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Washington, D.C. 20230

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Investigation
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March 18, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Non-Oriented Electrical Steel from Taiwan

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I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of non-oriented electrical steel (NOES) from Taiwan, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On September 30, 2013, the Department of Commerce (the Department) received countervailing duty (CVD) petitions concerning imports of non-oriented electrical steel (NOES) from the People's Republic of China (PRC), Republic of Korea (Korea), and Taiwan, filed in proper form on behalf of AK Steel Corporation (Petitioner). On October 22, 2013, the Department requested information and clarification for certain areas of the Petitions.[1] The petitioner filed responses to

[1] *See* letter from the Department to petitioner entitled "Re: Petitions for the Imposition of Antidumping Duties on Imports of Non-Oriented Electrical Steel from the People's Republic of China, the Federal Republic of Germany, Japan, Republic of Korea, Sweden, and Taiwan and Countervailing Duties on Imports of Non-Oriented Electrical Steel from the People's Republic of China, Republic of Korea, and Taiwan: Supplemental Questions, dated October 22, 2013, and letters from the Department to petitioner entitled "Petition for the Imposition of Countervailing Duties on Imports of Non-Oriented Electrical Steel from {country}: Supplemental Questions" on each of the country-specific records dated October 22, 2013.

these requests on October 25,[2] and October 30, 2013.[3] On November 14, 2013, the Department initiated a CVD investigation on NOES from Taiwan.[4]

We stated in the *Initiation Notice*[5] that the Department intended to examine all known producers/exporters identified in the Petitions in the investigation with regards to Taiwan. Accordingly, on November 22, 2013, we sent the CVD questionnaire seeking information regarding the alleged subsidies to China Steel Corporation (CSC) and its cross-owned affiliates Dragon Steel Corporation (DSC), HiMag Magnetic Corporation (HIMAG) and China Steel Global Trading Corporation (CSGT) (collectively, CSC Companies), Leicong Industrial Company, Ltd. (Leicong), and the Government of Taiwan (GOT).[6]

In its December 23, 2013, submission Leicong argued that it should be exempt from answering the Department's questionnaire.[7] Leicong subsequently did not respond to the Department's questionnaire after receiving an extension.[8]

On January 14, 2014, and January 15, 2014, CSC Companies and the GOT, respectively, submitted their responses to the Department's questionnaire.[9] We received the narrative portion of the initial questionnaire response for DSC and HIMAG on January 29, 2014.[10] We issued a supplemental questionnaire to CSC and its affiliates on January 17, February 6 and 28, 2014. We received responses from CSC and its affiliates on January 27, February 18 and 26, 2014, and March 17, 2014.[11] We issued supplemental questionnaires to the GOT on February 3, 2014, and February 19, 2014. We received supplemental questionnaire responses from the GOT on February 24, 2014, February 28, 2014, and March 7, 2014.[12]

On January 29, 2013, and February 3, 2014, Petitioner filed new subsidy allegations.[13] The Department determined to investigate certain programs of the newly alleged subsidies[14] and sent

[2] *See* Supplemental to the PRC Petition, dated October 25, 2013 (PRC Supplemental); Supplemental to the Korea Petition, dated October 25, 2013 (Korea Supplemental); and Supplemental to the Taiwan Petition, dated October 25, 2013 (Taiwan Supplemental).
[3] *See* Supplemental to the Japan Petition, dated October 30, 2013 (Japan Supplemental).
[4] *See Non-Oriented Electrical Steel From the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*, 78 FR 68412 (November 14, 2013) (*Initiation Notice*).
[5] *Id.*, 78 FR at 68415.
[6] *See* Letter from Department to CSC, "Countervailing Duty Questionnaire," (November 22, 2013); Letter from Department to Leicong, "Countervailing Duty Questionnaire," (November 22, 2013); and Letter from Department to the GOT, "Countervailing Duty Questionnaire," (November 22, 2013).
[7] *See* Letter from Leicong, "Submission of E-Mail for the Record and Extension Request," dated December 23, 2013.
[8] *See* Letter from Department to Leicong, "Initial Questionnaire Response," (December 23, 3013).
[9] *See* CSC Companies' initial questionnaire responses (IQR) (January 14, 2014) and the GOT's initial questionnaire response (IQR) (January 15, 2014).
[10] *See* DSC and HIMAG's initial questionnaire narrative responses (January 29, 2014).
[11] *See* CSC's supplemental questionnaire responses (SQR) dated January 27, February 18 and 26, 2014, and March 17, 2014.
[12] *See* The GOT's SQR, dated February 24, 2014, February 28, 2014, and March 7, 2014.
[13] *See* Letters from Petitioner, "Petitioner's First New Subsidy Allegations," (January 29, 2013), "Petitioner's Second New Subsidy Allegations," (February 3, 2014).
[14] *See* Department Memorandum, "Decision Memorandum on New Subsidy Allegations," (February 24, 2014).

new subsidy questionnaires on February 24, 2014.[15] We received responses from the GOT on March 12, 2014.[16]

Extension of Preliminary Deadline: On November 26, 2013, Petitioner requested that the deadline for the preliminary determination be extended until no later than 130 days after the initiation of the investigation. The Department granted Petitioner's request and on December 13, 2013, postponed the preliminary determination until March 17, 2014, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).[17] On March 11, 2014, in accordance with section 705(a)(1) of the Act, Petitioner requested that the Department align the due date of the final CVD determination with that of the final antidumping duty determination of NOES from Taiwan.[18]

B. Period of Investigation

The period of investigation (POI) is January 1, 2012, through December 31, 2012.

