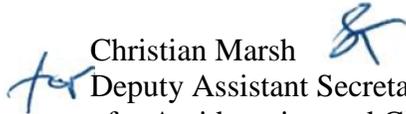




C-570-027  
Investigation  
**Public Document**  
E&C/Office VII: ST/EH/DL

November 2, 2015

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative  
Determination: Countervailing Duty Investigation of Certain  
Corrosion-Resistant Steel Products from the People's Republic of  
China

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## I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (corrosion-resistant steel, or subject merchandise) from the People's Republic of China (PRC), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

## II. BACKGROUND

### A. Initiation and Case History

On June 3, 2015, United States Steel Corporation, Nucor Corporation, ArcelorMittal USA, AK Steel Corporation, Steel Dynamics, Inc., and California Steel Industries, Inc. (collectively, Petitioners) filed the countervailing duty (CVD) petition on corrosion-resistant steel from the PRC.<sup>1</sup> Supplements to the CVD Petition and our consultations with the Government of the PRC (GOC) are described in the CVD Initiation Checklist.<sup>2</sup> On June 23, 2015, the Department initiated a CVD investigation on corrosion-resistant steel from the PRC.<sup>3</sup>

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<sup>1</sup> See "Petitions for the Imposition of Countervailing Duties on Certain Corrosion-Resistant Steel Products from the People's Republic of China, Republic of Korea, India, Italy, and Taiwan," June 3, 2015 (CVD Petition).

<sup>2</sup> See "Countervailing Duty Initiation Checklist: Certain Corrosion-Resistant Steel Products from the People's Republic of China," June 23, 2015 (CVD Initiation Checklist).

<sup>3</sup> See *Certain Corrosion-Resistant Steel Products From the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*, 80 FR 37223 (June 30, 2015) (*Initiation Notice*).



We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>4</sup> On June 25, 2015, the Department released the CBP entry data under administrative protective order.<sup>5</sup> Section 777A(e)(1) of the Act directs the Department to calculate individual countervailable subsidy rates for each known producer/exporter of the subject merchandise. However, when faced with a large number of producers/exporters, and, if the Department determines it is therefore not practicable to examine all companies, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise that can reasonably be examined.

On July 21, 2015, the Department selected Angang Group Hong Kong Company Ltd. (Angang) and Duferco S.A. (Duferco) and issued the Initial Questionnaire to the GOC.<sup>6</sup> The Department instructed the GOC to forward the questionnaire to the selected mandatory respondents. Subsequently, on July 29, 2015, we issued the Critical Circumstances Questionnaire to both Angang and Duferco.<sup>7</sup>

On July 31, 2015, we received a request for voluntary respondent treatment from Yieh Phui (China) Technomaterial Co., Ltd. (YPC).<sup>8</sup> On August 4, 2015, Duferco and YPC each timely responded to our questions in the Initial Questionnaire related to their affiliated companies.<sup>9</sup> YPC identified one company with which it was affiliated that exported subject merchandise produced by YPC, Yieh Corporation Limited (YCL). We issued a new subsidy allegation (NSA) questionnaire on August 13, 2015, following timely filed NSAs by Petitioners.<sup>10</sup> YPC timely

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<sup>4</sup> *Id.*, 80 FR at 37223, 37226–37227.

<sup>5</sup> See Memorandum, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Customs Entry Data for Respondent Selection,” June 25, 2015.

<sup>6</sup> See Letter to the GOC, “Certain Corrosion-Steel Products from the People’s Republic of China: Countervailing Duty Questionnaire,” July 21, 2015 (Initial Questionnaire);

<sup>7</sup> See Letter to the GOC, “Certain Corrosion-Steel Products from the People’s Republic of China: Countervailing Duty Questionnaire,” July 21, 2015 (Initial Questionnaire); see also Letters to Angang and to Duferco, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Request for Quantity and Value Shipment Data,” July 29, 2015 (Critical Circumstances Questionnaire).

