



C-570-142

Investigation

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August 27, 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: Decision Memorandum for the Preliminary Determination of the
Countervailing Duty Investigation of Certain Walk-Behind Snow
Throwers and Parts Thereof 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 certain walk-behind snow throwers and parts thereof (snow throwers) from the People's Republic of China (China), as provided in section 703 of the Tariff Act of 1930, as amended (the Act). Pursuant to section 701(f) of the Act, Commerce is applying the countervailing duty (CVD) law to countries designated as non-market economies under section 771(18) of the Act, such as China.

II. BACKGROUND

A. Initiation and Case History

On March 30, 2021, Commerce received antidumping duty (AD) and CVD petitions concerning imports of snow throwers from China, filed on behalf of MTD Products, Inc. (the petitioner).¹

On April 19, 2021, we initiated a CVD investigation of snow throwers from China.² In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.³ On May 10, 2021, the petitioner commented on the scope of the investigation as

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Walk-Behind Snow Throwers from the People's Republic of China," dated March 30, 2021 (the Petition).

² See *Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 86 FR 22022 (April 26, 2021) (*Initiation Notice*).

³ *Id.*, 86 FR at 22023.



it appeared on the *Initiation Notice*.⁴ On August 24, 2021, the petitioner filed its pre-preliminary determination comments.⁵

B. Respondent Selection

In the *Initiation Notice*, Commerce notified the public that, if appropriate, Commerce intended to select mandatory respondents based on U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope of the investigation. On April 19, 2021, we released the CBP data for entries of subject merchandise under the appropriate HTS subheadings, as listed in the scope and invited interested parties to submit comments on the CBP data as well as respondent selection.⁶ On April 29, 2021, the petitioner commented that the CBP entry data included companies that produced or exported electric snow throwers, which are not covered by the scope of the investigation, and requested that we issue quantity and value (Q&V) questionnaires to certain producers and/or exporters.⁷ Thus, on May 4, 2021, Commerce issued Q&V questionnaires via Federal Express (FedEx) to 15 exporters/producers of the subject merchandise for which the petitioner provided complete contact information, based the CBP data.⁸ Additionally, Commerce made the Q&V questionnaire available on the Enforcement and Compliance website.⁹

On May 25, 2021, based on the Q&V questionnaire responses received, Commerce selected TIYA International (TIYA) and Zhejiang Zhouli Industrial Co., Ltd. (Zhejiang Zhouli) as the mandatory respondents in this investigation.¹⁰ On May 28, 2021, TIYA notified Commerce that it did not intend to participate as a mandatory respondent.¹¹ On June 7, 2021, Commerce selected Ningbo Scojet Import & Export Trading Co., Ltd. (Ningbo Scojet) as an additional mandatory respondent in this CVD investigation.¹²

C. Questionnaires and Responses

On May 26, 2021, we issued the CVD questionnaire to the Government of China (GOC).¹³ On June 2, 2021, Commerce requested that the Department of the Treasury (Treasury) provide its evaluation and conclusion on the allegation that China's currency, the renminbi (RMB), was undervalued during the period of investigation (POI).¹⁴ On June 9, 2021, we

⁴ See Petitioner's Letter, "Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Snow Throwers from the People's Republic of China: Scope Comments," dated May 10, 2021.

⁵ See Petitioner's Letter, "Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Snow Throwers from the People's Republic of China: Petitioner's Pre-Preliminary Comments," dated August 24, 2021.

⁶ See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated April 19, 2021.

⁷ See Petitioner's Letter, "Comments on CBP Data and Respondent Selection," dated April 29, 2021.

⁸ See Commerce's Letter, dated May 4, 2021.

⁹ See <https://enforcement.trade.gov/questionnaires-ad.html>.

¹⁰ See Memorandum, "Respondent Selection," dated May 25, 2021 (Respondent Selection Memorandum).

¹¹ See TIYA's Letter, "TIYA International Withdrawal as a Mandatory Respondent in the Countervailing Duty Investigation of Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China," dated May 28, 2021.

¹² See Memorandum, "Respondent Selection," dated June 7, 2021.

¹³ See Commerce's Letter, dated May 26, 2021, *see also* Commerce's Letter, dated June 7, 2021.

¹⁴ See Commerce's Letter to Treasury, dated June 2, 2021.

received timely responses to the “affiliated companies” section of the questionnaires from Zhejiang Zhouli.¹⁵ On July 9 and 12, 2021, Zhejiang Zhouli and the GOC filed their full Section III responses to Commerce’s Initial Questionnaire, respectively.¹⁶

Between July 13, 2021 and August 2, 2021, Commerce issued supplemental questionnaires to Zhejiang Zhouli and the GOC, to which Zhejiang Zhouli and the GOC timely responded.¹⁷

On July 2, 2021, Treasury responded to our request for information.¹⁸ On July 15, 2021, the petitioner and the GOC commented on the Treasury report.¹⁹

D. Postponement of the Preliminary Determination

On May 28, 2021, the petitioner requested that Commerce postpone the preliminary determination of this investigation.²⁰ Commerce granted the petitioner’s request, and, on June 8, 2021, we postponed the date of the preliminary determination until August 27, 2021, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).²¹

E. Period of Investigation

The POI is January 1, 2020, through December 31, 2020.

F. Alignment

On August 6, 2021, the petitioner requested that Commerce align the date of the CVD final determination with that of the companion AD final determination. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner’s request,²² we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of snow throwers from China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is scheduled to be issued no later than January 10, 2022, unless postponed.

¹⁵ See Zhejiang Zhouli’s Letter, “Zhejiang Zhouli’s Response to the Affiliations Portion of the Section III Questionnaire,” dated June 9, 2021.

¹⁶ See GOC’s Letter, “GOC Initial Questionnaire Response,” dated July 9, 2021 (GOC IQR); and Zhejiang Zhouli’s Letter, “Zhejiang Zhouli’s Response to the Section III Questionnaire,” dated July 12, 2021 (Zhejiang Zhouli IQR).

¹⁷ See GOC’s Letter, “GOC 1st Supplemental Questionnaire Response,” dated July 21, 2021 (GOC 1st SQR); *see also* Zhejiang Zhouli’s Letter, “Zhejiang Zhouli’s Response to the Supplemental Section III Questionnaire,” dated July 23, 2021 (Zhejiang Zhouli 1st SQR); GOC’s Letter, “GOC 2nd Supplemental Questionnaire response,” dated August 9, 2021 (GOC 2nd SQR); and Zhejiang Zhouli’s Letter, “Zhejiang Zhouli’s Response to the Second Supplemental Section III Questionnaire,” dated August 11, 2021 (Zhejiang Zhouli 3rd SQR).

¹⁸ See Treasury’s Letter, dated July 2, 2021 (Treasury Letter).

¹⁹ See Petitioner’s Letter, “Rebuttal Factual Information for Treasury Letter,” dated July 15, 2021; *see also* GOC’s Letter, “GOC Response to Treasury Report,” dated July 15, 2021.

²⁰ See Petitioner’s Letter, “Petitioner’s Request to Postpone the Preliminary Determination,” dated May 28, 2021.

²¹ See *Certain Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 86 FR 30405 (June 8, 2021).

²² See Petitioner’s Letter, “Request to Align Final Countervailing Duty Determination with Final Antidumping Duty Determination,” dated August 6, 2021.

III. SCOPE COMMENTS

In accordance with the preamble to Commerce's regulations, the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).²³ The petitioner commented on the scope of the investigation, requesting the addition of exclusion language to the scope as it appeared in the *Initiation Notice*.²⁴ Specifically, the petitioner requested that Commerce revise the scope of the *Initiation Notice* to include additional language to exclude small vertical shaft engines otherwise covered by an existing CVD order, by including the following language as the penultimate paragraph in the scope:

Specifically excluded is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and Up to 225cc, and Parts Thereof From the People's Republic of China. *See Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 023675 (May 4, 2021).

Commerce's practice is to provide ample deference to the petitioners with respect to the definition of the product for which they seek relief,²⁵ and this request for scope modification is unopposed. Therefore, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I of the *Federal Register* notice accompanying this memorandum.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are snow throwers from China. A full description of the products covered by this investigation is provided in Appendix I of the *Federal Register* notice accompanying this memorandum.

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 May 19, 2021, the ITC determined that there is a reasonable indication that an industry in the United States is threatened with injury by reason of imports of snow throwers from China.²⁶

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

²⁴ *See* Petitioner's Letter, "Scope Comments," dated May 10, 2021.

²⁵ *See Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

²⁶ *See Walk-Behind Snow Throwers from China; Determinations*, 86 FR 27107 (May 19, 2021).

VI. DIVERSIFICATION OF CHINA'S ECONOMY

Concurrently with this decision memorandum, we are placing “The Extent of Diversification of Economic Activities in the People’s Republic of China (China) for the Purpose of Determining Specificity of a Domestic Subsidy for Countervailing Duty (CVD) Purposes,” dated September 13, 2018, on the record of this investigation.²⁷ This information reflects a wide diversification of economic activities in China across 19 industry groups. The industrial sector in China alone is comprised of 37 listed industries and economic activities, indicating the diversification of China’s economy.

VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

In a CVD proceeding, Commerce requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, Commerce may rely on adverse facts available (AFA) to preliminarily find that a financial contribution exists under the alleged program and/or that the program is specific.²⁸ However, where possible, Commerce will rely on the responsive producer’s or exporter’s records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable.

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

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

²⁷ See Memorandum, “The Extent of Diversification of Economic Activities in the People’s Republic of China (China) for the Purpose of Determining Specificity of a Domestic Subsidy for Countervailing Duty (CVD) Purposes,” dated September 13, 2018, placed on the record concurrently with this memorandum.

²⁸ See, e.g., *Hardwood and Decorative Plywood from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*; 2011, 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an AFA rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."²⁹ 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."³⁰

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."³¹ It is Commerce's practice to consider information to be corroborated if it has probative value.³² In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.³³ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.³⁴

Under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.

Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.³⁵ For purposes of this preliminary determination, we are applying AFA in the circumstances outlined below.

²⁹ 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).

³⁰ 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.

³¹ See, e.g., SAA at 870.

³² *Id.* at 870.

³³ *Id.* at 869.

³⁴ *Id.* at 869-870.

³⁵ See section 776(d)(3) of the Act.

B. Application of AFA: Non-Responsive Companies

As noted above, Commerce issued Q&V questionnaires via FedEx to 15 companies identified in the Petition. We confirmed that 14 of the 15 Q&V questionnaires issued via FedEx were delivered or a delivery attempt was attempted but refused; and delivery for one firm, Junsheng International Group Limited (Junsheng), was returned as undeliverable.³⁶ Of these 14 companies that we confirmed had questionnaires delivered (or delivery was attempted, but refused), only eight timely responded to our request for information. The following six Q&V recipients did not respond to our request for information: (1) Changzhou Globe Tools Co., Ltd. (Changzhou Globe); (2) Ningbo Joyo Garden Tools Co., Ltd. (Ningbo Joyo); (3) Nanjing Chervon Industry Co., Ltd. (Nanjing Chervon); (4) Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye); (5) Weima Agricultural Machinery Co., Ltd. (Weima);³⁷ and (6) Zhejiang Yat Electrical Appliance Co (Zhejiang Yat).³⁸

Additionally, Commerce issued its initial questionnaire to Zhejiang Zhouli and TIYA. On May 28, 2021 TIYA notified Commerce that it did not intend to participate as a mandatory respondent.³⁹ Commerce then issued its initial questionnaire to Ningbo Scojet on June 7, 2021 after Ningbo Scojet was selected as our mandatory respondent, but Ningbo Scojet did not respond to our initial questionnaire.

