C-570-094
Investigation
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March 28, 2019

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 Refillable Stainless Steel Kegs 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 refillable stainless steel kegs (kegs) 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 September 20, 2018, Commerce received petitions filed in proper form by the American Keg Company LLC (the petitioner), a domestic producer of kegs, seeking the imposition of antidumping duties (AD) and countervailing duties (CVD) on imports of kegs from China.[1] In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleged that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of kegs in China, and that imports of

[1] *See* the petitioner's letter, "Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany, Mexico, and the People's Republic of China and Countervailing Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China," (September 20, 2018) (the Petition).

such products are materially injuring, or threatening material injury to, the domestic kegs industry in the United States.

On October 16, 2018, Commerce initiated an investigation into 21 alleged countervailable subsidy programs provided by the Government of China (GOC) to the kegs industry.[2] 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.[3] On October 11, 2018, Commerce issued Q&V questionnaires to 26 producers/exporters of subject merchandise identified by the petitioner, with complete contact information, in the Petition.[4] Additionally, Commerce posted the Q&V questionnaire, along with filing instructions, on the Enforcement and Compliance website.[5]

On October 25, 2018, Commerce confirmed that, as of October 24, 2018, the deadline for submitting a response to Commerce's Q&V questionnaire, 21 producers/exporters of subject merchandise received Q&V questionnaires while five producers/exporters of subject merchandise did not receive Q&V questionnaires.[6] Commerce received timely filed Q&V questionnaire responses from six producers/exporters of subject merchandise. Commerce did not receive a response from the remaining 18 companies that received Q&V questionnaires. We did not receive any additional comments or requests for treatment as a voluntary respondent from any party.

On November 1, 2018, Commerce selected Ningbo Master International Trade Co., Ltd. (Ningbo Master) and Penglai Jinfu Stainless Steel Products Co., Ltd. (Penglai Jinfu), the two largest publicly identifiable producers/exporters of the subject merchandise by volume, for individual examination as mandatory respondents in this investigation.[7] On November 2, 2018, Commerce sent initial questionnaires to the GOC and to the mandatory respondents in this investigation.[8] On November 26, 2018, Penglai Jinfu withdrew its participation in the investigation.[9] On December 4, 2018, Commerce postponed the preliminary determination in this investigation to

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[2] *See* Memorandum, "Countervailing Duty Investigation Initiation Checklist: Refillable Stainless Steel Kegs from the People's Republic of China," dated October 10, 2018 (Initiation Checklist); *see also Refillable Stainless Steel Kegs from the Peoples Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 52192 (October 16, 2018) (*Initiation Notice*).
[3] *See* Initiation Notice.
[4] *See* Volume I of the Petition at Exhibit GEN-23.
[5] *See* http://trade.gov/enforcement/news.asp.
[6] *See* Memorandum to the File, "Quantity & Value Questionnaires: Delivery Confirmation," (October 29, 2018).
[7] *See* Memorandum to 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, "Countervailing Duty Investigation of Refillable Stainless Steel Kegs from The People's Republic of China: Respondent Selection" (November 1, 2018).
[8] *See* Letter, "Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China: Countervailing Duty Questionnaire" (November 2, 2018) (Initial Questionnaire).
[9] *See* Letter from Penglai Jinfu Stainless Steel Products Co. Ltd., "Jinfu Withdrawal from the Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China (C-570-094)" (November 26, 2018).

February 19, 2019.[10] On December 19, 2018, Ningbo Master submitted its response to Commerce's initial questionnaire[11] along with responses from its cross-owned affiliates,[12] Tomorrow Industrial Limited (Tomorrow Industrial),[13] Ningbo Major Draft Beer Equipment Co., Ltd. (Ningbo Major),[14] and Zhejiang Major Technology Co., Ltd. (Major Technology).[15] On December 27, 2018, the GOC submitted its response to Commerce's initial questionnaire.[16]

On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[17] Accordingly, the revised deadline for the preliminary determination is March 29, 2019. Commerce sent a supplemental questionnaire to both Ningbo Master and the GOC regarding their initial questionnaire responses on February 13, 2019, and February 15, 2019, respectively.[18] On March 5, 2019, Ningbo Master submitted its response to Commerce's February 13, 2019, supplemental questionnaire.[19] On March 7, 2019, the GOC submitted its response to Commerce's February 15, 2019, supplemental questionnaire.[20]

On February 15, 2019, the petitioner timely submitted a new subsidy allegation for one program.[21] On March 1, 2019, Commerce initiated an investigation on the Provision of Stainless Steel Ingots and Billets for less than adequate remuneration and issued questionnaires to the

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[10] *See Refillable Stainless Steel Kegs from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 62560 (December 4, 2018). In accordance with Commerce's practice, where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 2930, As Amended*," 70 FR 24533 (May 10, 2005).
[11] See Letter from Ningbo Master International Trade Co., Ltd. "*Refillable Stainless Steel Kegs from the People's Republic of China*–Section III Questionnaire Response" (December 19, 2018) (Ningbo Master IQR).
[12] *See* Letter, "Refillable Stainless Steel Kegs from the People's Republic of China–Section III Affiliation Response," dated November 26, 2018 (Ningbo Master ACQR).
[13] See Letter from Tomorrow Industrial Limited "*Refillable Stainless Steel Kegs from the People's Republic of China*– Section III Questionnaire Response – Tomorrow Industrial" (December 19, 2018) (Tomorrow Industrial IQR).
[14] *See* Letter from Ningbo Major Draft Beer Equipment Co., Ltd. "*Refillable Stainless Steel Kegs from the People's Republic of China*–Section III Questionnaire Response – Ningbo Major" (December 19, 2018) (Ningbo Major IQR).
[15] *See* Letter from Zhejiang Major Technology Co., Ltd. "*Refillable Stainless Steel Kegs from the People's Republic of China*–Section III Questionnaire Response – Major Technology" (December 19, 2018) (Major Technology IQR)
[16] *See* Letter from the Government of China "Refillable Stainless Steel Kegs from the People's Republic of China, Case No. C-570-094: Government of China's Initial Questionnaire Response" (December 27, 2018) (GOC IQR)
[17] *See* Memorandum from 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 "Deadlines Affected by the Partial Shutdown of the Federal Government" (Tolling Memorandum), (January 28, 2019). All deadlines in this segment of the proceeding have been extended by 40 days.
[18] *See* Investigation of Countervailing Duty on *Refillable Stainless Steel Kegs from the People's Republic of China: Ningbo Master Supplemental Questionnaire* (February 23, 2019) (Ningbo Master Supplemental Questionnaire); *see also* Investigation of Countervailing Duty on *Refillable Stainless Steel Kegs from the People's Republic of China: Supplemental Questionnaire* (February 15, 2019) (GOC Supplemental Questionnaire).
[19] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Supplemental Questionnaire Response," (March 5, 2019) (Ningbo Master NSA SQR).
[20] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Supplemental Questionnaire Response," (March 7, 2019) (GOC SQR).
[21] *See* the petitioner's letter to Commerce "Refillable Stainless Steel Kegs from the People's Republic of China: New Subsidy Allegations" (February 15, 2019) (New Subsidy Allegation).

GOC and Ningbo Master regarding this program.[22] On March 15, 2019, Ningbo Master responded to Commerce's March 1, 2019, questionnaire on the new subsidy allegation.[23] On March 15, 2019, the GOC submitted its response to Commerce's March 1, 2019, supplemental questionnaire.[24]

On February 27, 2019, the petitioner submitted benchmark information.[25] On March 6, 2019, the GOC submitted rebuttal information to the petitioner's benchmark information submission.[26] On March 15, 2019, the petitioner submitted its pre-preliminary comments.[27]

B. Postponement of Preliminary Determination

On November 27, 2018, based on a request by the petitioner,[28] Commerce postponed the deadline for the preliminary determination until February 19, 2019, in accordance with section 703(c)(1) and (2) of the Act and 19 CFR 351.205(e).[29] On January 28, 2019, Commerce exercised its discretion to toll all deadlines by 40 days due to the shutdown of the Federal Government from December 22, 2018 to January 28, 2019,[30] making the new deadline for the preliminary determination March 29, 2019.

C. Period of Investigation

The period of investigation (POI) is January 1, 2017, through December 31, 2017. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

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[22] *See* Memorandum "Countervailing Duty Investigation: Refillable Stainless Steel Kegs Analysis of New Subsidy Allegation" (March 1, 2019); *see also* Letter, "Investigation of Countervailing Duty on *Refillable Stainless Steel Kegs from the People's Republic of China: New Subsidy Questionnaire*," (March 1, 2019); *see also* "Investigation of Countervailing Duty on *Refillable Stainless Steel Kegs from the People's Republic of China: New Subsidy Questionnaire*" (March 1, 2019).
[23] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Response to New Subsidy Questionnaire," (March 15, 2019) (Ningbo Master NSA SQR).
[24] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Supplemental Questionnaire Response," (March 15, 2019) (GOC NSA SQR).
[25] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Benchmark Information," (February 27, 2019) (Petitioner's Benchmark Submission).
[26] *See* Letter, "Refillable Stainless Steel Kegs from the People's Republic of China, Case No. C-570-094: GOC's Rebuttal Factual Information to Petitioners' Submission of Factual Information to Measure the Adequacy of Remuneration" (March 6, 2019) (GOC's Rebuttal Benchmark Submission).
[27] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Pre-Preliminary Determination Comments," (March 15, 2019).
[28] *See* Letter, "*Refillable Stainless Steel Kegs from the People's Republic of China*: Request for Extension of the Preliminary Determination," dated November 27, 2018.
[29] *See Refillable Stainless Steel Kegs from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 62560 (December 4, 2018).
[30] *See* Tolling Memorandum.