III. SCOPE COMMENTS

In accordance with the Preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.[19] On January 28, 2014, POSCO, a respondent in the investigation of Korea, asked the Department to clarify that the scope of this investigation does not include downstream products fabricated from NOES, and whether particular specification are within the scope of the investigation.[20]

We are currently evaluating the scope comments filed by the interested parties. We will issue our preliminary decision regarding the scope of the AD and CVD investigations either before or in the preliminary determination of the companion AD investigations, which are due for signature on May 15, 2014. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

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[15] *See* Letter from Department to the GOT, "New Subsidy Allegations Questionnaire," (February 24, 2014).
[16] *See* GOT's new subsidy questionnaire response (NSQR) (March 12, 2014).
[17] *See Non-Oriented Electrical Steel from the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 78 FR 76815 (December 19, 2013).
[18] *See* Letter from Petitioner regarding "Non-Oriented Electrical Steel from Taiwan: Request to Align," (March 11, 2014).
[19] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); *see also Initiation Notice*, 78 FR 68412.
[20] *See* Letter from POSCO, "Non-Oriented Electrical Steel From the People's Republic of China. The Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Scope Clarification Requests," (January 28, 2014).

IV. SCOPE OF THE INVESTIGATION

The merchandise subject to theis investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term "substantially equal" in the prior sentence means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oesteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight at least 1.25 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum.

NOES is subject to this investigation whether it is fully processed (fully annealed to develop final magnetic properties) or semi-processed (finished to final thickness and physical form but not fully annealed to develop final magnetic properties); whether or not it is coated (*e.g.*, with enamel, varnish, natural oxide surface, chemically treated or phosphate surface, or other non-metallic materials). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the specifications noted above.

NOES is sometimes referred to as cold-rolled non-oriented electrical steel (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO). These terms are interchangeable.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

V. INJURY TEST

Because Taiwan 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 Taiwan materially injure, or threaten material injury to, a U.S. industry. On December 2, 2013, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of NOES from, *inter alia*, Taiwan.[21]

[21] *See* Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan: Inv. Nos. 701-TA-506-508 and 731-TA-1138-1143 (Preliminary) (December 2, 2013). *See also*, Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan; Determinations, 78 FR 73562 (December 6, 2013).

VI. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[22] The Department notified the respondent of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies 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 subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

Cross Ownership: In accordance with 19 CFR 351.525(b)(6)(i), the Department 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 the Department's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The Preamble to the Department's regulations further clarifies the Department's cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

> the 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

[22] *See* U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

> 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.[23]

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

The U.S. Court of International Trade (CIT) upheld the Department'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.[24]

China Steel Corporation

CSC responded to the Department's questionnaires on behalf of itself and its cross-owned affiliates CSGT, HIMAG, and DSC. CSGT, HIMAG, and DSC are majority-owned by CSC and, hence, are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).[25]

CSGT is the exporter of subject merchandise.[26] Therefore, the subsidies received by CSGT are being attributed according to the rules established in 19 CFR 351.525(c). HIMAG provides an input to CSC which is primarily dedicated, in whole or in part, to the production of subject merchandise or is an intermediate good that is subsequently used to make subject merchandise.[27] Consequently, the subsidies received by HIMAG are being attributed pursuant to the rules established in 19 CFR 351.525.

In its initial and supplemental questionnaire response, CSC indicated that DSC produced the steel billets, H-beams, hot-rolled band, and hot-rolled coil that it sold to CSC.[28] However, CSC also stated that steel billets and H beams could not be use to produce subject merchandise. Further, the hot-rolled bands and coils it purchased from DSC could not be used in the production of subject merchandise because the silicon content is less than 1.25 percent (subject merchandise covers steel containing silicon greater than 1.25 percent).[29]

We preliminarily determine that the inputs provided by DSC to CSC during the POI are not "primarily dedicated" within the meaning of 19 CFR 351.525(b)(6)(iv) of the Department's regulations. The inputs in question are neither used, in whole or in part, in the production of subject merchandise nor in intermediate goods that are subsequently used to make subject merchandise. These are not inputs that are "dedicated almost exclusively to the production of a higher value added product – the type of input product that is merely a link in the overall