We preliminarily determine that Changzhou Globe, Nanjing Chervon, Ningbo Joyo, Ningbo Daye, Ningbo Scojet, TIYA, Weima, and Zhejiang Yat (the eight non-responsive companies) withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding. Thus, Commerce will rely on facts otherwise available in making our preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act.⁴⁰ Moreover, we preliminarily determine that an adverse inference is warranted in selecting from the facts available, pursuant to section 776(b) of the Act, because, by not responding to the Q&V and the initial questionnaire, each of these companies did not cooperate to the best of its ability to comply with a request for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

³⁶ See Memorandum, “Quantity and Value Questionnaires Delivery Tracking,” dated May 19, 2021 (Q&V Delivery Confirmation Memorandum). The Respondent Selection Memorandum incorrectly identified two companies as undeliverable; however, we hereby clarify that the Q&V Questionnaire was documented to be undeliverable only to Junsheng. Delivery was attempted for Nanjing Chervon Industry Co., Ltd., but the firm refused receipt of the questionnaire.

³⁷ The Respondent Selection Memorandum did not include Weima in the list of non-responsive companies; however, Weima’s Q&V response was subsequently rejected for failure to comply with certain ACCESS requirements. See Memorandum to the File, “Non-Receipt of Quantity and Value Response from Weima Agricultural Machinery Co., Ltd.,” dated August 24, 2021.

³⁸ See Respondent Selection Memorandum.

³⁹ See TIYA’s Letter, “TIYA International Withdrawal as a Mandatory Respondent in the Countervailing Duty Investigation of Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China,” dated May 28, 2021.

⁴⁰ For the derivation of the preliminary AFA subsidy rate assigned to the companies who did not respond to the Q&V and the initial questionnaire, see Appendix II.

As AFA, we find that the non-responsive companies used and benefited from all programs at issue in this proceeding, aside from currency undervaluation (for reasons discussed below), within the meaning of sections 771(5)(B) and (E) of the Act. As explained below under the “Analysis of Programs” section, we preliminarily find that certain programs used by Zhejiang Zhouli are specific and provided a financial contribution. For the other initiated-upon programs and for the subsidies Zhejiang Zhouli self-reported, as described below, the GOC did not respond to our CVD questionnaire and/or supplemental questions on these programs.⁴¹ Furthermore, the GOC also declined to respond to our questions regarding export loans to state owned banks because “none of the respondents used and benefited from the alleged program during the POI.”⁴² By not responding to our requests for information regarding these programs, the GOC withheld information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding. It also failed to cooperate by not acting to the best of its ability. Therefore, relying on sections 776(a)(2)(A) through (C) and 776(b) of the Act, we find that these programs constitute financial contributions and meet the specificity requirements of the Act.

Accordingly, we are including all programs from this investigation other than currency undervaluation in the determination of the AFA rate for the non-responsive companies. We selected an AFA rate for each program based on the statutory hierarchy provided in section 776(d) of the Act and in accordance with Commerce’s practice, and we included them in the determination of the AFA rate applied to the non-responsive companies.⁴³ Commerce has previously countervailed these or similar programs. For a description of the selection of the AFA rate and our corroboration of this rate, *see* the “Selection of the AFA Rate” and “Corroboration of the AFA Rate” sections.

C. Application of AFA: GOC

For the non-used programs upon which we initiated, the GOC did not respond to the Initial Questionnaire for those programs.⁴⁴ In the Initial Questionnaire, we requested that the GOC provide complete responses for all programs “regardless of whether the companies under investigation or their ‘cross-owned’ companies, as defined in Section III, applied for, used, or benefited from that program during the POI.”⁴⁵ In its response, the GOC directed Commerce to refer to the respondent’s questionnaire responses or declined to answer some or all of the questions because, in the GOC’s “understanding,” the questions and relevant appendices were not applicable because the mandatory respondent did not use the program.⁴⁶

By not responding to our requests for information regarding these programs, the GOC withheld information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding. It also failed to cooperate by not acting to the best of its ability to respond to our requests for information. Therefore, relying on sections

⁴¹ *See* GOC July 9, 2021 IQR at 5.

⁴² *Id.*

⁴³ *See* Appendix II.

⁴⁴ *See* GOC’s IQR at 4-14, 16-22, 48, and 112-121.

⁴⁵ *See* Initial Questionnaire at Section II (p. 2).

⁴⁶ *See* GOC’s IQR at 5-10, 15, and 51.

776(a)(2)(A)-(C) and 776(b) of the Act, we find that these programs constitute financial contributions and meet the specificity requirements of the Act.⁴⁷

For programs self-reported by Zhejiang Zhouli, as discussed *infra* at “Application of AFA: Other Subsidies,” the GOC refused to provide a response for those programs in its initial questionnaire responses. The GOC stated that Commerce’s request for disclosure of all “other” subsidies is contrary to U.S. law and the WTO Agreement on Subsidies and Countervailing Measures and referred Commerce to the responses of the responding company for information about any other subsidies.⁴⁸

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 perform our analyses of financial contribution and specificity for the non-used and self-reported programs is not available on the record, the GOC has withheld information that was clearly requested of it, that the GOC significantly impeded the investigation, and, as a result, we must rely 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 when it failed to respond to our questionnaires. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the Act. In applying AFA, we find that the non-used and self-reported programs constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act.

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.⁴⁹ When selecting AFA rates, section 776(d) of the Act provides that we may use a countervailable subsidy rate determined for the same or a similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers

⁴⁷ See Petition Volume I at 31 and Volume III at 9-13, 14-17, 21-22, 24-29, and 32-35.

⁴⁸ See GOC’s IQR at 136; and GOC’s 1st SQR at 12.

⁴⁹ See, e.g., *Common Alloy Aluminum Sheet from the People’s Republic of China: Preliminary Affirmative Countervailing Duty (CVD) Determination, Alignment of Final CVD Determination with Final Antidumping Duty Determination, and Preliminary CVD Determination of Critical Circumstances*, 83 FR 17651 (April 23, 2018) (*Aluminum Sheet from China Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at “X: Use of Facts Otherwise Available and Adverse Inferences: A. Application of Total AFA: Chalco Ruimin and Chalco-SWA,” unchanged in *Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People’s Republic of China: Final Affirmative Determination*, 83 FR 57427 (November 15, 2018) (*Aluminum Sheet from China Final*), and accompanying IDM; see also *Aluminum Extrusions from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions Final*), and accompanying IDM at “VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies”; and *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.”

reasonable to use, including the highest of such rates.⁵⁰ 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 calculated above zero 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).⁵¹ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another 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.⁵²

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."⁵³ 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.

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

⁵⁰ 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").

⁵¹ 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."

⁵² See *Shrimp from China* IDM at 13-14.

⁵³ See section 776(d)(2) of the Act.

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.⁵⁴

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.”⁵⁵ 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.”⁵⁶ It is pursuant to this knowledge and experience that we have implemented our AFA hierarchy in CVD cases to select an appropriate AFA rate.⁵⁷

In applying its 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.

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

⁵⁴ This differs from antidumping 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.

⁵⁵ 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) (*De Cecco*) (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.”)).

⁵⁶ See *De Cecco*, 216 F.3d at 1032.

⁵⁷ 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 AFA 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 AFA 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 AFA hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that “pool” of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

Under the first step of Commerce’s investigation hierarchy, we apply the highest non-zero rate calculated for a cooperating company for the identical program in the investigation. Under this step, we will even use a *de minimis* rate as 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 CVD 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.⁵⁸

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.⁵⁹ 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

⁵⁸ 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.

⁵⁹ 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., 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 IDM at 2 (“As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and policy lending programs of the other producer/exporter in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did not receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed...”). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as AFA under its hierarchy.

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. As explained above, we are preliminarily applying AFA because each of the companies that received, and chose not to submit a response to, the Q&V questionnaires and the two mandatory respondents chose not to cooperate by not providing the information we requested. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.⁶⁰

In determining the AFA rate to apply to the non-cooperating companies, we applied the methodology detailed above. We began by selecting, as AFA, the highest calculated program-specific above-zero rates determined for Zhejiang Zhouli in the instant investigation. Accordingly, we applied the subsidy rates calculated for the mandatory respondent for the following programs:

- Provision of Cold-Rolled Steel for Less Than Adequate Remuneration (LTAR)
- Provision of Hot-Rolled Steel for LTAR
- Policy Loans to Snow Thrower Industry

To calculate the program rate for the following additional income tax reduction programs on which Commerce initiated an investigation, we applied an adverse inference that each of the AFA Companies paid no income tax during the POI.

- Income Tax Reduction for High or New Technology Enterprises
- Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law
- Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization
- Income Tax Deductions/Credits for Purchase of Special Equipment

The standard income tax rate for corporations in China in effect during the POI was 25 percent.⁶¹ Thus, the highest possible benefit for income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the four programs, combined, provide a 25 percent benefit). Consistent with Commerce’s practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and value-added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.⁶²

⁶⁰ We note, with respect to the Income Tax programs, as described below, we are using a rate of 25 percent on a combined basis, because the highest possible benefit for these income programs is 25 percent.

⁶¹ See Petition at 9.

⁶² See, *e.g.*, *Aluminum Extrusions from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying IDM at “Application of Adverse Inferences: Non-Cooperative Companies.”

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

- Government Policy Lending from State-Owned Banks
- Export Loans from Chinese State-Owned Banks
- Export Seller's Credit and Export Buyer's Credit to Encourage Chinese Exports
- Grants from the State Key Technology Project Fund
- Grants for Energy Conservation and Emission Reduction
- SME Technology Innovation Fund
- Provision of Electricity for LTAR

For this preliminary determination, we were similarly able to match all of the subsidies that were self-reported by the mandatory respondent for which we did not calculate a rate in the instant investigation to similar programs from other China CVD proceedings, for purposes of including these programs in the AFA rate applicable to the non-responsive companies. A full list of such self-reported subsidies is contained in the Appendix.

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for the non-responsive companies to be 130.44 percent *ad valorem*. The appendix contains a chart summarizing our calculation of this rate.⁶³

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁶⁴ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.⁶⁵

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.⁶⁶ Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party

⁶³ For the specific case proceedings from which the AFA rates were sourced, *see* Memorandum, “Countervailing Duty Investigation of Certain Snow Throwers and Parts Thereof from the People’s Republic of China: Preliminary AFA Rate,” dated concurrently with this memorandum.

⁶⁴ *See* SAA at 870.

⁶⁵ *Id.*

⁶⁶ *Id.* at 869-870.

failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁷

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.⁶⁸

In the absence of record evidence concerning the above eight companies’ usage of the subsidy programs at issue due to their decision not to participate in the investigation, we have reviewed the information concerning Chinese subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this investigation. The relevance of these rates is that they are actual calculated subsidy rates for Chinese programs, from which the non-cooperating companies could actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, we have corroborated the rates we selected to use as AFA to the extent practicable pursuant to section 776(c)(1) of the Act for this preliminary determination.

D. Application of AFA: Export Buyer’s Credits

In the initial questionnaire, we requested that the respondents report all types of financing provided by the China Ex-Im Bank as part of the Export Buyer’s Credit program analysis.⁶⁹ Further, in the initial questionnaire, Commerce stated “{i}f you claim that none of your customers used export buyer credits during the {period of investigation}, please explain in detail the steps you took to determine that no customer used the Buyer Credit Facility.”⁷⁰ In response, Zhejiang Zhouli provided an affidavit certifying to non-use from one of its customers, but noted that the other customer refused to provide any information whether it used the program.⁷¹ Accordingly, Zhejiang Zhouli’s response fails to demonstrate that the company and its customers did not benefit from the program during the POI. Further, Zhejiang Zhouli failed to explain, in the absence of statements from all of its customers, how it determined whether the non-responsive customer used the program. We find that the lack of necessary information required from the GOC, detailed below, coupled with mere assertions from Zhejiang Zhouli that its customers did not use the program, is insufficient to demonstrate non-use of the program.

We also requested information regarding this program from the GOC. Specifically, in the initial questionnaire, we requested that the GOC provide original and translated copies of laws,

⁶⁷ See section 776(d) of the Act.

⁶⁸ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

⁶⁹ See Initial Questionnaire at 23-24.

⁷⁰ See Commerce IQ at 75.

⁷¹ See Zhejiang Zhouli IQR at 16-17 and Exhibits 13 and 14.

regulations or other governing documents for this program.⁷² We also requested a copy of the 2013 Administrative Measures revisions (2013 Revisions) to the Export Buyer's Credit program; however, the GOC did not provide the 2013 amendment to these laws.⁷³ In a supplemental questionnaire, we provided the GOC with another opportunity to provide this information,⁷⁴ and the GOC again did not provide the information requested stating that the respondent did not use the program.⁷⁵

Instead, the GOC provided the Administrative Measures of Export Buyer's Credit of the Export-Import Bank of China (Administrative Measures) and Implementation Rules Governing Export Buyer's Credit of the Export-Import Bank of China (Implementing Rules),⁷⁶ and according to the GOC, in accordance with the requirements set forth in these documents, the Chinese exporter should be aware of the buyer's receipt of loans and should be involved in the loan evaluation proceeding and in the post-lending loan management.⁷⁷ The GOC argued that the Chinese exporter is in a position to verify and confirm the existence of any sales contracts that were supported by the Export Buyer's Credit program. Specifically, the GOC explained that in accordance with the Rules: (1) the China Ex-Im Bank must investigate and verify the performance capability of the Chinese exporters in its loan evaluation and approval proceeding; (2) in making decisions on loan approval, the China Ex-Im Bank also pays great attention to the credit level of the exporters; and (3) for post-lending management, for securing loan recovery, the China Ex-Im Bank may do necessary supervision and inspection of the loan usage, contacting the Chinese exporter after the issuance of loans to confirm the funds are properly used.⁷⁸ However, the GOC stated that the 2013 revisions to the Administrative Measures of Export Buyer's Credits of the Ex-Im Bank, and Commerce's request for a list of all partner/correspondent banks involved in disbursement of funds under the Export Buyer's Credit program is not available or applicable,⁷⁹ because none of the mandatory respondent's U.S. customers obtained export buyer's credits during the POR.⁸⁰

Information obtained in a prior CVD proceeding indicates that the GOC revised the Administrative Measures regarding this program in 2013.⁸¹ This information indicates that under the 2013 revisions, the China Ex-Im Bank may disburse export buyer's credits directly or through third-party partner and/or correspondent banks and that the threshold for potential loans is no longer 2 million U.S. dollars (USD).⁸² Because of the complicated structure of loan disbursements for this program, Commerce's complete understanding of how this program is administered is necessary.

⁷² See Initial Questionnaire at 23-24.

⁷³ See GOC IQR at 19.

⁷⁴ See Commerce's Letter, "Government of China Initial Questionnaire Supplemental," dated July 14, 2021 (GOCSQ), at 2.

⁷⁵ See GOC SQR at 2.

⁷⁶ See GOC IQR at Exhibit II.B.8 and Exhibit II.B.9.

⁷⁷ See GOC IQR at 20.

⁷⁸ *Id.* at 21.

⁷⁹ *Id.* at 20.

⁸⁰ *Id.*

⁸¹ See *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017), and accompanying IDM at 11-14.

⁸² *Id.*

As Commerce found in a remand redetermination issued in the *Clearon* litigation, if the program continues to be limited to 2 million USD contracts between a mandatory respondent and its customers, this is “an important limitation to the universe of potential loans under the program and can assist us in targeting our verification of non-use. However, if the program is no longer limited to 2 million USD contracts, this increases the difficulty of verifying loans without any such parameters. Therefore, by refusing to provide the requested information, and instead providing unverifiable assurances that other rules regarding the program remained in effect, the GOC impeded Commerce’s understanding of how this program operates and how it can be verified.”⁸³ Furthermore, we stated in this same remand redetermination that, “[g]iven the complicated structure of loan disbursements which can involve various banks for this program, Commerce’s complete understanding of how this program is administered is necessary to verify claims of non-use. Thus, the GOC’s refusal to provide the 2013 revisions, which provide internal guidelines for how this program is administered by the China Ex-Im Bank, as well as other requested information, such as key information and documentation pertaining to the application and approval process, interest rates, and partner/correspondent banks, impeded Commerce’s ability to conduct its investigation of this program and to verify the claims of non-use by {the respondent’s} customers.”⁸⁴

Furthermore, in order to verify non-use of the program as provided in the non-use certificate submitted by the respondent on behalf of the compliant U.S. customer, Commerce would require knowing the names of the intermediary partner/correspondent banks. As Commerce stated in the *Clearon* remand redetermination:

{I}t would be their names, not the name China Ex-Im Bank, that would appear in the subledgers of the U.S. customers if they received the credits. As explained recently in the investigation of aluminum sheet:

Record evidence indicates that the loans associated with this program are not limited to direct disbursements through the China Ex-Im Bank. Specifically, the record information indicates that customers can open loan accounts for disbursements through this program with other banks, whereby the funds are first sent to... the importer’s account, which could be at the China Ex-Im Bank or other banks, and that these funds are then sent to the exporter’s bank account.

In other words, there will not necessarily be an account in the name China Ex-Im Bank in the books and records (*e.g.*, subledger, tax return, bank statements) of the U.S. customer. Thus, if we cannot verify claims of non-use at the GOC, having a list of the correspondent banks is critical for us to perform verification at the U.S. customers.⁸⁵

⁸³ See *Clearon Corp. v. United States*, 474 F. Supp. 3d 1339, 1347 (CIT 2020) (quoting from Commerce remand redetermination) (*Clearon*).

⁸⁴ See Final Results of Remand Redetermination Pursuant to Court Remand, *Clearon Corp. v. United States* (May 16, 2019) at 17.

⁸⁵ *Id.* (citing *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 at 30 (internal quotations and citations omitted)).

In its initial and supplemental questionnaire responses, the GOC refused to provide requested information, including all laws, regulations or governing documents or a list of partner/correspondent banks, which is necessary for Commerce to understand how the program operates and which is thus also necessary for Commerce to be able to verify claims of non-usage.⁸⁶ Absent this information, we have no assurance of our ability to differentiate ordinary commercial lending from GOC-supported credit in the books and records of the respondent's U.S. customers, or to differentiate disbursements of funds to the respondent itself pursuant to ordinary lending from disbursements pursuant to GOC-supported credit.

Therefore, by withholding information concerning the operation of this program, the GOC has impeded not only Commerce's ability to determine whether the provision of the credits constitutes a financial contribution and whether such credits are specific, but also Commerce's ability to reach a verifiable conclusion regarding usage of the program. Pursuant to sections 776(a)(2)(A) and (a)(2)(C) of the Act, when an interested party withholds information requested by Commerce and/or significantly impedes a proceeding, Commerce uses facts otherwise available to reach a determination. Because the GOC withheld the requested information described above, thereby impeding this proceeding, we preliminarily determine that the use of facts available is appropriate. Furthermore, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding information that was within its control, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted as set forth below.

Financial Contribution and Specificity

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) demonstrate that through this program, state-owned banks, such as the China Ex-Im Bank, provide loans at preferential rates for the purchase of exported goods from China.⁸⁷ In addition, the program was alleged by the petitioner as a possible export subsidy.⁸⁸ Finally, Commerce has found this program to be an export subsidy in the past.⁸⁹

For these reasons, we preliminarily determine, as AFA, that this program constitutes a financial contribution pursuant to section 771(5)(D) of the Act and is specific within the meaning of section 771(5A)(B) of the Act.

Benefit

Regarding benefit, it continues to be Commerce's position that the GOC is the only party that can answer questions about the internal administration of this program and that non-use certificates cannot replace the cooperation of the GOC. The GOC's refusal to provide the 2013

⁸⁶ See GOC IQR at 19-21.

⁸⁷ See GOC IQR at 19-21.

⁸⁸ See Petition Volume III at 20-24 and Exhibits III 21-23.

⁸⁹ 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.

revisions to the Administrative Measures, which provide internal guidelines for how this program is administered by the China Ex-Im Bank and a list of partner/correspondent banks that are used to disperse funds through this program, constitutes withholding necessary information and impeded our ability to analyze the program's operation or determine how the program could be properly verified. Thus, the GOC's failure to provide the requested information further undermines our ability to verify the respondent's claims of non-use.

Nonetheless, we recognize that the U.S. Court of International Trade (CIT) has directed Commerce in numerous decisions to consider whether any available information provided by respondents may be sufficient to fill the gap of missing record information in considering claims of non-use for the Export Buyer's Credit program. Here, we find that the lack of necessary information required from the GOC, detailed above, coupled with the mere assertions of non-use from Zhejiang Zhouli, without a more fulsome explanation detailing the steps the company took to determine that none of its customers used the program, do not allow Commerce to fill the gaps in the record with respect to the claims of non-use. Accordingly, as AFA, in light of the failure of the GOC to cooperate, we find that Zhejiang Zhouli used and benefited from this program, despite its claims that its U.S. customers did not obtain export buyer's credits from the China Ex-Im Bank during the POI.⁹⁰

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in the *Coated Paper from China Investigation Amended Final* proceeding, as the rate applicable to Zhejiang Zhouli and the non-cooperative companies.⁹¹ Additionally, based on the methodology also described above for corroborating secondary information, we have corroborated the selected rate to the extent possible and find that the rate is reliable and relevant for use as an AFA rate for the Export Buyer's Credits program.

E. Application of AFA: Provision Electricity for LTAR

The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR.⁹² These questions requested 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, 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

⁹⁰ *Id.*

⁹¹ See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from China Investigation Amended Final*) (revised rate for "Preferential Lending to the Coated Paper Industry" program).

⁹² See GOC's IQR at Electricity Appendix; see also GOC's First SQR at 4-8.

