



C-583-857

Investigation

Public Document

POI: 01/01/2014 – 12/31/2014

OIII: JZ/CR

DATE: November 2, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *gpm for cm*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Negative
Determination: Countervailing Duty Investigation of Certain
Corrosion-Resistant Steel Products from Taiwan

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are not being provided to the producers and exporters of certain corrosion-resistant steel products (corrosion-resistant steel) 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 June 3, 2015, the Department received a countervailing duty (CVD) petition concerning imports of corrosion-resistant steel from Korea, filed on behalf of United States Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., ArcelorMittal USA, LLC, AK Steel Corporation, and California Steel Industries, (collectively, Petitioners).¹ On June 23, 2015, the Department initiated a CVD investigation of corrosion-resistant steel from Taiwan.² Supplements to the Petition and our consultations with the Taiwan Authorities (TA) are described in the Initiation Checklist.

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties on Imports: Certain Corrosion-Resistant Steel Products from the People's Republic of China, India Italy, the Republic of Korea, and Taiwan," dated June 3, 2015 (Petitions).

² See *Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*, 80 FR 37223 (June 30, 2015), (*Initiation Notice*).



In the “Respondent Selection” section of the *Initiation Notice*, the Department stated that it intended to base its selection of mandatory respondents on U.S. Customs and Border Protection (CBP) data.³ Accordingly, on June 29, 2015, we released CBP data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.⁴ Petitioners submitted comments concerning the CBP data on July 7, 2015.⁵ On July 17, 2015, we selected Prosperity Tieh Enterprise Co., Ltd. (PT) and Yieh Phui Enterprise Co., Ltd. (Yieh Phui) as mandatory respondents.⁶ On July 20, 2015, we issued the initial questionnaire to the TA, PT and Yieh Phui.⁷

On August 3 and August 7, 2015, Yieh Phui and PT submitted their responses to the company affiliation section of the initial questionnaire, respectively.⁸ On August 10 and August 11, 2015, we issued a supplemental questionnaire on affiliation to PT and Yieh Phui, respectively.⁹ On August 28, 2015, we issued a second supplemental affiliation questionnaire for Yieh Phui.¹⁰ Yieh Phui provided its response on September 16, 2015.

On September 9, 2015, Yieh Phui provided a response to Section II of the Department’s initial questionnaire on behalf of itself and its cross-owned affiliates, Yieh Corporation Limited (YCL), Shin Yang Steel Co., Ltd. (Shin Yang), and Synn Industrial Co., Ltd (Synn) (collectively the Yieh Phui Companies).¹¹ On September 17, 2015, PT provided a response on behalf of its cross-owned affiliates Hong-Ye Steel Co., Ltd. (HY), Prosperity Did Enterprise Co., Ltd. (PD), and Chan Lin Enterprise Co., Ltd. (CL)¹² (collectively Prosperity Companies). The TA submitted its response to the Department’s initial questionnaire on September 17, 2015.¹³

³ *Id.*

⁴ See Department’s Letter, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Results of Customs and Border Protection Query Results,” dated June 29, 2015.

⁵ See Letter from Petitioners, “Certain Corrosion-Resistant Steel Products From Taiwan: Respondent Selection Comments,” dated July 7, 2015.

⁶ See Memorandum to Christian Marsh, “Countervailing Duty Investigation on Certain Corrosion-Resistant Steel Products from Taiwan: Selection of Mandatory Respondents,” dated July 17, 2015 (Respondent Selection Memorandum).

⁷ See Department’s initial questionnaire dated July 20, 2015 (IQ).

⁸ See the Yieh Phui Companies’ submission, “Corrosion-Resistant Steel Products from Taiwan; Affiliation Response,” dated August 3, 2015 (Yieh Phui Affiliation Response); see also PT’s submission, “Corrosion-Resistant Steel Products from Taiwan, Case No. C-583-857: Affiliated Companies Response,” dated August 7, 2015 (PT’s Affiliation Response).

⁹ See the Department’s first supplemental questionnaire to PT and Yieh Phui, dated August 10 and August 11, 2015, (PT Affiliation 1SQ, Yieh Phui Affiliation 1SQ).