<sup>8</sup> See Letter from YPC, “Corrosion-Resistant Steel Products from China: Request for Voluntary Respondent Treatment,” July 31, 2015.

<sup>9</sup> See Letter from Duferco, “Certain Corrosion-Resistant Steel Products from the People’s Republic of China; Duferco S.A.’s Questionnaire Response to Section III Identifying Affiliated Companies,” August 4, 2015; see also Letter from YPC, “Corrosion-Resistant Steel Products from China; Affiliation Response,” August 4, 2015 (YPC Affiliation QR).

<sup>10</sup> See Memorandum, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Analysis of July 20, 2015, New Subsidy Allegations,” August 11, 2015; see also Letter to the GOC, “New Subsidy Allegations Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” August 13, 2015 (NSA Questionnaire).

responded to the Critical Circumstances Questionnaire on August 12, 2015,<sup>11</sup> and YPC and YCL timely responded to the Initial Questionnaire and NSA Questionnaire on August 27, 2015.<sup>12</sup>

Angang did not respond to the Department's questionnaires, while Duferco notified the Department that it would not be responding to the remainder of the Initial Questionnaire. Consequently, because both Angang and Duferco had decided not to participate in this proceeding, we selected Handan Iron & Steel Group (Handan) as an additional mandatory respondent on September 2, 2015.<sup>13</sup> On September 2, 2015, we issued Handan the Critical Circumstances Questionnaire and the NSA Questionnaire and also instructed the GOC to forward the Initial Questionnaire to Handan.<sup>14</sup> One week later, Handan notified the Department that it would not participate in this proceeding.<sup>15</sup> Therefore, the Department selected Baoshan Iron & Steel (Baoshan), Changshu Everbright Material Technology (Everbright), and YPC as additional mandatory respondents on September 11, 2015.<sup>16</sup> On September 11, 2015, we issued Baoshan and Everbright the Critical Circumstances Questionnaire and the NSA Questionnaire and also instructed the GOC to forward the Initial Questionnaire to them.<sup>17</sup> On September 14, 2015, Baoshan notified the Department that it would not be responding to the Initial Questionnaire.<sup>18</sup> Everbright neither responded to the initial questionnaires nor requested to extend the deadline to respond to any of the questionnaires.

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<sup>11</sup> See Letter from YPC, "Corrosion-Resistant Steel Products from China; Shipment Data Response," August 12, 2015.

<sup>12</sup> See Letter from YPC, "Corrosion-Resistant Steel Products from China; Countervailing Duty Questionnaire Response," August 27, 2015 (YPC Primary QR); see also Letter from YCL, "Corrosion-Resistant Steel Products from China; Countervailing Duty Questionnaire Response," August 27, 2015 (YCL Primary QR).

<sup>13</sup> See Memorandum, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Second Analysis Regarding Respondent Selection," September 2, 2015.

<sup>14</sup> See Letters to Handan, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Request for Quantity and Value Shipment Data" and "New Subsidy Allegations Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," September 2, 2015; see also Letter to the GOC, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Countervailing Duty Questionnaire," September 2, 2015.

<sup>15</sup> See Letter from Handan, "Certain Corrosion-Resistant Steel Products from the People's Republic of China; Letter Regarding Respondent Selection," September 9, 2015; see also Memorandum, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Third Analysis Regarding Respondent Selection," September 11, 2015 (Third Respondent Memorandum).

<sup>16</sup> See Third Respondent Memorandum.

<sup>17</sup> See Letters to Baoshan and Everbright, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Request for Quantity and Value Shipment Data" and "New Subsidy Allegations Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," September 11, 2015; see also Letter to the GOC, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Countervailing Duty Questionnaire," September 11, 2015. We note that YPC had already responded to all of these questionnaires so we did not issue these letters with respect to YPC on September 11, 2015.

<sup>18</sup> See Letter from Baoshan, "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Letter Declining to Participate as a Mandatory Respondent in the Countervailing Duty Investigation," September 14, 2015.

