



C-570-027
Sunset Review
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August 13, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset
Review of the Countervailing Duty Order on Certain Corrosion-
Resistant Steel Products from the People's Republic of China

I. SUMMARY

We have analyzed the substantive responses of the domestic interested parties in the first sunset review of the countervailing duty (CVD) order covering certain corrosion-resistant steel products (CORE) from the People's Republic of China (China).¹ We did not receive a response from the Government of China (GOC) or from any other respondent interested party. Accordingly, we conducted an expedited (120-day) sunset review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2).² We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of a countervailable subsidy
2. Net countervailable subsidy rate likely to prevail
3. Nature of the Subsidies

¹ See *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (*Order*).

² See *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005). Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response.



II. BACKGROUND

On June 1, 2021, Commerce published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Act.³ Commerce received notices of intent to participate from Cleveland-Cliffs Inc. (Cleveland-Cliffs), United States Steel Corporation (U.S. Steel), California Steel Industries (CSI), Steel Dynamics Inc. (SDI), and Nucor Corporation (Nucor) (collectively, “domestic interested parties”), within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as domestic producers of CORE in the United States.

Commerce received a substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁵ We received no substantive response from any other domestic or interested parties in this proceeding and no hearing was requested. On July 22, 2021, Commerce notified the International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁶ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of this CVD *Order*.

III. HISTORY OF THE *ORDER*

On June 2, 2016, Commerce published its final determination that countervailable subsidies are being provided to producers and exporters of CORE from China.⁷ In the investigation, we determined the following subsidy rates:⁸

Producer/Exporter	<i>Ad Valorem</i> Subsidy Rate
Yieh Phui (China) Technomaterial Co., Ltd (YPC)	39.05
Angang Group Hong Kong Company Ltd (Angang)	241.07
Baoshan Iron & Steel Co., Ltd (Baoshan)	241.07

³ See *Initiation of Five-Year (Sunset) Reviews*, 86 FR 29239 (June 1, 2021).

⁴ See Domestic Interested Parties’ Letters, “Five-Year (‘Sunset’) Review of Countervailing Duty Order on Corrosion-Resistant Steel Products from China: Notice of Intent to Participate in Sunset Review,” dated June 14, 2021; and “Five-Year (‘Sunset’) Review of Antidumping and Countervailing Duty Orders on Corrosion-Resistant Steel Products from China: Notice of Intent to Participate”; “Notice of Intent to participate in the First Five-Year Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from the People’s Republic of China”; and “Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Notice of Intent to Participate in Sunset Review,” each dated June 16, 2021.

⁵ See “Corrosion-Resistant Steel Products from the People’s Republic of China: Substantive Response of the Domestic Interested Parties to Commerce’s Notice of Initiation of Five-Year (‘Sunset’) Reviews,” dated July 1, 2021 (Domestic Interested Parties’ Substantive Response).

⁶ See Commerce’s Letter, “Sunset Reviews Initiated on June 1, 2021,” dated July 22, 2021.

⁷ See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

⁸ See *Final Determination*, 81 FR at 35309 (June 2, 2016).

Duferco S.A. (Duferco); Hebei Iron & Steel Group (Hebei); and Tangshan Iron and Steel Group Co., Ltd (Tangshan)	241.07
Changshu Everbright Material Technology (Changshu)	241.07
Handan Iron & Steel Group (Handan)	241.07
All-Others	39.05

Commerce found the following programs countervailable and to have benefited YPC in the original period of investigation, calendar year 2014:

1. Policy Loans to the Corrosion-Resistant Steel Industry
2. Provision of inputs for Less than Adequate Renumeration (LTAR)
3. Import Tariff and Value-added Tax (VAT) Exemptions for Foreign-Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
4. Reported Grants
5. Export Buyer's Credits from State-owned Banks

Programs Determined Not Used by, or to Not Confer a Measurable Benefit to, YPC during the period of investigation but used to calculate other respondents' Adverse Facts Available (AFA) rates:

1. Programs to Rebate Antidumping Duty (AD) Legal Fees
2. Export Loans
3. Treasury Bond Loans
4. Preferential Loans for State-Owned Enterprises (SOEs)
5. Preferential Loans for Key Projects and Technologies
6. Preferential Lending to Corrosion-Resistant Steel Producers and Exporters Classified as "Honorable Enterprises"
7. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
8. Debt-to-Equity Swaps
9. Equity Infusions
10. Exemptions for SOEs from Distributing Dividends to the State
11. Loans and Interest Forgiveness for SOEs
12. Preferential Income Tax Program for High and New Technology Enterprises (HNTEs)
13. Preferential Income Tax Program for HNTEs in Designated Zones
14. Preferential Deduction of R&D Expenses for HNTEs
15. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
16. Preferential Income Tax Policy for Enterprises in the Northeast Region

17. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
18. Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax
19. Preferential Income Tax Subsidies for FIEs – ‘Productive’ FIEs
20. Preferential Income Tax Subsidies for FIEs – HNTE FIEs
21. Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs
22. Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D
23. Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform
24. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund
25. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
26. Provision of Land to SOEs for LTAR
27. Provision of Iron Ore for LTAR
28. Provision of Steam Coal for LTAR
29. Provision of Coking Coal for LTAR
30. State Key Technology Project Fund
31. Foreign Trade Development Fund Grants
32. Export Assistance Grants
33. Subsidies for Development of Famous Export Brands and China World Top Brands
34. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
35. Grants to Loss-Making SOEs
36. Export Interest Subsidies
37. Grants for Energy Conservation and Emission Reduction
38. Grants for the Retirement of Capacity
39. Grants for Relocating Production Facilities
40. Export Seller’s Credits from State-Owned Bank
41. Export Credit Insurance Subsidies
42. Export Credit Guarantees

Commerce published the *Order* on July 25, 2016, following an affirmative determination by the ITC.⁹ Since implementing the *Order*, Commerce received an administrative review request from the domestic interested parties on July 31, 2019, which Commerce initiated on September 9, 2019.¹⁰ However, on December 4, 2019, the domestic interested parties timely withdrew their review request and Commerce rescinded the CVD administrative review on November 25, 2020.¹¹

⁹ See *Order*.

¹⁰ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019).

¹¹ See Domestic Interested Parties’ Letter, “Corrosion-Resistant Steel products from the People’s Republic of China: Withdrawal of Request for Administrative Review of Countervailing Duty Order,” dated December 4, 2019; see also *Corrosion-Resistant Steel Products from the People’s Republic of China: Rescission of Countervailing Duty Administrative Review*; 2018, 85 FR 75297 (November 25, 2020).

Additionally, Commerce has issued three scope rulings since the issuance of the *Order*. The rulings were summarized in their respective Notices of Scope Rulings and accompanying memos:

Requestor: Unitape USA LLC. Chrome tape (certain chromium-coated steel plate) is not within the scope of the orders; November 10, 2016.¹²

Requestor: Stoughton Trailer LLC. Composite panels (*i.e.*, manufactured composite goods consisting of sheets of CORE bonded to a plastic core) for semi-trailer enclosures are within the scope of the AD and CVD orders; January 12, 2018.¹³

Regarding the Trendium Pool Products scope ruling, initially Commerce ruled that pool kits and pool walls fell within the scope as noted in the *Notice of Scope Rulings*:

Requestor: Trendium Pool Products, Inc. Chinese and Italian CORE components of the pool kits and pool walls exported by Trendium to the United States are within the scope of the antidumping and countervailing duty orders, because they meet the measurement and compositional criteria; May 10, 2018.¹⁴

However, after litigation at the Court of International Trade (CIT), Commerce revised its decision as follows:

Requestor: Trendium Pool Products, Inc. Per the CIT's instructions, Commerce revised an earlier determination regarding above-ground pool kits and pool walls manufactured by Trendium. Pool kit and pool wall components produced by Trendium from Italian- and Chinese-origin CORE are not covered by the scope of the orders on CORE from Italy and China because the plain language of the orders excludes downstream products such as pool kits, and because Commerce erred in conducting *Mid Continent's* two-step analysis on pool kits (which the CIT found to be finished goods); March 19, 2020.¹⁵

Commerce has issued six circumvention determinations since issuance of the *Order*.

Requestors: ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, and AK Steel Corporation, as well as Steel Dynamics, Inc. and California Steel Industries (collectively, CORE Domestic Producers). Following anti-circumvention inquiries, which were initiated in response to requests submitted by CORE Domestic Producers, Commerce determined that imports of CORE, produced in the Vietnam using carbon hot-rolled steel or cold-rolled steel flat products manufactured in China, are

¹² See Memorandum, "Scope Ruling – Unitape – Antidumping and Countervailing Duty Orders on Corrosion Resistant Steel Products from the People's Republic of China," dated November 10, 2016.

¹³ See *Notice of Scope Rulings*, 84 FR 33915 (July 16, 2019).

¹⁴ See *Notice of Scope Rulings*, 84 FR 36577 (July 29, 2019).

¹⁵ See *Notice of Scope Rulings*, 85 FR 60762 (September 28, 2020).

circumventing the antidumping duty and countervailing duty orders on CORE from China; May 23, 2018.¹⁶

Self-initiated: CORE completed in Costa Rica and the United Arab Emirates (UAE) from hot-rolled steel or cold-rolled steel substrate manufactured in China, and subsequently exported to the United States is circumventing the AD and CVD orders on CORE from China. CORE produced in Guatemala is not circumventing the orders; July 6, 2020.¹⁷

On June 7, 2021, Commerce issued its affirmative final circumvention determination for Chinese-origin hot-rolled steel and/or cold-rolled steel substrate completed in Malaysia.¹⁸ Also on June 7, 2021, Commerce issued its negative final determination that CORE completed in South Africa were not circumventing the *Order*.¹⁹

Commerce's final affirmative determination regarding the UAE has been appealed and is currently in litigation at the CIT.²⁰

Commerce has not issued any changed circumstance determinations with respect to the *Order*.

IV. SCOPE OF THE ORDER

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

¹⁶ See *Notice of Scope Rulings*, 84 FR 36577 (July 29, 2019).

¹⁷ See *Notice of Scope Rulings*, 85 FR 77434 (December 2, 2020).

¹⁸ See *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention Involving Malaysia*, 86 FR 30263 (June 7, 2021).

¹⁹ See *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Negative Final Determination of Circumvention Involving South Africa*, 86 FR 30253 (June 7, 2021).

²⁰ See *Al Ghurair Iron & Steel LLC v. United States*, Court No. 20-00142.

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes CORE that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting,

punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope CORE.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order*:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the *Order* may also enter under the following HTSUS subheadings: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce conducted this sunset review to determine whether revocation of the *Order* would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider: (1) the net countervailable subsidy determined in the investigation and any subsequent reviews; and (2) whether any changes in the programs which gave rise to the

net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement).

VI. DISCUSSION OF THE ISSUES

Below we address the comments of the domestic interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

*Domestic Interested Parties' Comments*²¹

Citing to section 752(b)(1) of the Act and the SAA,²² the domestic interested parties assert that an affirmative determination of continuation or recurrence is warranted because the subsidies at issue in the investigation remain in existence and have not been terminated or suspended. The domestic interested parties also note that no administrative reviews of the *Order* have been completed and, thus, the investigation rates remain in place for all exporters and producers. The parties also note that the significant decline in CORE imports from China since imposition of the *Order* demonstrates that continuation of the *Order* is warranted.

Commerce's Position:

As stated above, in determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the SAA, Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.²³ The SAA further states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.²⁴ The presence of programs that have not been used, but have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or

²¹ See Domestic Interested Parties' Substantive Response at 8-16.

²² See Statement of Administrative Action accompanying the URAA, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 888.

²³ See SAA at 888.

²⁴ *Id.*

recurrence of a countervailable subsidy.²⁵ Where a subsidy program is found to exist, Commerce will normally determine that revocation of the relevant order would be likely to lead to continuation or recurrence of a countervailable subsidy, regardless of the level of subsidization.²⁶

Consistent with prior determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.²⁷ To determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.²⁸ Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.²⁹ Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence and was not granted as part of a broader, government program.³⁰

In the investigation, Commerce found that countervailable subsidies were being provided to certain Chinese exporters and producers of CORE under the programs listed above. As noted, Commerce has not completed any administrative reviews since the issuance of the *Order*, and no party submitted evidence to demonstrate that these countervailable programs have expired or have been terminated. Absent argument or evidence of any changes to the programs found countervailable during the investigation, we find that these countervailable programs continue to exist and be used. Therefore, Commerce determines that there is a likelihood of continuation or recurrence of countervailable subsidies if the *Order* were revoked.

²⁵ See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying IDM at Comment 1.

²⁶ *Id.*

²⁷ See, e.g., *Non-Oriented Electrical Steel from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 85 FR 11339 (February 27, 2020), and accompanying IDM at 6; *Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 83 FR 62839 (December 6, 2018), and accompanying IDM at 11; and *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006), and accompanying PDM at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006).

²⁸ See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying IDM at Comment 1.

²⁹ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying IDM at Comment 7.

³⁰ See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying IDM at Comment 1.

2. Net Countervailable Subsidy Rates Likely to Prevail

*Domestic Interested Parties' Comments*³¹

The domestic interested parties assert that, consistent with the SAA and the *Policy Bulletin*, Commerce will normally select the rate determined in the original investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.³² Thus, the domestic interested parties argue that Commerce should report the following CVD rates to the ITC: 39.05 percent for YPC and all others, and 241.07 percent for Angang, Baoshan, Duferco, Hebei, Tangshan, Changshu, and Handan.

