



C-570-984
Administrative Review
POR: 8/6/2012 – 12/31/2013
Public Document
AD/CVD Office I

April 30, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Countervailing
Duty Administrative Review: Drawn Stainless Steel Sinks 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 drawn stainless sinks (sinks) from the People's Republic of China (PRC). The period of review (POR) is August 6, 2012, through December 31, 2013. We preliminarily find that Guangdong Dongyuan Kitchenware Industrial Co., Ltd. (Dongyuan) received countervailable subsidies during the POR.

A. Background

On April 11, 2013, we published the CVD *Order* on sinks from the PRC.¹ On April 1, 2014, we published a notice of "Opportunity to Request Administrative Review" for the CVD *Order*.² Foshan Zhaoshun Trade Co., Ltd. (Zhaoshun), Zhongshan Superte Kitchenware Co., Ltd. (Superte), Zhongshan Newecan Enterprise Development Corporation Limited (Newecan), Dongyuan, Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong (Zhongshan Silk), and Shunde Native Produce Import and Export Co., Ltd. of Guangdong (Native Produce) requested administrative reviews of themselves.³ In accordance with 19 CFR 351.221(c)(1)(i), we

¹ See *Drawn Stainless Steel Sinks From the People's Republic of China: Countervailing Duty Order*, 78 FR 21596 (April 11, 2013) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 79 FR 18260 (April 1, 2014).

³ See Letter from Zhaoshun and Superte, "Drawn Stainless Steel Sinks from China: Administrative Review Request" (April 16, 2014) and see Letter from Zhaoshun and Superte, "Drawn Stainless Steel Sinks from China; Correction to Administrative Review Request" (April 29, 2014); Letter from Newecan, "Drawn Stainless Steel Sinks from China; Administrative Review Request" (April 21, 2014) and Letter from Newecan, "Drawn Stainless Steel Sinks from China; Correction to Administrative Review Request" (April 29, 2014); Letter from Dongyuan,



published a notice initiating the review on May 29, 2014.⁴ On June 11, 2014, we released U.S. Customs and Border Protection (CBP) data to interested parties for purposes of respondent selection.⁵ In the Respondent Selection Memo,⁶ we selected Dongyuan and Superte as mandatory respondents.

We issued the initial questionnaire to the Government of the PRC (GOC), Dongyuan and Superte on August 8, 2014.⁷ We requested Native Produce to provide evidence of importation of subject merchandise during the POR.⁸ Subsequently, Native Produce submitted a statement of no shipments and a withdrawal of its request for review.⁹ The request for the rescission of the review, however, was untimely. Zhaoshun, Superte, and Newecan submitted timely withdrawals of their review requests.¹⁰ We issued a memorandum stating the intention to rescind the review with respect to Superte, Zhaoshun, Newecan, and Native Produce, and identifying Zhongshan Silk as an additional mandatory respondent.¹¹ Subsequently, Zhongshan Silk withdrew its request for an administrative review,¹² resulting in Dongyuan as the only mandatory respondent in this administrative review.¹³ Elkay Manufacturing Company (the petitioner) requested that the Department conduct verification in this review.¹⁴

Dongyuan submitted its response to the initial questionnaire regarding affiliation,¹⁵ and the Department found it appropriate for Dongyuan to submit a complete questionnaire response for itself.¹⁶ The GOC and Dongyuan submitted timely responses to the initial questionnaire.¹⁷

“Drawn Stainless Steel Sinks from China Administrative Review” (April 30, 2014); Letter from Zhongshan Silk, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014); Letter from Native Produce, “Drawn Stainless Steel Sinks from the People’s Republic of China Request for Administrative Review” (April 30, 2014).

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 30809 (May 29, 2014).

⁵ See Memorandum to The File, “Countervailing Duty Administrative Review: *Drawn Stainless Steel Sinks from the People’s Republic of China*: Release of CBP Data” (June 11, 2014).

⁶ See Memorandum to Thomas Gilgunn, Acting Office Director, Office I, Antidumping and Countervailing Duty Operations, “Countervailing Duty Administrative Review of Drawn Stainless Steel Sinks from the People’s Republic of China: Respondent Selection” (August 5, 2014) (Respondent Selection Memo).

⁷ See Letter from the Department to the GOC, Dongyuan, and Superte, “Drawn Stainless Steel Sinks from the People’s Republic of China: Countervailing Duty Questionnaire” (August 8, 2014)(initial questionnaire).

⁸ See Letter from the Department, “Countervailing Duty (CVD) Administrative Review: Drawn Stainless Steel Sinks from the People’s Republic of China” (August 4, 2014).

⁹ See Letter from Native Produce, “Drawn Stainless Steel Sinks from the People’s Republic of China No Shipments and Review Rescission” (August 8, 2014).

¹⁰ See Letter from Zhaoshun and Superte, “Drawn Stainless Steel Sinks from China: Withdrawal of Administrative Review Request,” (August 11, 2014); Letter from Newecan, “Drawn Stainless Steel Sinks from China: Withdrawal of Administrative Review Request,” (August 11, 2014); Letter from Newecan, “Drawn Stainless Steel Sinks from China: Correction to Withdrawal of Administrative Review Request” (August 12, 2014); and, Letter from Dongyuan, “Drawn Stainless Steel Sinks from China: Correction to Withdrawal of Administrative Review” (August 12, 2014).

¹¹ See Memorandum from the Department, “Countervailing Duty Administrative Review of Drawn Stainless Steel Sinks from the People’s Republic of China: Selection of New Respondent” (August 20, 2014).

¹² See Letter from Zhongshan Silk, “Drawn Stainless Steel Sinks from the People’s Republic of China Withdrawal of Request for Administrative Review” (August 25, 2014).

¹³ See Memorandum from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China” (September 3, 2014).

¹⁴ See Letter from the petitioner, “Drawn Stainless Steel Sinks from The People’s Republic of China: Request for Verification” (September 8, 2014).

¹⁵ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: CVD

Dongyuan submitted a request to extend the deadlines for submission of information related to benchmarks for measuring the benefit conferred by inputs provided for less than adequate remuneration.¹⁸ We extended the deadline for providing benchmark information for all parties on November 26, 2014.¹⁹ On December 4, 2014, we extended the deadline for the preliminary results of review from December 31, 2014, to April 30, 2015.²⁰ Dongyuan timely submitted benchmark information.²¹

We issued supplemental questionnaires to the GOC and Dongyuan on December 11, 2015, and December 16, 2014, respectively,²² and received timely responses.²³ We sent second supplemental questionnaires on February 5, 2015 to the GOC and Dongyuan²⁴ and received timely responses from both parties.²⁵ On April 10, 2015, we sent third supplemental questionnaires to the GOC and Dongyuan²⁶ and received timely responses from both.²⁷

Questionnaire Section III Response” (August 22, 2014)(DQR-A).

¹⁶ See Letter to Dongyuan, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China: *Affiliation and Initial Questionnaire Response*” (September 16, 2014).

¹⁷ See Letter from the GOC, “*GOC Initial CVD Questionnaire Response: First Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from China from the People’s Republic of China (C-570-984)*” (October 10, 2014)(GQR) and see Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: CVD Questionnaire Section III Response” (October 10, 2014)(DQR-B).

¹⁸ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: Request for Extension of Time for Preliminary Results & Benchmarks” (November 21, 2014).

¹⁹ See Memorandum to the File, “Drawn Stainless Steel Sinks from the People’s Republic of China: Extension of Deadline for Benchmarking Data” (November 26, 2014).

²⁰ See Memorandum to the File, “Drawn Stainless Steel Sinks from the People’s Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review” (December 4, 2014).

²¹ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: Benchmarks – First Round” (December 8, 2014)(Dongyuan Benchmark Submission).

²² See Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Sinks from the People’s Republic of China: 1st Supplemental Questionnaire” (December 11, 2014)(GSQ1), and see Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China: 1st Supplement Questionnaire” (December 16, 2014)(DSQ1).

²³ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: Supplemental Questionnaire Response” (December 30, 2014)(DSQR1) and see Letter from the GOC, “GOC First Supplemental Response: First Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from China from the People’s Republic of China (C-570-984)” (January 12, 2015)(GSQR1).

²⁴ See Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Sinks from the People’s Republic of China: 2nd Supplemental Questionnaire” (February 5, 2015)(GSQ2) and see Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China: Second Supplement Questionnaire” (February 5, 2015)(DSQ2).

²⁵ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: Second Supplemental Questionnaire Response” (February 19, 2015)(DSQR2) and see Letter from the GOC, “GOC Second Supplemental Response: First Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from China from the People’s Republic of China (C-570-984)”(March 9, 2015)(GSQR2).

²⁶ See Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Sinks from the People’s Republic of China: 3rd Supplemental Questionnaire” (April 9, 2015)(GSQ3) and see Letter from the Department, “Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from the People’s Republic of China: Third Supplement Questionnaire” (April 9, 2015)(DSQ3).

²⁷ See Letter from Dongyuan, “Drawn Stainless Steel Sinks from the People’s Republic of China: Dongyuan Response to Third Supplemental Questionnaire” (April 16, 2015)(DSQR3) and see Letter from the GOC, “GOC Third Supplemental Response: First Administrative Review of the Countervailing Duty Order on Drawn Stainless Steel Sinks from China from the People’s Republic of China (C-570-984)”(April 16, 2015)(GSQR3).

We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act).

B. Scope of the Order

The merchandise covered by the order is drawn stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel. Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of this order if they are included within the sales price of the drawn stainless steel sinks. For purposes of this scope definition, the term “drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn stainless steel sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the order. Drawn stainless steel sinks are covered by the scope of the order whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the order are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.

The products covered by this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under statistical reporting numbers 7324.10.0000 and 7324.10.00.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

C. 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, Superte, Zhaoshun, Newecan, and Zhongshan Silk each timely withdrew its request for administrative review of itself.²⁸ Therefore, in accordance with 19 CFR 351.213(d), we are rescinding this review with respect to these companies.

D. Intent to Rescind, in Part, the Administrative Review

As explained above, we received a timely filed no-shipment certification from Native Produce. We have not received information to date from CBP to contradict this company’s claim of no

²⁸ As noted in the Background Section above, Native Produce also submitted a withdrawal of its request for review. It did so, however, after the 90-day deadline pursuant to 19 CFR 351.213(d)(1) and was, therefore, untimely.

sales, shipments, or entries of subject merchandise to the United States during the POR. Because this company filed its no-shipment certification and CBP has not provided information to contradict the company's claim, we preliminarily intend to rescind the review of this company. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), in the final results, we intend to rescind the administrative review of this company.

E. 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.

Application of AFA and Facts Available (FA)

A. GOC – Provision of Electricity for Less Than Adequate Remuneration (LTAR)

In the *Sinks From the PRC Investigation*, we determined that this program conferred a countervailable subsidy.²⁹ Specifically, we stated that the GOC failed to provide the requested provincial price proposals for the applicable tariff schedules that were in effect during the period of investigation (POI) in each province in which a mandatory respondent and any reported cross-owned company is located, and to explain how those price proposals were created.³⁰ We also asked the GOC to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals, and how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories.³¹ The GOC responded by stating that it was unable to provide the price proposals because they were working documents for the National Development and Reform Commission's (NDRC) review.³² Therefore, as AFA, pursuant to sections 776(a) and (b) of the Act, we determined that the GOC's provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act and was specific within the meaning of section 771(5A) of the Act.³³

²⁹See *Drawn Stainless Steel Sinks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) (*Sinks From the PRC Investigation*) and accompanying Issues and Decision Memorandum.

³⁰ *Id.*, at 14-15.

³¹ *Id.*

³² *Id.*

³³ *Id.*

As discussed below under the section “Programs Preliminarily Found To Be Countervailable,” in this administrative review, we are continuing to investigate the provision of electricity for LTAR by the GOC. In this review, we again asked the GOC to provide the original provincial price proposals for applicable tariff schedules that were in effect during 2012 and 2013 in each province in which a mandatory respondent or any reported “cross-owned” company is located.³⁴ Instead of providing the requested documents, the GOC stated that “the proposals of this kind are drafted by the provincial governments and submitted to the NDRC. They are working documents for the NDRC’s review only. The GOC is therefore unable provide them with this response.”³⁵ In response to our questions regarding how electricity cost increases are reflected in retail price increases, the GOC explained how price increases should theoretically be formulated and did not explain the actual process that led to the price increases.³⁶ As such, in our first supplemental questionnaire to the GOC, we stated:³⁷

{t}he Department’s initial questionnaire of August 8, 2014, requested that you provide answers to certain questions concerning the provision of Electricity for LTAR. After reviewing the GOC’s response . . . , we find that the GOC did not completely answer certain questions, did not submit the requested documents, or provided theoretical responses that did not address certain questions. For example, you did not provide the provincial price proposals submitted to the National Development and Reform Commission (NDRC). Therefore, we are again asking the GOC to fully respond to the *Electricity Appendix* at Section II of the Department’s initial questionnaire of August 8, 2014.

Please directly address each part of the questions. Please do not provide theoretical replies or general references to the “Paper on China’s Electricity System.” For questions which you are unable to answer, please provide a narrative description, and supporting documentation, which describe your efforts for obtaining the requested information.

The GOC responded by stating:³⁸

{t}he GOC believes its response to the Department’s questions . . . are sufficient for purposes of this proceeding and reaffirms that the provincial price proposals submitted to the NDRC cannot be provided in this segment of the proceeding. However, the GOC provides . . . data regarding GDP, GDP per capita, volumes of electricity production and consumption for all provinces, municipalities and autonomous regions which had a separate electricity tariff schedule during the POR. The GOC is submitting this information as it was taken into account and/or considered as background when considering differences in power suppliers and demand for different provincial areas and in determining differences in electricity prices in China.

The requested price proposals are reflective of a period prior to our POR, not during the POR. As such, the requested price proposals are part of the GOC’s electricity price adjustment

³⁴ See initial questionnaire at II-8 and the Electricity Appendix at II-24 and II-25.

³⁵ See GQR at 42.

³⁶ See GQR at 44.

³⁷ See GSQ1 at 7.

³⁸ See GSQR1 at 27.

process, and, thus, crucial to the Department's analysis of how prices are set within the PRC.³⁹ Absent this information, we are unable to rely on the information supplied by the GOC. Thus, the GOC has not provided a complete response to our requests for information regarding this program. Accordingly, we preliminarily find that the GOC's answers are inadequate and do not provide the necessary information required by the Department to analyze the provision of electricity in the PRC. The GOC did not provide the requested price proposal documents or explain how price increases were formulated. As a result, we must rely on the facts otherwise available, pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act.

We preliminarily find that the GOC has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. While the GOC acknowledged the existence of the provincial price proposals, the GOC withheld them without explaining why it could not submit such documents on the record of this proceeding, particularly as the Department permits parties to submit information under protective order for limited disclosure if it is business proprietary in nature.⁴⁰ Moreover, while the GOC provided data for all provinces, municipalities and autonomous regions, as discussed above, this information is not germane to an analysis of how and why the prices of the tariff schedules in effect during the POR were drafted and implemented. The GOC also did not ask for additional time to gather and provide such information, nor did the GOC provide any other documents that would have answered the Department's questions. Therefore, an adverse inference under section 776(b) of the Act is warranted in the application of facts available, because the GOC failed to cooperate by not acting to the best of its ability. Without the requested information, we cannot make a preliminary finding with respect to financial contribution or specificity because, *e.g.*, the details required to analyze the GOC's electricity price adjustment process are contained in the missing price proposals.⁴¹ Because these details, as described in the preceding paragraphs, are contained in the provincial price proposals that the GOC failed to provide despite repeated requests, the provincial price proposals are necessary for determining whether the GOC provides a financial contribution that is specific under this program. Drawing an adverse inference, we preliminarily find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act.

B. GOC – Government Authorities Under Provision of Stainless Steel Coil for LTAR

In the *Sinks From the PRC Investigation*, we determined that this program conferred a countervailable subsidy.⁴² Thus, in the initial questionnaire,⁴³ we asked the GOC to provide information regarding specific companies that produced the stainless steel coil that Dongyuan

³⁹ See, *e.g.*, *Certain Magnesite 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 (dated July 26, 2010) at Comment 8, wherein the Department quoted the GOC as reporting that these price proposals "are part of the price setting process within China for electricity."

⁴⁰ See, *e.g.*, 19 CFR 351.306.

⁴¹ See *Sinks From the PRC Investigation*, and accompanying Issues and Decision Memorandum at "GOC – Provision of Electricity for LTAR."

⁴² See *Sinks From the PRC Investigation*, and accompanying Issues and Decision Memorandum at "Stainless Steel Coils for LTAR."

⁴³ See initial questionnaire at II-2 through II-7 and the Input Producer Appendix.

purchased during the POR. Specifically, we sought information from the GOC that would allow us to analyze whether these producers of stainless steel coil are “authorities” within the meaning of section 771(5)(B) of the Act.

For each producer that the GOC claimed was not majority Government-owned and that produced the stainless steel coil purchased by Dongyuan during 2012 or 2013, we requested information about that producer related, among other factors, to ownership, management, and corporate governance.⁴⁴

In the GQR, the GOC provided some, but not all of the requested information.⁴⁵ Thus, in the GSQ1, we asked:⁴⁶

- The Input Producer Appendix included {the initial questionnaire} requested that for all input producers that are not majority Government-owned and that produced the stainless steel coil purchased by the respondent companies during 2012 or 2013, please provide the original Chinese and full translations of the following: Full corporate name of the company and address (please include the address where the company is registered and the address of each facility. Identify the address of the facility(ies) where the input product is produced); Articles of Incorporation; Capital Verification Reports; Articles of Groupings; Company by-laws; Annual Report(s) pertaining to 2013 and 2012, and the two preceding years; Articles of Association; Business group registration; Business license(s); Tax Registration documents.

While the GOC provided some of this information in the GQR, your response was incomplete. **For all input producers that are not majority Government-owned, please now submit all above-requested information for the companies which produced stainless steel coil Dongyuan purchased during 2012 and 2013.** For documents already on the record, please reference the requisite exhibits and/or pages of the GQR.

- Your responses to the “**B. Key Decisions**” and “**D. Key Persons**”⁴⁷ sections of the Input Producer Appendix in the GQR⁴⁸ were incomplete and insufficient. For example:

***QUESTION:** Please identify any individual owners, members of the board of directors, or senior managers who were Government or {Chinese Communist Party (CCP)} officials during 2012 and 2013. Where an owner, member of the board of directors or manager of the input producer, or any owner at any level of ownership of such producer, has been identified as an official of any of the nine entities named in Section F, above, please provide the information requested below with respect to that entity. (Please note that these questions do not pertain to general membership in the CCP.)*

⁴⁴ *Id.*, at II-19 through II-23.

⁴⁵ See GQR at 20-40 and Exhibits 8 and 9, Exhibits 11 through 29, and Exhibits 32 through 34A.

⁴⁶ See GSQ1 at 5-6.

⁴⁷ We note that the above questions derived from these sections of the Input Producer Appendix in the initial questionnaire.

⁴⁸ See GQR at 25-27 and 28-33.

***ANSWER:** The GOC has no way according to its regular record of businesses to identify any individual owners, members of the board of directors or senior managers who were Government or CCP officials during the POR...*

The GOC then goes on to explain “The Company Law” in the PRC. This response is insufficient, as it does not answer the question posed by the Department. As such, please provide **complete** responses to the “**B. Key Decisions**” and “**D. Key Persons**” sections of the ***Input Producer Appendix*** as included in our {initial questionnaire}.

In response to the GSQ1, in the GSQR1, the GOC states:⁴⁹

The GOC reaffirms that it has coordinated with Dongyuan to identify all of the company’s input producers, and the GOC has provided a complete response covering each and every input producer that is not majority Government-owned and from which Dongyuan purchased its stainless steel during the POR ...

More specifically, the GOC clarifies that, to the best of its knowledge, Dongyuan has only one input producer that is not majority Government-owned ...

The GOC has submitted all requested documents for this company, and its ultimate owners, to the extent they exist and are available to the GOC. Specifically, the GOC provided the company’s ownership chart ... its business registration ... the Articles of Association ... the capital verification report ... share transfer agreements ... and the amendment to the articles of association ...

The GOC clarifies that ... all the legal documents cited above and provided in the GQR pertain to and are valid for the POR ... and ... there are no separate legal documents entitled Articles of Incorporation, Articles of Groupings, Company by-laws, Annual Report(s) – including during the POR – or Business Group Registration for the companies identified above on record with the GOC.

In this review, the GOC provided information on one producer from which Dongyuan purchased stainless steel coil during the POR.⁵⁰ Through the above questions, and despite the two opportunities to provide this information about this producer, the GOC did not provide a complete response to our questions. Specifically, although the GOC identified the ultimate individual corporate owners of this producer, it failed to indicate whether the individual owners, members of the boards of directors or senior managers of the producer were CCP officials during the POR. The GOC has repeatedly argued that our questions regarding the role of CCP officials in the management and operations of the stainless steel coil producers are not relevant.⁵¹ However, it is the prerogative of the Department, not the GOC, to determine what information is

⁴⁹ See GSQR1 at 22-23.

⁵⁰ See, generally, GQR, and GSQR1.

⁵¹ See, e.g., GQR at 26-27 and 29-33.

relevant to our investigations and administrative reviews.⁵² Moreover, we consider information regarding the CCP's involvement in the PRC's economic and political structure to be relevant because public information suggests that the CCP exerts significant control over economic activities in the PRC.⁵³ The CCP's role is described in more detail in the Public Bodies Memorandum and the CCP Memorandum.⁵⁴ Regarding the GOC's claim that Chinese law prohibits GOC officials from taking positions in private companies,⁵⁵ we have previously found that this particular law does not pertain to CCP officials.⁵⁶ Similarly, the GOC's argument that CCP officials also cannot serve as employees in enterprises is contradicted by the Department's discovery in another proceeding that company officials were simultaneously acting as "members of the Communist Party and National Party Conference as well as members of certain town, municipal, and provincial level legislative bodies."⁵⁷

Thus, consistent with past proceedings,⁵⁸ we preliminarily find that the information requested regarding the role of CCP officials in the management and operations of this stainless steel coil producer is necessary to our determination of whether this producer is an "authority" within the meaning of section 771(5)(B) of the Act. In addition, the GOC did not promptly notify the Department, in accordance with section 782(c) of the Act, that it was not able to submit the required information in the requested form and manner, nor did it suggest any alternative forms for submitting this information. Further, the GOC did not provide any information regarding the efforts it undertook to obtain the requested information for this stainless steel coil supplier.

⁵² See, e.g., *Essar Steel Ltd. v. United States*, 721 F. Supp. 2d 1285, 1298-99 (CIT 2010); *NSK Ltd. v. United States*, 919 F. Supp. 442, 447 (CIT 1996); *Ansaldo Componenti, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986).

⁵³ See Memorandum to the File, "Additional Documents for the Preliminary Results of Administrative Review" (April 30, 2015) (Additional Documents Memorandum).

⁵⁴ See Additional Documents Memorandum at Appendices II and III, including Memorandum to Paul Piquado, Assistant Secretary for Import Administration, "Section 129 Determination of the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe; Light-Walled Rectangular Pipe and Tube; Laminated Woven Sacks; Public Bodies Memorandum, and Memorandum to Paul Piquado, Assistant Secretary for Import Administration, "The relevance of the Chinese Communist Party for the limited purpose of determining whether particular enterprises should be considered to be 'public bodies' within the context of a countervailing duty investigation" (May 18, 2012) at Appendix III (CCP Memorandum).

⁵⁵ See GQR at 30-31.

⁵⁶ See Additional Documents Memorandum at Appendix III, the CCP Memorandum.

⁵⁷ See *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Wire Strand from the PRC*), and accompanying Issues and Decision Memorandum at Comment 8 ("{i}n the instant investigation, the information on the record indicates that certain company officials are members of the Communist Party and National Party Conference as well as members of certain town, municipal, and provincial level legislative bodies.") .

⁵⁸ See, e.g., *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010) (*Seamless Pipe from the PRC*), and accompanying Issues and Decision Memorandum at 16; *Sinks From the PRC Investigation*, and accompanying Issues and Decision Memorandum at 10; *Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 78 FR 49475 (August 14, 2013), and accompanying Issues and Decision Memorandum at "GOC – Whether Certain Steel Round Producers Are "Authorities"; *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014) (*Aluminum Extrusions from the PRC 1st Administrative Review*), and accompanying Issues and Decision Memorandum at 22-26; *Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 62594 (October 20, 2014) (*Tetra from the PRC*), and accompanying Issues and Decision Memorandum at 14-15.

Therefore, we find that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on “facts otherwise available” in making these preliminary results pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, we find that the GOC has withheld information and significantly impeded this review, and that an adverse inference is warranted in the application of facts available under section 776(b) of the Act. Thus, as AFA, we are preliminarily finding that the producer of stainless steel coil for which the GOC failed to identify whether the owners were CCP officials is an “authority” within the meaning of section 771(5)(B) of the Act.

C. Dongyuan – Provision of Stainless Steel Coil for LTAR

In the DQR-B, Dongyuan reported “unknown” for the name of the producer of certain purchases of stainless steel coil it made during 2012 and 2013.⁵⁹ In DSQ1, we stated:⁶⁰

Exhibit 10 of the D{QR} does not include names of the producer for some of Dongyuan’s purchases during 2012 and 2013. Please resubmit this chart, with an updated electronic Excel version, including identification of all producers.