In the Respondent Selection Memorandum, we noted that Jiangyin Zongcheng Steel Co., Ltd. (Zongcheng) requested to be treated as a voluntary respondent.<sup>19</sup> However, Zongcheng did not file a response to the Department's Initial Questionnaire, as required by section 782(a) of the Act and 19 CFR 351.204(d). Consequently, we are not conducting an individual examination of Zongcheng.

Based on the Department's request, the GOC submitted part of its initial questionnaire response on October 7, 2015, submitting the remaining initial questionnaire responses, along with its responses to the NSA Questionnaire on October 21, 2015.<sup>20</sup> Supplemental questionnaires were issued to the GOC on October 9, 2015 and to YPC on September 14, 2015, and October 9, 2015.<sup>21</sup> The GOC and YPC's responses to these supplemental questionnaires were timely filed.<sup>22</sup>

Petitioners filed comments in advance of this preliminary determination on October 23, 2015.<sup>23</sup> We have considered these comments in making this determination.

## **B. Postponement of Preliminary Determination**

On August 13, 2015, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from Petitioners. The Department postponed the preliminary determination until November 2, 2015, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).<sup>24</sup>

## **C. Period of Investigation**

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

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<sup>19</sup> See Respondent Selection Memorandum, at 2.

<sup>20</sup> See Letter from the GOC, "Certain Corrosion-Resistant Steel Products from China; CVD Investigation GOC Initial Response to The Requested Information Due by October 7, 2015," October 7, 2015 (GOC October 7 QR); *see also* Letter from the GOC, "Certain Corrosion-Resistant Steel Products from China; CVD Investigation GOC Initial Response to The Remaining Requested Information," October 21, 2015 (GOC October 21 QR).

<sup>21</sup> See Letter to the GOC, "Supplemental Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," October 9, 2015; *see also* Letter to YPC, "Supplemental Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," September 14, 2015; *see also* Letter to YPC, "Supplemental Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," October 9, 2015.

<sup>22</sup> See Letter from GOC, "Certain Corrosion-Resistant Steel Products from China; CVD Investigation GOC Supplemental Questionnaire Response," October 21, 2015 (GOC First SQR); *see also* Letter from YPC, "Corrosion-Resistant Steel Products from China; Supplemental Questionnaire Response," October 5, 2015 (YPC First SQR); *see also* Letter from YPC, "Corrosion-Resistant Steel Products from China; Supplemental Questionnaire Response," October 19, 2015.

<sup>23</sup> See Letter from Petitioners, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," October 23, 2015.

<sup>24</sup> See *Countervailing Duty Investigations of Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations*, 80 FR 48499 (August 13, 2015).

### III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.<sup>25</sup>

We received several comments concerning the scope of the antidumping (AD) and CVD investigations of corrosion-resistant steel from, *inter alia*, the PRC. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are due for signature on December 21, 2015. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

### IV. SCOPE OF THE INVESTIGATION

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

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

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

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2

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<sup>25</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*, 80 FR at 37224.

percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

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

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

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

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

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

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and

- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

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

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

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

## **V. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES**

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.<sup>26</sup> On October 29, 2015, the Department issued its preliminary critical circumstances determinations for all five countries.<sup>27</sup> Pursuant to this determination, the Department determined that critical circumstances exist for imports of subject merchandise from Angang, Baoshan, Duferco, Everbright, and Handan.

## **VI. INJURY TEST**

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On July 27, 2015, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of corrosion-resistant steel from the PRC.<sup>28</sup>

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<sup>26</sup> See Letter from Petitioners, “Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations,” July 24, 2015.

<sup>27</sup> See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determination of Critical Circumstances*,” 80 FR \_\_\_\_\_ (November \_\_, 2015) (signed October 29, 2015).

