



C-570-938  
Administrative Review  
POR: 1/1/2013 – 12/31/2013  
**PUBLIC DOCUMENT**  
AD/CVD/Office II: SM

**DATE:** June 01, 2015

**MEMORANDUM TO:** Ronald K Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Decision Memorandum for the Preliminary Results of the  
Countervailing Duty Administrative Review: Citric Acid and  
Certain Citrate Salts; 2013

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## I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China (PRC). The period of review (POR) is January 1, 2013, through December 31, 2013. The respondent is Laiwu Taihe Biochemistry Co. Ltd. (Taihe). We preliminarily find that Taihe received countervailable subsidies during the POR related to certain programs. However, we require further information to allow us to determine whether two additional programs are countervailable.

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

## II. BACKGROUND

In May 2009, the Department published in the Federal Register a CVD order on citric acid from the PRC.<sup>1</sup> Subsequently, on May 1, 2014, the Department published in the Federal Register a

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<sup>1</sup> See Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Countervailing Duty Order, 74 FR 25705 (May 29, 2009) (CVD Order).



notice of opportunity to request an administrative review of the CVD order on citric acid from the PRC for the period January 1, 2013, through December 31, 2013.<sup>2</sup>

Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b)(1), in May 2014, the Department received requests to conduct an administrative review of the CVD order on citric acid from the PRC from two interested parties: 1) a producer/exporter of subject merchandise in the PRC, RZBC Co. Ltd./RZBC Imp. & Exp. Co., Ltd./RZBC (Juxian) Co., Ltd. (collectively, “RZBC”), which requested a review on its own behalf; and 2) the petitioners in this proceeding,<sup>3</sup> which requested reviews of RZBC and 25 additional PRC producers/exporters of citric acid. On June 27, 2014, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for 26 companies.<sup>4</sup>

In July 2014, RZBC withdrew its request for an administrative review, and in August 2014, the petitioners also withdrew their request for administrative reviews of all companies except Taihe. As a result, we rescinded this administrative review with respect to all companies except Taihe.<sup>5</sup>

Also in August 2014, we issued the initial questionnaire to the Government of the PRC (the GOC) and Taihe. In September 2014, we received a full response to this questionnaire from Taihe<sup>6</sup> and a response to all sections except those relating to inputs provided for less-than-adequate remuneration (LTAR) from the GOC.<sup>7</sup> In October 2014, the GOC provided a response to the inputs-for-LTAR sections of the questionnaire.<sup>8</sup>

In November 2014, the petitioners submitted new subsidy allegations,<sup>9</sup> and in December 2014, the Department initiated a review of these new subsidy allegations.<sup>10</sup> In December 2014, we also issued questionnaires to the GOC and Taihe related to the new subsidy allegations, as well as supplemental questionnaires related to the other programs under review. We received responses to both sets of questionnaires in January 2015.<sup>11</sup>

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<sup>2</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 24670 (May 1, 2014).

<sup>3</sup> The petitioners are Archer Daniels Midland Company; Cargill, Incorporated; and Tate & Lyle Ingredients Americas LLC.

<sup>4</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 36462 (June 27, 2014).

<sup>5</sup> See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Rescission, in Part, of 2013 Countervailing Duty Administrative Review, 80 FR 1017 (January 8, 2015).

<sup>6</sup> See Taihe’s submission dated September 30, 2014 (Taihe Initial Questionnaire Response).

<sup>7</sup> See the GOC’s submission dated September 30, 2014 (GOC Initial Questionnaire Response).

<sup>8</sup> See the GOC’s submission dated October 21, 2014 (GOC’s Initial LTAR Response).

<sup>9</sup> See Letter from the petitioners entitled “Citric Acid and Certain Citrate Sales from the People’s Republic of China: Petitioners’ New Subsidy Allegations,” dated November 10, 2014 (Petitioners’ New Subsidy Allegations).

<sup>10</sup> See Memorandum to Irene Darzenta Tzafolias, Acting Director, AD/CVD Operations, Office II, from Shannon Morrison, International Trade Compliance Analyst, AD/CVD Operations, Office II, regarding “Decision Memorandum on New Subsidy Allegations,” dated December 18, 2014.

<sup>11</sup> See the GOC’s submission, dated January 9, 2015 (GOC’s First Supplemental Response); the submission from Taihe dated January 14, 2015 (Taihe’s First Supplemental Response); the GOC’s submission dated January 23, 2015 (GOC’s New Subsidy Allegation (NSA) response); and the submission from Taihe dated January 23, 2015 (Taihe’s

Also in January 2015, the Department issued questionnaires to the GOC and Taihe requesting information on the provision of caustic soda for LTAR, which the Department found to be countervailable in the final results of the 2012 administrative review of this CVD order.<sup>12</sup> We received responses to these questionnaires from Taihe and the GOC in January and February 2015, respectively.<sup>13</sup>

From February through May 2015, the Department issued additional supplemental questionnaires to the GOC and Taihe, and received responses to them from March through May 2015.<sup>14</sup> During this same time period, we also received timely-filed new factual information from the petitioners to rebut, clarify, or correct certain of the GOC's and Taihe's submissions. Finally, in May 2015, we received timely benchmark and rebuttal benchmark information from the petitioners and Taihe.<sup>15</sup>

### **III. SCOPE OF THE ORDER**

The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and

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NSA Response).

<sup>12</sup> See Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012, 79 FR 78799 (December 31, 2014), and accompanying Issues and Decision Memorandum at Comment 5 (Citric Acid Fourth Review).

<sup>13</sup> See submission from Taihe dated January 28, 2015 (Taihe's Caustic Soda Response); and the GOC's submission dated February 12, 2015 (GOC's Caustic Soda and LTAR Specificity Response).

<sup>14</sup> See submissions from Taihe dated March 9, 2015 (Taihe's Third Supplemental Response) May 11, 2015 (Taihe's Fourth Supplemental Response), and May 22, 2015 (Taihe's Fifth Supplemental Response); and the GOC's submissions dated April 3, 2015 (GOC's Third Supplemental Response), and May 14, 2015 (GOC's Fourth Supplemental Response and GOC's Fifth Supplemental Response).

<sup>15</sup> See Letter from Taihe entitled, "Citric Acid and Citrate Salts from the People's Republic of China: Benchmark Submission," dated May 1, 2015 (Taihe's Benchmark Submission); Letter from the petitioners entitled "Citric Acid and Certain Citrate Salts from the People's Republic of China/Petitioners' Benchmark Data Factual Information Submission," dated May 1, 2015 (the Petitioners' Benchmark Submission); Letter from Taihe entitled "Citric Acid and Citrate Salts from the People's Republic of China: Rebuttal Benchmark Submission," dated May 11, 2015 (Taihe's Rebuttal Benchmark Submission); and Letter from the petitioners entitled "Citric Acid and Certain Citrate Salts from the People's Republic of China/Petitioners' Factual Information to Rebut, Clarify or Correct Taihe's Benchmark Data Submission," dated May 11, 2015 (the Petitioners' Rebuttal Benchmark Submission).

monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

#### **IV. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

Sections 776(a)(1) and (2) of the Act provide that the Department, subject to section 782(d) of the Act, shall apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by 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 fails to cooperate by not acting to the best of its ability to comply with a request for information.

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse “so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”<sup>16</sup> The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>17</sup>

##### **A. GOC – Market Distorted by Government Presence**

There are four inputs-for-LTAR programs in this review involving sulfuric acid, steam coal, calcium carbonate, and caustic soda. The Department requested that the GOC provide information concerning each of these industries in the PRC for the POR. Specifically, we requested that the GOC provide the following information for each input:<sup>18</sup>

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<sup>16</sup> See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998).

<sup>17</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 at 870 (1994).

<sup>18</sup> See the Department’s initial questionnaire and input producer appendix issued to the GOC on August 8, 2014, and the supplemental questionnaires issued on December 10, 2014, January 14, 2015, February 26, 2015, April 27, 2015, and May 1, 2015.

- a. The total number of producers.
- b. The total volume and value of Chinese domestic consumption of {input} and the total volume and value of Chinese domestic production of {input}.
- c. The percentage of domestic consumption accounted for by domestic production.
- d. The total volume and value of imports of {input}.
- e. The total volume and value of domestic production that is accounted for by companies in which the Government maintains an ownership or management interest either directly or through other Government entities.
- f. A discussion of what laws, plans or policies address the pricing of {input}, the levels of production of {input}, the importation or exportation of {input}, or the development of {input} capacity, as well as a statement of which, if any, central and sub-central level industrial policies pertain to the {input} industry.

The Department requested such information to determine whether the GOC is the predominant provider of these inputs in the PRC and whether its significant presence in the market distorts all transaction prices. The GOC stated that it does not maintain records on the four industries at issue, rendering the identification of ownership of producers in which the GOC maintains an ownership or management interest -- either directly or through other government entities -- extremely difficult.<sup>19</sup> The GOC, with information from the industry association responsible for each input, provided: 1) the total volume and value of domestic consumption and production and the total volume and value of imports of sulfuric acid;<sup>20</sup> 2) the volume of domestic consumption and production and the total volume and value of imports of calcium carbonate;<sup>21</sup> 3) estimates of the volume of domestic consumption and the volume and value of imports of steam coal;<sup>22</sup> and 4) the volume and value of domestic production and the volume and value of imports of caustic soda, as well as estimates of the volume and value of consumption.<sup>23</sup>

The Department issued supplemental questionnaires requesting that, for each of these industries, the GOC provide the number of producers in which it maintains an ownership or management interest.<sup>24</sup> In response, the GOC stated that it coordinated with: 1) the industry association responsible for each input to obtain a list of the names and production quantities for certain companies which produced the input during the POR; and 2) the State Administration of Industry and Commerce (SAIC) to determine whether the GOC maintained a management or ownership interest in any of these companies.<sup>25</sup> However, the GOC failed to completely identify, and provide GOC ownership information for, the companies comprising the sulfuric acid, calcium

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<sup>19</sup> See GOC's Initial LTAR Response at pages 3-4, 24, and 41; see also GOC's Caustic Soda and LTAR Specificity Response at page 12.

<sup>20</sup> See GOC's Initial LTAR Response at pages 2-3.

<sup>21</sup> Id., at pages 40-41.

<sup>22</sup> Id., at page 23.

<sup>23</sup> See GOC's Caustic Soda and LTAR Specificity Response at pages 11 and 12.

<sup>24</sup> See the Department's February 26, 2015, and May 1, 2015, supplemental questionnaires at pages 5 and 7 and pages 1-3, respectively.