SCOPE COMMENTS

In accordance with the Preamble to Commerce's regulations,[31] we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of that notice.[32] We received several comments concerning the scope of the AD and CVD investigations of refillable kegs from China. See the scope memorandum issued concurrently with the CVD preliminary determination for our consideration of the parties' comments and modification of the scope of this investigation.[33]

A. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a "D Sankey" extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

"Unassembled" or "unfinished" refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:
(1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, "hopper" or "cone" shaped vessels);
(2) stainless steel kegs, vessels, or containers that have either a "ball lock" valve system or a "pin lock" valve system (commonly known as "Cornelius," "corny" or "ball lock" kegs);
(3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and

[31] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (Preamble).
[32] *See* Initiation Notice.
[33] *See* Memorandum, *Refillable Stainless Steel Kegs from the People's Republic of China, Germany, and Mexico:* Scope Comments Decision Memorandum for the Preliminary Determinations (March 29, 2019)

(4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by these investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.00.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

B. ALIGNMENT

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request,[34] we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of certain steel wheels from China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than August 13, 2019, unless postponed.

C. 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 November 5, 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 refillable kegs from China.[35]

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

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[34] *See* Letter from the petitioner, "Refillable Stainless Steel Kegs from the People's Republic of China: Request for Alignment of the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination," (March 19,2019).
[35] *See Refillable Stainless Steel Kegs from China, Germany and Mexico*, 83 FR 56102 (November 9, 2018).

investigation involving products from China.[36]

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[37] 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.[38] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[39]

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.[40] 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.

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. 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).[41] 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.

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[36] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*) and accompanying Issues and Decision Memorandum (IDM) at Comment 6.
[37] *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.
[38] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[39] *See* Public Law 112-99, 126 Stat. 265 §1(b).
[40] *See* Memorandum, "China Statistical Yearbook Memorandum," dated concurrently with this memorandum.
[41] *See* U.S. Internal Revenue Service Publication 946 (2016), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

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. 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 from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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

> {T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[42]

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.[43]

Ningbo Master

As discussed above, we selected Ningbo Master as a mandatory company respondent. Ningbo Master responded to Commerce's questionnaire on behalf of itself, Ningbo Major, Major

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[42] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[43] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

Technology, and Tomorrow Industrial.[44] Based on the reported ownership structure of these companies, we preliminarily find that the companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).[45]

Ningbo Master stated that it is a trading company and that is does not produce subject merchandise.[46] Therefore, in accordance with 19 CFR 351.525(c), we are cumulating the benefits that Ningbo Master received with the benefits from subsidies provided to Ningbo Major.

Ningbo Major is the main producer of the subject merchandise.[47] Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Ningbo Major to its own sales.[48]

Major Technology produces and sells a certain part to Ningbo Major for the production of subject merchandise.[49] We preliminarily determine that this input is primarily dedicated to the production of downstream products, including kegs, within the meaning of 19 CFR 351.524(b)(6)(iv). Thus, for purposes of the preliminary determination and consistent with 19 CFR 351.525(b)(6)(vi), we are attributing to Ningbo Major subsidies provided to Major Technology by dividing the benefit amounts by the combined sales of Major Technology and Ningbo Major, net of intercompany sales.

Tomorrow Industrial, the parent company of Ningbo Master, is an investment shell company in Hong Kong that does not have any operations, nor does it sell any merchandise.[50] The information provided regarding Tomorrow Industrial indicates that the company received no benefits during the POI or over the AUL. As such, regardless of whether cross-ownership under 19 CFR 351.525(b)(vi) exists between Ningbo Master and Tomorrow Industrial, we preliminarily find no evidence that the company received assistance under any of the investigated programs that would warrant attribution under 19 CFR 351.525(b)(iii).

Although Ningbo Master identified other companies with which it was affiliated during the POI, these affiliates were not involved in the production or sale of subject merchandise during the POI, and they did not otherwise meet any of the attribution conditions in our regulations. 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).

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[44] *See generally* Ningbo Master AQR.
[45] Ningbo Master designated information on the ownership structure of Ningbo Master, Ningbo Major, Major Technology, and Tomorrow Industrial as business proprietary. *See*, *e.g.*, Exhibit I-1 of the Ningbo Master ACQR for details on the companies' ownership structure.
[46] *See* Ningbo Master IQR.
[47] *See* Ningbo Master ACQR at 5. Ningbo Master designated the name of this part as business proprietary information.
[48] For details on the sales denominators used in the subsidy attribution, *see* the Ningbo Master Preliminary Calculation Memorandum.
[49] *See* Major Technology IQR.
[50] *See* Tomorrow Industrial IQR.

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 and inter-company sales between the responding cross-owned companies. For a further discussion of the denominators used, *see* the Ningbo Master Preliminary Calculation Memorandum.

BENCHMARKS AND INTEREST RATES

We are investigating loans received by Ningbo Master and its cross-owned affiliates from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.[51] The derivation of the interest rate 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.[52] 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."[53]

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.[54] On July 21, 2017, Commerce conducted a reassessment of China's financial system for CVD benchmarking purposes.[55] Based on this re-assessment, Commerce concluded that, despite reforms to date, the Government of China'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.[56] Consequently, we preliminarily find that any loans received by the respondent from private Chinese or foreign-owned banks would be unsuitable for

[51] *See* 19 CFR 351.524(b)(1).
[52] *See* 19 CFR 351.505(a)(3)(i).
[53] *See* 19 CFR 351.505(a)(3)(ii).
[54] *See CFS from China* IDM at Comment 10.
[55] "Review of China's Financial System Memorandum," under cover dated concurrently with this memorandum.
[56] *Id.*

use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national average 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 is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.[57]

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and more recently updated in *Thermal Paper from China*.[58] 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.[59] Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2017.[60] 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.[61]

After Commerce identifies the appropriate interest rates, the next step in constructing the benchmark has been to incorporate an important factor in interest rate formation, the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each of the years from 2003-2009 and 2011-2017, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.[62] For 2010, however, the regression does not yield that outcome for China's income group.[63] This contrary

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[57] *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 (PDM) at 21 (unchanged in C*ertain 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) (*OTR from China 2015 Final Results*)).
[58] *See CFS from China* and accompanying IDM at Comment 10; *see also Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from China*) and accompanying IDM at 8-10.
[59] *See* World Bank Country Classification, http://data.worldbank.org/about/country-and-lending-groups; *see also* Memorandum "Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).
[60] *Id.*
[61] *See, e.g., Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying PDM at "Benchmarks and Discount Rates" (unchanged in *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)).*
[62] *See* Interest Rate Benchmark Memorandum; *see also* Ningbo Master Preliminary Calculation Memorandum.
[63] *Id.*

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 (IMF), 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.[64] First, we did not include those economies that Commerce considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[65] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[66]

B. Long-Term RMB-Dominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, Commerce developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.[67]

In *Citric Acid from China*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where "n" equals or approximates the number of years of the term of the loan in question.[68] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[69]

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

The resulting inflation-adjusted benchmark lending rates are provided in the preliminary calculation memorandum for Ningbo Master.[70]

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.[71]

D. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of stainless steel coil in accordance with 19 CFR 351.511. Section 351.511(a)(2) of Commerce's regulations sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration (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).[72] As discussed in the section titled "Provision of Stainless Steel Coil for LTAR," we are relying on "tier two" (world market) prices for calculating benchmarks for the government provision of stainless steel coil.

We received data submissions from the petitioner and the GOC to consider using as the "tier two" benchmarks for stainless steel coil.[73] The petitioner submitted data from the United Nations Commodity Trade Statistics Database (UN ComTrade) and Maersk Line.[74] Specifically, the petitioner submitted pricing data for HTS subheading 7219.33 from UN ComTrade as a potential benchmark for stainless steel coil and ocean freight from various ports to Shanghai to use as a potential benchmark for ocean freight.[75] In its rebuttal, the GOC submitted stainless steel coil prices sourced from American Metal Market (AMM)[76] and coastal freight data for shipments from Russia.

For purposes of this preliminary determination, we are relying on the UN ComTrade data to derive a benchmark price for stainless steel coil. The UN ComTrade data is publicly available information provided on a monthly basis. Further, the petitioner has provided the underlying data, allowing Commerce to remove exports from China in the benchmark calculation. With regard to the AMM data, as the petitioner pointed out, this data is proprietary. Additionally, the GOC has not provided the underlying data from which their provided prices were derived. As such, for purposes of this investigation, Commerce preliminarily determines that the AMM

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[70] *See* Ningbo Master Preliminary Calculation Analysis Memorandum.
[71] *Id*.
[72] *See* 19 CFR 351.511(a)(2).
[73] *See* Petitioner's Benchmark Submission; *see also* GOC's Rebuttal Benchmark Submission.
[74] *See* Petitioner's Benchmark Submission at Exhibits 1-3.
[75] *Id*.
[76] *See* GOC's Rebuttal Benchmark Submission at Attachments 1 and 4.

dataset does not represent the best available information for use as a potential benchmark to determine the benefit for the provision of stainless steel coil.