Price Proposals for the province in which mandatory respondents or any company “cross-owned” with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial-level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission, and distribution.⁹³ Commerce requested this information to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

In its initial questionnaire response, the GOC stated that, since January 1, 2016, “all of the provincial governments have been given authority to prepare and publish electricity tariff rates for their own jurisdictions.”⁹⁴ The GOC reported that the NDRC has no authority to make any change to the adjusted electricity prices and that the provinces have the authority to set their own prices, under the Notice of NDRC on *Lowering Coal-Fired Electricity On-Grid Price and General Industrial and Commercial Electricity Price* (Notice 3105).⁹⁵ According to the GOC, the creation of this new structure has eliminated the need for Provincial Price Proposals that had previously been used by the NDRC to set prices for each province.⁹⁶ However Notice 3105 explicitly directs provinces to reduce prices and to report the enactment of those changes to the NDRC. Specifically, Article 2 of Notice 3105 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.⁹⁷ The Appendix to Notice 3105 indicates that this average price adjustment applies to all provinces and at varying amounts.⁹⁸ Notice 3105 also directs additional price reductions, and stipulates, at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to the NDRC.⁹⁹

Notice 3105 does not explicitly stipulate that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.¹⁰⁰ Rather, the notice indicates 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.¹⁰¹ The notice does not explicitly eliminate Provincial Price Proposals and does not define distinctions in price setting roles between national and provincial pricing authorities.

⁹³ See GOC IQR at Section II, Electricity Appendix.

⁹⁴ See GOC IQR at 113.

⁹⁵ *Id.* at 113 and Exhibit II.E.2.5.

⁹⁶ *Id.*

⁹⁷ *Id.* at Exhibit II.E.2.5.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See GOC IQR at Exhibit II.E.2.5

¹⁰¹ *Id.*

Contrary to the GOC's claim that the NDRC no longer determines the specific electricity sales prices,¹⁰² the GOC continues to play a major role in regulating provincial electricity pricing. The GOC's 2019 Government Report makes calls to "deepen the reform of the electricity market, clean up electricity price surcharges, reduce the cost of electricity consumption in the manufacturing industry, and reduce the average electricity price for general industrial and commercial industries by another 10%."¹⁰³ In order to implement the 10 percent electricity price reduction mandates set by the Government Report, the NDRC issued two electricity price reduction notices in 2019 (NDRC No. 559 and No. 842).¹⁰⁴ The 2020 electricity tariff schedules of all provinces provided in the GOC's initial questionnaire response were a direct response to the GOC's 10 percent electricity price reduction mandates.¹⁰⁵

In addition, in Notice FGJG (2020) 258, which applies to the POI, the NDRC requires "{i}n order to implement the decision-making and deployment of the CPC Central Committee and the State Council, coordinate epidemic prevention and control and economic and social development, support enterprises to resume work and production, and tide over the difficulties together" that "{f}rom February 1, 2020 to June 30, 2020, when the power grid enterprises calculate and collect the electricity charges of the above-mentioned power users (including those who have participated in the market transaction), the electricity charges are settled according to 95 {percent} of the original price level," among other measures.¹⁰⁶ In addition, Notice FGJG (2020) 994 provides similarly from July 1, 2020, through December 31, 2020.¹⁰⁷ Thus, the notices do not indicate that the provinces act independently of the NDRC. Instead, the provinces are directed to follow the NDRC's direction and given direct instructions on the prices they are allowed to collect.

As explained above, the GOC's response does not constitute a full explanation regarding the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. In fact, 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. Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (2)(A), and (2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record, that the GOC withheld information requested by Commerce, and that the GOC significantly impeded this proceeding. Thus, we must rely on "facts available" in making our preliminary determination with respect to this program.¹⁰⁸ 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.¹⁰⁹ In applying AFA, we find that the GOC's provision of electricity constitutes

¹⁰² *Id.* at 113.

¹⁰³ *See* GOC 2nd SQR at 2.

¹⁰⁴ *Id.* at 1-2 and Exhibits SQ2-1 and SQ2-2.

¹⁰⁵ *See* GOC IQR at Exhibit II.E.2.9.

¹⁰⁶ *Id.* at Exhibit II.2.6.

¹⁰⁷ *Id.* at Exhibit II.2.7.

¹⁰⁸ *See* section 776(a) of the Act.

¹⁰⁹ *Id.*

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. 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. We have relied upon electricity usage and rates paid by the company under investigation to calculate POI benefits attributable to the mandatory respondent. For details regarding the remainder of the analysis, see “Provision of Electricity for LTAR” section below.

F. Application of AFA: Cold-Rolled Steel Producers Are “Authorities”

As discussed below, under the section “Programs Preliminarily Found to Be Countervailable,” Commerce is investigating whether the GOC provided cold-rolled steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing cold-rolled steel to Zhejiang Zhouli 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.¹¹⁰

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of cold-rolled steel and to respond to the Input Producer Appendix for each producer which produced the cold-rolled steel purchased by the respondent.¹¹¹ We instructed the GOC to coordinate with the respondent to obtain a complete list of the cold-rolled steel producers, including the producers of inputs purchased through a supplier.¹¹² In response to the Initial Questionnaire, Zhejiang Zhouli identified the companies that produced and supplied the cold-rolled steel which it purchased during the POI.¹¹³ The GOC confirmed the producers in its questionnaire response.¹¹⁴

While the GOC provided the ownership of the producers of cold-rolled steel,¹¹⁵ it did not provide all the information requested of it in the initial and supplemental questionnaires.¹¹⁶ Commerce

¹¹⁰ 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) (*Welded Pipe from China*), and accompanying IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Shelving and Racks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Kitchen Racks from China*), and accompanying IDM at “Provision of Wire Rod for Less than Adequate Remuneration.”

¹¹¹ See Initial Questionnaire at Section II (p. 11 – 14).

¹¹² *Id.* at Section II (p. 8).

¹¹³ See Zhejiang Zhouli’s IQR at Exhibit 17.2.

¹¹⁴ See GOC IQR at Exhibit II.E3.1.

¹¹⁵ *Id.* at Exhibit II.E3.1 and Exhibit II.E3.2.

¹¹⁶ See Initial Questionnaire at Section II; see also GOC IQR at 52-75.

requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.¹¹⁷

Regarding those enterprises producing cold-rolled steel that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.¹¹⁸ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.¹¹⁹ The GOC however did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that “the information obtained from {the Market Entity Credit Information Publicity System (MECIPS)} is authoritative evidence of the ownership structure of enterprises in China.”¹²⁰

As explained in the Public Bodies Memorandum,¹²¹ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.¹²² 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.¹²³ Therefore, we preliminarily determine that the majority government-owned enterprises from which Zhejiang Zhouli purchased cold-rolled steel are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act was provided.

With respect to those entities producing cold-rolled steel that the GOC reported as being non-majority government-owned enterprises, the GOC provided ownership structure and basic registration information, but did not provide other relevant documentation requested by Commerce, including articles of incorporation, capital verification reports, company by-laws, annual reports, and articles of association.¹²⁴ The GOC again stated that “the information obtained from MECIPS is authoritative evidence for the ownership structure of enterprises {in China}.”¹²⁵

Additionally, the GOC did not provide the information that Commerce requested regarding the Chinese Communist Party (CCP) for the cold-rolled steel producers identified as non-majority government-owned.¹²⁶ Instead, the GOC asserted that “CCP, National/Provincial/Local People’s Congresses and CPPCC do not constitute governmental agencies.”¹²⁷ The GOC further stated

¹¹⁷ *Id.*

¹¹⁸ *See* GOC IQR at 52-75.

¹¹⁹ *See* GOC IQR at Exhibit II.E3.1 and Exhibit II.E3.2.

¹²⁰ *Id.*

¹²¹ *See* Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China: Public Bodies Analysis Memo,” dated July 21, 2021 (Public Bodies Memorandum).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *See* GOC IQR at Exhibit II.E.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.* at 60.

that “there is no central governmental database to search for the requested information on whether any individual owner, member of the board of directors, or senior manager is a Government or CCP official.”¹²⁸ Thus, the GOC stated that it “cannot obtain the information requested by {Commerce}.”¹²⁹

As explained in the Public Bodies Memorandum, Commerce understands the CCP to exert significant control over economic activities in China.¹³⁰ Consequently, Commerce finds, as it has in prior CVD proceedings,¹³¹ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the cold-rolled steel producers non-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.

Because the GOC did not submit the requested information, we lack the data necessary to reach a determination of whether the input producers that are non-majority government-owned 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 not only withheld information that was requested of it with regard to the input purchases by Zhejiang Zhouli, but also impeded this investigation.¹³²

Accordingly, Commerce must rely on “facts otherwise available” in reaching a determination in this respect. Based on the record, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with the requests for information regarding the non-majority government-owned producers of cold-rolled steel because it did not provide the requested information.¹³³ Consequently, we find that an adverse inference is warranted in the application of facts available.¹³⁴

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.¹³⁵ 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 cold-rolled steel purchased by Zhejiang Zhouli are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act, was provided.

¹²⁸ *Id.* at 68.

¹²⁹ *Id.*

¹³⁰ See Public Bodies Memorandum; *see also* Memorandum, “Countervailing Duty Investigation of Certain Snow Throwers and Parts Thereof from the People’s Republic of China: Placing Public Documentation on the Record,” dated July 21, 2021 (Public Info Memorandum).

¹³¹ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) (*Citric Acid 2012*), and accompanying IDM at Comment 5.

¹³² See sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

¹³³ See sections 776(a) and (b) of the Act.

¹³⁴ See section 776(b) of the Act.

¹³⁵ See Public Bodies Memorandum.

For details on the calculation of the subsidy rate for Zhejiang Zhouli, *see infra* at “Provision of Cold-Rolled Steel for LTAR.”

G. Application of AFA: Cold-Rolled Steel Is Specific

Commerce instructed the GOC to provide a list of industries in China that purchase cold-rolled steel. Specifically, we asked the GOC to:

Provide a list of the industries in the China that purchase {cold-rolled steel} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.¹³⁶

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “{t}here are a vast number of users for CRS and the type of consumers that purchase CRS is highly varied within the economy.”¹³⁷ The GOC provided no purchase data or supporting documentation.¹³⁸

Consequently, we preliminarily determine that necessary information is not available on the record and that the GOC withheld information that was requested of it and significantly impeded this proceeding. Therefore, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. In drawing an adverse inference, we preliminarily find that the GOC’s provision of cold-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.

H. Application of AFA: Cold-Rolled Steel Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of cold-rolled steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the cold-rolled steel industry in China. Specifically, we requested the GOC to provide information on the total number of cold-rolled steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority

¹³⁶ See Initial Questionnaire at Section II (p. 12).

¹³⁷ See GOC IQR at 108.

¹³⁸ *Id.*

ownership or controlling management interest.¹³⁹ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.¹⁴⁰ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.¹⁴¹

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.¹⁴² However, we require additional data, as described above, to assess the GOC's involvement in the cold-rolled steel market. In response to our request for other information, the GOC stated that it does not have the number of cold-rolled steel producers and could only provide the volume data of cold-rolled steel production, not the value data of cold-rolled steel production, nor the volume or value data of cold-rolled steel consumption.¹⁴³ In response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that "the NBS does not collect any CRS data based on sales volumes by industrial sectors."¹⁴⁴

We note that 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.¹⁴⁵ Specifically, Commerce has verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.¹⁴⁶ 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.¹⁴⁷ Therefore, information related to the operation and ownership of companies within the cold-rolled steel industry is in fact available to the GOC.

The requested information on the cold-rolled steel industry is necessary for Commerce to conduct a full analysis of the GOC's involvement in the market and thus determine if the

¹³⁹ See Initial Questionnaire at Section II (p. 11 – 12).

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² See GOC IQR at Exhibit II.E.

¹⁴³ *Id.* at 108.

¹⁴⁴ *Id.*

¹⁴⁵ See, e.g., *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review: 2013*, 80 FR 77318 (December 14, 2015) (*Citric Acid 2013*), and accompanying IDM at Comment 2.

¹⁴⁶ 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) (*SSSS from China Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 21-22, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017) (*SSSS from China Final*), and accompanying IDM.

¹⁴⁷ *Id.*

domestic prices are distorted (*i.e.*, unusable as a “tier one” benchmark). We preliminarily determine that the necessary information on the cold-rolled steel market is not available on the record. Because the GOC withheld information that was requested of it and significantly impeded this proceeding, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. Accordingly, as AFA, we preliminarily determine that the GOC’s involvement in the cold-rolled steel market in China results in the significant distortion of the prices of cold-rolled steel, such that they cannot be used as a tier-one benchmark under 19 CFR 351.511(a)(2)(i), 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 cold-rolled steel for LTAR.

I. Application of AFA: Hot-Rolled Steel Producers Are “Authorities”

As discussed below, under the section “Programs Preliminarily Found to Be Countervailable,” Commerce is investigating whether the GOC provided hot-rolled steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing hot-rolled steel to the responding companies 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.¹⁴⁸

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of hot-rolled steel and to respond to the Input Producer Appendix for each producer which produced the hot-rolled steel purchased by the respondent.¹⁴⁹ We instructed the GOC to coordinate with the respondent to obtain a complete list of the hot-rolled steel producers, including the producers of inputs purchased through a supplier.¹⁵⁰ In response to the Initial Questionnaire, Zhejiang Zhouli identified the companies that produced and supplied the hot-rolled steel which it purchased during the POI.¹⁵¹ The GOC confirmed the producers in its questionnaire response.¹⁵²

While the GOC provided the ownership of the producers of hot-rolled steel,¹⁵³ it did not provide all the information requested of it in the initial and supplemental questionnaires.¹⁵⁴ Commerce

¹⁴⁸ See, e.g., *Welded Pipe from China* IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Racks from China* IDM at “Provision of Wire Rod for Less than Adequate Remuneration.”

¹⁴⁹ See Initial Questionnaire at Section II (p. 9 – 12).

¹⁵⁰ *Id.* at Section II (p. 9).

¹⁵¹ See Zhejiang Zhouli’s IQR at Exhibit II.E1.1.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ See Initial Questionnaire at Section II (p. 11 – 14).

requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.¹⁵⁵

Regarding those enterprises producing hot-rolled steel that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.¹⁵⁶ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.¹⁵⁷ The GOC, however, did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that “the information obtained from {the Market Entity Credit Information Publicity System (MECIPS)} is authoritative evidence of the ownership structure of enterprises in China.”¹⁵⁸

As explained in the Public Bodies Memorandum,¹⁵⁹ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.¹⁶⁰ 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.¹⁶¹ Therefore, we preliminarily determine that the majority government-owned enterprises from which Zhejiang Zhouli purchased hot-rolled steel are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act was provided.

For details on the calculation of the subsidy rate for Zhejiang Zhouli, *see infra* at “Provision of Hot-Rolled Steel for LTAR.”

J. Application of AFA: Hot-Rolled Steel Is Specific

Commerce instructed the GOC to provide a list of industries in China that purchase hot-rolled steel. Specifically, we asked the GOC to:

Provide a list of the industries in the China that purchase {hot-rolled steel} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent

¹⁵⁵ *Id.*

¹⁵⁶ *See* Initial Questionnaire at Section II (Input Producer Appendix).

¹⁵⁷ *See* GOC’s IQR at Exhibit II.E.1.

¹⁵⁸ *Id.*

¹⁵⁹ *See* Public Bodies Memorandum.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.¹⁶²

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “{t}here are a vast number of users for hot-rolled steel and the type of consumers that purchase hot-rolled steel is highly varied within the economy.”¹⁶³ The GOC provided no purchase data or supporting documentation.¹⁶⁴

Consequently, we preliminarily determine that necessary information is not available on the record and that the GOC withheld information that was requested of it and significantly impeded this proceeding. Therefore, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. In drawing an adverse inference, we preliminarily find that the GOC’s provision of hot-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.

K. Application of AFA: Hot-Rolled Steel Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of hot-rolled steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the hot-rolled steel industry in China. Specifically, we requested the GOC to provide information on the total number of hot-rolled steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.¹⁶⁵ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.¹⁶⁶ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.¹⁶⁷

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.¹⁶⁸ However, we require additional data, as described above, to assess the GOC’s involvement in the hot-rolled steel market. In response to our request for other information, the GOC stated that it does not have the number of hot-rolled steel producers, and that “no such data has been collected or compiled by the authorities with regard to the domestic consumption and production of hot-rolled steel.”¹⁶⁹ In response to the question regarding the

¹⁶² See Initial Questionnaire at Section II (p. 11).

¹⁶³ See GOC IQR at 77.

¹⁶⁴ *Id.*

¹⁶⁵ See Initial Questionnaire at Section II (p. 9-10).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ See GOC IQR at Exhibit II.E1.

¹⁶⁹ *Id.* at 77.

total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that “the NBS does not collect any hot-rolled steel data based on sales volumes by industrial sectors.”¹⁷⁰

We note that 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.¹⁷¹ Specifically, Commerce has verified the operation of the GOC’s “Enterprise Credit Information Publicity System,” which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.¹⁷² 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.¹⁷³ Therefore, information related to the operation and ownership of companies within the hot-rolled steel industry is in fact available to the GOC.

The requested information on the hot-rolled steel industry is necessary for Commerce to conduct a full analysis of the GOC’s involvement in the market and thus determine if the domestic prices are distorted (*i.e.*, unusable as a “tier one” benchmark). We preliminarily determine that the necessary information on the hot-rolled steel market is not available on the record. Because the GOC withheld information that was requested of it and significantly impeded this proceeding, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. Accordingly, as AFA, we preliminarily determine that the GOC’s involvement in the hot-rolled steel market in China results in the significant distortion of the prices of hot-rolled steel, such that they cannot be used as a tier-one benchmark under 19 CFR 351.511(a)(2)(i), 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 hot-rolled steel for LTAR.

L. Application of AFA: Provision of “Other Subsidies”

Zhejiang Zhouli reported in its initial questionnaire responses that the company received certain “Other Subsidies” during the POI and over the average useful life (AUL) period.¹⁷⁴ We requested information from the GOC regarding these other subsidies (consisting of grants) in the initial questionnaire.¹⁷⁵ The GOC did not provide a response and instead stated that it would not

¹⁷⁰ *Id.*

¹⁷¹ *See, e.g., Citric Acid 2013 IDM at Comment 2.*

¹⁷² *See SSSS from China Prelim PDM at 21-22, unchanged in SSSS from China Final.*

¹⁷³ *Id.*

¹⁷⁴ *See Zhejiang Zhouli’s IQR at Exhibit 10.*

¹⁷⁵ *See IQ at 33.*

reply because “Article 11.2 of the WTO Agreement on Subsidies and Countervailing Measures dictates that investigations may not be initiated on the basis of ‘simple assertion, unsubstantiated by relevant evidence.’”¹⁷⁶ We issued a supplemental questionnaire requesting that the GOC provide full questionnaire responses regarding the “Other Subsidies” reported by the respondent for which we could estimate a measurable benefit. However, the GOC did not provide the requested information but instead simply reiterated its position from its initial questionnaire response.¹⁷⁷

In order to conduct the analysis of whether a program is specific and constitutes a financial contribution under sections 771(5A) and 771(5)(D) of the Act, respectively, it is essential that the government provides a complete response to the questions that are contained in the Standard Questions Appendix to enable Commerce to conduct statutory analyses to determine if a program under investigation is countervailable. To that end, government cooperation is essential because the government has sole access to the information required for a complete analysis of specificity and financial contribution with respect to government subsidy programs. By failing to provide complete responses to the Standard Questions Appendices as requested, we find that the record is missing necessary information because the GOC withheld necessary information and significantly impeded this investigation within the meaning of sections 776(a)(1), (2)(A), and (2)(C) of the Act and also failed to cooperate by not acting to the best of its ability to comply with our requests for information within the meaning of section 776(b) of the Act. Based on the application of AFA regarding these programs, we preliminarily determine that the self-reported grants listed in the “Other Subsidies” section below constitute a financial contribution under section 771(5)(D)(i) of the Act, and are specific, within the meaning of section 771(5A) of the Act.²²²

We determined the benefit for each of these “Other Subsidies” by dividing the amount of any measurable grant applicable to the POI by the appropriate sales denominator for Zhejiang Zhouli. For details regarding the remainder of our analysis, *see* “Other Subsidies,” below.

VIII. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.¹⁷⁸ Commerce finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s Depreciation Range System, as revised.¹⁷⁹ Commerce notified the respondents of the 10-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

¹⁷⁶ *See* GOC IQR at 136; *see also* GOC SQR at 12.

¹⁷⁷ *Id.*

¹⁷⁸ *See* 19 CFR 351.524(b).

¹⁷⁹ *See* U.S. Internal Revenue Service Publication 946 (2015), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

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

B. Attribution of Subsidies

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble*¹⁸⁰ 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.¹⁸¹

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

The CIT has upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.¹⁸²

¹⁸⁰ See *Countervailing Duties; Final Rule*, 63 FR 65348 (November 25, 1998) (*CVD Preamble*).

¹⁸¹ *Id.* at 65401.

¹⁸² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

Zhejiang Zhouli responded to Commerce's questionnaire on behalf of itself and its cross-owned affiliate Wuyi Zhouyi Mechancial and Electrical Co., Ltd. (Wuyi Zhouyi). Zhejiang Zhouli stated that Wuyi Zhouyi had ceased all business activities prior to the POI.¹⁸³ Zhejiang Zhouli reported all subsidies Zhejiang Zhouli and Wuyi Zhouyi received during the AUL period and during the POI.¹⁸⁴

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total combined sales, less intercompany sales, as the denominator, as described above. Where the program has been found to be contingent upon export activities, we used the recipient's total combined export sales as the denominator. All sales used in our net subsidy rate calculations are net of inter-company sales. For a further discussion of the denominators used, *see* Zhejiang Zhouli Preliminary Calculation Memorandum.¹⁸⁵

IX. BENCHMARKS AND INTEREST RATES

Commerce is investigating loans received by Zhejiang Zhouli and its cross-owned affiliate from state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies for Zhejiang Zhouli.¹⁸⁶ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. Normally, Commerce uses comparable commercial loans reported by the company as a benchmark.¹⁸⁷ If the firm did not have any comparable commercial loans during the period, Commerce's regulations provide that we "may use a national average interest rate for comparable commercial loans."¹⁸⁸

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

¹⁸³ See Zhejiang Zhouli IQR at 10.

¹⁸⁴ *Id.* at Exhibit 10.

¹⁸⁵ See Memorandum, "Countervailing Duty Investigation of Walk-behind Snow Throwers from the People's Republic of China: Preliminary Calculation Memorandum for Zhejiang Zhouli," dated concurrently with this memorandum (Zhejiang Zhouli Preliminary Calculation Memorandum).

¹⁸⁶ See 19 CFR 351.524(b)(1).

¹⁸⁷ See 19 CFR 351.505(a)(3)(i).

¹⁸⁸ See 19 CFR 351.505(a)(3)(ii).

Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.¹⁸⁹ In an analysis memorandum dated July 21, 2017, Commerce conducted a reassessment of the lending system in China.¹⁹⁰ Based on this reassessment, Commerce concluded that, despite reforms to date, the GOC's role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by Zhejiang Zhouli from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, Commerce selected an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.¹⁹¹

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and updated in *Thermal Paper from China*.¹⁹² 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.¹⁹³ Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2019.¹⁹⁴ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2019. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.¹⁹⁵

After Commerce identifies the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in the interest rate formation, the strength of governance as reflected in the quality of the countries' institutions. The strength of

¹⁸⁹ See *CFS from China* IDM at Comment 10.

¹⁹⁰ See Memorandum, "Analysis of China's Financial System," dated July 7, 2021.

¹⁹¹ See, e.g., *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 46754 (October 6, 2017), and accompanying PDM at 21, unchanged in *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 16055 (April 13, 2018).

¹⁹² 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.

¹⁹³ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>; see also Memorandum, "Loan Interest Rate Benchmarks," dated July 7, 2021 (Interest Rate Benchmark Memorandum).

¹⁹⁴ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>.

¹⁹⁵ 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 *Shrimp from China*.

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 2011-2019, 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.¹⁹⁶ For 2010, however, the regression does not yield that outcome for China's income group.¹⁹⁷ 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 2011-2019. 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 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 2010-2029 and "lower middle income" for 2001 – 2009.¹⁹⁸ First, we did not include those economies that Commerce considered to be non-market economies for antidumping duty purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to *IFS* for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year that we calculated a short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.¹⁹⁹ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.²⁰⁰

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.²⁰¹

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.²⁰² Finally, because these

¹⁹⁶ See Memorandum, "Countervailing Duty Investigation of Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Loan Interest Rate Benchmarks," dated July 7, 2021 (Loan Interest Benchmark Memorandum). The Loan Interest Benchmark Memorandum included data up to 2019. 2020 benchmark information is not yet available, and, consequently, we have relied on 2019 data.

¹⁹⁷ See Loan Interest Benchmark Memorandum.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ See, e.g., *Thermal Paper from China* IDM at 10.

²⁰² See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing*

long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.²⁰³

The resulting inflation-adjusted benchmark lending rates are provided in the Zhejiang Zhouli Preliminary Calculation Memorandum.

B. Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, we are following the methodology developed over a number of successive Chinese proceedings.²⁰⁴ For USD short-term loans, we used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any short-term loans denominated in other foreign currencies, we used as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, we added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-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.²⁰⁵

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.²⁰⁶ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Zhejiang Zhouli Preliminary Calculation Memorandum.

D. Benchmarks for the Government Provision of Inputs at LTAR

1. Provision of Cold-Rolled Steel Inputs for LTAR

Zhejiang Zhouli reported purchases of cold-rolled steel during the POI for the production of subject merchandise.²⁰⁷

Duty Determination, 74 FR 16836 (April 13, 2009) (*Citric Acid from China*), and accompanying IDM at Comment 14.

²⁰³ See Interest Rate Benchmark Memorandum.

²⁰⁴ See *Aluminum Extrusions from the People’s Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015), and accompanying IDM at 14.

²⁰⁵ *Id.*; see also *Citric Acid from China*.

²⁰⁶ *Id.*; see also Interest Rate Benchmark Memorandum.

²⁰⁷ See Zhejiang Zhouli’s IQR at 22.

Under 19 CFR 351.511(a)(2) Commerce 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).²⁰⁸ As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic input producers of cold-rolled steel are “authorities” and that the cold-rolled steel market is distorted. Therefore, domestic prices in China for cold-rolled steel cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of cold-rolled steel, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

The petitioner provided publicly available information for 2020 monthly world market prices of exports of cold-rolled steel (HTS code 7209.16), sourced from Datamyne’s Global Trade Analytics.²⁰⁹ No other interested parties filed benchmark comments for cold-rolled steel inputs.

When there is more than one commercially available world market price, Commerce is directed to average such prices to the extent practicable in accordance with its practice and 19 CFR 351.511(a)(2)(ii).²¹⁰ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the Datamyne’s Global Trade data submitted by the petitioner into our cold-rolled steel benchmark calculations because they reflect world market prices and they do not include export prices of cold-rolled steel into China, which we preliminarily determine is a distorted market.

Under 19 CFR 351.511(a)(2)(iv), when calculating a tier-two world market price, “Commerce will adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product. This adjustment will include delivery charges and import duties.” Thus, we have added ocean freight to the monthly, weighted-average benchmark prices for cold-rolled steel. The petitioners submitted monthly ocean freight rates for the POI, sourced from Drewry Maritime Research, for freight shipped from various starting points around the world to Shanghai, China.²¹¹ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for cold-rolled steel.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly cold-rolled steel benchmark the applicable import duty and VAT for imports of cold-rolled steel, as provided by the GOC.²¹² Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly cold-rolled steel benchmark based on company-specific inland freight

²⁰⁸ See 19 CFR 351.511(a)(2).

²⁰⁹ See Petitioner’s Benchmark Comments at 3 and Attachment 1.

²¹⁰ See, *e.g.*, *High Pressure Steel Cylinders from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*; 2017, 84 FR 71373 (December 27, 2019) (*Steel Cylinders from China*), and accompanying IDM at Comment 1.

²¹¹ See Petitioner’s Benchmark Comments at Attachment 3.

²¹² See GOC’s IQR at 40.

information submitted by Zhejiang Zhouli.²¹³ For further information concerning the derivation of the monthly, weighted-average benchmark prices for cold-rolled steel during the POI, *see* Zhejiang Zhouli's Preliminary Determination Calculation Memorandum.

2. Provision of Hot-Rolled Steel Input for LTAR

Zhejiang Zhouli reported purchases of hot-rolled steel during the POI for the production of subject merchandise.²¹⁴

Under 19 CFR 351.511(a)(2) Commerce 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).²¹⁵ As discussed above under "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily determine that the domestic input producers of hot-rolled steel are "authorities" and that the hot-rolled steel market is distorted. Therefore, domestic prices in China for hot-rolled steel cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of hot-rolled steel, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

The petitioner provided publicly available information for 2020 monthly world market prices of exports of hot-rolled steel (HTS code 7208.39), sourced from Datamyne's Global Trade Analytics.²¹⁶ No other interested parties filed benchmark comments for hot-rolled steel inputs.

When there is more than one commercially available world market price, Commerce is directed to average such prices to the extent practicable in accordance with its practice and 19 CFR 351.511(a)(2)(ii).²¹⁷ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the Datamyne's Global Trade data submitted by the petitioner into our hot-rolled steel benchmark calculations because they reflect world market prices and they do not include export prices of cold-rolled steel into China, which we preliminarily determine is a distorted market.

Under 19 CFR 351.511(a)(2)(iv), when calculating a tier-two world market price, "Commerce will adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product. This adjustment will include delivery charges and import duties." Thus, we have added ocean freight to the monthly, weighted-average benchmark prices for hot-rolled steel. The petitioner submitted monthly ocean freight rates for the POI, sourced from World Freight Calculator, for freight shipped from various starting points around the world to Shanghai,

²¹³ *See* Zhejiang Zhouli's 2nd SQR at Exhibit S2-1.

²¹⁴ *See* Zhejiang Zhouli's IQR at 20.

²¹⁵ *See* 19 CFR 351.511(a)(2).

²¹⁶ *See* Petitioner's Benchmark Comments at 3 and Attachment 1.

²¹⁷ *See, e.g., Steel Cylinders from China* IDM at Comment 1.

China.²¹⁸ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for hot-rolled steel.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly hot-rolled steel benchmark the applicable import duty and VAT for imports of hot-rolled steel, as provided by the GOC.²¹⁹ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly hot-rolled steel benchmark based on company-specific inland freight information submitted by Zhejiang Zhouli.²²⁰ For further information concerning the derivation of the monthly, weighted-average benchmark prices for hot-rolled steel during the POI, *see* Zhejiang Zhouli's Preliminary Determination Calculation Memorandum.

3. Provision of Electricity for LTAR

As discussed in the section, "Use of Facts Otherwise Available and Adverse Inferences," we are relying on AFA to select the highest electricity rates as the benchmark for measuring the adequacy of remuneration for electricity. The GOC submitted on the record a copy of all provincial electricity tariff schedules that were in effect during the POI.²²¹ The selected electricity benchmarks are provided in the Preliminary Determination Calculations Memorandum.

X. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Export Buyer's Credits

Commerce is examining whether the GOC provides preferential financing to exporters by offering local and foreign currency loans to overseas borrowers through the China Ex-Im Bank. For the reasons explained in the "Application of AFA: Export Buyer's Credits" section, our preliminary determination regarding whether the GOC's provision of export buyer's credits constitutes a financial contribution, is specific, and confers a benefit is based on AFA, pursuant to sections 776(a) and (b) of the Act. As AFA, we preliminarily determine that the GOC's provision of export buyer's credits confers a financial contribution within the meaning of section 771(5)(D) of the Act. As AFA, we preliminarily determine that the Export Buyer's Credits program is specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act. As AFA, we preliminarily determine that this program confers a benefit to the mandatory respondent, pursuant to section 771(5)(E) of the Act. Furthermore, for the reasons explained in the "Application of AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program

²¹⁸ See Petitioner's Benchmark Comments at Attachment 3.

²¹⁹ See GOC's IQR at 28.

²²⁰ See Zhejiang Zhouli's IQR at Exhibit 18.

²²¹ See GOC's IQR at Exhibit ELEC-11.

during the POI within the meaning of section 771(5)(E)(ii) of the Act. For Zhejiang Zhouli, and the non-responsive companies, we are preliminarily applying an AFA rate of 10.54 percent *ad valorem*, which is a rate calculated for a similar program in another CVD proceeding involving imports from China.²²²

2. Provision of Cold-Rolled Steel for LTAR

We are examining whether the GOC or other “authorities” within China provided cold-rolled steel for LTAR. Zhejiang Zhouli reported that it purchased cold-rolled steel during the POI.²²³

The GOC reported that certain producers of the cold-rolled steel purchased by Zhejiang Zhouli are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.²²⁴ As such, we find 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. Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Zhouli received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²²⁵

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of cold-rolled steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Zhouli received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²²⁶

As AFA, we also preliminarily determine that the provision of cold-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.²²⁷ Further, we preliminarily determine, as AFA, that the domestic market for cold-rolled steel is distorted by government involvement in the market.²²⁸ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of cold-rolled steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Zhouli for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Zhouli. To

²²² See *Coated Paper from China Investigation Amended Final*.

²²³ See Zhejiang Zhouli’s IQR at Exhibit 17.2.

²²⁴ See Public Bodies Memorandum.

²²⁵ See *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from China*), and accompanying IDM at 6.

²²⁶ *Id.*

²²⁷ See “Use of Facts Otherwise Available and Adverse Inferences” section above.

²²⁸ *Id.*

determine the net countervailable subsidy rate for Zhejiang Zhouli, we divided the benefits received by the appropriate sales denominator, as described in the “Subsidies Valuation” section.

On this basis we preliminarily determine a net countervailable subsidy rate of 0.86 percent *ad valorem* for Zhejiang Zhouli.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent in this investigation, *i.e.*, 0.86 percent *ad valorem*, to the non-responsive companies.²²⁹

3. Provision of Hot-Rolled Steel for LTAR

We are examining whether the GOC or other “authorities” within China provided hot-rolled steel for LTAR. Zhejiang Zhouli reported that it purchased hot-rolled steel during the POI.²³⁰

The GOC reported that certain producers of the hot-rolled steel purchased by Zhejiang Zhouli are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.²³¹ As such, we find 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. Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Zhouli received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²³²

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of hot-rolled steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Zhouli received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²³³

As AFA, we also preliminarily determine that the provision of hot-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.²³⁴ Further, we preliminarily determine, as AFA, that the domestic market for hot-rolled steel is distorted by government involvement in the market.²³⁵ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of hot-rolled steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

²²⁹ See Appendix.

²³⁰ See Zhejiang Zhouli’s IQR at Exhibit 17.1.

²³¹ See Public Bodies Memorandum.

²³² See *OCTG from China* IDM at 6.

²³³ *Id.*

²³⁴ See “Use of Facts Available and Adverse Inferences” section above.

²³⁵ *Id.*

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Zhouli for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Zhouli. To determine the net countervailable subsidy rate for Zhejiang Zhouli, we divided the benefits received by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis we preliminarily determine a net countervailable subsidy rate of 0.04 percent *ad valorem* for Zhejiang Zhouli.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent, *i.e.*, 0.04 percent *ad valorem*, to the non-responsive companies.²³⁶

4. Policy Loans to the Snow Throwers Industry

The petitioner alleged that the GOC provides policy loans to the snow throwers industry.²³⁷ Zhejiang Zhouli reported loans from banks for which it made interest payments during the POI.²³⁸

When examining a policy lending program, Commerce looks to 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, it is Commerce’s 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. Once that finding is made, we rely upon the analysis undertaken in *CFS from China* to conclude that national and local government control over the SOCBs renders the loans government financial contributions.²³⁹

In the Initial Questionnaire, we asked the GOC to “provide all relevant portions of each {provincial and municipal} 5-year plan pertaining to snow throwers industry with *complete* translations.”²⁴⁰ We also asked the GOC to “provide a complete copy of each national industrial plan/policy that includes snow throwers industry.”²⁴¹ In addition, we asked the GOC to “provide a complete copy of the snow throwers industrial plan/policy for each of the provinces and municipalities in which the respondent companies and their cross-owned companies are registered.”²⁴²

The documents provided by the GOC, *i.e.*, the GOC’s *Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China*,²⁴³ the *State Council Decision on Promulgating the Interim Provisions on Promoting Industrial Structure*

²³⁶ See Appendix.

²³⁷ See Petition at Volume III.

²³⁸ See Zhejiang Zhouli’s IQR at 13 and Exhibit 11.

²³⁹ See *CFS from China* IDM at Comment 8.

²⁴⁰ See Initial Questionnaire at Section II, Part II, Part A (“Preferential Lending”) Question 1b.

²⁴¹ *Id.* at Question 1d.

²⁴² *Id.* at Question 1e.

²⁴³ See GOC IQR at Exhibit II.B.5.

Adjustment for Implementation (No. 40 (2005)) (*Decision 40*);²⁴⁴ and the Directory Catalogue on Readjustment of Industrial Structure (*Industrial Catalogue*)²⁴⁵ indicates that the snow throwers industry is categorized as special equipment manufacturing industry, which is included in the machinery manufacturing of special equipment for agriculture, forestry, animal husbandry and fishery” sub-classification under the special equipment manufacturing industry.²⁴⁶

Record evidence indicates that financial support is directed specifically toward special equipment industry.²⁴⁷ In the tenth Five-Year Plan (2001-2005), the GOC highlighted the equipment manufacturing industry as one sector ready for “rejuvenation” and growth supported by the government.²⁴⁸ In the subsequent 11th Five-Year Plan (2006-2010), China sought to “push forward” and “accelerate the development of” high-tech industries, as well as “vigorously develop {the} equipment manufacturing industry.”²⁴⁹ Later, the 12th Five-Year Plan (2011-2015) sought to expand foreign investment including encouraging “foreign capital to take part in merge{r}s and reorganization of domestic enterprise{...} and promote equity investment of foreign capital and start up investment.”²⁵⁰ The 13th Five-Year Plan (2016-2020) seeks to modernize manufacturing processes across industries, with an emphasis on environmentally sound practices and resource utilization.²⁵¹ The 14th Five-Year plan (2021-2025) will focus on increasing the share of the manufacturing industry in China to match the growth of the service industry.²⁵²

Thus, we preliminarily determine that a program exists to provide preferential lending to producers of special equipment within the meaning of section 771(5)(A) of the Act. As discussed *supra*, we preliminarily find this program to be *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from banks under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because the banks are “authorities.”²⁵³ 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.²⁵⁴

To determine whether Zhejiang Zhouli received a benefit from this program, we compared the amount of interest Zhejiang Zhouli paid on the outstanding loans to the amount of interest the company would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates described in the “Benchmarks and Interest Rates” section above.²⁵⁵ To calculate the net countervailable subsidy rate under this program, we divided the benefit by

²⁴⁴ *Id.* at Exhibit II.B.6.

²⁴⁵ *Id.* at Exhibits II.B.3.

²⁴⁶ *Id.*

²⁴⁷ *Id.*, at Exhibit II.B.6.

²⁴⁸ See Petition at Volume III, *see also* the GOC IQR at Exhibit II.B.1.

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² See Petition at Volume III; *see also* the GOC IQR at Exhibit II.B.1.

²⁵³ See, e.g., *CFS from China* IDM at Comment 1, *see also* Commerce’s Memorandum, “Analysis of Banks and Trust Companies in China as Public Bodies for Countervailing Duty (CVD) Purposes,” dated July 7, 2021.

²⁵⁴ See section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

²⁵⁵ See 19 CFR 351.505(c).

Zhejiang Zhouli's total POI sales. On this basis, we preliminarily determine a subsidy rate of 0.17 percent *ad valorem* for Zhejiang Zhouli.²⁵⁶

5. Income Tax Reduction for High and New Technology Enterprises

Zhejiang Zhouli reported using this program during the POI.²⁵⁷ Under Article 28.2 of the *Corporate Income Tax Law of the People's Republic of China* and Article 93 of the *Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China*, a company's income tax is reduced from the standard rate if it is recognized as an HNTE.²⁵⁸ Commerce previously found this program to be countervailable.²⁵⁹

Based upon the information submitted by Zhejiang Zhouli on its tax returns filed during the POI under this program, Zhejiang Zhouli paid a reduced income tax rate of 15 percent, instead of the standard 25 percent corporate income tax rate.²⁶⁰

Consistent with Commerce's determinations in other CVD proceedings on imports from China, we preliminarily determine that this tax incentive constitutes a financial contribution in the form of revenue forgone by the GOC and confers a benefit in the amount of the tax savings, as provided under sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We further determine that the income tax reduction under this program is limited as a matter of law to certain enterprises whose products are designated as being in "high-tech fields with state support," and, hence, is *de jure* specific, under section 771(5A)(D)(i) of the Act.

We calculated the benefit as the difference between the taxes that Zhejiang Zhouli would have paid under the standard 25 percent tax rate and they actually paid under the preferential 15 percent tax rate, as reflected on their tax returns filed during the POI, as provided for under 19 CFR 351.509(a)(1) and (b)(1). We treated the tax savings as a recurring benefit consistent with 19 CFR 351.524(c)(1). With regard to Zhejiang Zhouli, we divided the benefit by Zhejiang Zhouli's total FOB sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.03 percent *ad valorem* for Zhejiang Zhouli.

6. Income Tax Deduction for Research and Development under the Enterprise Income Tax Law

Zhejiang Zhouli reported using this program during the POI.²⁶¹ Under Article 30.1 of the *Enterprise Income Tax Law (EITL)*, which became effective January 1, 2008, companies may deduct R&D expenses incurred in the development of new technologies, products, or processes

²⁵⁶ See Zhejiang Zhouli Preliminary Determination Calculation Memorandum.

²⁵⁷ See Zhejiang Zhouli IQR at 17 at Exhibit 15 and Exhibit 16.

²⁵⁸ See Government of China June 6, 2020 IQR at Exhibit II.C.1 and Exhibit II.C.4; and Zhejiang Zhouli IQR at Exhibit 4 and Exhibit 15.

²⁵⁹ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 5031 (August 19, 2013) (*Warmwater Shrimp*), and accompanying IDM at 25-26 and Comment 20.

²⁶⁰ See Zhejiang Zhouli IQR at Exhibit 4.

²⁶¹ See Zhejiang Zhouli IQR at 18 and Exhibit 16.

from their taxable income.²⁶² Article 95 of the *Regulations on the Implementation of Enterprise Income Tax Law* (Decree 512 of the State Council, 2007) provides that, if eligible research expenditures do not form part of the intangible assets value, an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.²⁶³ Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the value of the intangible assets.²⁶⁴

Moreover, Article 4 of the “Circular of the State Administration of Taxation on Printing and Issuing the Administrative Measures for the Pre-tax Deduction of Enterprises’ Expenditures for Research and Development (for Trial Implementation)” (Circular 116) states that enterprises engaged in hi-tech R&D, including aluminum producers, may deduct certain expenditures, as listed in the “Hi-tech Sectors with Primary Support of the State Support and the Guideline of the Latest Key Priority Developmental Areas in the High Technology Industry (2007).”²⁶⁵

We preliminarily determine that the income tax deduction under this program provides a financial contribution in the form of revenue forgone by the government within the meaning of section 771(5)(D)(ii) of the Act, and provides a benefit to the recipient in the amount of the tax savings within the meaning of 19 CFR 351.509(a)(1). We also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D in eligible high-technology sectors and, thus, is *de jure* specific under section 771(5A)(D)(i) of the Act. Commerce has previously found this program to be countervailable.²⁶⁶

To calculate the benefit from this program, we treated the tax deductions as recurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we calculated the amount of tax that Zhejiang Zhouli would have paid absent the tax deductions at the standard tax rate of 25 percent (*i.e.*, 25 percent of the tax deduction).²⁶⁷ We divided the resulting benefit by Zhejiang Zhouli’s total FOB sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.59 percent *ad valorem* for Zhejiang Zhouli.

7. “Other Subsidies” – Grants Self-Reported by Zhejiang Zhouli

Zhejiang Zhouli reported that it received various other grants from the GOC during the AUL.³³⁷ For the reasons explained in the “Application of AFA: Other Subsidies” section above, we are basing our preliminary determination regarding these grants on AFA, in part. Therefore, we determine that the grants confer a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of the Act, and are specific under section 771(5A) of the Act.

²⁶² See GOC IQR at Exhibit Tax-2 at 1 and Exhibit Tax-3 at 6.

²⁶³ See GOC IQR at Exhibit Tax-2 at 1 and Exhibit Tax-4 at 17.

²⁶⁴ *Id.*

²⁶⁵ See Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawnmowers and Parts Thereof from the People’s Republic of China: Placing Information on the Record,” dated April 16, 2018 at Document 2, Exhibit S2-4 to S2-6.

²⁶⁶ See, *e.g.*, *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012), and accompanying IDM at 17.

²⁶⁷ See Zhejiang Zhouli IQR at Exhibit 16.