In its response, Dongyuan stated:⁶¹

As these trading company suppliers are not the usual sources of Dongyuan’s purchases, Dongyuan does not know for certain who produced the steel that it purchased from those suppliers. Dongyuan therefore reported “unknown” for the identity of the producers in the QR. As the situation has not changed since the submission of its QR, Dongyuan could not revise the table to include the identification of the producers for these purchases.

Therefore, in the DSQ3, we asked:⁶²

Did Dongyuan receive mill certificates accompanying the purchases of stainless steel coil from trading company suppliers?

If so, please provide all of the mill certificates that Dongyuan received with regard to the purchases from trading companies reported in DQR-B Exhibit 10.

If these purchases did not come with mill certificates, then please provide any information that accompanied these purchases.

⁵⁹ See DQR-B at Exhibit 10.

⁶⁰ See DSQ1 at 5.

⁶¹ See DSQR1 at 9.

⁶² See DSQ3 at 3.

In its response, Dongyuan stated:⁶³

Dongyuan did not receive mill certificates accompanying its purchases of stainless steel coil from the trading company suppliers ... All of the information accompanying these purchases has already been submitted in Exhibit 10 of {the DQR}.

Based on the above, because Dongyuan was unable to identify the producer(s) of the stainless steel coil that it purchased from trading companies, the GOC was not able to provide a response to the Input Producer Appendix for those purchases.⁶⁴ We find that the necessary information for these unidentified producers is not on the record. As such, we have no information that would enable us to determine that these producers are not “authorities” within the meaning of 771(5)(B) of the Act. Therefore, pursuant to section 776(a)(1) of the Act, as FA in this review, we find that the percentage of cold-rolled coil sheet and strip supplied to Dongyuan by trading companies produced by unidentified suppliers is produced by “authorities” at the same ratio⁶⁵ of cold-rolled coil sheet and strip by state-owned enterprises (SOEs) during the POR.⁶⁶ Therefore, we find that this portion of the stainless steel coil supplied by these “unknown” enterprises constitutes a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act and that Dongyuan received a benefit to the extent that the price it paid for stainless steel coil produced by these producers was for LTAR.⁶⁷ Our use of FA in this regard is consistent with the Department’s practice.⁶⁸

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information when selecting among facts available, 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.”⁶⁹ It is the Department’s practice to consider information to be corroborated if it has probative value.⁷⁰ In analyzing whether information has probative value, it is the Department’s practice to examine the reliability and relevance of the information to be used.⁷¹ However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.⁷²

⁶³ See DSQR3 at 1.

⁶⁴ *Id.*

⁶⁵ This information is business proprietary information. See GSQR3 at Exhibit SGQ-1.

⁶⁶ See below at “Provision of Stainless Steel Coil for LTAR” for more details.

⁶⁷ See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

⁶⁸ See *Aluminum Extrusions from the PRC 1st Administrative Review*, and accompanying Issues and Decision Memorandum at “Provision of Primary Aluminum for LTAR.”

⁶⁹ See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994), at 870

⁷⁰ *Id.*

⁷¹ *Id.*, at 869.

⁷² *Id.*, at 869-870.

For purposes of this preliminary determination, our findings regarding the financial contribution and specificity elements of the electricity for LTAR program and the financial contribution of the provision of stainless steel coil for LTAR program, are based on an adverse inference, under section 776(b) of the Act, arising from the failure of the GOC to provide requested necessary information pertaining to the access to, or the distribution of, the subsidies. However, we are not relying upon “secondary information” in our application of AFA , and thus the corroboration requirement of section 776(c) of the Act is not applicable.

The Department’s reliance on facts available is limited to the GOC’s failure to provide adequate responses to certain requests for information regarding financial contribution and specificity, and Dongyuan’s failure to provide an adequate response to our requests for information regarding certain producers of stainless steel coil. With the exception of the “unknown” producers under the provision of stainless steel coil for LTAR program noted above, Dongyuan has responded to all information requests from the Department, and consistent with the Department’s practice, we are relying on the information provided by Dongyuan in order to calculate a benefit for each program. For details on the calculation of the subsidy rate for the respondents, *see* below at “Analysis of Programs.”

F. Subsidy Valuation Information

Allocation Period

The Average Useful Life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the IRS Tables at Table B-2: Table of Class Lives and Recovery Periods. 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 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.

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 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.⁷³

⁷³ *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

Dongyuan

Dongyuan responded to the Department's initial and supplemental questionnaires on behalf of itself, a producer and exporter of the subject merchandise during the POR.⁷⁴ Dongyuan, established in 2001, changed its name in 2009 and relocated to its current address in Xing Tan Town, Shunde, Foshan, Guangdong, China. Dongyuan reported three cross-owned affiliates, however Dongyuan stated that, because they do not meet any of the four additional criteria, it did not submit questionnaire responses for these affiliates.⁷⁵ Based on information on the record,⁷⁶ we preliminarily find that cross-ownership does not exist in accordance with 19 CFR 351.525(b)(6)(vi), between Dongyuan and its three affiliates. Therefore, we are attributing subsidies received by Dongyuan to its own sales, in accordance with 19 CFR 351.525(b)(6)(i). Because the POR covers more than one calendar year, we attributed a subsidy received by Dongyuan to the total sales of the year Dongyuan received the subsidy (*i.e.*, we used as the denominator the 2012 sales for benefits received in 2012 and 2013 sales for benefits received in 2013).

Benchmark Interest Rates

We are investigating loans that respondent received state owned commercial banks (SOCBs). Below we discuss the derivation of the benchmark rates for 2012 and 2013.

a. Interest Rate Benchmarks for Short-Term Renminbi (RMB) Denominated Loans

Section 771(5)(E)(ii) of the Act explains 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.” Normally, the Department will rely on the actual experience of the firm in question in obtaining comparable commercial loans.⁷⁷ If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that the Department “may use a national average interest rate for comparable commercial loans.”⁷⁸ Section 771(5)(E)(ii) of the Act also indicates that the benchmark should be a market-based rate.

For the reasons first explained in *CFS from the PRC*,⁷⁹ loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.⁸⁰ Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as

⁷⁴ See DQR-B at 3-5.

⁷⁵ *Id.*, at 4-5.

⁷⁶ *Id.*, at 3-8, Exhibits 1 -7.

⁷⁷ See 19 CFR 351.505(a)(3)(i).

⁷⁸ See 19 CFR 351.505(a)(3)(ii).

⁷⁹ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum at Comment 10.

⁸⁰ See Additional Documents Memorandum at Appendix 1.

envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based interest rate to use as a benchmark to measure the benefits from government-provided loans. The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.⁸¹

We first developed in *CFS from the PRC*,⁸² and more recently updated in *Thermal Paper from the PRC*,⁸³ the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, using these different groupings of countries we are able to capture the broad inverse relationship between income and interest rates. For 2001 through 2009, the PRC fell in the lower-middle income category.⁸⁴ Beginning with 2010, however, the PRC is in the upper-middle income category.⁸⁵ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2001 – 2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010 - 2013. As explained in *CFS from the PRC*, by pooling countries in this manner, we capture the broad inverse relationship between income and interest rates.

After identifying the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in interest rate formation – the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001 through 2009, and 2011 through 2013, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.⁸⁶ For 2010, however, the regression does not yield that outcome for the PRC's income group.⁸⁷ Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001 through 2009 and 2011 through 2013. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income

⁸¹ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

⁸² See *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 10 .

⁸³ See *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum at 8-10.

⁸⁴ See World Bank Country Classification, <http://econ.worldbank.org/>; see also, Memorandum to the File, "Drawn Stainless Sinks from the People's Republic of China: Administrative Review of the Countervailing Duty Order: Interest Rate Benchmark Memorandum" (April 30, 2015)(Interest Rate Benchmark Memorandum).

⁸⁵ *Id.*

⁸⁶ *Id.*; see also Additional Documents Memo at Appendix I.

⁸⁷ See Interest Rate Benchmark Memorandum.

countries. Based on our experience for the 2001-2009 period, in which the average interest rate of the lower-middle income group did not differ significantly from the benchmark rate resulting from the regression for that group, use of the average interest rate for 2010 does not introduce a distortion into our calculations.⁸⁸

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2013, and "lower middle income" for 2001-2009.⁸⁹ First, we did not include those economies that the Department considered to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to the World Bank for inclusion in the IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments.⁹⁰ Finally, for each year the Department calculated an inflation-adjusted short-term interest rate benchmark, we have also excluded any countries with aberrational or negative real interest rates for the year in question.⁹¹

Because these rates are net of inflation, we adjusted the benchmark interest rates to include an inflation component before comparing them to the interest rates on loans issued to the company respondents by SOCBs.⁹²

b. Interest Rate Benchmarks for Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.⁹³

In *Citric Acid from the PRC*, the Department revised this methodology by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate,

⁸⁸ See, e.g., *Aluminum Extrusions from the PRC Ist Administrative Review*, and accompanying Issues and Decision Memorandum at "Provision of Primary Aluminum for LTAR."

⁸⁹ See Interest Rate Benchmark Memorandum.

⁹⁰ For example, in certain years Jordan reported a deposit rate, not a lending rate, and Ecuador and Timor L'Este reported dollar-denominated rates; therefore, such rates have been excluded.

⁹¹ For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rate was 34.95 percent and 37.25 percent, respectively. See Interest Rate Benchmark Memorandum.

⁹² See Interest Rate Benchmark Memorandum⁹² for the resulting inflation-adjusted benchmark lending rates.

⁹³ See, e.g., *Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008) (*LWRP from the PRC*), and accompanying Issues and Decision Memorandum at 8.

where “n” equals or approximates the number of years of the term of the loan in question.⁹⁴ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.⁹⁵

Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, the Department is again following the methodology developed over a number of successive PRC investigations.⁹⁶ For U.S. dollar short-term loans, the Department is using as a benchmark interest rate the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any loans denominated in other foreign currencies, we are using as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.⁹⁷

G. Analysis of Programs

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

I. Programs Determined To Be Countervailable

A. Provision of Electricity for LTAR

In *Sinks From the PRC Investigation*,⁹⁸ we determined that this program confers a countervailable subsidy.⁹⁹ No information was submitted on the record of this review to warrant reconsideration of this finding. As discussed in “Use of Facts Otherwise Available and Adverse Inferences,” we are basing our preliminary finding on the government’s provision of electricity in part on AFA. We preliminarily determine, as AFA, that the GOC’s provision of electricity is

⁹⁴ See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009)(*Citric Acid from the PRC*), and the accompanying Issues and Decision Memorandum at Comment 14.

⁹⁵ See Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates.

⁹⁶ See *Crystalline Silicone Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788(October 17, 2012)(*Solar Cells I from the PRC*), and the accompanying Issues and Decision Memorandum at “Loan Benchmarks and Discount Rates for Allocating Non-Recurring Subsidies,” and see also *Utility Scale Wind Towers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012)(*Wind Towers from the PRC*), and the accompanying Issues and Decision Memorandum at “Benchmarks and Discount Rates.”

⁹⁷ See Interest Rate Benchmark Memorandum.

⁹⁸ See *Sinks From the PRC Investigation*.

⁹⁹ *Id.*, at “Provision of Electricity for LTAR.”

a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act, and that it is specific within the meaning of section 771(5A)(D) of the Act.

In a CVD proceeding, the Department requires information from both the government of the country whose merchandise is under investigation and from the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, typically finds that a financial contribution exists under the alleged program and that the program is specific.¹⁰⁰ However, where possible, the Department will rely on a respondent's reported information to determine the existence and the amount of the benefit to the extent that such information is useable and verifiable.¹⁰¹

Dongyuan reported that it purchased electricity from provincial utility companies.¹⁰² To determine the existence and 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 the company's reported electricity consumption volumes and electricity rates. We compared the rates paid by the company for its electricity to the highest rates that it could have paid in the PRC during the POR. In accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each applicable user category (*e.g.*, large industry), voltage class (*e.g.* 1-10kv), and basic fee (*e.g.*, transformer capacity).¹⁰³ Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a user category. The selected benchmark electricity rates reflect an adverse inference, because of the GOC's failure to act to the best of its ability in providing requested information about the provision of electricity in this administrative review, as discussed in "Use of Facts Otherwise Available and Adverse Inferences." We calculated benchmark electricity payments by multiplying consumption volumes by the benchmark electricity rate corresponding to the user category, voltage class, and time period (*i.e.* peak, normal, and valley), where applicable. We then compared the calculated benchmark payments to the actual electricity payments made by the company during the POR. Where the benchmark payments exceeded the payments made by the company, a benefit was conferred. Based on this comparison, we preliminarily find that electricity was provided for LTAR to Dongyuan.

To calculate the net subsidy rates for Dongyuan, for each year, 2012 and 2013, we summed the company's benefits and divided the amount by its total sales for that year. On this basis, we preliminarily determine countervailable subsidy rates of 1.28 percent and 0.87 percent *ad valorem* for Dongyuan in 2012 and 2013, respectively.¹⁰⁴

¹⁰⁰ See, *e.g.*, *Hardwood and Decorative Plywood from the People's Republic of China: Final Affirmative Countervailing Duty Determination*; 2011 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3, "Provision of Electricity."

¹⁰¹ See DQR-B at 14-15 and Exhibits 11 and 12.

¹⁰² *Id.*

¹⁰³ For more information on the respondents' electricity usage categories and the benchmark rates we have used in the benefit calculations, see Memorandum to Dana Mermelstein, Program Manager, AD/CVD Operations, Office I, Enforcement and Compliance regarding, "Countervailing Duty Administrative Review of Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Review Analysis for Guangdong Dongyuan Kitchenware Industrial Co., Ltd. (Dongyuan)" (April 30, 2015) (Dongyuan Preliminary Calculation Memorandum).

¹⁰⁴ *Id.*

B. Provision of Stainless Steel Coil for LTAR

The Department is examining the provision of stainless steel coil for LTAR to Dongyuan. In *Sinks From the PRC Investigation*, we determined that this program conferred a countervailable subsidy.¹⁰⁵ Dongyuan reported purchasing stainless steel coil during the POR from trading companies as well as directly from a primary stainless steel coil producers.¹⁰⁶ Dongyuan was able to identify the input producers from which it directly purchased stainless steel coil during the POR, but Dongyuan was not able to identify the producer(s) of the stainless steel coil that it purchased through trading companies.¹⁰⁷ We asked Dongyuan to provide all mill certificates that accompanied its purchases from trading companies, but Dongyuan stated it did not receive mill certificates accompanying its purchases of stainless steel coil from the trading company suppliers.¹⁰⁸

As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we are finding, as AFA, that the producer from which Dongyuan directly purchased stainless steel coil during the POR is an “authority” within the meaning of section 771(5)(B) of the Act because of the GOC’s lack of complete response to our questions. Additionally, because Dongyuan was unable to identify the producer(s) of the stainless steel coil that it purchased from trading companies, the GOC was not able to provide a response to the Input Producer Appendix for those purchases.¹⁰⁹ We find that the necessary information about these unidentified producers is not on the record. Thus, as discussed under “Use of Facts Otherwise Available and Adverse Inferences,” pursuant to section 776(a)(1) of the Act, based on FA, we find that the percentage of cold-rolled coil sheet and strip supplied to Dongyuan by trading companies produced by unidentified suppliers is produced by “authorities,” as that term is used in section 771(5)(B) of the Act, at the same ratio¹¹⁰ of cold-rolled coil sheet and strip by SOEs during the POR. Therefore, we find that this portion of the stainless steel coil supplied by these enterprises constitutes a financial contribution in the form of the a government provision of a good under section 771(5)(D)(iii) of the Act and that Dongyuan received a benefit to the extent that the price it paid for stainless steel coil produced by these producers represents less than adequate remuneration.¹¹¹

Regarding the specificity of stainless steel coil provided for LTAR, in the *Sinks From the PRC Investigation*, we found that the GOC was providing stainless steel coil to a limited number of industries or enterprises and, hence, that the subsidy is specific pursuant to section 771(5A)(D)(iii) of the Act.¹¹² Because no new information has been provided on the record of this review that would cause us to reach a different determination from the *Sinks From the PRC Investigation*, we preliminarily affirm our finding regarding specificity as stated in the *Sinks*

¹⁰⁵ *Sinks From the PRC Investigation*, and the accompanying Issues and Decision Memorandum at “Stainless Steel Coils for LTAR.”

¹⁰⁶ See DQR-B at 12-15 and Exhibit 10, see DSQR2 at 2, and see DSQR3 at 1.

¹⁰⁷ See DQR-B at Exhibit 10, and see DSQR3 at 1.

¹⁰⁸ See DSQR3 at 1.

¹⁰⁹ *Id.*

¹¹⁰ This information is business proprietary information. See GSQR3 at Exhibit SGQ-1.

¹¹¹ See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

¹¹² See *Sinks from the PRC Investigation*, and accompanying Issues and Decision Memorandum at “Stainless Steel Coils for LTAR.”

From the PRC Investigation.

Finally, to determine the benefit, the Department identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services at 19 CFR 351.511(a)(2). These potential benchmarks are listed in hierarchical order by preference:

- (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one);
- (2) world market prices that would be available to purchasers in the country under investigation (tier two); or
- (3) an assessment of whether the government price is consistent with market principles (tier three).

As provided in 19 CFR 351.511(a)(2)(i), the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation.¹¹³ This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.¹¹⁴

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving PRC buyers and sellers that can be used to determine whether the GOC authorities sold stainless steel coil to the respondent for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority, or substantial portion of, the market for a good or service, prices for such goods and services in the country may be considered significantly distorted and may not be an appropriate basis of comparison for determining whether there is a benefit.¹¹⁵

In the GQR, the GOC reported that the National Bureau of Statistics of China does not maintain official statistics on stainless steel cold-rolled coil (sheet or strip), but does maintain statistics on cold-rolled sheet or strip as a general category that covers stainless steel products.¹¹⁶ Thus, upon our request, in the GSQR3, the GOC provided information on the total volume for 2012 and 2013 of cold-rolled sheet or strip produced in the PRC by companies in which the GOC maintains a controlling ownership or management interest as well as by those companies which are privately-held or foreign-invested enterprises.¹¹⁷ These data, when combined, show the total volume of domestic production of cold-rolled sheet or strip for 2012 and 2013.

¹¹³ See *Softwood Lumber from Canada*, and accompanying Issues and Decision Memorandum at “Market-Based Benchmark.”

¹¹⁴ *Id.*

¹¹⁵ See *Countervailing Duties*; Final Rule, 63 FR at 65377.

¹¹⁶ See GQR at 33-34.

¹¹⁷ See GSQR3 at Exhibit SGQ-1.

Using these data, we determined the amount of cold-rolled coil sheet and strip produced by SOEs during the POR as percentage of domestic production. Thus, as FA in this review, we find that the cold-rolled coil sheet and strip supplied to Dongyuan by trading companies produced by unidentified suppliers is produced by government authorities at the same percentage of cold-rolled coil sheet and strip produced by SOEs during the POR.¹¹⁸ Our use of FA in this regard is consistent with the Department's practice.¹¹⁹ On this basis, we find that the government's involvement in the stainless steel coil market is predominant and distortive. Consequently, the use of domestic producer prices in the PRC is inappropriate for deriving a benchmark because such a benchmark would reflect the distortions from the government's involvement.

As we explained in *Softwood Lumber from Canada*:

Where the market for a particular good or service is so dominated by the presence of the government, the remaining private prices in the country in question cannot be considered to be independent of the government price. It is impossible to test the government price using another price that is entirely, or almost entirely, dependent upon it. The analysis would become circular because the benchmark price would reflect the very market distortion which the comparison is designed to detect.¹²⁰

For these reasons, prices stemming from private transactions within the PRC cannot give rise to a price that is sufficiently free from the effects of the GOC's presence and, therefore, cannot be considered to meet the statutory and regulatory requirement for the use of market-determined prices to measure the adequacy of remuneration.

Given that we have determined that no tier one benchmark prices are available, we next evaluated information on the record to determine whether there is a tier two world market price available to producers of subject merchandise in the PRC. Dongyuan provided benchmark information that contained information regarding steel prices outside the POR, steel price information that represents the "lowest transaction values identified" in regions that may also include China, and information on ocean freight related to aluminum extrusions.¹²¹ The Department placed on the record pricing data for stainless steel coil from Global Trade Information Services, Inc. (GTIS), along with information regarding ocean freight for steel products, to be used in the benchmark calculation. Consistent with our practice, we have not relied on prices outside the POR, prices that may include the PRC exports, or prices that represent an average of low transaction values.¹²² Concerning the GTIS price data, the

¹¹⁸ In other words, as FA, we assume that the cold-rolled coil sheet and strip purchased by domestic trading companies during the POR was produced by SOEs is equal to the ratio of production by SOEs to total production during the POR, as indicated by the aggregate data supplied in the GSQR3.

¹¹⁹ See *Aluminum Extrusions from the PRC Ist Administrative Review*, and the accompanying Issues and Decision Memorandum at "Provision of Primary Aluminum for LTAR."

¹²⁰ See *Softwood Lumber from Canada*, and accompanying Issues and Decision Memorandum at "There Are No First Tier Benchmarks Available."

¹²¹ See Dongyuan Benchmark Submission.

¹²² See, e.g., *Sinks from the PRC Investigation* accompanying Issues and Decision Memorandum at "Stainless Steel Coil for LTAR"; *High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying Issues and Decision

Department has relied on pricing data from industry publications in prior CVD proceedings involving the PRC.¹²³ We continue to find the GTIS pricing data on the record sufficiently reliable and representative for use in the benchmark calculation.

The Department's regulations at 19 CFR 351.511(a)(2)(ii) state that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Accordingly, we calculated a weighted average of the GTIS prices for each month. Regarding delivery charges, we have added to the monthly average benchmark prices ocean freight and inland freight charges that would be incurred to deliver stainless steel coil from the port to the companies' facilities.¹²⁴ We have also added the applicable VAT and import duties, at the rates reported by the GOC.¹²⁵ Our benchmark calculations are fully described in Dongyuan Preliminary Calculation Memorandum.¹²⁶

We then compared the monthly benchmark prices to Dongyuan's actual purchase prices for stainless steel coil, including taxes and delivery charges, as appropriate.¹²⁷ Because the benchmark prices exceed prices paid by Dongyuan for stainless steel coil, we find that the GOC's provision of Stainless Steel Coil for LTAR provides a benefit in accordance with 19 CFR 351.511(a). To calculate the net subsidy rate for Dongyuan for this domestic subsidy, as described under 19 CFR 351.525(b)(3), for each year, 2012 and 2013, we summed the benefits from all purchases of stainless steel coil and we divided the yearly benefit by the company's sales in that year. On this basis, we preliminarily determine countervailable subsidy rates of 2.42 percent and 8.81 percent *ad valorem* for Dongyuan in 2012 and 2013, respectively.¹²⁸

C. Policy Lending to the Stainless Steel Sinks Industry

In *Sinks From the PRC Investigation*, we determined that this program conferred a countervailable subsidy. Specifically, we stated that because the GOC did not provide the *Pearl River Delta Plan*, we determined that the GOC withheld necessary information that was requested of it and, thus, we relied on "facts otherwise available" in making our final determination under sections 776(a)(1) and 776(a)(2)(A) of the Act. Additionally, we stated that the GOC failed to cooperate by not acting to the best of its ability to comply with our request to make the GOC officials responsible for the *Pearl River Delta Plan* available at verification in order to allow the Department to verify the GOC's statement that none of the loans to the respondents were issued pursuant to policy loan programs and that the respondents did not

Memorandum at "Provision of Seamless Tube Steel for LTAR."

¹²³ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmation Determination of Critical Circumstance*, 73 FR 31966 (June 5, 2008)(CWP from the PRC), and accompanying Issues and Decision Memorandum at "Hot-Rolled Steel for Less than Adequate Remuneration"; *53-Foot Domestic Dry Containers From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 21209 (April 17, 2015) and accompanying Issues and Decision Memorandum at "Provision of Hot-Rolled Sheet and Plate for LTAR."

¹²⁴ See Dongyuan Preliminary Calculation Memorandum at "Calculation of Ad Valorem Rates for Countervailable Programs."

¹²⁵ *Id.*; see also GQR at 36.

¹²⁶ See Dongyuan Preliminary Calculation Memorandum at "Calculation of Ad Valorem Rates for Countervailable Programs."

¹²⁷ *Id.*

¹²⁸ *Id.*

benefit from any policy loan program under section 776(a)(2)(D) of the Act.¹²⁹ Consequently, we determined that an adverse inference was warranted in the application of facts available under section 776(b) of the Act. As AFA, we found that policy lending was directed to the stainless steel sinks industry through the implementation of the *Pearl River Delta Plan* and that the direction to support “stainless steel products” and “small hardware” includes stainless steel sinks, thus, making the program specific within the meaning of section 771(5A)(D)(i) of the Act.¹³⁰ Due to our determination on the basis of AFA in *Sinks From the PRC Investigation*, we are continuing, in this review, to investigate policy lending by the GOC to the stainless steel sinks industry.

When examining a loan program, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support objectives or goals.¹³¹ Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is specific to the named industry (or producers that fall under that industry).¹³² Once that finding is made, we rely upon the analysis undertaken in *CFS from the PRC* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.

In this review, we requested,¹³³ and the GOC provided, the *Pearl River Delta Plan*,¹³⁴ the *Guidelines of Foshan City on Industrial Structure Adjustment*,¹³⁵ and both the *11th* and *12th Five-Year Plans of Foshan City*.¹³⁶ The preamble to the *Pearl River Delta Plan* states that “each cit{y} in the pearl river delta ... shall carry out the strategy requirements” of the plan,¹³⁷ and indicates that its focus is on nine cities in Guangdong province, including, *inter alia*, Foshan,¹³⁸ the city in which Dongyuan is located.¹³⁹ The *Pearl River Delta Plan* states the province’s intent to “{b}uild and form an agglomeration development layout, with{in the} cit{y} of Foshan ... focusing on the manufacturing of aluminum extrusions, stainless steel products, small hardware, and containers...”¹⁴⁰ Finally, the plan ends with the statement that “{e}ach government of Pearl River Delta shall quickly organize and formulate the local industrial development plan respectively or the concrete proposals of the implementation of the plan hereof.”¹⁴¹ Based on these statements, we preliminarily find that lending by SOCBs pursuant to the *Pearl River Delta Plan* constitutes policy lending and that policy lending under this program is limited to

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ See *Citric Acid from the PRC*, and the accompanying Issues and Decision Memorandum at Comment 14.

¹³² See *CFS from the PRC*, and the accompanying Issues and Decision Memorandum at Comment 5; see also *Thermal Paper from the PRC*, and the accompanying Issues and Decision Memorandum at “Government Policy Lending Program.”

¹³³ See GSQ1 at 3.

¹³⁴ See GSQR1 at Exhibit SQ-1.

¹³⁵ *Id.*, at Exhibit SQ-2.

¹³⁶ *Id.*, at Exhibits SQ-3 and SQ-4.

¹³⁷ *Id.*, at Exhibit SQ-1, under “Preamble” at para. three.

¹³⁸ *Id.*, under “Preamble” at para. four.

¹³⁹ See DQR-B at 6.

¹⁴⁰ See GSQR1 at Exhibit SQ-1, under “IV. Industry Spatial Layouts,” “ii. Layouts of Key Industries,” “4. Advantaged Traditional Industry Location,” at “5) Metal Products.”

¹⁴¹ See GSQR1 at Exhibit SQ-1, under “V. Safeguard Measures,” at “v. Strengthen the Organization and Implementation.”

manufacturers in the nine cities of the Pearl River Delta region listed in the *Pearl River Delta Plan*, and, thus, is regionally specific under section 771(5A)(D)(iv) of the Act.

Regarding the GOC's financial contribution to the manufacturers of, *inter alia*, "stainless steel products" and "small hardware" in the nine cities of the Pearl River Delta region through the *Pearl River Delta Plan*, we note that the GOC reported that in February 2010, the China Banking Regulatory Commission (CBRC) promulgated the *Interim Measures for the Administration of Working Capital Loans (Working Capital Interim Measures)*, which "specified practical guidance on the issuance of working capital loans, as opposed to 'fixed asset loans.'" ¹⁴² The GOC contrasts these *Working Capital Interim Measures* with the *Interim Measures for the Administration of Fixed Asset Loans (Fixed Asset Interim Measures)* issued by the CBRC in July 2009, in that the *Fixed Asset Interim Measures* state that "industrial policies are required to be considered when a bank issues a credit loan to a borrower for use in fixed assets formation (*i.e.*, fixed asset loans)." ¹⁴³ The GOC also reports that, more recently, the *Leverage Ratio Rules for Commercial Banks (Leverage Rules)* took effect on January 1, 2012, to "ensure that commercial banks have sufficient capital to guard against the exposure of its business to the overdevelopment of financial derivatives or assets." ¹⁴⁴ Additionally, the GOC reports that during the POR, on January 1, 2013, the *Capital Rules for Commercial Banks (Capital Rules)* took effect; these rules require banks "to ensure they have sufficient capital (measured as capital adequacy ratio, *i.e.*, that of capital against risk-weighted assets) to prevent against individual and systematic risks." ¹⁴⁵ The GOC thereby contends that the *Working Capital Interim Measures*, *Fixed Asset Interim Measures*, *Leverage Rules*, and *Capital Rules*, substantiate the premise that industrial policies play no role in the business or administration of banking in the PRC. ¹⁴⁶ Additionally, the GOC contends that commercial banks, rural credit cooperatives, and other banking financial institutions established in the PRC upon the CBRC's approval are required to keep their operation of working capital loans in conformity with the *Working Capital Interim Measures*. ¹⁴⁷

As discussed above, the *Pearl River Delta Plan* states the province's intent to "{b}uild and form an agglomeration development layout, with{in the} cit{y} of Foshan ... focusing on the manufacturing of aluminum extrusions, stainless steel products, small hardware, and containers..." ¹⁴⁸ Moreover, the plan ends with the statement that "{e}ach government of Pearl River Delta shall quickly organize and formulate the local industrial development plan respectively or the concrete proposals of the implementation of the plan hereof." ¹⁴⁹ The *Guidelines of Foshan City on Industrial Structure Adjustment*, ¹⁵⁰ which was drafted shortly after

¹⁴² See GQR at 7-8 and Exhibit 2.

¹⁴³ *Id.*, at 8 and Exhibit 3.

¹⁴⁴ *Id.*, at 8 and Exhibit 5.

¹⁴⁵ *Id.*, at 8 and Exhibit 4.

¹⁴⁶ *Id.*, at 8.

¹⁴⁷ *Id.*, referencing Exhibit 3.

¹⁴⁸ See GSQR1 at Exhibit SQ-1, under "IV. Industry Spatial Layouts," "ii. Layouts of Key Industries," "4. Advantaged Traditional Industry Location," at "(5) Metal Products."

¹⁴⁹ *Id.*, at Exhibit SQ-1, under "V. Safeguard Measures," at "v. Strengthen the Organization and Implementation."

¹⁵⁰ *Id.*, at Exhibit SQ-2.

the *Pearl River Delta Plan*,¹⁵¹ implements the scientific development concept discussed in the *Pearl River Delta Plan*'s preamble.¹⁵²

The *Guidelines of Foshan City on Industrial Structure Adjustment* details the efforts the Foshan city government intends to carry out in order to “{i}nsist on the industrial system development led by pillar industries” including “new metal materials ... stainless steel” through the “strengthen{ing of} financial supports,” such as “{p}referential supports in terms of foreign exchange, finance and other economic levers.”¹⁵³ Thus, the GOC's intent to support manufacturers of, *inter alia*, “stainless steel” in Foshan is evident. As such, we preliminarily find that because the GOC has placed an emphasis on the development of the stainless steel industry, which includes producers of stainless steel sinks, pursuant to government directives and, loans to stainless steel sinks producers from SOCBs and policy banks in the PRC constitute a direct financial contribution from the GOC under section 771(5)(D)(i) of the Act. We also preliminarily find the GOC's claims based on the *Working Capital Interim Measures, Fixed Asset Interim Measures, Leverage Rules, and Capital Rules*, not to be a consideration regarding the loans made to Dongyuan in this review. This is because we find that SOCBs are “authorities” within the meaning of section 771(5)(B) of the Act, and thus, consistent with Department practice, loans from these SOCBs constitute financial contributions pursuant to section 771(5)(D)(i) of the Act.¹⁵⁴

The bank from which Dongyuan reported receiving loans that were outstanding during the POR was reorganized from a rural credit cooperative into a shareholding company in December 2009.¹⁵⁵ Thus, it is not one of the “Big Four,” *i.e.*, the Bank of China, the China Construction Bank, the Industrial Commercial Bank of China, or the Agricultural Bank of China. In *Aluminum Extrusions from the PRC Ist Administrative Review*,¹⁵⁶ and reiterated in *Tetra from the PRC*,¹⁵⁷ we stated that the banking system in the PRC continues to be affected by the legacy of government policy objectives, which continue to undermine the ability of the big four SOCBs and the rest of the domestic banking sector to act on a commercial basis, and allow continued government involvement in the allocation of credit in pursuit of those objectives. We reach the same preliminary finding here, consistent with our findings in *CFS from the PRC* that SOCBs outside the “Big Four” SOCBs are public authorities within the meaning of section 771(5)(B) of the Act.¹⁵⁸

We preliminarily find that policy loans from state-owned commercial banks constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act. We continue to find that the GOC's predominant role in the banking industry market

¹⁵¹ The *Pearl River Delta Plan* is dated July 30, 2010. The *Guidelines of Foshan City on Industrial Structure Adjustment* is dated August 13, 2010. See GSQR1 at Exhibits SQ-1 and SQ-2.

¹⁵² See GSQR1 at Exhibit SQ-1 at “Preamble” and Exhibit SQ-2.

¹⁵³ See GSQR1 at Exhibit SQ-2.

¹⁵⁴ See, *e.g.*, *Tires From the PRC*, and the accompanying Issues and Decision Memorandum at Comment E.2; see also Additional Documents Memorandum at Appendix II – Public Bodies Memorandum.

¹⁵⁵ See GQR at 11.

¹⁵⁶ See *Aluminum Extrusions from the PRC Ist Administrative Review*, and the accompanying Issues and Decision Memorandum at Comments 6 and 7.

¹⁵⁷ See *Tetra from the PRC*, and the accompanying Issues and Decision Memorandum at Comment 1.

¹⁵⁸ See Additional Documents Memorandum at Appendix I.

renders domestic loan interest rates unusable as benchmarks. Dongyuan reported having loans and provided information regarding the loans that were outstanding during the POR.¹⁵⁹ To determine whether a benefit was conferred under section 771(5)(E)(ii) of the Act, we compared the amount of interest paid during the POR on these loans to the amount of interest that the company would have paid on comparable loans.¹⁶⁰ In conducting this comparison, we used the interest rate benchmarks described in the “Interest Rate Benchmarks” section above. On this basis, for Dongyuan, we calculated a countervailable subsidy of 0.20 percent *ad valorem* for 2012 and 0.15 percent *ad valorem* for 2013.¹⁶¹

D. Technology Award from Xingtian Bureau of Economy

Dongyuan reported that it received a grant from the Technology Award from Xingtian Bureau of Economy Program during the POR.¹⁶² The GOC states this program was established in 2003 to “encourage enterprises and technical staffs to carry out technology innovation, so as to further promote the progress of science and technology of the town.”¹⁶³ The GOC also states that a company designated as a “Privately-owned Science and Technology enterprise” by the Provincial Government and based in Xingtian Town is provided an award of 10,000 CNY.¹⁶⁴

We preliminarily determine that the technology award from Xingtian Bureau of Economy which Dongyuan received is a countervailable subsidy. The grant is financial contribution pursuant to section 771(5)(D)(i) of the Act and provides a benefit in the amount of the grant provided, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We find that grants from this program are specific as a matter of law to certain enterprises, namely those involved in technical innovation projects, which comply with the direction of industrial development in the Xingtian Municipality, pursuant to section 771(5A)(D)(i) of the Act.

In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b)(2). We divided the total amount of the grant by Dongyuan’s total sales in the year of approval/receipt.¹⁶⁵ Because the resulting percentage is less than 0.5 percent, we are allocating the grant to the year of receipt, 2012. To determine Dongyuan’s subsidy rate from the grant, we divided the amount of the grant by Dongyuan’s total sales for 2012. On this basis, we preliminarily determine the countervailable subsidy rate of 0.1 percent *ad valorem* for 2012.¹⁶⁶

¹⁵⁹ See DQR-B at 12-14 and Exhibit 10.

¹⁶⁰ See 19 CFR 351.505(a).

¹⁶¹ See Dongyuan Preliminary Calculation Memorandum.

¹⁶² See DQR at 20-22 and Appendix 6.

¹⁶³ See GSQR1 at 14.

¹⁶⁴ *Id.*, at 17.

¹⁶⁵ Where the company was unable to report the date/year of approval of the grant, we used the date/year of receipt of the grant for the yearly sales denominator used in the 0.5 percent test.

¹⁶⁶ See Dongyuan Preliminary Calculation Memorandum.

II. Programs Determined To Have Been Not Used By Respondent or Not To Provide Benefits During The POR

A. Grant Programs Identified in Responses

Dongyuan and the GOC reported that the respondent received various grants in 2009, 2010, 2011, 2012, and 2013.¹⁶⁷ We find that these grants represent less than 0.5 percent of Dongyuan's export or total sales, as applicable, for the years of approval. Therefore, we have allocated these grants to the years of receipt, in accordance with 19 CFR 351.524(b)(2), which are prior to the POR, and we have not allocated the benefits from these grants to the POR.¹⁶⁸

These programs are as follows:

1. Canton Fair Refund
2. Patent Subsidy
3. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
4. Export Rebate for Mechanic, Electronic, and High-tech Products
5. Special Funds for Development of Foreign Trade (Foshan City)
6. Special Funds of Guangdong Province for International Market Expansion

We also determine the following programs to have been not used by the respondent:

1. Export Subsidies Characterized as "VAT Rebates"
2. Special Funds for Development of Foreign Trade (Foshan City)
3. Special Funds of Guangdong Province for Development of Foreign Trade
4. Support Funds of Guangdong Province of Export Rebate for Mechanic, Electronic and High-tech Products
5. Special Funds of Shunde District for International Market Expansion
6. Subsidy to Attend Domestic Fair in Shanghai
7. Subsidy to Attend Overseas Fair
8. Interest Discount for Export Goods
9. Technology and Trade Specific Fund of Guangdong Province
10. International Market Development Fund for Export Companies
11. The State Key Technology Renovation Fund
12. "Famous Brands" Awards
13. Grants to Cover Legal Fees in Trade Remedy Cases
14. Special Fund for Energy Saving Technology Reform
15. The Clean Production Technology Fund
16. Grants for Listing Shares
17. Guangdong Province Science and Technology Bureau Project Fund (aka Guangdong Industry, Research, University Cooperating Fund)
18. Export Rebate for Mechanic, Electronic, and High-tech Products

¹⁶⁷ See DQR-B at 20-12, Appendix 1-8, Exhibits 4,13-22; and see DSQR1 at 2-9, Appendix S1-S8, Exhibits S1-S5, S7-S19.

¹⁶⁸ See Dongyuan Preliminary Calculation Memorandum.

19. Funds for Outward Expansion of Industries in Guangdong Province
20. Fund for Small and Medium Enterprises Bank-enterprise Cooperation Projects
21. Special Fund for Fostering Stable Growth of Foreign Trade
22. Local Government Deposits Into Bank Accounts
23. Treasury Bond Loans or Grants
24. Preferential Loans for SOEs
25. Provincial Tax Exemptions and Reductions for “Productive” FIEs
26. Tax Reductions for FIEs Purchasing Chinese-made Equipment
27. Tax Reductions for FIEs in Designated Geographic Locations
28. Tax Reductions for Technology- or Knowledge-intensive FIEs
29. Tax Reductions for FIEs that are also High or New Technology Enterprises
30. Tax Reductions for HNTEs Involved in Designated Projects
31. Tax Offsets for Research and Development at FIEs
32. Tax Credits for Domestically Owned Companies Purchasing Chinese-made Equipment
33. Tax Reductions for Export-oriented FIEs
34. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
35. Tax Reduction for High-tech Industries in Guangdong Province
36. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
37. VAT Rebates on FIE Purchases of Domestically Produced Equipment
38. City Tax and Surcharge Exemptions for FIEs
39. Exemptions from Administrative Charges for Companies in Industrial Zones
40. VAT and Import Duty Exemptions on Imported Material
41. VAT Rebates on Domestically Produced Equipment
42. Provision of Land to SOEs at LTAR
43. Exemptions from Land Development Fees
44. Land Purchase Grants
45. Grants to Hire Post-doctoral Workers
46. Financial Subsidies: Interest Subsidies, Preferential Loans, and Lowered Interest Rates
47. Tax Reductions or Exemptions
48. Shunde Intensive Industrial Zone Preferential Land Grants
49. Shunde Intensive Industrial Zone Tax Reductions
50. Shunde Intensive Industrial Zone Preferential Electricity Rates
51. Foshan City Grants to “Contract-Honoring and Promise-Keeping” Enterprises
52. Foshan City Financial Subsidies to “Contract-Honoring and Promise-Keeping” Enterprises
53. Export Assistance Grants
54. “Two New” Product Special Funds of Guangdong Province
55. Grant for Loan Interest (Zhongshan City)
56. Grant of Zongshan City for Enterprises’ Participation in Overseas Professional Exhibition
57. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
58. Shunde Intensive Industrial Zone Administrative Fee Exemptions and Reductions
59. Two Free, Three Half Program for FIEs
60. Provision of Land for LTAR to Companies Located in Industrial or Other Economic Zones

61. Land-Use Rights Extension - Superte

H. Recommendation

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 APRIL 2015
(Date)