<sup>25</sup> See GOC's Third Supplemental Response at pages 19-20, 24, and 31-32; see also GOC's Fifth Supplemental Response at pages 5-7.

carbonate, and caustic soda industries.<sup>26</sup> Instead, the GOC provided the requested information for producers which it stated accounted for more than 50 percent of the sulfuric acid and caustic soda industries and 18.6 percent of the calcium carbonate industry.<sup>27</sup> The GOC stated that it would be “too difficult” to obtain this information for all producers of each input.<sup>28</sup>

In a previous investigation, the Department was able to confirm at verification that the GOC maintains two databases at the SAIC: one is the business registration database, showing the most up-to-date company information; a second system, “ARCHIVE,” houses electronic copies of documents such as business licenses, annual reports, capital verification reports, etc. Therefore, we preliminarily find that the GOC has an electronic system available to it to gather industry-specific information the Department requested.<sup>29</sup>

Further, we preliminarily determine that the GOC withheld necessary information that was requested of it and, thus, that the Department must rely on facts available in these preliminary results.<sup>30</sup> Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available.<sup>31</sup> In drawing an adverse inference, we preliminarily find that PRC prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC.<sup>32</sup> Therefore we preliminarily find that the use of an external benchmark is warranted for calculating the benefit for the provision of sulfuric acid, calcium carbonate, and caustic soda for LTAR.

For details regarding the remaining elements of our analysis, see the “Provision of Sulfuric Acid for LTAR,” “Provision of Calcium Carbonate for LTAR,” and “Provision of Caustic Soda for LTAR” sections, below.

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<sup>26</sup> Regarding the steam coal industry, the GOC provided information which it said accounted for the top 50 coal producers. See GOC’s Third Supplemental Response at pages 21-23. This data shows that virtually all of these coal producers are GOC owned or managed companies, including all of the 13 producers with the largest volume. We find that the evidence the GOC provided is sufficient to demonstrate its substantial involvement in the steam coal market. For further discussion, see the “Steam Coal for LTAR” section, below.

<sup>27</sup> See GOC’s Third Supplemental Response at pages 24 and 31-32; see also GOC’s Fifth Supplemental Response at pages 5-7.

<sup>28</sup> See GOC’s Fifth Supplemental Response at pages 5, 8, and 9.

<sup>29</sup> See Memorandum to the File from Shannon Morrison, International Trade Compliance Analyst, entitled, “Additional Documents for the Preliminary Results,” dated June 1, 2015 (Additional Documents for Prelim Memorandum) at Attachment II (Memorandum to Susan Kuhbach, Director, AD/CVD Operations, Office 1, from Shane Subler and David Neubacher, International Trade Compliance Analysts, “Countervailing Duty Investigation: Certain Oil Country Tubular Goods from the People’s Republic of China; Verification Report of the Jiangsu Province State Administration of Industry and Commerce and Tianjin Municipality State Administration of Industry and Commerce,” dated October 29, 2009).

<sup>30</sup> See section 776(a)(2)(A) of the Act.

<sup>31</sup> See section 776(b) of the Act.

<sup>32</sup> See Preamble to Countervailing Duty Regulations, 63 FR 65348, 65377 (November 25, 1998) (Preamble).

## B. GOC – Certain Producers of Steam Coal and Calcium Carbonate are “Authorities”

In its Initial LTAR response, the GOC reported that neither the known producer of steam coal (hereinafter referred to as Company B) nor the two producers of calcium carbonate (hereinafter referred to as Companies C and D) which supplied Taihe during the POR had either: 1) Chinese Communist Party (CCP) primary organizations;<sup>33</sup> or 2) any owners, executive directors, or managers which were officials or representatives of any of the nine entities at any level.<sup>34,35</sup> Therefore, in supplemental questionnaires, we requested that the GOC provide official documentation from the GOC or the CCP to support these claims. In response to our request, for Companies B and C, the GOC provided statements from these companies, rather than official documentation from the GOC or CCP.<sup>36,37</sup> In Citric Acid Fourth Review, we found the GOC was able to obtain the information requested independently of the companies involved, and that statements from companies, rather than from the GOC or CCP themselves, were not sufficient.<sup>38</sup> Therefore, we find that the GOC failed to provide the information requested of it for Companies B and C.

For Company D, the GOC stated that it was “unable to provide the relevant documentation.”<sup>39</sup> Therefore, we asked the GOC the steps it undertook to attempt to obtain this information,

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<sup>33</sup> See Additional Documents for Prelim Memorandum at Attachment III (Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, 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; and Off-the-Road Tires from the People’s Republic of China: An Analysis of Public Bodies in the People’s Republic of China in Accordance with the WTO Appellate Body’s Findings in WTO DS379,” dated May 18, 2012 (Public Body Memorandum); and its attachment, Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, 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,” dated May 18, 2012 (CCP Memorandum)), for a discussion of CCP primary organizations.

<sup>34</sup> See GOC’s Initial LTAR Response at pages 34-37, 49-53, and 58-64.

<sup>35</sup> We note that the petitioners provided information which identified Company B as a state-owned enterprise (SOE). See Letter from the petitioners entitled, “Citric Acid And Certain Citrate Salts From The People’s Republic Of China: Petitioners’ Factual Information To Rebut, Clarify, Or Correct GOC’s Initial LTAR Questionnaire Response,” dated November 12, 2014, at Exhibit 7.

<sup>36</sup> See GOC’s First Supplemental Response at page 26 and Exhibits IV-25 and IV-26.

<sup>37</sup> In addition, because Company C’s articles of association indicated that its ownership changed, we asked the GOC to provide official documentation demonstrating that none of these owners served as officials or representatives of any of the nine CCP entities. In response, the GOC provided a certification from the CCP; however, the CCP’s certification did not provide any information regarding the owners of Company C. See GOC’s Third Supplemental Response at page 25 and Exhibit IX-1.

<sup>38</sup> See Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences,” “GOC – Calcium Carbonate and Caustic Soda are Government ‘Authorities.’”

<sup>39</sup> See GOC’s First Supplemental Response at page 26.

including the names of the organizations it contacted. In response, the GOC stated that it contacted Company D directly, which refused to provide any supporting documentation.<sup>40</sup> Thus, we find that the GOC failed to provide the information requested of it for Company D.

By failing to respond to the Department's questions, the GOC withheld information requested of it regarding the CCP's role in the ownership and management of Companies B, C, and D. As we explained in the Additional Documents for Prelim Memorandum,<sup>41</sup> we understand the CCP to exert significant control over economic activities in the PRC. Thus, the Department finds, as it has in prior segments of this proceeding,<sup>42</sup> that the information requested regarding the role of CCP officials and CCP committees in the management and operations of Companies B, C, and D is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.

Therefore, we find that the GOC withheld necessary information that was requested of it and that the Department must rely on facts available in conducting our analysis of Companies B, C and D.<sup>43</sup> As a result of incomplete responses to the Department's initial and supplemental questionnaires, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, we determine that the GOC withheld information, and that an adverse inference is warranted in the application of facts available.<sup>44</sup> In drawing an adverse inference, we find that CCP officials are present in Companies B, C, and D as individual owners, managers and members of the boards of directors, and that this gives the CCP, as the government, meaningful control over the companies and their resources. As explained in the Public Body Memorandum, an entity with significant CCP presence on its board or in management or in party committees may be controlled such that it possesses, exercises or is vested with governmental authority.<sup>45</sup> Thus, we preliminary find that Companies B, C, and D are "authorities" within the meaning of section 771(5)(B) of the Act.

#### C. GOC – Provision of Land in the Laiwu High-Tech Industrial Development Zone for LTAR

As discussed under "Programs Preliminarily Found To Be Countervailable," below, we are investigating the provision of land in the Laiwu High Tech-Industrial Development Zone for LTAR by the GOC.

In its NSA Response, the GOC claimed that Taihe did not apply for, use, or benefit from this program during the period from January 1, 2003, to the end of the POR.<sup>46</sup> However, Taihe

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<sup>40</sup> See GOC's Third Supplemental Response at page 26.

<sup>41</sup> See Additional Documents for Prelim Memorandum at Attachment III, which includes the Public Body Memorandum and its attachment, the CCP Memorandum.

<sup>42</sup> See, e.g., Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."

<sup>43</sup> See section 776(a)(2)(A) of the Act.

<sup>44</sup> See section 776(b) of the Act.

<sup>45</sup> See, e.g., Public Body Memorandum at 33-36, 38.

<sup>46</sup> See GOC's NSA Response at page 14.

reported purchasing land use rights in the Laiwu High-Tech Zone in 2006 and 2012.<sup>47</sup> Taihe also reported that both of these land parcels were ninth grade land<sup>48</sup> and provided the floor price for that grade, noting that its land parcels were priced above this floor.<sup>49</sup>

Therefore, we requested that the GOC: 1) explain, with documentation, how the GOC determined the land grades; 2) explain, with documentation, how it set the price for each grade; and 3) provide diagrams demonstrating the grade of land surrounding each of the land parcels Taihe purchased.<sup>50</sup> In response, the GOC provided official documents entitled, “Circular of the Ministry of Land and Resources on the Issuance and Implementation of the National Standards for the Minimum Transfer Prices of Land for Industrial Purposes,” and “Notice of Adjustment on Part of Land Grades (Land Resource Bureau (2008) No. 308),” which set forth the GOC’s minimum land transfer prices by land grade.<sup>51</sup> While this documentation demonstrated that land in Laiwu City is ninth grade land, the GOC did not: 1) explain how the GOC determined these land grades; 2) explain how it set the prices for each grade; or 3) provide the requested diagrams showing the land grades surrounding Taihe’s land parcels.

In its third supplemental response, the GOC also provided a document entitled, “Opinions by the Laiwu People’s Government on Wholly Implementing the Transfer of Land for Industrial Purposes through Bid Invitation, Auction and Quotation,” reporting that Taihe purchased its land use rights “through quotation.”<sup>52</sup> After reviewing this document, we requested additional information from the GOC regarding how land values were assessed in Laiwu City, both inside and outside the Laiwu High-Tech Zone, for land transferred through invitation, auction, and quotation.<sup>53</sup> However, the GOC did not address how land values were assessed, but rather simply described the industrial land transfer process.<sup>54</sup> The GOC also failed to provide requested information regarding Taihe’s specific land purchases, including the GOC’s starting land price and the process by which the GOC set the final price Taihe paid.<sup>55</sup>

Because the GOC did not provide complete responses to the Department’s NSA questionnaire or supplemental questionnaires regarding this program, we preliminarily determine that the GOC withheld information that was requested of it and, as a result, we must rely on facts available pursuant to section 776(a)(2)(A) of the Act in determining the specificity of this program. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Therefore, we preliminarily determine

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<sup>47</sup> See Taihe’s NSA Response at pages 5-6 and Exhibit S2-3.

<sup>48</sup> According to information provided by the GOC, land in China is divided into 15 grades. See GOC’s Fourth Supplemental Response at Exhibit II-1.

<sup>49</sup> Id., at pages 5-6 and Exhibits S2-3 through S2-5.

<sup>50</sup> See the Department’s February 26, 2015, supplemental questionnaire at page 2.

<sup>51</sup> See GOC’s Third Supplemental Response at Exhibits I-2 and I-3.

<sup>52</sup> See GOC’s Third Supplemental Response at page 8 at Exhibit III-7.

<sup>53</sup> See the Department’s April 27, 2015, supplemental questionnaire at page 2.

<sup>54</sup> See GOC’s Fourth Supplemental Response at pages 6-8.