[23] *See Countervailing Duties; Final Rule*, 65 FR 65348, 65401 (November 25, 1998).
[24] *See Fabrique de Fer de Carleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[25] *See* CSC Companies' IQR at "CSC" page 4 and at "CSGT" page 4; *see also* HIMAG's IQR (January 29, 2014) at "HIMAG" page 4, and DSC's IQR (January 29, 2014) at "DSC" page 4.
[26] *See* CSC Companies' IQR at "HIMAG" Exhibit 3.
[27] *See* HIMAG's SQR (January 27, 2014).
[28] *See* DSC's IQR (January 29, 2014) at 4. *See also* DSC's SQR (February 18, 2014) at 1 – 3 and Exhibit DSC SE-1-a-1.
[29] *See* DSC's SQR (February 18, 2014) at 2. Moreover, the record shows that CSC also produces non-subject steel such as hot and cold rolled coils, coated coils, plates, rods and bars. *See* CSC Companies' IQR at "CSC" page 4.

production chain."[30] Accordingly, we have not included subsidies provided to DSC in our analysis.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in the Preliminary Calculation Memorandum prepared for this investigation.[31]

VII. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, 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 the Department, 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 the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For the reasons explained below, the Department preliminarily determines that application of facts other available is warranted and that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our requests for information, Leicong failed to

[30] *See Preamble to Countervailing Duty Regulations*, 63 FR 65348, at 65401 (November 25, 1998) (*Preamble*).
[31] *See* Department Memorandum, "Countervailing Duty Investigation of Non-Oriented Electrical Steel from Taiwan: China Steel's Preliminary Calculation Memorandum," dated concurrently with this memorandum.

cooperate by not acting to the best of their ability.

Leicong did not respond to the countervailing duty questionnaire.[32] The GOT, on behalf of Leicong, did submit Leicong's 2012 tax returns.[33] In past CVD proceedings, the Department has stated that it will consider using information supplied by a foreign government in order to determine whether a non-cooperative mandatory respondent used certain subsidy programs under examination in a CVD proceeding, provided that the information the foreign government provides is complete and verifiable.[34] As a result, we relied on the information in the tax returns for Leicong to preliminarily determine that Leicong did not use any of the income tax programs at issue in this investigation. In addition, the GOT submitted financial statements and sales data for Leicong. However, we preliminarily determine that information concerning Leicong's financial statements and sales data constitutes information that could only be verified at the company and, because Leicong has not cooperated in this proceeding, we have not considered this information into our analysis when assigning a total AFA net subsidy rate to Leicong pursuant to section 776(a)(2)(A) and (C) of the Act.

The Department determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our questionnaire, Leicong failed to cooperate by not acting to the best of its ability. Accordingly, our determination is based on AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner."[35] The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[36]

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[32] *See* Letter from Department to Leicong, "Countervailing Duty Questionnaire," (November 22, 2013) at page 3; Letter from the Department to Leicong, "Initial Questionnaire Response," (December 16, 2013).
[33] *See* GOT's SQR (February 28, 2014)(Leicong Tax Response) at Attachment 1.
[34] *See, e.g., Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (Extrusions from the PRC) and accompanying Issues and Decision Memorandum (Extrusions Decision Memorandum) at 11: "Further, where the GOC can demonstrate through complete, verifiable, positive evidence that Dragonluxe, Miland, and the Zhongwang Group (including all their facilities and cross-owned affiliates) are not located in particular provinces whose subsidies are being investigated, the Department will not include those provincial programs in determining the countervailable subsidy rate for those companies," *see also, Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Facts Available."
[35] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998).
[36] *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Doc. No. 316, 103d Cong., 2d Session (1994) (SAA), at 870.

It is the Department's practice in a CVD investigation to select, as AFA, the highest calculated rate for the same or similar program.[37] Thus, under this practice, the Department computes the total AFA rate for non-cooperating companies generally using program-specific rates calculated for the cooperating respondents in the instant investigation or calculated in prior Taiwan CVD cases. Specifically, for programs other than those involving income tax exemptions and reductions, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, and the rate is not zero. If there is no identical program within the investigation, the Department uses the highest non-*de minimis* rate calculated for the same or similar program (based on treatment of the benefit) in another Taiwan CVD proceeding. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, the Department applies the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by the non-cooperating companies.[38]

Under the standard AFA methodology that has been applied in past CVD investigations,[39] for the alleged income tax programs pertaining to either the reduction or exemption of the income tax rates or payment of no income tax, we apply an adverse inference that the non-cooperating mandatory respondent paid no income tax during the POI. Thus, under this approach, the highest possible benefit for income tax programs is equal to the standard income tax rate in the country at issue. In the instant case, the standard income tax rate for corporations in Taiwan is 17 percent.[40] However, because the GOT placed Leicong's tax returns on the record of this investigation, we are using the returns for purposes of our AFA analysis.[41] Based on our review of the tax returns, we preliminarily determine that Leicong did not use any tax exemptions or reductions at issue in this CVD investigation, and thus, we have not assigned a subsidy rate to Leicong for these tax programs.[42]

As explained below, for all other programs, we are sourcing program rates outside of the investigation, but staying within the country. When selecting rates, we first determine if there is an identical program in this investigation and take the highest calculated rate for the identical program. If there is no identical program above *de minimis*, we then determine if there is a similar/comparable program (based on treatment of the benefit) and apply the highest calculated

[37] *See, e.g., Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008), and accompanying Issues and Decision Memorandum at "Selection of the Adverse Facts Available;" *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions from the PRC*), and accompanying Issues and Decision Memorandum at "Application of Adverse Inferences: Non-Cooperative Companies;" *Galvanized Steel Wire From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 17418 (March 26, 2012) (*Steel Wire from the PRC)*, and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences;" and *Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468 (October 22, 2012) (*Steel Pipe from India*), and accompanying Issues and Decision Memorandum at "Selection of the Adverse Facts Available Rate."

