C-570-105
Investigation
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July 22, 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 Affirmative Determination: Countervailing Duty Investigation of Carbon and Alloy Steel Threaded Rod from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of carbon and alloy steel threaded rod (steel threaded rod) 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 21, 2019, Commerce received petitions filed in proper form by Vulcan Threaded Products Inc. (the petitioner), a domestic producer of steel threaded rod, seeking the imposition of antidumping duties (AD) and countervailing duties (CVD) on imports of steel threaded rod from China.[1] In accordance with section 702(b)(1) of the Act, the petitioner alleged that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of steel threaded rod in China and that imports of such products are materially injuring, or threatening material injury to, the domestic steel threaded rod industry in the United States.

[1] *See* Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand," dated February 21, 2019 (the Petitions); *see also* Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Clarification of Petitioner Name," dated March 1, 2019.

On March 13, 2019, Commerce initiated an investigation with respect to 19 alleged countervailable subsidy programs provided by the GOC to the steel threaded rod industry.[2]

On April 10, 2019, Commerce selected Ningbo Zhongjiang High Strength Bolts Co., Ltd. (Zhongjiang Bolts) and Zhejiang Junyue Standard Part Co., Ltd. (Junyue), the two largest publicly identifiable producers/exporters of the subject merchandise by volume, for individual examination as mandatory respondents in this investigation.[3]

On April 10, 2019, Commerce issued the initial questionnaires to the GOC.[4] In that letter, Commerce instructed the GOI to forward the questionnaire to the selected mandatory respondents.[5] On April 29, 2019, Junyue[6] and Zhongjiang Bolts[7] submitted affiliation responses. On May 29, 2019, the GOC,[8] Junyue and its cross-owned affiliate Jiaxing Xinyue Standard Part Co., Ltd. (Xinyue),[9] and Zhongjiang Bolts and its cross-owned affiliates Ningbo Zhongjiang Petroleum Pipes & Machinery Co., Ltd. (Zhongjiang Machinery), and Ningbo Zhongmin Metal Product Co., Ltd. (Zhongmin Metal),[10] submitted their initial questionnaire responses. In May and June 2019, we sent supplemental questionnaires to the GOC,[11] Junyue,[12] and Zhongjiang

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[2] *See* Memorandum, "Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from the People's Republic of China," dated October 10, 2018 (Initiation Checklist); *see also Carbon and Alloy Steel Threaded Rod from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 84 FR 10040 (March 19, 2019) (*Initiation Notice*).
[3] *See* Memorandum, "Countervailing Duty Investigation of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Respondent Selection," dated April 10, 2019.
[4] *See* Commerce's Letter, "Countervailing Duty Investigation of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Countervailing Duty Questionnaire," dated April 10, 2019 (Initial Questionnaire).
[5] *Id.*
[6] *See* Junyue's Letter, "Alloy Steel Threaded Rod from the People's Republic of China: Section III Identifying Affiliates Response," dated April 29, 2019 (Junyue AQR).
[7] *See* Zhongjiang Bolts' Letter, "Ningbo Zhongjiang Affiliation Response in the Countervailing Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated April 29, 2019 (Zhongjiang Bolts AQR).
[8] *See* GOC's Letter, "GOC Initial CVD Questionnaire Response: Countervailing Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated May 29, 2019 (GOC IQR).
[9] *See* Junyue's Letter, "Alloy Steel Threaded Rod from the People's Republic of China: Junyue Section III Questionnaire Response," dated May 29, 2019 (Junyue IQR); and Xinyue's Letter, "Alloy Steel Threaded Rod from the People's Republic of China: Jiaxing Xinyue Section III Questionnaire Response," dated May 29, 2019 (Xinyue IQR).
[10] *See* Zhongjiang Bolts' Letter, "Zhongjiang Bolts Initial CVD Questionnaire Response in the Countervailing Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated May 29, 2019 (Zhongjiang Bolts IQR).
[11] *See* GOC's Letter, "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: GOC Supplemental Questionnaire," dated June 7, 2019 (GOC SQ).
[12] *See* Junyue's Letters, "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Junyue First Supplemental Questionnaire," dated May 7, 2019; "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Junyue Second Supplemental Questionnaire," dated June 7, 2019; and "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Supplemental Questionnaire," dated June 25, 2019.

Bolts.[13] In May, June, and July 2019, the GOC,[14] Junyue,[15] and Zhongjiang Bolts[16] submitted supplemental responses.

On June 12, 2019, the petitioner timely submitted new subsidy allegations for seven programs.[17] On June 24, 2019, Zhongjiang Bolts submitted rebuttal comments with respect to one of the new subsidy allegations.[18] We are still examining the new subsidy allegations and will consider whether to initiate an investigation with respect to these alleged subsidy programs after this preliminary determination.

On June 21, 2019, the petitioner submitted benchmark information.[19] On July 24, 2019, Junyue and Zhongjiang Bolts submitted benchmark information.[20]

B. Postponement of Preliminary Determination

On April 19, 2019, based on a request by the petitioner,[21] Commerce postponed the preliminary determination in this investigation to July 22, 2019, in accordance with section 703(c)(1) and (2) of the Act and 19 CFR 351.205(e).[22]

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[13] *See* Zhongjiang Bolts' Letters, "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Zhongjiang Bolts First Supplemental Questionnaire," dated May 10, 2019; and "Investigation of Countervailing Duty on Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Zhongjiang Bolts Second Supplemental Questionnaire," dated June 7, 2019.

[14] *See* GOC's Letter, "GOC First Supplemental CVD Questionnaire Response: Countervailing Duty Investigation on Carbon and Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated June 24, 2019 (GOC SQR).

[15] *See* Junyue's Letters, "Alloy Steel Threaded Rod from the People's Republic of China: Junyue First Supplemental Questionnaire Response," dated May 14, 2019; "Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Junyue Second Supplemental Questionnaire Response," dated June 20, 2019 (Junyue SQR2); and "Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Junyue Third Supplemental Questionnaire Response," dated July 2, 2019.

[16] *See* Zhongjiang Bolts' Letters, "Zhongjiang Bolt's First Supplemental Questionnaire Response in the Countervailing Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated May 17, 2019; and "Zhongjiang Bolts 2nd Supplemental CVD Questionnaire Response in the Countervailing Duty Investigation on Carbon and Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated June 24, 2019 (Zhongjiang Bolts SQR2).

[17] *See* Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from China: New Subsidy Allegations," dated June 12, 2019 (New Subsidy Allegation).

[18] *See* Zhongjiang Bolts' Letter, "Zhongjiang Bolts' Rebuttal Comments on Petitioner's New Subsidy Allegations: Countervailing Duty Investigation of Alloy Steel Threaded Rod from the People's Republic of China (C-570-105)," dated June 24, 2019.

[19] *See* Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from China: Submission of Data for LTAR Benchmarks," dated June 21, 2019.

[20] *See* Junyue's Letter, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Benchmark Submission," dated June 24, 2019 (Junyue Benchmark Submission); and Zhongjiang Bolts' Letter, "Zhongjiang's Benchmark Submission: Countervailing Duty Investigation of Alloy Steel Threaded Rod from the People's Republic of China – C-570-105," dated June 24, 2019 (Zhongjiang Bolts Benchmark Submission).

[21] *See* Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from China: Request to Extend Preliminary Determination Deadline," dated March 29, 2019.

[22] *See Carbon and Alloy Steel Threaded Rod from India and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 17379 (April 25, 2019). In accordance with Commerce's practice, where a deadline falls on a weekend or federal holiday, the appropriate

C. Period of Investigation

The period of investigation (POI) is January 1, 2018 through December 31, 2018. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

III. SCOPE COMMENTS

In accordance with the Preamble to Commerce's regulations,[23] we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of that notice.[24] We received several comments concerning the scope of the concurrent AD and CVD investigations of steel threaded rod. *See* the scope memorandum issued concurrently with this preliminary determination for our consideration of the parties' comments.[25]

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by the scope of this investigation is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A320 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554-36, ASTM F1554-55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any

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deadline is the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 2930, As Amended*," 70 FR 24533 (May 10, 2005).

[23] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[24] *See Initiation Notice*, 84 FR at 10040-41.

[25] *See* Memorandum, "Carbon and Alloy Steel Threaded Rod from India, Taiwan, Thailand, and the People's Republic of China*:* Scope Comments Decision Memorandum for the Preliminary Determinations," dated July 22, 2019.

other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of this investigation whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of this investigation are: (1) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Excluded from the scope of the antidumping investigation on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 17154 (April 14, 2009).

Specifically excluded from the scope of this investigation is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

V. INJURY TEST

Because China is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On April 8, 2019, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of steel threaded rod from China.[26]

VI. 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:

[26] *See Carbon and Alloy Steel Threaded Rod from China, India, Taiwan, and Thailand*, 84 FR 14971 (April 12, 2019).

> {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.[27]

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.[28] 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.[29] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[30]

VII. 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.[31] 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.

VIII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

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

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting

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[27] *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.
[28] *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), and accompanying IDM at Comment 1.
[29] Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.
[26] *See* Public Law 112-99, 126 Stat. 265 §1(b)
[31] *See* Memorandum, "China Statistical Yearbook Memorandum," dated concurrently with this memorandum.

to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the AFA rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."[32] 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."[33] At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[34] It is Commerce's practice to consider information to be corroborated if it has probative value.[35] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[36] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[37] Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.[38]

Under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[39]

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[32] *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).
[33] *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.
[34] *See, e.g.*, SAA at 870.
[35] *Id.* at 870.
[36] *Id.* at 869.
[37] *Id.* at 869-870.
[38] *See* section 776(c)(2) of the Act.
[39] *See* section 776(d)(3) of the Act.

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

B. Application of AFA: Export Buyer's Credits

As discussed below under the section "Programs Preliminarily Determined 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 Credit program because the GOC did not provide the requested necessary information needed to allow Commerce to fully analyze this program.

In our Initial 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 ExIm under the Buyer Credit Facility."[40] 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 "none of the respondents or their U.S. customers applied for, used, or benefited from, this alleged program during the POI. Therefore, this question is not applicable, and as a consequence, the {standard questions} appendix is not applicable."[41]

In its initial CVD questionnaire response, the GOC stated that the EX-IM Bank confirmed that it strictly limits the provision of Export Buyer's Credits to business contracts exceeding 2 million U.S. dollars (USD).[42] In that same response, the GOC provided a copy of its *7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China*.[43] Information in that document indicates that the GOC revised this program in 2013 to eliminate this minimum requirement.[44] Thus, we requested in our Initial CVD Questionnaire that the GOC also provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the Export Buyer's Credit Supplemental Questionnaire Response. This request included the 2013 *Administrative Measures* revisions (2013 Revisions) to the Export Buyer's Credit program. In its response, the GOC

[40] *See* Initial Questionnaire at 4.
[41] *See* GOC IQR at 7.
[42] *Id.* at Exhibit II.A.EBC.1.
[43] *Id*. at Exhibit II.A.EBC.4 (Export Buyer's Credit Supplemental Questionnaire Response); *see also Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017).
[44] *See* GOC IQR at Exhibit II.A.EBC.4 (Export Buyer's Credit Supplemental Questionnaire Response); *see also* Memorandum, "Countervailing Duty Investigation of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Placement of Additional Information on the Record," dated concurrently with the memorandum, at Attachment 5 (Citric Acid Verification Report) at 2.

failed to provide the 2013 Revisions.[45] We, therefore, again requested that the GOC provide the 2013 Revisions.[46] In response, the GOC stated that the "Ex-Im Bank has confirmed to the GOC that its 2013 guidelines are internal documents that cannot be provided" and asserted that "{t}his document is not necessary to establish non-use of this program."[47] Through its response to Commerce's initial and supplemental questionnaires, the GOC has twice refused to provide the requested information or any information concerning the 2013 program revision, which is necessary for Commerce to analyze how the program functions.

We requested the 2013 Revisions because information on the record of this proceeding indicated that the 2013 Revisions affected important program changes. For example, the 2013 Revisions may have eliminated the 2 million USD contract minimum associated with this lending program.[48] By refusing to provide the requested necessary 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 properly verified.

Additional information in the GOC's initial questionnaire response also indicated that the loans associated with this program are not limited to direct disbursements through the EX-IM Bank.[49] Specifically, this record information indicates that customers can open loan accounts for disbursements through this program with other banks.[50] The funds are first sent from the EX-IM Bank to the importer's account, which could be at the EX-IM Bank or other banks, and that these funds are then sent to the exporter's bank account.[51] Given the complicated structure of loan disbursements for this program, Commerce's complete understanding of how this program is administered is necessary. Thus, the GOC's refusal to provide the 2013 Revisions, which provide internal guidelines for how this program is administrated by the EX-IM Bank, impeded Commerce's ability to conduct its investigation of this program.

In response to our request that it provide a list of all partner/correspondent banks involved in disbursement of funds under the program, the GOC claimed that none of the respondents' U.S. customers applied for or used this program; to support its claim, the GOC provided screen shots of the search results of the Ex-Im Bank's database.[52] The GOC asserted that, "{s}ince this database covers the entire universe of users and the search results yielded no hits, there is no need to identify theoretical partner banks. Moreover, since Commerce only requests usage information regarding the respondents' U.S. customers, there is certainly no need to provide information regarding any banks the Ex-Im Bank partners within other parts of the world."[53] 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

[45] *See* GOC IQR at 9.
[46] *See* GOC SQ at 1.
[47] *See* GOC SQR at 2.
[48] *See* Citric Acid Verification Report.
[49] *See* GOC IQR at Exhibit II.A.EBC.4.
[50] *Id*.
[51] *Id*.
[52] *See* GOC IQR at 9 and Exhibit II.A.EBC.2.
[53] *Id*. at 9.

pursuant to the credit. There will not necessarily be an account in the name "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.

Pursuant to section 776(a)(1) of the Act, we find that necessary information is missing from the record for Commerce to have a clear understanding of how this program operates and to be able to verify purported claims of non-use of this program. Furthermore, pursuant to sections 776(a)(2)(A) and (2)(C) of the Act, when an interested party withholds information requested by Commerce and significantly impedes a proceeding, Commerce uses facts otherwise available. We find that the use of facts otherwise available is appropriate in light of the GOC's refusal to provide the 2013 Revisions, which is necessary information for Commerce to make a determination regarding this program.

Further, pursuant to section 776(b) of the Act, we find that the GOC failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted. Specifically, the GOC has not provided complete information concerning the administration and operation of the program, including how loans are disbursed (*e.g.*, the 2013 Revisions), such as through intermediate or correspondent banks, the identities of which the GOC has withheld from Commerce, or whether the EX-IM Bank employs threshold criteria, such as minimum 2 million USD contract value. This information is necessary to understand fully how the Export Buyer's Credits program operates, and is, therefore, critical to Commerce's ability to verify the program's operation and the accuracy of the GOC's claims, including with respect to the respondents' claimed non-use of this program. By not providing us with this critical information, we find that the GOC failed "to do the maximum it is able to do."[54]

The GOC SQR indicated the GOC's refusal to provide information about the internal administration of the program.[55] 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 EX-IM 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 EX-IM Bank. In that regard, in the context of this program, EX-IM Bank database screen shots are insufficient for Commerce to find this program to be not used. As explained above, without understanding how this program operates we cannot ascertain what a proper database search entails. For example, we do not know whether the searches should have been performed using the U.S. customers' names or on other entities (for example, the partner/correspondent banks that worked with the U.S. customers rather than the U.S. customers themselves). Nor do we know whether there are different electronic systems for different types of credits and, as a result, we cannot ascertain that the screen shots are for searches of the proper system. 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, administrative measures, Commerce would not even know what books and

[54] *See Nippon Steel Corp v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003).
[55] *See* GOC SQR at 2.

records the EX-IM Bank maintains in the ordinary course of its operations). Essentially, Commerce is unable to verify the little information on the record indicating non-usage (*e.g.*, the claims and screen shots of the GOC and emails and certifications from U.S. customers[56]), with the exporters, U.S. customers, or at the EX-IM Bank itself given the refusal of the GOC to provide the 2013 Revisions and a complete list of correspondent/partner/intermediate banks. Therefore, we determine that the GOC has not cooperated to the best of its ability and, as AFA, find that the respondents used and benefited from this program.

For these reasons, 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 EX-IM Bank, provide loans at preferential rates for the purchase of exported goods from China.[57] In addition, the program was alleged by the petitioners as an example of a possible export subsidy.[58] Finally, Commerce has found this program to be an export subsidy in the past.[59] 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.

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

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[56] Both Junyue and Zhongjiang Bolts submitted declarations from their U.S. customers claiming non-use of this program. *See* Junyue IQR at Exhibit 10; and Zhongjiang Bolts IQR at Exhibits III.A.3a and III.A.3b.
[57] *See* GOC IQR at Exhibits II.A.EBC.1, II.A.EBC.4, and II.A.EBC.5.
[58] *See* GOC's Letter, "Carbon and Alloy Steel Threaded Rod from China: Response to Questionnaire on Countervailing Duty Petition," dated March 1, 2019 at 4.
[59] *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.
[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), 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), 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), 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."