<sup>55</sup> Id., at page 9.

that an adverse inference is warranted in the application of facts available.<sup>56</sup> In drawing an adverse inference, we find that the GOC's provision of land use rights to Taihe in 2006 and 2012 is regionally specific within the meaning of section 771(5A) of the Act, given the GOC's failure to provide information regarding how land prices in general were assessed in Laiwu City, or the process by which the GOC determined the price Taihe paid for its land purchases.

For details regarding the remainder of our analysis of this program, see "Provision of Land in the Laiwu High-Tech Industrial Development Zone for LTAR," below.

#### D. GOC – Provision of Electricity for LTAR

As discussed under "Programs Preliminarily Found To Be Countervailable," below, we are investigating the provision of electricity for LTAR by the GOC. In the supplemental questionnaire issued to the GOC on December 10, 2014, we asked the GOC to provide the original provincial price proposals for the applicable tariff schedules that were in effect during the POR in Shandong province, where Taihe is located. Instead of providing the requested documents, the GOC stated that "these proposals are drafted by the provincial governments and submitted to the {National Development and Reform Commission} NDRC. They are working documents for the NDRC's review only. The GOC is therefore unable provide them with this response."<sup>57</sup> 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.<sup>58</sup> Therefore, in the supplemental questionnaire issued to the GOC on February 26, 2015, we noted the following:

{a}fter reviewing the GOC's January 9 response to the Electricity Appendix, 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 the questions asked.

Therefore, we again asked the GOC to provide complete and detailed answers to the questions contained in the Electricity Appendix. We explained that theoretical replies and a general reference to the "Paper on China's Electricity System" contained in Exhibit IV-4 were not sufficient answers to these questions.

The GOC responded by stating:

{t}he GOC believes the explanation in its January 9, 2015, response is sufficient. This is the same, or similar, response given to this question in previous cases.<sup>59</sup>

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<sup>56</sup> See section 776(b) of the Act.

<sup>57</sup> See GOC's First Supplemental Response at page 5.

<sup>58</sup> *Id.* at page 6.

<sup>59</sup> GOC's Third Supplemental Response at page 16-17.

The requested price proposals are part of the GOC's electricity price adjustment process and thus, are crucial to the Department's analysis of how prices are set within the PRC.<sup>60</sup> 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, and consistent with prior cases in which the GOC provided a similar response,<sup>61</sup> 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 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 administrative protective order for limited disclosure if it is business proprietary in nature.<sup>62</sup> Moreover, while the GOC provided electricity data for all provinces, municipalities and autonomous regions, 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, because the GOC failed to cooperate by not acting to the best of its ability in responding to the Department's repeated requests for this information, an adverse inference under section 776(b) of the Act is warranted in the application of facts available. Without the requested information, we cannot make a preliminary finding with respect to financial contribution or specificity because the details required to analyze the GOC's electricity price adjustment process are contained in the missing price proposals. In 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.

#### E. Taihe – Provision of Sulfuric Acid, Steam Coal, and Caustic Soda for LTAR

In Taihe's Initial Questionnaire Response and Taihe's Caustic Soda Response, Taihe reported that it made certain purchases of sulfuric acid, steam coal, and caustic soda in 2013 from producers which were "unknown."<sup>63</sup> We requested that Taihe provide the names of these

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<sup>60</sup> See, e.g., Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 45472 (August 2, 2010), and accompanying Issues and Decision Memorandum at Comment 8, wherein the Department quoted the GOC as reporting that these price proposals "are part of the price setting process within China for electricity."

<sup>61</sup> Id.

<sup>62</sup> See, e.g., 19 CFR 351.306.

<sup>63</sup> See Taihe's Initial Questionnaire Response at Exhibit 9 and Exhibit 10; see also Taihe's Caustic Soda Response at Exhibit S3-1.

producers. However, Taihe stated that it was unable to provide this information, despite contacting the suppliers from which it sourced these inputs.<sup>64</sup>

Because Taihe was unable to identify the producer(s) of certain of its sulfuric acid, steam coal, and caustic soda purchases, the GOC was not able to provide a response to the Input Producer Appendix for them. Therefore, we find that the necessary information for these unidentified producers is not on the record. This information is necessary to determine whether these producers are “authorities” within the meaning of 771(5)(B) of the Act. Thus, pursuant to section 776(a)(1) of the Act, as facts available in this administrative review, we find that the percentage of sulfuric acid, steam coal, and caustic soda supplied to Taihe, and produced by unidentified suppliers, is produced by “authorities” at the same ratio as each of these inputs is produced by GOC owned or managed companies during the POR.<sup>65</sup>

Consequently, as facts available, we find that a portion of inputs 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 Taihe received a benefit to the extent that the price it paid for sulfuric acid, steam coal, and caustic soda produced by these producers was for LTAR.<sup>66</sup> Our use of facts available in this regard is consistent with the Department’s practice.<sup>67</sup>

## V. SUBSIDIES VALUATION INFORMATION

### A. Allocation Period

The average useful life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 9.5 years according to the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System for assets used to manufacture the subject merchandise. Consistent with the Department’s practice, we rounded the 9.5 years up to 10 years for purposes of setting the AUL.<sup>68</sup>

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (e.g., total sales or export sales)

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<sup>64</sup> See Taihe’s First Supplemental Response at pages 8-9; see also Taihe’s Third Supplemental Response at pages 4-5, and Taihe’s Fifth Supplemental Response at pages 1-2.

<sup>65</sup> See the “Sulfuric Acid for LTAR,” “Steam Coal for LTAR,” and “Caustic Soda for LTAR,” sections, below, for further discussion.

<sup>66</sup> See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

<sup>67</sup> See 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), accompanying Issues and Decision Memorandum at “Provision of Primary Aluminum for LTAR.”

<sup>68</sup> See Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review, 72 FR 43607, 43608 (August 6, 2007), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 73 FR 7708 (February 11, 2008).

for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

## B. Attribution of Subsidies

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department's regulations states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>69</sup>

## Taihe

In its initial questionnaire response, Taihe stated that it has only one affiliated company, which specializes in petty loan operations and financial advisory services.<sup>70</sup> According to Taihe, this affiliated company was not involved in the production or sale of subject merchandise during the POR.<sup>71</sup> In addition, Taihe stated that this affiliated company is neither a holding company nor Taihe's parent company.<sup>72</sup> Therefore, we preliminarily determine that Taihe's affiliated company does not meet any of the attribution conditions set forth in 19 CFR 351.525(b)(6)(ii)-(v); as a result, we have not included this affiliated company in our subsidy analysis.

## C. Denominators

In accordance with 19 CFR 351.525(b), when selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, the Department considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below in the "Programs

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<sup>69</sup> See Fabrique de Fer de Charleroi, SA v. United States, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>70</sup> See Taihe's Initial Questionnaire Response at page III-3. Taihe has claimed business proprietary treatment for the name of this affiliated company; as a result, we cannot disclose the name of this affiliated company here.

<sup>71</sup> Id., at page III-4.

<sup>72</sup> Id., at page III-5.

Preliminarily Determined to be Countervailable” section, because all programs have been found to be countervailable as domestic subsidies, we used Taihe’s total sales as the denominator.<sup>73,74</sup>

#### D. Benchmark Interest Rates

The Department is examining loans received by Taihe from PRC policy banks and state-owned commercial banks, as well as non-recurring, allocable subsidies (see 19 CFR 351.524(b)(1)). The derivation of the benchmark interest and discount rates used to value these subsidies is discussed below.

#### Short-Term Loans Denominated in Renminbi (RMB)

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 uses comparable commercial loans reported by the company as a benchmark.<sup>75</sup> If the firm did not have any comparable commercial loans during the period, the Department’s regulations provide that it “may use a national average interest rate for comparable commercial loans.”<sup>76</sup> 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,<sup>77</sup> loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.<sup>78</sup> 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 envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in

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<sup>73</sup> Taihe did not report receiving any countervailable export subsidies, except for the program “Exemption from Inspection and Quarantine Fees for Exports in Laiwu City.” However, as noted under “Programs Preliminarily Determined Not To Provide Measurable Benefits During the POR,” below, we determined that this program did not provide measurable benefits to Taihe during the POR.

<sup>74</sup> See Memorandum to the File from Shannon Morrison, International Trade Compliance Analyst, entitled, “Preliminary Determination Calculation Memorandum for Laiwu Taihe Biochemistry Co., Ltd. (Taihe)” (Taihe Prelim Calc Memorandum), dated June 1, 2015.

<sup>75</sup> See 19 CFR 351.505(a)(3)(i).

<sup>76</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>77</sup> 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; see also Memorandum to the File from Shannon Morrison, International Trade Compliance Analyst, AD/CVD Operations, Office II, regarding “Placement of Banking Memoranda on Record of the Instant Review,” dated June 1, 2015 (Banking Memoranda).

<sup>78</sup> See Additional Documents for Prelim Memorandum at Attachment 1.

using a PRC benchmark for loans, the Department is selecting an external market-based benchmark interest rate.<sup>79</sup>

We first developed in CFS from the PRC,<sup>80</sup> and more recently updated in Thermal Paper from the PRC,<sup>81</sup> 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, the pool of countries captures the broad inverse relationship between income and interest rates. For 2001 through 2009, the PRC fell in the lower-middle income category.<sup>82</sup> Beginning in 2010, however, the PRC is listed in the upper-middle income category.<sup>83</sup> 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 2001-2009, and 2011-2013, 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. For 2010, however, the regression does not yield that outcome for the PRC's income group.<sup>84</sup> This contrary result for a single year does not lead the Department to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since CFS from the PRC to compute the benchmarks for the years from 2001-2009,

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<sup>79</sup> 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. 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."

<sup>80</sup> See CFS from the PRC at Comment 10.

<sup>81</sup> 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.

<sup>82</sup> See Memorandum to the File from Shannon Morrison, International Trade Compliance Analyst, AD/CVD Operations, Office II, regarding "Interest Rate Benchmark Memorandum (2001 – 2013)" (Interest Rate Benchmark Memorandum), dated June 1, 2015.

<sup>83</sup> Id.

<sup>84</sup> Id.

and 2011-2013. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2013, and "lower middle income" for 2001-2009. 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 (e.g., Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan). Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments.<sup>85</sup> Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.<sup>86</sup>

The resulting inflation-adjusted benchmark lending rates are included in Taihe's preliminary calculation memorandum. Because these rates are net of inflation, we adjusted the benchmark to include an inflation component.

#### 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 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.<sup>87</sup>

In the Citric Acid Investigation, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where n equals or approximates the number of years of the term of the loan in question.<sup>88</sup> Because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.

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<sup>85</sup> 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.

<sup>86</sup> 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.

<sup>87</sup> 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), and accompanying Issues and Decision Memorandum at 8.

<sup>88</sup> 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 Investigation), and accompanying Issues and Decision Memorandum at Comment 14.

## Discount Rate Benchmarks

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.

The resulting interest rate benchmarks that we used in the preliminary calculations are provided in the Interest Rate Benchmark Memorandum.