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and should include import and delivery charges. Therefore, we added freight charges, value-added tax (VAT), and import duties applicable on purchases in order to calculate a price that a respondent company would have paid on the world market for these inputs. We added import duties and VAT as reported by the GOC, the VAT applicable to imports of stainless steel coil into China as also reported by the GOC, and inland freight to the port based on information provided by Ningbo Master.[77] We also added an amount for ocean freight. We are relying on the ocean freight data submitted by the petitioner, which are rates for shipping steel coil from a number of world ports to Shanghai.[78]

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 manner."[79] 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."[80] 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

[77] *See* GOC IQR at page 16; *see also* Ningbo Master SQR at Exhibit SQ1-10.
[78] *See* Petitioner's Benchmark Submission at Exhibit 3.
[79] *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).
[80] *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.

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."[81] It is Commerce's practice to consider information to be corroborated if it has probative value.[82] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[83] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[84] Furthermore, Commerce is not required to corroborate any countervailable subsidy rate applied in a separate segment of the same proceeding.[85]

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, may 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.[86]

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

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

As noted above, Commerce issued, via Federal Express (FedEx), Q&V questionnaires to 26 companies identified in the Petition.[87] We confirmed that 21 of the 26 Q&V questionnaires were delivered.[88] Of the 21 companies that we confirmed had questionnaires delivered to them, only three responded to our request for information in a timely manner.[89] The following 18 Q&V recipients did not respond to our request for information: Equipmentines (Dalian) E-Commerce Co., Ltd.; Jinan HaoLu Machinery Equipment Co., Ltd.; NDL Keg Qingdao Inc.; Ningbo Direct

[81] *See*, *e.g.*, SAA at 870.
[82] *Id.*
[83] *Id.* at 869.
[84] *Id.* at 869-870.
[85] *See* section 776(c)(2) of the Act.
[86] *See* section 776(d)(3) of the Act.
[87] *See* Letter, "Quantity and Value Questionnaire for the Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China.," dated October 11, 2018 (Q&V Questionnaire).
[88] *See* Memorandum, "Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China Petition: Quantity and Value Questionnaires," dated October 29, 2018 (Delivery Confirmation).
[89] *Id.*

Import & Export Co., Ltd.; Ningbo Hefeng Container Manufacture Co., Ltd.; Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.; Ningbo HGM Food Machinery Co., Ltd.; Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.; Ningbo Sanfino Import & Export Co., Ltd.; Ningbo Shimaotong International Co., Ltd.; Ningbo Sunburst International Trading Co., Ltd.; Orient Equipment (Taizhou) Co., Ltd.; Qingdao Henka Precision Technology Co., Ltd.; Shandong Tiantai Beer Equipment; Sino Dragon Trading International; Wenzhou Deli Machinery Equipment Co.; Wuxi Taihu Lamps and Lanterns Co., Ltd.; Yantai Trano New Material 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.[90] 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 in this investigation. 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.

Accordingly, we are including all programs in the determination of the AFA rate for the non-responsive companies.[91] 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 found these or similar programs to be countervailable. For a description of the selection of the AFA rates and our corroboration of these rates, see the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections below.

[90] 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.
[91] *See* Appendix.

C. Application of AFA: Penglai Jinfu

As discussed above in the section "Initiation and Case History," we selected Penglai Jinfu as a mandatory respondent. Penglai Jinfu failed to respond to Commerce's questionnaire and withdrew itself from participation in the investigation.[92] Moreover, the GOC did not respond to our Initial Questionnaire with respect to Penglai Jinfu. As noted above, for the five initiated upon programs that were used by the cooperating mandatory respondents and found to be countervailable, we have found the programs to be specific and to provide a financial contribution in this investigation. 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, Penglai Jinfu 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 Penglai Jinfu, 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, Penglai Jinfu 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 the application of AFA is warranted to ensure that Penglai Jinfu 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.[93] As facts otherwise available with an adverse inference, we find that all of the programs at issue in this proceeding are countervailable with respect to Penglai Jinfu. 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 Penglai Jinfu.[94] 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 have included them in the determination of the AFA rate applied to Penglai Jinfu. Commerce has previously found countervailable these or similar programs. For a description of the selection of the AFA rates and our corroboration of

[92] *See* Letter "Jinfu Withdrawal from the Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China (C-570-094)" (November 26, 2018).
[93] *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 IDM 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 IDM 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 IDM at "Use of Facts Otherwise Available and Adverse Inferences."
[94] *See* Appendix.

these rates, 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.[95] 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.[96] 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).[97] If no such rate exists, we then determine if 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.[98]

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

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

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

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

[98] *See Shrimp from China* and accompanying IDM at 13-14.

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."[99] 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.[100]

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 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."[101] 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."[102] It is pursuant to this knowledge and experience that we have

[99] Section 776(d)(2) of the Act.
[100] 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.
[101] *See* SAA at 870; *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*).
[102] *See De Cecco*, 216 F.3d at 1032.

implemented our adverse facts available hierarchy in CVD cases to select an appropriate adverse facts available rate.[103]

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.

Under the first step of Commerce's 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.

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[103] 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 IDM 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 IDM 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 IDM at 7-8 (applying, outside of the adverse facts available hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

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.[104]

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.[105]

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 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 Penglai Jinfu 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 to Penglai Jingfu and the companies that did not

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[104] 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.

[105] 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., CFS from China* and accompanying IDM at 2 ("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.

respond to the Q&V questionnaire the subsidy rates calculated for mandatory respondents for the following programs:

- Policy Loans to the Refillable Stainless Steel Industry
- Provision of Electricity for LTAR
- Provision of Stainless Steel Coil for LTAR
- Special Funds for International Market Expansion
- Export Assistance Grants

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:

- Income Tax Reductions for High-and New-Technology Enterprises
- Income Tax Deductions for Domestically Owned Enterprises Engaging in Research and Development
- Preferential Income Tax Policy for Enterprises in the Northeast Region

The standard income tax rate for corporations in China in effect during the POI was 25 percent.[106] 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 three programs, combined, provide a countervailable subsidy of 25 percent). 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.[107]

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

- Export Loans
- Treasury Bond Loans
- Northeast Area Revitalization Program
- Preferential Lending to Producers and Exporters Classified as "Honorable Enterprises"
- VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
- Provision of Land for LTAR to State-Owned Enterprises
- Provision of Land for LTAR in Economic Development Zones
- "Famous Brands" Awards
- State Key Technology Project Fund

[106] *See* CVD Initiation Checklist at 13.
[107] *See, e.g.*, *Aluminum Extrusions Final* and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

- China State Owned Enterprises Restructuring Fund
- Guangdong Province HNTE Incubation Program
- Grants for the Retirement of Capacity
- Grants for Energy Conservation and Emission Reduction
- Provision of Stainless Steel Ingots and Primary Forms

For this preliminary determination, we were similarly able to match all the subsidies that were self-reported by Ningbo Master and its cross-owned affiliates for which we did not calculate a rate in the instant investigation to similar programs from other China CVD proceedings, for purposes of including these programs in the AFA rate applicable to the non-cooperating companies. A full list of such self-reported subsidies is provided below in Appendix 1.[108]

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for the non-cooperating companies to be 144.30 percent *ad valorem*. The Appendix provides 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."[109] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[110] 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.[111] 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.[112]

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

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[108] With respect to Ningbo Master's self-reported subsidies, we have combined programs that had identical or nearly identical names, and which were received in the same year.
[109] *See* SAA at 870.
[110] *Id.*
[111] *Id.* at 869-870.
[112] *See* section 776(d) of the Act.

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.[113]

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 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: Provision of Electricity for LTAR

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

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces and 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 each province in which mandatory respondents or any company "cross-owned" with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.[114] Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, to identify entities that manage and impact price adjustment processes, and to examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

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[113] *See, e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).
[114] *See* Initial Questionnaire at Section II: Electricity Appendix.

In its initial questionnaire response, the GOC stated that "the electricity price in China is based on purely market mechanisms and reflects the market supply and demand, and as a consequence, Commerce should not keep an outdated view of the Chinese electricity market and the pricing system."[115] Specifically, as of the issuance of the "NDRC Notification on Lowering the On-Grid Price of Coal-Fired Electricity and Electricity for Industrial and Commercial-Use {2015 No. 748}," and "Notice of National Development and Reform Commission on Lowering Coal-fired Electricity On-grid Price and General Industrial and Commercial Electricity Price {2015 No. 3105}," the NDRC no longer reviews, *i.e.*, approves, electricity pricing schedules submitted to it by the provinces.[116] Therefore, according to the GOC, Provincial Price Proposals no longer exist and did not exist during the POI. Furthermore, the GOC also stated that, as a result of Notice 748, provincial price departments develop and establish grid and electricity sales prices.[117] Consequently, according to the GOC, the NDRC no longer has any impact on prices, which are set autonomously at the provincial level.