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 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 AFA 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 AFA 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. 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.

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[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").
[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.

The Act anticipates a two-step process for determining an appropriate AFA 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 AFA, Commerce determines that the situation warrants a rate different than the rate derived from the hierarchy be applied.[65]

In applying the AFA 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 AFA hierarchy in CVD cases to select an appropriate AFA rate.[68]

In applying our AFA 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.

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[65] This differs from AD proceedings, for which no hierarchy applies, under section 776(d)(1)(B) of the Act. 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.

[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).

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 AFA rate for a particular program. In investigations, for example, this "pool" of rates could include the rates for the same or similar programs used in either that same investigation, or prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy, therefore, does not focus on identifying the highest possible rate that could be applied from among that "pool" of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

Under the first step of Commerce' 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 AFA 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 AFA 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]

[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

Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an AFA rate under section 776(d)(1) of the Act; that is, after "an evaluation of the situation that resulted in the application of an adverse inference," we may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate. There are no facts on this record that suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as AFA.

Notwithstanding the mandatory respondents' claims of non-use, we find AFA is warranted for the export buyers credits program. To fully analyze whether the program is run in the same manner, as we have discussed in other proceedings investigating this program, 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.[71]

C. 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 solicited information needed to determine whether the provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provides a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision is specific within the meaning of section 771(5A) of the Act.

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces and the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, Commerce requested, *inter alia*: Provincial Price Proposals for each province in which mandatory respondents or any company "cross-owned" with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place

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.

[71] *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").

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.[72] Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, to identify entities that manage and impact price adjustment processes, and to examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

In its initial questionnaire response, the GOC stated that "the electricity price in China is based on market dynamics and reflects the equilibrium between supply and demand, and as a consequence, Commerce should not continue relying on an outdated view of the Chinese electricity market and the electricity pricing system."[73] Specifically, as of the issuance of the "Notice of National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City) {2015 No. 748}," and "Notice of National Development and Reform Commission on Lowering Coal-fired Electricity On-grid Price and General Industrial and Commercial Electricity Price {2015 No. 3105}," the NDRC no longer reviews, *i.e.*, approves, electricity pricing schedules submitted to it by the provinces.[74] Therefore, according to the GOC, Provincial Price Proposals no longer exist and did not exist during the POI. Furthermore, the GOC also stated that, as a result of Notice 748, provincial price departments develop and establish grid and electricity sales prices.[75] Consequently, according to the GOC, the NDRC no longer has any impact on prices, which are set autonomously at the provincial level.

Notice 748 is based upon consultations between the NDRC and the National Energy Administration.[76] Article 1 contained therein stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.[77] Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts. Article 2 indicates that the "{t}he reduction of coal-fired power generation price" would be "mainly used for reducing the price of industrial and commercial electricity."[78] Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.[79] Articles 6 and 7, respectively, indicate that provincial pricing authorities shall "develop and issue specific adjustment plan of electricity price and sales price in accordance with {the} average price adjustment standards of Annex 1, and reported to {the NDRC} for the record," and that the "above price adjustment should be implemented since April 20, 2015."[80] Finally, Article 10

[72] *See* Initial Questionnaire at Section II: Electricity Appendix.
[73] *See* GOC IQR at 25.
[74] *Id.* at Exhibits II.E.ELEC.1 and II.E.ELEC.C.
[75] *Id.* at Exhibits II.E.ELEC.1
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] *Id.*

directs that, "{l}ocal price departments shall organize and arrange carefully to put in place the electricity price adjustment measures."[81]

NDRC Notice 3105, also based upon consultations between the NDRC and the National Energy Administration, directs additional price reductions, and stipulations at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to NDRC.[82] Consequently, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provisional pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.[83] Instead, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices, by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.[84]

With respect to price derivation at the provincial level, Commerce requested information regarding the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process. Specifically, Commerce asked how increases in cost elements led to retail price increases, the derivations of those cost increases, how cost increases were calculated, and how cost increases impacted final prices. The GOC stated that the "NDRC establishes the specific formulas, including the variable factors that need to be considered by the provincial pricing authority in the calculation of the change of electricity on-grid price."[85] Furthermore, "it is for the provincial authorities to make specific calculations of price changes using the specific data of their own provinces based on the variable factors provided in the formula {established by the NDRC}. Such calculation results are filed with the NDRC to ensure that each price adjustment follows the established principles."[86] In reference to a specific electricity price adjustment that took place since mid-2016, the GOC stated that "provincial agencies (*e.g.*, provincial price bureaus or reform and development commissions) are delegated authority to prepare and publish the price adjustment packages/schedules for their own jurisdictions respectively, and there are no provincial price proposals created and there is no NDRC review" and that the "relevant provincial agencies are only required to provide their final adjusted electricity prices schedules to the NDRC for its records"[87] However, the GOC failed to explain, in detail, how the pricing values indicated in the adjustments were derived, including the specific factors or information relied upon by the NDRC.

Commerce additionally requested that the GOC explain, for each province in which a respondent or cross-owned company is located, how increases in labor costs, capital expenses, and transmission and distribution costs are factored into Price Proposals, and how cost element increases, and final price increases were allocated across the province and across tariff end-user categories. The GOC failed to provide a complete response to this request. The GOC stated that

[81] *Id.*
[82] *Id*. at Exhibit II.E.ELEC.C.
[83] *Id*. at Exhibits II.E.ELEC.1 and II.E.ELEC.C.
[84] *Id*.
[85] *Id.* at 28.
[86] *Id.*
[87] *Id.* at 29.

"price proposals were not used by the provinces in preparation of their own schedules of electricity prices. Therefore, the question relating to the proposal is not applicable."[88] In a supplemental questionnaire, we requested that the GOC explain how the NDRC monitors compliance with the price changes directed in Notice 748 and what action the NDRC would take were any province not to comply with the directed price changes.[89] The GOC's response failed to explain what actions the NDRC would take in the event of non-compliance with a directed price change.[90]

As explained above, the GOC failed to fully explain the roles and nature of the cooperation between the NDRC and provinces in deriving electricity price adjustments. The information provided by the GOC indicates that despite its claim that the responsibility for setting prices within each province has moved from the NDRC to the provincial governments, the NDRC continues to play a major role in setting and adjusting prices. Furthermore, the GOC failed to explain both the derivation of price reductions directed to the provinces by the NDRC and the derivation of prices by the provinces themselves.

Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record; that the GOC withheld information requested by Commerce; and, that the GOC significantly impeded this proceeding, respectively. Thus, we must rely 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 with our repeated requests for information. As a result, an adverse inference is warranted in the application of facts available.[91] 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.[92] 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.

D. Application of AFA: Provision of Wire Rod and Steel Bar for LTAR

GOC – Whether Certain Wire Rod and Steel Bar Producers Are "Authorities"

As discussed below, under the section "Programs Preliminarily Found to Be Countervailable," Commerce is investigating whether the GOC provided wire rod and steel bar for LTAR. As part

[88] *Id*.
[89] *See* GOC SQ at 3.
[90] *See* GOC SQR at 7.
[91] *See* section 776(b) of the Act.
[92] *See* section 776(b) of the Act.

of its analysis, Commerce sought information that would allow it to analyze whether the producers providing wire rod and steel bar to the mandatory respondents are "authorities" within the meaning of section 771(5)(B) of the Act. 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.[93]

In the Initial Questionnaire, we asked the GOC to respond to the specific questions regarding the producers of wire rod and steel bar and to respond to the Input Producer Appendix for each producer which produced the wire rod and steel bar purchased by the respondents.[94] We instructed the GOC to coordinate with the respondents to obtain a complete list of the wire rod and steel bar producers, including the producers of inputs purchased through a supplier.[95] In response to the Initial Questionnaire, Junyue and Zhongjiang Bolts identified certain of the companies that produced and supplied the wire rod and steel bar purchases during the POI,[96] which the GOC confirmed in its questionnaire responses.[97]

With respect to the respondents' purchases of wire rod and steel bar, while the GOC ultimately provided the identities of certain of the producers of wire rod and steel bar inputs, it did not provide all the information requested of it in the Initial Questionnaire, as discussed below.

In our initial and supplemental questionnaire to the GOC,[98] Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises. We address each group below.

With respect to those enterprises producing wire rod and steel bar that the GOC identified as majority government-owned, Commerce made multiple requests for the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.[99] The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises but, despite Commerce's requests, the GOC did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises.[100]

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[93] *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), and accompanying IDM at "Hot-Rolled Steel for Less Than Adequate Remuneration"; *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."

[94] *See* Initial Questionnaire, Section II at 8-13 and "Input Producer Appendix."

[95] *Id.* Section II, at 8.

[96] *See* Junyue IQR at 26; Junyue SQR2 at 7; and Zhongjiang Bolts IQR at 18.

[97] *See* GOC IQR at Exhibits II.E.WR.A.1 and II.E.SB.A.1; and GOC SQR at Exhibit S1.10.

[98] *See* Initial Questionnaire, at Section II, "Input Producer Appendix;" *see also* GOC SQ at 2-3.

[99] *See* Initial Questionnaire, at Section II, "Input Producer Appendix;" *see also* GOC SQ at 2-3.

[100] *See* GOC IQR at Exhibit II.E.WRSB and GOC SQR at 4.

As explained in the Public Bodies Memorandum,[101] record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.[102] Record evidence demonstrates that 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.[103] Therefore, we preliminarily determine that these enterprises are "authorities" within the meaning of section 771(5)(B) of the Act and that Junyue and Zhongjiang Bolts 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.

With respect to those entities producing wire rod and steel bar that were reported as being non-majority government-owned enterprises that produce wire rod and steel bar purchased by Junyue and Zhongjiang Bolts during the POI, while the GOC provided ownership structure and basic registration information, the GOC did not provide other relevant documentation requested by Commerce, including company by-laws, annual reports, and articles of association.[104]

Additionally, while Commerce made attempts to obtain ownership and management information for all the respondents' wire rod and steel bar producers, the GOC did not provide the requested information. For instance, in the GOC IQR, the GOC responded to Commerce's request for CCP information of the wire rod and steel bar producers by stating that it could not obtain the requested information, instead asserting that CCP, the People's Congress, and the CPPCC do not constitute governmental agencies and "there is no governmental data system that compiles or retains information on the political attitude and/or party or organization affiliations of an individual" and that "it is beyond the capacity of the GOC to access the information requested by the Department in this question."[105] In response to Commerce's supplemental questionnaire, in which Commerce reiterated the same requests for information, the GOC again refused to provide a complete response with regard to all requested documentation.[106]

As we explained in the Additional Documents Memorandum,[107] we understand the CCP to exert significant control over economic activities in China. Thus, Commerce finds, as it has in prior CVD proceedings,[108] that the information requested regarding the role of CCP officials and CCP committees in the management and operations of Junyue's and Zhongjiang Bolts' 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.

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[101] *See* Memorandum, "Public Bodies Analysis Memo," dated concurrently with this memorandum (Public Bodies Memorandum).
[102] *Id.* at 35-36 and sources cited therein.
[103] *Id.*
[104] *See* GOC IQR at Exhibits II.E.WR.A.1, II.E.WR.A.2, II.E.SB.A.1, and II.E.SB.A.2; and GOC SQR at Exhibit S1.10.
[105] *See* GOC IQR at Exhibit II.E.WRSB.
[106] *See* GOC SQR at 4.
[107] *See* Memorandum, "Placement of Additional Information on the Record," dated concurrently with this memorandum (Additional Documents Memorandum), at Attachment 2.
[108] *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.

As discussed above, the GOC did not provide complete responses to our numerous requests for information with respect to wire rod and steel bar producers which the GOC claimed to be non-majority government-owned enterprises, including requests for information pertaining to ownership or management by CCP officials. Such information is necessary to our determination of whether the input producers are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the GOC withheld information that was requested of it with regard to the input purchases by Junyue and Zhongjiang Bolts, and impeded this investigation.[109] Accordingly, Commerce must rely on "facts otherwise available" in reaching a determination in this respect. Further, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with requests for information regarding the producers of the wire rod and steel bar from which Junyue and Zhongjiang Bolts purchased during the POI because the GOC did not provide the requested information.[110] Consequently, we find that an adverse inference is warranted in the application of facts available.[111]

As explained in the Public Bodies 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 government authority.[112] Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminarily determine that the non-majority government-owned domestic producers of the wire rod and steel bar purchased by Junyue and Zhongjiang Bolts 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.

For details on the calculation of the subsidy rate for the respondents, *see* below at "Provision of Wire Rod and Steel Bar for LTAR".

GOC – Whether the Provision of Wire Rod and Steel Bar 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 wire rod and steel bar directly, and to provide the amounts (volume and value) purchased by each of the industries.[113] Specifically, our questionnaire asked the GOC to provide lists of the industries in China that purchase wire rod and steel bar directly, using consistent levels of industrial classification, and to:

> 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 the resource or classification scheme the Government normally relies upon to define industries

[109] *See* sections 776(a)(1), (a)(2)(A); and (a)(2)(C) of the Act.
[110] *See* sections 776(a) and (b) of the Act.
[111] *See* section 776(b) of the Act.
[112] *See* Public Bodies Memorandum.
[113] *See* Initial Questionnaire, Section II, at pages 9-10 and 12.

> 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.[114]

The GOC did not provide this information, nor did it explain the efforts it made to compile this information. Instead, the GOC provided an excerpt of the national standard on "Industries Classification in National Economy," which reflect all the economic activities in China and includes steel producer sectors, an excerpt of the general categorization of all economic activities under the United Nations' "International Standard Industrial Classification for All Economic Activities (ISIC)," and Section C on the manufacturing sectors under the ISIC (Rev.4), under which the Chinese manufacturing categorization is developed, including those of wire rod user industrial sectors, and a comparison chart of the National Economy Industry Classification and the ISIC.[115] Additionally, the GOC stated that it does not collect official data regarding the industries in China that purchase wire rod or steel bar directly.[116] When we reiterated our requests for this information in a supplemental questionnaire, the GOC did not provide it.[117]

This information submitted by the GOC, however, is insufficient because it does not report the actual Chinese industries that purchased wire rod and steel bar, the volume and value of each industry's respective purchases for the POI, and the prior two years, as we requested. Consequently, and consistent with past proceedings,[118] we preliminarily determine, in accordance with section 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that necessary information is not available on the record, and that the GOC withheld information that was requested of it, and that the GOC significantly impeded this proceeding, respectively. Thus, we are relying on "facts available" in making our preliminary determination.

Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, we preliminarily determine that an adverse inference is warranted in selecting from among the facts available pursuant to section 776(b) of the Act. In drawing an adverse inference from among the facts available, we find that the purchasers of wire rod and steel bar provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act.

GOC – Whether the Wire Rod and Steel Bar Markets Are Distorted

We asked the GOC several questions regarding the structure of the wire rod and steel bar industries and the production and consumption of wire rod and steel bar during the POI and the

[114] *Id*.
[115] *See* GOC IQR at Exhibits II.E.WR.8.1, II.E.WR.8.2, and II.E.WR.8.3.
[116] *Id*. at 38 and 48.
[117] *See* GOC SQR at 5-6.
[118] *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).

prior two years.[119] Specifically, we requested information on the number of producers, the total volume and value of Chinese domestic consumption and production, the total volume and value of imports of the input, a list of the industries that purchase wire rod and steel bar, a discussion of the laws, plans or policies that address the pricing of wire rod and steel bar, and share of domestic production that is accounted for by companies in which the government maintains a majority ownership or a controlling management interest.

We request such information to inform our analysis of the degree of the GOC's presence in the market and whether such presence results in the distortion of prices. The GOC failed to provide the value of domestic production and the total volume and value of Chinese domestic consumption of wire rod and steel bar. Instead of providing the requested information, the GOC stated that the information was not available.[120] In addition, the GOC did not provide a discussion of any laws, plans, or policies addressing the pricing of wire rod and steel bar, their levels of production, importation, exportation, or capacity development. Instead, the GOC provided the Price Law of China,[121] asserted that it does not regulate the pricing of wire rod or steel bar,[122] and claimed that "the provision of wire rod {and steel bar} is dictated by market forces and not by any plan that sets the levels of production or development of wire rod {and steel bar}."[123] Finally, as noted above, the GOC did not provide a list of industries in China that directly purchase wire rod or steel bar or the amounts pertaining to this. The GOC stated that it does not collect official data regarding the industries that consume wire rod and steel bar directly.[124] Further, the GOC did not indicate that it made any efforts to coordinate with others or obtain this information.