¹⁰ See the Department’s Second Supplemental Company Affiliation Questions for Yieh Phui Enterprise Co., Ltd. (Yieh Phui), dated August 26, 2015 (Yieh Phui Affiliation 2ndSQ).

¹¹ See Yieh Phui’s submission, “Corrosion-Resistant Steel Products from Taiwan; Sections II and III Response,” dated September 9, 2015 (Yieh Phui Primary Questionnaire Response (PQR)) at pages 3-4. Although Yieh Phui asserts that Synn is not a cross-owned affiliate because it does not own majority shares of Synn, at the request of the Department, Yieh Phui also provided a questionnaire response on behalf of Synn. See *id.*

¹² See PT’s submission “Corrosion-Resistant Steel Products from Taiwan, Case No. C-583-857: Initial Questionnaire Response and Supplemental Affiliation Response,” dated September 17, 2015 (PT PQR) at 1.

¹³ See TA’s submission, “Certain Corrosion-Resistant Steel Products from Taiwan — Response of Taiwan Authorities to the Department’s July 20 Initial Questionnaire,” dated September 17, 2015 (TA PQR).

We issued a supplemental Sections II and III questionnaire to the Yieh Phui Companies and the Prosperity Companies on September 25, and September 28, 2015, respectively,¹⁴ to which the Yieh Phui and Prosperity Companies responded on October 14, and October 13, 2015, respectively.¹⁵ We issued a supplemental questionnaire and addendum to the TA on October 1 and October 7, 2015,¹⁶ to which the TA responded on October 14, and October 15, 2015.¹⁷

On September 10, 2015, AK Steel, timely filed new subsidy allegations (NSAs).¹⁸ We initiated an investigation of the NSAs on October 1, 2015¹⁹ and issued the NSA questionnaire to the Yieh Phui Companies, Prosperity Companies and the TA on October 2, 2015.²⁰ The Prosperity Companies, the Yieh Phui Companies, and the TA submitted their respective NSA questionnaire responses on October 16, 19, and 20, 2015, respectively.²¹ The timing of the NSA questionnaire responses submitted by the Prosperity Companies, the Yieh Phui Companies, and the TA does not give us sufficient time to incorporate them into our preliminary determination. As explained below, we intend to examine these programs after the Preliminary Determination and issue a Post-Preliminary Determination.

On October 5, 2015, Petitioners submitted benchmark information on the record.²² On October 9, 2015, we placed the Global Trade Atlas (GTA) data on the record of this investigation.²³ On October 15, 2015, the Prosperity Companies filed their rebuttal benchmark submission and benchmark data.²⁴ AK Steel filed its response to the Prosperity Companies' benchmark submission on October 19, 2015.²⁵ On October 21, 2015, AK Steel filed pre-preliminary determination comments.²⁶ On October 26, 2015, PT filed pre-preliminary determination comments.²⁷

¹⁴ See the Department's first supplemental questionnaire to Yieh Phui dated September 25, 2015 (Yieh Phui 1SQ); see also the Department's first supplemental questionnaire to PT dated September 28, 2015 (PT 1SQ).

¹⁵ See Yieh Phui's 1st supplemental questionnaire response, dated October 14, 2015 (Yieh Phui 1SQR) and PT's 1st supplemental questionnaire response dated October 13, 2015 (PT 1SQR).

¹⁶ See the Department's first supplemental questionnaire to the TA dated October 1, 2015, and Addendum to 1st Supplemental Questionnaire dated October 7, 2015 (TA 1SQ).

¹⁷ See TA's 1st supplemental questionnaire response dated October 20, 2015 (TA 1SQR).

¹⁸ See AK Steel's September 10, 2015, submission (NSA Submission).

¹⁹ See Memorandum to Erin Begnal, "Certain Corrosion-Resistant Steel (CORE) Products from Taiwan: Decision Memorandum on New Subsidy Allegations," dated October 1, 2015 (NSA Decision Memorandum).

²⁰ See the Department's NSA Questionnaire to Yieh Phui (Yieh Phui NSAQ), Prosperity Tieh (PT NSAQ) and the TA (TA NSAQ) dated October 2, 2015.

²¹ See Yieh Phui, PT, and TA's NSA questionnaire responses dated October 19, 2015, October 20, 2015, and October 20, 2015, respectively (NSAQ).

²² See Letter from Petitioners regarding "Corrosion-Resistant Steel Products from Taiwan, Case No. C-583-857: Rebuttal Benchmark Data Submission" (Petitioners' Benchmark Information).

²³ See Memorandum to File, "Global Trade Atlas Data (GTA)," from Joy Zhang, Analyst, AD/CVD Operations, Office III, dated October 9, 2015 (DOC Benchmark Information).

²⁴ See Letter from PT regarding "Corrosion-Resistant Steel Products from Taiwan, Case No. C-583-857: Rebuttal Benchmark Data Submission," dated October 15, 2015.

²⁵ See Letter from Petitioner regarding "Certain Corrosion-Resistant Steel Products From Taiwan: Response to the Untimely Submission of Factual Information by Prosperity," dated October 19, 2015.

²⁶ See Letter from Petitioner regarding "Certain Corrosion-Resistant Steel Products From Taiwan: Pre-Preliminary Determination Comments," dated October 21, 2015.

²⁷ See Letter from PT regarding "Corrosion-Resistant Steel Products from Taiwan, Case No. C-583-857: Comments in Advance of the Preliminary Determination," dated October 26, 2015.

B. Postponement of Preliminary Determination

On August 13, 2015, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from Petitioners. The Department postponed the preliminary determination until November 2, 2015, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).²⁸

C. Period of Investigation

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

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 the signature date of that notice.²⁹

We received several comments concerning the scope of the antidumping duty (AD) and CVD investigations of corrosion-resistant steel from, *inter alia*, Taiwan." We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determinations of the companion AD investigations, which are due for signature on December 21, 2015. 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.

IV. SCOPE OF THE INVESTIGATION

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

²⁸ See *Countervailing Duty Investigations of Certain Corrosion-Resistant Steel Products From India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations*, 80 FR 48499 (August 13, 2015).

²⁹ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also *Initiation Notice*.

(*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

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

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

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

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

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

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

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

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

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

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

V. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.³⁰ On October 29, 2015, the Department issued its preliminary critical circumstances determinations for all five countries.³¹ Pursuant to this determination, the Department determined that, with regard to

³⁰ See Letter from Petitioners, "Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations," dated July 23, 2015.

³¹ See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical*

Taiwan, critical circumstances exist for imports of subject merchandise from “All Other” producers and exporters and did not exist for the mandatory respondents the Prosperity Companies and the Yieh Phui Companies.³² Thus, based on the *Preliminary Critical Circumstances Determination*, the retroactive collection of collect cash deposits would apply with regard to companies subject to the all others rate, contingent upon the Department reaching an affirmative result in the preliminary determination. As indicated in this memorandum, we have preliminarily determined that countervailable subsidies are not being provided to producers and exporters of corrosion-resistant steel from Taiwan and, thus, we are issuing a preliminary negative countervailing duty determination. Accordingly, we also preliminarily determine that critical circumstances do not exist with regard to imports of corrosion-resistant steel from Taiwan.

VI. 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 the Taiwan materially injure, or threaten material injury to, a U.S. industry. On July 24, 2015, the ITC determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of corrosion-resistant steel products from the PRC, India, Italy, Korea, and Taiwan.³³

VII. 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.³⁴ 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.³⁵ The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly.³⁶ No party in this proceeding disputes this allocation period.

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of 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.

Circumstances, 80 FR ____ (November __, 2015) (signed October 29, 2015) (*Preliminary Critical Circumstances Determination*).

³² *Id.*

³³ See *Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

³⁴ See 19 CFR 351.524(b).

³⁵ See Petitions at Exhibit XI-2.

³⁶ See Letter from the Department to the TA regarding “Initial Questionnaire” dated July 20, 2015 at “Section II – Program Specific Questions.”

B. Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has 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.³⁷

The Yieh Phui Companies

Yieh Phui responded to the Department's questionnaires on behalf of itself and its cross-owned affiliates, YCL, Shin Yang, and Synn.³⁸ During the POI, YCL, a trading company, purchased subject merchandise from Yieh Phui and sold it to the U.S. market;³⁹ Shin Yang and Synn provided Yieh Phui inputs which were used in the production of subject merchandise.⁴⁰ During the POI, Yieh Phui and Synn produced subject merchandise.⁴¹ YCL and Shin Yang are majority-owned by Yieh Phui and, hence, are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).⁴²

³⁷ See *Fabrique de Fer de Charleroi SA v. United States*, 66 F. Supp. 2d 593, 603 (CIT 2001).

³⁸ The Yieh Phui Companies assert that Synn is not cross-owned because it did not own Synn more than 50 percent during the POI. Nonetheless, the Yieh Phui Companies responded to the Department's questionnaires on behalf of Synn at the request of the Department. See the Yieh Phui Companies' affiliation QR at 5.

³⁹ See the Yieh Phui Companies' affiliation QR at 2-3; see also the Yieh Phui Companies' Sections II and III initial questionnaire (PQR) on behalf of YCL, "Corrosion-Resistant Steel Products from Taiwan; Sections II and III Response" dated September 9, 2015.

⁴⁰ See Yieh Phui Companies' affiliation QR at 5-7; see also Yieh Phui Companies' submission on behalf of Shin Yang, "Corrosion-Resistant Steel Products from Taiwan; Response to Question 1 of Second Supplemental Company Affiliation Questionnaires," dated September 16, 2015; and see the Yieh Phui Companies' submission on behalf of Synn, "Corrosion-Resistant Steel Products from Taiwan; Response to Question 2 of Second Supplemental Company Affiliation Questionnaire" dated September 16, 2015.

⁴¹ See Yieh Phui Companies' affiliation QR at 5 and its supplemental affiliation QR at 2. See also Yieh Phui Companies' PQR on behalf of Synn at 2.

⁴² See Yieh Phui Companies' affiliation QR at 4-6, and supplemental affiliation QR at page 1-2.

Concerning Synn, although Yien Phui does not own the majority share of Synn, Yien Phui is still its largest shareholder.⁴³ In addition to providing Yieh Phui an input used for subject merchandise production, Synn also produced and exported subject merchandise to the United States during the POI.⁴⁴ Furthermore, the record indicates that one of Yieh Phui's CEOs is also a board member of Synn.⁴⁵ Accordingly, we preliminarily determine that Yieh Phui has significant control over Synn's operations and is able to direct the individual assets of Synn in essentially the same ways it can use its own assets, and therefore is cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).

The Prosperity Companies

PT responded to the Department's questionnaires on behalf of itself and its cross-owned affiliates HY, PD, and CL. HY, PD, and CL are majority-owned by PT and, hence, are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).⁴⁶

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 Memoranda prepared for this investigation.⁴⁷

Because Yieh Phui and Synn constitute producers of subject merchandise, we have, pursuant to 19 CFR 351.525(b)(6)(ii), attributed any subsidies received by Yieh Phui and Synn to the total sales of Yieu Phui and Synn, net of intra-company sales. Because we find Shin Yang to be an input producer, we have, pursuant 19 CFR 351.525(b)(6)(iv), attributed any subsidies received by Shin Yang to the total sales of Shin Yang, Yieh Phui, and Synn, net of intra-company sales. Concerning YCL, we preliminarily determine that the company did not use any of the alleged subsidy programs.

We preliminarily determine that PT was the only member of the Prosperity Companies that used countervailable subsidy programs during the POI. Thus, because we find no other member of the Prosperity Companies constitutes a producer of subject merchandise, we have, pursuant to 19 CFR 351.525(b)(6)(ii), attributed only the subsidies received by PT in calculating the countervailable subsidy rates. The denominator we have used is the sales value of PT, net of intra-company sales.

⁴³ See, *e.g.*, Yieh Phui Affiliation Response at Exhibit 2.

⁴⁴ *Id.*, at 5.

⁴⁵ *Id.*, at Exhibit 2.

⁴⁶ See the Prosperity Companies' PQR at 1 and Affiliation QR at pages 1-2.

⁴⁷ For the Prosperity Companies, see Memorandum to the File from Joy Zhang, entitled "Certain Corrosion-Resistant Steel Products From Taiwan: Preliminary Determination, Calculation Memorandum for Prosperity Companies," dated concurrently with this preliminary decision memorandum (Prosperity Companies Preliminary Calculation Memorandum). For the Yieh Phui Companies, see the respective Memorandum to the File, from Cindy Robinson, entitled "Certain Corrosion-Resistant Steel Products From Taiwan: Preliminary Determination, Calculation Memorandum for the Yieh Phui Companies," dated concurrently with this preliminary decision memorandum (Yieh Phui Companies Preliminary Calculation Memorandum).

VIII. BENCHMARKS AND INTEREST RATES

Section 771(5)(E)(ii) of the Act states 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. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market” the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii).

In this preliminary determination, we required the use of a long-term interest rate benchmark for a loan program used by PT of the Prosperity Companies and Yieh Phui, and Shin Yang of the Yieh Phui Companies. Specifically, for PT, we used interest rates of leading banks in Taiwan published by Central Bank of the Republic of China (Taiwan) as our benchmark interest rate. For Yieh Phui and Shin Yang, we used the variable, two-year time deposit rate offered by various commercial banks in Taiwan during the POI.

IX. 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 Not To Be Countervailable

1. Provision of Cold-Rolled Steel (CRS) and Hot-Rolled Steel (HRS) for Less Than Adequate Remuneration (LTAR)

The Department is investigating whether the TA provided CRS and HRS to producers of corrosion-resistant steel for LTAR. Specifically, the Department is investigating whether the China Steel Corporation (CSC), by virtue of the TA’s ownership in the company, acted as a “public body” during the POI when selling CRS and HRS to the mandatory respondents. The Prosperity and Yieh Phui Companies purchased CRS and HRS from CSC during the POI.

According to information from the TA, CSC became a state-owned enterprise in 1977. The TA started to privatize CSC in 1989.⁴⁸ According to the TA, it has not been a majority shareholder of CSC since April 1995. During the POI, the Ministry of Economic Affairs (MOEA) owned 20 percent of CSC’s shares with other Taiwanese government entities owning an additional 3.66 percent of CSC’s shares.⁴⁹ Institutional investors and private parties owned the remaining 76.34 percent of CSC’s shares during the POI.⁵⁰

⁴⁸ See the TA PQR at 10.

⁴⁹ Other public bodies include Bureau of Labor Insurance, Chunghwa Post Co., Ltd., and Public Service Pension Fund Management Board. See the TA PQR at 31.

⁵⁰ *Id.*, at 32.

According to CSC's articles of incorporation (AOI), each common shareholder has one vote per share in shareholder meetings.⁵¹ Shareholders of CSC nominate candidates to serve on the company's board of directors. CSC board members are elected by means of a majority vote by the shareholders. The board, in turn, elects the board chairman by majority vote.⁵² During the POI, three members of CSC's board of directors were nominated by the MOEA, including the chairman. Of the remaining eight board members, one represents CSC's employee union. The TA indicates that these eight board members were not government officials, and there is no other information on the record indicating that these individuals had any connection to the TA.⁵³ According to CSC's AOI, actions taken by the board, including the operation of the company, require a majority vote by the board of directors.⁵⁴ Pursuant to its AOI, CSC's shareholders are required to elect three supervisors whose primary responsibility is the execution of the business operations of the company. Additionally, per its AOI, CSC's board elects the company's senior executives.⁵⁵ Information from the TA indicates that none of CSC's three supervisors or senior executives was a TA official during the POI, and there is no information indicating that these individuals had any connection with the TA.⁵⁶

Though the TA is the largest shareholder, its holdings (*e.g.*, the 20 percent held by the MOEA plus the 3.66 percent held by government-owned pension funds) do not exceed 24 percent of CSC's outstanding shares. Further, the structure of CSC's AOI requires a majority vote for actions taken by its board and, thus, we find that there is no means by which the three TA officials who sit on CSC's board can exert meaningful control over the company's operations such that CSC would be considered a government authority.⁵⁷ Further, none of CSC's senior executives, who are appointed by a majority vote of the board, are government officials.⁵⁸ Additionally, our review of CSC's board meeting minutes from the POI does not indicate any involvement on behalf of the TA in regards to the company's operation.⁵⁹ Rather, the board meeting minutes as well as proprietary correspondence between the senior executive pricing team and CSC's customers reflect that CSC was conscious of maintaining its ability to compete with its competitors in terms of price and availability.⁶⁰ Additionally, minutes from meetings of CSC's Governance Committee indicate no involvement on behalf of the TA.⁶¹

Accordingly, we preliminarily find that CSC is not an authority or a public body within the meaning of section 771(5)(B) of the Act; and thus this program did not confer countervailable benefits to the respondents during the POI.

⁵¹ See the TA PQR at page 32 and Exhibit A-2-1 at Article 18 of the AOI.

⁵² *Id.*, at Exhibit A-2-1 at Article 30 of the AOI.

⁵³ *Id.*, at 50-51.

⁵⁴ See the TA PQR at pages 35-36.

⁵⁵ *Id.*, at 35-36 and Exhibit A-2-1 at Article 31 of the AOI.

⁵⁶ *Id.*, at 52; *see also* the TA 1SQR at 14.

⁵⁷ See TA PQR at Exhibit A-2-1 at Article 16 and 17 of the AOI.

⁵⁸ *Id.*, at 52; *see also* the TA 1SQR at 14.

⁵⁹ See TA PQR at Exhibits A-2-12 and A-2-13a.

⁶⁰ *Id.*, at Exhibits A-2-11a, A-2-11b, A-2-12, and A-2-13a.

⁶¹ See the TA 1SQR at Exhibit S1-11.a.

2. Tariff Exemption for Imported Equipment Program

In its initial September 17, 2015, questionnaire response, the TA reported that the purpose of this 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.⁶² 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 before the delivery of the goods or within four months after the arrival of the goods. Yieh Phui, Synn, and Shin Yang of the Yieh Phui Companies⁶³ and PT of the Prosperity Companies reported receiving exemptions under this program during and prior to the POI.⁶⁴

We examined this program in *NOES from Taiwan*.⁶⁵ In that investigation, we found that the tariff exemptions provided under the program constituted a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act and conferred 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).⁶⁶ Regarding specificity, in *NOES from Taiwan*, we determined that there was no basis to conclude that the program was specific on a *de jure* basis to any industry or enterprise.⁶⁷ Based on information provided by the TA in the instant investigation, we preliminarily find there is no basis to change our prior findings with regard to this program as it pertains to financial contribution and benefit.⁶⁸

For specificity, we analyzed whether the tariff exemptions provided to the members of the Prosperity Companies and Yieh Phui Companies were disproportionately large such that they were specific under section 771(5A)(D)(iii)(II) of the Act. To conduct this analysis, we utilized usage information from the TA to compare the tariff exemptions received by the respective members of the Prosperity Companies and Yieh Companies to the average tariff exemptions that all other Taiwanese companies received under the program. Based on our analysis, we preliminarily determine that tariff exemptions received by PT were less than the average and that the tariff exemptions received by the Yieh Phui Companies were not disproportionately large.⁶⁹ Therefore, we preliminarily determine that the amounts received by PT, Yieh Phui, Synn, and Shin Yang were not *de facto* specific under section 771(5A)(D)(iii)(II) of the Act. Accordingly, we preliminarily determine that the benefits the mandatory respondents received under this program are not countervailable. We will continue to examine this program as it pertains to *de facto* specificity after the preliminary determination.

⁶² See TA PQR at Exhibit Q – 1 page 159.

⁶³ The Yieh Phui Companies reported the Tariff Exemption for Imported Equipment Program under the “Other Subsidies” category, and they labeled it as “Innovative Technology Applications and Services Program.”

⁶⁴ See Yieh Phui Companies PQR at 28, Synn PQR at 19, and Shin Yang PQR at 19; see also PT PQR at 50.

⁶⁵ See *Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination*, 79 FR 61602 (October 14, 2014) (*NOES from Taiwan*) and accompanying Issues and Decision Memorandum (NOES Final Decision Memorandum) at 13 and Comment 1.

⁶⁶ See NOES Final Decision Memorandum at 13.

⁶⁷ *Id.*

⁶⁸ See TA PQR at Exhibit Q-1.

⁶⁹ See Prosperity Companies Preliminary Calculation Memorandum; see also Yieh Phui Companies Preliminary Calculation Memorandum.

3. Income Tax Credit for Upgraded Equipment

Pursuant to Paragraph 1 and 2 of Article 6 of the *Statute for Upgrading Industries*, the TA will provide income tax credits for upgrading equipment.⁷⁰ The purpose of this program was to encourage the use of automation equipment, replacement of old equipment and research and development. 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 training expenses.⁷¹ 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. Because residual benefits continue to be provided under this program, we find that program-wide changes do not exist.⁷² PT and Yieh Phui indicated that they received benefits under this program; however Yieh Phui did not receive benefits under this program based upon the tax return filed during the POI.⁷³ Therefore, we limit our analysis below to PT.

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.⁷⁴ Our findings in this regard are consistent with *NOES from Taiwan*.⁷⁵

For specificity, we analyzed whether the tax savings provided to PT were disproportionately large such that they were specific under section 771(5A)(D)(iii)(II) of the Act. To conduct this analysis, we utilized usage information from the TA to compare the tax savings received by PT to the average tax savings that all other Taiwanese companies received under the program. Based on our analysis, we preliminarily determine that tax savings received by PT were not disproportionately large.⁷⁶ Therefore, we preliminarily determine that the amounts received by PT were not *de facto* specific under section 771(5A)(D)(iii)(II) of the Act. Accordingly, we preliminarily determine that the benefits PT received under this program are not countervailable.

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

1. Loan Financing by the National Development Fund (NDF)

Pursuant to the *Act for Industrial Innovation and Regulations Governing the Application of Investment Tax Credits for Research and Development Expenditures of Companies*, the NDF has launched several financing programs to assist enterprises in applying for financing through

⁷⁰ See TA PQR at Exhibit C-1 page 55.

⁷¹ *Id.*, at Exhibit Q – 1 pages 161, 167 and 168.

⁷² See 19 CFR 351.526(d)(1).

⁷³ See Prosperity Companies' PQR at 34, and Yieh Phui's PQR at 13, respectively.

⁷⁴ See TA PQR at Exhibit C-1.

⁷⁵ See NOES Final Decision Memorandum at 14.

⁷⁶ See Prosperity Companies Preliminary Calculation Memorandum.

financial institutions, in which the NDF teams up with banks to operate these financing programs by means of joint contribution and service charges.⁷⁷ The preferential loans that the NDF offers are “to support for industries’ capital needs in response to trade liberalization, assist the industries to adjust their business operation, improve the industrial structure, and to promote the competitiveness of the industries.”⁷⁸ According to the TA, PT applied for loan financing under this program and received funding from the Export-Import Bank of the Republic of China.⁷⁹ After confirming with the Taiwan Government, Yieh Phui reported that it received a loan⁸⁰ and Shin Yang reported that it received two loans⁸¹ from the NDF through a bank under this program.⁸²

To determine whether a benefit exists, we compared the interest rates that PT, Yieh Phui, and Shin Yang respectively paid on the loan provided under this program to the interest payments each of these companies would have paid on a similar, commercial loan. In conducting this comparison, we used the benchmark interest rate described in the “Subsidy Valuation” section of this decision memorandum.

Pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we preliminarily determine that the interest payments PT made on this loan during the POI are greater than the interest payments that would have been paid under the benchmark interest rate.⁸³

Concerning Yieh Phui and Shin Yang, we preliminarily determine that the interest payments they made under the program were less than what would have been paid on a comparable commercial loan and, thus, we find that the companies received a benefit. Therefore, we divided the benefit Yieh Phui received under the loan program by the total sales of Yieh Phui and Synn, net of intra-company sales, and we divided the benefit Shin Yang received under the loan program by the total sales of Yieh Phui, Synn, and Shin Yang, net of intra-company sales. The sum of the total net subsidy rate attributable to the Yieh Phui Companies is less than 0.005 percent *ad valorem*. Consistent with the Department’s practice, we find that this net subsidy is not numerically significant and, thus, we have not included it in the total net subsidy for the Yieh Phui Companies.⁸⁴

C. Programs Preliminarily Determined Not To Be Used

1. Income Tax Credits for Investment in Designated Regions
2. Shareholder’s Investment Tax Credit for Participation in Infrastructure Projects

⁷⁷ See the TA PQR at Exhibit L-1.

⁷⁸ *Id.*, at Exhibit L-1-2.

⁷⁹ *Id.*, at Exhibit L-1.

⁸⁰ See Yieh Phui’s supplemental PQR at 7 and Exhibit 8.

⁸¹ The loans that Shin Yang received are under the following two programs entitled “Preferential Financing Program for Liberalization of Trade and Industrial Development,” and “Special Loan for Revitalization of Traditional Industries.” See Yieh Phui’s supplemental PQR at 10 and Exhibit 9.

⁸² See Yieh Phui’s supplemental PQR at 7 and 10, and Exhibits 8 and 9; see also Yieh Phui Companies Preliminary Calculation Memorandum.

⁸³ See Prosperity Companies’ Preliminary Calculation Memorandum.

⁸⁴ See, e.g., *Aluminum Extrusions from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 64 FR 18521 (April 4, 2011) and accompanying Issues and Decision Memorandum at Section F and footnote 5.

3. Building and Land Value Tax Deduction for Supplying to Major Infrastructure Projects
4. Grants to Promote Industrial Innovation (also referred to as Innovative Technology Applications and Services Program)
5. Grants for International Development Activities
6. Grants for Traditional Industry Technology Development (also referred to as Conventional Industry Technology Development)
7. Industrial Technology Development Program
8. Strengthen the Ability of Emerging Development Program
9. Subsidies for Companies Located in Industrial Parks and Economic Pilot Zones: Discounted Lease Rates
10. Subsidies for Companies Located in Industrial Parks and Economic Pilot Zones: Exemptions from Taxes and Fees
11. Subsidies for Companies Located in Industrial Parks and Economic Pilot Zones: Technology Royalties
12. Subsidies for Companies Located in Environmental Science and Technology Parks: Discounted Land
13. Subsidies for Companies Located in Environmental Science and Technology Parks: Production and Research Subsidies
14. Major Infrastructure Projects – Land Lease Program
15. Self-Evaluation Service
16. Innovative Technology Applications and Services (ITAS) Program

D. Programs for Which More Information is Required

1. New Subsidy Allegations

On October 2, 2015, we issued a new subsidy questionnaire to the Yieh Phui Companies, Prosperity Companies and the TA.⁸⁵ The Yieh Phui Companies, the Prosperity Companies, and the TA submitted their respective NSA questionnaire responses on October 16, 19, and 20, 2015, respectively.⁸⁶ Because we lack the time to fully analyze and request additional information from respondents, we will issue an analysis with respect to these programs, listed below, after the preliminary determination, time permitting.

- Kaohsiung City Subsidies to Promote Industrial Development
- Provision of Land for Less than Adequate Remuneration (LTAR) for Eligible Firms Located in the Pingtung Industrial Park
- Preferential Tax Treatment for Eligible Firms Located in the Pingtung Industrial Park
- Preferential Lending for Eligible Firms Located in the Pingtung Industrial Park
- Grants for Eligible Firms Located in the Pingtung Industrial Park
- Grants to Private Firms for Upgrading Industrial Zones.

⁸⁵ See the TA NSAQ, Yieh Phui and PT NSAQ.

⁸⁶ See the Yieh Phui Companies, Prosperity Companies, and TA's NSAQR.

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.⁸⁷ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (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.⁸⁸

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.⁸⁹ This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) The number of participants; and (3) A list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. 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 and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.⁹⁰ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.⁹¹

⁸⁷ *See* 19 CFR 351.224(b).

⁸⁸ *See* 19 CFR 351.309.

⁸⁹ *See* 19 CFR 351.309(c)(2) and (d)(2).

⁹⁰ *See* 19 CFR 351.303(b)(2)(i).


⁹¹ *See* 19 CFR 351.303(b)(1).

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 NOVEMBER 2015
(Date)