We find that the respondent received non-recurring grants during the POI or AUL period.³³⁸

To calculate the benefits received under these programs, we followed the methodology described in 19 CFR 351.524. In accordance with 19 CFR 351.524(b)(2), we determine whether to allocate the non-recurring benefit from these grants over the AUL by dividing the approved grant amount by the company's total sales in the year of approval. If the approved amount is less than 0.5 percent of the company's total sales, we expensed the amounts received under the grants in the respective years received. To calculate the *ad valorem* subsidy rate for these grants, we divided the benefit allocable to the POI by the respondent's appropriate total sales denominator. Based on the methodology outlined above, we calculated net countervailable *ad valorem* subsidy rates for Zhejiang Zhouli of 0.63 percent.²⁶⁸

B. Programs Preliminarily Determined Not to Confer Measurable Benefits to Zhejiang Zhouli During the POI

Based on the record evidence, we determine that the benefits from the following programs were fully expensed prior to the POI or are less than 0.005 percent *ad valorem* when attributed to the respondent's applicable sales as discussed in the "Attribution of Subsidies" section above.²⁶⁹ Consistent with Commerce's practice,²⁷⁰ we have not included the following programs in our preliminary subsidy rate calculations for Zhejiang Zhouli.

- Provision for Electricity for LTAR
- Madrid-Yiwu Subsidy for Year 2019
- Subsidy for Construction of Enterprise Safety Standardization
- Subsidy for Safety Trusteeship

C. Programs Preliminarily Determined to Be Not Used by Zhejiang Zhouli

- Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization
- Income Tax Deductions/Credits for Purchase of Special Equipment
- The State Key Technology Project Fund
- Grants for Energy Conservation and Emission Reduction
- SME Technology Innovation Fund

D. Programs Preliminarily Determined to Not to Provide a Benefit in 2020

1. Currency Undervaluation

Commerce's analysis regarding the benefit calculation for this program is guided by 19 CFR 351.528. Pursuant to 19 CFR 351.528(a), Commerce considers whether a benefit is conferred

²⁶⁸ See Zhejiang Zhouli's Preliminary Determination Calculation Memorandum.

²⁶⁹ *Id.*

²⁷⁰ See, e.g., *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) at Income Tax Reductions for Firms Located in the Shanghai Pudong New District.

from the exchange of currency under a unified exchange rate system only if that currency is undervalued. Pursuant to 19 CFR 351.528(a)(2), we normally will make an affirmative finding of undervaluation only if there has been government action on the exchange rate that contributes to that undervaluation. Consistent with 19 CFR 351.528(c), we requested that “the Secretary of the Treasury provide Treasury’s evaluation and conclusion as to the determinations” under 19 CFR 351.528(a) and (b)(1). On June 2, 2021, we received Treasury’s analysis on currency undervaluation.²⁷¹ While Treasury determined that the RMB was undervalued during the POI, it also found that this undervaluation was not the result of government action on the exchange rate in 2020.²⁷² Treasury’s assessment was made using a multilaterally consistent model assessing external imbalances and exchange rate misalignments. In addition to considering net sales of foreign exchange reserves in the subject country and other macroeconomic and policy variables, the model evaluated the extent of a foreign currency’s undervaluation *vis-à-vis* the U.S. dollar and assessed the degree to which that may have occurred because of government intervention.²⁷³

Therefore, in accordance with 19 CFR 351.528(a)(2), we preliminarily find that the RMB’s undervaluation did not provide a benefit to producers/exporters of snow throwers during the 2020 POI. As a result, we did not analyze the financial contribution or specificity of this program for the purposes of this preliminary determination.

²⁷¹ See Treasury Letter.

²⁷² *Id.* at 2.

²⁷³ See, e.g., *CFS from China* IDM at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;” *2012 Steel Wheels Final* IDM at “Income Tax Reductions for Firms Located in the Shanghai Pudong New District;” *Aluminum Extrusions 2010-11 AR* IDM at “Programs Used by the Alnan Companies;” and *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at “Tax Deduction for Research and Development (R&D) Expenses.”

XI. RECOMMENDATION

Based on our analysis, we recommend adopting the preliminary determination described above. If this recommendation is accepted, we will publish the preliminary determination in the *Federal Register*.

☒

Agree

☐

Disagree

X

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

APPENDIX
AFA Rate Calculation

Program Name	Rate	Source
Preferential Lending		
Policy Loans to the Snow Throwers Industry	0.17%	Rate Calculated for Zhejiang Zhouli
Preferential Loans to State- Owned Enterprises (SOEs)	10.54%	<i>See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 75 FR 70201 (November 17, 2010) (Coated Paper from China)</i>
Export Credit Subsidies		
Export Seller's Credit	10.54%	<i>Coated Paper from China</i>
Export Buyer's Credit	10.54%	<i>Coated Paper from China</i>
Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)		
Provision of Hot-Rolled Steel For LTAR	0.86%	Rate Calculated for Zhejiang Zhouli
Provision of Cold-Rolled Steel For LTAR	0.04%	Rate Calculated for Zhejiang Zhouli
Provision of Electricity For LTAR	20.06%	<i>Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012, 79 FR 56560 (September 22, 2014), and accompanying IDM at "Electricity for LTAR."</i>
Income Tax and Direct Tax Programs		
Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization	25.00%	The standard income tax rate for corporations in China during the period of investigation was 25 percent. Thus, the highest possible benefit for all income tax reduction or exemption programs combined is 25 percent. Accordingly, we
Income Tax Deductions/Credits for Purchase of Special Equipment		

Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization		are applying the 25 percent AFA rate on a combined basis (<i>i.e.</i> , finding that the two programs, combined, provide a 25 percent benefit).
Income Tax Deductions/Credits for Purchase of Special Equipment		
Grant Programs		
The State Key Technology Project Fund	1.27%	<i>See High Pressure Steel Cylinders from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017, 84 FR 71373 (December 27, 2019) (High Pressure Steel Cylinders).</i>
Energy Conservation and Emission Reduction	1.27%	<i>High Pressure Steel Cylinders</i>
Small- and Medium-sized Enterprise Technology Innovation Fund	1.27%	<i>High Pressure Steel Cylinders</i>
Self-Reported Programs		
2014 foreign trade subsidy fund-Attending Exhibitions	1.27%	<i>High Pressure Steel Cylinders</i>
2014 enterprise innovation--Machine replacement	1.27%	<i>High Pressure Steel Cylinders</i>
Special financial fund for informatization development in 2015	1.27%	<i>High Pressure Steel Cylinders</i>
Research and development funds from science and Technology Bureau - Zhou Yanyan hand snow sweeper	1.27%	<i>High Pressure Steel Cylinders</i>
Industrial economic transformation and cultivation of demonstration enterprises	1.27%	<i>High Pressure Steel Cylinders</i>
Demonstration enterprise of space land exchange	1.27%	<i>High Pressure Steel Cylinders</i>
Foreign trade support fund for 2015	1.27%	<i>High Pressure Steel Cylinders</i>
2015 safety production award	1.27%	<i>High Pressure Steel Cylinders</i>
Export brand Award	1.27%	<i>High Pressure Steel Cylinders</i>

Subsidy for integration of industrialization in 2016	1.27%	<i>High Pressure Steel Cylinders</i>
Property tax and land tax subsidy	1.27%	<i>High Pressure Steel Cylinders</i>
Special Fund Award for environmental protection production in 2015	1.27%	<i>High Pressure Steel Cylinders</i>
Foreign trade support fund in 2016	1.27%	<i>High Pressure Steel Cylinders</i>
Technological innovation award for provincial industrial new product	1.27%	<i>High Pressure Steel Cylinders</i>
Subsidy for safety utilization of electricity enterprises in 2016 - Green Enterprise	1.27%	<i>High Pressure Steel Cylinders</i>
The second batch of foreign trade support in 2016	1.27%	<i>High Pressure Steel Cylinders</i>
Financial special fund for developing international market	1.27%	<i>High Pressure Steel Cylinders</i>
Environmental protection enterprises	1.27%	<i>High Pressure Steel Cylinders</i>
Property tax and land tax subsidy	1.27%	<i>High Pressure Steel Cylinders</i>
Technology Innovation Award	1.27%	<i>High Pressure Steel Cylinders</i>
Worker pioneer bonus	1.27%	<i>High Pressure Steel Cylinders</i>
The first batch of foreign trade subsidies in 2017	1.27%	<i>High Pressure Steel Cylinders</i>
The second batch of foreign trade subsidies in 2017	1.27%	<i>High Pressure Steel Cylinders</i>
2017 External safety management assistance subsidies	1.27%	<i>High Pressure Steel Cylinders</i>
R & D investment reward in 2017	1.27%	<i>High Pressure Steel Cylinders</i>
The first batch of foreign trade subsidies in the year of 2018	1.27%	<i>High Pressure Steel Cylinders</i>
The second batch of foreign trade subsidies in year of 2018	1.27%	<i>High Pressure Steel Cylinders</i>
Refund of overpaid service charge for withholding individual income tax on behalf of employees	1.27%	<i>High Pressure Steel Cylinders</i>

First Batch Subsidy for Foreign Trade in 2018	1.27%	<i>High Pressure Steel Cylinders</i>
Reward to Small-scale Enterprise Improvement in 2018	1.27%	<i>High Pressure Steel Cylinders</i>
Mutual Medical Assistance Fund for Employees	1.27%	<i>High Pressure Steel Cylinders</i>
Second Batch Subsidy for Foreign Trade in 2018	1.27%	<i>High Pressure Steel Cylinders</i>
Subsidy for Construction of Enterprise Safety Standardization	1.27%	<i>High Pressure Steel Cylinders</i>
Reward for R&D Input in 2018	1.27%	<i>High Pressure Steel Cylinders</i>
Foreign Trade Assistance Subsidy for 2019 First Half Year	1.27%	<i>High Pressure Steel Cylinders</i>
High and New Enterprise Subsidy	0.13%	Rate Calculated for Zhejiang Zhouli
Third Batch of Patent Grants for Year 2019	0.03%	Rate Calculated for Zhejiang Zhouli
Special Fund for Human Resources Adjustment	0.12%	Rate Calculated for Zhejiang Zhouli
Social Insurance Subsidy	0.04%	Rate Calculated for Zhejiang Zhouli
Special Fund for Water Balance Enterprise in 2019	0.01%	Rate Calculated for Zhejiang Zhouli
Special Fund for Water Saving Enterprise in 2019	0.03%	Rate Calculated for Zhejiang Zhouli
Madrid-Yiwu Subsidy for Year 2019	1.27%	<i>High Pressure Steel Cylinders</i>
Foreign Trade Subsidy in 2019	0.01%	Rate Calculated for Zhejiang Zhouli
Technical Renovation Subsidy in 2020	0.03%	Rate Calculated for Zhejiang Zhouli
Foreign Trade Subsidy in 2019	0.01%	Rate Calculated for Zhejiang Zhouli
Subsidy for Construction of Enterprise Safety Standardization	1.27%	<i>High Pressure Steel Cylinders</i>
Subsidy for Safety Trusteeship	1.27%	<i>High Pressure Steel Cylinders</i>
Reward for R&D Input in 2019	0.19%	Rate Calculated for Zhejiang Zhouli
Technical Renovation Subsidy in 2020	0.02%	Rate Calculated for Zhejiang Zhouli
Total AFA Rate for the Non-responsive Companies:	130.44%	