## **VI. ANALYSIS OF PROGRAMS**

### **I. Programs Preliminarily Determined To Be Countervailable**

#### **A. Shandong Province Policy Loans Program**

In Citric Acid Third Review, the Department found that the Shandong Province Development Plan of Chemical Industry during “Twelfth Five-Year Plan” Period (12<sup>th</sup> Five-Year Plan) identifies objectives and goals, in conjunction with the Government of Shandong’s past and present policies, for the development of the citric acid industry and calls for lending to support these objectives and goals.<sup>89</sup> Moreover, loan documents, reviewed by the Department in the first administrative review, stated that because the food-use citric acid industry “has characteristics of capital and technology concentration and belongs to high and new technology ... the State always takes positive policy to encourage its development.”<sup>90</sup> The GOC reported that there were no changes to this loan program during the POR.<sup>91</sup>

We preliminarily find that Taihe’s loans outstanding during the POR are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the objectives and goals of the 12<sup>th</sup> Five-Year Plan, in conjunction with the Government of Shandong’s past and present policies to develop the citric acid industry.

Further, consistent with Citric Acid Investigation, Citric Acid First Review, Citric Acid Second Review,<sup>92</sup> Citric Acid Third Review, and Citric Acid Fourth Review,<sup>93</sup> we preliminarily find that Shandong Province policy loans from state-owned commercial banks constitute financial

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<sup>89</sup> See Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review: 2011, 79 FR 108 (January 2, 2014) (Citric Acid Third Review), and accompanying Issues and Decision Memorandum at Comment 7.

<sup>90</sup> See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review, 76 FR 33219, 33228 (June 8, 2011) (Citric Acid First Review Prelim), unchanged in Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, 76 FR 77206 (December 12, 2011) (Citric Acid First Review).

<sup>91</sup> See GOC’s First Supplemental Response at page 1.

<sup>92</sup> See Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2010, 77 FR 72323 (December 5, 2012) (Citric Acid Second Review).

<sup>93</sup> See Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at “Shandong Province Policy Loans Program.”

contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act. Further, pursuant to section 771(5)(E)(ii) of the Act, such financing provides a benefit equal to the difference between the interest Taihe paid on the loans and the amount of interest it would have paid on comparable commercial loans. Taihe reported that it had loans outstanding during the POR, which were provided by state-owned commercial banks.<sup>94</sup> To calculate the benefit under this program, we compared the amount of interest Taihe paid on its outstanding loans to the amount of interest it would have paid on comparable commercial loans.<sup>95</sup> In conducting this comparison, we used the interest rates described in the “Benchmark Interest Rates” section above. We attributed benefits under this program to Taihe’s total POR sales, as discussed in the “Attribution of Subsidies” section above. On this basis, we preliminarily find that Taihe received a countervailable subsidy of 0.36 percent ad valorem.<sup>96</sup>

#### B. Reduced Income Tax Rate for High or New Technology Enterprises

In the Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, the Department found this program to be countervailable.<sup>97</sup> As discussed in the Citric Acid First Review Prelim, Article 28.2 of the Enterprise Income Tax Law authorizes a reduced income tax rate of 15 percent for high- and new-technology enterprises (HNTEs).<sup>98</sup> The criteria and procedures for identifying eligible HTNEs are provided in the Measures on Recognition of High and New Technology Enterprises (GUOKEFAHUO {2008} No. 172) (Measures on Recognition of HNTEs) and the Guidance on Administration of Recognizing High and New Technology Enterprises (GUOKEFA HUO {2008} No.362).<sup>99</sup> Article 8 of the Measures on Recognition of HNTEs provides that the science and technology administrative departments of each province, autonomous region, and municipality directly under the central government or cities under separate state planning shall collaborate with the finance and taxation departments at the same level to recognize HNTEs in their respective jurisdictions.<sup>100</sup>

The annex of the Measures on Recognition of HNTEs lists eight high- and new-technology areas selected for the State’s “primary support”: 1) Electronics and Information Technology; 2) Biology and New Medicine Technology; 3) Aerospace Industry; 4) New Materials Technology; 5) High-tech Service Industry; 6) New Energy and Energy-Saving Technology; 7) Resources and Environmental Technology; and 8) High-tech Transformation of Traditional Industries.<sup>101</sup>

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<sup>94</sup> See Taihe’s Initial Questionnaire Response page III-12 and Exhibit 8, and Taihe’s First Supplemental Response at Exhibit S-10.

<sup>95</sup> See 19 CFR 351.505(a).

<sup>96</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>97</sup> See Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at “Reduced Income Tax Rate for High or New Technology Enterprises.”

<sup>98</sup> See Citric Acid First Review Prelim, 76 FR at 33229-30.

<sup>99</sup> Id.

<sup>100</sup> Id.

<sup>101</sup> Id.

On the record of the instant review, the GOC reported that there were no changes to this program during the POR.<sup>102</sup> Taihe reported that it received tax savings under this program on its 2012 income tax return filed during the POR.<sup>103</sup>

Consistent with the Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, we find that the reduced income tax rate paid by Taihe is a financial contribution in the form of revenue foregone by the GOC, and provides a benefit to the recipient in the amount of the tax savings.<sup>104</sup> We also find, consistent with the previous reviews, that the reduction afforded by this program is limited as a matter of law to certain new- and high-technology companies selected by the government pursuant to legal guidelines specified in Measures on Recognition of HNTEs and, hence, is specific under section 771(5A)(D)(i) of the Act. Both the number of targeted industries (eight) and the narrowness of the identified project areas under those industries support a finding that the legislation expressly limits access to the program to a specific group of enterprises or industries.

To calculate the benefit, we compared the income tax rate that Taihe would have paid in the absence of the program (i.e., 25 percent) to the income tax rate that it actually paid.<sup>105</sup> We treated the income tax savings realized by Taihe as a recurring benefit, consistent with 19 CFR 351.524(c)(1) and divided the company's tax savings received during the POR by Taihe's POR sales. On this basis, we find that Taihe received a countervailable subsidy of 0.25 percent ad valorem.<sup>106</sup>

### C. Income Tax Credits on Purchases of Domestically Produced Equipment

In Citric Acid Investigation, Citric Acid First Review, Citric Acid Second Review, and Citric Acid Third Review, the Department found this program to be countervailable.<sup>107</sup> As discussed in the Citric Acid First Review Prelim, according to the Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation {Projects} (CAI SHU ZI {1999} No. 290), a domestically-invested company may claim tax credits on the purchase of domestic equipment if the project is compatible with the industrial policies of the GOC.<sup>108</sup> Specifically, a tax credit up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year.<sup>109</sup>

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<sup>102</sup> See GOC's Initial Questionnaire Response at III-6.

<sup>103</sup> See Taihe's Initial Questionnaire Response at III-12, Appendix 1, and Exhibits 3 and 4.

<sup>104</sup> See section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

<sup>105</sup> See Taihe's Initial Questionnaire Response at Appendix 1 and Exhibit 4; see also GOC Initial Questionnaire Response at III-8.

<sup>106</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>107</sup> See Citric Acid Investigation, Citric Acid First Review, Citric Acid Second Review, and Citric Acid Third Review, and accompanying Issues and Decision Memoranda at "Income Tax Credits on Purchases of Domestically Produced Equipment."

<sup>108</sup> See Citric Acid First Review Prelim, 76 FR at 33230.

<sup>109</sup> Id.

On the record of the instant review, the GOC reported that that there were no changes to this program during the POR.<sup>110</sup> Further, the GOC reported that, although this program was terminated in January 2008, previously-eligible enterprises may continue to use this tax credit for five years after the effective date.<sup>111</sup> Taihe reported that it received tax savings under this program on its 2012 income tax return filed during the POR.<sup>112</sup>

Consistent with the prior segments of this proceeding and prior CVD determinations, we find that income tax credits for the purchase of domestically-produced equipment are countervailable subsidies. The tax credits are a financial contribution in the form of revenue foregone by the government and provide a benefit to the recipients in the amount of the tax savings, within the meaning of section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further find that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(C) of the Act.

We treated the income tax savings enjoyed by Taihe as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the company's tax savings by Taihe's total POR sales. On this basis, we find that the Taihe received a countervailable subsidy of 0.21 percent ad valorem.<sup>113</sup>

#### D. Provision of Sulfuric Acid for LTAR

The Department is examining whether Taihe was provided with sulfuric acid for LTAR during the POR. In the Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, the Department found that this program provides countervailable subsidies.<sup>114</sup>

The GOC challenged the specificity of this program in this administrative review.<sup>115</sup> A previous determination of countervailability places the burden on the challenging party to present new evidence sufficient for the Department to revisit its prior finding.<sup>116</sup> We find that the information the GOC submitted does not provide sufficient evidence to warrant a reexamination of this program because it demonstrates that the industries which use sulfuric acid are in many of the same industry subgroups as were identified in Citric Acid First Review.<sup>117,118</sup> As a result, the

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<sup>110</sup> See GOC's Initial Questionnaire Response at III-4 – III-6, and Exhibits 1 and 2.

<sup>111</sup> Id., at III-4.

<sup>112</sup> See Taihe's Initial Questionnaire Response at III-12 and Appendix 2.

<sup>113</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>114</sup> See Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at "Provision of Sulfuric Acid for LTAR."

<sup>115</sup> See GOC's Initial LTAR Response at page 2.

<sup>116</sup> See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 7395 (February 17, 2009) (DRAMs from Korea), and accompanying Issues and Decision Memorandum at "Programs Previously Determined to Confer Subsidies." See also Magnola Metallurgy, Inc. v. United States, 508 F.3d 1349 (Fed. Cir. 2007) (Magnola).

<sup>117</sup> See GOC's Caustic Soda and LTAR Specificity Response at pages 5-6.

Department continues to find that this program is specific, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Taihe reported that it purchased sulfuric acid from one known producer and additional unknown producer(s) during the POR.<sup>119</sup> The GOC reported that this known producer (hereinafter referred to as Company A) has a CCP primary organization.<sup>120</sup>

We explained in the Public Bodies Memorandum and the CCP Memorandum that “available information and record evidence indicates that the CCP meets the definition of the term ‘government’ for the limited purpose of applying the U.S. CVD law to China.”<sup>121</sup> Additionally, publicly-available information indicates that Chinese law requires the establishment of CCP organizations “in all companies, whether state, private, domestic, or foreign-invested” and that such organizations may wield a controlling influence in the company’s affairs.<sup>122</sup> The GOC did not provide information that would alter our understanding of the CCP organizations nor has the GOC substantiated its claims, either in the laws that it provided or with expert, third-party sources, that CCP organizations and the businesses in which they operate are on “parallel” tracks that never affect each other.<sup>123</sup> As discussed in the Public Body Memorandum, when there is significant CCP presence in an entity, that entity may be meaningfully controlled by the GOC such that the GOC uses it to effectuate its policy goals, meaning that the entity may possess, exercise or be vested with government authority.<sup>124</sup> The presence of a CCP primary organization is significant. Therefore, because Company A has a CCP primary organization, we preliminarily determine that Company A is an “authority” capable of providing a financial contribution.<sup>125</sup>

Additionally, as discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, because Taihe was unable to identify the producer(s) of the sulfuric acid for certain of its purchases, the GOC was not able to provide a response to the Input Producer Appendix for them. As a result, we find that the necessary information about these unidentified producers is not on the record. Thus, pursuant to 776(a)(1) of the Act, as facts available in this administrative review, we find that the percentage of sulfuric acid supplied to Taihe by unidentified producers is produced by “authorities” at the same ratio sulfuric acid was produced by GOC owned or managed companies during the POR.<sup>126</sup>

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<sup>118</sup> See Citric Acid First Review at Comment 7.

<sup>119</sup> See Taihe’s Initial Questionnaire Response at Exhibit 9 and Taihe’s Fifth Supplemental Response at pages 1-2.

<sup>120</sup> See GOC’s Initial LTAR Response at 16-17.

<sup>121</sup> See Additional Documents for Prelim Memorandum at Attachment III, which includes the Public Body Memorandum and its attachment, the CCP Memorandum, at page 33.

<sup>122</sup> Id., at Public Body Memorandum at 35-36 and sources cited therein.

<sup>123</sup> See GOC Initial LTAR Response at 12-22.

<sup>124</sup> See Public Body Memorandum at 35-36, 38 and sources cited therein.

<sup>125</sup> See section 771(5)(B) of the Act.

<sup>126</sup> As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, we preliminarily find that PRC prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC. As a result, for these preliminary results, we are assuming that 100 percent of the sulfuric acid produced during the POR in the PRC was produced by GOC owned or managed companies.

As discussed under “Use of Facts Otherwise Available and Adverse Inferences” above, we are preliminarily relying on adverse facts available (AFA) to determine that actual transaction prices for sulfuric acid in the PRC are significantly distorted by the government’s involvement in the market. As such, we preliminarily determine that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determine that import prices into the PRC cannot serve as a benchmark.<sup>127</sup> Accordingly, to determine whether the provision of sulfuric acid conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the previous reviews of this order,<sup>128</sup> we applied a tier two benchmark (i.e., world market prices available to purchasers in the PRC).<sup>129</sup>

The petitioners and Taihe submitted prices that they suggested are appropriate for use as a tier two benchmark. Specifically, in May 2015, the petitioners and Taihe submitted POR monthly export prices for various countries from the Global Trade Information Services (GTIS).<sup>130</sup> For purposes of these preliminary results, we used the GTIS data provided by Taihe to construct the benchmark price for sulfuric acid because the petitioners’ data appeared to be truncated.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we included international freight and inland freight. The petitioners and Taihe placed on the record POR ocean freight pricing data from Maersk for shipments of sulfuric acid from various ports to Shanghai, China.<sup>131</sup> Consistent with Citric Acid Fourth Review, we used the international ocean freight rates submitted by the petitioners, which included hazardous shipping charges, because Taihe did not demonstrate that the data it provided are appropriate.<sup>132, 133</sup>

We also added to the benchmark prices: 1) inland freight from the factory to the port based on Taihe’s per-metric ton freight expenses for transporting the finished product;<sup>134</sup> 2) import duties reported by the GOC; and 3) the value added tax (VAT) applicable to imports of sulfuric acid into the PRC.<sup>135</sup>

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<sup>127</sup> See Citric Acid First Review, Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at “Provision of Sulfuric Acid for LTAR.”

<sup>128</sup> Id.

<sup>129</sup> See 19 CFR 351.511(a)(2)(ii)

<sup>130</sup> See the Petitioners’ Benchmark Submission at Exhibit 8; see also Taihe’s Benchmark Submission at Exhibit 3.

<sup>131</sup> See the Petitioners’ Benchmark Submission at Exhibit 9; see also Taihe’s Benchmark Submission at Exhibit 8.

<sup>132</sup> See Citric Acid Fourth Review at Comment 12 (where we noted the Department’s preference for a sulfuric acid international freight benchmark which includes hazardous shipping charges).

<sup>133</sup> The benchmark data provided by the petitioners is for standard, 40-foot containers, while the benchmark data submitted by Taihe is for 20-foot containers. Taihe provided no information demonstrating that sulfuric acid is normally shipped in 20-foot containers.

<sup>134</sup> See Taihe’s First Supplemental Response at Exhibit S-11.

<sup>135</sup> For import duties and VAT, see GOC’s Initial LTAR Response at 4.

Finally to derive the benchmark, we did not include marine insurance. In prior CVD proceedings involving the PRC, the Department found that, while the PRC customs authorities impute an insurance cost on certain imports for purposes of levying duties and compiling statistical data, there is no evidence to suggest that PRC customs authorities actually require importers to pay insurance charges.<sup>136</sup>

Comparing the adjusted benchmark prices to the prices paid by Taihe for sulfuric acid during the POR, we preliminarily find that the GOC provided sulfuric acid for LTAR, and that a benefit exists in the amount of the difference between the benchmark price and the price that Taihe paid.<sup>137</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that Taihe paid for sulfuric acid, including any taxes or delivery charges incurred to deliver the product to Taihe. We divided the total benefits by Taihe's total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 6.07 percent ad valorem.<sup>138</sup>

#### E. Provision of Steam Coal for LTAR

The Department is examining whether Taihe was provided with steam coal for LTAR during the POR. In the Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, the Department found that this program provides countervailable subsidies.<sup>139</sup>

The GOC challenged the specificity of this program in this administrative review.<sup>140</sup> A previous determination of countervailability places the burden on the challenging party to present new evidence sufficient for the Department to revisit its prior finding.<sup>141</sup> We find that the information the GOC submitted does not provide sufficient evidence to warrant a reexamination of this program because we are unable to link the list of industries which purchase steam coal to the Industrial Classification for National Economic Activities, which the GOC stated were the classifications used to compile these statistics.<sup>142,143</sup> Thus, the Department continues to find that this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

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<sup>136</sup> See, e.g., Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 28557 (May 21, 2010) (PC Strand from the PRC), and accompanying Issues and Decision Memorandum at Comment 13.

<sup>137</sup> See 19 CFR 351.511(a).

<sup>138</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>139</sup> See Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at "Provision of Steam Coal for LTAR."

<sup>140</sup> See GOC's Initial LTAR Response at 22.

<sup>141</sup> See DRAMs from Korea, and accompanying Issues and Decision Memorandum at "Programs Previously Determined to Confer Subsidies." See also Magnola, 509 F.3d 1349.

<sup>142</sup> See GOC's Caustic Soda and LTAR Specificity Response at pages 7-8 and Exhibits 2 and 3.

<sup>143</sup> Id., at Exhibits 1 and 2.

Taihe reported that it purchased steam coal from one known producer (Company B) and additional unknown producer(s) during the POR.<sup>144</sup> As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, we are relying on AFA to determine that Company B is an “authority” within the meaning of section 771(5)(B) of the Act and that Taihe received a financial contribution from it in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, because Taihe was unable to identify the producer(s) of the steam coal for certain of its purchases, the GOC was not able to provide a response to the Input Producer Appendix for them. As a result, we find that the necessary information about these unidentified producers is not on the record. Thus, pursuant to 776(a)(1) of the Act, as facts available in this administrative review, we find that the percentage of steam coal supplied to Taihe by unidentified producers is produced by “authorities” at the same ratio steam coal was produced by GOC owned or managed companies during the POR.<sup>145</sup>

Moreover, we find that the GOC has provided sufficient evidence to demonstrate its substantial involvement in the steam coal market. Specifically, the GOC reported data for the largest 50 coal producers showing that virtually all of these companies are GOC owned or managed companies.<sup>146</sup> Thus, we preliminarily determine that actual transaction prices for steam coal in the PRC are significantly distorted by the government’s involvement in the market. As such, we preliminarily determine that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determine that import prices into the PRC cannot serve as a benchmark.<sup>147</sup> Accordingly, to determine whether the provision of steam coal conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, we applied a tier two benchmark (i.e., world market prices available to purchasers in the PRC).<sup>148</sup>

The petitioners and Taihe submitted prices that they suggested are appropriate for use as a tier two benchmark. Specifically, in May 2015, the petitioners submitted POR monthly export prices from GTIS for HTSUS number 2701.11 (i.e., anthracite coal), POR monthly prices for Australia

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<sup>144</sup> See Taihe’s Initial Questionnaire Response at Exhibit 10. In addition, Taihe was unable to identify the producers of the steam coal it purchased from trading companies during the POR. See Taihe’s First Supplemental Response at pages 8-9.

<sup>145</sup> As discussed further below, we preliminarily find that the GOC has provided sufficient evidence to demonstrate its substantial involvement in the steam coal market. As a result, for these preliminarily results, we have relied on the percentage of steam coal production represented by GOC owned or managed companies in the GOC’s reported data (i.e., 90.46 percent). See Memorandum to the File from Shannon Morrison, International Trade Compliance Analyst, entitled, “Countervailing Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People’s Republic of China: Calculation of Percentage of Domestic Supply of Steam Coal Controlled by the Government,” dated June 1, 2015, for the calculation of this percentage.

<sup>146</sup> See GOC’s Third Supplemental Response at pages 21-23.

<sup>147</sup> See Citric Acid Second Review, Citric Acid Third Review, and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at “Provision of Steam Coal for LTAR.”

<sup>148</sup> See 19 CFR 351.511(a)(2)(ii).

from the IMF, and monthly POR prices from Platts.<sup>149</sup> The Platts data includes monthly prices for six countries: Australia, Colombia, Japan, Korea, Poland, and Russia. However, only the Platts prices for Poland, Russia, and Australia are clearly export “free, on board” (FOB) prices.<sup>150</sup> Taihe also submitted POR monthly export prices from GTIS for HTSUS number 2701.19 (i.e., coal, other than anthracite or bituminous).<sup>151</sup> Thus, for these preliminary results, we are relying on the following 2013 data sources: GTIS POR monthly export prices for HTSUS numbers 2701.11 and 2701.19, IMF monthly export prices from Australia, and Platts monthly export prices from Poland, Russia, and Australia.<sup>152</sup>

Section 351.511(a)(2)(ii) of the Department’s regulations states that where there is more than one commercially-available world market price, the Department will average the prices to the extent practicable. Therefore, we are weight averaging the GTIS data on the record while continuing to utilize the non-GTIS data sources discussed above. Specifically, we first calculated simple averages across data sources per country to determine an average unit value for each country. Then, we weight averaged those country-specific unit prices to create single monthly weighted-average benchmark prices for steam coal.

By weight averaging the GTIS unit prices in this instance, and by continuing to include the other, non-GTIS data on the record, we maintain the most robust world market price possible that reflects the spectrum of conceivable prices available under market principles.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we included international freight and inland freight. The petitioners placed on the record ocean freight pricing data from a 2010 Platts International Coal Report for shipments of steam coal from Hay Point, Australia to Qingdao, China and Paradip, India.<sup>153</sup> Taihe placed on the record POR ocean freight pricing data from Maersk for shipments of mineral fuels from various ports to Shanghai, China.<sup>154</sup> We have not relied on the Platts freight data submitted by the petitioners because this data is not contemporaneous with the POR. Rather, we have relied on the 2013 Maersk international freight rates submitted by Taihe.

We also added to the benchmark prices: 1) inland freight from the factory to the port based on Taihe’s per-metric ton freight expenses for transporting the finished product;<sup>155</sup> 2) import duties reported by the GOC; and 3) the VAT applicable to imports of steam coal into the PRC.<sup>156</sup>

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<sup>149</sup> See the Petitioners’ Benchmark Submission at Exhibit 12, 13, and 14.

<sup>150</sup> *Id.*, at Exhibit 14. We have not relied on the remaining Platts data because: 1) the prices for Korea and Japan include freight or other costs; and 2) the prices for Colombia are not clearly export FOB prices.

<sup>151</sup> See Taihe’s Benchmark Submission at Exhibit 4.

<sup>152</sup> See Taihe Prelim Calc Memorandum for further discussion.

<sup>153</sup> See the Petitioners’ Benchmark Submission at Exhibits 15 through 20.

<sup>154</sup> See Taihe’s Benchmark Submission at Exhibit 9.

<sup>155</sup> See Taihe’s Initial Questionnaire Response at III-18; see also Taihe’s First Supplemental Response at Exhibit S-11.

Finally to derive the benchmark, we did not include marine insurance for the reasons discussed above in “Provision of Sulfuric Acid for LTAR.”

Comparing the adjusted benchmark prices to the prices paid by Taihe for steam coal during the POR, we preliminarily find that the GOC provided steam coal for LTAR, and that a benefit exists in the amount of the difference between the benchmark price and the price that Taihe paid.<sup>157</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that Taihe paid for steam coal, including taxes or delivery charges incurred to deliver the product to Taihe. We divided the total benefits by Taihe’s total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 3.06 percent ad valorem.<sup>158</sup>

#### F. Provision of Calcium Carbonate for LTAR

The Department is examining whether Taihe was provided with calcium carbonate for LTAR during the POR. In the Citric Acid Third Review and Citric Acid Fourth Review, the Department found that this program provides countervailable subsidies.<sup>159</sup>

The GOC challenged the specificity of this program in this administrative review.<sup>160</sup> A previous determination of countervailability places the burden on the challenging party to present new evidence sufficient for the Department to revisit its prior finding.<sup>161</sup> We find that the information the GOC submitted does not provide sufficient evidence to warrant a reexamination of this program because the GOC was unable to support the POR calcium carbonate consumption data by industry that it provided.<sup>162,163</sup> Thus, the Department continues to find that this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Taihe reported that it purchased calcium carbonate from two producers during the POR (Companies C and D).<sup>164</sup> As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, we are relying on AFA to determine that Companies C and D are “authorities” within the meaning of section 771(5)(B) of the Act and that Taihe received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

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<sup>156</sup> For import duties and VAT, see GOC’s Initial LTAR Response at 25.

<sup>157</sup> See 19 CFR 351.511(a).

<sup>158</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>159</sup> See Citric Acid Third Review and Citric Acid Fourth Review, and accompanying Issues and Decision Memoranda at “Provision of Calcium Carbonate for LTAR.”

<sup>160</sup> See GOC’s Initial LTAR Response at 39.

<sup>161</sup> See DRAMs from Korea, and accompanying Issues and Decision Memorandum at “Programs Previously Determined to Confer Subsidies.” See also Magnola, 509 F.3d 1349.

<sup>162</sup> See GOC’s Initial LTAR Response at pages 42-43.

<sup>163</sup> See GOC’s Caustic Soda and LTAR Specificity Response at page 9.

<sup>164</sup> See Taihe’s Initial Questionnaire Response at Exhibit 11.

Moreover, as discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, we are relying on AFA preliminarily to determine that actual transaction prices for calcium carbonate in the PRC are significantly distorted by the government’s involvement in the market. As a result, we preliminarily determine that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determined that import prices into the PRC cannot serve as a benchmark.<sup>165</sup> Accordingly, to determine whether the provision of calcium carbonate conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the Citric Acid Third Review and Citric Acid Fourth Review, we applied a tier two benchmark (i.e., world market prices available to purchasers in the PRC).<sup>166</sup>

The petitioners and Taihe submitted prices that they suggested are appropriate for use as a tier two benchmark. Specifically, both the petitioners and Taihe provided POR monthly export prices from GTIS for limestone flux (i.e., ground calcium carbonate); in addition, the petitioners also provided POR monthly export prices from GTIS for precipitated calcium carbonate.<sup>167</sup> In its first supplemental response, Taihe reported that it only purchased ground calcium carbonate during the POR.<sup>168</sup> Therefore, consistent with Citric Acid Third Review, we used Taihe’s GTIS data for limestone flux to calculate the monthly benchmark price for calcium carbonate.<sup>169</sup> We did not use the data reported by the petitioners because they appeared to be truncated.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we included international freight and inland freight. The petitioners and Taihe placed on the record POR ocean freight pricing data from Maersk for shipments of calcium carbonate from various ports to Shanghai, PRC.<sup>170</sup> Consistent with Citric Acid Fourth Review, we used the international ocean freight rates submitted by the petitioners, which includes a “flat rack” “special equipment” fee, because Taihe did not demonstrate that the data it provided are appropriate.<sup>171</sup>

We also added to the benchmark prices: 1) inland freight from the factory to the port based on Taihe’s per-metric ton freight expenses for transporting the finished product;<sup>172</sup> 2) import duties reported by the GOC; and 3) VAT applicable to imports of calcium carbonate into the PRC.<sup>173</sup>

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<sup>165</sup> See Citric Acid Third Review and Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at “Provision of Calcium Carbonate for LTAR.”

<sup>166</sup> See 19 CFR 351.511(a)(2)(ii).

<sup>167</sup> See Petitioners’ Benchmark Submission at Exhibits 1 and 2; see also Taihe’s Benchmark submission at Exhibit 1.

<sup>168</sup> See Taihe’s First Supplemental Response at page 10 and Exhibit S-16.

<sup>169</sup> See Citric Acid Third Review at Comment 12, where the Department determined that precipitated calcium carbonate and ground calcium carbonate (i.e., limestone flux) are different grades of calcium carbonate.

<sup>170</sup> See Petitioners’ Benchmark Submission at Exhibit 9; see also Taihe’s Benchmark Submission at Exhibit 8.

<sup>171</sup> See Citric Acid Fourth Review at Comment 8.

<sup>172</sup> See Taihe’s Initial Questionnaire Response at page 20 and Taihe’s First Supplemental Response at Exhibit S-11.

<sup>173</sup> See GOC’s Initial LTAR Response at 42.

Finally to derive the benchmark, we did not include marine insurance for the reasons discussed above in “Provision of Sulfuric Acid for LTAR.”

Comparing the adjusted benchmark prices to the prices paid by Taihe for calcium carbonate during the POR, we preliminarily find that the GOC provided calcium carbonate for LTAR, and that a benefit exists in the amount of the difference between the benchmark price and the price that Taihe paid.<sup>174</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that Taihe paid for calcium carbonate, including any taxes or delivery charges incurred to deliver the product to Taihe. We divided the total benefits by Taihe’s total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 6.85 percent ad valorem.<sup>175</sup>

#### G. Provision of Caustic Soda for LTAR

The Department is examining whether Taihe was provided with caustic soda for LTAR during the POR. In the Citric Acid Fourth Review, the Department found that this program provides countervailable subsidies.<sup>176</sup>

The GOC challenged the specificity of this program in this administrative review.<sup>177</sup> A previous determination of countervailability places the burden on the challenging party to present new evidence sufficient for the Department to revisit its prior finding.<sup>178</sup> We find that the information the GOC submitted does not provide sufficient evidence to warrant a reexamination of this program because the GOC provided data from the China Chlor-Alkali Industry Association (CCAIA), and we determined that the data from this source was unreliable in the Citric Acid Fourth Review.<sup>179,180</sup> As such, the Department continues to find that this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Taihe reported that it purchased caustic soda from three known producers and additional unknown producer(s) during the POR.<sup>181</sup> The GOC reported that the first of these known producers (hereinafter referred to as Company E) is majority government owned.<sup>182</sup> As

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<sup>174</sup> See 19 CFR 351.511(a).

<sup>175</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>176</sup> See Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at “Provision of Caustic Soda for LTAR.”

<sup>177</sup> See GOC’s Caustic Soda and LTAR Specificity Response at page 9.

<sup>178</sup> See DRAMs from Korea, and accompanying Issues and Decision Memorandum at “Programs Previously Determined to Confer Subsidies.” See also Magnola, 509 F.3d 1349.

<sup>179</sup> See GOC’s Fourth Supplemental Response at page 12.

<sup>180</sup> See Citric Acid Fourth Review at Comment 5A.

<sup>181</sup> See Taihe’s Caustic Soda Response at Exhibit S3-1. In addition, Taihe was unable to identify one of the producers from which it purchased caustic soda during the POR. See Taihe’s Fourth Supplemental Response at pages 4-5.

<sup>182</sup> See GOC’s Caustic Soda and LTAR Specificity Response at page 20; see also GOC’s Third Supplemental Response at pages 33-34.

explained in the Public Body Memorandum, producers in the PRC that are majority-owned by the government possess, exercise, or are vested with governmental authority.<sup>183</sup> The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector. Therefore, we determine that Company E is an “authority” within the meaning of section 771(5)(B) of the Act.

Regarding the second and third known producers (hereinafter referred to as Companies F and G), the GOC reported that, during the POR, the chairman of Company F’s board of directors was a representative of the People’s Congress of Dongying City.<sup>184</sup> In addition, the GOC reported that Company F’s parent company had a CCP primary organization.<sup>185</sup> Regarding Company G, the GOC reported that during the POR: 1) the chairman of the board of directors of one of its parent companies was a representative of the People’s Congress of Dongying City;<sup>186</sup> and 2) another of its parent companies had a CCP primary organization.<sup>187</sup> As noted under “Provision of Sulfuric Acid for LTAR,” we preliminarily determine that the presence of a CCP primary organization at a company constitutes evidence that the producer is an “authority.”<sup>188</sup> Therefore, because the parents of Companies F and G had CCP primary organizations, we find that these producers are “authorities” within the meaning of section 771(5)(B) of the Act. As a result, we find that Taihe received a financial contribution in the form of the provision of a good from Companies E, F, and G, pursuant to section 771(5)(D)(iii) of the Act.

As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, because Taihe was unable to identify the producer(s) of the caustic soda for certain of its purchases, the GOC was not able to provide a response to the Input Producer Appendix for them. As a result, we find that the necessary information about these unidentified producers is not on the record. Thus, pursuant to 776(a)(1) of the Act, as facts available in this administrative review, we find that the percentage of caustic soda supplied to Taihe by unidentified producers is produced by “authorities” at the same ratio caustic soda was produced by GOC owned or managed companies during the POR.<sup>189</sup>

Moreover, as also discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, we are relying on AFA preliminarily to determine that actual transaction prices for caustic

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<sup>183</sup> See Additional Documents Prelim Memorandum at Attachment III: Public Body Memorandum at 35-36 and sources cited therein.

<sup>184</sup> See GOC’s Caustic Soda and LTAR Specificity Response at page 28.

<sup>185</sup> *Id.*, at pages 25-26; see also GOC’s Third Supplemental Response at page 46.

<sup>186</sup> See GOC’s Caustic Soda and LTAR Specificity Response at page 40.

<sup>187</sup> See GOC’s Third Supplemental Response at page 46.

<sup>188</sup> See Additional Documents for Prelim Memorandum at Attachment III: Public Body Memorandum at 35-36 and sources cited therein.

<sup>189</sup> As discussed under “Use of Facts Otherwise Available and Adverse Inferences” above, we preliminarily find that PRC prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC. As a result, for these preliminarily results, we are assuming that 100 percent of the caustic soda produced during the POR in the PRC was produced by GOC owned or managed companies.

soda in the PRC are significantly distorted by the government's involvement in the market. Thus, we preliminarily determine that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determined that import prices into the PRC cannot serve as a benchmark.<sup>190</sup> Accordingly, to determine whether the provision of caustic soda conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the Citric Acid Third Review, we applied a tier two benchmark (i.e., world market prices available to purchasers in the PRC).<sup>191</sup>

The petitioners and Taihe submitted prices that they suggested are appropriate for use as a tier two benchmark price for caustic soda. Specifically, in May 2015, the petitioners and Taihe submitted POR monthly export prices for numerous countries from GTIS for caustic soda.<sup>192</sup> We used Taihe's GTIS data to construct the benchmark price for caustic soda. We did not use the data reported by the petitioners because they appeared to be truncated.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we included international freight and inland freight. The petitioners and Taihe placed on the record POR ocean freight pricing data from Maersk for shipments of caustic soda from various ports to Shanghai, China.<sup>193</sup> Consistent with Citric Acid Fourth Review, we used the international ocean freight rates submitted by the petitioners, which included hazardous shipping charges, because Taihe did not demonstrate that the data it provided are appropriate.<sup>194</sup>

We also added to the benchmark prices: 1) inland freight from the factory to the port based on Taihe's per-metric ton freight expenses for transporting the finished product;<sup>195</sup> 2) import duties reported by the GOC; and 3) the VAT applicable to imports of caustic soda into the PRC.<sup>196</sup>

Finally to derive the benchmark, we did not include marine insurance for the reasons discussed above in "Provision of Sulfuric Acid for LTAR."

Comparing the adjusted benchmark prices to the prices paid by Taihe for caustic soda during the POR, we preliminarily find that the GOC provided caustic soda for LTAR, and that a benefit exists in the amount of the difference between the benchmark price and the price that Taihe

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<sup>190</sup> See Citric Acid Third Review, and accompanying Issues and Decision Memorandum at "Provision of Caustic Soda for LTAR."

<sup>191</sup> See 19 CFR 351.511(a)(2)(ii)

<sup>192</sup> See the Petitioners' Benchmark Submission at Exhibit 7; see also Taihe's Benchmark Submission at Exhibit 2.

<sup>193</sup> See the Petitioners' Benchmark Submission at Exhibit 9; see also Taihe's Benchmark Submission at Exhibit 8.

<sup>194</sup> See Citric Acid Fourth Review at Comment 12 (where we noted the Department's preference for a caustic soda international freight benchmark which includes hazardous shipping charges).

<sup>195</sup> See Taihe's Caustic Soda Questionnaire Response at page 2 and Exhibit S3-2, and Taihe's First Supplemental Response at Exhibit S-11.

<sup>196</sup> See GOC's Caustic Soda and LTAR Specificity Response at 13.

paid.<sup>197</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that Taihe paid for caustic soda, including any taxes or delivery charges incurred to deliver the product to Taihe. We divided the total benefits by Taihe's total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 12.49 percent ad valorem.<sup>198</sup>

H. Provision of Land in the Laiwu High-Tech Industrial Development Zone for LTAR

The petitioners alleged that Taihe received benefits under this program in their new subsidy allegations.<sup>199</sup> For the reasons explained under "Use of Facts Otherwise Available and Adverse Inferences," above, we are basing our determination regarding the GOC's provision of land for LTAR on AFA, in part. Therefore, for these preliminary results, we determine that Taihe received a countervailable subsidy through land provided for LTAR.

We find that the GOC's provision of land constitutes a financial contribution in the form of provision of a good within the meaning of section 771(5)(D)(iii) of the Act. Further, as discussed under "Use of Facts Otherwise Available and Adverse Inferences," above, we preliminarily determine that the GOC's provision of land to Taihe was regionally specific.

19 CFR 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: 1) market prices from actual transactions within the country under investigation; 2) world market prices that would be available to purchasers in the country under investigation; or 3) an assessment of whether the government price is consistent with market principles. As explained in detail in previous investigations, the Department cannot rely on the use of so-called "first-tier" and "second-tier" benchmarks to assess the benefits from the provision of land for LTAR in the PRC.<sup>200</sup> For this administrative review, we relied on Thailand industrial land benchmark data from "Asian Marketview Reports" by CB Richard Ellis, which we used to calculate land benchmarks in Citric Acid Fourth Review and other recent cases.<sup>201</sup> We initially selected this information in Laminated Woven Sacks after considering a number of factors, including national income levels,

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<sup>197</sup> See 19 CFR 351.511(a).

<sup>198</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>199</sup> See Petitioners' New Subsidy Allegations at pages 8-10.

<sup>200</sup> See, e.g., Laminated Woven Sacks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination, 72 FR 67893, 67906-08 (December 3, 2007), unchanged in Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances, 73 FR 35639 (June 24, 2008) (Laminated Woven Sacks).

<sup>201</sup> See, e.g., Citric Acid Fourth Review, and accompanying Issues and Decision Memorandum at "Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province." See also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, 77 FR 63788 (October 17, 2012) (Solar Cells from the PRC).

population density, and producers' perceptions that Thailand is a reasonable alternative to China as a location for Asian production.<sup>202</sup> We find that these benchmark data are suitable for use in these preliminary results, adjusted accordingly for inflation.<sup>203</sup>

To calculate the benefit, we first multiplied the total area of Taihe's countervailed land parcels by the Thailand industrial land benchmarks discussed above. We then subtracted the price actually paid for each parcel to derive the total unallocated benefit. Next, we performed the 0.5 percent test, as instructed by 19 CFR 351.524(b)(2), by dividing the benefit for each parcel by Taihe's sales for the year of each land-use agreement. Because these ratios exceeded 0.5 percent of Taihe's total sales in the relevant years, we allocated the benefit across the terms of the land-use agreements, pursuant to the standard allocation formula of 19 CFR 351.524(d), and determined the amounts attributable to the POR. We used the discount rates described under "Benchmark and Discount Rates," above, in our allocation calculations.

To calculate the net subsidy rate, we divided the amount of the subsidy allocated to the POR by Taihe's total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 1.05 percent ad valorem.<sup>204</sup>

#### I. Technology Innovation Advanced Unit Award

In the Citric Acid Third Review, the Department found this program to be countervailable.<sup>205</sup> Taihe reported that it received a grant from the Laiwu Economic Development Zone because of its advanced technological performance during the POR.<sup>206</sup> Taihe reported that it did not have to apply for the grant.<sup>207</sup>

Consistent with the Citric Acid Third Review, we preliminarily determine that the grant received by Taihe constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with advanced technological performance, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit Taihe received in the instant review, we divided the grant amount by Taihe's total POR sales and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we expensed the total amount of the grant to the year of

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<sup>202</sup> The complete history of our reliance on this benchmark is discussed in Solar Cells from the PRC, and accompanying Issues and Decision Memorandum at page 6 and Comment 11.

<sup>203</sup> See Additional Documents for Prelim Memorandum at Attachment IV (Memorandum to The File, from Toni Page, International Trade Analyst, "Land Benchmark Information," dated November 26, 2007; and the CBRE's "Asia Marketview," CB Richard Ellis, CBRE Research, Q1-Q4 2010).

<sup>204</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>205</sup> See Citric Acid Third Review, and accompanying Issues and Decision Memoranda at "Technology Innovation Advanced Unit Award."

<sup>206</sup> See Taihe's Initial Questionnaire Response at III-15 and Appendix 3.

<sup>207</sup> Id., at Appendix 3.

receipt (i.e., the POR). On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 0.01 percent ad valorem.

J. Laiwu City Award for Advanced Construction of Large Projects<sup>208</sup>

In 2013, the Laiwu Municipal Government honored and rewarded units and individuals for achievements in 2012.<sup>209</sup> Taihe was included in the list of honorees and received a monetary reward.<sup>210</sup>

We preliminarily determine that the amount received by Taihe constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, upon examination of the official document supplied by the GOC, we preliminarily determine that this program is limited to certain enterprises.<sup>211</sup> As a result, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act.

Pursuant to 19 CFR 351.524(c), we are treating this amount as a non-recurring benefit. In accordance with 19 CFR 351.524(b)(2), we divided the total grant amount received by Taihe in 2013 by its total POR sales and found that the amount was less than 0.5 percent. Therefore, we expensed the total amount of the grant to the year of receipt (i.e., the POR). On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 0.03 percent ad valorem.<sup>212</sup>

K. Laiwu High-Tech Zone Development Fund for Small & Medium Enterprises with Regional Characteristic Industries<sup>213</sup>

The GOC reported that this program was established in February 2013 with the purpose of supporting local small- and medium-sized enterprises with technological progress, energy conservation and emission reduction in the Laiwu New and Hi-Tech Industrial Development Zone, which administers this program.<sup>214</sup> Taihe reported that it received a grant under this program during the POR and stated that it did not have to apply for this grant.<sup>215</sup> The GOC provided a circular that is the basis for the criteria and approval for receiving a grant under this program.<sup>216</sup> Only two enterprises received benefits under this program.<sup>217</sup>

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<sup>208</sup> The GOC confirmed that this program is the same as the “Excellence Award for Large Project Construction” program. See GOC First Supplemental Response at page 2.

<sup>209</sup> See GOC’s First Supplemental Response at Exhibit II-1.

<sup>210</sup> Id.

<sup>211</sup> See GOC’s First Supplemental Response at Exhibit II-1.

<sup>212</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>213</sup> The GOC confirmed that this program is the same as the “Medium and Small Enterprises Development Funds of Industries with Local Feature in Laiwu New and Hi-Tech Industrial Development Zone” program. See GOC First Supplemental Response at page 2.

<sup>214</sup> See GOC’s Initial Questionnaire Response at III-53.

<sup>215</sup> See Taihe’s Initial Questionnaire Response at III-27 and Appendix 5.

<sup>216</sup> See GOC’s First Supplemental Questionnaire response at Exhibit II-3.

We preliminarily determine that the grant received by Taihe constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Because there are only two users of this program, consistent with section 771(5A)(D)(iii)(I) of the Act, we preliminarily determine that this program is de facto specific as the actual recipients of the subsidy are limited in number.<sup>218</sup>

Pursuant to 19 CFR 351.524(c), we are treating this amount as a non-recurring benefit. In accordance with 19 CFR 351.524(b)(2), we divided the total grant amount received by Taihe in 2013 by its total POR sales and found that the amount was less than 0.5 percent. Therefore, we expensed the total amount of the grant to the year of receipt (i.e., the POR). On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 0.01 percent ad valorem.<sup>219</sup>

#### L. Provision of Electricity for LTAR

The Department is examining whether the GOC provided Taihe with electricity for LTAR during the POR. We preliminarily determine that this program confers a countervailable subsidy. As discussed in “Use of Fact 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 that the GOC’s provision of electricity is 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.<sup>220</sup> 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.<sup>221</sup>

Taihe reported that it purchased electricity from provincial utility companies.<sup>222</sup> 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 Taihe for its electricity to the

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<sup>217</sup> See GOC’s Fourth Supplemental Questionnaire response at page 5.

<sup>218</sup> Id. See also GOC’s First Supplemental Response at Exhibit II-3.

<sup>219</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>220</sup> 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 Issues and Decision Memorandum at Comment 3, “Provision of Electricity.”

<sup>221</sup> See Taihe’s Initial Questionnaire Response at Exhibit 7 and Taihe’s Third Supplemental Response at Exhibit S4-23.

<sup>222</sup> See Taihe’s Initial Questionnaire Response at Exhibit 7.

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 (i.e., “resident user,” “large industrial user,” and “normal industrial and commercial user”), voltage class (e.g., 1-10kv, 35-110kv), and basic fee (e.g., transformer capacity).<sup>223</sup> 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 Taihe.

To calculate the net subsidy rates for Taihe for the POR, we summed the company’s benefits and divided the amount by its total POR sales. On this basis, we preliminarily determine that Taihe received a countervailable subsidy of 2.92 percent ad valorem.<sup>224</sup>

## II. Programs For Which Additional Information is Required

### A. Environmental Tax Offset

According to Taihe’s third supplemental response, Taihe received tax offsets for “Purchases of Environmentally Friendly Equipment” and “Purchases of Energy and Water Saving Equipment” in 2012.<sup>225</sup> We require additional information to allow us to analyze whether this program is countervailable.

### B. National Support Fund for 2011 Energy Saving Project, Circulation Economy and Resource Conservation Project and Pollution Abatement Project

According to Taihe’s third and fourth supplemental responses, Taihe received a grant under this program in 2011.<sup>226</sup> We require additional information to allow us to analyze whether this program is countervailable.

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<sup>223</sup> See Taihe Prelim Calc Memorandum for more information on Taihe’s electricity usage categories and the benchmark rates we have used in the benefit calculations.

<sup>224</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>225</sup> See Taihe’s Third Supplemental Questionnaire at page 11 and Appendix S4-3.

<sup>226</sup> Id., at page 10 and Appendix S4-2. See also Taihe’s Fourth Supplemental Questionnaire at Supplemental Appendix.

### III. Programs Preliminarily Determined Not To Provide Measurable Benefits During the POR

Those programs for which we preliminarily find that Taihe received a countervailable benefit are described above. We preliminarily determine that the benefit from the programs listed below each result in a net subsidy rate that is less than 0.005 percent ad valorem.<sup>227</sup> Consistent with the Department's practice, we have not included these programs in our net countervailing duty rate calculations for the preliminary results.<sup>228</sup>

- A. Exemption from Inspection and Quarantine Fees for Exports in Laiwu City
- B. Laiwu High-Tech Zone Award for the Contribution to Large Projects

### IV. Programs Preliminarily Determined Not to be Used

We preliminarily find that the Taihe did not use the following programs during the POR:

1. Export Seller's Credit for High- and New Technology Products
2. National Policy Lending
3. Reduced Income Tax Rates to Foreign Invested Enterprises (FIEs) Based on Location
4. Reduced Income Tax Rate for Technology or Knowledge Intensive FIEs
5. Two Free, Three Half Program
6. Local Income Tax Exemption and Reduction Program for "Productive" FIEs
7. VAT and Duty Exemptions on Imported Equipment
8. VAT Rebate on Purchases by FIEs of Domestically Produced Equipment
9. Famous Brands Program – Yixing City
10. Energy and Water Savings Grant – Anqui City
11. Fund for Optimizing Import and Export Structure of Mechanical Electronics and High and New Technology Products
12. Fund for Energy-saving Technological Innovation
13. Jiangsu Province Energy Conservation and Emissions Reduction Program
14. Rizhao City: Subsidies to Encourage Enterprise Expansion
15. Rizhao City: Subsidy for Antidumping Investigations
16. Rizhao City: Special Fund for Enterprise Development
17. Rizhao City: Technological Innovation Grants
18. Shandong Province: Special Fund for the Establishment of Key Enterprise Technology Centers
19. Shandong Province: Subsidy for Antidumping Investigations
20. Shandong Province: Award Fund for Industrialization of Key Energy-saving Technology
21. Shandong Province: Environmental Protection Industry R&D Funds
22. Shandong Province: Waste Water Treatment Subsidies

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<sup>227</sup> See Taihe Prelim Calc Memorandum for our calculations.

<sup>228</sup> See, e.g., CFS from the PRC, and accompanying Issues and Decision Memorandum at "Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE"; see also Steel Wheels from the PRC, and accompanying Issues and Decision Memorandum at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District."

23. Shandong Province: Construction Fund for Promotion of Key Industries
24. Shandong Province: Financial Special Fund for Supporting High and New Technology Industry Development Project (Technology Special Fund)
25. Yixing City: Leading Enterprise Program
26. Yixing City: Tai Lake Water Improvement Program
27. Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River
28. Enterprise Development Supporting Fund from Zibo City Financial Bureau
29. Science and Technology Export Innovation Support
30. Donggang Finance Bureau IPO Preparation Subsidy
31. Shandong Province Science and Technology Development Fund
32. First Industrial Enterprises Development Budget in District Level
33. First and Second Industrial Enterprises Development Budget in City Level
34. Award for Contribution to City and People
35. Award for Enterprise Technology Improvement Project<sup>229</sup>
36. Shandong Self-Innovation Subsidy
37. Return of Land Use Right Deed Tax<sup>230</sup>
38. Enterprise Technology Research and Development Subsidy
39. Financial Resource Construction Award
40. Special Fund for Foreign Trade Public Service Platform
41. Subsidy for Providing Employment Internship Base
42. Application Technology Research and Development Fund
43. Self-Innovation Special Fund
44. Economic Task Special Contribution Award
45. Self-Innovation Achievement Convert into Major Industry Structure Optimization Upgrade Project
46. Provision of Land in the Anqui Economic Development Zone for LTAR
47. Land-Use Rights Extension in Yinxing City
48. Discounted Loans for Export-Oriented Industries
49. Grants Provided for the Rationalization of the Citric Acid Industry
50. Loans Provided to the Northeast Revitalization Program
51. State Key Technology Renovation Project Fund
52. National Level Grants to Loss-making SOEs
53. Income Tax Exemption Program for Export-Oriented FIEs
54. Tax Benefits to FIEs for Certain Reinvestment of Profits
55. Preferential Income Tax Rate for Research and Development at FIEs
56. Preferential Tax Programs for Encouraged Industries
57. Preferential Tax Policies for Township Enterprises
58. Provincial Level Grants to Loss-making SOEs
59. Reduced Income Tax Rates for Encouraged Industries in Anhui Province
60. Provision of Land for LTAR in Anhui Province
61. Funds for Outward Expansion of Industries in Guangdong Province
62. Income Tax Exemption for FIEs Located in Jiangsu Province

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<sup>229</sup> Also known as “Subsidy for Technique Improvement” and “Rizhao City: Technology Research and Development Fund.”

<sup>230</sup> Also known as “Return of Land Use Right Deed Tax for IPO Companies.”

63. Administration Fee Exemption in the Yixing Economic Development Zone (YEDZ)
64. Tax Grants, Rebates, and Credits in the YEDZ
65. Provision of Construction Services in the YEDZ for LTAR
66. Grants to FIEs for Projects in the YEDZ
67. Provision of Electricity in the YEDZ for LTAR
68. Provision of Water in the YEDZ for LTAR
69. Provision of Land in the YEDZ for LTAR
70. Provision of Land to SOEs for LTAR
71. Exemption from Land-use Fees and Provision of Land for LTAR in Jiangsu Province
72. Torch Program – Grant
73. Provision of Land in the Zhuqiao Key Open Park for LTAR
74. Special Funds for Energy Saving and Recycling Program
75. Water Resource Reimbursement Program
76. Shandong Province: Energy Saving Award
77. International Market Development Fund Grants for Small and Medium Enterprises
78. Ecology Compensation Subsidy Funds
79. Award for Shandong Province Famous Trademark
80. Foreign Trade Development Special Fund
81. Subsidy for Monitoring Unemployment Information Collection
82. Enterprise Technology Improvement Award
83. Financial Grant for Enterprise Outstanding Financial Information Works
84. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Rizhao City
85. Provision of Plants for LTAR to Enterprises in the Science and Technology Incubator of Rizhao High-Tech Industrial Development Zone
86. Fund for Large Technology-Intensive Projects in the Donggang District
87. Strategic Emerging Industries Fund of Shandong Province
88. Tax Refunds for Export-Oriented Trading Companies in the Donggang District
89. Tax Refunds to Large-Scale Trading Companies in the Donggang District
90. Provision of Natural Gas for LTAR
91. Provision of Water for LTAR
92. Grants to State Key New Products
93. Subsidies to Shandong Province Enterprise Key Technology Renovation Projects
94. Shandong Province Brand Development Fund
95. Donggang District Awards for Famous Brands
96. Donggang District Awards for New Products and Technology Centers
97. Donggang District Interest Rate Subsidy to Technology Renovation Projects
98. China Export-Import Bank Buyer's Credits
99. Cleaning Production Inspection Expense Reimbursement
100. Subsidy for Shandong Province Science and Technology Award
101. Rizhao City: Patent Development Special Fund
102. Shandong Province: Patent Development Special Fund
103. Award for Work Safety Demonstrative Enterprises of Juxian County
104. Top Ten Industrial Enterprise
105. Economic Work Contribution Golden Award
106. Outstanding Integrity Industrial Enterprise

- 107. Provision of Land for LTAR to Enterprises Located in Development Parks/Zones in the Donggang District
- 108. Awards to Enterprise Technology Centers in the Donggang District
- 109. Award to Advanced Industry-Academia-Research Cooperation Innovation Entities of Shandong Province
- 110. Resource Conservation & Environmental Protection
- 111. Loan Interest Subsidies from the Laiwu City Government
- 112. Income Tax and VAT Rebates from the Laiwu City Government
- 113. Tax Refunds for Companies Located in the Laiwu High-Tech Industrial Development Zone
- 114. Exemptions and Reductions of Administrative Fees for Companies Located in Laiwu High-Tech Industrial Development Zone
- 115. Provision of Grants for Electricity Usage, or Electricity for LTAR by the Laiwu City Government
- 116. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province

**VII. CONCLUSION**

We recommend applying the above methodology for these preliminary results.

✓

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Ronald K Lorentzen*

\_\_\_\_\_  
Ronald K Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*June 1, 2015*  
\_\_\_\_\_  
Date