[38] *See, e.g., Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) and accompanying Decision Memorandum at "Selection of the Adverse Facts Available Rate."

[39] *Id.*; *see also Steel Pipe from India*, and accompanying Issues and Decision Memorandum at "Selection of Adverse Facts Available Rate."

[40] *See* GOT IQR (January 15, 2014) at Exhibit N page 20 (for 17 percent income tax rate).

[41] *See* Leicong Tax Response, at Attachment 1.

[42] *Id.*, at Attachment 1, page 1.

rate for a similar/comparable program. Where there is no comparable program, we apply the highest calculated rate from any non-company specific program, but do not use a rate from a program if the industry in the proceeding cannot use that program.[43]

We preliminarily determine that there are no identical program matches for any program other than the "Tariff Exemption for Imported Equipment" used in this proceeding. Thus, we will use the highest calculated rate for a similar/comparable program from any proceeding for programs other than the "Tariff Exemption for Imported Equipment." We preliminarily find that the "Overrebate of Duty Drawback on Imported Materials Physically Incorporated in Export Merchandise," in *Stainless Steel Cooking Ware* is the most similar program match for all other programs in this investigation. [44] We find that the calculated rate of 2.13 percent, for the "Overrebate of Duty Drawback on Imported Materials Physically Incorporated in Export Merchandise" is the highest calculated rate for a same or similar program for Taiwan and therefore is the appropriate rate to apply to Liecong.

For the programs listed under "Programs Preliminarily Determined Not to Confer a Benefit During the POI," we preliminarily determine that only CSC did not receive a benefit. Therefore, for Leicong, we assigned the appropriate AFA subsidy rate for those programs.

On this basis, we preliminarily determine the AFA subsidy rate for Leicong to be 12.82 percent *ad valorem*. For more information on the AFA rate selected for each program under investigation, *see* AFA Memorandum.[45]

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department 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."[46] The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.[47]

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.[48]

[43] *See, e.g., Aluminum Extrusions from the PRC* and *Steel Wire from the PRC.*
[44] *See Preliminary Negative Countervailing Duty Determination; Certain Stainless Steel Cooking Ware from Taiwan*, 51 FR 15523 (April 24, 1986), unchanged in the final results, 51 FR 42893 (November 26, 1986).
[45] *See* Department Memorandum, "AFA Rate for Liecong – Preliminary Determination," dated concurrently with this memorandum (AFA Memorandum).
[46] *See* SAA at 870.
[47] *Id*.
[48] *Id*., at 869-870.

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, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.[49]

In the instant investigation, no evidence has been presented or obtained that contradicts the relevance of the information relied upon in *Stainless Steel Cooking Ware from Taiwan*. Therefore, in the instant case, we preliminarily determine that the information used in this preliminary determination has been corroborated to the extent practicable.

VII. ANALYSIS OF PROGRAMS

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

A. Program Preliminarily Determined To Be Countervailable

1. Tariff Exemption for Imported Equipment

In its initial January 14, 2014, questionnaire response, the GOT reported that purpose of the program is to revitalize non-technology-related industries in Taiwan by allowing certain manufacturers and technical service providers to receive tariff exemptions on the machinery and equipment that they import.[50] The applicant is required to submit a tariff exemption application to the authority overseeing the industry to which the machinery, equipment or instrument is related (which for the electrical steel industry is the Industrial Development Bureau of the Ministry of Economic Affairs) before the delivery of the goods or within four months after the arrival of the goods. CSC and CSGT reported receiving exemptions under this program during and prior to the POI.

We preliminarily determine that this tariff exemption program is countervailable. We preliminarily find that this program provides a financial contribution in the form of forgone revenue within the meaning of section 771(5)(D)(ii) of the Act and confers a benefit in the amount of exemptions and reimbursements of customs duties on capital equipment in accordance with section 771(5)(E) of the Act and 19 CFR 351.510(a). Regarding specificity, we preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, we preliminarily determine that benefits under this program

[49] *See, e.g., Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).
[50] *See* GOT IQR (January 15, 2014) at Exhibit J – 1 page 1.

are *de facto* specific under section 771(5A)(D)(iii)(II) of the Act because the record indicates predominant use by CSC Companies.[51]

Normally, import duty exemptions are considered to be recurring benefits and are expensed in the year of receipt.[52] However, the Department's regulations recognize that, under certain circumstances it may be appropriate to allocate over time, rather than to attribute the benefits to the year of receipt, for benefits of a program normally considered a recurring subsidy.[53] Where the benefit received from the exemption of import duties is granted for the capital goods of CSC Companies, we preliminarily determine that it is appropriate to treat the exemption of duties on capital goods as a non-recurring benefit.[54]

Therefore, to calculate the countervailable subsidy for CSC Companies, we summed import duty exemptions on capital goods received during the POI. Further, for duty exemptions received on capital goods in the 15 years prior to the POI, we summed the amount of exemptions received in each year. We then conducted the "0.5" percent test, as described in the "Allocation Period" section above, on each of the annual sums. We then allocated those annual sums that passed the "0.5 percent" test to the POI using the subsidy allocation formula described under 19 CFR 351.524(d)(1). To calculate the total benefit received under the program, we summed duty exemptions received during the POI as well as those allocated to the POI.

Next, we divided CSC Companies total benefits under the program by its total consolidated sales during the POI. Our method of calculating the benefit under this program is consistent with the Department's practice involving tariff exemptions on imported equipment.[55] On this basis, we preliminarily determine a countervailable subsidy rate of 0.04 percent *ad valorem* for CSC Companies.

2. Income Tax Credit for Upgraded Equipment

Pursuant to Paragraph 1 and 2 of Article 6 of the *Statute for Upgrading Industries*, the GOT will provide income tax credits for upgrading equipment.[56] The Income Tax Credits for Upgraded Equipment program has two components: (1) tax credits for expenses incurred in connection with investment in upgraded technology/equipment; and (2) tax credits for R&D and personnel

[51] *See* Memorandum to Melissa G. Skinner from the Team, entitled "Non-Oriented Electrical Steel from Taiwan: De Facto Specificity Analysis," dated concurrently with this preliminary determination.
[52] *See* 19 CFR 351.524(c)(1).
[53] In the Preamble to our regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program to be non-recurring benefits, and, thus, allocate those benefits over time. *See Preamble; Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*Preamble*). We stated in the *Preamble* that, if a government provides an import duty exemption tied to major capital equipment purchases, it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the list of recurring subsidies.
[54] *See* 19 CFR 351.524(c)(2)(iii).
[55] *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 69 FR 52866, 52870 (August 30, 2004) (unchanged in the *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005).
[56] *See* GOT IQR (January 15, 2014) at Exhibit B-1 page 1 and B-2.

training expenses.[57] This program took effect in 1991 and was abolished on December 31, 2009 due to the expiration of the *Statute for Upgrading Industries*. However, companies are allowed to allocate the use of the tax credit within five years of the year in which the equipment was delivered. The purpose of this program was to encourage the use of automation equipment, replacement of old equipment and research and development.

We preliminarily determine that this program constitutes a financial contribution under section 771(5)(D)(ii) of the Act and confers a benefit equal the amount of tax savings under the program as provided under section 771(5)(E) of the act and 19 CFR 351.509(a). Regarding specificity, we find that the *Statute for Upgrading Industries* does not expressly limit the program to any industry, geographical location or other criteria, and thus, we preliminarily determine that benefits under this program are not *de jure* specific under section 771(5A)(D)(i) of the Act. In our initial questionnaire, we asked the GOT to provide information concerning the manner in which benefits are distributed under this program. In its response, the GOT provided the amount received by CSC, the amount received by each industry, the grand total provided to all industries, and the total number of companies that received benefits under the program.[58]

However, with the exception of CSC, the GOT did not provide information concerning the specific amounts for each of the companies that received benefits under the program. Based on our analysis of the data, we preliminarily determine that benefits under this program are not *de facto* specific to the basic metals industry, which is the industry category to which CSC belongs, as described under section 771(5A)(D)(iii)(II) of the Act. However, we preliminarily determine that the amount that CSC received under the program, when compared to the average amount received by all other companies (*e.g.*, the grand total provided under the program during the POI divided by the total number of recipients during the POI), is disproportionately large and, therefore, *de facto* specific as described under section 771(5A)(D)(iii)(III) of the Act.[59] We will continue to examine this program. To calculate the benefit from this program, we treated the income tax credit claimed by CSC as a recurring benefit, consistent with 19 CFR 351.524(c)(1).

We divided CSC Companies total benefits under the program by its total consolidated sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.09 percent *ad valorem* for CSC Companies.[60]

3. Shareholder's Investment Tax Credit for Participation in Infrastructure Projects

Pursuant to the *Act for Promotion of Private Participation in Infrastructure Projects*, a profit seeking enterprise which subscribes for registered shares issued by a private institution participating in a major infrastructure project, and has held such registered shares for a period of four years or more may, upon its incorporation or expansion, receive credit up to 20 percent of the subscription price against the business income tax payable for the current year.[61] In case the

[57] *Id*., at Exhibit B – 1 page 1.
[58] *See* GOT IQR (January 15, 2014) at B-1 page 19.
[59] *See* Memorandum to Melissa G. Skinner from the Team, entitled "Non-Oriented Electrical Steel from Taiwan: De Facto Specificity Analysis," dated concurrently with this preliminary determination.
[60] *See* Preliminary Calculation Memorandum.
[61] *See* GOT IQR (January 15, 2014) at Exhibit N-1 page 1.

amount of the business income tax payable is less than the amount creditable, the balance thereof may be credited against the business income tax payable in the four ensuing years. According to the GOT, this program is designed to promote private participation in in infrastructure projects.[62] CSC reported receiving a tax credit based on the income tax return it filed during the POI.[63]

We preliminarily determine that this program confers a countervailable subsidy. The income tax exemption is a financial contribution in the form of revenue foregone by the government, as described under section 771(5)(D)(ii) of the Act, and it provides a benefit to the recipient in the amount of the tax savings, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Regarding specificity, we preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, we preliminarily determine that this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act because the number of companies receiving benefits under the program is limited in number.[64] To calculate the benefit from this program, we treated the income tax exemption claimed by CSC as a recurring benefit, consistent with 19 CFR 351.524(c)(1).

We divided CSC Companies total benefits under the program by its total consolidated sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.01 percent *ad valorem* for CSC Companies.

4. Shareholder's Investment Tax Credit for Investment in Newly Emerging, Important and Strategic Industries

Pursuant to the *Statute for Upgrading Industries*, Article 8, the GOT provides investment tax credits for investment in newly emerging, important and strategic industries.[65] The purpose of this program is to encourage the incorporation or expansion of the newly emerging, important and strategic industries that can generate substantial benefits for economic development, are of high risks and are in great need of support. The GOT reports that a profit-seeking enterprise investor who subscribes for the registered stock issued by a company within the newly emerging, important and strategic industries, and has held such stock for a period of three years or longer, may credit up to 20 percent of the price paid for acquisition of such stock against the profit-seeking enterprise income tax or the consolidated income tax payable in each year within a period of five years from the then current year. The paid-in capital or the increase in the paid-in capital of the company qualifying for the newly emerging, important and strategic industries must exceed NT$200,000,000 (NT$50,000,000 if the company is engaged in green technology industry), and the amount invested by the company in purchasing new machine and equipment must exceed NT$100,000,000 (NT$15,000,000 if the company invests in certain products in

[62] *Id.*, at Exhibit N – 1.
[63] *See* CSC Companies' IQR (January 14, 2014) at "CSC" page 14, 37-41, and CSC Exhibit-G-A-5-1 and G-A-5-3. CSC Companies reported the program under the title "Income Tax Credit for Holding Shares of Certain Private Institutions."
[64] *Id.*, at Exhibit N – 4.
[65] *Id*., at Exhibit O-2.

green technology industry).[66] CSC Companies reported receiving a tax credit based on the income tax return it filed during the POI.[67]

We preliminarily determine that this program confers a countervailable subsidy. The income tax exemption is a financial contribution in the form of revenue foregone by the government, as described under section 771(5)(D)(ii) of the Act, and provides a provides a benefit to the recipient in the amount of the tax savings, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Regarding specificity, we preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, we preliminarily determine that that this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act because the number of companies receiving use under this program is limited in number.[68] To calculate the benefit from this program, we treated the income tax exemption claimed by CSC as a recurring benefit, consistent with 19 CFR 351.524(c)(1).

We divided CSC Companies total benefits under the program by its total consolidated sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.01 percent *ad valorem* for CSC Companies.

B. Programs Preliminarily Determined To Be Not Countervailable

1. Income Tax Credit for Research and Development Expenses

Pursuant to the *Act for Industrial Innovation* and *Regulations Governing the Application of Investment Tax Credits for Research and Development Expenditures of Companies*, the GOT provides income tax credits to encourage research and development (R&D) activities and innovation. Companies whose R&D activities fall within the scope of "highly innovative" R&D are eligible for the benefit.[69] Companies seeking benefits under this program must first apply for eligibility with the government authority that has expertise in the particular field to determine whether an applicant's R&D activities qualify under the program. If the applicant is approved for the tax credit, the amount of the tax credit shall be equivalent to 15 percent of the R&D expenses, provided that the tax credit shall not exceed 30 percent of the income tax payable by the applicant for the year.

The GOT provided the *Act for Industrial Innovation and Regulations Governing the Application of Investment Tax Credits for Research and Development Expenditures of Companies*. We preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. Further, we preliminarily determine that the usage information provided by the GOT indicates that this program has been applied broadly across numerous

[66] *Id.*, at Exhibit O – 1 page 11.
[67] *See* CSC Companies' IQR (January 14, 2014) at "CSC" page 14, 37-41, and CSC Exhibit-G-A-5-1 and G-A-5-3. CSC Companies reported the program under the title "Income Tax Credit for Holding Shares of Certain Private Institutions."
[68] *Id.*, at Exhibit O – 8.
[69] *Id.*, at Exhibit A – 1.

industries, and that the participating company, CSC has not disproportionately benefited from this program.[70] Thus we preliminarily determine that that this program is not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, we preliminarily determine that this program is not countervailable. We will continue to examine this program.

2. Partial Payment for Electricity Bill of Strong-Motion Observation Station

The Central Weather Bureau, Ministry of Transportation and Communications (CWB) places earthquake motion observation equipment at locations throughout Taiwan in order to detect earthquake activities.[71] In instances where the equipment is placed on private property, the CWB may reimburse companies or individuals up to a certain amount to compensate for the use of electricity for running the equipment.[72]

A copy of the cooperation agreement between the CWB and CSC Companies, provided by the GOT, [73] does not expressly limit the program to any industry, geographical location or other criteria, and thus, we preliminarily determine that benefits under this program are not *de jure* specific under section 771(5A)(D)(i) of the Act. The GOT's response indicates the observation stations are scattered throughout the country at locations which will best provide earthquake readings.[74] We preliminarily determine that this program is not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, we preliminarily determine this program is not countervailable.

C. **Programs Preliminarily Determined Not To Confer a Benefit During the POI**

We preliminarily determine that the benefit from some of the programs listed below result in a net subsidy rate that is less than 0.005 percent ad valorem. Consistent with our past practice, we preliminarily have not included these programs in our net countervailing duty rate calculations.[75]

1. Industrial Technology Development Program

The GOT enacted the Industrial Technology Development Program (ITDP) pursuant to the *Regulations Governing the Assistance on Enterprises' R&D by Ministry of Economic Affairs*, which was promulgated under the authorization of Paragraph 2 of Article 22-1 of the *Statute for Upgrading Industries*.[76] The Program is administered by the Department of Industrial Technology (DOIT), Ministry of Economic Affairs (MOEA) and the purpose of the program is

[70] *See* Memorandum to Melissa G. Skinner from the Team, entitled "Non-Oriented Electrical Steel from Taiwan: De Facto Specificity Analysis," dated concurrently with this preliminary determination.
[71] *See* GOT IQR (January 15, 2014) at Exhibit M-1.
[72] *Id*.
[73] *Id.*, at Exhibit M-2.
[74] *Id.*, at Exhibit M-1 page 1.
[75] *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), and accompanying Issues and Decision at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District."
[76] See GOT IQR (January 15, 2014) at Exhibit H-1 page 1.

to encourage industrial innovation, providing grants to support a company's R&D activities.[77] CSC Companies reported that it received subsidies under this program.[78]

We preliminarily determine that the grant received by CSC Companies constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, we preliminarily determine that this legislations indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, because a limited number of enterprises received the grants[79], we preliminarily determine that the grant is specific under section 771(5A)(D)(iii)(I) of the Act.

The total grants CSC Companies received during the POI were less than 0.005 percent of the total consolidated sales of CSC Companies for the POI. Therefore, consistent with the Department's practice, we preliminarily determine that this program did not confer a benefit to CSC Companies during the POI.[80]

2. Strengthen the Ability of Emerging Development Program

The Strengthen the Ability of Emerging Development Program (SAEDP) was established under the *Regulations Governing the Assistance on Enterprises' R&D by Ministry of Economic Affairs*, promulgated under the authorization of Paragraph 2 of Article 22-1 of the *Statute for Upgrading Industries.* The purpose of the program is to encourage corporations to undertake R&D activities and create technology or products that meet future market needs.[81] CSC Companies reported that it received a subsidy under this program.[82]

We preliminarily determine that the grant received by CSC Companies constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, we preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, we preliminarily determine that the grant is specific under 771(5A)(D)(iii)(I) of the Act because a limited number of enterprises received the grant.[83]

The total grants CSC Companies received during the POI were less than 0.005 percent of the total consolidated sales of CSC Companies for the POI. Therefore, consistent with the

[77] *See* GOT IQR (January 14, 2014) at Exhibit H – 1 page 1.
[78] *See* CSC Companies' IQR (January 14, 2014) at CSC Exhibit P-G-1.
[79] *Id.*, at Exhibit H – 2 and H – 3.
[80] *See, e.g., Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 72 FR 38565 (July 13, 2007) *(CTL Plate 2005 Final Results*) and accompanying Issues and Decision Memorandum at "Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)."
[81] *See* GOT IQR (January 15, 2014) at Exhibit H-1 page 1.
[82] *See* CSC Companies IQR (January 14, 2014) at CSC Exhibit P-G-1 and SQR (February 27, 2014) at page SE-5 through SE-30.
[83] *See CTL Plate 2005 Final Results* and accompanying Issues and Decision Memorandum at "Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)."

Department's practice, we preliminarily determine that this program did not confer a benefit to CSC Companies during the POI.[84]

3. Subsidy for Certain Photovoltaic Power Stations

Under the *Renewable Energy Development Act (REDA*), promulgated on July 8, 2009, the GOT seeks to encourage investment in renewable energy.[85] The Bureau of Energy, Ministry of Economic Affairs (BOE) provides a subsidy of NT$50,000 per KW of electricity generating capacity as financing for equipment that can generate 1 KW to 10 KW of renewable energy before it is installed. CSC Companies reported that it received a subsidy under this program.[86]

We preliminarily determine that the grant received by CSC Companies constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, we preliminarily determine that this legislation indicates that benefits are not expressly limited to any industry, geographical location or other criteria, and thus is not *de jure* specific under section 771(5A)(D)(i) of the Act. However, we preliminarily determine that the grant is specific under 771(5A)(D)(iii)(I) of the Act because a limited number of enterprises received the grant.[87]