Notice 748 is based upon consultations between the NDRC and the National Energy Administration.[118] Article 1 contained therein stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.[119] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts. Article 2 indicates that the "{t}he reduction of coal-fired power generation price" would be "mainly used for reducing the price of industrial and commercial electricity."[120] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[121] Articles 6 and 7, respectively, indicate that provincial pricing authorities "{s}hall make and distribute the on-grid price of electricity and specific plans of the price adjustment in accordance with the average standard of price adjustment in Annex 1 and submit filings to the National Development and Reform Commission," and that the "{a}forementioned electricity price adjustment shall be enforced since April 20th, 2015."[122] Finally, Article 10 directs that, "{l}ocal price departments shall organize and arrange carefully to put in place the electricity price adjustment measures."[123]

NDRC Notice 3105, also based upon consultations between the NDRC and the National Energy Administration, directs additional price reductions, and stipulations at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to NDRC.[124] Consequently, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provisional pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states

[115] *See* GOC IQR at 29.
[116] *Id.* at Exhibits ELEC-4 and ELEC-13.
[117] *Id.*
[118] *Id.* at ELEC-13.
[119] *Id.*
[120] *Id.*
[121] *Id.*
[122] *Id.*
[123] *Id.*
[124] *Id*. at Exhibit ELEC-4.

to be the case.[125] Instead, 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.[126]

With respect to price derivation at the provincial level, Commerce requested information regarding the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process. Specifically, Commerce asked how increases in cost elements led to retail price increases, the derivations of those cost increases, how cost increases were calculated, and how cost increases impacted final prices. The GOC stated that the "NDRC takes the role as a check and balancing mechanism, while the provincial governments conduct a leading role. In addition, the provincial governments' roles in setting electricity prices are getting more independent and dynamic."[127] Furthermore, after the provincial authorities make specific calculations based on the principles set by the NDRC, the "NDRC delegates its authority to prepare and publish the schedules of electricity tariff rates for their own jurisdictions under the Notices published and enforced by the NDRC to the provincial government agencies respectively under the law of electrical power (Art. 40)."[128] In reference to a specific electricity price adjustment that took place since mid-2016, the GOC stated that "provinces gained more independence to be able to adjust their electricity sell price, adjust the electricity price at different times during 2016, and adjust the price of different electricity pricing categories or in a different range. The adjusted electricity tariff schedules were approved by the government of each province and submitted to the NDRC for review."[129] However, the GOC failed to explain, in detail, how the pricing values indicated in the adjustment were derived, including the specific factors or information relied upon by the NDRC.

Commerce additionally requested that the GOC explain, for each province in which a respondent or cross-owned company is located, how increases in labor costs, capital expenses, and transmission and distribution costs are factored into Price Proposals, and how cost element increases, and final price increases were allocated across the province and across tariff end-user categories. The GOC failed to provide a complete response to this request. The GOC reiterated that "with regard to adjustments that took place in 2016 and 2017, no Price Proposals were involved. Therefore, the question relating to the proposal is not applicable."[130] In a supplemental questionnaire, 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.[131] The GOC's response failed to explain what actions the NDRC would take in the event of non-compliance with a directed price change.[132] The GOC did note that "the electricity prices are determined by the provincial governments within their jurisdictions. The NDRC's role is to review the electricity pricing schedules submitted by the provincial governments."[133]

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[125] *Id*. at Exhibits ELEC-4 and ELEC-13
[126] *Id*.
[127] *Id.* at Exhibit ELEC-1 at 2.
[128] *Id*. at Exhibit ELEC-1 at 3 and ELEC-10.
[129] *Id.* at Exhibit ELEC-1 at 4.
[130] *Id*. at Exhibit ELEC-1 at 7; s*ee also* GOC's SQR at 8.
[131] *See* GOC Supplemental Questionnaire.
[132] *See* GOC's SQR at 11.
[133] *See* GOC's IQR at Electricity Appendix

As explained above, the GOC failed to fully explain the roles and nature of the cooperation between the NDRC and provinces in deriving electricity price adjustments. 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. Furthermore, the GOC failed to explain both the derivation of price reductions directed to the provinces by the NDRC and the derivation of prices by the provinces themselves.

Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record; that the GOC withheld information requested by Commerce; and, that the GOC significantly impeded this proceeding. Thus, we must rely on "facts available" in making our preliminary determination.[134] 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.[135] 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.[136] 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.

E. Application of AFA: Provision of Stainless Steel Coil for LTAR

Input Producers Are "Authorities"

As discussed below, under the section "Programs Preliminarily Found to Be Countervailable," Commerce is investigating whether the GOC provided stainless steel coil for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing stainless steel coil to the mandatory respondents are "authorities" within the meaning of section 771(5)(B) of the Act. Specifically, we asked the mandatory respondents to provide a complete list of the suppliers and producers from which they sourced stainless steel coil during the POI.[137] Commerce then requested various information from the GOC to assess the relationship between the GOC and the identified producers of stainless steel coil.[138]

In response to the Initial Questionnaire, Ningbo Master provided a list of its producers and suppliers of stainless steel coil.[139] In its initial questionnaire response, the GOC provided information regarding the companies identified by Ningbo Master as their suppliers of stainless

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[134] *See* section 776(a)(2)(A) of the Act.
[135] *See* section 776(b) of the Act.
[136] *See* section 776(b)(4) of the Act.
[137] *See* Initial Questionnaire, Section III at Input Purchases Template.
[138] *Id*., Section II at Input Producer Appendix.
[139] *See* Ningbo Major IQR at Exhibit 7

steel coil, but the GOC did not provide information about all of the producers of stainless steel coil purchased by Ningbo Master.[140] Because the GOC did not provide all requested information, we asked for this information a second time, in our supplemental questionnaire.[141] The GOC again failed to provide the requested information.[142] As such, the GOC has not provided the requested information for all of the stainless steel coil producers named by Ningbo Master.

For the stainless steel coil producers for which the GOC did submit information, we find the information to be incomplete. Specifically, the GOC provided registration information and ownership structure for each of these producers, as well as the information maintained in the Enterprise Credit Information Publication System (ECIPS).[143] While the information in these exhibits provided basic registration and shareholder information, it did not include detailed information (*e.g.*, company by-laws, articles of incorporation, licenses, etc.) that was specifically requested by Commerce,[144] nor did the GOC elect to supplement its initial filing when Commerce presented it with a second opportunity to respond.[145] These responses lack the information that Commerce requested and undermine Commerce's ability to determine whether a company constitutes an "authority." Accordingly, because Commerce did not receive complete information on the identity of these companies, there is insufficient record information to allow Commerce to determine whether they are "authorities."

Furthermore, we requested information about the owners, members of the board of directors, or managers of the producers who were also government or Chinese Communist Party (CCP) officials during the POI. The GOC did not provide this requested information for any of the companies. Instead, the GOC merely stated that "{e}ven if an owner, a director, or a manager of a supplier is a member or representative of any of these organizations, this circumstance would not make the management and business operations of the company in which he/she serves subject to any intervention by the GOC."[146] Because the GOC did not provide information necessary for our analysis, we asked for this information a second time, in our supplemental questionnaire. The GOC again failed to provide the requested information.[147]

The information we requested regarding the role of CCP officials in the management and operations of these companies is also necessary for our determination as to whether they 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 demonstrate that it is, in fact, able to access information similar to the

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[140] *See e.g.,* GOC Supplemental Questionnaire at page 1 ("In the Input Producer Appendix of your questionnaire response you provided information related to Ningbo Major's suppliers of stainless steel coil").
[141] *Id*. ("Please provide a <u>full</u> response to the Input Producer Appendix for each <u>producer</u> of stainless steel coil associated with Ningbo Major's input purchases").
[142] *See* GOC SQR at pages 5-6.
[143] *See* GOC IQR at Exhibits COIL-2 and 3.
[144] *See* Initial Questionnaire, Section II at Input Producer Appendix.
[145] *See* GOC SQR at pages 5-6.
[146] *See* GOC IQR at page 12.
[147] *See* GOC SQR at pages 5-6.

information we requested.[148] Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any of the requested information, it should have promptly explained to Commerce the attempts it undertook to obtain this information and proposed alternative forms of providing the information.[149]

As we explain in the Additional Documents Memorandum,[150] we understand the CCP to exert significant control over economic activities in China. Thus, Commerce finds, as it has in prior CVD proceedings, that the information requested regarding the role of CCP officials and CCP committees in the management and operations of privately-owned input producers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.[151]

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that Commerce must rely on "facts otherwise available" in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, we find that AFA is warranted pursuant to section 776(b) of the Act. As AFA, we are preliminarily finding that each of the producers of stainless steel coil are "authorities" within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rate for Ningbo Master, see below at "Provision of Stainless Steel Coil for LTAR."

Stainless Steel Coil Inputs Are Specific

Commerce asked the GOC to provide a list of industries in China that purchase stainless steel coil directly, and to provide the amounts (volume and value) purchased by each of the industries.[152] Commerce requests such information for purposes of its *de facto* specificity analysis. Specifically, our questionnaire asked the GOC to:

> Provide a list of the industries in China that purchase stainless-steel coil directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent

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[148] *See, e.g., High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) (*HPSC from the China*) and accompanying IDM at 13.
[149] 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."
[150] *See* Memorandum, "Placement of Additional Information on the Record," dated concurrently with this memorandum, at Attachment 1.
[151] *See*, *e.g.*, *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014), and accompanying Issues and Decision Memorandum at Comment 5.
[152] *See* Initial Questionnaire, Section II, Standard Questions Appendix, at page 7.

> companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use the resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.[153]

The GOC did not provide this information, nor did it explain the efforts it made to compile this information. Instead, the GOC simply indicated that:

> The number of industries that may consume stainless steel coil are too numerous to list. The GOC does not impose any limitation on the consumption of stainless steel coil. As a general matter, and as described by the U.S. International Trade Commission: "{s}tainless steel sheet and strip products are used in consumer and industrial applications where the corrosion resistance, heat resistance, or design characteristics of stainless steel are required. For example, the automotive industry uses sheet and strip to manufacturer trim, exhaust- and emission-control systems, and wheel covers. The pipe and tube industry uses slit coil as its raw material. Sheet and strip are also used by the chemical and construction industries, as well as by appliance and industrial equipment manufacturers." (citation omitted) a Stainless steel coil basically touches all sectors of the Chinese economy, which is why the GOC is unable to provide a list of industries.[154]

This information is insufficient because it does not include relevant data regarding the industries in China that actually purchased stainless steel coil, nor does it include the volume or the value of each industry's purchases for the POI and the prior two years, as we requested. Consequently, and consistent with past proceedings,[155] 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.

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. Consequently, we preliminarily determine that an adverse inference is warranted in the application of facts available. In drawing an adverse inference, we find that the purchasers of stainless steel coil provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act.

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[153] *Id*.
[154] *See* GOC IQR at page 17.
[155] *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 Final*)).

Stainless Steel Coil Industry Distortion

In order to determine the appropriate benchmark with which to measure the benefit from the provision of inputs at LTAR under 19 CFR 351.511, Commerce asked the GOC several questions concerning the structure of the stainless steel coil industry and the production and consumption of stainless steel coil during the POI and the prior two years.[156] Specifically, Commerce requested that the GOC provide the following information for stainless steel coil:

i. The total number of producers.

ii. The total volume and value of Chinese domestic consumption of stainless steel coil and the total volume and value of Chinese domestic production of stainless steel coil.

iii. The percentage of domestic consumption accounted for by domestic production.

iv. The total volume and value of imports of stainless steel coil.

v. The total volume and value of domestic production that is accounted for by companies in which the Government maintains an ownership or management interest either directly or through other Government entities.

vi. A discussion of the laws, plans or policies that address the pricing of stainless steel coil, the levels of production of stainless steel coil, the importation or exportation of the input, or the development of stainless steel coil capacity. Please state which, if any, central and sub-central level industrial policies pertain to the stainless steel coil industry.

Commerce requested such information to determine whether the GOC is the predominant provider of the inputs in China and whether its presence in the market distorts all transaction prices. The GOC stated that it does not maintain records on the stainless steel coil industry.[157] As a result, it was unable to identify the producers in which the GOC maintains an ownership or management interest. We provided the GOC another opportunity to provide additional information regarding the stainless steel coil industry in our supplemental questionnaire.[158] In response, the GOC stated that the closest category to stainless steel coil for which it could obtain data was steel.[159]

As an initial matter, we find steel data too broad a category for Commerce to conduct a meaningful distortion analysis for the stainless steel coil industry. While Commerce is unable to perform a complete analysis of the stainless steel coil industry in China, evidence on the record indicates that the GOC's involvement in the market to be distortive. First, the record evidence

[156] *See* Initial Questionnaire, Section II, Standard Questions Appendix, at page 6.
[157] *See* GOC IQR at page 14.
[158] *See* GOC Supplemental Questionnaire at page 1.
[159] *See* GOC SQR at page 3. ("According to the State Statistics Bureau ("SSB"), the closest category to stainless-steel coil for which GOC could obtain data is steel.").

indicates the GOC did levy tariffs up to 40 percent on imports of stainless steel coil during the 2015-2017 period.[160] Further, the *Steel Industry Adjustment and Upgrade Plan (2016-2020)*[161] and the *Iron and Steel Industry Twelfth Five-Year Development Plan*[162] have both emphasized the reform and development of the steel industry, including manufacturing stainless steel products.

However, regardless of what the record evidence indicates about distortion in the stainless steel coil market, we find that the GOC has failed to cooperate to the best of its ability to comply with Commerce's request for information. In past proceedings, the GOC has demonstrated that it has the ability, through the industry associations or other sources, to report data concerning the production of a wide variety of inputs.[163] In fact, in *Sinks from China* the GOC was able to provide statistics for cold-rolled steel or strip for this identical program.[164] As such, GOC's assertion that steel is the closest category to stainless steel coil that for which it is able to provide data appears to be erroneous. Further, Commerce notes that in that case, we found the GOC's involvement in the stainless steel market to be predominant and distortive.[165]

The GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.[166] Commerce has also verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.[167] Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any Chinese-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership.

[160] *Id*. at page 16.
[161] *See* Petition at Exhibit CVD-2 at page 33.
[162] *Id.* at Exhibit CVD-7 ("Advance the improvement of special steel quality in all aspects. Place emphasis on the improvement of quality and performance of special steel products, such as …. stainless steel").
[163] *See, e.g., Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014) and accompanying PDM at 14-15 (unchanged in *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)) (*Crystalline Silicon Photovoltaic Products from China*).
[164] *See Drawn Stainless Steel Sinks from from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, Rescission in Part, and Intent To Rescind the Review in Part; 2012-2013*, 80 FR 26226 (May 7, 2015) and accompanying PDM at 20-21 (unchanged in *Drawn Stainless Steel Sinks From the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Rescission in Part; 2012-2013*, 80 FR 69638 (November 10, 2015) (*Sinks from China*).
[165] *Id.*
[166] *See, e.g., Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013, 80 FR 77318 (December 14, 2015) (Citric Acid from China),* and accompanying Issues and Decision Memorandum at 6.
[167] *See Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016) and accompanying Preliminary Decision Memorandum at 21-22 (unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017).

Therefore, we preliminarily determine that the GOC, having failed to provide such data, has withheld information that was requested of it, and that the use of facts available is warranted, pursuant to section 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, and thus, the application of AFA pursuant to section 776(b) of the Act is warranted.

For these reasons and based on the record evidence discussed above, we preliminarily determine, as AFA, that the domestic market for stainless steel coil is distorted through the intervention of the GOC, and we are, therefore, relying on an external benchmark for determining the benefit from the provision of stainless steel coil at LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

We have also 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.[168]

Based on these facts together with the GOC's failure to provide requested information, as discussed above, we conclude that domestic prices in China for stainless steel coil are distorted such that they cannot be used as a tier one benchmark.

F. Application of AFA: Export Assistance Grants and Special Funds for International Market Expansion

Ningbo Master reported that it and its cross-owned affiliates received direct government grants during the POI and over the AUL period in its initial questionnaire response.[169] The GOC did not provide complete responses to Commerce's questions regarding these alleged grants. These questions requested information needed to analyze the programs and determine whether the grants are specific within the meaning of section 771(5A)(B) of the Act and confer a financial contribution pursuant to section 771(5)(D) of the Act. Commerce's questionnaire requested that the GOC respond to all questions in the standard questions' appendix, the allocation appendix, and the grant appendix.[170] The GOC did not complete the appendices or provide any information

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[168] *See* Memorandum, "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 IDM at Comment 3.
[169] *See* Ningbo Master IQR; *see also* Ningbo Major IQR; *see also* Tomorrow Industrial IQR; *see also* Major Technology IQR.
[170] *See* Initial Questionnaire at Grant Programs.

about how the programs operate beyond stating that Ningbo Master and its cross-owned affiliates received these grants over the AUL.[171] However, the GOC failed to provide the required appendices because "since the GOC does not challenge the countervailability of the{ese} program(s), the GOC understands that these appendices are not necessary."[172] In a supplemental questionnaire, we again sought information on these programs by asking the GOC to complete the relevant appendices.[173] The GOC responded, "{a}s indicated in the GOC's IQR, the GOC does not believe the Department has the authority under the WTO Agreement on Subsidies and countervailing Measures to require reporting for programs that were not alleged or initiated upon. Therefore, the GOC refers the Department to the responses submitted by the respondent enterprises for benefit information on other assistance they may have received."[174]

The GOC was provided two opportunities to submit the requested information but failed to provide such information. Absent information from the GOC, Commerce must rely on "facts available" in making our preliminary determination. Pursuant to section 776(b) of the Act, 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. Consequently, an adverse inference is warranted in the application of facts available. In drawing an adverse inference, we find that grants under each of these programs are specific within the meaning of section 771(5)(A) of the Act and confer a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act. *See* below for details on the specific benefit calculation for each grant program pursuant to 19 CFR 351.504.

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. Government Policy Lending Program

The petitioner claims that preferential lending to the kegs industry is supported by the GOC through the issuance of catalogues of encouraged industries, national and provincial five-year plans, industrial plans, and other government laws and regulations. The plans, laws and regulations provided for the kegs industry "favor specific producers and support these industries through government-backed financial lending."[175]

When examining a policy lending program, Commerce examines whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our

[171] *See* GOC IQR at 25-29.
[172] *Id.*
[173] *See* GOC Supplemental Questionnaire at 18.
[174] *See* GOC SQR at 11.
[175] *See* Petition at 7-9.

practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. If we make such a finding, we rely upon the analysis undertaken in *CFS from China* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.[176]

Record information demonstrates the GOC placed great emphasis on targeting the industries that encompass kegs production, such as the steel industry and the narrower stainless steel products industry, for development throughout recent years. For example, in the *National 11th Five-Year Plan for Economic and Social Development (2006-2010)* (11th FYP), the GOC promises to "accelerate the structural readjustment of superior industries such as iron and steel."[177] In the *Twelfth Five-Year Outline of the Guidelines for National Economic and Social Development of the People's Republic of China* (12th FYP), the GOC promises to "encourage 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."[178] The 12th FYP seeks to maintain "current advantage{s} in export markets" while "{supporting} new advantages based on technology, branding, quality and service" to "extend the value-added chain in China."[179] Further, the 12th FYP seeks to create a "favorable environment to activate the development of SMEs… {by} increase{ing} the size and percentage of lending to SMEs, and broaden{ing} channels of direct financing."[180]

In the current *13th Five-Year Plan For Economic And Social Development Of The People's Republic Of China (2016-2020)* (13th FYP), the GOC pledges to "set up a fund to provide rewards and subsidies for structural adjustments in industrial enterprises."[181] The 13th FYP further encourages the "transform{ation} and upgrade {of} major manufacturing technologies and improv{ing} policies to support enterprises… thereby helping key manufacturing sectors move into the medium-high end {and} improv{ing} the supply of consumer goods.[182] To achieve this goal, the 13th FYP highlights support for the development of "specialized small and medium enterprises," such as downstream processors.[183] The 13th FYP promotes the development of "a number of competitive, well-known brands" through improvements in both product quality and product supervision.[184] Finally, the 13th FYP calls for lowering business costs by reducing taxes and fees, "maintain{ing} proper liquidity and interest rates," and extending credit by creating a "national financing guaranty fund."[185]

In the *Ningbo City Iron and Steel Industry Adjustment and Revitalization Action Plan (2009)*, the Ningbo City provincial government wrote that the 11th FYP "turned the steel industry into one of

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[176] *See CFS from China* and accompanying IDM at Comment 8.
[177] *See* GOC IQR at LOAN-6 at 11th FYP at 23.
[178] *See* GOC IQR at LOAN-6 at 12th FYP at 59.
[179] *Id*. at 12th FYP at 59.
[180] *Id*. at 12th FYP at 11.
[181] *See* GOC IQR at LOAN-6 at 13th FYP at Section 5.
[182] *Id*. at 13th FYP at Chapter 22, Section 3, "Transformation and Upgrading of Traditional Industries."
[183] *Id*.
[184] *Id*. at 13th FYP at Chapter 22, Section 4 "Quality and Brand Development."
[185] *Id*. at 13th FYP at Chapter 22, Section 6 "Lower Business Costs in the Real Economy."

the five key harbor heavy and chemical industries in Ningbo city and laid a solid foundation for its future development, making Ningbo's steel industry become an integral part of Zhejiang's plan to build itself into a steel production base."[186] The action plan further pledges to "strengthen the efforts to protect the large steel companies and increase the loans provided by policy banks and commercial banks to new projects of steel companies."[187] Regarding stainless steel products, the action plan calls for an expansion of the "stainless industrial chain" and the construction of a stainless steel park and stainless steel processing zones.[188] Further, in the *13th Five-Year Plan for National Economic and Social Development of Ningbo City* (Ningbo City 13th FYP), the Ningbo government states that they want to "improv{e}the key competitiveness of manufacturing."[189]

A key tool in the GOC's economic development plans is preferential lending. The GOC uses preferential lending to pursue economic development goals through the 13th FYP, which sets a target of maintaining "proper liquidity and interest rates, creat{ing} new direct financing product suitable to the needs of enterprises and establishing a national financing guaranty fund."[190] Also, the *Ningbo City Iron and Steel Industry Adjustment and Revitalization Action Plan (2009)* calls for increasing "the loans provided by policy banks and commercial banks to new projects of steel companies" and raising funds for companies.[191]

Thus, given the policies and plans discussed above, we preliminarily determine there is a program of preferential policy lending specific to producers of kegs within the meaning of section 771(5A)(D)(i) of the Act. Additionally, we 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."[192] 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.[193]

Ningbo Master and its cross-owned affiliates reported loans from SOCBs for which they made interest payments during the POI.[194] Thus, to calculate whether Ningbo Master or its cross-owned affiliates received a benefit from this program, we compared the amount of interest Ningbo Master and its cross-owned affiliates paid on the outstanding loans to the amount of interest the company would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates described in the "Benchmarks and Interest Rates" section

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[186] *See* GOC SQR at Exhibit LOAN-13 at I. Current Situation of the Steel Industry. We note that the GOC stated that there have been no updates to this plan.
[187] *Id.* at V. Safeguard Measures.
[188] *See* GOC SQR at Exhibit LOAN-13 (Ningbo City Iron and Steel Industry Adjustment and Revitalization Action Plan at III, "Guidelines and Development Targets").
[189] *See* GOC SQR at Exhibit LOAN-14 at Ningbo City 13th FYP at 38.
[190] *Id*. at 13th FYP at Chapter 22, Section 6 "Lower Business Costs in the Real Economy."
[191] *See* GOC SQR at Exhibit LOAN-13 (Ningbo City Iron and Steel Industry Adjustment and Revitalization Action Plan at III, "Safeguard Measures").
[192] *See, e.g., CFS from China*, and accompanying IDM at Comment 1.
[193] *See* section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).
[194] *See* Ningbo Master IQR at Exhibit 5; *see also* Ningbo Major's IQR at Exhibit 6; *see also* Major Technology's IQR at Exhibit 6.

above.[195] To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominators, as described in the "Subsidies Valuation" section above.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.43 percent *ad valorem* for Ningbo Master.[196]

2. <u>Provision of Stainless Steel Coil for LTAR</u>

Commerce is examining whether the GOC or other "authorities" within China provided Ningbo Master or its cross-owned affiliates with stainless steel coil for LTAR. Ningbo Major reported that it purchased stainless steel coil from unaffiliated parties during the POI.[197]

As explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we preliminarily determine that the producers of stainless steel coil are "authorities" within the meaning of section 771(5)(B) of the Act and that Ningbo Major received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[198]

Additionally, as explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we preliminarily determine that the GOC is providing stainless steel coil to a limited number of industries and enterprises, and, hence, that the subsidies under this program are specific pursuant to section 771(5A)(D)(iii) of the Act.

Further, as discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we have preliminarily determined, as AFA, that the domestic market for stainless steel coil is distorted through the intervention of the GOC. Thus, we are relying on an external benchmark for determining the benefit from the provision of stainless steel coil for LTAR under section 771(5)(E)(ii) of the Act. To derive the benchmark prices, we included ocean freight and inland freight that would be incurred to deliver inputs to Ningbo Major's production facilities.[199] We also added to the benchmark prices the appropriate import duties applicable to imports of HRS into China, as provided by the GOC.[200] Additionally, we added the appropriate VAT of 17 percent to the benchmark prices.[201]

We compared these monthly benchmark prices to the purchase prices paid by Ningbo Major for individual domestic transactions, including VAT and delivery charges. We determined the benefit as the difference between the benchmark prices and the prices reported. We divided the

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[195] *See* 19 CFR 351.505(c).
[196] *See* Ningbo Master's Preliminary Calculation Memorandum.
[197] *See* Ningbo Major IQR at Exhibit 7.
[198] *See, e.g., Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 52301 (September 3, 2014), and accompanying IDM at 48-50.
[199] *See* Ningbo Master Preliminary Calculation Memorandum.
[200] *See* GOC's IQR at 16. Consistent with *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid from China; 2011 Review*) and accompanying IDM at 90. In *Citric Acid from China; 2011 Review*, we utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade.
[201] *See* GOC's IQR at 16.

total benefits received by the appropriate sales denominators, as described in the "Subsidies Valuation" section above.

On this basis, we preliminarily determine a countervailable subsidy rate of 14.51 percent *ad valorem* for Ningbo Master.

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. Therefore, we preliminarily determine that the GOC's provision of electricity confers a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act and is specific under section 771(5A)(D) of the Act.

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

Consistent with our approach in *Wind Towers*, we first calculated each company'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.[202] 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 the respective company during the POI from the monthly benchmark variable electricity costs.

To measure whether a company received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the company by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company's consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the company 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 each companies' variable electricity payments and base rate payments.[203] To calculate the net subsidy rate attributable to the company, we divided the benefit by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.45 percent *ad valorem* for Ningbo Master.[204]

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[202] *See Wind Towers from China Final* and accompanying IDM at 21-22.
[203] *See* Ningbo Master's Preliminary Calculation Memorandum.
[204] *Id*.

4. **Special Funds for International Market Expansion**

Ningbo Master and Ningbo Major reported that they received benefits under this program during the AUL.[205] The GOC did not provide any information about how the program operates beyond stating that both companies received funds under this program.[206]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring. To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[207] We divided the total amount approved by the relevant sales for that year. Where we found that a grants received in any year exceeded 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants in years that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.12 percent *ad valorem* for Ningbo Master.[208]

5. **Export Assistance Grants**

Ningbo Major and Major Technology reported that it received benefits under this program during the AUL.[209] The GOC did not provide any information as to how the program operates.[210]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

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[205] *See* Ningbo Master QR at Exhibit 6.1 (Appendixes Response for International Market Expansion Fund); *see also* Ningbo Major QR at Exhibit 10.1 (Appendixes Response for International Market Expansion Fund).
[206] *See* GOC IQR at 17.
[207] *See* 19 CFR 351.524(b)(2).
[208] *See* Ningbo Master Preliminary Calculation Memorandum.
[209] *See* Major Technology QR at Exhibit 9.1 (Appendixes Response for Export Assistance Grants); *see also* Ningbo Major QR at Exhibit 11.1 (Appendixes Response for Export Assistance Grants).
[210] *See* GOC IQR at F. Other Subsidies.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring. To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[211] We divided the total amount approved in each year by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.15 percent *ad valorem* for Ningbo Master.[212]

6. <u>Special Fund for Steady Increase and Promotion of Enterprises in Jiangbei District</u>

Ningbo Major reported that it received benefits under this program during the AUL.[213] The GOC did not provide any information about how the program operates.[214]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring. To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[215] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

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[211] *See* 19 CFR 351.524(b)(2).
[212] *See* Ningbo Master Preliminary Calculation Memorandum. We combined the programs *Foreign Trade Fund Subsidy of Luqiao District in 2016* and *Foreign Trade Fund Subsidy of Taizhou City in 2016* based on similarity. Program also includes *Special Fund for Foreign Trade Development of Jiangbei District* and *Subsidy for Export Credit Insurance Premium of Jiangbei District in 2016*.
[213] *See* Ningbo Master SQR at Exhibit SQ1-14 (Revised List of Other Programs of Ningbo Major).
[214] *See* GOC IQR at F. Other Subsidies.
[215] *See* 19 CFR 351.524(b)(2).

On this basis, we preliminarily determine a countervailable subsidy rate of 0.03 percent *ad valorem* for Ningbo Master.[216]

7. Patent Subsidy in Jiangbei District

Ningbo Major reported that it received benefits under this program during the AUL.[217] The GOC did not provide any information about how the program operates.[218]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring.[219] To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[220] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.01 percent *ad valorem* for Ningbo Master.[221]

8. Steady Position Subsidy for Enterprise

Major Technology reported that it received benefits under this program during the AUL.[222] The GOC did not provide any information about how the program operates.[223]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We

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[216] *See* Ningbo Master Preliminary Calculation Memorandum. We combined the programs *Subsidy Fund for Steady Increase and Improvement of Adjustment in Jiangbei District* and *2nd Special Fund for Steady Increase and Promotion of Enterprises in Jiangbei District in 2016* based on similarity.
[217] *See* Ningbo Master SQR at Exhibit SQ1-14 (Revised List of Other Programs of Ningbo Major).
[218] *See* GOC IQR at F. Other Subsidies.
[219] We combined the programs *The First Batch of Patent Subsidy in Jiangbei District in 2017* and *The Fourth Batch of Patent Subsidy in Jiangbei District in 2017* based on similarity.
[220] *See* 19 CFR 351.524(b)(2).
[221] *See* Ningbo Master Preliminary Calculation Memorandum.
[222] *See* Ningbo Master SQR at Exhibit SQ1-36.1.
[223] *See* GOC IQR at F. Other Subsidies.

determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring. To measure the benefit of the grants that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[224] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.01 percent *ad valorem* for Ningbo Master.[225]

9. <u>Subsidy Fund of Provincial Commerce Improvement</u>

Major Technology reported that it received benefits under this program during the AUL.[226] The GOC did not provide any information about how the program operates.[227]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grant received under this program as non-recurring. To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[228] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.03 percent *ad valorem* for Ningbo Master.[229]

[224] *See* 19 CFR 351.524(b)(2).
[225] *See* Ningbo Master Preliminary Calculation Memorandum.
[226] *See* Ningbo Master SQR at Exhibit SQ1-38.1.
[227] *See* GOC IQR at F. Other Subsidies.
[228] *See* 19 CFR 351.524(b)(2).
[229] *See* Ningbo Master Preliminary Calculation Memorandum.

10. **Prize for Enterprise's Independent Evaluation**

Major Technology reported that it received benefits under this program during the AUL.[230] The GOC did not provide any information about how the program operates.[231]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grant received under this program as non-recurring. To measure the benefit of the grant that is allocable to the POI, we first conducted the "0.5 percent test" for the grant.[232] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Ningbo Master.[233]

11. **Supporting Fund for Technology Improvement Program in Jiangbei District**

Ningbo Major reported that it received benefits under this program during the AUL.[234] The GOC did not provide any information about how the program operates.[235]

As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section, the GOC did not provide the required information. Absent information from the GOC, as AFA, we find this grant to be specific within the meaning of section 771(5A) of the Act. We determine that the funds provided constitute a financial contribution in the form of a direct transfer of funds pursuant to section 771(5)(D)(i) of the Act and confer a benefit in the amount of the funds provided under 19 CFR 351.504.

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received under this program as non-recurring.[236] To measure the benefit of the grant that is allocable to the POI, we first

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[230] *See* Ningbo Master SQR at Exhibit SQ1-40.1.
[231] *See* GOC IQR at F. Other Subsidies.
[232] *See* 19 CFR 351.524(b)(2).
[233] *See* Ningbo Master Preliminary Calculation Memorandum.
[234] *See* Ningbo Master SQR at Exhibit SQ1-14 (Revised List of Other Programs of Ningbo Major).
[235] *See* GOC IQR at F. Other Subsidies.
[236] We combined the programs *The First Batch of Patent Subsidy in Jiangbei District in 2017* and *The Fourth Batch of Patent Subsidy in Jiangbei District in 2017* based on similarity.

conducted the "0.5 percent test" for the grant.[237] We divided the total amount approved by the relevant sales for that year. Where we found that a grant was greater than 0.5 percent of relevant sales, we allocated the benefit over the AUL. For those grants that did not pass 0.5 percent test, we expensed the benefit in the year the grant was received. To calculate the countervailable subsidy rate, we divided the benefits attributable to the POI by the appropriate sales denominator, as discussed in the "Subsidies Valuation" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Ningbo Master.[238]

B. Programs Preliminarily Determined Not to Confer a Measurable Benefit

Both Ningbo Master and its cross-owned affiliates reported receiving benefits under various programs, some of which Commerce initiated on and others that the companies self-reported.[239] Based on the record evidence, we preliminarily determine that the benefits from these programs were either fully expensed prior to the POI or, if allocable to the POI, or granted during the POI, are less than 0.005 percent *ad valorem* when attributed to the applicable sales as discussed in the "Attribution of Subsidies" section above. Consistent with Commerce's practice,[240] we have not included these programs in our preliminary subsidy rate calculation for Ningbo Master.

The programs are as follows:

1. Industrial Economy Subsidy in 2011
2. Subsidy for Ningbo Export Credit Insurance Premium from October 2011 to September 2012
3. Subsidy for Ningbo Import & Export Credit Insurance Premium from October 2012 to March 2013
4. Subsidy for Ningbo Export Credit Insurance Premium from October 2012 to September 2013
5. Safety Production Prize in 2013
6. Social Insurance Subsidy for College Graduates by Small and Micro Enterprises in Jiangbei District in 2013
7. Prize Fund for New Small and Micro Enterprises in 2013
8. Subsidy for Verification Fee of Safety Production Standardization Enterprises in 2013
9. Tax Deduction for New Small and Micro Enterprises in 2013

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[237] *See* 19 CFR 351.524(b)(2).
[238] *See* Ningbo Master Preliminary Calculation Memorandum.
[239] *See* Ningbo Master SQR.
[240] *See e.g., CFS from China*, and accompanying IDM at "Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;" *2012 Steel Wheels Final* and accompanying IDM at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District;" *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at "Programs Used By the Alnan Companies;" and *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at "Tax Deduction for Research and Development Expenses."

10. Prize for the State Third Level Safety Standardization
11. Subsidy for Ningbo Export Credit Insurance Premium from October 2013 to September 2014
12. District Subsidy in 2013
13. Municipal Patent Subsidy for April-June 2014
14. District Patent Subsidy for April-June 2014
15. District Patent Subsidy for July-October 2014
16. Prize for Safety Production Verification in 2014
17. Subsidy for Ningbo Import & Export Credit Insurance Premium from October to December 2014
18. Foreign Intelligent Introduction Program Fund in 2014
19. Steady Position Subsidy for Enterprise in 2014
20. Subsidy for Management Consultation and Innovation Program of Small and Middle Enterprises in Ningbo in 2014
21. Deduction of Property Tax for Standardization Small and Micro Enterprises in 2014
22. Deduction of Land Use Tax for Standardization Small and Micro Enterprises in 2014
23. Supporting Fund for the First Batch of Industrial Enterprises in 2015
24. Social Insurance Subsidy for College Graduates by Small and Micro Enterprises in October 2015
25. Prize for Model Enterprises with Improvement of Resources Storage
26. Prize for Model Enterprises in 2015
27. Prize for Safety Production Verification in 2015
28. Prize for the Star Enterprise Taxpayer of Hengjie Town in 2015
29. Foreign Trade Support Fund of Jiangbei District, Ningbo City in 2015
30. Subsidy Fund of Provincial Commerce Improvement in 2015
31. Subsidy for Ningbo Import & Export Credit Insurance Premium in 2015
32. Steady Position Subsidy for Enterprise in 2015
33. Subsidy for Training the Skilled Talent Employees
34. Local Water Works Fund
35. Municipal Technology Plan Program Supporting Fund in 2017

C. Programs Preliminarily Determined to Be Not Used by Ningbo Master

1. Provision of Stainless Steel Ingots and Primary Forms
2. Export Loans
3. Treasury Bond Loans
4. Northeast Area Revitalization Program
5. Preferential Lending to Producers and Exporters Classified as “Honorable Enterprises”
6. VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
7. Provision of Land for LTAR to State-Owned Enterprises
8. Provision of Land for LTAR in Economic Development Zones
9. “Famous Brands” Awards

10. State Key Technology Project Fund
11. China State Owned Enterprises Restructuring Fund
12. Guangdong Province HNTE Incubation Program
13. Grants for the Retirement of Capacity
14. Grants for Energy Conservation and Emission Reduction

CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. In this investigation, the only rate that are not zero or *de minimis* or based entirely on the facts available is the rate calculated for Ningbo Master. Consequently, we are assigning the rate calculated for Ningbo Master as the "all-others" rate (*i.e.*, 15.78 percent *ad valorem*)

ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance. In accordance with section 705(b)(2) of the Act, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce makes its final affirmative determination.

DISCLOSURE AND PUBLIC COMMENT

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[241] Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[242] Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of the AD preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the other concurrent countervailing duty and antidumping duty investigations. Parties who submit case briefs or rebuttal briefs in this proceeding are

[241] *See* 19 CFR 351.224(b).
[242] *See* 19 CFR 351.309(c)-(d); *see also* 19 CFR 351.303 (for general filing requirements).

encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[243] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.[244] 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, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using Commerce's electronic records system, ACCESS.[245] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time, on the due dates established above.[246]

VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to Commerce's questionnaires.

RECOMMENDATION

We recommend that you approve the preliminary findings described above.

☒ ☐

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Agree Disagree

3/29/2019

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

[243] *See* 19 CFR 351.309(c)(2) and (d)(2).
[244] *See* 19 CFR 351.310(c).
[245] *See* 19 CFR 351.303(b)(2)(i).
[246] *See* 19 CFR 351.303(b)(1).

APPENDIX

Program Name	Rate	Source
Preferential Lending		
Preferential Loans to "Honorable Enterprises"	10.54%	*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*)
Treasury Bond Loans	10.54%	*Coated Paper from China*
Loans & Interest Subsidies Provided Pursuant to The Northeast Revitalization Program	10.54%	*Coated Paper from China*
Policy Loans to the Refillable Stainless Steel Keg Industry	0.43%	Rate calculated for Ningbo Master
Discounted Loans for Export-Oriented Enterprises	10.54%	*Coated Paper from China*
Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)		
Provision of Stainless Steel Coil for LTAR	14.51%	Rate calculated for Ningbo Master
Provision of Stainless Steel Inputs for LTAR	14.51%	Rate calculated for Ningbo Master (Stainless Steel Coil for LTAR)
Provision of Electricity For LTAR	0.45%	Rate calculated for Ningbo Master
Government Provision of Land to SOEs	5.24%	*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) (*Hardwood Plywood*).
Provision of Land-Use Rights in Certain Industrial and Other Special Economic Zones	5.24%	*Hardwood Plywood*
Direct Tax Exemptions and Reductions		
Preferential Income Tax Policy for Enterprises in The Northeast Region	25.00%	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 three programs, combined, provide a 25 percent benefit)
Enterprise Income Tax Law, Research and Development (R&D) Program		
Income Tax Reductions for High-And New-Technology Enterprises (HNTEs)		
Indirect Tax Exemptions and Reductions		
VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund	9.71%	*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 *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) (*OTR Tires from China*).
Grants[247]		
Famous Brands Award	0.62%	*Isos from China-2014*
State Key Technology Renovation Project Fund	0.62%	*Isos from China-2014*
China State Owned Enterprises Restructuring Fund	0.62%	*Isos from China-2014*

[247] For all grant programs, we assigned a rate of 0.62. *See Isos from China-2014*.

Special Funds for International Market Expansion	0.12%	Rate calculated for Ningbo Master
Export Assistance Grants	0.15%	Rate calculated for Ningbo Master
Grants for the Retirement of Capacity	0.62%	*Isos from China-2014*
Guangdong Province HNTE Incubation Program	0.62%	*Isos from China-2014*
Grants for Energy Conservation and Reduction	0.62%	*Isos from China-2014*
Self-Reported Subsidies		
Prize for Enterprise's Independent Evaluation	0.02%	Rate calculated for Ningbo Master
Subsidy Fund of Provincial Commerce Improvement	0.03%	Rate calculated for Ningbo Master
Supporting Fund for Technology Improvement in Jiangbei District	0.02%	Rate calculated for Ningbo Master
Steady Position Subsidy for Enterprise	0.01%	Rate calculated for Ningbo Master
Patent Subsidy in Jiangbei District	0.01%	Rate calculated for Ningbo Master
Special Fund for Steady Increase and Promotion of Enterprises in Jiangbei District	0.03%	Rate calculated for Ningbo Master
Special Fund for Foreign Trade Development of Jiangbei District	0.62%	*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*).
Industrial Economy Subsidy in 2011	0.62%	*Isos from China-2014*
Subsidy for Ningbo Export Credit Insurance Premium from October 2011 to September 2012	0.62%	*Isos from China-2014*
Subsidy for Ningbo Import & Export Credit Insurance Premium	0.62%	*Isos from China-2014*

from October 2012 to March 2013		
Subsidy for Ningbo Export Credit Insurance Premium from October, 2012 to September, 2013	0.62%	*Isos from China-2014*
Safety Production Prize in 2013	0.62%	*Isos from China-2014*
Social Insurance Subsidy for College Graduates by Small and Micro Enterprises in Jiangbei District in 2013	0.62%	*Isos from China-2014*
Prize Fund for New Small and Micro Enterprises in 2013	0.62%	*Isos from China-2014*
Subsidy for Verification Fee of Safety Production Standardization Enterprises in 2013	0.62%	*Isos from China-2014*
Tax Deduction for New Small and Micro Enterprises in 2013	0.62%	*Isos from China-2014*
Prize for the State Third Level Safety Standardization	0.62%	*Isos from China-2014*
Subsidy for Management Consultation and Innovation Program of Small and Middle Enterprises in Ningbo in 2014	0.62%	*Isos from China-2014*
Deduction of Property Tax for Standardization Small and Micro Enterprises in 2014	0.62%	*Isos from China-2014*
Deduction of Land Use Tax for Standardization Small and Micro Enterprises in 2014	0.62%	*Isos from China-2014*
Subsidy for Ningbo Export Credit Insurance Premium from October 2013 to September 2014	0.62%	*Isos from China-2014*
District Subsidy in 2013	0.62%	*Isos from China-2014*
Municipal Patent Subsidy for April-June 2014	0.62%	*Isos from China-2014*
District Patent Subsidy for April-June 2014	0.62%	*Isos from China-2014*
District Patent Subsidy for July-October 2014	0.62%	*Isos from China-2014*
Prize for Safety Production Verification in 2014	0.62%	*Isos from China-2014*

Subsidy for Ningbo Import & Export Credit Insurance Premium from October to December 2014	0.62%	*Isos from China-2014*
Local Water Works Fund	0.62%	*Isos from China-2014*
Foreign Intelligent Introduction Program Fund in 2014	0.62%	*Isos from China-2014*
Steady Position Subsidy for Enterprise in 2014	0.62%	*Isos from China-2014*
Social Insurance Subsidy for College Graduates by Small and Micro Enterprises in October 2015	0.62%	*Isos from China-2014*
Prize for Model Enterprises with Improvement of Resources Storage	0.62%	*Isos from China-2014*
Prize for Model Enterprises in 2015	0.62%	*Isos from China-2014*
Supporting Fund for the First Batch of Industrial Enterprises in 2015	0.62%	*Isos from China-2014*
Prize for Safety Production Verification in 2015	0.62%	*Isos from China-2014*
Prize for the Star Enterprise Taxpayer of Hengjie Town in 2015	0.62%	*Isos from China-2014*
Foreign Trade Development Fund of Taizhou City in 2015	0.62%	*Isos from China-2014*
Foreign Trade Support Fund of Jiangbei District, Ningbo City in 2015	0.62%	*Isos from China-2014*
Subsidy Fund of Provincial Commerce Improvement in 2015	0.62%	*Isos from China-2014*
Subsidy for Ningbo Import & Export Credit Insurance Premium in 2015	0.62%	*Isos from China-2014*
Steady Position Subsidy for Enterprise in 2015	0.62%	*Isos from China-2014*
Subsidy for Training the Skilled Talent Employees	0.62%	*Isos from China-2014*
Municipal Technology Plan Program Supporting Fund in 2017	0.62%	*Isos from China-2014*

Total AFA Subsidy Rate: 144.30%