Because the GOC refused to provide the requested information regarding the wire rod or steel bar industries in China, *i.e.*, information regarding the total value of domestic production that is accounted for by companies in which the government maintains an ownership or management interest either directly or through other government entities, we determine that necessary information is missing from the record, that the GOC withheld necessary information with regard to the Chinese wire rod and steel bar industries and markets for the POI, and significantly impeded the investigation, within the meaning of section 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, respectively. Therefore, we are relying on facts otherwise available.

Furthermore, we preliminarily determine that the GOC's refusal to provide the information requested constitutes a lack of cooperation under section 776(b) of the Act. The GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.[125] Specifically, Commerce has verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed

[119] *See* Initial Questionnaire at 8-12.
[120] *See* GOC IQR at 35-36 and 44-46.
[121] *Id*. at Exhibit II.E.WR.2.g.
[122] *Id*. at 37 and 47.
[123] *Id*.
[124] *Id*. at 38-39 and 48-49.
[125] *See, e.g.*, *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015), and accompanying IDM at Comment 2.

information of enterprises and other entities and which is intended to bring clarity to companies registered in China.[126] Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.[127] Therefore, we determine that information related to the operation and ownership of companies within the wire rod and steel bar industries, and thus information regarding the domestic production and consumption levels of wire rod and steel bar, are in fact available to the GOC.

Moreover, because the GOC refused to respond meaningfully to our request for information on laws, plans, policies specific to pricing, production, cross-border trades, and development capacity of wire rod and steel bar without substantiation or proper explanation, 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 the wire rod and steel bar market in China, despite the fact that it was able to provide similar information in another proceeding. Consequently, we find that an adverse inference is warranted in the application of facts available.[128] Accordingly, as AFA, we preliminarily determine that the GOC's involvement in the wire rod and steel bar market in China results in the significant distortion of the prices of wire rod and steel bar industries, such that they cannot be used as a tier one benchmarks, and hence, the use of external benchmarks, as described under 19 CFR 351.511(a)(2)(ii), is warranted to calculate the benefit for the provision of wire rod and steel bar for LTAR.

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

> {Commerce} finds that the record information indicates that China's steel industry is characterized by significant government ownership, control and intervention. This broad government intervention across the entire market, extending to all enterprises, coupled with {Commerce's} findings regarding the leading role for SIEs in the steel sector as envisioned and implemented by the GOC, distorts and diminishes the signals faced by all enterprises. Therefore, {Commerce} finds that based on the record of these proceedings, there are no potential benchmarks from the domestic industry that can be considered 'market based' in accordance with the SCM Agreement.[129]

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[126] *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 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), and accompanying IDM.
[127] *Id*.
[128] *See* section 776(b) of the Act.
[129] *See* Memorandum, "Market Distortion Memorandum (contain memoranda and the final determination from "Section 129 Proceeding: United States – Countervailing Duty Measures on Certain Products from the People's Republic of China (WTO/DS437)." This memorandum was placed on the record concurrently with this preliminary

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

E. Application of FA: Other Subsidies

Both Junyue and Zhongjiang Bolts reported in their initial questionnaire response that they and their cross-owned affiliates received direct government grants during the POI and over the average useful life (AUL) period.[130] The GOC did not provide complete responses to Commerce's questions regarding these alleged grants. These questions requested information needed to analyze the programs and determine whether the grants confer a financial contribution pursuant to section 771(5)(D) of the Act and whether they are specific within the meaning of section 771(5A)(B) of the Act and. Commerce's questionnaire requested that the GOC respond to all questions in the standard questions' appendix, the allocation appendix, and the grant appendix.[131] The GOC did not complete the appendices or provide any information about how the programs operate.[132] In a supplemental questionnaire, we again sought information on these programs by asking the GOC to complete the relevant appendices.[133] The GOC responded, "the GOC is not challenging the countervailability of these programs, appendix responses are not necessary. The GOC however confirms the amounts and receipt information reported by the respondents."[134]

Absent information from the GOC, Commerce must rely on "facts available" in making our preliminary determination, in accordance with section 776(a)(1) of the Act. In relying on the facts available in this case, we consider that the GOC's affirmative statement that it is not challenging the countervailability of these programs amounts to a concession that each of the programs are specific within the meaning of section 771(5A) of the Act and confer a financial contribution pursuant to section 771(5)(D) of the Act. We determined that a benefit exists for each grant in the amount of the funds provided under 19 CFR 351.504. *See* below for details on the specific benefit calculation for each grant.

IX. 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.[135] In Commerce's initial questionnaires to the GOC and the mandatory respondents, we notified the respondents to

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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.

[130] *See* Junyue IQR at 27; Xinyue IQR at 16; and Zhongjiang Bolts IQR at 19.

[131] *See* Initial Questionnaire at Grant Programs.

[132] *See* GOC IQR at 25-29.

[133] *See* GOC SQ at 18.

[134] *See* GOC SQR at 18.

[135] *See* 19 CFR 351.524(b).

this proceeding that the AUL period would be 12 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2017).[136] No party submitted comments challenging this AUL period, and we, therefore, preliminarily determine that a 12-year period is appropriate to allocate benefits from non-recurring benefits.

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

B. Attribution of Subsidies

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

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

> {T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[137]

[136] *See* U.S. Internal Revenue Service Publication 946 (2017), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.
[137] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

Thus, Commerce's regulations make clear that we must look at the facts presented in each case to determine whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[138]

Junyue

As discussed above, we selected Junyue as a mandatory respondent. Junyue responded to Commerce's questionnaire on behalf of itself and its cross-owned affiliate Xinyue.[139]

Junyue is the main producer of the subject merchandise.[140] Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Junyue to its own sales.

Xinyue produced subject merchandise prior to the POI but stopped production and sales of merchandise prior to the POI.[141] Xinyue reported its non-recurring subsidies received prior to the asset sale.[142] We note that all subsidies received by Xinyue during the AUL period are expensed in the year of receipt and thus not allocable to the POI. Therefore, the issue of whether to attribute non-recurring subsidies received by Xinyue is moot.

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

Zhongjiang Bolts

As discussed above, we selected Zhongjiang Bolts as a mandatory respondent. Zhongjiang Bolts responded to Commerce's questionnaire on behalf of itself and its cross-owned affiliates Zhongjiang Machinery, and Zhongmin Metal.[143]

Zhongjiang Bolts is the main producer of the subject merchandise.[144] Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Zhongjiang Bolts to its own sales.

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[138] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[139] *See, generally*, Zhongjiang Bolts AQR.
[140] *See* Junyue IQR.
[141] *See* Junyue AQR at 4.
[142] *See* Xinyue IQR at 1.
[143] *See, generally*, Zhongjiang Bolts AQR.
[144] *See* Zhongjiang Bolts IQR.

Zhongjiang Machinery produced subject merchandise prior to the POI but, prior to the POI, sold substantially all of its production assets to Zhongjiang Bolts; Zhongjiang Machinery did not export subject merchandise during the POI.[145] Zhongjiang Machinery reported its non-recurring subsidies received prior to the asset sale.[146] We note that all subsidies received by Zhongjiang Machinery during the AUL period are expensed in the year of receipt and thus not allocable to the POI. Therefore, the issue of whether to attribute non-recurring subsidies received by Zhongjiang Machinery is moot.

In this investigation, Zhongjiang Bolts reported that Zhongmin Metal "participated in the production process of subject merchandise during the POI by providing tolling services in the form of wire rod drawing for Zhongjiang Bolts."[147] Zhongmin Metal is owned by the son-in-law of the owners of Zhongjiang Bolts.[148] Zhongmin Metal only provided cold-drawing services to Zhongjiang Bolts and did not have any other business activities during the POI.[149] Moreover, Zhongjiang Bolts leases a workshop from Zhongmin Metal while Zhongmin Metal leases some production equipment from Zhongjiang Bolts.[150]

Section 351.525(b)(6)(vi) of Commerce's regulations states that 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. While this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations, the *Preamble* states that "the underlying rationale for attributing subsidies between two separate corporations is that the interests of those 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 ways it can use its own assets (or subsidy benefits)."[151] Hence, there may be situations where, due to a combination of other factors, the standard is met even where there is no majority voting ownership interest between, or common ownership of, the corporations.

Based the totality of the evidence regarding the relationship between Zhongjiang Bolts and Zhongmin Metal, we preliminarily determine that Zhongjiang Bolts and Zhongmin Metal are cross-owned, pursuant to 19 CFR 351.525(b)(6)(vi), because record evidence indicates that Zhongjiang Bolts is in a position to use or direct the individual assets of Zhongmin Metal in essentially the same ways that it can use its own assets. Because Zhongmin Metal is providing an input that is primarily dedicated to the production of subject merchandise in the form of cold-drawing services, we have preliminarily attributed Zhongmin Metal's subsidies to Zhongjiang Bolts under 19 CFR 351.525(b)(6)(iv). This is consistent with our practice in other proceedings with similar circumstances.[152]

[145] *See* Zhongjiang Bolts AQR at 4.
[146] *Id*.
[147] *Id*.
[148] *Id*.
[149] *See* Zhongjiang Bolts SQR2 at 1.
[150] *See* Zhongjiang Bolts AQR at 4; and Zhongjiang Bolts IQR at 21.
[151] *See CVD Preamble*, 63 FR at 65401.
[152] *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*

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

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 at issue.[153] As discussed in further detail below under "Programs Preliminarily Determined to be Countervailable," where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or, when appropriate, the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator, in accordance with 19 CFR 351.525(b)(4). All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* the Junyue Preliminary Calculation Memorandum[154] and the Zhongjiang Bolts Preliminary Calculation Memorandum.[155]

X. BENCHMARKS AND DISCOUNT RATES

We are investigating loans received by Junyue and Zhongjiang Bolts from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.[156] The derivation of the interest rate benchmark and discount rates used to value these subsidies is discussed below.

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

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, we use comparable commercial loans reported by the company as a benchmark.[157] If the firm

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Determination, 76 FR 55012, 55017-18 (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), and accompanying IDM at "III. Attribution of Subsidies."

[153] *See* 19 CFR 351.525(b)(1)-(5).

[154] *See* Memorandum, "Zhejiang Junyue Standard Part Co., Ltd.; Calculations for the Preliminary Determination," dated concurrently with this memorandum (Junyue Preliminary Calculation Memorandum).

[155] *See* Memorandum, "Ningbo Zhongjiang High Strength Bolts Co., Ltd.; Calculations for the Preliminary Determination," dated concurrently with this memorandum (Zhongjiang Bolts Preliminary Calculation Memorandum).

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

[157] *See* 19 CFR 351.505(a)(3)(i).

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."[158]

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from China*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.[159] On July 21, 2017, Commerce conducted a reassessment of China's financial system for CVD benchmarking purposes.[160] Based on this re-assessment, Commerce concluded that, despite reforms to date, the Government of China's role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondent 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 is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.[161]

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*.[162] 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.[163] Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2017.[164] 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

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[158] *See* 19 CFR 351.505(a)(3)(ii).
[159] *See CFS from China* IDM at Comment 10.
[160] *See* Memorandum, "Review of China's Financial System Memorandum," under cover dated concurrently with this memorandum.
[161] *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 C*ertain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 16055 (April 13, 2018).
[162] *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.
[163] *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).
[164] *Id.*

discount rates for 2010-2017. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.[165]

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.[166] For 2010, however, the regression does not yield that outcome for China's income group.[167] 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.[168] First, we did not include those economies that Commerce considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.[169] Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[170]

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[165] *See, e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying PDM at "Benchmarks and Discount Rates," unchanged in *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*).

[166] *See* Interest Rate Benchmark Memorandum; *see also* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.

[167] *See* Interest Rate Benchmark Memorandum; *see also* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.

[168] *See* Interest Rate Benchmark Memorandum; *see also* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.

[169] *See* Interest Rate Benchmark Memorandum; *see also* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.

[170] *See* Interest Rate Benchmark Memorandum; *see also* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.

B. Long-Term RMB-Dominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, Commerce developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.[171]

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.[172] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[173]

The resulting inflation-adjusted benchmark lending rates are provided in the preliminary calculation memoranda for the respondents.[174]

C. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.[175]

D. Input Benchmarks

Both respondents reported purchases of wire rod and steel bar during the POI for the production of subject merchandise.[176]

Section 351.511(a)(2) of Commerce's regulations sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for 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).[177] For all of these inputs, as discussed above under "Use of Facts Otherwise Available and Adverse Inferences,"

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[171] *See*, *e.g.*, *Thermal Paper from China* IDM at 10.
[172] *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.
[173] *See* Interest Rate Benchmark Memorandum.
[174] *See* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.
[175] *See* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum.
[176] *See* Junyue IQR at 25; and Zhongjiang Bolts IQR at 18.
[177] *See* 19 CFR 351.511(a)(2).

we preliminarily determine that each of Zhongjiang Bolts' and Junyue's domestic input producers of wire rod and steel bar are "authorities." Therefore, prices from these companies' domestic input producers are not suitable as benchmark prices. Furthermore, as discussed in the section titled "*GOC – Whether the Wire Rod and Steel Bar Markets Are Distorted*," we are relying on "tier two" (world market) prices for calculating benchmarks for the provision of wire rod and steel bar.

The petitioner provided MEPS (International) Ltd. (MEPS) steel prices for broad categories of wire rod and steel bar.[178] Junyue also provided MEPS steel prices for broad categories of wire rod and steel bar, as well as UN Comtrade price data for five more specific HTSUS categories covering wire rod and steel bar.[179] Zhongjiang Bolts provided prices for a broad category of "rods and rounds," which includes wire rod and steel bar, from Metal Expert, Steelworld, and Steelguru, as well as UN Comtrade price data for five more specific HTSUS categories covering wire rod and steel bar.[180]

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

These proposed benchmark values are comparable to the wire rod and steel bar that the respondents use in the production of subject merchandise, and we preliminarily calculated the benchmark for wire rod and steel bar using an average of the data submitted by the petitioner and the respondents. However, we did not use UN Comtrade data submitted by Junyue. A comparison of the UN Comtrade data submitted by Junyue and the UN Comtrade data submitted by Zhongjiang Bolts reveals that the UN Comtrade data submitted by Junyue is incomplete; for example, the UN Comtrade data submitted by Junyue does not include exports of HTS number 721391 by either Bulgaria or Kenya.[181] Junyue did not explain why it excluded such data. Accordingly, we have not used the UN Comtrade data submitted by Junyue.

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect "delivered prices" and include import and delivery charges. Accordingly, we added international freight charges, VAT, and import duties on applicable purchases, to calculate the price that a respondent would have paid on the world market for these inputs.[182]

The petitioner, Junyue, and Zhongjiang Bolts provided ocean freight rates to be considered as benchmarks.[183] For the preliminary determination, we relied on the simple average of the public monthly ocean freight data provided by the petitioner and Zhongjiang Bolts. We did not use the ocean freight rates submitted by Junyue because, while the data submitted by the petitioner and

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[178] *See* Petitioner Benchmark Submission at 1 and Exhibit 1.
[179] *See* Junyue Benchmark Submission at 1, and Exhibits 1 and 2.
[180] *See* Zhongjiang Bolts Benchmark Submission at 1, and Exhibits 1 and 9.
[181] *See* Junyue Benchmark Submission at Exhibit 1; and Zhongjiang Bolts Benchmark Submission at Exhibit 9.
[182] *See* Junyue Preliminary Calculation Memorandum; and Zhongjiang Bolts Preliminary Calculation Memorandum.
[183] *See* Petitioner Benchmark Submission at Exhibit 2; Junyue Benchmark Submission at Exhibit 3; and Zhongjiang Bolts Benchmark Submission at Exhibit 5.

Zhongjiang Bolts were contemporaneous with the POI, the quotes submitted by Junyue were from outside the POI (*i.e.*, in 2017).

XI. 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. Policy Loans to the Steel Threaded Rod Industry

The petitioner alleges that policy banks and state-owned commercial banks (SOCBs) in China make loans to steel threaded rod producers on preferential terms as a matter of national level government policy. The petitioner states that the steel and iron industry is the subject of strategic industry planning at all levels of government[184] and has been designated as a "key" industry for government support.[185] The petitioner states that the GOC's Commercial Banking Law requires that banks in China provide loans in accordance with "the guidance of the industrial policies of the State."[186] The petitioner further asserts that policy banks and SOCBs have lent vast sums on favorable terms to Chinese iron and steel producers and exporters.[187]

When examining a policy lending program, Commerce examines whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. If we make such a finding, we rely upon the analysis undertaken in *CFS from China* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.[188]

Record information indicates the GOC placed great emphasis on targeting the steel industry, which includes the steel threaded rod industry for development throughout recent years. For example, in the *National 11th Five-Year Plan for Economic and Social Development (2006-2010)* (11th FYP), the GOC promises to "{a}ccelerate the structural readjustment of superior industries

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[184] *See* Volume VI of the Petition, at 2; *see also, e.g.*, Exhibit VI-1 (containing the National Development and Reform Commission, Development Policy for the Iron & Steel Industry) and Exhibit VI-20 (containing the Shandong Province Iron and Steel Industry 12th Five Year Development Plan, which provides that financial institutions in the province "should conscientiously implement the financing policy of the central government, expand the scale of credit loans, strengthen loan support for backbone iron and steel enterprises to develop new products and extend industrial chains, and promote enterprises' technological renovation and product structure adjustment").
[185] *See* Volume VI of the Petition., at 8 (citing Exhibit VI-4, which states that "{The} Iron and steel industry is an important basic industry of the national economy and the cornerstone of the country").
[186] *See* Volume VI of the Petition, at 14 and Exhibit VI-25.
[187] *See* Volume VI of the Petition, at 14-16 and Exhibit VI-24 (cited by the petitioner as Exhibit VI-26).
[188] *See CFS from China* IDM at Comment 8.

such as iron and steel”.[189] In the *Twelfth Five-Year Outline of the Guidelines for National Economic and Social Development of the People’s Republic of China* (12th FYP), the GOC promises to “encourage enterprises to build up international sales channels to increase their ability to expand international market shares” and “actively develop emerging markets and promote the diversification of the export market.”[190] The 12th FYP seeks to maintain “the current advantage in export markets” while “nurturing of new advantages based on technology, branding, quality and service” “to extend the value-added chain in China.”[191] Further, the 12th FYP seeks to create “a favorable environment to activate the development of SMEs” by “increas{ing} the size and percentage of lending to SMEs, and broaden{ing} channels of direct financing.”[192]

In the current *13th Five-Year Plan For Economic And Social Development Of The People’s Republic Of China (2016-2020)* (13th FYP), the GOC pledges to “set up a fund to provide rewards and subsidies for structural adjustments in industrial enterprises.”[193] The 13th FYP further encourages the “transform{ation} and upgrade {of} major manufacturing technologies and improv{ing} policies to support enterprises… thereby helping key manufacturing sectors move into the medium-high end” and “improv{ing} the supply of consumer goods.[194] To achieve this goal, the 13th FYP states support for the development of “specialized small and medium enterprises,” such as downstream processors.[195] The 13th FYP promotes the development of “a number of competitive, well-known brands” through improvements in both product quality and product supervision.[196] Finally, the 13th FYP calls for lowering business costs by reducing taxes and fees, “maintain{ing} proper liquidity and interest rates,” and extending credit by creating a “national financing guaranty fund.”[197]

In the *Ningbo City Iron and Steel Industry Adjustment and Revitalization Action Plan (2009)*, the Ningbo City provincial government wrote that the 11th FYP “turned the steel industry into one of the five key harbor heavy and chemical industries in Ningbo city and laid a solid foundation for its future development, making Ningbo’s steel industry become an integral part of Zhejiang’s plan to build itself into a steel production base.”[198] The action plan further pledges to “strengthen the efforts to protect the large steel companies and increase the loans provided by policy banks and commercial banks to new projects of steel companies.”[199] In the *13th Five-Year Plan for National Economic and Social Development of Ningbo City* (Ningbo City 13th FYP), the Ningbo government states that they want to “improv{e}the key competitiveness of manufacturing.”[200]

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[189] *See* GOC IQR at Exhibit II.A.LOAN.1 at 11th FYP at 23.
[190] *See* GOC IQR at Exhibit II.A.LOAN.1 at 12th FYP at 59.
[191] *Id*. at 12th FYP at 59.
[192] *Id*. at 12th FYP at 11.
[193] *See* GOC IQR at Exhibit II.A.LOAN.1 at 13th FYP at Chapter 22, Section 5, “An Active and Prudent Approach to Overcapacity.”
[194] *Id*. at 13th FYP at Chapter 22, Section 3, “Transformation and Upgrading of Traditional Industries.”
[195] *Id*.
[196] *Id*. at 13th FYP at Chapter 22, Section 4 “Quality and Brand Development.”
[197] *Id*. at 13th FYP at Chapter 22, Section 6 “Lower Business Costs in the Real Economy.”
[198] *See* GOC SQR at Exhibit S1.2.1 at I. Current Situation of the Steel Industry.
[199] *Id.* at V. Safeguard Measures.
[200] *See* GOC SQR at Exhibit LOAN-14 at Ningbo City 13th FYP at

Additional record evidence indicates that financial support is directed specifically toward certain encouraged industries, including the steel industry. For example, the "*Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment* (Guo Fa {2005} No. 40)" (Decision 40) indicates that the "Catalogue for the Guidance of Industrial Structure Adjustment" (Guidance Catalogue) is an "important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export, *etc.*"[201] Decision 40 further indicates that projects in "encouraged" industries shall be provided credit support in compliance with credit principles.[202] The "Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue) (2005 version, 2011 version, and 2013 amendment)" specifically includes fasteners and the development of production technology within it, which are categories that include subject merchandise, as encouraged.[203]

A key tool in the GOC's economic development plans is preferential lending. The GOC uses preferential lending to pursue economic development goals through the 13th FYP, which sets a target of maintaining "proper liquidity and interest rates, creat{ing} new direct financing product suitable to the needs of enterprises and establishing a national financing guaranty fund."[204]

Accordingly, given the policy and plans discussed above, we preliminarily determine that there is a program of preferential policy lending specific to producers of steel threaded rod within the meaning of section 771(5A)(D)(i) of the Act. Additionally, we preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are "authorities."[205] The loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.[206]

Junyue and Zhongjiang Bolts both reported loans from SOCBs for which they made interest payments during the POI.[207] Thus, to calculate whether the respondents received a benefit from this program, we compared the amount of interest the respondents paid on the outstanding loans to the amount of interest the companies would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates described in the "Benchmarks and Interest Rates" section above.[208] To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominators, as described in the "Subsidies Valuation" section above.

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[201] *See* GOC IQR at Exhibit II.A.LOAN.6 at Chapter III Article 12.
[202] *Id*. at Chapter III Articles 13, 14, and 17.
[203] *See* GOC IQR at Exhibit II.A.LOAN.3: Directory Catalogue on Readjustment of Industrial Structure (Version 2005) at VII; Catalogue for Guiding Industry Restructuring (2011 Version) at VIII; Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) at Section VIII.
[204] *See* GOC IQR at Exhibit II.A.LOAN.1 at 13th FYP at Chapter 22, Section 6 "Lower Business Costs in the Real Economy."
[205] *See, e.g., CFS from China* IDM at Comment 8.
[206] *See* section 771(5)(E)(ii) of the Act; and 19 CFR 351.505(a).
[207] *See* Junyue IQR at Exhibit 9; and Zhongjiang Bolts IQR at Exhibit III.A.1.
[208] *See* 19 CFR 351.505(c).

On this basis, we preliminarily determine a subsidy rate of 0.84 percent *ad valorem* for Junyue[209] and a subsidy rate of 0.01 percent *ad valorem* for Zhongjiang Bolts.[210]

2. Export Buyer's Credit

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, our preliminary determination regarding the GOC's provision of export buyer's credit is based on AFA. As AFA, we determine that the GOC's provision of export buyer's credit confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A)(A) and (B) of the Act, respectively. Furthermore, we determine on the basis of AFA that Zhongjiang Bolts and Junyue benefitted from this program during the POI within the meaning of section 771(5)(E) of the Act. Consistent with Commerce's AFA rate selection methodology discussed above, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for Junyue and for Zhongjiang Bolts, a rate calculated for the same or similar program in another CVD proceeding involving imports from China.[211]

3. Provision of Wire Rod and Steel Bar for LTAR

Commerce is examining whether the GOC or other "authorities" within China provided Junyue or Zhongjiang Bolts with wire rod and steel bar for LTAR. Both respondents reported that they purchased wire rod and steel bar from unaffiliated parties during the POI.[212]

As explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we preliminarily find that certain producers that provided wire rod and steel bar to respondents 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.[213]

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

Further, as discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we have preliminarily determined, as AFA, that the domestic market for wire rod and steel bar are distorted through the role of the GOC in these markets. Thus, as discussed in the "Input Benchmarks" section above, we are relying on an external benchmark for determining the

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[209] *See* Junyue Preliminary Analysis Memorandum.
[210] *See* Zhongjiang Bolts Preliminary Analysis Memorandum.
[211] *See Coated Paper from China Investigation Amended Final*, 75 FR at 70202 (identifying a revised *ad valorem* subsidy rate of 10.54 percent under "Preferential Lending to the Coated Paper Industry").
[212] *See* Zhongjiang Bolts IQR at Exhibit III.E.3; and Junyue SQR2 at Exhibit S2-8.
[213] *See, e.g., Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 52301 (September 3, 2014), and accompanying IDM at 48-50.

benefit from the provision of wire rod and steel bar for LTAR under section 771(5)(E)(ii) of the Act. To derive the benchmark prices, we included ocean freight and inland freight that would be incurred to deliver inputs to the respondents' production facilities.[214] We also added to the benchmark prices the appropriate import duties applicable to imports of wire rod and steel bar into China, as provided by the GOC.[215] Additionally, we added VAT of 17 percent to the benchmark prices for inputs purchased prior to May 2018 and VAT of 16 percent to the benchmark prices for inputs purchased in May 2018 and thereafter.[216]

We compared these monthly benchmark prices to the purchase prices paid by Junyue and Zhongjiang Bolts for individual domestic transactions, including VAT and delivery charges. We determined the benefit as the difference between the benchmark prices and the prices reported. We divided the total benefits received by the appropriate sales denominators, as described in the "Subsidies Valuation" section above.

On this basis, we preliminarily determine a subsidy rate of 12.29 percent *ad valorem* for Junyue[217] and a subsidy rate of 12.00 percent *ad valorem* for Zhongjiang Bolts.[218]

4. 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 each company. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.

Consistent with our approach in *Wind Towers*, we first calculated each company's variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid during each month of the POI.[219] 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

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[214] *See* Junyue Preliminary Calculation Memorandum; and Zhongjiang Bolts Preliminary Calculation Memorandum.
[215] *See* GOC IQR at 16. Consistent with *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid from China; 2011 Review*), and accompanying IDM at 90. In *Citric Acid from China; 2011 Review*, we utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade.
[216] *See* GOC IQR at 16; and GOC SQR at 6.
[217] *See* Junyue Preliminary Analysis Memorandum.
[218] *See* Zhongjiang Bolts Preliminary Analysis Memorandum.
[219] *See 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.

variable electricity costs paid by the respective company during the POI from the monthly benchmark variable electricity costs.

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

On this basis, we preliminarily determine a subsidy rate of 0.76 percent *ad valorem* for Junyue[220] and a subsidy rate of 0.50 percent *ad valorem* for Zhongjiang Bolts.[221]

5. Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development

Article 30 of the Enterprise Income Tax Law of China and the Article 95 of the Implementing Regulations of the Enterprise Income Tax Law of China provide that, if eligible Research and Development (R&D) expenditures for new technologies, new products, or new manufacturing methods are expensed and not capitalized as intangible assets, an additional 50 percent on top of the actual expense accrual may be deducted from taxable income.[222] If the expenditures are capitalized into intangible assets, the amortization of those assets shall be based upon 150 percent of the actual cost.[223]

We preliminarily determine that this program constitutes a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC. Further, we preliminarily determine that this program is *de jure* specific within the meaning of Section 771(5A)(D)(i) because it is limited by law to companies engaged in R&D of new technologies, new products, or new manufacturing methods. Finally, we preliminarily determine that this program provides a benefit within the meaning of Section 771(5)(E) of the Act equal to the amount of the income tax benefits.

Junyue reported that it received income tax benefits pursuant to this program during the POI.[224] To calculate the benefit Junyue received under this program, we multiplied the reported

[220] *See* Junyue Preliminary Analysis Memorandum.
[221] *See* Zhongjiang Bolts Preliminary Analysis Memorandum.
[222] *See* GOC IQR at 13 and Exhibit II.B.R&D.E.
[223] *Id*.
[224] *See* Junyue SQR2 at 5; and Junyue IQR at 14-18.

deduction by the income tax rate indicated in Junyue's tax return.[225] To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominator, as described in the "Subsidies Valuation" section above.

On this basis, we preliminarily determine a subsidy rate of 0.26 percent *ad valorem* for Junyue.[226]

6. "Other Subsidies"

Both Junyue and Zhongjiang Bolts self-reported various non-recurring subsidies from the GOC during the POI.[227] The subsidies self-reported by Junyue, which conferred a measurable benefit, are as follows (rates included in parentheses)[228]:

(1) Subsidy A (0.01 percent);
(2) Subsidy B (0.01 percent);
(3) Subsidy C (0.01 percent);
(4) Subsidy D (0.01 percent);
(5) Subsidy E (0.09 percent);
(6) Subsidy F (0.06 percent); and
(7) Subsidy G (0.01 percent).

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

(1) Grant on land development (0.20 percent);
(2) Subsidy on tech development (0.03 percent);
(3) Subsidy on exports (0.02 percent);
(4) Subsidy from finance department (0.02 percent);
(5) Grant on project of diversion of rain and sewage water (0.04 percent);
(6) Subsidy from Bureau of Commerce (0.02 percent); and
(7) Subsidy from Economic & Info Bureau (0.03 percent).

As discussed above in the section "Use of Facts Available and Adverse Inferences," we preliminarily determine, pursuant to section 776(a)(1) of the Act, that these subsidies constitute financial contributions under section 771(5)(D)(i) of the Act and are specific under section

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[225] *See* Junyue IQR at 17 and Exhibit 5.
[226] *See* Junyue Preliminary Analysis Memorandum.
[227] *See* Junyue IQR at Exhibit 16; and Zhongjiang Bolts SQR2 at Exhibit III.F (Excel file). In addition, both respondents reported that their cross-owned affiliates, Xinyue and Zhongjiang Machinery, respectively, received similar grants during the AUL but prior to the POI. With respect to all such subsidies, we preliminarily expensed these benefits to the year in which they were received in accordance with 19 CFR 351.524(b)(2). *See* Junyue Preliminary Analysis Memorandum; and Zhongjiang Bolts Preliminary Analysis Memorandum. As a result, we preliminarily determine that none of these subsidies were used by these cross-owned affiliates during the POI.
[228] Junyue requested proprietary treatment of these subsidy names. Following this preliminary determination, we intend to request that Junyue make these subsidy names public. *See* Junyue Preliminary Analysis Memorandum for the subsidy names.

771(5A) of the Act. Further, we preliminarily determine that each of these subsidies confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a). To calculate the benefit received under these programs, we followed the methodology described in 19 CFR 351.524. To calculate the *ad valorem* subsidy rate for these subsidies, we divided the benefit conferred under each of these programs by the appropriate POI sales denominator.

On this basis, we preliminarily determine a subsidy rate of 0.20 percent *ad valorem* for Junyue[229] and a subsidy rate of 0.36 percent *ad valorem* for Zhongjiang Bolts for their respective combined self-reported programs listed above.[230]

B. Programs Preliminarily Determined Not to be Used or Not to Confer a Measurable Benefit During the POI

1. Export Seller's Credit
2. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Plan
3. Preferential Income Tax Program for High and New Technology Enterprises (HNTEs)
4. Preferential Deduction of R&D Expenses for HNTEs
5. Preferential Income Tax Policy for Enterprises in the Northeast Region
6. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
7. Value-Added Tax (VAT) and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund
8. Import Tariff and VAT Exemptions for Foreign-invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported equipment in Encouraged Industries
9. Foreign Trade Development Fund Grants
10. Export Assistance Grants
11. Subsidies for Development of Famous Export Brands and China World Top Brands
12. Export Interest Subsidies
13. Grants for Energy Conservation and Emission Reduction
14. Grants for Retirement of Capacity

Additionally, Junyue and Zhongjiang Bolts reported receiving benefits under various self-reported programs that did not confer a measurable benefit.[231] Based on the record evidence, we preliminarily determine that the benefits from certain programs were fully expensed prior to the POI or are less than 0.005 percent *ad valorem* when attributed to the respondents' applicable sales, as discussed in the "Attribution of Subsidies" section above. Full lists of these programs are contained in the respondents' calculation memoranda.[232]

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229 *See* Junyue Preliminary Analysis Memorandum.
230 *See* Zhongjiang Bolts Preliminary Analysis Memorandum.
231 *See* Junyue IQR at Exhibit 16; and Zhongjiang Bolts IQR at Exhibit III.F.
232 *See* Junyue Preliminary Calculation Memorandum; and Zhongjiang Bolts Preliminary Calculation Memorandum.

XII. ITC NOTIFICATION

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

XIII. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

☒ ☐

__________ __________

Agree Disagree

7/22/2019

X

Signed by: JEFFREY KESSLER

____

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance