



C-570-942
Administrative Review
POR: 1/1/2011 – 12/31/2011
Public Document
AD/CVD 1: JM

DATE: September 30, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

RE: Decision Memorandum for Preliminary Results of Countervailing
Duty Administrative Review: Certain Kitchen Appliance Shelving
and Racks from the People's Republic of China

Summary

The Department of Commerce (“the Department”) is conducting an administrative review of the countervailing duty (“CVD”) order on certain kitchen appliance shelving and racks (“kitchen racks”) from the People’s Republic of China (“PRC”). The period of review (“POR”) is January 1, 2011, through December 31, 2011. We are rescinding the review with respect to one company, Jiangsu Weixi Group Co. (“Weixi”). We have preliminarily found that the remaining respondent, New King Shan (Zhu Hai) Co., Ltd. (“NKS”), received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), we will issue final results no later than 120 days from the date of publication of these preliminary results.

Background

On September 14, 2009, the Department published a CVD order on kitchen racks from the PRC.¹ On September 4, 2012, we published a notice of “Opportunity to Request Administrative Review” for the CVD order for the calendar year 2011.²

¹ See *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Countervailing Duty Order*, 74 FR 46973 (September 14, 2009).



Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b), we received multiple review requests: 1) Electrolux North America, Inc., Electrolux Home Products, Inc. and Electrolux Major Appliances (“Electrolux”), importers of the subject merchandise, requested a review of NKS and Weixi; and 2) NKS, a producer and exporter of the subject merchandise, requested a review of itself. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review on October 31, 2012.³

We issued initial CVD questionnaires to NKS, Weixi, and the Government of China (“GOC”) on December 20, 2012. On January 22, 2013, Electrolux timely withdrew its review request of Weixi. We received a timely response from NKS on February 12, 2013 (“NQR”). We did not receive a response from the GOC. Petitioners⁴ submitted comments regarding NQR on February 25, 2013 (“Petitioners’ NQR Comments”). We issued a supplemental questionnaire to NKS on May 22, 2013, and received a timely response from NKS on June 5, 2013 (“NSQR1”). Petitioners submitted comments regarding NSQR1 on June 20, 2013 (“Petitioners’ NSQR1 Comments”).

Petitioners filed new subsidy allegations (“NSA”) on March 4, 2013. On August 6, 2013, we determined to investigate certain of these allegations⁵ and, on August 7, 2013, we issued a questionnaire to NKS with regard to those NSAs.⁶ NKS filed a timely response on August 27, 2013 (“NNSAQR”). Petitioners filed comments on NNSAQR on September 7, 2013 (“Petitioners’ NSA QR Comments”).

On April 25, 2013, the time limit for completing these preliminary results was extended by 120 days to no later than September 30, 2013, as permitted by section 751(a)(3)(A) of the Act.⁷

We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Act.

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 53863 (September 4, 2012).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 65858 (October 31, 2012) as corrected by *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 66797 (November 7, 2012).

⁴ SSW Holding Co. Inc. and Nashville Wire Products (collectively, “Petitioners”) submitted an entry of appearance on November 6, 2012.

⁵ See Memorandum to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1 through Nancy Decker, Program Manager, AD/CVD Operations, Office 1 from Jennifer Meek, International Trade Compliance Analyst, AD/CVD Operations, Office 1, regarding “Countervailing Duty Administrative Review: Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: New Subsidy Allegations” (August 6, 2013) (“NSA Initiation Memo”).

⁶ See Memorandum to Susan H. Kuhbach, Director, AD/CVD Operations, Office 1 through Nancy Decker, Program Manager, AD/CVD Operations, Office 1 from Jennifer Meek, regarding “Countervailing Duty Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Questionnaire Regarding New Subsidy Allegations” (August 6, 2013).

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Susan H. Kuhbach, Office Director, Antidumping and Countervailing Duty Operations, Office 1 from Jennifer Meek, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, Office 1, regarding “Countervailing Duty Administrative Review: Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Extension of Time Limit for the Preliminary Results” (April 18, 2013).

Scope of the Order

The scope of the order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens. Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and sub-frames (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- Shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- Baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- Side racks from 6 inches by 8 inches by 0.10 inch to 16 inches by 30 inches by 4 inches; or
- Sub-frames from 6 inches by 10 inches by 0.10 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.20 inch. The subject merchandise may be coated or uncoated and may be formed and/or welded. Excluded from the scope of the order is shelving in which the support surface is glass.

The merchandise subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 8418.99.80.50, 7321.90.50.00, 7321.90.60.40, 7321.90.60.90, 8418.99.80.60, 8419.90.95.20, 8516.90.80.00, and 8516.90.80.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw the request within 90 days of the date of publication of the notice initiating the review. As explained above, Electrolux timely withdrew its review request of Weixi and no other interested party requested an administrative review of Weixi. Therefore, in accordance with 19 CFR 351.213(d), we are rescinding this review with respect to Weixi.

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,” subject to section 782(d) of the Act, if necessary information is not on the record or if

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.

Section 776(b) of the Act further 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.

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse “as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”⁸ 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.”⁹

GOC

Although we confirmed that the GOC received our initial questionnaire,¹⁰ it did not submit a response. In that questionnaire, the Department sought information from the GOC to determine whether NKS’ suppliers of steel strip and wire rod are authorities within the meaning of section 771(5)(b) of the Act. In light of the GOC’s decision not to respond to our initial questionnaire, we did not send follow-up questionnaires seeking information about a countervailable subsidy practice discovered in the course of this review, a grant reported in NKS’ financial statements.

Based on the GOC’s failure to respond to our initial questionnaire, we preliminarily determine that the GOC has withheld information and significantly impeded this proceeding. Consequently, lacking information necessary to our determination, we are relying on facts available in accordance with section 776(a)(1) and (2) of the Act. We further preliminarily determine an adverse inference is warranted, pursuant to section 776(b) of the Act. By not responding to requests for information, the GOC did not cooperate to the best of its ability in this review and impeded the Department’s ability to make findings with respect to aspects of programs that rely on government-provided information.

⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁹ See Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong. 2d Session, at 870 (1994).

¹⁰ See Memorandum to The File from Jennifer Meek, regarding “Receipt Confirmation of Initial Countervailing Duty Questionnaire for the Government of China, Jiangsu Weixi Group Co., and New King Shan (Zhu Hai) Co., Ltd.” (January 8, 2013).

1. Steel Strip and Wire Rod for LTAR

As explained above, the Department sought information from the GOC about the producers of the steel strip and wire rod purchased by NKS. In particular, for the steel strip and wire rod producers that supplied NKS that are not majority-owned by the GOC, the GOC was asked, *inter alia*, to trace back the ownership to the ultimate individual or state owners.¹¹

Given the GOC's lack of a response, we have no information concerning government ownership or control of any of the companies that supplied steel strip or wire rod to NKS. Thus, we are preliminarily making the adverse inference that all of NKS's suppliers of steel strip and wire rod are "authorities" within the meaning of section 771(5)(B) of the Act. For details on the calculation of the subsidy rates for NKS, see the "Analysis of Programs" section below.

2. Gaoxin District Energy Efficient Company Award

Based on our review of the financial statements submitted by NKS in this review, we sought information about income shown for the POR.¹² NKS responded that it received an award from the government as an energy efficient company.¹³ We would normally rely on information from the government to determine whether the program under which this grant was given is specific within the meaning of section 771(5A) of the Act,¹⁴ but, as explained above, the GOC elected not to participate in this review. Consequently, we are finding as adverse facts available that the grant made under this program is specific within the meaning of section 771(5A) of the Act. Further, because information concerning the year in which the grant was approved is not available on the record, we are finding as facts available that the year of approval is the same as the year of receipt for the subsidy.¹⁵

This subsidy is addressed under the "Gaoxin District Energy Efficient Company Award" program in the "Analysis of Programs" section below.

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 of the Act concerning the subject merchandise."¹⁶

¹¹ See the Department's December 20, 2012 questionnaire at Section II.

¹² See Letter to New King Shan (Zhu Hai) Co., Ltd, "Countervailing Duty Administrative Review: Kitchen Appliance Shelving and Racks from the People's Republic of China: First Supplemental Questionnaire" ("NSQ1") (May 21, 2013) at 2.

¹³ See NSQR1 at 4-5 and Exhibit 8(a), 8(b), 8(c).

¹⁴ See, e.g., *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010), and accompanying Issues and Decision Memorandum at Comment 6.

¹⁵ See section 776(a)(1) of the Act.

¹⁶ See SAA at 870.

The facts available decisions described above do not rely on secondary information. Instead, they are based on the unwillingness of the GOC to provide necessary information and constitute an adverse inference pursuant to section 776(b) of the Act. The corroboration requirement of section 776(c) of the Act is, therefore, not applicable to the use of facts available in this review.

Subsidies Valuation Information

Allocation Period

Consistent with 19 CFR 351.524(d)(2), the average useful life period in this proceeding is 12 years, based on the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as revised.¹⁷ No party in this proceeding has disputed this allocation period.

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 the recipient and other 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.

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 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.¹⁸

¹⁷ See U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods.

¹⁸ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

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") 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.¹⁹

NKS stated that it is wholly owned by entities located outside of the PRC and that while it has several affiliated companies, none is located in the PRC.²⁰ Therefore, we are limiting our analysis to the subsidies received by NKS and attributing those subsidies to its sales.

Analysis of Programs

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

I. Programs Preliminarily Determined To Be Countervailable

A. Income Tax Reduction for FIEs Based on Geographic Location

To promote economic development and attract foreign investment, "productive" FIEs located in coastal economic zones, special economic zones or economic and technical development zones in the PRC were subject to preferential tax rates of 15 percent or 24 percent, depending on the zone.²¹ This program was created on June 15, 1988, pursuant to the Provisional Rules on Exemption and Reduction of Corporate Income Tax and Business Tax of FIEs in Coastal Economic Development Zone issued by the Ministry of Finance, and continued under Article 7 of the FIE Tax Law on July 1, 1991.²²

As a result of the transition provisions of the new Enterprise Income Tax Law, which came into force on January 1, 2008, enterprises that were eligible for the reduced rates of 15 percent or 24 percent are to be gradually transitioned to the uniform rate of 25 percent over a five-year period.²³

In the underlying investigation, we determined that this program conferred a countervailable subsidy.²⁴ No interested party provided new evidence that would lead us to reconsider our

¹⁹ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁰ See NQR at 1.

²¹ See *Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) ("*Kitchen Racks Investigation*"), and accompanying Issues and Decision Memorandum at 11-12.

²² *Id.*

²³ *Id.*; see also NQR at Exhibits 8 and 9.

²⁴ See *Kitchen Racks Investigation*, and accompanying Issues and Decision Memorandum at 11-12.

earlier finding.²⁵ Therefore, we continue to find that these tax benefits confer a countervailable subsidy.

NKS reported paying at a reduced income tax rate during the POR under the program.²⁶

To calculate the benefit, we treated the income tax savings received by NKS as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax NKS would have paid in the absence of the program (*i.e.*, at the 25 percent rate) with the income tax that NKS actually paid during 2011. We divided the benefits received by NKS in 2011 by its 2011 total sales, in accordance with 19 CFR 351.525(b)(6)(i). *See* NKS Prelim Calc Memo.²⁷

On this basis, we preliminarily determine that NKS received a countervailable subsidy of 0.02 percent *ad valorem* under this program.

B. Provision of Wire Rod for Less Than Adequate Remuneration (“LTAR”)

In the underlying investigation, we determined that this program conferred a countervailable subsidy.²⁸ No interested party provided new evidence that would lead us to reconsider our earlier findings that the GOC’s predominant role in the PRC’s wire rod market renders domestic prices unusable as benchmarks or that the subsidy conferred is specific.²⁹

NKS reported purchasing wire rod during the POR and provided information regarding its purchases.³⁰ As discussed in the “Use of Facts Otherwise Available and Adverse Inferences” section, above, we preliminarily determine that the wire rod producers reported by NKS are authorities. Consequently, we preliminarily determine that the GOC is providing a good and, hence, a financial contribution under section 771(5)(D)(iii) of the Act.

To determine whether this financial contribution results in a subsidy to NKS, we followed 19 CFR 351.511(a)(2) for identifying an appropriate market-based benchmark for measuring the adequacy of the remuneration for the wire rod. As in the underlying investigation, we have relied upon tier two benchmarks, *i.e.*, world market prices available to purchasers in the PRC, to determine the existence and extent of the benefit to NKS.³¹ NKS submitted Japanese wire rod export prices sourced from the World Bank.³² We have relied on these prices in prior reviews.³³

²⁵ *See, e.g., Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408, 52420 (October 7, 1996) (“{I}t is the Department’s policy not to reexamine the issue of that program’s countervailability in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration.”).

²⁶ *See* NQR at 9 and Exhibits 7 and 8; *see* NSQR1 at 2-3 and Exhibits 3 and 4.

²⁷ *See* Memorandum to the File from Jennifer Meek, regarding “Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Preliminary Results, Calculation Memorandum for New King Shan,” (September 30, 2013) (“NKS Prelim Calc Memo”).

²⁸ *See Kitchen Racks Investigation*, and accompanying Issues and Decision Memorandum at 14-16.

²⁹ *Id.* at 15-16.

³⁰ *See* NQR at 10-12 and Exhibits 10, 11 and 12; *see* NSQR1 at 13-15 and Exhibits 12 and 13.

³¹ *See Kitchen Racks Investigation*, and accompanying Issues and Decision Memorandum at 8.

³² *See* NQR at Exhibit 12.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Because the World Bank data does not include ocean freight, we added ocean freight to each of the monthly wire rod prices. Regarding delivery charges, we have included the freight charges that would be incurred to deliver wire rod to NKS' plant. We have also added import duties and VAT applicable to imports of wire rod into the PRC. We have compared these prices to NKS' actual purchase prices, including any taxes and delivery charges incurred to deliver the product to its plant. *See* NKS Prelim Calc Memo.

Comparing the adjusted benchmark prices to the prices paid by NKS for the wire rod it purchased, we preliminarily determine that the GOC provided wire rod for LTAR, and that a benefit exists in the amount of the difference between the benchmark and what NKS paid. We divided the difference between the amounts actually paid by NKS for wire rod and what it would have paid under the benchmark in 2011, by the company's total sales in 2011.

On this basis, we preliminarily determine that NKS received a countervailable subsidy of 7.86 percent *ad valorem* under this program.

C. Provision of Steel Strip for LTAR

In the first administrative review of this order, the Department determined that this program conferred a countervailable subsidy.³⁴ No interested party provided new evidence that would lead us to reconsider our earlier findings that the GOC's predominant role in the PRC's steel strip market renders domestic prices unusable as benchmarks or that the subsidy conferred is specific.³⁵

NKS reported purchasing steel strip during the POR and provided information regarding its purchases.³⁶ As discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section, above, we preliminarily determine that the steel strip producers reported by NKS are authorities. Consequently, we preliminarily determine that the GOC is providing a good and, hence, a financial contribution under section 771(5)(D)(iii) of the Act.

To determine whether this financial contribution results in a subsidy to NKS, we followed 19 CFR 351.511(a)(2) for identifying an appropriate market-based benchmark for measuring the adequacy of the remuneration for the steel strip. As in the first administrative review, we have

³³ *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 78 FR 21594 (April 11, 2013) (*Kitchen Racks from China 2010 AR*), and accompanying Issues and Decision Memorandum at 5-6, 9-11, 19-23, and *see Certain Kitchen Shelving and Racks from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 77 FR 21744 (April 11, 2012) (*Kitchen Racks from China 2009 AR*), and accompanying Issues and Decision Memorandum at 5-6, 8, 17-8, 25-28, 30-31.

³⁴ *See Kitchen Racks from China 2009 AR*, and accompanying Issues and Decision Memorandum at 6-7, 8, 18-20, 25-29, 30-31.

³⁵ *Id.*

³⁶ *See* NQR at 15-17 and Exhibits 15, 16; *see* NSQR1 at 14-15.

relied upon tier two benchmarks, *i.e.*, world market prices available to purchasers in the PRC, to determine the existence and extent of the benefit to NKS.³⁷ NKS submitted export prices for hot- and cold-rolled steel coil sheets from Japan sourced from the World Bank.³⁸ We have relied on these prices in prior reviews.³⁹

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Because the World Bank data does not include ocean freight, we added ocean freight to each of the monthly steel strip prices. Regarding delivery charges, we have included the inland freight charges that would be incurred to deliver steel strip to NKS' plant. We have also added import duties and VAT applicable to imports of steel strip into the PRC. We have compared these prices to the respondent's actual purchase prices, including any taxes and delivery charges incurred to deliver the product to its plant.⁴⁰

Comparing the adjusted benchmark prices to the prices paid by NKS for the steel strip it purchased, we preliminarily determine that the GOC provided steel strip for LTAR, and that a benefit exists in the amount of the difference between the benchmark and what NKS paid. We divided the difference between the amounts actually paid by NKS for steel strip and what it would have paid under the benchmark in 2011, by the company's total sales in 2011.

On this basis, we preliminarily determine that NKS received a countervailable subsidy of 0.09 percent *ad valorem* under this program.

D. Provision of Electricity for LTAR

In the underlying investigation, we determined that this program conferred a countervailable subsidy.⁴¹ No interested party provided new evidence that would lead us to reconsider our earlier finding that there is a financial contribution that is specific.

To determine the existence and the amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on NKS' reported consumption volumes and rates paid.⁴² To calculate the electricity benchmark, in accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each user category (*e.g.*, "large industry," "general industry and commerce, household") and voltage class of the respondents (*e.g.*, 1-10kv), as well as the respondent's "base charge" (either maximum

³⁷ See *Kitchen Racks from China 2009 AR*, and accompanying Issues and Decision Memorandum at 6-7, 8, 18-20, 25-28, 30-31.

³⁸ See NQR at Exhibit 12.

³⁹ See *Kitchen Racks from China 2010 AR*, and accompanying Issues and Decision Memorandum at 5-6, 11-12, 21, and see *Kitchen Racks from China 2009 AR*, and accompanying Issues and Decision Memorandum at 6-7, 8, 18-20, 25-28, 30-31.

⁴⁰ See NKS Prelim Calc Memo.

⁴¹ See *Kitchen Racks Investigation*, and accompanying Issues and Decision Memorandum at 5-6 and 13.

⁴² NKS provided in its response its monthly electricity usage, the amounts it paid and the electricity rate schedule for Zhuhai city. See NQR at 12-13 and Exhibits 14(a) and 14(b); see NSQR1 at 15-17 and Exhibits 11, 14, 15, and 16

demand or transformer capacity).⁴³ Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a user category.⁴⁴

We then compared what the respondent paid for electricity during the POR to the benchmark payments. We divided the benefit by NKS' total sales in POR.

On this basis, we preliminarily determine that NKS received a countervailable subsidy of 0.53 percent *ad valorem* under this program.⁴⁵

E. Gaoxin District Energy Efficient Company Award

NKS reported receiving a grant under this program in 2011.⁴⁶ According to NKS, this grant was given by Gaoxin District based on NKS' prior designation as a "green producer" by the Guangdong provincial government.⁴⁷ Further, according to NKS, the grant was a one-time award.⁴⁸

We preliminarily find that the grant received by NKS under this program conferred a countervailable subsidy. The grant is a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant.⁴⁹ Further, as explained above under "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily find this program is specific.

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants.⁵⁰ As explained above under "Use of Facts Otherwise Available and Adverse Inferences," we are treating the year of receipt, 2011, as the year of approval. Applying the "0.5 percent test" pursuant to 19 CFR 351.524(b)(2), we determine that the grant was less than 0.5 percent of NKS' 2011 sales. Thus, in accordance with 19 CFR 351.524(b)(2), we expensed the entire amount received in 2011 and attributed the benefit to NKS' 2011 total sales. *See* NKS Prelim Calc Memo.

On this basis, we preliminarily determine that NKS received a countervailable subsidy of 0.02 percent *ad valorem* under this program.

⁴³ We provide additional discussion of these benchmarks in the "Electricity Rate Benchmark Memorandum" issued concurrently with these preliminary results.

⁴⁴ *See* NKS Prelim Calc Memo.

⁴⁵ *Id.* at 2-3 and Attachment 5.

⁴⁶ *See* NSQR1 at 4-5 and Exhibits 7 and 8.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *See* 19 CFR 351.504(a).

⁵⁰ *See* 19 CFR 351.524(b).

II. Programs Preliminarily Determined Not to Confer a Measurable Benefit During the POR

F. Safe Manufacturer Award

NKS reported receiving a grant under this program in 2011.⁵¹

Based on our analysis, any potential benefit to NKS under this program is less than 0.005 percent *ad valorem*. To determine this, we divided the amount received by NKS in 2011 by NKS' total sales in 2011. Where the countervailable subsidy rate for a program is less than 0.005 percent, the Department's practice is to not include that program in the total CVD rate.⁵² Thus, without prejudice to the question of whether this program confers a countervailable subsidy, and consistent with our practice, we determine that any potential benefit under this program is not measurable.

III. Programs Found to Be Not Used

We examined the following programs and preliminarily determine that the producers and/or exporters of the subject merchandise under review did not apply for or receive benefits under these programs during the POR:

1. Income Tax Refund for Reinvestment of Profits in Export-Oriented Enterprises
2. Income Tax Reduction for Export-Oriented FIEs
3. Local Income Tax Exemption or Reduction Program for "Productive" FIEs
4. Preferential Tax Subsidies for Research and Development by FIEs
5. Income Tax Credits on Purchases of Domestically-Produced Equipment by FIEs
6. Income Tax Credits for Purchases of Domestically-Produced Equipment by Domestically-Owned Companies
7. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
8. VAT Rebates for FIEs Purchasing Domestically-Produced Equipment
9. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
10. Import Tariff Exemptions for the "Encouragement of Investment by Taiwanese Compatriots"
11. Government Provision of Water at LTAR to Companies Located in Development Zones in Guangdong Province
12. Exemption from Land Development Fees for Enterprises Located in Industrial Cluster Zones
13. Reduction in Farmland Development Fees for Enterprises Located in Industrial Zones
14. Special Subsidy from the Technology Development Fund to Encourage Technology Development

⁵¹ See NSQR1 at 4-5 and Exhibits 7 and 8.

⁵² See, e.g., *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (CFS) and accompanying Issues and Decision Memorandum at "Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POR for GE" section.

15. Exemption from District and Township Level Highway Construction Fees for Enterprises Located in Industrial Cluster Zones
16. Exemptions from or Reductions in Educational Supplementary Fees and Embankment Defense Fees for Enterprises Located in Industrial Cluster Zones
17. Exemption from Real Estate Tax and Dyke Maintaining Fee for FIEs in Guangdong Province
18. Import Tariff Refunds and Exemptions for FIEs in Guangdong Province
19. Preferential Loans and Interest Rate Subsidies in Guangdong Province
20. Direct Grants in Guangdong Province
21. Funds for “Outward Expansion” of Industries in Guangdong Province
22. Land-related Subsidies to Companies Located in Specific Regions of Guangdong Province
23. Import Tariff and VAT Refunds and Exemptions for FIEs in Zhejiang
24. Grants to Promote Exports from Zhejiang Province
25. Land-related Subsidies to Companies Located in Specific Regions of Zhejiang
26. Special Subsidy from the Technology Development Fund to Encourage Technology Innovation
27. Subsidies to Encourage Enterprises in Industrial Cluster Zones to Hire Post-Doctoral Workers
28. Land Purchase Grant Subsidy to Enterprises Located in Industrial Cluster Zones and Encouraged Enterprises
29. Exemption from Accommodating Facilities Fees for High-Tech and Large-Scale FIEs
30. Income Tax Deduction for Technology Development Expenses of FIEs
31. Preferential Land-Use Charges for Newly-Established, Industrial Projects in Zhongshan’s Industrial Zones
32. Reduction of Land Price at the Township Level for Newly-Established, Industrial Projects in Zhongshan’s Industrial Zones
33. Reduction in Urban Infrastructure Fee for Industrial Enterprises in Industrial Zones
34. Income Tax Rebate for “Superior Industrial Enterprises” in Zhongshan
35. Accelerated Depreciation for New Technological Transformation Projects “Superior Industrial Enterprises” in Zhongshan
36. Exemption from the Tax on Investments in Fixed Assets for “Superior Industrial Enterprises” in Zhongshan
37. Shunde Famous Brands Program
38. International Market Exploration Fund Program also known as: “International Market Development Fund Grants for Small and Medium Sized Enterprises” program, “SME Fund”, “Medium & Small Size Enterprise International Market Expansion Assistance” program or “International Exhibition Show Assistance” program
39. Nickel for LTAR
40. Foshan Shunde Export Rebate
41. Zhuhai Farmer Training Subsidy
42. Guangdong Supporting Fund
43. Zhuhai Export Trade Grant
44. Tax Rebates for Electromechanical High-Tech Products
45. Clean Production Promotion Program
46. Jinding Industrial Zone Exemption of Electricity Tariff

- 47. Jinding Industrial Zone Preferential Water
- 48. Jinding Industrial Zone Exemption from “Administrative Undertaking” Charges
- 49. Jinding Industrial Zone Income Tax Benefits

IV. Programs for Which More Information is Required

- A. Late Payment of the City Maintenance and Construction Taxes and Education Surcharge Fees

In the prior review, NKS provided information showing that FIEs in Guangdong Province were no longer exempted from the City Maintenance and Construction Taxes and the Education Surcharge Fees beginning in December 2010.⁵³ In this review, we requested information from NKS documenting its payment of these taxes and fees.⁵⁴ NKS provided the requested documentation, but also reported that a portion of the taxes and fees was paid late.⁵⁵ As provided in section 775 of the Act and 19 CFR 351.311(b), we intend to seek further information about the circumstances of these late payments and to issue a post-preliminary analysis explaining our findings.

Conclusion

We recommend applying the above methodology for these preliminary results.



 Agree

 Disagree



 Paul Piquado
 Assistant Secretary
 for Import Administration

30 SEPTEMBER 2013

 (Date)

⁵³ See *Kitchen Racks from China 2010 AR*, and accompanying Issues and Decision memorandum at 9, 31-32.

⁵⁴ See NSQ1 at 5.

⁵⁵ *Id.* at 12-13 and Exhibits 9,10,11(a),11(b),11(c).