UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

C-570-991
Administrative Review
POR 1/1/16 – 12/31/16
Public Document
E&C/V: OQ & SSP

DATE: November 30, 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 Preliminary Results of Countervailing Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

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I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (China). The period of review (POR) is January 1, 2016, through December 31, 2016. The mandatory respondents are Heze Huayi Chemical Co., Ltd. (Huayi), and Juancheng Kangtai Chemical Co., Ltd. (Kangtai). We preliminarily find that the respondents received countervailable subsidies during the POR related to certain programs.

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

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II. BACKGROUND

On November 13, 2014, Commerce published in the *Federal Register* a CVD order on chloro isos from China.[1] Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b)(1), in November 2017, Commerce received timely requests to conduct an administrative review of the CVD order on chloro isos from China from two interested parties, who requested reviews of themselves: 1) Huayi and 2) Kangtai.[2] On January 11, 2018, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of administrative review for Huayi and Kangtai.[3] Because this review only covers two companies, we selected both Huayi and Kangtai as mandatory respondents.

On February 18, 2018, Commerce issued the initial questionnaire to the Government of China (the GOC) and the two mandatory respondents.[4] From April 2, 2018, through April 5, 2018, Commerce received timely responses from the GOC, Huayi, and Kangtai.[5] Subsequently, Commerce issued additional supplemental questionnaires to the GOC, Heze Huayi and Kangtai from October 10, 2018 to October 25, 2018.[6] Commerce received timely responses to these supplemental questionnaires between on October 24, 2018 and November 2, 2018.[7]

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

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

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 1329 (January 11, 2018) (*Initiation*).

[4] *See* Commerce's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Countervailing Duty Questionnaire for 3rd Administrative Review," dated February 15, 2018 (Initial CVD Questionnaire).

[5] *See* Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Section III Affiliation Response," dated March 1, 2018 (Huayi's AFFR); Kangtai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Kangtai Section III Affiliation Response," dated March 18, 2018 (Kangtai's AFFR); the GOC's Letter, "GOC Initial CVD Questionnaire Response: Third Administrative Review of the Countervailing Duty Order on Certain Chlorinated Isocyanurates from the People's Republic of China," dated April 5, 2018 (the GOC's IQR); Huayi Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III Questionnaire Response – Part II," dated April 2, 2018 (Huayi's IQR); Kangtai's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Section III Questionnaire Response – Part II," dated April 2, 2018 (Kangtai's IQR).

[6] *See* Commerce's Letter, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Supplemental Questionnaire," dated October 10, 2018 (GOC Supplemental Questionnaire); Commerce's Letter, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Supplemental Questionnaire," dated October 25, 2018 (GOC Second Supplemental Questionnaire). Commerce's Letter, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Supplemental Questionnaire," dated October 10, 2018 (Huayi Supplemental Questionnaire); and Commerce's Letter, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Supplemental Questionnaire," dated October 10, 2018 (Kangtai Supplemental Questionnaire).

[7] *See* the GOC's Letter, "GOC Response to First Supplemental Questionnaire: Third Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C-570-991)," dated October 31, 2018 (GOC SAQR); Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China Heze Huayi Supplemental Questionnaire," dated October 24, 2018 (Huayi SAQR); and Kantai's Letter, "Chlorinated Isocyanurates from the People's Republic of China Kangtai Supplemental Questionnaire Response," dated October 24, 2018 (Kangtai SAQR); the GOC's Letter, "GOC Response to First Supplemental Questionnaire: Third Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's

On August 2, 2018, Commerce partially extended the deadline for these preliminary results until November 5, 2018.[8] On October 11, 2018, Commerce fully extended the deadline until November 30, 2018.[9]

III. SCOPE OF THE ORDER

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

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

IV. APPLICATION OF THE CVD LAW TO IMPORTS FROM CHINA

On October 25, 2007, Commerce published its final determination on coated free sheet paper from China.[10] In *CFS from China*, Commerce found that:

> . . . given 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.[11]

Republic of China (C-570-991)," dated October 31, 2018 (GOC SQR1); the GOC's Letter, "GOC Response to Second Supplemental Questionnaire: Third Administrative Review of the Countervailing Duty Order on Chlorinated Isocyanurates from the People's Republic of China (C-570-991)," dated November 1, 2018 (GOC Other Programs SQR); and the GOC's Letter, "GOC Response to First Supplemental Questionnaire – Remaining EXIM Question 3(e): Third Administrative Review of the Countervailing Duty Order on Chlorinate Isocyanurates from the People's Republic of China (C-570-991)," dated November 2, 2018 (GOC EXIM SAQR).

[8] *See* Memorandum regarding Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Third Countervailing Duty Administrative Review, dated August 2, 2018.

[9] *See* Memorandum regarding Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Third Countervailing Duty Administrative Review, dated October 11, 2018.

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

[11] *Id*. at Comment 6.

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[12] Furthermore, on March 13, 2012, Public Law 112-99 was enacted which confirms that Commerce has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as China.[13] The effective date of the enacted legislation makes clear that this provision applies to this proceeding.[14]

V. 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. Commerce finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[15] Commerce notified the respondents of the AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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

B. *Attribution of Subsidies*

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

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[12] *See*, *e.g.*, *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from China*) and accompanying IDM at Comment 1.

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

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

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of another corporation in essentially the same ways it can use its own assets. This standard will normally be met where there is a majority voting interest between two corporations, or through common ownership of two (or more) corporations.[16] In certain circumstances, a large minority voting interest (for example, 40 percent) may also result in cross-ownership.[17] The Court of International Trade (the CIT) upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.[18]

Huayi

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

Kangtai

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

C. *Denominators*

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). For programs found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. For a further discussion of the denominators used, *see* the preliminary calculation memoranda.[19]

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[16] *See*, *e.g.*, *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[17] *Id*.
[18] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).
[19] *See* Memorandum, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co., Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum; Memorandum, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Kangtai Chemical Co., Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum (collectively Preliminary Calculation Memoranda).

VI. BENCHMARKS

Commerce is reviewing non-recurring, allocable subsidies received by the mandatory respondents.[20] The benchmark rates used to value these subsidies is discussed below.

In addition, Commerce is reviewing the provision of electricity to the mandatory respondents at less than adequate remuneration (LTAR). For additional information, see "Use of Facts Otherwise Available and Adverse Inferences" section below.

IX. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that 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.[21]

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 a facts otherwise available with an adverse inference (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."[22] 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."[23]

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[20] *See* 19 CFR 351.524(b)(1).

[21] The Trade Preferences Extension Act of 2015 made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, Commerce published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this review.

[22] *See*, *e.g.*, *Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from China*); *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).

[23] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.

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."[24] It is Commerce's practice to consider information to be corroborated if it has probative value.[25] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[26] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[27] Moreover, under section 776(c)(2) of the Act, Commerce is not required to corroborate any countervailing duty rate applied in a separate segment of the same proceeding.

Finally, under the new section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[28]

For purposes of these preliminary results, we find it necessary to apply AFA with respect to the GOC's responses to two programs: (1) provision of electricity for LTAR; and (2) Export Buyer's Credit Program, as described below. In addition, we find it necessary to apply AFA with respect to financial contribution and specificity because of the GOC's lack of response to questions regarding certain self-reported grants received by Huayi and Kangtai, as described below

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

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

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, Commerce requested, *inter alia*: Provincial Price Proposals for the provinces in which mandatory respondents or any company "cross-

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[24] *Id*.
[25] *Id.*
[26] *Id*. at 869.
[27] *Id.* at 869-70.
[28] *See* section 776(d)(3) of the Act.

owned" with those respondents are located for applicable tariff schedule that were in effect during the POR; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POR; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids, and power companies with respect to the creation of all tariff schedules that were applicable to the POR; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial-level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.[29] Commerce requested this information to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustments processes, and examine cost elements included in the derivation of electricity prices in effect throughout China during the POR. This informs our financial contribution and specificity analyses.

In a change from prior reviews, in its initial questionnaire response, the GOC stated that the Provincial Price Proposals are not mandated by law and that the proposals are obsolete, not that the provinces have the authority 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).[30] According to the GOC, the creation of this new structure eliminated the need for Provincial Price Proposals that had previously been used by the NDRC to set prices for province.[31]

However, the GOC's submissions do not support its claim that a new structure eliminates the need for Provincial Price Proposals. In support of its claim that new notices direct provinces to reduce prices and to report the enactment of those changes to the NDRC, the GOC submitted not only Notice 3105 and but also *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). 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.[32] Article 2 indicates that the "price space" formed due to this price reduction "{s}hall be mainly used to lower the sales price of electricity for industrial and commercial use."[33] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[34] Articles 6 and 7 indicate that provincial pricing authorities "{s}hall be make and distribute the on grid price of electricity and specific plans of the price adjustment in accordance with the average standard of price adjustment in Annex 1 and submit filings to the National Development and Reform Commission," and that the "{a}forementioned electricity price adjustment shall be enforced since April 20th, 2015."[35]

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[29] *See e.g.*, Initial CVD Questionnaire at "Provision of Electricity for LTAR" and GOC Supplemental Questionnaire at 1.
[30] *See* GOC IQR at 7-8 and Exhibit II-E-1.
[31] *Id.* at 7.
[32] *Id.* at Exhibit II-E-1.
[33] *Id.*
[34] *Id.*
[35] *Id.*

Finally, Article 10 directs that "{a}dministrative departments at all levels in charge of pricing shall guarantee the implementation of the price adjustment."[36] Notice 3105 also directs additional price reductions. Article II of Notice 3105 stipulates an average price reduction per kilowatt hour and requires the province to report the resulting prices to the NDRC. Article II of Notice 3105 stipulates an average price reduction per kilowatt hour and report resulting prices to the NDRC. Further, Article X of Notice 3105 states that local price authorities shall implement in time the price reductions included in its Annex.[37]

Contrary to the GOC's claims, neither Notice 748 nor Notice 3105 supports the GOC's claim that that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions.[38] Rather, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices. Specifically, the NDRC mandates average price adjustment targets for each province. As a result of this mandate, each province obligated to set electricity prices within range mandated by the NDRC.[39]

In a supplemental questionnaire, we requested that the GOC identify the legislation that eliminated the Provincial Price Proposals. The GOC referred Commerce to Notice 748 and Notice 3105 but did not provide an explanation how these notices eliminated the Provincial Price Proposals.[40] Although these two notices issued by the NDRC direct each province to reduce electricity prices by a certain amount, they neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. Finally, we requested that the GOC explain how the NDRC monitors compliance with the price changes directed in Notice 748 and what action the NDRC would take were any province not to comply with the direct price changes. The GOC's response failed to explain what action the NDRC would take in the event of non-compliance with directed price changes.[41] The GOC's insufficient response impeded us from being able to conduct the financial contribution, benefit, and specificity analyses required to determine countervailability.

As explained above, the GOC failed on several occasions to explain the roles and nature of the relationship between the NDRC and provinces in deriving electricity price adjustments. Further, the GOC failed to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by provinces themselves. Consequently, we preliminarily determine, in accordance with section 776(a)(1) and (2)(A), (C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record because the GOC withheld information requested by us, thereby significantly impeding this proceeding. Thus, we must rely on "facts available" in making our decision for these preliminary results.[42] 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, application of facts otherwise available with an adverse

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[36] *Id.*
[37] *Id.* at Exhibit II E-6.
[38] *Id.* at 7-8.
[39] *See, e.g.,* GOC IQR at Exhibits II E-1 (Notice 748 Article 10) and II-E-3 (Notice 3105 Articles II and X).
[40] *See* GOC SAQR1 at 1.
[41] *Id.* at 3.
[42] *See* section 776(a)(2)(A) of the Act.

inference is warranted.[43] Based on 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 775(5A) of the Act. Because the GOC also failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments, we are also relying on AFA in selecting the benchmark for determining the existence and amount of the benefit.[44] The benchmark rates we selected are derived from the record of the administrative review and are the highest electricity rates on the record for the applicable rate and user categories. For further details regarding the electricity for LTAR analysis, *see* "Provision of Electricity for LTAR," below.

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

As discussed below under the section "Programs Preliminarily Found to be Countervailable," Commerce is reviewing the Export Buyer's Credit Program. Commerce has preliminarily determined that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program because the GOC did not provide the requested information needed to allow Commerce to analyze this program thereby impeding this review, and also did not cooperate to the best of its ability.

In the Initial Questionnaire, we requested that the GOC provide answers to the Standard Questions Appendix (the Appendix) with regard to "all types of financing provided by state-owned banks" such as the "China EX-IM under the Export Buyer's Credit Facility and other state-owned banks."[45] Rather than responding to the questions about the financing provided by the banks in the Appendix, the GOC merely stated that "none of the U.S. customers of the respondents used the Export Buyers Credits from China Export-Import Bank during the POR."[46]

We have information on the record that the program was revised in 2013 and the involvement of third-party banks.[47] When we asked the GOC to explain how these revisions affected the operation of the program, especially *vis-a-vis* eligibility for borrowing and approved lending institutions, the GOC was not responsive and merely claimed that none of the U.S. customers of the customers of the respondent companies used export buyer's credits.[48] As a result, we are missing information about the role of the state-owned banks with regard to financing this program, despite Commerce's numerous attempts to obtain this information. Specifically, Commerce requested a list of all partner/correspondent banks involved in disbursement of funds under the Export Buyer's Credit program.[49] In its supplemental questionnaire response, the GOC only continued to claim that none of the U.S. customers of the respondent companies used export buyer's credits from China Ex-Im during the POR but failed to provide the list of

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[43] *See* section 776(b) of the Act.
[44] *See* section776(b)(4) of the Act.
[45] *See* Initial Questionnaire, Section II at 7 and Standard Appendix.
[46] *See* the GOC IQR at 4.
[47] *Id.* at 24, Exhibits F1-F3.
[48] *Id.*
[49] *See* GOC Supplemental Questionnaire at 6.

banks or any disbursement information.[50] Instead of providing the list of banks which partner with China Ex-Im to disburse funds as requested by Commerce, the GOC stated that it "is unable to provide the information requested because China Ex-Im has determined that none of the respondent companies' customers received Export Buyer's Credits or otherwise used this program during the POR."[51] Without this information, Commerce determines that the information provided by the GOC on this program is insufficient to determine non-use and that our understanding on this program is incomplete with respect to third-party banks. As such, we recognized that we could not rely on information about this program provided by parties other than the GOC, *i.e.*, the respondents.

In addition, we also requested that the GOC report the interest rates established during the POR for this program for all types of financing provided by China Ex-Im, all loan terms, and all denominations.[52] Instead of providing the requested information, the GOC stated yet again the question was "Not applicable" because none of the respondents' U.S. customers used this program.[53] We again requested this information from the GOC, specifically requesting information on the interest rates established during the POR for every type of financing that all companies received under this program.[54] In response, the GOC simply repeated its position of non-use.[55]

Moreover, record information originally indicated that for a business contract to be supported by the Export Buyer's Credit, the contract amount must be more than two million U.S. dollars.[56] However, subsequent information placed on the record indicates that the GOC revised this program in 2013 to eliminate this two million U.S. dollar contract minimum requirement.[57] We requested that the GOC provide original and translated copies of any laws, regulations or other governing documents regarding this alleged 2013 revision to the program.[58] As a response, the GOC provided the following document: *GOC 7th Supplemental Response* in the *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China* (ACCESS barcode: 3503880-01) (Export Buyer's Credit Supplemental Questionnaire Response).[59] However, this document was not responsive to our question and did not include any information regarding the 2013 program revision, which is necessary for the Commerce to analyze how the program functions.[60]

In sum, the GOC has not provided necessary information with respect to (1) whether it uses third-party banks to disburse/settle Export Buyer's Credits, (2) the interest rates it used during

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[50] *See*, *e.g.*, GOC EXIM SQR at 2.
[51] *Id*. at 9.
[52] *See* Commerce's Initial Section II Questionnaire, at II-6.
[53] *See* the GOC IQR at 24.
[54] *See also* GOC Supplemental Questionnaire at 7.
[55] *See* the GOC SQR at 11.
[56] *See* the GOC's IQR, at Exhibit II-F-3, "Rules Governing Export Buyer's Credit of the Export-Import Bank of China."
[57] *Id*. at Exhibit F-1.
[58] *See* Commerce's Original Section II Questionnaire at II-6.
[59] *See* the GOC's IQR at 24, Exhibit II-F-1
[60] *Id*. at 24, Exhibits F1-F3.

the POR, and (3) whether the China Ex-Im limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million. Such information is critical to understanding how Export Buyers Credits flow to/from foreign buyers and the China Ex-Im. The nature of the GOC's responses to Commerce's information requests indicates that any further attempts to request this necessary information again from the GOC would be futile. Without understanding how this program works since the 2013 revisions, Commerce cannot analyze the program to understand how the disbursements flow and therefore the GOC's and the respondents' claims of non-use of this program are not verifiable.[61]

Therefore, we preliminarily find that the GOC necessary information is missing from the record because the GOC has withheld that information, thereby impeding the review, and also not cooperated to the best of its ability. As a result, we find that application of AFA is warranted, and, as AFA, we find that Huayi and Kangtai used and benefited from this program, despite their claims of non-use and submissions of certifications of non-use from the respondents' customers.[62] Although we have accepted similar certifications of non-use from the respondents' customers to determine countervailability in prior reviews, this was when we understood how the program ran prior to the 2013 amendments.[63] Since learning about the amendments, Commerce has specifically stated that we intended in future proceedings to continue requesting the GOC's cooperation on this program and we would base subsequent evaluations of this program on the record developed in the relevant proceeding.[64] Therefore, to fully analyze whether the current program runs in the same manner, as we have discussed in prior segments of this proceeding and also in other proceedings investigating this program,[65] Commerce must be able to review the amendments to the program. Because the GOC has not provided the requisite information regarding the program's amendments, Commerce was unable to do so.

Pursuant to section 776(a)(1) of the Act when necessary information is not available on the record and sections (2)(A) and C) of the Act, when an interested party withholds information requested by Commerce and significantly impedes a proceeding, Commerce uses facts otherwise available to reach a determination. Here, the record is missing necessary information because the GOC withheld the requested information described above, thereby impeding this proceeding. Accordingly, we preliminarily determine that the use of facts available is warranted based on the record. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding information and significantly impeding this proceeding, failed to cooperate by not

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

[62] *See* Huayi's IQR at 14-16 and Exhibit 13; Kangtai's IQR at 13-15 and Exhibit 15.

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

[64] *See*, *e.g, Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 27466 (June 15, 2017) and accompanying IDM at 13 (citing Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 79 FR 76962 (December 23, 2014) and accompanying IDM at Comment 1).

[65] *See*, *e.g.*, *Truck and Bus Tires from China* at Comments 2 through 6.

acting to the best of its ability. Accordingly, we find that the application of AFA is warranted.

Consistent with section 776(d) of the Act and our established practice, we applied our CVD hierarchy to determine the AFA rate for the Export Buyer's Credit Program.[66] Under the first step of Commerce's CVD AFA hierarchy for administrative reviews, Commerce applies the highest non-*de minimis* rate calculated for a cooperating respondent for the identical program in any segment of the same proceeding. If there is no identical program match within the same proceeding, or if the rate is *de-minimis*, under step two of the hierarchy, Commerce applies the highest non-*de minimis* rate calculated for a cooperating company for a similar program within any segment of the same proceeding. If there is no non-*de minimis* rate calculated for a similar program within the same proceeding, under step three of the hierarchy, Commerce applies the highest non-*de minimis* rate calculated for an identical or similar program in another CVD proceeding involving the same country. Finally, if there is no non-*de minimis* rate calculated for an identical or same program in another CVD proceeding involving the same country, under step four, Commerce applies the highest calculated rate for a cooperating company for any program from the same country that the industry subject to the investigation could have used.[67]

Our examination of the results of all the segments of this proceeding leads us to conclude that there are no calculated rates for this program in this proceeding - and thus no rates are available under step one of the CVD AFA hierarchy. Because we have not calculated a rate for an identical program in this proceeding, we then determine, under step two of the hierarchy, if there is a calculated rate for a similar/comparable program (based on the treatment of the benefit) in the same proceeding, excluding *de minimis* rates. When Commerce selects a similar program, it looks for a program with the same type of benefit. For example, it selects a loan program to establish the rate for another loan program, or it selects a grant program to establish the rate for another grant program.[68] Consistent with this practice, upon examination of the available above *de minimis* programs from the current review and the underlying investigation, Commerce selected the Export Seller's Credit Program because it confers the same type of benefit as the Export Buyer's Credit Program, as both programs are subsidized loans from the China Ex-Im.[69] On this basis, we are using an AFA rate of 0.87 percent ad valorem, the highest rate determined for a similar program in this proceeding (for the Export Seller's Credit program calculated in the investigation) as the rate for this program, applicable to both respondent companies.[70]

[66] *See*, *e.g.*, *Shrimp from China* and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate for an uncooperative respondent").
[67] *See* section 776(d) of the Act; *see also SolarWorld Americas, Inc. v. United States*, CIT No. 15-00232 (CIT 2017) (*SolarWorld*) (sustaining Commerce's CVD AFA hierarchy and selection of AFA rate for CVD reviews).
[68] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China*, 80 FR 41003 (July 14, 2015) (final countervailing duty admin. review), and accompanying IDM at 14, 44; *Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China*, 79 FR 78036 (December 29, 2014) (final results admin. review), and accompanying IDM at 5; *Large Residential Washers from the Republic of Korea*, 80 FR 55336 (September 15, 2015) (final results admin. review), and accompanying IDM at 5.
[69] *See* PDM at 13, 15-16, Appendix; *see also Chloro Isos Investigation IDM* at 14-15.
[70] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*, 82 FR 27466 (June 15, 2017) and accompanying IDM at Comment 2.

C. *Self-Reported Grants*

As discussed in further detail in the "Programs Preliminarily Determined to Be Countervailable" section below, Huayi and Kangtai reported receiving benefits under grant programs not initiated on by the Commerce.[71] Commerce requested information from the GOC regarding these grants in the initial questionnaire and again in a supplemental questionnaire.[72] The GOC failed to provide a complete response regarding any of these self-reported grant programs. Rather, the GOC stated that it was not challenging the countervailability of the programs, and, therefore, it would not provide responses to Commerce's appendices which Commerce asked for in both in the initial and supplemental questionnaires.[73]

In order to conduct the analysis of whether a program is specific and a financial contribution under sections 771(5A) and 771(5)(D) of the Act, respectively, it is essential that the government provides a complete response to the questions that are contained in the Standard Questions Appendix to enable Commerce to conduct statutory analyses to determine if an alleged program is countervailable. To that end, government cooperation is essential because the government has sole access to the information required for a complete analysis of specificity and financial contribution with respect to government subsidy programs. By failing to provide complete responses to the Standard Questions Appendices as requested, Commerce finds that the record is missing necessary information because the GOC withheld necessary information and significantly impeded this administrative review within the meaning of section 776 (a)(1) and (2)(A), (C) of the Act and also failed to cooperate by not acting to the best of its ability to comply with our requests within the meaning of section 776(b) of the Act.[74] Based on application of AFA regarding these programs, we preliminarily determine that the GOC provided the subsidies listed in the Analysis of Programs, Self-Reported Grants section below because, based on the AFA, these subsidies constitute a financial contribution under section 771(5)(D)(i) of the Act, and are specific under section 771(5A) and 771(5A)(B) of the Act.

VII. ANALYSIS OF PROGRAMS

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

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[71] *See* Huayi's IQR, at Exhibit 14; and *see also* Kangtai's IQR at Exhibit 14.
[72] *See* the GOC's IQR, at Other Programs; *see also* Commerce's Letter, "Countervailing Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Supplemental Questionnaire," dated October 25, 2018 at 1.
[73] *See* GOC Other Programs SQR at 1-2.
[74] We note that Commerce has previously countervailed these programs. *See e.g.*, *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*, 82 FR 27466 (June 15, 2017) and accompanying IDM; and *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017) and accompanying IDM.

A. *Programs Preliminarily Determined to Be Countervailable*

1. *Electricity for LTAR*

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

In a CVD case, Commerce requires information from both the foreign producers and exporters of the merchandise under investigation and the government of the country where those producers and exporters are located.[75] When the government fails to provide requested and necessary information concerning alleged subsidy programs, Commerce, as AFA, may find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, Commerce will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit conferred, to the extent that those records are useable and verifiable. Huayi and Kangtai both provided data on the electricity the companies consumed, and the electricity rates paid during the POR.[76] Therefore, Commerce was able to utilize this information in calculating the extent of benefits received under the Electricity for LTAR program.

As discussed above, the GOC did not provide the information requested by Commerce as it pertains to the provision of electricity for LTAR program, despite multiple requests for such information. We find that, in light of the GOC's non-response, that information necessary to our analysis of financial contribution and specificity is not available on the record because the GOC withheld information requested by us, thereby significantly impeding this proceeding as described in section 776(a)(1) and (2)(A), (C) of the Act, and also did not act to the best of its ability, as described in section 776(b) of the Act. Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to the provision of electricity in China, and determine that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act. To determine the existence and amount of any benefit from this program, we relied on the respondents' reported information on the amounts of electricity used, and the rates the respondents paid for that electricity, during the POR. We compared the rates paid by the respondents for their electricity to the highest rates that they could have paid in China during the POR.[77]

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[75] *See* Initial CVD Questionnaire.

[76] *See*, *e.g.*, Huayi's IQR, at Exhibit 8; Kangtai's IQR at Exhibit 9.

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

To calculate the benchmark, we selected the highest rates in China for the type of user (*e.g.*, "General Industry," "Heavy Industry," "Base Charge/Maximum Demand") for the general, high peak, peak, normal, and valley ranges, as provided by the GOC.[78] The electricity rate benchmark chart is included in the Preliminary Benchmark Memo. This benchmark reflects an adverse inference, which we drew as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this review.[79]

To measure whether the mandatory respondents received a benefit under this program, Commerce first calculated the electricity prices the respondents paid by multiplying the monthly kilowatt hours or kilovolt amperes consumed for each price category by the corresponding electricity rates charged for each price category. Next, we calculated the benchmark electricity cost by multiplying the monthly consumption reported by the respondents for each price category by the highest electricity rate charged for each price category, as reflected in the electricity rate benchmark chart. To calculate the benefit for each month, we subtracted the amount paid by the respondents for electricity during each month of the POR from the monthly benchmark electricity price. We then calculated the total benefit for each company during the POR by summing the monthly benefits for each company.[80]

To calculate the subsidy rate pertaining to the GOC's provision of electricity for LTAR, we divided the benefit amount calculated for each respondent by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section above, and in the Preliminary Calculation Memoranda. On this basis, we preliminarily determine a countervailable subsidy of 0.75 percent *ad valorem* for Huayi, and 0.50 percent *ad valorem* for Kangtai.[81]

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

We preliminarily determine that the Export Buyer's Credit program is countervailable based on AFA. *See, supra*, "Use of Facts Otherwise Available and Adverse Inferences" section. Although respondents provided certifications of non-use from their customers, which we accepted prior to the 2013 amendments, we cannot analyze the relevance or veracity of the customer certifications of non-use in this review because the record is missing information about to whom and how the program disbursements flow since the 2013 amendments allegedly changed this process. In prior proceedings before the 2013 amendments when we have examined this program, we have found that the EX-IM Bank, as the lender, is the primary entity that possesses the supporting information and documentation that are necessary for Commerce to fully understand the operation of the program which is prerequisite to Commerce's ability to

78 *See* the GOC's IQR, at Exhibits E-II-12.
79 *See, e.g., Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 51775 (August 26, 2015) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences"; *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences"; *Chloro Isos Investigation Final* IDM at "Use of Facts Otherwise Available and Adverse Inferences."
80 *See* Preliminary Calculation Memoranda.
81 *Id*.

verify the accuracy of the respondents' claimed non-use of the program.[82] Because the program changed in 2013 and the GOC has not provided details about these changes, Commerce has outstanding questions about how this program currently functions, *e.g.*, whether the EX-IM Bank limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million, and whether it uses third-party banks to disburse/settle Export Buyer's Credits. Such information is critical to understanding how Export Buyer's Credits flow to and from foreign buyers and the EX-IM Bank and forms the basis of determining countervailability. Absent the requested information, the GOC's claims that the respondent companies did not use this program are not verifiable. Moreover, without a full understanding of the involvement of third party banks, the respondent companies' (and their customers') claims are also not verifiable.

In light of the GOC's non-response, the GOC withheld information requested by Commerce as described in sections 776(a)(1) and (2)(A), (C) of the Act, and also did not act to the best of its ability, as described in section 776(b) of the Act. Therefore, we preliminarily determine that this program is countervailable based on application of AFA.

We requested information on this program in the initial countervailing duty questionnaire,[83] and the GOC responded that this program was not used during the POR.[84] Mandatory respondents, Huayi and Kangtai, reported that their U.S. customers did not use this program, and provided certifications from their U.S. customers in support of their non-use assertion.[85] Subsequent to these responses, as discussed above, Commerce requested additional information concerning these programs,[86] but we find the GOC's responses to be insufficient;[87] and therefore the preliminary application of AFA is warranted. For these reasons, we preliminarily determine a countervailable subsidy of 0.87 percent *ad valorem* for Huayi, and 0.87 percent *ad valorem* for Kangtai.[88]

3. *Self-Reported Grant Programs*

Huayi and Kangtai reported receiving various non-recurring grants during the POR. Huayi self-reported receiving grants under the following programs:[89]

a. Market Development Fund for Middle-and-Small Sized Enterprise
b. 2015 Municipal Foreign Trade Development Special Fund

Kangtai self-reported receiving grants under the following programs:

[82] *See, e.g., Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016), and accompanying Issues and Decision Memorandum at Comment 6;\, and accompanying Issues and Decision Memorandum at Comment 16.
[83] *See* Commerce's CVD Questionnaire for the GOC.
[84] *See* Huayi's IQR, at 14-16 and Exhibit 13; Kangtai's IQR, at 13-15 and Exhibit 15
[85] *See*, *e,g*., Huayi's April 12, 2017 IQR, at 8; Kangtai's April 12, 2017 IQR, at 8.
[86] *See* GOC Supplemental Questionnaire.
[87] *See generally* the GOC's October 2, 2017 SQR.
[88] *See* Preliminary Calculation Memoranda.
[89] *See generally* Huayi's IQR.

a. Market Development Fund for Middle-and-Small Sized Enterprise
b. Enterprise Technology Center of Shandong Province

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

We determined that the benefit received under these programs was equal to the amount of the grant pursuant to 19 CFR 351.504(a). Furthermore, to determine whether the grant benefit was to be expensed in the year or receipt or allocated over the AUL, Commerce followed the methodology described in 19 CFR 351.524. Grants under the programs listed above were received by the mandatory respondents during the POR and throughout the AUL period. To calculate the *ad valorem* subsidy rate for these grants, Commerce divided the benefit conferred under each of these programs by the appropriate sales denominator – total sales or total export sales for the year in which the grant was received – and allocated the benefit as discussed above and described in "Subsidies Valuation" section, above.[90] Further discussion on the methodology used to calculate the *ad valorem* subsidy rate under these programs is included in the Preliminary Calculation Memoranda.

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

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

This program was granted to Huayi by the local government for export promotion purposes. Commerce has preliminarily determined a 0.03 percent countervailing subsidy rate for this program.

b. 2015 Municipal Foreign Development Special Fund:

This program was granted by the local government for export promotion purposes. Commerce has preliminary determined a 0.06 percent countervailing subsidy rate for this program.

Commerce preliminarily determines that certain grants under the following programs conferred a measurable benefit upon Kangtai during the POR:

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

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

[90] *See* Preliminary Calculation Memoranda.

program.

b. Enterprise Technology Center of Shandong Province

This program was granted to Kangtai by the local government for export promotion purposes. Commerce has preliminarily determined a 0.12 percent countervailing subsidy rate for this program.

Commerce preliminarily determines that certain grants under the following programs did not conferred a measurable benefit upon Huayi during the POR:

a. Grants for the Application of Patents:

This program was granted by the Shandong Provincial Government for patent assistance. Commerce has preliminary determined a non-conferrable countervailable subsidy.

B. *Programs Preliminarily Not Used During the POR*

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

1. Grants under the Haixing County Science and Technology Research & Development Plan Project
2. Special National Bond Fund for Energy Conservation and Waste Recycling Projects
3. Export Seller's Credits from China Ex-Im
4. Shandong Industrial Structure Adjustment Entrusted Loan
5. Corporate Income Tax Law Article 33: Reduction of Taxable Income for the Revenue Derived from the Manufacture of Products that are in Line with State Industrial Policy and Involve Synergistic Utilization of Resources
6. Enterprise Income Tax Reduction for High and New Technology Enterprises
7. Land and Land Usage for Foreign Invested Enterprises ("FIEs") in National Economic and Technological Zones at Preferential Rates
8. "Two Free/Three Half" Program for FIEs
9. Income Tax Benefits for FIEs Based on Geographic Location
10. Value Added Tax and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
11. VAT refunds for FIEs on purchases of Chinese-made equipment
12. Preferential direct tax treatment on purchases of domestically produced equipment for FIEs
13. Policy Loans under the Chlor-alkali Industry Second Five Year Plan
14. Stamp Tax exemption on share transfers under Non-Tradable Share Reform
15. State Key Technology Renovation Project Fund
16. Shareholder loans (debt forgiveness)
17. Discounted Loans for Export-Oriented Enterprises
18. VAT rebate on domestically produced equipment
19. VAT exemption on imports by encouraged industries

20. Preferential lending for industrial readjustment
21. Export credit insurance from Sinosure
22. Preferential loans provided by China Ex-Im "Going-out" for Outbound Investments
23. Foreign Trade Development Fund
24. "Famous Brands" program
25. Preferential policies to attract foreign investment in Jiangsu Province
26. Outline of light industry restructuring and revitalization plan in Jiangsu Province
27. Jiangsu province grants for legal fees in foreign trade remedy proceedings
28. Shandong Province: grants to enterprises exporting key product
29. The Clean Production Technology Fund
30. Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
31. VAT Tax Rebate for Comprehensive Utilization of Resources

VIII. DISCLOSURE AND PUBLIC COMMENT

Commerce intends to disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the publication of these preliminary results.[91] Interested parties may submit written comments (case briefs)[92] within 30 days of the issuance of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[93] Rebuttal briefs must be limited to issues raised in the case briefs.[94] Parties who submit case ore rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[95]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.[96] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined.[97] Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.[98] All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

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

[91] *See* 19 CFR 351.224(b).
[92] *See generally* 19 CFR 351.303 (for general filing requirements).
[93] *See* 19 CFR 351.309(c)(1)(ii)(d)(1).
[94] *See* 19 CFR 351.309(d)(2).
[95] *See* 19 CFR 351.309(c)(2), (d)(2).
[96] *See* 19 CFR 351.310(c).
[97] *See* 19 CFR 351.310.
[98] *See* 19 CFR 351.310(c).

preliminary results.

IX. CONCLUSION

We recommend applying the above methodology for these preliminary results.

☒ Agree

☐ Disagree

11/30/2018

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