise Certification Award from Tong'an District Economic and Information Technology Bureau	0.62
	2015 Export Credit Insurance Subsidy	0.62
	Labor Service Incentives from Tong'an District Labor and Employment Service Center	0.62
	2016 Social Security Replenishment of the Tong'an District Labor and Employment Center	0.62
	Early Retirement Allowance for the Yellow Label Car of Xiamen	0.62

	After the end of 2006, the Yellow Label Car Early Retirement Subsidy	0.62
	Social Security Subsidy for People with Employment Difficulties in the Labor and Employment Center	0.62
	Subsidy for the Security of Xiamen Social Insurance Management Center	0.62
	Social Security Payment for the Labor and Employment Center of Tong'an District, Xiamen City	0.62
	2016 SME Growth Support for the Xiamen Municipal Finance Bureau	0.62
	2016 Labor Cooperation Rewards from Tong'an District Labor and Employment Center	0.62
	2016 Social Security Subsidy from Tong'an District Labor and Employment Center	0.62
	Subsidy from Xiamen City Bureau of Commerce Xinbao 312001013457	0.62
	Subsidy for Export Credit Insurance Support from the Bureau of Commerce	0.62
	Rewards of the Safety Production Standardization III from Tong'an Safety Production Supervision Administration	0.62
	2017 Labor Cooperation Rewards from Tong'an District Labor and Employment Center	0.62
	2017 Social Security Subsidy from Tong'an District Labor and Employment Center	0.62
	Social Security Subsidy for Employees with Difficulties in Employment in Tong'an District Labor and Employment Center	0.62
	Social Security of the Labor and Social Security Center of Tong'an District Labor and Employment Center	0.62
	Xiamen Municipal Bureau of Commerce Premium and Credit Investigation Fee	0.62
	Labor Service Reward	0.62
	First Quarter of 2017 to Increase the Subsidy of the Economic and Information Technology Bureau	0.62
	Tax Control Service Fee Offsets VAT	0.62
	Subsidy from the Accounting Management Service Center	0.62
	Accounting Management Service Center	0.62
	Anti-Counterfeiting Tax Control Service Fee Reduction	0.62
	Financial Subsidy	0.62
	Labor Cooperation Rewards	0.62

	Labor and Employment Rewards for Labor and Employment Centers	0.62
	SME Development Guidance Funds	0.62
	2014 Subsidy Fee	0.62
	Clean Production Audit Award	0.62
	Total AFA Rate:	**150.49%**