The total grant CSC Companies received during the POI was less than 0.005 percent of the total consolidated sales of CSC Companies for the POI. Therefore, consistent with the Department's practice, we preliminarily determine that this program did not confer a benefit to CSC Companies during the POI.[88]

4. Payment for Trade Remedy Proceedings

The GOT explained the grant program was administered pursuant to *Regulations on Assistance for Trade Promotion* to provide assistance to Taiwanese enterprises on costs incurred from services rendered with regards to trade investigations (antidumping, countervailing duty, or safeguard measures) in other countries.[89] The record indicates that subsidies provided under this program are tied to an actual trade proceeding in which the company incurred its legal expenses.[90] Specifically, in order to receive reimbursements under this program, the GOT requires the recipient to submit supporting documentation, *i.e.*, engagement letter with legal counsel, accountant, and or consultant, and invoices for services rendered. CSC received subsidies under this program and, as indicated by the GOT, CSC's reimbursements are tied to trade proceedings in Indonesia, Australia, and Thailand, and thus did not confer a benefit.[91] Because at the time of bestowal the benefits under this program are tied to non-subject merchandise in certain markets and because there are no standing antidumping or CVD orders on

[84] *See, e.g., id.*
[85] *See* GOT IQR (January 15, 2014) at Exhibit I – 1 page 1.
[86] *See* CSC Companies' IQR (January 14, 2014) at CSC Exhibit P-G-1 and SQR (February 27, 2014) at page SE-9.
[87] *Id.*, at pages 10 and 11.
[88] *See, e.g., CTL Plate 2005 Final Results*, and accompanying Issues and Decision Memorandum at "Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)."
[89] *See* GOT IQR (January 15, 2014) at Exhibit L-1.
[90] *Id*., at Exhibit L- 4 through Exhibit L-7.
[91] *Id*., at page 5, 11, and 14.

NOES from Taiwan in the United States, we preliminarily determine that Leicong did not receive any benefits from this program during the POI within the meaning of section 771(5)(E) of the Act. Because there is no benefit, we need not determine whether the program is specific.

D. Programs Preliminarily Determined To Be Not Used

1. Income Tax Credits for Investment in Designated Regions
2. Income Tax Credits for Participating in Infrastructure Projects
3. Grants for Developing an International Image and Brand
4. Five-Year Income Tax Exemption Incentive for New Investments
5. Building and Land Value Tax Deduction for Supplying to Major Infrastructure Projects
6. Subsidies for Companies that Invest in Industrial Parks[92]

E. Programs for Which More Information is Necessary

On February 24, 2014, we issued a new subsidy questionnaire to the GOT with respect to the Conventional Industry Technology Development program and the Free Enterprise Self-Evaluation Service.[93] On March 11, 2014, the GOT responded to the New Subsidy Questionnaire.[94] Because we lack the time to fully analyze and request additional information from the GOT regarding these programs, we will issue additional analysis with respect to these programs after the preliminary determination.

VIII. CALCULATION OF THE ALL OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States. The all-others rate may not include zero and *de minimis* rates or any rates based solely on the facts available. However, where the weighted-average dumping margins for all of the individually investigated respondents are zero or *de minimis* or are based on AFA, the Department's practice, pursuant to 705(c)(5)(B), is to calculate the all others rate based on a simple average of the zero or *de minimis* margins and the margins based on AFA.[95]

This practice is based on the SAA, which states:

> The expected method in such cases will be to weight-average the zero and *de minimis* margins and margins determined pursuant to the facts available, provided that volume

[92] Also known as Major Infrastructure Projects - Land Lease Program.
[93] *See* Letter from the Department to the GOT, "New Subsidy Allegations Questionnaire for the Government of Taiwan," dated February 24, 2014 (New Subsidy Questionnaire).
[94] *See* The GOT's response to the Department's New Subsidy Allegation questionnaire, dated March 11, 2014.
[95] *See Notice of Final Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Indonesia*, 70 FR 13456 (March 21, 2005); *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Malaysia*, 69 FR 34128 (June 18, 2004); *see also Hardwood and Decorative Plywood from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013).

data is available. However, if this method is not feasible, or if it results in an average that would not be reasonably reflective of potential dumping margins for non-investigated exporters or producers, Commerce may use other reasonable methods.[96]

IX. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

X. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[97] Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[98]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[99] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.[100] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using the Department's electronic records system, IA ACCESS.[101] Electronically filed documents

[96] *See* SAA at 873.
[97] *See* 19 CFR 351.224(b).
[98] *See* 19 CFR 351.309.
[99] *See* 19 CFR 351.309(c)(2) and (d)(2).
[100] *See* 19 CFR 351.310(c).
[101] *See* 19 CFR 351.303(b)(2)(i).

must be received successfully in their entirety by 5:00 p.m. Eastern Time,[102] on the due dates established above.

XI. VERIFICATION

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

XII. CONCLUSION

We recommend that you approve the preliminary findings described above.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 MARCH 2014
(Date)

[102] *See* 19 CFR 351.303(b)(1).