Commerce's Position:

Consistent with the SAA and legislative history, Commerce will normally provide the ITC with the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked because, as noted by the domestic interested parties, it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.³³ While section 752(b)(1)(B) of the Act provides that Commerce will consider whether any change in the programs which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy rates, no evidence has been provided that would warrant making a change to the net countervailable subsidy rates found in the investigation. In this instance, Commerce has not completed any administrative review, and Commerce has not adjusted the rates determined for each of the companies or for "all others" in the investigation. As a result, and consistent with section 752(b)(3) of the Act, Commerce will provide to the ITC the net countervailable subsidy rates from the original investigation, as shown in the section titled "Final Results of Sunset Review" of this memorandum.

3. Nature of the Subsidies

In accordance with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of these subsidy programs and whether these programs constitute subsidies that fall within Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired, effective January 1, 2000.

³¹ See Domestic Interested Parties' Substantive Response at 16-17.

³² See Domestic Interested Parties' Substantive Response at 16-17; see also *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871 (April 16, 1998) (*Policy Bulletin*).

³³ See SAA at 890.

Article 3

The following programs fall within the definition of an export subsidy under Article 3.1 of the SCM, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance; and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

1. Export Buyer's Credits from State-Owned Banks³⁴

Article 6.1

The following programs do not fall within the meaning of Article 3 of the SCM. However, they could be subsidies described in Article 6.1 of the SCM Agreement if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM. They also could fall within the meaning of Article 6.1 if they constitute debt forgiveness or if they are subsidies to cover operating losses sustained by an industry or enterprise. Due to the fact that there is insufficient information on the record to conclusively make this determination, Commerce is providing to the ITC the following list of programs:

Loan Programs

1. Policy Loans to the Corrosion-Resistant Steel Industry
2. Export Loans
3. Preferential Lending to Corrosion-Resistant Steel Producers and Exporters Classified as "Honorable Enterprises"
4. Treasury Bond Loans
5. Preferential Loans for SOEs
6. Preferential Loans for Key Projects and Technologies
7. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
8. Debt-to-Equity Swaps
9. Equity Infusions
10. Loans and Interest Forgiveness for SOEs
11. Export Seller's Credits from State-Owned Bank
12. Export Credit Insurance Subsidies
13. Export Credit Guarantees

³⁴ The Export Buyer's Credit from State-owned Banks was found specific and countervailable; *see Final Determination* at 7-9, 11-12, and 29-33; *see also* Memorandum, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Analysis of July 20, 2015, New Subsidy Allegations," dated August 11, 2015.

Grant Programs

1. Reported Grants
2. Programs to Rebate AD Legal Fees
3. Foreign Trade Development Fund Grants
4. Export Assistance Grants
5. Subsidies for Development of Famous Export Brands and China World Top Brands
6. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
7. Export Interest Subsidies
8. Exemptions for SOEs from Distributing Dividends to the State
9. State Key Technology Project Fund
10. Grants to Loss-Making SOEs
11. Grants for Energy Conservation and Emission Reduction
12. Grants for the Retirement of Capacity
13. Grants for Relocating Production Facilities

Tax Programs

1. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
2. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
3. Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs
4. Preferential Income Tax Program for HNTes
5. Preferential Income Tax Program for HNTes in Designated Zones
6. Preferential Deduction of R&D Expenses for HNTes
7. Preferential Income Tax Policy for Enterprises in the Northeast Region
8. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
9. Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax
10. Preferential Income Tax Subsidies for FIEs – ‘Productive’ FIEs
11. Preferential Income Tax Subsidies for FIEs – HNTe FIEs
12. Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D
13. Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform
14. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund
15. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

Inputs for LTAR

1. Provision of Hot-Rolled Steel, Cold-Rolled Steel, Zinc, and Primary Aluminum for LTAR

2. Provision of Electricity for LTAR
3. Provision of Iron Ore for LTAR
4. Provision of Steam Coal for LTAR
5. Provision of Coking Coal for LTAR

Land Programs

1. Provision of Land to SOEs for LTAR
2. Provision of land-Use Rights for LTAR in Jiangsu Province

VII. Final Results of Sunset Review

Commerce determines that revocation of the *Order* on CORE from China would likely lead to the continuation or recurrence of countervailable subsidies at the following rates determined in the original investigation:

<u>Producer/Exporter</u>	<u>Ad Valorem Subsidy Rate</u>
Yieh Phui (China) Technomaterial Co., Ltd	39.05
Angang Group Hong Kong Company Ltd	241.07
Baoshan Iron & Steel Co., Ltd	241.07
Duferco S.A.; Hebei Iron & Steel Group; and Tangshan Iron and Steel Group Co., Ltd	241.07
Changshu Everbright Material Technology	241.07
Handan Iron & Steel Group	241.07
All-Others	39.05

VIII. Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of this expedited sunset review in the *Federal Register* and notify the ITC of our findings.



Agree



Disagree

8/13/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance