C-570-103
Investigation
POI: 1/1/2018 – 12/31/2018
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July 5, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China

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I. SUMMARY

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

II. BACKGROUND

A. Initiation and Case History

On February 4, 2019, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of fabricated structural steel from Canada, Mexico, and China, filed on behalf of the American Institute of Steel Construction Full Member Subgroup (the petitioner), which was subsequently amended on February 21, 2019.[1] We received a request from Modern Heavy Industries (Taicang) Co., Ltd. (Modern Heavy) to participate as a voluntary respondent.[2]

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[1] *See* Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China," dated February 4, 2019 (Petition); and Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Amendment to Petition to Clarify Petitioner," dated February 21, 2019.
[2] *See* Modern Heavy's Letter, "Request to Appear as a Voluntary Respondent: Fabricated Structural Steel from the People's Republic of China," dated February 25, 2019.

On March 4, 2019, we initiated a CVD investigation on fabricated structural steel from China.[3] In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.[4] From March 2019 through July 2019, certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.[5] On April 24, 2019, the petitioner informed Commerce that it was proposing a revision to the scope to exclude certain steel poles.[6]

B. Respondent Selection

The Petition identified 220 companies in China that produce and/or export fabricated structural steel to the United States. On February 20, 2019, we released the U.S. Customs and Border Protection (CBP) data for U.S. imports of fabricated structural steel under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings to all interested parties under an administrative protective order (APO).[7] In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on CBP data for U.S. imports of fabricated structural steel under the appropriate HTSUS subheadings and requested that interested parties comment on the data within three days of the publication of the *Initiation Notice*.[8]

On March 7, 2019, we received comments from certain interested parties identifying deficiencies in the CBP data placed on the record.[9] The petitioner argued that Commerce should follow its recent practice in China CVD cases and take the top three largest producers/exporters as mandatory respondents.[10] Anshan Zizhu International Trading Co., Ltd. (Anshan Zizhu) submitted its quantity and value (Q&V) data for the period of investigation (POI), noting that it was unable to meaningfully comment on the CBP data, but asserting that its Q&V data were accurate.[11]

Consistent with the respondent selection methodology in the companion antidumping (AD) and CVD investigations for Canada and Mexico, on March 12, 2019, we issued Q&V questionnaires

[3] *See Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 84 FR 7339 (March 4, 2019) (*Initiation Notice*).
[4] *See Initiation Notice*, 84 FR at 7340.
[5] *See* Memorandum, "Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Preliminary Scope Decision," dated concurrently with this notice (Preliminary Scope Decision Memorandum).
[6] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Petitioner's Additional Comments on Scope," dated April 24, 2019.
[7] *See* Memoranda, "Countervailing Duty Petition on Certain Fabricated Structural Steel from the People's Republic of China: Release of Customs Data from U.S. Customs and Border Protection," dated February 20, 2019.
[8] *See Initiation Notice*, 84 FR at 7342-7343.
[9] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Petitioner's Comments on CBP Data and Respondent Selection," dated March 7, 2019 (Petitioner's Respondent Selection Comments); and Anshan Zizhu International Trading Co., Ltd.'s Letter, "Certain Fabricated Structural Steel from the People's Republic of China – Comments on CBP Import Data," dated March 7, 2019 (Anshan Zizhu's Respondent Selection Comments).
[10] *See* Petitioner's Respondent Selection Comments at 2.
[11] *See* Anshan Zizhu's Respondent Selection Comments at 1-2.

to 33 companies.[12] We also placed the Q&V questionnaire on ACCESS and provided all other interested parties the opportunity to respond to it.

From March 7 through March 25, 2019, we received responses to the Q&V questionnaires from 19 companies.[13] On April 1, 2019, Commerce selected in alphabetical order Anshan Zizhu and Sunjoy Group International PTE Ltd (Sunjoy) as the mandatory respondents,[14] and, on April 2, 2019, Commerce issued the questionnaire to the Government of China (GOC).[15]

On April 8, 2019, Anshan Zizhu submitted comments stating that none of its exports to the United States during the POI were subject merchandise.[16] On April 11, 2019, the petitioner filed comments agreeing that the merchandise Anshan Zizhu describes is not covered by the scope. As a result, on April 11, 2019, Commerce deselected Anshan Zizhu and instead selected Shanghai Matsuo Steel Structure Co., Ltd. (Shanghai Matsuo) as a mandatory respondent.[17]

On April 12, 2019, the petitioner filed comments noting that Sunjoy appears to sell merchandise that does not fall within the scope of the investigation.[18] On this same date, Commerce issued a letter to Sunjoy soliciting information on the products it produced and/or exported to the United States during the POI.[19] On April 18, 2019, Sunjoy submitted comments stating that none of its exports to the United States during the POI consisted of subject merchandise.[20] As a result, on April 19, 2019, Commerce deselected Sunjoy and instead selected Modern Heavy as a

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[12] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Issuance of Quantity and Value Questionnaires," dated March 12, 2019.
[13] These companies, in alphabetical order, are as follows: (1) Anshan Zizhu; (2) East Rock Limited; (3) Hebei Minmetals Co., Ltd.; (4) Jiangsu Huilian Access Floor Co., Ltd.; (5) Jinhuan Construction Group Co., Ltd.; (6) Modern Heavy; (7) Nanjing Dongsheng Shelf Manufacturing Co. Ltd.; (8) Rhino Outdoor Products Co, Ltd.; (9) Shanghai COSCO Kawasaki Heavy Industries Steel Structure Co., Ltd.; (10) Shanghai Matsuo Steel Structure Co., Ltd.; (11) Shelterlogic Manufacturing (Ningbo) Co., Ltd.; (12) Sunjoy Group International PTE Ltd; (13) United Steel Structures Ltd.; (14) Valmont Industries (China) Ltd.; (15) Valmont Industries (Guangdong) Co., Ltd.; (16) Wap Intelligence Storage Equipment (Shanghai) Corp., Ltd.; (17) Weihai Gaosai Metal Product Co., Ltd.; (18) Wison (Nantong) Heavy Industry Co., Ltd.; and (19) Zhejiang Zhengte Co., Ltd.
[14] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Respondent Selection," dated April 1, 2019 (Initial Respondent Selection Memorandum).
[15] *See* Letter to the GOC, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated April 2, 2019.
[16] *See* Anshan Zizhu's Letter, "Certain Fabricated Structural Steel from the People's Republic of China – Placing Antidumping Response on the Record and Request to Rescind Status as a Mandatory Respondent," dated April 8, 2019.
[17] *See* Memorandum, "Selection of Replacement Mandatory Respondent in the Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated April 11, 2019.
[18] The petitioner contends that Sunjoy appears to sell residential fixtures such as canopies, pavilions, and pergolas. *See* Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Petitioner's Comments on Companies Selected as Respondents," dated April 12, 2019.
[19] *See* Commerce Letter, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated April 12, 2019.
[20] *See* Sunjoy's Letter, "Certain Fabricated Structural Steel from the People's Republic of China," dated April 18, 2019.

mandatory respondent.[21] On April 19, 2019, Commerce issued a letter instructing the GOC to forward the Initial CVD Questionnaire to Modern Heavy.[22]

C. Questionnaires and Responses

As noted above, in March 2019, we issued CVD questionnaires to Modern Heavy, Shanghai Matsuo, and the GOC. In April 2019, we received timely responses to the "affiliated companies" section of the questionnaires from each of these companies.[23] In their responses, the companies reported that they had a number of cross-owned affiliates.[24] Therefore, we hereinafter refer to Modern Heavy and its cross-owned affiliates as "Modern Heavy" and Shanghai Matsuo and its cross-owned affiliates as "Shanghai Matsuo."

In April, May, and June 2019, the petitioner submitted timely comments and new factual information (NFI) to rebut, clarify, and/or correct information in the respondents' questionnaire responses, pursuant to 19 CFR 351.301(c)(1)(v).[25]

In May 2019, we received timely responses to the remainder of the initial questionnaires from Modern Heavy[26] and Shanghai Matsuo[27] as well as to the entire questionnaires issued to the GOC.[28] Also in May 2019, we issued supplemental questionnaires to Modern Heavy and Shanghai Matsuo regarding their "affiliated companies" responses; they provided timely responses in the same month.[29]

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[21] *See* Memorandum, "Selection of Replacement Mandatory Respondent in the Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated April 19, 2019.
[22] *See* Letter to the GOC, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China (China): Selection of Replacement Respondent," dated April 19, 2019; *see also* Letter to GOC, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated April 2, 2019 (Initial CVD Questionnaire).
[23] *See* Modern Heavy's April 16, 2019 Affiliation Response (Modern Heavy April 16, 2019 AFFR); and Shanghai Matsuo's April 29, 2019 Affiliation Response (Shanghai Matsuo April 29, 2019 AFFR).
[24] For further discussion, *see* the "Attribution of Subsidies" section of this memorandum, below.
[25] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Comments on MHI's Affiliated Companies Questionnaire Response," dated April 30, 2019; Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Comments on Shanghai Matsuo's Affiliated Companies Questionnaire Response," dated May 13, 2019; Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Comments on Shanghai Matsuo's Initial Questionnaire Response," dated June 7, 2019; and Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Comments on Government of China's Initial Questionnaire Response for Shanghai Matsuo and First Supplemental Questionnaire Response," dated June 17, 2019.
[26] *See* Modern Heavy's May 16, 2019 Initial Questionnaire Response (Modern Heavy May 16, 2019 IQR).
[27] *See* Shanghai Matsuo's May 24, 2019 Initial Questionnaire Response (Shanghai Matsuo May 24, 2019 IQR).
[28] *See* GOC's May 16, 2019 Initial Questionnaire Response (GOC May 16, 2019 IQR); GOC's May 20, 2019 Initial Questionnaire Response (GOC May 20, 2019 IQR); and GOC's May 24, 2019 Initial Questionnaire Response (GOC May 24, 2019 IQR).
[29] *See* Modern Heavy's May 10, 2019 Supplemental Affiliation Response; and Shanghai Matsuo's May 28, 2019 Supplemental Affiliation Response (Shanghai Matsuo May 28, 2019 SAFFR).

In May and June 2019, we also issued supplemental questionnaires to Modern Heavy, Shanghai Matsuo, and the GOC. Modern Heavy,[30] Shanghai Matsuo,[31] and the GOC[32] provided timely responses to these supplemental questionnaires in the same months.
As appropriate, we intend to verify this information and consider it for purposes of the final determination.

D. Potential Benchmark Data

On June 7, 2019, the petitioner, Modern Heavy, and Shanghai Matsuo submitted data for Commerce to consider using as benchmarks in the less than adequate remuneration (LTAR) and loan program subsidy rate calculations.[33] On June 17, 2019, the petitioner and Modern Heavy submitted rebuttal benchmark information.[34] On June 28, 2019, we rejected Modern Heavy's June 7, 2019 submission, and on July 1, 2019, Modern Heavy resubmitted its data for Commerce to consider using as benchmarks.[35]

E. Postponement of the Preliminary Determination

On April 5, 2019, the petitioner requested that Commerce postpone the preliminary determination of this investigation.[36] Commerce granted the petitioner's request and, on April 10, 2019, we postponed the date of the preliminary determination until July 5, 2019, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).[37]

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[30] *See* Modern Heavy's June 4, 2019 Supplemental Questionnaire Response; and Modern Heavy's June 20, 2019 Supplemental Questionnaire Response.

[31] *See* Shanghai Matsuo's June 12, 2019 Supplemental Questionnaire Response (Shanghai Matsuo's June 12, 2019 SQR); and Shanghai Matsuo's June 20, 2019 Supplemental Questionnaire Response.

[32] *See* GOC's June 3, 2019 Supplemental Questionnaire Response (GOC June 3, 2019 SQR); GOC's June 18, 2019 Supplemental Questionnaire Response (GOC June 18, 2019 SQR); GOC's June 20, 2019 Supplemental Questionnaire Response (GOC June 20, 2019 SQR).

[33] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Benchmark Submission" dated June 7, 2019; Modern Heavy's Letter, "MHI Benchmark Submission: Countervailing Duty Investigation of Fabricated Structural Steel from the People's Republic of China – C-570-103," dated June 7, 2019; and Shanghai Matsuo's Letter, "Certain Fabricated Structural Steel From the People's Republic of China: Benchmark Submission of Shanghai Matsuo Steel Structure Co., Ltd.," dated June 7, 2019.

[34] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from the People's Republic of China: Request to Reject Customer Certifications," dated June 17, 2019; and Modern Heavy's Letter, "MHI Benchmark Rebuttal Submission: Countervailing Duty Investigation of Fabricated Structural Steel from the People's Republic of China - C-570-103," dated June 17, 2019.

[35] *See* Modern Heavy's Letter, "Resubmission of MHI's June 7, 2019, Benchmark Submission: Countervailing Duty Investigation of Fabricated Structural Steel from the People's Republic of China – C-570-103," dated July 1, 2019.

[36] *See* Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Request to Postpone Determination," dated April 5, 2019; *see also* Petitioner's Letter, "Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Request to Postpone Preliminary Antidumping Duty Determination and to Align Final Countervailing Duty Determination with Final Antidumping Duty Determination," dated June 19, 2019 (Petitioner's June 19, 2019 Request for Alignment).

[37] *See Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 15581 (April 16, 2019).

F. Period of Investigation

The POI is January 1, 2018 through December 31, 2018.

G. Alignment

On June 19, 2019, the petitioner requested that Commerce align the date of the CVD final determination with that of the companion AD final determination. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request,[38] we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of fabricated structural steel from China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is scheduled to be issued no later than November 18, 2019, unless postponed.

III. SCOPE OF THE INVESTIGATION

The product covered by this investigation is certain fabricated structural steel from China. Based on our analysis of certain scope comments, we are preliminarily modifying the scope language as it appeared in the *Initiation Notice*.[39] For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

IV. 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 March 22, 2019, the ITC determined that there is a reasonable indication that an industry in the United States is threatened with injury by reason of imports of fabricated structural steel from China.[40]

V. APPLICATION OF THE CVD LAW TO IMPORTS FROM CHINA

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

> {G}iven the substantial differences between the Soviet-style economies and China's economy in recent years, Commerce's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.[41]

[38] *See* Petitioner's June 19, 2019 Request for Alignment.
[39] *See* Preliminary Scope Decision Memorandum.
[40] *See Fabricated Structural Steel from Canada, China, and Mexico*, 84 FR 11554 (March 27, 2019).
[41] *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.

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[42] 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.[43] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[44]

VI. 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.[45] 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.

VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, select from among the "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to

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[42] *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.
[43] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[44] *See* Public Law 112-99, 126 Stat. 265 §1(b).
[45] *See* Memorandum, "China Statistical Yearbook Memorandum," dated concurrently with this memorandum.

induce respondents to provide Commerce with complete and accurate information in a timely manner."[46] 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."[47]

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."[48] It is Commerce's practice to consider information to be corroborated if it has probative value.[49] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[50] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[51]

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

Otherwise, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[52] For purposes of this preliminary determination, we are applying AFA in the circumstances outlined below.

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[46] *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).
[47] *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.
[48] *See*, *e.g.*, SAA at 870.
[49] *Id.* at 870.
[50] *Id.* at 869.
[51] *Id.* at 869-870.
[52] *See* section 776(d)(3) of the Act.

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

As noted above, Commerce issued via Federal Express (FedEx) Q&V questionnaires to 31 companies identified in the Petition.[53] We confirmed that 20 of the 31 Q&V questionnaires were delivered.[54] Of the 20 companies that we confirmed had questionnaires delivered to them, only ten timely responded to our request for information.[55] Additionally, two companies refused delivery of the Q&V questionnaire and did not file responses electronically via the ACCESS system.[56] Therefore, the following 12 Q&V recipients did not respond to our request for information: Hongju Metals Co., Ltd., Huaye Steel Structure Co., Jiangsu Kingmore Storage Equipment, Jiangsu Zhengchang Cereal Oil & Feed, Ningbo Jiangbei Huarentai Trade, Ningbo Win Success Machinery Co Ltd, Shangdong Taipeng Home Products Co., Sinopec Engineering (Group) Co., Ltd., Sunjoy Industrial Group Limited, Sunjoy Industries (Jiashan) Co., Ltd., Wuxi Huishan Metalwork Technology Co., Ltd., and Yueqing Yihua New Energy Technology.[57]

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.[58] 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. As explained below under the "Analysis of Programs" section, we have preliminarily found that certain programs used by the cooperating mandatory respondents are specific and provided a financial contribution. For the other initiated-upon programs that were used by the cooperating mandatory respondents 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

[53] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Issuance of Quantity and Value Questionnaires," dated March 12, 2019.
[54] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Quantity and Value Delivery Confirmation," dated March 26, 2019 (Q&V Delivery Confirmation Memorandum).
[55] *Id*.; Commerce also issued Q&V questionnaires via the ACCESS system to Modern Heavy and Wison (Nantong) Heavy Industry Co., Ltd. Both of these companies responded to the Q&V questionnaire.
[56] Dongsheng Shelf Manufacturing Co., Ltd. refused delivery of the Q&V questionnaire but filed its Q&V response electronically via the ACCESS system. *See* Q&V Delivery Confirmation Memorandum at 2.
[57] *See* Q&V Delivery Confirmation Memorandum at Attachment I.
[58] For the derivation of the preliminary AFA subsidy rate assigned to the companies who did not respond to the Q&V questionnaire, *see* Appendix II.

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. 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.[59] Commerce has previously countervailed these or similar programs. For a description of the selection of the AFA rate and our corroboration of this rate, *see* the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections.

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.[60] 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.[61] 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

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[59] *See* Appendix II.

[60] *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) (*Aluminum Sheet from China Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at "X: Use of Facts Otherwise Available and Adverse Inferences: A. Application of Total AFA: Chalco Ruimin and Chalco-SWA" (unchanged in *Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Final Affirmative Determination*, 83 FR 57427 (November 15, 2018) (*Aluminum Sheet from China Final*), and accompanying IDM); *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."

[61] *See 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 12-14; *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").

the identical program (excluding *de minimis* rates).[62] 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.[63]

Commerce's methodology is consistent with section 776(d)(1)(A) of the Act, which 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."[64] 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.[65]

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

[63] *See Shrimp from China* IDM at 13-14.

[64] *See* Section 776(d)(2) of the Act.

[65] 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.

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."[66] 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."[67] It is pursuant to this knowledge and experience that we have implemented our adverse facts available hierarchy in CVD cases to select an appropriate adverse facts available rate.[68]

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

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

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[66] *See* SAA at 870; *see also Essar Steel*, 753 F.3d at 1373 (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, aberrational, or uncorroborated margins.") (*De Cecco*)).

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

[68] 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).

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

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

Finally, if no such rate exists, under the third step of Commerce's investigation hierarchy, we apply the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.[69]

In all three steps of Commerce's AFA investigation hierarchy, if we were to choose low AFA 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.[70]

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.

[69] 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.

[70] 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* 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/exporter in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did not 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.

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 AFA. As explained above, we are preliminarily applying AFA because each of the companies that failed to submit a response to the Q&V questionnaire chose not to cooperate by not providing the information we requested. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.

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

- Provision of Hot-Rolled Steel for LTAR
- Provision of Wide Flange Beams for LTAR
- Provision of Steel Channels for LTAR
- Provision of Steel Angles for LTAR
- Provision of Hollow Structural Shapes for LTAR
- Provision of Electricity for LTAR
- Provision of Land Use Rights to Favored Industries for LTAR
- Notice on Organizing Enterprises to Declaration Fund for Promoting Business Economic Transition and Upgrading in Taicang City in 2018
- 2017 Suzhou Seagull Plan of Flexible Introduction of Overseas Intellectuals
- Administrative Committee of Taicang Port Economic and Technological Development Zone Briefing on Advanced Enterprises in 2017
- Notice of Jiangsu Provincial Finance Department on the Budget Indicators of the Special Funds for Business Development (First Batch) in 2018
- Anti-Dumping Government Subsidy
- Stable Post Subsidy
- Application of “Jinyi” Self-Developed Technology Innovation Coupons
- Economic Finance and Tax Contribution Award
- Financial Contribution Award

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
- Tax Offsets for Research and Development under the EIT
- Preferential Income Tax for Enterprises in the Northeast Region
- Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China

The standard income tax rate for corporations in China in effect during the POI was 25 percent.[71] Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the five programs, combined, provide a 25 percent benefit). Consistent with Commerce's practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and value-added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.[72]

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

- Provision of Cut-to-Length Plate for LTAR
- Provision of Iron Ore for LTAR
- Government Directed Debt Restructuring in the Chinese Steel Industry
- Capital Injections and Other Payments through the State Capital Operating Budget (SCOB)
- Foreign Trade Development Fund Grants
- Export Assistance Grants
- Import Interest Subsidies
- Export Interest Subsidies
- Subsidies for Development of Famous Export Brands and China World Top Brands
- State Key Technology Fund
- Grants for Energy Conservation and Emissions Reduction
- Grants for Retiring Outdated Capacity
- Export Seller's Credit
- Export Buyer's Credit

For this preliminary determination, we were similarly able to match all of Modern Heavy's and Shanghai Matsuo's self-reported subsidies for which we did not calculate a rate in the instant investigation to the same or similar programs from other China CVD proceedings. A full list of such self-reported subsidies is contained below in Appendix II.

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for the non-cooperating companies to be 177.43 percent ad valorem. Appendix II contains a chart summarizing our calculation of this rate.

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it

[71] *See* CVD Initiation Checklist at 30.

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

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."[73] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[74]

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.[75] 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.[76]

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.[77]

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.

C. Application of AFA: Provision of Certain Inputs for LTAR

GOC – Whether Certain Input Producers are "Authorities"

As discussed in the section below under "Programs Preliminarily Determined to be Countervailable," Commerce is investigating the provision of hot-rolled steel, wide flange

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

beams, steel channels, steel angles, hollow structural shapes, and electricity for LTAR by the GOC. We requested that the GOC provide the information necessary to determine whether the specific companies that produced the hot-rolled steel, wide flange beams, steel channels, steel angles, hollow structural shapes, and electricity that Modern Heavy and Shanghai Matsuo purchased during the POI are "authorities" within the meaning of section 771(5)(B) of the Act.[78] In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.[79]

In our initial questionnaire, we asked the GOC to "{p}lease coordinate immediately with the company respondents to obtain a complete list of each company's input producers."[80] The GOC identified several companies that produced hot-rolled steel, wide flange beams, steel channels, steel angles, hollow structural shapes, and electricity purchased by Modern Heavy and Shanghai Matsuo during the POI.[81] The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[82] However, in its initial questionnaire response, the GOC provided only some of the information requested in the standard Input Producer Appendix used to determine the extent of the GOC control, if any, over these producers.[83] For example, the information the GOC provided lacked requested information regarding Modern Heavy's and Shanghai Matsuo's input producers, including Articles of Incorporation, Capital Verification reports, Articles of Groupings, company by-laws, Articles of Association, business licenses, and tax registration documents.[84] When we asked the GOC to provide this information in a supplemental questionnaire, the GOC stated that "{g}iven the limited resources and timeframe available to the GOC it would not be possible for the GOC to translate the documents requested above for all the suppliers. In any event, as stated in the response to the Input Producer Appendix at Exhibit{s} HRS-1, {WFB-1, SC-1, SA-1, and HSS-1}, the information obtained from {the Enterprise Credit Information Publicity System (ECIPS)} and submitted in HRS-4, {WFB-4, SC-4, SA-4, and HSS-4 are} the authoritative evidence for the ownership structure of enterprises and constitutes sufficient demonstration of the ownership

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[78] *See* Initial CVD Questionnaire at Section II; *see also* GOC May 23, 2019, SQR at 1-9; and GOC June 3, 2019, SQR at 1-12.

[79] *See e.g.*, *CWP from China* IDM at "Hot-Rolled Steel for Less Than Adequate Remuneration"; and *Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying IDM at "Provision of Wire Rod for Less Than Adequate Remuneration."

[80] *See* Initial CVD Questionnaire at Section II, 6.

[81] *See* GOC May 16, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4; and GOC May 24, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4; *see also* GOC June 20, 2019 SQR at Exhibits 2S-ELEC-1 to 2S-ELEC-3.

[82] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.

[83] *See* GOC May 16, 2019 IQR at 16-29, 33-84, and Exhibits HRS-1 to HRS-4, WFB-1 to WFB-4, SC-1 to SC-4, SA-1 to SA-4, and HSS-1 to HSS-4; and GOC May 24, 2019 IQR at 15-37, 42-105, and Exhibits HRS-3, HRS-4, WFB-3, WFB-4, SC-3, SC-4, SA-3, SA-4, HSS-3, and HSS-4; *see also* GOC June 20, 2019 SQR at 3-4 and Exhibits 2S-ELEC-1 to 2S-ELEC-3.

[84] GOC May 16, 2019 IQR at Exhibits HRS-1 to HRS-4, WFB-1 to WFB-4, SC-1 to SC-4, SA-1 to SA-4, and HSS-1 to HSS-4; and GOC May 24, 2019 IQR at Exhibits HRS-3, HRS-4, WFB-3, WFB-4, SC-3, SC-4, SA-3, SA-4, HSS-3, and HSS-4; *see also* GOC June 20, 2019 SQR at Exhibits 2S-ELEC-1 to 2S-ELEC-3.

status and changes (if any) of all related suppliers during the POI and establish that the suppliers are not subject to the intervention of the GOC."[85]

At the outset, we note that, instead of providing information for the producers of the inputs as requested, the GOC included registration information for the companies from whom Modern Heavy and Shanghai Matsuo purchased the inputs, which, in many cases, were trading companies.[86] We requested again that the GOC provide this information for Modern Heavy's and Shanghai Matsuo's input producers; however, the GOC again failed to provide this information in its supplemental questionnaire responses.[87] Consequently, we once again requested that the GOC provide the articles of incorporation and capital verification reports of Modern Heavy's and Shanghai Matsuo's input producers.[88] Despite our requests, the GOC did not provide the articles of incorporation and capital verification reports for any of these enterprises.[89] Consequently, due to the GOC's failure to provide the requested information, the record is incomplete regarding the full extent to which the GOC may exercise meaningful control over these entities and use them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.

Regarding the entities that the GOC identified as input producers for Modern Heavy and Shanghai Matsuo, we asked the GOC to provide information about the involvement of the Chinese Communist Party (CCP) in each of these companies, including whether individuals in management positions are CCP members, in order to evaluate whether the input suppliers not majority-owned by the government are "authorities" within the meaning of section 771(5)(B) of the Act.[90] While the GOC provided a long narrative explanation of the role of the CCP, when asked to identify any owners, members of the board of directors, or managers of the input suppliers who were government or CCP officials during the POI, the GOC stated that: (1) these questions are irrelevant to this proceeding and do not go to whether these suppliers at issue are "public bodies;" and (2) there is no central informational database to search for the requested information.[91]

Moreover, in response to Commerce's initial questions in the Input Producer Appendix, the GOC provided copies of registration information for the input suppliers obtained from the

[85] *See* GOC June 3, 2019 SQR at 4; *see also* GOC May 16, 2019 IQR at Exhibits HRS-1, HRS-4, WFB-1, WFB-4, SC-1, SC-4, SA-1, SA-4, HSS-1, and HSS-4; and GOC May 24, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4; *see also* GOC June 20, 2019 SQR at Exhibit 2S-ELEC-1.
[86] *See* GOC May 16, 2019 IQR and GOC May 24, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4.
[87] *See* GOC June 3, 2019 SQR at 4, 9, 13, 16, and 19; and GOC June 18, 2019 SQR at 5, 12, 17, 22, and 27; *see also* GOC June 20, 2019 SQR at 3-4 and Exhibits 2S-ELEC-1 to 2S-ELEC-3.
[88] *See* Commerce Letter, "First Supplemental Questionnaire for GOC," dated May 23, 2019 (GOC May 23, 2019 First SQ) at 2-5, and 7-8; and Commerce Letter, "First Supplemental Questionnaire for GOC," dated June 3, 2019 (GOC June 3, 2019 First SQ) at 1-2, 4, 6, 8, and 10.
[89] *See* GOC June 3, 2019 SQR at 4, 9, 13, 16, and 19; and GOC June 18, 2019 SQR at 5, 12, 17, 22, and 27; *see also* GOC June 20, 2019 SQR at 3-4 and Exhibits 2S-ELEC-1 to 2S-ELEC-3.
[90] *See* Initial CVD Questionnaire at Section II, 37-41.
[91] *See* GOC May 16, 2019 IQR at Exhibits HRS-1, WFP-1, SC-1, SA-1, and HSS-1; *see also* GOC June 20, 2019 SQR at Exhibit 2S-ELEC-1

ECIPS.[92] At the outset, we note that Commerce has previously verified the operation of the GOC's ECIPS and determined that it requires that the administrative authorities release detailed information of enterprises and other entities and is intended to bring clarity to companies registered in China.[93] We also note that the GOC has explained to Commerce in the past that this system is a national-level internal portal which went into effect in 2014.[94] Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC confirmed in its initial questionnaire response that:

> {p}ursuant to Article 3.1 of {the *Circular of the State Council on Printing and Issuing the Reform Proposals for the Registered Capital Registration System*, the ECIPS} was established requiring the authorities for administrations for industry and commerce to publish details regarding the registration, filings, supervision and administration of enterprises and other entities. Therefore, the information obtained from ECIPS is authoritative evidence of the ownership structure of enterprises in China.[95]

The GOC also explained that it monitors the accuracy of the information provided by enterprises by selective examination.[96] Based on the GOC's response and Commerce's previous finding, it is evident that ECIPS is a government-run portal, and it is accessible and at the disposal of the GOC.

The information we requested regarding the role of CCP officials in the management and operations of any input producers that the GOC claimed are not majority-owned by the government is necessary to our determination of whether these input producers are "authorities" within the meaning of section 771(5)(B) of the Act.[97] Despite our repeated efforts to determine whether a CCP committee, branch, or "primary organization" has been formed within input producer enterprises, the GOC refused to provide us with such information, instead repeatedly asserting that CCP, National/Provincial/Local People's Congresses and CPPCC do not constitute governmental agencies, and further, "{e}ven if an owner, a director, or a manager of a supplier is a member or representative of any of these organizations, this circumstance would not make the management and business operations of the company in which he/she serves

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[92] *See* GOC May 16, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4; and GOC May 24, 2019 IQR at Exhibits HRS-4, WFB-4, SC-4, SA-4, and HSS-4; *see also* GOC June 20, 2019 SQR at Exhibit 2S-ELEC-3
[93] *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 PDM at 21- 22 (unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017)).
[94] *Id.*
[95] *See* GOC June 20, 2019 SQR at Exhibit 2S-ELEC-1; *see also* GOC May 16, 2019 IQR at Exhibits at HRS-1, WFB-1, SC-1, SA-1, and HSS-1.
[96] *See* GOC May 16, 2019 IQR at Exhibit GEN-15.
[97] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Public Bodies Memorandum," dated concurrently with this memorandum (Public Bodies Memorandum).

subject to any intervention by the GOC."[98] Additionally, the GOC argued that it could not provide ownership information for some producers because the ultimate owners are registered outside of mainland China.[99] Nevertheless, the GOC still failed to provide the requested CCP information for any producer, regardless of the GOC's claim that the ultimate owners are registered outside of mainland China.[100]

As we explained in the Additional Documents Memorandum,[101] we understand the CCP to exert significant control over economic activities in China. Thus, Commerce finds, as it has in prior CVD proceedings,[102] that the information requested regarding the role of CCP officials and CCP committees in the management and operations of Modern Heavy's and Shanghai Matsuo's input suppliers not majority-owned by the government is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.

Therefore, as a result of the GOC's incomplete responses to our initial and supplemental questionnaires regarding the specific companies that produced the inputs that Modern Heavy and Shanghai Matsuo purchased during the POI, we determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that necessary information is not available on the record, that the GOC withheld information requested by us, and that the GOC significantly impeded this proceeding.[103] Further, as a result of these incomplete responses, we determine in accordance with section 776(b) of the Act that the GOC failed to cooperate to the best of its ability. As explained in the Public Body Memorandum, an entity with significant CCP presence on its board or in management or in party committees may be controlled such that it possesses, exercises or is vested with governmental authority.[104] Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminary find that the Chinese domestic input producers that the GOC claimed not to be majority-owned by the government and who supplied Modern Heavy and Shanghai Matsuo with hot-rolled steel, wide flange beams, steel channels, steel angles, hollow structural shapes, and electricity during the POI are "authorities" within the meaning of section 771(5)(B) of the Act, and that the respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

GOC – Whether the Provision of Certain Steel Inputs are Specific

For purposes of Commerce's *de facto* specificity analysis, we asked the GOC to provide a list of industries in China that purchase hot-rolled steel, wide flange beams, steel channels, steel angles,

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[98] *See* GOC May 16, 2019 IQR at Exhibit HRS-1, WFB-1, SC-1, SA-1, and HSS-1.
[99] *See* GOC June 3, 2019 SQR at 3.
[100] *Id.* at 4.
[101] *See* Additional Documents Memorandum at Attachment III, which includes the Public Body Memorandum and its attachment, the CCP Memorandum.
[102] *See Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014), and accompanying IDM at Comment 5.
[103] *See* section 776(a) of the Act.
[104] *See, e.g.*, Additional Documents Memorandum at Attachment III: Public Body Memorandum at 5.

and hollow structural shapes.[105] In response to our questions concerning specificity, the GOC stated that "no specificity exists in the provision of the alleged inputs. There are a vast and virtually unlimited number of industrial uses for {hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes}" and "{t}he type of consumers that may purchase hot-rolled steel, {wide flange beams, steel channels, steel angles, and hollow structural shapes} are highly varied within {China's} economy." Further, "{t}he GOC does not impose any limitation on the consumption of hot-rolled steel coil, {wide flange beams, steel channels, steel angles, and hollow structural shapes} by law or by policy."[106]

Commerce asked the GOC to provide a list of industries in China that purchase hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes directly, and to provide the amounts (volume and value) purchased by each of the industries. Commerce requests such information for purposes of its *de facto* specificity analysis. Specifically, our questionnaire asked the GOC to:

> Provide a list of the industries in China that purchase {inputs} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.[107]

The GOC provided information demonstrating the types of companies and industries that may purchase and use hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes, as well as the national industry classification that the GOC normally relies upon to define industries and to classify companies within an industry, as follows:[108] (1) China Input-Output Table describing which industries used ferroalloy metal in 2012;[109] (2) an excerpt of the national standard on "Industrial Classification in National Economy;"[110] (3) an excerpt of the general categorization of all economic activities under the United Nations' "International Standard Industrial Classification for All Economic Activities (Rev. 4) (ISIC);"[111] and (4) Section C on the manufacturing sectors under the ISIC under which the Chinese manufacturing categorization is developed.[112]

However, we find that the information submitted by the GOC is insufficient because it does not report all of the Chinese industries that purchased hot-rolled steel, wide flange beams, steel

[105] *See* Initial CVD Questionnaire at Section II, 8, 14, 17, 20, and 22.
[106] *See* GOC May 16, 2019 IQR at 16, 21, 23, 35, 39, 40, 47, 48, 51, 52, 60, 63, 65, 72, and 77.
[107] *See* Initial CVD Questionnaire at Section II, 8, 14, 17, 20, and 22.
[108] *See* GOC May 16, 2019 IQR at 21-23, 39-40, 51-53, 63-65, and 77-78.
[109] *Id.* at Exhibit GEN-6.
[110] *Id.* at Exhibit GEN-7.
[111] *Id.* at Exhibit GEN-8.
[112] *Id.*

channels, steel angles, and hollow structural shapes and the volume and value of each industry's respective purchases for the POI, as we requested. The GOC stated that it does not collect official data regarding the industries in China that purchase hot-rolled steel, wide flange beams, steel channels, steel angles, and/or hollow structural shapes directly.[113]

Therefore, consistent with past proceedings,[114] we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that necessary information is not available on the record, that the GOC has withheld information that was requested of it, and that the GOC significantly impeded this proceeding. Thus, we are relying on "facts available" in making our preliminary determination. Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate to the best of its ability to comply by failing to provide us with requested information regarding the industries that purchase hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes. Consequently, an adverse inference in selecting from among the facts otherwise available is warranted. In so doing, we find that the GOC's provisions of hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

GOC – Whether Certain Steel Input Markets are Distorted

As discussed above, there are five inputs-for-LTAR programs in this investigation, involving hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes. Commerce requested that the GOC provide information concerning each of these industries in China for the POI. Specifically, we requested that the GOC provide the following information for each input:[115]

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

Commerce requested such information to determine whether the GOC is the predominant provider of these inputs in China and whether its significant presence in the market distorts all transaction prices. With respect to all inputs, the GOC claimed that neither the National Bureau

[113] *Id.* at 21-23, 39-40, 51-53, 63-65, and 77-78.
[114] *See, e.g.*, *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44562 (September 25, 2017), and accompanying PDM at 22-24 (unchanged in *Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 58175 (December 11, 2017)).
[115] *See* Initial CVD Questionnaire at Section II, 7, 12-13, 15-16, 18-19, and 21-23.

of Statistics nor relevant Associations collect data specific to inputs, but instead provided us with the following data for the statistical categories closest to hot-rolled steel, wide flange beams, steel channels, steel angles and hollow structural shapes:[116]

Alleged Steel Input	Closest Statistical Category
Hot-rolled steel	Hot-rolled sheet, middle-thick and wide steel strip, hot-rolled thin and wide steel strip, hot-rolled narrow steel strip
Wide flange beams	Large size structural steel
Steel channels	Large size structural steel
Steel angles	Mid-small size structural steel
Hollow structural shapes	Seamless steel tube, welded steel tube

The GOC generated their own numerical data related to the statistical categories listed above. The information provided by the GOC regarding hot-rolled sheet, middle-thick and wide steel strip, hot-rolled thin and wide steel strip, and hot-rolled narrow steel strip indicates that China produced 98.4 percent of the hot-rolled sheet, middle-thick and wide steel strip, hot-rolled thin and wide steel strip, and hot-rolled narrow steel strip it consumed in 2018 and, therefore, 1.6 percent of hot-rolled sheet, middle-thick and wide steel strip, hot-rolled thin and wide steel strip, and hot-rolled narrow steel strip consumed in 2018 was imported.[117] Further, 43.28 percent of domestic consumption of hot-rolled sheet, middle-thick and wide steel strip, hot-rolled thin and wide steel strip, and hot-rolled narrow steel strip in 2018 is from companies the GOC identified as majority SOEs (*i.e.*, majority-owned producers).[118] Regarding large and mid-small size structural steel, the information provided by the GOC indicates that China produced nearly 88 percent of the large and mid-small size structural steel consumed in 2018, and therefore, almost 12 percent of large and mid-small size structural steel consumed in 2018 was imported.[119] Further, 12.65 percent of domestic consumption of large and mid-small size structural steel in 2018 is from companies the GOC identified as majority SOEs (*i.e.*, majority-owned producers).[120] Regarding seamless steel tube and welded steel tube, the information provided by the GOC indicates that China produced nearly 100 percent of the seamless steel tube and welded

[116] *See* GOC May 20, 2019 IQR at 2-3, 11-12, 19-20, and Exhibits HRS-5, WFB-SC-SA-5, and HSS-5; and GOC July 23, 2018 IQR at 18, 45, and 88-89.
[117] *See* GOC May 20, 2019 IQR at Exhibit HRS-5.
[118] *See* GOC's Letter "Certain Fabricated Structural Steel from the People's Republic of China, Case No. C-570-103: Government of China's Response to the Department's Request to Un-Bracket Certain Information" dated June 24, 2019 at Attachment 1.
[119] *Id*. at Exhibit WFB-SC-SA-5
[120] *See* GOC's Letter "Certain Fabricated Structural Steel from the People's Republic of China, Case No. C-570-103: Government of China's Response to the Department's Request to Un-Bracket Certain Information," dated June 24, 2019 at Attachment 1.

steel tube consumed in 2018, and therefore, almost none of seamless steel tube and welded steel tube consumed in 2018 was imported.[121] Further, 15.82 percent of domestic consumption of seamless steel tube and welded steel tube in 2018 is from companies the GOC identified as majority SOEs (*i.e.*, majority-owned natural stone producers).[122]

To analyze the GOC's calculation of the market share percentages identified above, we asked the GOC several questions regarding companies producing hot-rolled steel, wide flange beams, steel channels, steel angles, or hollow structural shapes in which the GOC claims it maintains less than a controlling ownership or management interest. Specifically, we requested information on the percentages of total volume and value of domestic production, separately, that is accounted for by these companies, a list of the names of these companies, and a detailed explanation of how it was determined that the GOC has less than a controlling ownership or management interest in such companies, including identification of the information sources relied upon to make this assessment. In its original questionnaire response, the GOC only responded that it does not maintain the requested information, but provided no additional explanation and proposed no alternative sources for providing the information.[123] Because the GOC provided an insufficient response to our request for information, we issued a supplemental questionnaire to the GOC reiterating our request for such industry-specific information.[124] However, the GOC again failed to completely identify, and provide GOC information regarding, the companies comprising the hot-rolled steel, wide flange beams, steel channels, steel angles, or hollow structural shapes industries for which the GOC claims it maintains less than a majority ownership or management interest, again stating that it does not possess this information.[125] As a result, necessary information to demonstrate how the GOC determined the market share percentages in the previous paragraph is not on the record.

In a previous proceeding, Commerce was able to confirm at verification that the GOC maintains two databases at the State Administration of Industry and Commerce. One of these databases is the business registration database, showing the most up-to-date company information; a second system, "ARCHIVE," houses electronic copies of documents such as business licenses, annual reports, capital verification reports, etc.[126] Therefore, we preliminarily find that the GOC has an electronic system available to it to gather the industry-specific information Commerce requested, including the GOC's minority ownership interests in companies producing hot-rolled steel, wide flange beams, steel channels, steel angles, or hollow structural shapes.[127]

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[121] *Id*. at Exhibit HSS-5.
[122] *See* GOC's Letter "Certain Fabricated Structural Steel from the People's Republic of China, Case No. C-570-103: Government of China's Response to the Department's Request to Un-Bracket Certain Information" dated June 24, 2019 at Attachment 1.
[123] *See* GOC May 20, 2019 IQR at 26.
[124] *See* GOC May 23, 2019 First SQ at 2, and 4-5; and GOC June 3, 2019 First SQ at 2 and 4.
[125] *See* GOC June 3, 2019 SQR at 6; and GOC June 23, 2019 SQR at 7.
[126] *See, e.g.*, *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 11177 (March 14, 2018), and accompanying IDM at 10-11.
[127] *See* Additional Documents Memorandum.

Further, the GOC refused to meaningfully respond to our request for information on laws, plans, and policies specific to pricing, production, cross-border trades, and development capacity of hot-rolled steel, wide flange beams, steel channels, steel angles, or hollow structural shapes.[128] We requested such information to inform our analysis of the degree of the GOC's presence in the markets and whether such presence results in the distortion of prices. Accordingly, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information necessary for our analysis of those input markets in China.

Consequently, we preliminarily determine, in accordance with section 776(a)(2)(A) of the Act, that the GOC withheld necessary information that was requested of it, and thus, that Commerce must rely on facts available in these preliminary results.[129] Moreover, in accordance with 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 request for information. Consequently, an adverse inference is warranted in the application of facts available.[130] As AFA, we preliminarily find that the GOC's involvement in hot-rolled steel, wide flange beams, steel channels, steel angles, or hollow structural shapes industries through enterprises in which it owns an interest is significant. Consequently, Commerce finds that the significant level of government involvement in these sectors[131] and the more limited, or insignificant (less than 1 percent) level of imports, respectively together indicate that Chinese prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC.[132] Therefore, we preliminarily find that the use of an external benchmark (*i.e.*, "tier two" (world market) prices as described under 19 CFR 351.511(a)(2)(ii)) is warranted for calculating the benefit for the provision of hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes for LTAR.

For details regarding the remaining elements of our analysis, *see* the "Provision of Hot-Rolled Steel for LTAR," "Provision of Wide Flange Beams for LTAR," "Provision of Steel Channels for LTAR," "Provision of Steel Angles for LTAR," and "Provision of Hollow Structural Shapes for LTAR" sections, below.

F. Application of AFA: Provision of Electricity for LTAR

As discussed below under the section "Programs Preliminarily Determined to be Countervailable," Commerce is investigating whether the GOC provided electricity for LTAR. The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine

[128] *See* GOC May 20, 2019 IQR at 10, 16,18, and 25-26.
[129] *See* section 776(a)(2)(A) of the Act.
[130] *See* section 776(b) of the Act.
[131] Furthermore, Commerce has previously determined that the GOC exercises government ownership, control, and intervention broadly across the entire steel market. *See* Memorandum, "Market Distortion Memorandum (containing 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)"), dated 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.
[132] *See Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65377 (November 25, 1998).

whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, Commerce requested, *inter alia*: Provincial Price Proposals for the province in which mandatory respondents or any company "cross-owned" with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial-level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.[133] Commerce requested this information to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

In its initial questionnaire response, the GOC stated that "the electricity price in China is based on 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."[134] Specifically, the GOC asserts that the provincial price proposals are not mandated by law and that the proposals are obsolete now that the provinces have the authority to set their own prices, under the Notice of the NDRC on "Lowering Coal-Fired Electricity On-Grid Price and General Industrial and Commercial Electricity Price" (Notice 3105).[135] According to the GOC, the creation of this new structure has eliminated the need for Provincial Price Proposals that had previously been used by the NDRC to set prices for each province.[136]

However, both Notice 3105 and the "Notice of the National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City)" (Notice 748)[137] explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Specifically, Article 1 of Notice 748 stipulates a lowering of the on-grid sales

[133] *See* Initial CVD Questionnaire at Section II, Electricity Appendix.
[134] *See* GOC May 16, 2019 IQR at 89.
[135] *Id.* at 89-90 and Exhibits ELEC-1 and ELEC-4.
[136] *Id.* at 90.
[137] *Id.* at Exhibit ELEC-10.

price of coal-fired electricity by an average amount per kilowatt hour.[138] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.[139] The "Notice of National Development and Reform Commission on Reducing General Industrial and Commercial Electricity Prices (No. 500 [2018] of the NDRC)" (Notice 500) states that its goal is to "implement the requirements of the Central Economic Work Conference on reducing the energy cost of enterprises and the government work report on reducing the general industrial and commercial electricity prices {to} implement the target requirement of an average industrial and commercial electricity price drop of 10 {percent} on average."[140] Notice 500 describes the methods the NDRC will use to further standardize and reduce grid charges and to temporarily reduce transmission and distribution prices.[141] Moreover, the "Notice of the National Development and Reform Commission on Matters Related to Reducing the Electricity Price of General Industrial and Commercial Catalogues (No. 1191 [2018] of the NDRC)" (Notice 1191) outlines additional measures that provinces and municipalities can take to reduce industrial and commercial electricity prices.[142] NDRC Notice 3105 also directs additional price reductions, and stipulates at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to the NDRC.[143]

Neither Notice 3105 nor Notice 748 explicitly stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.[144] Rather, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices, by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.[145]

In a supplemental questionnaire, we requested that the GOC identify the legislation which may have eliminated the Provincial Price Proposals. The GOC referred Commerce to Notice 748 and Notice 3105.[146] As discussed above, these two documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces. They neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. Finally, we requested that the GOC explain how the NDRC monitors compliance with the price changes directed in Notice 748 and what action the NDRC would take were any province not to comply with the directed price changes. The GOC's response failed to explain what actions the NDRC would take in the event of non-compliance with directed price changes.[147]

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[138] *Id*.
[139] *See* GOC June 3, 2019 SQR at Exhibit 1S-ELEC-12.
[140] *Id*. at Exhibit 1S-ELEC-14.
[141] *Id*.
[142] *Id*.
[143] *Id*.
[144] *Id*.
[145] *See, e.g.*, GOC May 16, 2019 IQR at Exhibits ELEC-4 (Notice 3105 Articles II and X) and ELEC-10 (Notice 748 Article 10).
[146] *See* GOC June 3, 2019 SQR at 21.
[147] *Id*. at 23.

As explained above, the GOC failed on several occasions to explain the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. Further, the GOC failed to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by provinces themselves. Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record, that the GOC withheld information requested by us, and that the GOC significantly impeded this proceeding. Thus, we must rely on "facts available" in making our preliminary determination.[148] Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate to the best of its ability to comply with our repeated requests for information. As a result, an adverse inference is warranted in the application of facts available.[149] In applying AFA, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, we are also relying on AFA in selecting the benchmark for determining the existence and amount of the benefit.[150] The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* "Provision of Electricity for LTAR," below.

G. Application of AFA: Export Buyer's Credit Program

As discussed below under the section "Programs Preliminarily Found to be Countervailable," Commerce is investigating the Export Buyer's Credit Program. Commerce preliminarily determines that use of AFA is warranted in determining the countervailability of the Export Buyer's Credits program because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program.

In our Initial CVD Questionnaire, we requested that the GOC provide the information requested in the Standard Questions Appendix "with regard to all types of financing provided by the China Export/Import Bank (China ExIm Bank) under the Buyer Credit Facility."[151] The Standard Questions Appendix requested various information that Commerce requires in order to analyze the specificity and financial contribution of this program, including the following: translated copies of the laws and regulations pertaining to the program, a description of the agencies and types of records maintained for administration of the program, a description of the program and the program application process, program eligibility criteria, and program use data. Rather than respond to the questions in the Standard Questions Appendix, the GOC stated it had confirmed "neither Modern Heavy {and Shanghai Matsuo} nor its {U.S.} customers applied for, used, or

[148] *See* section 776(a) of the Act.
[149] *See* section 776(b) of the Act.
[150] *Id.*
[151] *See* Initial CVD Questionnaire at Section II, 4.

benefited from this program during the POI. Therefore, the GOC understands that this appendix is not required."[152]

In our initial questionnaire, we noted that "{a}ccording to officials from the Export-Import Bank of China {}, the Administrative Measures of Export Buyer's Credit of {China ExIm Bank} relating to this program were revised in 2013,"[153] and asked that the GOC submit the 2013 revisions to the administrative measures. In its response, the GOC failed to provide the 2013 revisions.[154] We, therefore, again requested that the GOC provide the 2013 revisions.[155] In the same supplemental questionnaire, we also repeated a request for a list of partner/correspondent banks involved in the program. The GOC claimed the Export-Import Bank of China confirmed to the GOC that its 2013 guidelines "are internal to the bank, non-public, and not available for release." Further, the GOC claimed that our questions were "not applicable" because none of Modern Heavy's or Shanghai Matsuo's U.S. customers used the program (as indicated by not using partner/correspondent banks).[156] In addition, we also requested that the GOC report the interest rates established during the POI for this program for all types of financing provided by the China ExIm Bank, all loan terms and all denominations. Instead of providing the requested information, the GOC stated the question was "not applicable" because none of the respondents' U.S. customers used this program.[157]

However, this response failed to provide Commerce with necessary information to determine whether respondents used this program. Through its deficient responses to Commerce's initial and supplemental questionnaires, the GOC has withheld necessary information, including any information concerning the 2013 program revisions, thereby impeding Commerce's ability to analyze the program's operation or to determine how the program could be properly verified.

We requested the 2013 revisions because information on the record of this proceeding indicated that the 2013 revisions affected important program changes.[158] By refusing to provide the requested information, and instead asking Commerce to rely upon unverifiable assurances that the 2000 Rules Governing Export Buyers' Credit remained in effect, the GOC impeded Commerce's understanding of how this program operates and how it can be verified. Importantly, the GOC also refused to provide a list of all partner/correspondent banks involved in disbursement of funds under the program, informing Commerce that its request "is not applicable," and also noting that it was unable to compel the China ExIm Bank to provide such a list.[159] Commerce cannot verify claims of non-usage, whether originating with the respondents or their U.S. customers, if it does not know the names of the intermediary banks that might appear in the books and records of the recipient of the credit (*i.e.*, the loan) or the cash disbursement made pursuant to the credit. There will not necessarily be an account in the name

[152] *See* GOC May 16, 2019 IQR at 8; and GOC May 24, 2019 IQR at 8.
[153] *See* Initial CVD Questionnaire at Section II, 5.
[154] *See* GOC May 16, 2019 IQR at Exhibits LOAN-1, LOAN-2, and LOAN-3.
[155] *See* GOC May 23, 2019 First SQ at 1.
[156] *See* GOC June 3, 2019 SQR at 2; and GOC June 18, 2019 SQR at 2.
[157] *Id.*
[158] *See* GOC May 23, 2019 First SQ at 1; *see also* Initial CVD Questionnaire at Section II, 4-5.
[159] *See* GOC June 3, 2019 SQR at 2; and GOC June 18, 2019 SQR at 2.

"China ExIm Bank" or "EX-IM Bank" in the books and records (*e.g.*, subledger, tax return, bank statements) of either the exporter or the U.S. customer.

The GOC is the only party that can answer questions about the internal administration of this program, and thus, its failure to provide the requested information further undermines Commerce's ability to verify claims of non-use. Commerce cannot verify non-use at the China ExIm Bank without a complete set of administrative measures on the record that would provide guidance to Commerce in querying the records and electronic databases of the China ExIm Bank.[160] Similar to the obstacles we would face in attempting to verify usage at the exporter or U.S. customer, Commerce would not know what indicia to look for in searching for usage or even what records or databases we need to examine in conducting the verification (*i.e.*, without a complete set of laws, regulations, and administrative measures, Commerce would not even know what books and records the China ExIm Bank maintains in the ordinary course of its operations). Essentially, Commerce is unable to verify in a meaningful manner the little information on the record indicating non-usage (*e.g.*, the claims of the GOC and emails and certifications from U.S. customers), pursuant to section 776(a)(2)(D) with the exporters, U.S. customers, or at the China ExIm Bank itself, given the refusal of the GOC to provide the 2013 revisions and a complete set of correspondent/partner/intermediate banks. Furthermore, the responses provided by the GOC on this record appear similar to its previous responses with respect to this program which we have found lacking in prior China CVD proceedings.[161]

We preliminarily find, as AFA, that under this program the GOC bestowed a financial contribution pursuant to section 771(5)(D) of the Act, provided a benefit pursuant to section 771(5)(E) of the Act, and is contingent on exports within the meaning of sections 771(5A)(A) and (B) of the Act. Regarding specificity, although the record regarding this program suffers from significant deficiencies, we note that the GOC's description of the program and supporting materials (albeit found to be deficient) demonstrates that through this program, state-owned banks, such as the China ExIm Bank, provide loans at preferential rates for the purchase of exported goods from China.[162] In addition, the program was alleged by the petitioners as an example of a possible export subsidy.[163] Finally, Commerce has found this program to be an

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[160] Commerce also notes the GOC has a history of refusing to provide Commerce with adequate access to its books and records relevant to understanding this program. *See, e.g.*, *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014), and accompanying IDM at 92 ("At verification, the GOC repeatedly denied Department officials the opportunity to examine the basis for the GOC's contention that none of the company respondents in this investigation, or their customers, used this program during the POI. . . . Despite repeated requests to verify the basis of statements made on the record of this investigation, the GOC refused to allow the Department to query the databases and records of the Ex-Im Bank to establish the accuracy of its non-use claim.").

[161] *See, e.g.*, *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 57209 (December 4, 2017), and accompanying PDM at "IX. Use of Facts Otherwise Available and Adverse inferences: C. Application of AFA to Export Buyer's Credit Program" (unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 26954 (June 11, 2018), and accompanying IDM at Comment 1).

[162] *See* GOC May 16, 2019 IQR at Exhibits LOAN-1, LOAN-2, and LOAN-3.

[163] *See* Petition, Volume VII at 57-61 and Exhibit VII-92 and VII-93.

export subsidy in the past.[164] Thus, taking all such information into consideration indicates the provision of export buyer's credits is contingent on exports within the meaning of section 771(5A)(A) and (B) of the Act. Notwithstanding Modern Heavy's and Shanghai Matsuo's claims of non-use, we find AFA is warranted. To fully analyze whether the current program is run in the same manner, as we have discussed in other proceedings investigating this program,[165] Commerce must be able to review the amendments to the program. Because the GOC has not provided the requisite information regarding the program's amendments, Commerce was unable to do so.

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in the *Coated Paper from China Investigation Amended Final* proceeding, as the rate for these companies.[166]

H. Application of AFA: Government Policy Lending

We did not initiate an investigation into this program in the *Initiation Notice*. However, section 775 of the Act provides that if Commerce "discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition . . . then the administering authority (1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding." Accordingly, based upon our discovery of a practice, which appears to be a countervailable subsidy from Shanghai Matsuo's questionnaire responses, the Act authorizes us to investigate this program.

In our Initial CVD Questionnaire, we asked the GOC to respond to the following question:[167]

> Does the GOC (or entities owned directly, in whole or in part, by the GOC or any provincial or local government) provide, directly or indirectly, any other forms of assistance to producers or exporters of fabricated structural steel? Please coordinate with the respondent companies to determine if they are reporting usage of any subsidy program(s). For each such program, please describe such assistance in detail, including the amounts, date of receipt, purpose and terms, and answer all questions in the Standard

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[164] *See, e.g.*, *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 17382 (April 25, 2019), and accompanying IDM at Comment 16.

[165] *See, e.g.*, *Truck and Bus Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 8606 (January 27, 2017), and accompanying IDM at Comments 2-6.

[166] *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, 70202 (November 17, 2010) (*Coated Paper from China Investigation Amended Final*) (identifying a revised *ad valorem* subsidy rate of 10.54 percent under "Preferential Lending to the Coated Paper Industry").

[167] *See* Initial CVD Questionnaire at 27.

> Questions Appendix, as well as other appropriate appendices attached to this questionnaire.

In its response to this question, the GOC stated that "{s}ufficient evidence with regard to the existence, amount, and nature of a subsidy must be presented for the Department to initiate the investigation of another program. . . . The GOC believes, therefore, that an answer to this question would not be appropriate."[168]

In a supplemental questionnaire to the GOC, we asked the GOC to respond to following question:

> In its June 12, 2019, supplemental questionnaire response, Shanghai Matsuo Steel Structure Co., Ltd. (Shanghai Matsuo) and its cross-owned affiliated reported receiving loans and financing during the period of investigation (POI) and average useful life (AUL) period. If any of these loans and/or financing were from state owned banks, please provide a response to all questions in the Standard Questions Appendix for each loan.[169]

In its response, the GOC confirmed that Shanghai Matsuo had received loans during the POI but refused to answer the Standard Questions Appendix. Instead, the GOC stated that, "there is no allegation or evidence on the record that loans from state-owned banks constitute a program or that the loans reported by Shanghai Matsuo and its cross-owned affiliates are part of any program. They are not."[170]

We are unpersuaded by the GOC's assertion. Section 775 of the Act and 19 CFR 351.311 allow Commerce to examine a subsidy discovered in the course of an investigation. Moreover, according to the petitioner, preferential lending to the steel industry in general is a component of the GOC's extensive industrial policies aimed at furthering China's economic growth and development and 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. These plans, laws and regulations provide for "encouraged industries" to receive preferential financing.[171]

Additional record evidence indicates financial support directed specifically toward certain encouraged industries, including the steel industry. For example, the "Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation (Guo Fa {2005} No. 40)" (Decision 40) declares the need for the GOC "to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc." based on the directives established in industrial guidance catalogues.[172] Decision 40 indicates

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[168] *See* GOC May 16, 2019 IQR at 93; GOC May 24, 2019 IQR at 114.
[169] *See* Commerce Letter, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China," dated June 14, 2019; *see also* GOC June 20, 2019 SQR at 2-3.
[170] *See* GOC June 20, 2019 SQR at 2-3.
[171] *See* Petition, Volume VII at 9 and 28-31.
[172] *See* GOC June 20, 2019 SQR at Exhibit 2S-GEN-19.h.

that the "Catalogue for the Guidance of Industrial Structure Adjustment (2005)"[173] and the "Catalogue for the Guidance of Foreign Investment Industries"[174] are an important basis for investment guidance and government administration of policies such as public finance, taxation, and credit.[175] Decision 40 further indicates that financial institutions "shall provide credit supports in compliance with credit principles" to projects in "encouraged" industries.[176]

Furthermore, the record supports a finding that the GOC's Commercial Banking Law requires that commercial banks in China provide loans in accordance with "the needs of the national economic and the social development and under the guidance of the industrial policies of the State."[177] In *Aluminum Extrusions 2010-11 AR*,[178] and again in *Tetra from China*,[179] we stated that the banking system in China continues to be affected by the legacy of government policy objectives, which continues to undermine the ability of the big four state-owned commercial banks (SOCBs) and the rest of the domestic banking sector to act on a commercial basis, and allows continued government involvement in the allocation of credit in pursuit of those objectives. We have no evidence on the record of the instant investigation that would cause us to re-evaluate this conclusion.

Given the GOC's failure to respond to our questions regarding the loans received by Shanghai Matsuo from banks in China, we are not able to fully investigate this program. Accordingly, we preliminarily find that the GOC withheld necessary information that was requested of it for this program within the meaning of section 776(a)(2)(A) of the Act. Accordingly, we are relying on "facts available." Moreover, the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information regarding loans and/or financing from state-owned banks, so we are applying an adverse inference in applying the facts available. Due to the GOC's failure to provide information necessary for our determination concerning government policy lending, we are finding as AFA that this program is specific within the meaning of 771(5A) of the Act. We are also finding as AFA that policy loans from SOCBs constitute financial contributions from "authorities" within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act. We discuss this program further below under "Analysis of Programs."

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[173] *Id.* at Exhibit 2S-GEN-19.j.
[174] *Id.* at Exhibit 2S-GEN-19.i.
[175] *Id.* at Exhibit 2S-GEN-19.h.
[176] *Id.*
[177] *See* Memorandum, "Review of China's Financial System Memorandum," dated concurrently with this decision memorandum.
[178] *See Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014) (*Aluminum Extrusions 2010-11 AR*), and accompanying IDM at Comments 6 and 7.
[179] *See Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 62594 (October 20, 2014) (*Tetra from China*), and accompanying IDM at Comment 1.

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

Modern Heavy and Shanghai Matsuo reported in their initial questionnaire response that they received certain "Other Subsidies" during the POI.[180] The GOC did not provide information regarding these other subsidies in its initial questionnaire responses.[181] Therefore, we issued supplemental questionnaires requesting that the GOC provide full questionnaire responses regarding the measurable "Other Subsidies" reported by Shanghai Matsuo and Modern Heavy. However, in its responses, the GOC did not provide the requested information concerning the programs at issue. Instead, the GOC stated that they "issued information collection questionnaires, sent e-mails and made telephone calls to the local government. But, given the complexity of the hierarchy and the number of local governments involved, the GOC is unable to collect the necessary information to provide a full response to the standard question appendix."[182]

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

VIII. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.[183] Commerce finds the AUL in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Depreciation Range System, as revised.[184] Commerce notified the respondents of the 12-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of a subsidy approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for

[180] *See* Modern Heavy May 16, 2019 IQR at 25 and Exhibit 23; and Shanghai Matsuo May 24, 2019 IQR at 33 and Exhibits 20a to 20c.
[181] *See* GOC May 20, 2019 IQR; and GOC May 24, 2019 IQR at 114.
[182] *See* GOC June 3, 2019 SQR at 34; and GOC June 18, 2019 SQR at 35.
[183] *See* 19 CFR 351.524(b).
[184] *See* U.S. Internal Revenue Service Publication 946 (2015), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

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 period.

B. Attribution of Subsidies

Cross-Ownership

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of 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 *CVD Preamble*[185] 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.[186]

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade (CIT) has 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.[187]

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

Modern Heavy

Modern Heavy responded to Commerce's questionnaire on behalf of itself. In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Modern Heavy to its own sales.

Modern Heavy provided information regarding the following companies, but stated that none of these companies are involved in the production or sale of subject merchandise, nor were operational during the POI:[188]

- Modern Modular Engineering Construction (Suzhou) Co., Ltd.; and
- Modern Heavy Industries (Taicang) Co., Ltd. Shanghai Branch

We preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(iv). As a result, we have not included them in our subsidy analysis.

Shanghai Matsuo

Shanghai Matsuo responded to Commerce's questionnaire on behalf of itself and the following affiliated companies:[189]

- Chixiao Enterprise Co., Ltd. (Chixiao), a direct shareholder of Shanghai Matsuo; and
- China Nanshan Development (Group) Incorporation (Nanshan), parent company of Chixiao and Shanghai Matsuo.

Shanghai Matsuo reported that Nanshan is the sole shareholder of Chixiao.[190] We preliminarily find that Shanghai Matsuo, the producer of subject merchandise, is cross-owned with Chixiao and Nanshan within the definition of 19 CFR 351.525(b)(6)(vi), by virtue of their majority ownership of Shanghai Matsuo. Shanghai Matsuo is the producer of subject merchandise, and, therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Shanghai Matsuo to its own sales. Chixiao is a parent company of Shanghai Matsuo; therefore, in accordance with 19 CFR 351.525(b)(6)(iii), we are preliminarily attributing subsidies received by Chixiao to Chixiao's consolidated sales. Nanshan is also a parent company of Chixiao. Accordingly, we are preliminarily attributing subsidies received by Nanshan to Nanshan's consolidated sales, pursuant to 19 CFR 351.525(b)(6)(iii).

Further, Shanghai Matsuo identified other companies with which it was affiliated during the POI.[191] However, Shanghai Matsuo stated that these affiliates were either not involved in the

[188] *See* Modern Heavy April 16, 2019 AFFR at 2-3 and Exhibit 2.
[189] *See* Shanghai Matsuo April 29, 2019 AFFR at 1-2; *see also* Shanghai Matsuo May 28, 2019 SAFFR at Exhibit S2.
[190] *See* Shanghai Matsuo April 29, 2019 AFFR at 2.
[191] *See* Shanghai Matsuo April 29, 2019 AFFR at 1 to 2; *see also* Shanghai Matsuo May 28, 2019 SAFFR at Exhibit S2.

production or sale of subject merchandise or did not use any of the subsidy programs identified in Commerce's CVD questionnaire.[192] Therefore, we preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(iv). As a result, we have not included them in our subsidy analysis.

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total combined sales, less intercompany sales, as the denominator, as described above. Where the program has been found to be contingent upon export activities, we used the recipient's total combined export sales as the denominator. All sales used in our net subsidy rate calculations are net of inter-company sales. For a further discussion of the denominators used, *see* the Preliminary Calculation Memoranda.[193]

IX. BENCHMARKS AND INTEREST RATES

Commerce is investigating loans received by Shanghai Matsuo from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.[194] The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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

Section 771(5)(E)(ii) of the Act provides 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," indicating that a benchmark must be a market-based rate. Normally, Commerce uses comparable commercial loans reported by the company as a benchmark.[195] 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."[196]

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

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[192] *Id*.
[193] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from China: Preliminary Determination Calculation Memorandum for Modern Heavy," dated concurrently with this preliminary determination (Modern Heavy Preliminary Calculation Memorandum); *see also* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from China: Preliminary Determination Calculation Memorandum for Shanghai Matsuo," (Shanghai Matsuo Preliminary Calculation Memorandum), dated concurrently with this preliminary determination.
[194] *See* 19 CFR 351.524(b)(1).
[195] *See* 19 CFR 351.505(a)(3)(i).
[196] *See* 19 CFR 351.505(a)(3)(ii).

reflect rates that would be found in a functioning market.[197] Commerce recently conducted a reassessment of China's financial system for CVD benchmarking purposes.[198] Based on this reassessment, Commerce has concluded that, despite reforms to date, the GOC's role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by Shanghai Matsuo from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, Commerce selected an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.[199]

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*.[200] 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.[201] Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2017.[202] 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.[203]

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[197] *See CFS from China* IDM at Comment 10.

[198] *See* Memorandum, "Countervailing Duty Investigation of Fabricated Structural Steel from the People's Republic of China: Review of China's Financial System Memorandum," dated concurrently with this memorandum at Attachment Memorandum, "Review of China's Financial System for Countervailing Duty (CVD) Benchmarking Purposes," dated July 21, 2017.

[199] *See, e.g.*, *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 46754 (October 6, 2017), and accompanying PDM at 21 (unchanged in *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 16055 (April 13, 2018)).

[200] *See CFS from China* IDM at Comment 10; *see also Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from China*), and accompanying IDM at 8-10.

[201] *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).

[202] *Id*. The World Bank has not yet published World Governance Indicators for 2018. Therefore, for purposes of this preliminary determination, where the use of a benchmark rate for 2018 is required, we have applied the 2017 benchmark rate. We note that the benchmark rate may be updated by the final determination, pending the release of all necessary 2018 data.

[203] *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"

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.[204] For 2010, however, the regression does not yield that outcome for China's income group.[205] This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from China* to compute the benchmarks for the years from 2001-2009 and 2011-2017. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (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.[206] 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 removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[207] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[208]

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.[209]

(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*)).

[204] *See* Interest Rate Benchmark Memorandum.

[205] *Id*.

[206] *Id*.

[207] *Id*.

[208] *Id*.

[209] *See*, *e.g.*, *Thermal Paper from China* and accompanying IDM at 10.

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.[210] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[211]

The resulting inflation-adjusted benchmark lending rates are provided in the preliminary calculation memorandum for Shanghai Matsuo.[212]

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.[213] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Modern Heavy and Shanghai Matsuo's Preliminary Calculation Memoranda.

C. Input Benchmarks

As discussed below, we selected benchmarks for determining the benefit from the provision of inputs (*e.g.*, hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes) for LTAR in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).[214] For all of these inputs, as discussed above under "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily determine that each of Modern Heavy and Shanghai Matsuo's domestic input producers of hot-rolled steel, wide flange beams, steel channels, steel angles, and hollow structural shapes are "authorities." Therefore, prices from its domestic input producers do not constitute market-determined prices. Moreover, as discussed in the "*GOC – Whether Certain Steel Input Markets are Distorted*," we are relying on "tier two" (world market) prices for the input benchmark for these programs.

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[210] *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.
[211] *See* Interest Rate Benchmark Memorandum.
[212] *See* Modern Heavy Preliminary Calculation Memorandum and Shanghai Matsuo Preliminary Calculation Memorandum.
[213] *Id.*; *see also* Interest Rate Benchmark Memorandum.
[214] *See* 19 CFR 351.511(a)(2).

As discussed below, the petitioner placed publicly available world-market prices obtained from the UN Comtrade Database (UN Comtrade) as well as from MEPS (International) Ltd. (MEPS) on the record for various steel inputs.[215] Modern Heavy submitted world-market prices obtained from Steelworld, Steelguru, and Metal Expert on the record for hot-rolled steel plate, wide flange beams, steel channels, steel angles, and hollow structural shapes.[216]

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

1. <u>Hot-rolled Steel</u>

We received data submissions from the petitioner to consider using as "tier two" benchmarks for hot-rolled steel. The petitioner submitted data from MEPS and UN Comtrade.[217] Specifically, the petitioner submitted pricing data for HTS subheadings 7208.40, 7208.51, 7208.52, 7208.53, 7208.54, 7208.90, 7209.27,7209.28, 7211.13, 7211.14, 7211.19, 7213.10, 7213.91, 7214.99, 7216.32, 7225.30, and 7225.40 as potential benchmarks for hot-rolled steel. We preliminarily determine that the MEPS data and UN Comtrade data may serve as a world market benchmark price for hot-rolled steel that would be available to purchasers of hot-rolled steel in China. We note that Commerce has relied on pricing data from MEPS in several CVD proceedings involving China.[218] The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports to Shanghai Port in 2018, as reported by Descartes.[219]

Modern Heavy submitted monthly price data reported from several markets in the world during 2018 from Steelworld, Steelguru, and Metal Expert for hot-rolled plate as a potential benchmark for hot-rolled steel inputs.[220] Modern Heavy stated that these price data are for the type of hot-rolled steel plate that it purchased to produce subject merchandise.[221] Modern Heavy also submitted monthly ocean freight rates from a variety of world ports to Shanghai in 2018, as reported by Descartes.[222]

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[215] *See* Petitioner's Submission of Benchmark Data.
[216] *See* Modern Heavy's Submission of Benchmark Data.
[217] *See* Petitioner's Submission of Benchmark Data.
[218] *See, e.g.*, *Certain Steel Wheels from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 76 FR 55012, 55023-55025 (September 6, 2011) (unchanged in *Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) (*2012 Steel Wheels Final*)); *see also Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 4936 (January 28, 2009) (*Stainless Pressure Pipe from China*).
[219] *See* Petitioner's Submission of Benchmark Data.
[220] *See* Modern Heavy's Submission of Benchmark Data.
[221] *Id*.
[222] *Id*.

We find that both the petitioner's and Modern Heavy's proposed benchmark values reflect world market prices for hot-rolled steel. Therefore, in accordance with Commerce practice and 19 CFR 351.511(a)(2)(ii), we preliminarily determined the benchmark prices for hot-rolled steel using the simple average of: (1) the weighted-average UN Comtrade data submitted by the petitioner; (2) the MEPS data submitted by the petitioner; and (3) the price data submitted by Modern Heavy.[223]

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 as reported by the GOC, the VAT applicable to imports of hot-rolled steel into China as also reported by the GOC, and inland freight from the port to the factory based on an amount reported by Modern Heavy and Shanghai Matsuo.[224]

2. <u>Wide Flange Beams</u>

We received data submissions from the petitioner to consider using as "tier two" benchmarks for wide flange beams. The petitioner submitted data from MEPS and UN Comtrade.[225] Specifically, the petitioner submitted pricing data for HTS subheading 7216.33 as potential benchmarks for wide flange beams. We preliminarily determine that the MEPS data and UN Comtrade data may serve as a world market benchmark price for wide flange beams that would be available to purchasers of wide flange beams in China. We note that Commerce has relied on pricing data from MEPS in several CVD proceedings involving China.[226] The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports to Shanghai Port in 2018, as reported by Descartes.[227]

Modern Heavy submitted monthly price data reported from several markets in the world during 2018 from Steelworld, Steelguru, and Metal Expert for wide flange beams as a potential benchmark for wide flange beams inputs.[228] Modern Heavy stated that these price data are for the type of wide flange beams that it purchased to produce subject merchandise.[229] Modern Heavy also submitted monthly ocean freight rates from a variety of world ports to Shanghai in 2018, as reported by Descartes.[230]

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[223] *See*, *e.g.*, *High Pressure Steel Cylinders from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*; 2016, 83 FR 63471 (December 10, 2018) (*Steel Cylinders from China*), and accompanying IDM at Comment 2.
[224] *See* GOC May 16, 2019 IQR at 19-20; Modern Heavy May 16, 2019 IQR at Exhibit 12; and Shanghai Matsuo May 24, 2019 IQR at Exhibit 10.
[225] *See* Petitioner's Submission of Benchmark Data.
[226] *See, e.g.*, *2012 Steel Wheels Final*; *see also Stainless Pressure Pipe from China*.
[227] *See* Petitioner's Submission of Benchmark Data.
[228] *See* Modern Heavy's Submission of Benchmark Data.
[229] *Id*.
[230] *Id*.

We find that both the petitioner's and Modern Heavy's proposed benchmark values reflect world market prices for wide flange beams. Therefore, in accordance with Commerce practice and 19 CFR 351.511(a)(2)(ii), we preliminarily determined the benchmark prices for wide flange beams using the simple average of: (1) the weighted-average UN Comtrade data submitted by the petitioner; (2) the MEPS data submitted by the petitioner; and (3) the price data submitted by Modern Heavy.[231]

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, 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 as reported by the GOC, the VAT applicable to imports of wide flange beams into China as also reported by the GOC, and inland freight from the port to the factory based on an amount reported by Modern Heavy and Shanghai Matsuo.[232]

3. Steel Channels

We received data submissions from the petitioner to consider using as "tier two" benchmarks for steel channels. The petitioner submitted data from MEPS and UN Comtrade.[233] Specifically, the petitioner submitted pricing data for HTS subheading 7216.31 as potential benchmarks for steel channels. We preliminarily determine that the MEPS data and UN Comtrade data may serve as a world market benchmark price for steel channels that would be available to purchasers of steel channels in China. We note that Commerce has relied on pricing data from MEPS in several CVD proceedings involving China.[234] The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports to Shanghai Port in 2018, as reported by Descartes.[235]

Modern Heavy submitted monthly price data reported from several markets in the world during 2018 from Steelworld, Steelguru, and Metal Expert for steel channels as a potential benchmark for steel channel inputs.[236] Modern Heavy stated that these price data are for the type of steel channels that it purchased to produce subject merchandise.[237] Modern Heavy also submitted monthly ocean freight rates from a variety of world ports to Shanghai in 2018, as reported by Descartes.[238]

We find that both the petitioner's and Modern Heavy's proposed benchmark values reflect world market prices for steel channels. Therefore, in accordance with Commerce practice and 19 CFR 351.511(a)(2)(ii), we preliminarily determined the benchmark prices for steel channels using the

[231] *See*, *e.g.*, *Steel Cylinders from China* IDM at Comment 2.
[232] *See* GOC May 16, 2019 IQR at 38; Modern Heavy May 16, 2019 IQR at Exhibit 12; and Shanghai Matsuo May 24, 2019 IQR at Exhibit 10.
[233] *See* Petitioner's Submission of Benchmark Data.
[234] *See, e.g.*, *2012 Steel Wheels Final*; *see also Stainless Pressure Pipe from China*.
[235] *See* Petitioner's Submission of Benchmark Data.
[236] *See* Modern Heavy's Submission of Benchmark Data.
[237] *Id*.
[238] *Id*.

simple average of: (1) the weighted-average UN Comtrade data submitted by the petitioner; (2) the MEPS data submitted by the petitioner; and (3) the price data submitted by Modern Heavy.[239]

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, 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 as reported by the GOC, the VAT applicable to imports of steel channels into China as also reported by the GOC, and inland freight from the port to the factory based on an amount reported by Modern Heavy and Shanghai Matsuo.[240]

4. Steel Angles

We received data submissions from the petitioner to consider using as "tier two" benchmarks for steel angles. The petitioner submitted data from MEPS and UN Comtrade.[241] Specifically, the petitioner submitted pricing data for HTS subheadings 7216.21, 7216.22, 7216.40, 7216.50, 7222.11, and 7222.40 as potential benchmarks for steel angles. We preliminarily determine that the MEPS data and UN Comtrade data may serve as a world market benchmark price for steel angles that would be available to purchasers of hot-rolled steel in China. We note that Commerce has relied on pricing data from MEPS in several CVD proceedings involving China.[242] The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports to Shanghai Port in 2018, as reported by Descartes.[243]

Modern Heavy submitted monthly price data reported from several markets in the world during 2018 from Steelworld, Steelguru, and Metal Expert for steel angles as a potential benchmark for steel angle inputs.[244] Modern Heavy stated that these price data are for the type of steel angles that it purchased to produce subject merchandise.[245] Modern Heavy also submitted monthly ocean freight rates from a variety of world ports to Shanghai in 2018, as reported by Descartes.[246]

We find that both the petitioner's and Modern Heavy's proposed benchmark values reflect world market prices for steel angles. Therefore, in accordance with Commerce practice and 19 CFR 351.511(a)(2)(ii), we preliminarily determined the benchmark prices for steel angles using the simple average of: (1) the weighted-average UN Comtrade data submitted by the petitioner; (2) the MEPS data submitted by the petitioner; and (3) the price data submitted by Modern Heavy.[247]

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[239] *See, e.g.*, *Steel Cylinders from China* IDM at Comment 2.
[240] *See* GOC May 16, 2019 IQR at 50; Modern Heavy May 16, 2019 IQR at Exhibit 12; and Shanghai Matsuo May 24, 2019 IQR at Exhibit 10.
[241] *See* Petitioner's Submission of Benchmark Data.
[242] *See, e.g.*, *2012 Steel Wheels Final*; *see also Stainless Pressure Pipe from China*.
[243] *See* Petitioner's Submission of Benchmark Data.
[244] *See* Modern Heavy's Submission of Benchmark Data.
[245] *Id.*
[246] *Id.*
[247] *See, e.g.*, *Steel Cylinders from China* IDM at Comment 2.

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, 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 as reported by the GOC, the VAT applicable to imports of steel channels into China as also reported by the GOC, and inland freight from the port to the factory based on an amount reported by Modern Heavy and Shanghai Matsuo.[248]

5. <u>Hollow Structural Shapes</u>

We received data submissions from the petitioner to consider using as "tier two" benchmarks for hollow structural shapes. The petitioner submitted data from MEPS and UN Comtrade.[249] Specifically, the petitioner submitted pricing data for HTS subheadings 7304.31, 7304.39, 7304.59, 7304.90, 7305.31, 7306.30, 7306.61, 7306.69, and 7306.90 as potential benchmarks for hollow structural shapes. We preliminarily determine that the MEPS data and UN Comtrade data may serve as a world market benchmark price for hollow structural shapes that would be available to purchasers of hollow structural shapes in China. We note that Commerce has relied on pricing data from MEPS in several CVD proceedings involving China.[250] The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports to Shanghai Port in 2018, as reported by Descartes.[251]

Modern Heavy submitted monthly price data reported from several markets in the world during 2018 from Steelworld, Steelguru, and Metal Expert for hollow structural shapes as a potential benchmark for hollow structural shape inputs.[252] Modern Heavy stated that these price data are for the type of hollow structural shapes that it purchased to produce subject merchandise.[253] Modern Heavy also submitted monthly ocean freight rates from a variety of world ports to Shanghai in 2018, as reported by Descartes.[254]

We find that both the petitioner's and Modern Heavy's proposed benchmark values reflect world market prices for hollow structural shapes. Therefore, in accordance with Commerce practice and 19 CFR 351.511(a)(2)(ii), we preliminarily determined the benchmark prices for hollow structural shapes using the simple average of: (1) the weighted-average UN Comtrade data

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[248] *See* GOC May 16, 2019 IQR at 62-63; Modern Heavy May 16, 2019 IQR at Exhibit 12; and Shanghai Matsuo May 24, 2019 IQR at Exhibit 10.
[249] *See* Petitioner's Submission of Benchmark Data.
[250] *See, e.g.*, *Certain Steel Wheels from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 76 FR 55012, 55023-55025 (September 6, 2011) (unchanged in *2012 Steel Wheels Final*); *see also Stainless Pressure Pipe from China*.
[251] *See* Petitioner's Submission of Benchmark Data.
[252] *See* Modern Heavy's Submission of Benchmark Data.
[253] *Id*.
[254] *Id*.

submitted by the petitioner; (2) the MEPS data submitted by the petitioner; and (3) the price data submitted by Modern Heavy.[255]

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, 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 as reported by the GOC, the VAT applicable to imports of steel channels into China as also reported by the GOC, and inland freight from the port to the factory based on an amount reported by Modern Heavy and Shanghai Matsuo.[256]

D. Benchmark for Government Provision of Land for LTAR

As explained in detail in previous investigations, Commerce cannot rely on the use of the so-called "tier one" and "tier two" benchmarks described above to assess the benefits from the provision of land for LTAR in China. Specifically, in *Sacks from China*, Commerce determined that "Chinese land prices are distorted by the significant government role in the market," and hence, no usable "tier one" benchmarks exist.[257] Furthermore, Commerce also found that "tier two" benchmarks (world market prices that would be available to purchasers in China) are not appropriate.[258]

On October 2, 2018, Commerce completed a memorandum analyzing developments in China's land market since 2007.[259] The Land Analysis Memorandum was prepared to assess the continued application of Commerce's land for LTAR benchmark methodology, as established in 2007 in *Sacks from China*.[260] As discussed in the Land Analysis Memorandum, although reforms in China's land markets have improved the use-rights of some landholders, such improvements have not been comprehensive, and reforms have been implemented on an *ad hoc* basis.[261] The reforms to date have not addressed the fundamental institutional factors that underlie the Chinese government's monopoly control over land-use, which precludes landholders from putting their land to its best use and realizing the market value of their landholdings.[262] The

[255] *See, e.g.*, *Steel Cylinders from China* IDM at Comment 2.
[256] *See* GOC May 16, 2019 IQR at 75-76; Modern Heavy May 16, 2019 IQR at Exhibit 12; and Shanghai Matsuo May 24, 2019 IQR at Exhibit 10.
[257] *See, e.g.*, *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (unchanged in *Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) (*Sacks from China*)).
[258] *Id*.
[259] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Land Analysis Memorandum," dated concurrently with this memorandum (Land Memorandum) (containing Memorandum, "Benchmark Analysis of the Government Provision of Land-Use Rights in China for Countervailing Duty Purposes," dated October 2, 2018).
[260] *Id*. at 2.
[261] *Id*.
[262] *Id*.

GOC still owns all land in China, and exercises direct control over the sale of land-use rights and land pricing in the primary market and indirect control in the secondary market.[263]

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

In this investigation, no party submitted benchmark information for land prices. Therefore, we are placing on the record benchmark information to value land from "Asian Marketview Reports" by CB Richard Ellis (CBRE) for Thailand for 2010.[264] We used this benchmark in the CVD investigations of *Solar Cells from China* and *ITDCs from China*,[265] and more recently in *Steel Racks*.[266] We initially selected this information in the *Sacks from China* investigation after considering a number of factors, including national income levels, population density, and producers' perceptions that Thailand is a reasonable alternative to China as a location for Asian production.[267] We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to account for any countervailable land received by Modern Heavy and Shanghai Matsuo during the AUL of this investigation.[268]

We will continue to examine benchmark prices on a case-by-case basis and will consider the extent to which proposed benchmarks represent prices in a comparable setting (*e.g.*, a country proximate to China; the country's level of economic development, etc.). Therefore, we invite parties to submit alternative benchmark data that is consistent with the guidance provided in *Sacks from China* and the Land Analysis Memorandum.[269] Parties will have seven days after the publication of this memorandum to provide information to rebut, clarify, or correct information in the Land Analysis Memorandum or the Land Benchmark Data Memorandum.

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[263] *Id*.
[264] *See* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from the People's Republic of China: Asian Marketview Report" dated concurrently with this determination (Land Benchmark Data Memorandum) (containing "Asian Marketview Report" pricing data).
[265] *See Solar Cells from China Final*, and accompanying IDM at 6 and Comment 11; *see also Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 21316 (April 11, 2016) (*ITDCs from China*), and accompanying IDM at 13.
[266] *See Certain Steel Racks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 62297 (December 3, 2018) (*Steel Racks*), and accompanying PDM at 35-36.
[267] The complete history of our reliance on this benchmark is discussed in the above-referenced *Solar Cells from China* IDM. In that discussion, we reviewed our analysis from the *Sacks from China* investigation and concluded the CBRE data remained a valid land benchmark.
[268] *See* Modern Heavy Preliminary Calculation Memorandum and Shanghai Matsuo Preliminary Calculation Memorandum.
[269] *See* Land Analysis Memorandum at 30-31.

X. 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

As discussed above, in the section "Application of AFA: Government Policy Lending," we did not initiate an investigation into this program in the *Initiation Notice*. However, section 775 of the Act provides that if Commerce "discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition . . . then the administering authority (1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding."[270] Accordingly, based upon our discovery of a practice which appears to be a countervailable subsidy from Shanghai Matsuo's questionnaire responses, the Act authorizes us to investigate this program.

Accordingly, and as described above, we preliminarily find, as AFA, that policy loans from SOCBs constitute financial contributions from "authorities" within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act and are specific within the meaning of section 771(5A) of the Act. We continue to find that the GOC's predominant role in the banking industry market renders domestic loan interest rates unusable as benchmarks. Shanghai Matsuo provided information regarding its loans that were outstanding during the POI, as well as its cross-owned affiliates' loans outstanding during the POI.[271] To determine whether a benefit was conferred under section 771(5)(E)(ii) of the Act, we compared the amount of interest paid during the POI on these loans to the amount of interest that the company would have paid on comparable loans.[272] In conducting this comparison, we used the interest rate benchmarks described above in the section "Benchmarks and Interest Rates." On this basis, we preliminarily determined a countervailable subsidy of 1.45 percent *ad valorem* for Shanghai Matsuo.[273]

2. Provision of Hot-Rolled Steel for LTAR

Commerce is examining whether the GOC or other "authorities" within China provided Modern Heavy and Shanghai Matsuo with hot-rolled steel for LTAR. Modern Heavy and Shanghai Matsuo reported that they purchased hot-rolled steel during the POI.[274]

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[270] *See also* 19 CFR 351.311(b).
[271] *See* Shanghai Matsuo's June 12, 2019 SQR at 1-4 and Exhibit 2S4c.
[272] *See* 19 CFR 351.505(a).
[273] *See* Shanghai Matsuo's Preliminary Calculation Memorandum.
[274] *See* Modern Heavy's May 16, 2019 IQR at 13-15 and Exhibit 10; and Shanghai Matsuo's May 24, 2019 IQR at 20-22 and Exhibit 9.

Financial Contribution

The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[275] However, as discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find that certain producers that provided inputs to respondents may be majority-owned by the government. As explained in the Public Body Memorandum, majority state-owned enterprises in China possess, exercise, or are vested with governmental authority.[276] The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[277] Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act, and that respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[278]

As discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," for input producers not majority-owned by the government, we find that the GOC's refusal to provide certain information regarding the domestic producers of hot-rolled steel provided to Modern Heavy and Shanghai Matsuo warrants the use of AFA. As AFA, we find that these producers are "authorities" within the meaning of section 771(5)(B)(i) of the Act that provided financial contributions to the respondents in the form of hot-rolled steel for LTAR.

Specificity

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

Market Distortion

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

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for hot-rolled steel was distorted by government involvement, we are selecting external

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[275] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.
[276] *See* Additional Documents Memorandum at Attachment III: Public Body Memorandum.
[277] *Id.*
[278] *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) (*OCTG from China*), and accompanying IDM at 48-50.

benchmark prices, ***i.e.***, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[279] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of hot-rolled steel into China, as provided by the GOC.[280] Additionally, we added the appropriate VAT to the benchmark prices.[281]

We compared these monthly benchmark prices to the purchase prices that Modern Heavy and Shanghai Matsuo reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Modern Heavy and Shanghai Matsuo. We divided the total benefits received by Modern Heavy's and Shanghai Matsuo's POI sales.[282] On this basis, we preliminarily determined a net countervailable subsidy rate of 9.61 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 4.89 percent *ad valorem* for Shanghai Matsuo.[283]

3. Provision of Wide Flange Beams for LTAR

Commerce is examining whether the GOC or other "authorities" within China provided Modern Heavy and Shanghai Matsuo with wide flange beams for LTAR. Modern Heavy and Shanghai Matsuo reported that they purchased wide flange beams during the POI.[284]

Financial Contribution

The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[285] However, as discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find that certain producers that provided inputs to respondents may be majority-owned by the government. As explained in the Public Body Memorandum, majority state-owned enterprises in China possess, exercise, or are vested with governmental authority.[286] The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy,

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[279] *See CVD Preamble*, 63 FR at 65401.
[280] Consistent with *Citric Acid 2011 AR*, we have utilized the Most Favored Nation (MFN) import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid 2011 AR*), and accompanying IDM at 90.
[281] *See* GOC June 18, 2019 SQR at 2-4.
[282] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[283] *Id*.
[284] *See* Modern Heavy's May 16, 2019 IQR at 16-17 and Exhibit 13; and Shanghai Matsuo's May 24, 2019 IQR at 23-24 and Exhibit 11.
[285] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.
[286] *See* Additional Documents Memorandum at Attachment III: Public Body Memorandum.

allocating resources, and maintaining the predominant role of the state sector.[287] Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act, and that respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[288]

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

Specificity

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

Market Distortion

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

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for wide flange beams was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[289] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of wide flange beams into China, as provided by the GOC.[290] Additionally, we added the appropriate VAT to the benchmark prices.[291]

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[287] *Id.*
[288] *See*, *e.g.*, *OCTG from China*IDM at 48-50.
[289] *See CVD Preamble*, 63 FR at 65401.
[290] Consistent with *Citric Acid 2011 AR*, we have utilized the MFN import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
[291] *See* GOC June 18, 2019 SQR at 2-4.

We compared these monthly benchmark prices to the purchase prices that Modern Heavy and Shanghai Matsuo reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Modern Heavy and Shanghai Matsuo. We divided the total benefits received by Modern Heavy's and Shanghai Matsuo's POI sales.[292] On this basis, we preliminarily determined a net countervailable subsidy rate of 2.10 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 4.24 percent *ad valorem* for Shanghai Matsuo.[293]

4. **Provision of Steel Channels for LTAR**

Commerce is examining whether the GOC or other "authorities" within China provided Modern Heavy and Shanghai Matsuo with steel channels for LTAR. Modern Heavy and Shanghai Matsuo reported that they purchased steel channels during the POI.[294]

Financial Contribution

The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[295] However, as discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find that certain producers that provided inputs to respondents may be majority-owned by the government. As explained in the Public Body Memorandum, majority state-owned enterprises in China possess, exercise, or are vested with governmental authority.[296] The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[297] Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act, and that respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[298]

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

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[292] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[293] *Id*.
[294] *See* Modern Heavy's May 16, 2019 IQR at 17-18 and Exhibit 14; and Shanghai Matsuo's May 24, 2019 IQR at 24-26 and Exhibit 12.
[295] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.
[296] *See* Additional Documents Memorandum at Attachment III: Public Body Memorandum.
[297] *Id.*
[298] *See*, *e.g.*, *OCTG from China* IDM at 48-50.

Specificity

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

Market Distortion

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

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for steel channels was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[299] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of steel channels into China, as provided by the GOC.[300] Additionally, we added the appropriate VAT to the benchmark prices.[301]

We compared these monthly benchmark prices to the purchase prices that Modern Heavy and Shanghai Matsuo reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Modern Heavy and Shanghai Matsuo. We divided the total benefits received by Modern Heavy's and Shanghai Matsuo's POI sales.[302] On this basis, we preliminarily determined a net countervailable subsidy rate of 0.55 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 0.48 percent *ad valorem* for Shanghai Matsuo.[303]

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299 *See CVD Preamble*, 63 FR at 65401.
300 Consistent with *Citric Acid 2011 AR*, we have utilized the MFN import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
301 *See* GOC June 18, 2019 SQR at 2-4.
302 *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
303 *Id*.

5. **Provision of Steel Angles for LTAR**

Commerce is examining whether the GOC or other "authorities" within China provided Modern Heavy and Shanghai Matsuo with steel angles for LTAR. Modern Heavy and Shanghai Matsuo reported that they purchased steel angles during the POI.[304]

Financial Contribution

The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[305] However, as discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find that certain producers that provided inputs to respondents may be majority-owned by the government. As explained in the Public Body Memorandum, majority state-owned enterprises in China possess, exercise, or are vested with governmental authority.[306] The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[307] Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act, and that respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[308]

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

Specificity

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

Market Distortion

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

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[304] *See* Modern Heavy's May 16, 2019 IQR at 19-20 and Exhibit 15; and Shanghai Matsuo's May 24, 2019 IQR at 26-27 and Exhibit 13.
[305] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.
[306] *See* Additional Documents Memorandum at Attachment III: Public Body Memorandum.
[307] *Id.*
[308] *See*, *e.g.*, *OCTG from China* IDM at 48-50.

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for steel angles was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[309] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of steel angles into China, as provided by the GOC.[310] Additionally, we added the appropriate VAT to the benchmark prices.[311]

We compared these monthly benchmark prices to the purchase prices that Modern Heavy and Shanghai Matsuo reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Modern Heavy and Shanghai Matsuo. We divided the total benefits received by Modern Heavy's and Shanghai Matsuo's POI sales.[312] On this basis, we preliminarily determined a net countervailable subsidy rate of 0.58 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 0.83 percent *ad valorem* for Shanghai Matsuo.[313]

6. Provision of Hollow Structural Shapes for LTAR

Commerce is examining whether the GOC or other "authorities" within China provided Modern Heavy and Shanghai Matsuo with hollow structural shapes for LTAR. Modern Heavy and Shanghai Matsuo reported that they purchased hollow structural shapes during the POI.[314]

Financial Contribution

The GOC stated that most, if not all, of Modern Heavy's and Shanghai Matsuo's suppliers of inputs are private companies.[315] However, as discussed above in the section "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find that certain producers that provided inputs to respondents may be majority-owned by the government. As explained in the Public Body Memorandum, majority state-owned enterprises in China possess, exercise, or are

[309] *See CVD Preamble*, 63 FR at 65401.
[310] Consistent with *Citric Acid 2011 AR*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
[311] *See* GOC June 18, 2019 SQR at 2-4.
[312] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[313] *Id*.
[314] *See* Modern Heavy's May 16, 2019 IQR at 20-21 and Exhibit 16; and Shanghai Matsuo's May 24, 2019 IQR at 27-29 and Exhibit 14.
[315] *See* GOC May 16, 2019 IQR at 15, 34, 46, 58, and 71; and GOC May 24, 2019 IQR at 15, 42, 61, 73, and 86.

vested with governmental authority.[316] The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.[317] Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act, and that respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.[318]

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

Specificity

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

Market Distortion

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

Benefit

As discussed above under "Input Benchmarks," because Commerce finds that the Chinese market for hollow structural shapes was distorted by government involvement, we are selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(ii) and the *CVD Preamble*.[319] Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities. We then added to the benchmark prices the appropriate

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[316] *See* Additional Documents Memorandum at Attachment III: Public Body Memorandum.
[317] *Id.*
[318] *See*, *e.g.*, *OCTG from China* IDM at 48-50.
[319] *See CVD Preamble*, 63 FR at 65401.

import duties applicable to imports of hollow structural shapes into China, as provided by the GOC.[320] Additionally, we added the appropriate VAT to the benchmark prices.[321]

We compared these monthly benchmark prices to the purchase prices that Modern Heavy and Shanghai Matsuo reported for individual domestic transactions, including VAT. We determined the benefit as the difference between the benchmark prices and the prices reported by Modern Heavy and Shanghai Matsuo. We divided the total benefits received by Modern Heavy's and Shanghai Matsuo's POI sales.[322] On this basis, we preliminarily determined a net countervailable subsidy rate of 1.49 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 2.27 percent *ad valorem* for Shanghai Matsuo.[323]

7. Provision of Electricity for LTAR

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 Modern Heavy and Shanghai Matsuo. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category. Shanghai Matsuo reported that its affiliates paid electricity fees at a flat-rate during the POI.[324] Thus, we selected the highest non-seasonal provincial flat-rate in China in determining the existence and amount of benefit used by affiliates of Shanghai Matsuo.

Consistent with our approach in *Wind Towers*, we first calculated Modern Heavy's and Shanghai Matsuo's variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, valley, where appropriate) by the corresponding electricity rates paid during each month of the POI.[325] 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 Modern Heavy and Shanghai Matsuo during the POI from the monthly benchmark variable electricity costs.

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[320] Consistent with *Citric Acid 2011 AR*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade. *See Citric Acid 2011 AR* IDM at 90.
[321] *See* GOC June 18, 2019 SQR at 2-4.
[322] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[323] *Id*.
[324] *See* Shanghai Matsuo's June 12, 2019 SQR at 10.
[325] *See Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers*), and accompanying IDM at 21-22.

To measure whether Modern Heavy and Shanghai Matsuo 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 each 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 Modern Heavy and Shanghai Matsuo during the POI from the benchmark base rate costs. Shanghai Matsuo also received electricity provided by an unaffiliated solar power equipment firm during the POI.[326] Consistent with our approach in *Wind Towers*, we preformed the abovementioned calculations with Shanghai Matsuo's solar power equipment provider and included this benefit into the total benefit received by Shanghai Matsuo during the POI.[327] We then calculated the total benefit received during the POI under this program by summing the benefits stemming from Modern Heavy's and Shanghai Matsuo's variable electricity payments and base rate payments.[328]

To calculate the net subsidy rates attributable to Modern Heavy and Shanghai Matsuo, we divided the benefit by its total POI sales. On this basis, we preliminarily determined net countervailable subsidy rates of 4.54 percent *ad valorem* for Modern Heavy and 0.62 percent *ad valorem* for Shanghai Matsuo and its affiliates.[329]

8. Provision of Land Use Rights to Favored Industries for LTAR

Commerce is examining whether the GOC has encouraged the development of the fabricated structural steel industry through the provision of land use rights at less than adequate remuneration. Modern Heavy, Shanghai Matsuo, and Nanshan reported purchasing or leasing land during the POI and the AUL period.

In examining this program, Commerce looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for preferential land pricing to support such objectives or goals. The GOC's national five-year plans identify the provision of land and land financing as policy tools to direct economic development for key objectives. For example, the national 13th Five Year Plan for 2016-2020 (13th FYP) discusses an emphasis on strengthening basic capabilities of manufacturing and the promotion of energy-intensive industries, including the iron and steel industry.[330] Moreover, the 13th FYP states that, "Approval procedures related to the projects and initiatives included in this plan will be streamlined and priority will be given to them in site selection, land availability, and funding arrangements."[331]

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[326] *See* GOC June 20, 2019 SQR at 3.
[327] *See* Shanghai Matsuo's Preliminary Calculation Memorandum.
[328] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[329] *Id*.
[330] *See* GOC June 20, 2019 SQR at Exhibit 2S-GEN-19.d.
[331] *Id*.

Furthermore, the development of the iron and steel industry is mentioned in the "Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China."[332] The "Directory Catalogue on Readjustment of Industrial Structure" (*Guidance Catalogue*) specifically discusses many types of steel,[333] and is consistent with the Decision 40 regarding support for such industries through land policies.[334]

In addition, the 12th Five Year Plan for (2011-2015) similarly identifies land management policies as development tools, referencing the importance of the Guidance Catalogue's encouraged industries alongside implementing differential land management policy: "Modify and perfect the current industrial guidance catalogue, clarify the encouraged, limited and prohibited industrial for different principle function areas. Implement the differential land management policy, scientifically set the different land using scale, and carry out strict land use control."[335]

The GOC has previously explained that Decision 40 provides for encouragement policies for the industries in the encouraged industry category, and, unless an industry is in the encouraged category, land or other policies are not directed to support those industries.[336] The GOC also submitted the "Notice of the Ministry of Land and Resources on Adjusting the Implementation Policy of the Minimum Price for Industrial Land Transfer (Guo Fa No. 56 (2009))" (*Minimum Price for Land Transfer Notice*), which allows for reduced reserve prices of land sales for industrial priority projects.[337] The *Minimum Price for Land Transfer Notice* clarifies that priority development of industries refers to industries that have been prioritized for development in local industry plans formulated in accordance with the "Catalogue for the Guidance of Industrial Structure Adjustment (2005)."[338]

Finally, industry-specific plans identify the fabricated structural steel industry as a target for development and priority in land supply schemes. For example, "The Steel Industry Adjustment and Upgrading Plan (2016-2020)" directs governments to "support steel enterprises to actively participate in constructing fabricated steel structural industrial demonstration bases."[339] Furthermore, the "Guiding Opinion Regarding Vigorously Developing Prefabricated Construction" (*Guiding Opinion*), issued in 2016, calls for "optimizing production of parts and components," and "guiding rational distribution of enterprises producing parts and components for the construction sector, increasing the concentration of production, and nurturing a group of pillar enterprises and production bases."[340] Specifically in regards to land, the *Guiding Opinion* states that "the relevant demands of developing prefabricated construction may be included in land supply plans and implemented through land supply contracts" and encourages local governments to "issue relevant policy measures supporting planning and approval, land supply,

[332] *See* GOC June 20, 2019 SQR at Exhibit 2S-GEN-19.e.
[333] *Id.* at Exhibit 2S-GEN-19.f.
[334] *Id.* at Exhibit 2S-GEN-19.h.
[335] *Id.* at Exhibit 2S-GEN-19.c.
[336] *See Aluminum Sheet from China Prelim* PDM at 47 (unchanged in *Aluminum Sheet from China Final*).
[337] *See* GOC June 20, 2019 SQR at Exhibit 2S-GEN-19.g.
[338] *Id.* at Exhibit 2S-GEN-19.j.
[339] *See* Petition, Volume VII at 26 and Exhibit VII-9.
[340] *Id.* at 25.

completion of basic infrastructure, and financing for development of prefabricated construction."[341]

As detailed above, national development plans in China provide for priority land supply and financing arrangements for priority development projects. The documents discussed above also consistently identify the steel industry, and specifically the fabricated structural steel industry, as a target for economic development and preferential land policies. We preliminarily find that the GOC's use of preferential land policies to develop the fabricated structural steel sector at the national level indicates there is a program to provide land for LTAR to producers of fabricated structural steel within the meaning of section 771(5A)(D)(i) of the Act. Because the Chinese government owns all land in China, we preliminarily determine that the entities that provided the land to the respondents are "authorities" within the meaning of section 771(5)(B) of the Act, and that the respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act. Given the total government ownership of the land market, we preliminarily determine that the domestic market for land was distorted through the GOC's ownership.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act, we first multiplied the Thailand industrial land benchmarks discussed above under the "Benchmarks and Interest Rates" section, by the total area of the aforementioned companies' land. We then subtracted the net price actually paid for the land to derive the total benefit. We next conducted the "0.5 percent test" of 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total benefit for the respective year(s) by the relevant sales. For those benefits that pass the 0.5 percent test, we allocated the total benefit amounts across the terms of the land use agreement, using the standard allocation formula of 19 CFR 351.524(d), and determined the amount attributable to the POI. We then divided this amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section.

Shanghai Matsuo also reported that it leased land during the POI. Consistent with prior determinations,[342] we find that Shanghai Matsuo's leased land provides a countervailable benefit. To calculate the benefit, we used industrial rental prices for factories in Bangkok from CBRE's "Asian Marketview Report," for all quarters of 2010, which we inflated to derive the 2018 benchmark. We then calculated a monthly U.S. dollar per square meter per month benchmark for 2018 and converted this benchmark price into RMB using the average annual exchange rate during the POI. We next derived the RMB per square meter per month price for each piece of Shanghai Matsuo's leased land. We calculated a benefit for each piece of leased land by taking the difference between the benchmark price and each of Shanghai Matsuo's reported RMB per square meter per month leased land amounts. We multiplied this difference by the amount of land leased, and then by 12, to determine the total benefit for the POI for all of Shanghai Matsuo's leased land. We then divided this amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section, to determine the benefit for Shanghai

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[341] *Id.* at 25-26.
[342] *See, e.g.*, *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010), and accompanying IDM at 22-23; *see also Solar Cells from China*.

Matsuo's leased land. This amount was added to the benefit from Nanshan's purchases of land for LTAR, as described above.

On this basis, we preliminarily determined a net countervailable subsidy rate of 0.75 percent *ad valorem* for Modern Heavy and a net countervailable subsidy rate of 10.68 percent *ad valorem* for Shanghai Matsuo and its affiliates.[343]

9. Other Subsidies

Modern Heavy self-reported receiving various non-recurring grants from the GOC during the POI.[344] These grants are as follows:

1) Stable Growth of Foreign Trade in 2014
2) Stable Growth of Foreign Trade in 2015
3) 2015 Lead in Tax Payment
4) Notice on Organizing Enterprises to Declaration{sic}Fund for Promoting Business Economic Transition and Upgrading in Taicang City in 2018
5) 2016 Suzhou Seagull Plan of Flexible Introduction of Overseas Intellectuals
6) 2017 Suzhou Seagull Plan of Flexible Introduction of Overseas Intellectuals
7) Administrative Committee of Taicang Port Economic and Technological Development Zone Briefing on Advanced Enterprises in 2017
8) Notice of Jiangsu Provincial Finance Department on the Budget Indicators of the Special Funds for Business Development (First Batch) in 2018
9) Position Maintenance Subsidy for Shanghai Branch

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

Modern Heavy self-reported receiving measurable benefits under multiple programs.[345] Based on the methodology outlined above, we preliminarily determined a cumulative *ad valorem* subsidy rate of 0.14 percent for Modern Heavy for these programs.

Shanghai Matsuo and its cross-owned affiliates self-reported receiving various non-recurring grants from the GOC during the POI.[346] These grants are as follows:

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[343] *See* Modern Heavy's Preliminary Calculation Memorandum and Shanghai Matsuo's Preliminary Calculation Memorandum.
[344] *See* Modern Heavy May 16, 2019 IQR at 25 and Exhibit 23.
[345] *Id*.
[346] *See* Shanghai Matsuo May 24, 2019 IQR at 33 and Exhibits 20a, 20b, and 20c.

1) Special Subsidies for Industrial Technological Transformation
2) 2008 Excellent Enterprise Awards
3) Technical Transformation, Innovation Subsidies
4) 2009 Tax Contribution Bonus
5) Tax Refund Subsidy Under the 2009 Fiscal and Tax Incentives
6) Application of "Jinyi" Self-Developed Technology Innovation Coupons
7) 2009 Annual Over-Provisional Employment Incentives for Disabled People
8) 2009 Special Industrial Subsidies for Industrial Technology Transformation and Innovation
9) 2010 Tax Contribution Bonus
10) 2010 Industrial Technology Transformation, Innovation Special Subsidies
11) 2010 Annual Over-Provisional Employment Incentives for Disabled People
12) 2011 Industrial Technology Transformation, Innovation Special Subsidies
13) Tax Refund Subsidy under the 2010 Fiscal and Tax Incentives
14) 2012 Special Industrial Subsidies for Industrial Technology Transformation and Innovation
15) Social Insurance Subsidy for Disabled Workers in Fengxian District
16) 2012 Annual Over-Provisional Employment Incentives for Disabled People
17) 2013 Fengxian District "Fortune Top 100 Enterprises" Support Fund
18) 2013 Vocational Skill Training Funding Subsidies
19) 2013 Over-Proportionate Employment Incentives for Disabled People
20) 2014 Annual Over-Provisional Employment Incentives for Disabled People
21) Subsidies for Vocational Skills Training in 2014
22) Application of "Jinyi" Self-Developed Innovative Technology Equipment Subsidy
23) Funds for Foreign Trade Enterprises
24) Subsidies for Vocational Skills Training in 2015
25) 2015 Annual Over-Provisional Employment Incentives for Disabled People
26) Stable Job Employment Subsidy
27) Anti-Dumping Government Subsidy
28) 2016 Vocational Skills Training Fund Subsidy
29) 2016 Annual Over-Provisional Employment Incentives for Disabled People
30) Stable Post Subsidy
31) Job Stabilization Subsidy
32) Work Injury Prevention Advanced Unit Bonus
33) Nanshan District Talent Service Guidance Allowance
34) Work Injury Insurance Reward
35) Financial Crisis Merger and Reorganization Subsidy
36) Tax Return Fee
37) Economic Finance and Tax Contribution Award
38) Financial Contribution Award
39) Tax Handing Fee Refund
40) Return of Investment Money and Interest
41) Tax Bureau Returns Land Use Tax
42) Old Car Scrap Subsidy

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

Shanghai Matsuo self-reported receiving measurable benefits under multiple programs.[347] Based on the methodology outlined above, we preliminarily determined a cumulative *ad valorem* subsidy rate of 0.07 percent for Shanghai Matsuo for these programs.

B. Programs Preliminarily Determined Not to Provide Measurable Benefits During the POI

The respondents reported receiving benefits under various programs, some of which were specifically alleged and others of which were self-reported. Based on the record evidence, we preliminarily determine that the benefits from certain programs: (1) were fully expensed prior to the POI; or (2) are less than 0.005 percent *ad valorem* when attributed to the respondent's applicable sales as discussed above in the "Attribution of Subsidies" section above. Consistent with Commerce's practice,[348] we have not included the programs which provided no measurable benefit in our preliminary subsidy rate calculations. Moreover, we determine that it is unnecessary for Commerce to make a preliminary determination as to the countervailability of these programs.

For a list of the subsidy programs that do not provide a benefit and programs that were not used for each respondent, *see* Appendix I attached to this memorandum.

[347] *See* Shanghai Matsuo May 24, 2019 IQR at 40 and Exhibits 20a, 20b, and 20c.
[348] *See, e.g.*, *CFS from China* 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* IDM at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District;" *Aluminum Extrusions 2010-11 AR* 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 (R&D) Expenses."

XI. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒	☐
Agree	Disagree

7/5/2019

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

APPENDIX I

NOT-USED AND NOT-MEASURABLE PROGRAMS, BY COMPANY

Modern Heavy

Programs Preliminarily Determined Not to Provide Measurable Benefits to Modern Heavy During the POI

Count	Title
1	Position Maintenance Subsidy for Shanghai Branch (Received 6/25/2018)
2	Position Maintenance Subsidy for Shanghai Branch (Received 6/30/2018)

Programs Preliminarily Determined Not to Be Used by Modern Heavy During the POI

Count	Title
1	Capital Injections and Other Payments from the State Capital Operating Budget
2	Foreign Trade Development Fund Grants
3	Export Assistance Grants
4	Import Interest Subsidies
5	Export Interest Subsidies
6	Subsidies for Development of Famous Export Brands and China World Top Brands
7	State Key Technology Fund
8	Grants for Energy Conservation and Emissions Reduction
9	Grants for Retiring Outdated Capacity
10	Government Directed Debt Restructuring in the Chinese Steel Industry
11	Export Seller’s Credits
12	Income Tax Reductions for High and New Technology Enterprises
13	Tax Offsets for Research and Development Under the EIT
14	Preferential Income Tax for Enterprises in the Northeast Region
15	Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China
16	Provision of Iron Ore for LTAR

Shanghai Matsuo

Programs Preliminarily Determined Not to Provide Measurable Benefits to Shanghai Matsuo During the POI

Count	Title
1	2016 Annual Over-Provisional Employment Incentives for Disabled People
2	Job Stabilization Subsidy
3	Old Car Scrap Subsidy

Programs Preliminarily Determined Not to Be Used by Shanghai Matsuo During the POI

Count	Title
1	Capital Injections and Other Payments from the State Capital Operating Budget
2	Foreign Trade Development Fund Grants
3	Export Assistance Grants
4	Import Interest Subsidies
5	Export Interest Subsidies
6	Subsidies for Development of Famous Export Brands and China World Top Brands
7	State Key Technology Fund
8	Grants for Energy Conservation and Emissions Reduction
9	Grants for Retiring Outdated Capacity
10	Government Directed Debt Restructuring in the Chinese Steel Industry
11	Export Seller's Credits
12	Income Tax Reductions for High and New Technology Enterprises
13	Tax Offsets for Research and Development Under the EIT
14	Preferential Income Tax for Enterprises in the Northeast Region
15	Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China
16	Provision of Cut-to-Length Plate for LTAR
17	Provision of Iron Ore for LTAR

APPENDIX II

AFA Rate Calculation

Program Name	AFA Rate (%)
Direct Tax Exemptions and Reductions	
Preferential Income Tax Reductions for HNTEs	25.00[349]
Tax Offsets for Research and Development under the EIT	
Preferential Income Tax for Enterprises in the Northeast Region	
Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China	
Loan Programs	
Government Directed Debt Restructuring in the Chinese Steel Industry	10.54[350]
Export Seller's Credits	10.54[351]
Export Buyer's Credits	10.54[352]
LTAR Programs	
Provision of Hot-Rolled Steel for LTAR	9.61[353]
Provision of Wide Flange Beams for LTAR	4.24[354]
Provision of Steel Channels for LTAR	0.55[355]
Provision of Steel Angles for LTAR	0.83[356]
Provision of Hollow Structural Shapes for LTAR	2.27[357]
Provision of Cut-to-Length Plate for LTAR	33.70[358]
Provision of Iron Ore for LTAR	22.32[359]
Provision of Land Use Rights to Favored Industries for LTAR	10.68[360]

[349] The standard income tax rate for corporations in China in effect during the POI was 25 percent. Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the four programs, combined, provide a 25 percent benefit)
[350] *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*).
[351] *Id.*
[352] *Id.*
[353] *See* Modern Heavy Preliminary Calculation Memorandum.
[354] *See* Shanghai Matsuo Preliminary Calculation Memorandum.
[355] *See* Modern Heavy Preliminary Calculation Memorandum.
[356] *See* Shanghai Matsuo Preliminary Calculation Memorandum.
[357] *Id.*
[358] *See Countervailing Duty Investigation of Large Diameter Welded Pipe from the People's Republic of China: Final Affirmative Determination*, 83 FR 56804 (November 14, 2018).
[359] *See Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Partial Affirmative Critical Circumstances Determination*, 81 FR 32729 (May 24, 2016).
[360] *See* Shanghai Matsuo Preliminary Calculation Memorandum.

	Provision of Electricity for LTAR	4.54[361]
Other Programs		
	Capital Injections and Other Payments through the State Capital Operating Budget (SCOB)	0.62[362]
	Foreign Trade Development Fund Grants	0.62
	Export Assistance Grants	0.62
	Import Interest Subsidies	0.43[363]
	Export Interest Subsidies	0.43[364]
	Subsidies for Development of Famous Export Brands and China World Top Brands	0.62
	State Key Technology Project Fund	0.62
	Grants for Energy Conservation and Emissions Reduction	0.62
	Grants for Retiring Outdated Capacity	0.62
	Stable Growth of Foreign Trade in 2014	0.62
	Stable Growth of Foreign Trade in 2015	0.62
	2015 Lead in Tax Payment	0.62
	Notice on Organizing Enterprises to Declaration{sic}Fund for Promoting Business Economic Transition and Upgrading in Taicang City in 2018	0.02[365]
	2016 Suzhou Seagull Plan of Flexible Introduction of Overseas Intellectuals	0.62
	2017 Suzhou Seagull Plan of Flexible Introduction of Overseas Intellectuals	0.06[366]
	Administrative Committee of Taicang Port Economic and Technological Development Zone Briefing on Advanced Enterprises in 2017	0.01[367]
	Notice of Jiangsu Provincial Finance Department on the Budget Indicators of the Special Funds for Business Development (First Batch) in 2018	0.05[368]
	Position Maintenance Subsidy for Shanghai Branch	0.62
	Special Subsidies for Industrial Technological Transformation	0.62

[361] *See* Modern Heavy Preliminary Calculation Memorandum.
[362] *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).
[363] *See Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008).
[364] *Id*.
[365] *See* Modern Heavy Preliminary Calculation Memorandum.
[366] *Id*.
[367] *Id*.
[368] *Id*.

	2008 Excellent Enterprise Awards	0.62
	Technical Transformation, Innovation Subsidies	0.62
	2009 Tax Contribution Bonus	0.62
	Tax Refund Subsidy Under the 2009 Fiscal and Tax Incentives	0.62
	Application of "Jinyi" Self-Developed Technology Innovation Coupons	0.01[369]
	2009 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	2009 Special Industrial Subsidies for Industrial Technology Transformation and Innovation	0.62
	2010 Tax Contribution Bonus	0.62
	2010 Industrial Technology Transformation, Innovation Special Subsidies	0.62
	2010 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	2011 Industrial Technology Transformation, Innovation Special Subsidies	0.62
	Tax Refund Subsidy under the 2010 Fiscal and Tax Incentives	0.62
	2012 Special Industrial Subsidies for Industrial Technology Transformation and Innovation	0.62
	Social Insurance Subsidy for Disabled Workers in Fengxian District	0.62
	2012 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	2013 Fengxian District "Fortune Top 100 Enterprises" Support Fund	0.03[370]
	2013 Vocational Skill Training Funding Subsidies	0.62
	2013 Over-Proportionate Employment Incentives for Disabled People	0.62
	2014 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	Subsidies for Vocational Skills Training in 2014	0.62
	Application of "Jinyi" Self-Developed Innovative Technology Equipment Subsidy	0.62
	Funds for Foreign Trade Enterprises	0.62
	Subsidies for Vocational Skills Training in 2015	0.62

[369] *See* Shanghai Matsuo Preliminary Calculation Memorandum.
[370] *Id*.

	2015 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	Stable Job Employment Subsidy	0.62
	Anti-Dumping Government Subsidy	0.01[371]
	2016 Vocational Skills Training Fund Subsidy	0.62
	2016 Annual Over-Provisional Employment Incentives for Disabled People	0.62
	Stable Post Subsidy	0.02[372]
	Job Stabilization Subsidy	0.62
	Work Injury Prevention Advanced Unit Bonus	0.62
	Nanshan District Talent Service Guidance Allowance	0.62
	Work Injury Insurance Reward	0.62
	Financial Crisis Merger and Reorganization Subsidy	0.62
	Tax Return Fee	0.62
	Economic Finance and Tax Contribution Award	0.62
	Financial Contribution Award	0.62
	Tax Handing Fee Refund	0.62
	Return of Investment Money and Interest	0.62
	Tax Bureau Returns Land Use Tax	0.62
	Old Car Scrap Subsidy	0.62
	Total AFA Rate:	**177.43%**

[371] *Id.*
[372] *Id.*