<sup>28</sup> See *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan: Investigation Nos. 701-TA-534-538 and 731-TA-1274-1278 (Preliminary)*, July 27, 2015; see also *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

## VII. APPLICATION OF THE CVD LAW TO IMPORTS FROM THE PRC

On October 25, 2007, the Department published its final determination in *CFS from the PRC*, where we found that:

“given the substantial differences between the Soviet-style economies and China’s economy in recent years, the Department’s previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.”<sup>29</sup>

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.<sup>30</sup> Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated as non-market economies (NMEs) under section 771(18) of the Act, such as the PRC.<sup>31</sup> The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.<sup>32</sup>

Additionally, for the reasons stated in *CWP from the PRC*, we are using the date of December 11, 2001, the date on which the PRC became a member of the World Trade Organization (WTO), as the date from which the Department will identify and measure subsidies in the PRC for purposes of this CVD investigation.<sup>33</sup>

## VIII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, 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.<sup>34</sup>

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<sup>29</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 (CFS IDM) at Comment 6.

<sup>30</sup> See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying Issues and Decision Memorandum (CWP IDM) at Comment 1.

<sup>31</sup> Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

<sup>32</sup> See Public Law 112-99, 126 Stat. 265 §1(b).

<sup>33</sup> See, e.g., CWP IDM at Comment 2.

<sup>34</sup> On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act,

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among 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. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "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>35</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 cooperating fully."<sup>36</sup>

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."<sup>37</sup> It is the Department's practice to consider information to be corroborated if it has probative value.<sup>38</sup> In analyzing whether information has probative value, it is the Department's practice to examine the reliability and relevance of the information to be used.<sup>39</sup> However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.<sup>40</sup>

Finally, under the new section 776(d) of the Act, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.<sup>41</sup>

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which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this investigation.

<sup>35</sup> *See, e.g., Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); *see also 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>36</sup> *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

<sup>37</sup> *See, e.g., SAA* at 870.

<sup>38</sup> *See SAA* at 870.

<sup>39</sup> *See, e.g., SAA* at 869.

<sup>40</sup> *See SAA* at 869-870.

<sup>41</sup> *See* section 776(d)(3) of the Act.

For purposes of this preliminary determination, we are applying AFA with respect to the GOC, Angang, Baoshan, Duferco, Handan and Everbright in the following circumstances, as outlined below.

**A. Application of AFA: Angang, Baoshan, Duferco, Everbright, Handan, Hebei Iron & Steel Group, Tangshan Iron and Steel Group Co., Ltd, and the GOC**

As discussed in the “Initiation and Case History” section, Angang, Baoshan, Duferco, Everbright and Handan were selected as mandatory respondents in this investigation, but have either withdrawn or are not participating in this investigation. Therefore, we preliminarily find that each of these companies withheld information that had been requested and failed to provide information within the deadlines established. By not responding to the questionnaire, each of these companies significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we based the CVD rates for these companies on facts otherwise available.

Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Initial Questionnaire, each of these companies did not cooperate to the best of their ability to comply with the request for information in this investigation. Accordingly, we preliminarily find that use of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information. Further, as discussed under Attribution of Subsidies, we are finding that Duferco and Handan are cross-owned with two other producers/exporters of corrosion-resistant steel, Hebei Iron and Steel Group (HBIS) and Tangshan Iron and Steel Group Co., Ltd (TIS); accordingly, we are applying the same AFA rate to HBIS and TIS.<sup>42</sup>

The GOC provided sufficient information concerning the countervailability of eight programs used by YPC, and, as explained below, the Department is preliminarily finding all of these programs to be countervailable in this investigation, and have included these programs in the determination of the AFA rate.<sup>43</sup> For those alleged programs under investigation but not used by YPC, we note that the GOC provided no information, so we have adversely inferred from the AFA Companies’ decision not to participate in this investigation that they did, in fact, use these programs. As such, we selected an AFA rate for each of these programs and included them in the determination of the AFA rate applied to each of the AFA Companies. We note that the Department has previously countervailed these identical or similar programs.<sup>44</sup> Additionally, we find that current record information provides additional bases to infer, as AFA, that these programs constitute financial contributions and meet the specificity requirements of the Act.<sup>45</sup>

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<sup>42</sup> We are collectively referring to Angang, Baoshan, Duferco, Everbright, Handan, HBIS and TIS as the AFA Companies.

<sup>43</sup> See Appendix.

<sup>44</sup> See *infra* notes 51-86.

<sup>45</sup> See CVD Initiation Checklist.

When selecting AFA rates, section 776(d) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.<sup>46</sup> When selecting rates, if we have a cooperating respondent, as we do in this investigation, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If there is no identical program above zero calculated for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).<sup>47</sup> If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company and non-industry specific program in a CVD case involving the same country.<sup>48</sup>

In determining the AFA rate we will apply to each of the AFA Companies, we are guided by the Department's methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondents in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for YPC for the following programs:

- Policy Loans to the Corrosion-Resistant Steel Industry<sup>49</sup>
- Provision of Land-Use Rights for Less than Adequate Remuneration (LTAR) in Jiangsu Province
- Provision of Hot-Rolled Steel (HRS) for LTAR
- Provision of Cold-Rolled Steel (CRS) for LTAR
- Provision of Zinc for LTAR
- Provision of Primary Aluminum for LTAR

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<sup>46</sup> See, e.g., *Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from the PRC*), and accompanying Issues and Decision Memorandum (Shrimp IDM) at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

<sup>47</sup> For purposes of selecting AFA program rates, we normally treat rates less than 0.5% to be *de minimis*. 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), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

<sup>48</sup> See Shrimp IDM at 13-14.

<sup>49</sup> Consistent with recent investigations, we are using a single AFA rate for "Government Policy Lending" and "Preferential Loans to SOEs," because an analysis of the specifics of these two allegations in this investigation reveals they would apply to the same loans provided by state-owned commercial banks (SOCBs). See, e.g., *Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 59221 (October 1, 2014), and accompanying Issues and Decision Memorandum (GOES IDM) at "Use of Facts Otherwise Available and Adverse Inferences."

- Provision of Electricity for LTAR
- Import Tariff and Value-Added Tax (VAT) Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

To calculate the program rate for the following additional income tax reduction programs on which the Department initiated an investigation, we applied an adverse inference that each of the AFA Companies paid no income tax during the POI.

- Preferential Income Tax Program for High-and New-Technology Enterprises (HNTEs)
- Preferential Income Tax Program for HNTEs in Designated Zones
- Preferential Deduction of Research and Development (R&D) Expenses for HNTEs
- Preferential Income Tax Subsidies for FIEs – ‘Productive’ FIEs
- Preferential Income Tax Subsidies for FIEs – High or New Technology FIEs
- Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs

The standard income tax rate for corporations in the PRC in effect during the POI was 25 percent.<sup>50</sup> Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, the six programs, combined, provide a 25 percent benefit). Consistent with past practice, the 25 percent AFA rate does not apply to tax credit, tax rebate, or import tariff and VAT exemption programs because such programs may not affect the tax rate.<sup>51</sup>

For all other programs not mentioned above, we are applying, where available, the highest above-*de minimis* subsidy rate calculated for the same or similar/comparable programs in a PRC CVD investigation or administrative review. For this preliminary determination, we are able to match, based on program names, descriptions, and benefit treatments, the following programs to the same programs from other PRC CVD proceedings:

- Provision of Steam Coal for LTAR<sup>52</sup>
- Provision of Coking Coal for LTAR<sup>53</sup>
- Export Seller’s Credits from State-Owned Banks<sup>54</sup>

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<sup>50</sup> See CVD Initiation Checklist, at 16.

<sup>51</sup> See, e.g., *Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Extrusions from the PRC*), and accompanying Issues and Decision Memorandum (Extrusions IDM) at “Application of Adverse Inferences: Non-Cooperative Companies.”

<sup>52</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 from the PRC*), and accompanying Issues and Decision Memorandum (Citric Acid IDM) at 15.

<sup>53</sup> See *Certain Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 57444 (September 21, 2010), and accompanying Issues and Decision Memorandum at 32.

<sup>54</sup> See *Certain Coated Paper Suitable for High Quality Print Graphics Using Sheet Fed Presses from the People’s Republic of China: Amended Final Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201, 70202 (November 17, 2010), and accompanying Issues and Decision Memorandum (Coated Paper IDM) at 26; see also *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the*

We are able to match, based on program type and benefit treatment, the following programs to similar/comparable programs from other PRC CVD proceedings:

- Export Loans<sup>55</sup>
- Treasury Bond Loans<sup>56</sup>
- Preferential Loans for Key Projects and Technologies<sup>57</sup>
- Preferential Lending to Corrosion-Resistant Steel Producers and Exporters Classified as “Honorable Enterprises”<sup>58</sup>
- Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program<sup>59</sup>
- Debt-to-Equity Swaps<sup>60</sup>
- Equity Infusions<sup>61</sup>
- Exemptions for State-Owned Enterprises (SOEs) from Distributing Dividends to the State<sup>62</sup>
- Loans and Interest Forgiveness for SOEs<sup>63</sup>
- Provision of Land to SOEs for LTAR<sup>64</sup>
- Provision of Iron Ore for LTAR<sup>65</sup>
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment<sup>66</sup>
- Preferential Income Tax Policy for Enterprises in the Northeast Region<sup>67</sup>

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*People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) (*Passenger Tires from the PRC*), and accompanying Issues and Decision Memorandum (*Passenger Tires IDM*) at 22.

<sup>55</sup> See *Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*, 79 FR 108 (January 2, 2014), and accompanying Issues and Decision Memorandum (*Citric Acid AR IDM*) at 18.

<sup>56</sup> See *Coated Paper IDM* at 6; see also *Non-Oriented Electrical Steel from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 61607 (October 1, 2014), and accompanying Issues and Decision Memorandum at 6.

<sup>57</sup> See *Coated Paper IDM* at 5; see also *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 (*Bricks IDM*) at “Directed and preferential loans to Magnesium Brick Industry.”

<sup>58</sup> See *Coated Paper IDM* at 5; see also *Bricks IDM* at “Directed and preferential loans to Magnesium Brick Industry.”

<sup>59</sup> See *Coated Paper IDM* at 5; see also *Bricks IDM* at “Directed and preferential loans to Magnesium Brick Industry.”

<sup>60</sup> See *Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying Issues and Decision Memorandum (*Thermal Paper IDM*) at Comment 10.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> See 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) (*Sacks from the PRC*) at “2. Government Provision of Land for Less Than Adequate Renumeration.”

<sup>65</sup> See *Citric Acid AR IDM* at 2.

<sup>66</sup> See *Certain Steel Grating from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32363 (June 8, 2010), and accompanying Issues and Decision Memorandum at 14; see also *Passenger Tires IDM* at 23.

- Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China<sup>68</sup>
- Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax<sup>69</sup>
- Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D<sup>70</sup>
- Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform<sup>71</sup>
- VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund<sup>72</sup>
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring<sup>73</sup>
- State Key Technology Renovation Project Fund<sup>74</sup>
- Programs to Rebate AD Legal Fees<sup>75</sup>
- Foreign Trade Development Grants<sup>76</sup>
- Export Assistance Grants<sup>77</sup>
- Subsidies for Development of Famous Export Brands and China World Top Brands<sup>78</sup>
- Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands<sup>79</sup>
- Grants to Loss Making SOEs<sup>80</sup>
- Export Interest Subsidies<sup>81</sup>
- Grants for Energy Conservation and Emission Reduction<sup>82</sup>
- Grants for Retirement of Capacity<sup>83</sup>
- Grants for Relocating Production Facilities<sup>84</sup>

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<sup>67</sup> See *New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010) (*OTR Tires Preliminary AR*) at “C. VAT and Import Duty Exemptions on Imported Material,” (unchanged in *New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011) (*OTR Tires Final AR*)). Consistent with past practice, we are assigning this program an individual rate for this preliminary determination. See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 68858 (November 19, 2014), and accompanying Issues and Decision Memorandum (Wire Rod IDM) at 4 (fn 14).

<sup>68</sup> See Bricks IDM at “1. VAT Rebates on Purchases of Domestically Produced Equipment;” see also Bricks AR IDM at A-2.

<sup>69</sup> See *OTR Tires Preliminary AR* at “C. VAT and Import Duty Exemptions on Imported Material,” (unchanged in *OTR Tires Final AR*).

<sup>70</sup> *Id.*; see also Wire Rod IDM at 6.

<sup>71</sup> *Id.*; see also Wire Rod IDM at 6.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> See *Chlorinated Isocyanurates from the People's Republic of China Final Affirmative Countervailing Duty Determination*, 79 FR 56560, (September 22, 2014), and accompanying Issues and Decision Memorandum (Isos IDM) at “Analysis of Programs; Special Fund for Energy Saving Technology.”

<sup>75</sup> See Bricks AR IDM at A-4.

<sup>76</sup> See Isos IDM at “Analysis of Programs; Special Fund for Energy Saving Technology.”

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> See Passenger Tires IDM at 23.

<sup>83</sup> See Isos IDM at “Analysis of Programs; Special Fund for Energy Saving Technology.”

- Export Buyer’s Credits<sup>85</sup>
- Export Credit Insurance Subsidies<sup>86</sup>
- Export Credit Guarantees<sup>87</sup>

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for each of the AFA Companies to be 235.66 percent *ad valorem*.<sup>88</sup>

## B. Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>89</sup> The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.<sup>90</sup>

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.<sup>91</sup> Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>92</sup>

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.<sup>93</sup>

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<sup>84</sup> *Id.*

<sup>85</sup> See Coated Paper IDM at 12; *see also* Passenger Tires IDM at 23.

<sup>86</sup> See Isos IDM at “Analysis of Programs; Special Fund for Energy Saving Technology.”

<sup>87</sup> See Coated Paper IDM at 12; *see also* Passenger Tires IDM at 23.

<sup>88</sup> See Appendix.

<sup>89</sup> See SAA at 870.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 869-870.

<sup>92</sup> See section 776(d) of the Act.

<sup>93</sup> See, e.g., *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

In the absence of record evidence concerning Angang, Baoshan, Duferco, Everbright, and Handan’s usage of the subsidy programs at issue due to their decision not to participate in the investigation, the Department has reviewed the information concerning PRC subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. The relevance of these rates is that they are actual calculated CVD rates for PRC programs, from which Angang, Baoshan, Duferco, Everbright, and Handan could actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

### **C. Application of AFA: Input Producers are “Authorities”**

As discussed under the section “Programs Preliminarily Determined to be Countervailable,” the Department is investigating the provision of HRS, CRS, zinc, and primary aluminum for LTAR by the GOC. We requested from the GOC information necessary for our analysis regarding the specific companies that produced these input products that YPC purchased during the POI.<sup>94</sup> Specifically, we sought information from the GOC that would allow us to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>95</sup>

Regarding those companies classified by the GOC as privately held, in its initial questionnaire response of October 21, 2015, the GOC provided incomplete ownership information for many of the companies that produced the HRS, CRS, zinc, and primary aluminum purchased by YPC.<sup>96</sup> For the vast majority of these producers, it provided limited amounts of the requested information in the standard “input producer” appendix used to determine the individual owners of producers and to determine the extent of GOC control, if any, over the producers.<sup>97</sup> For example, it did not provide capital verification reports, articles of association, by-laws, and annual reports for the input producers.<sup>98</sup>

Further, the GOC provided no information at all regarding the identification of owners, directors, or senior managers who may also be GOC or Chinese Communist Party (CCP) officials.<sup>99</sup> Nor did the GOC explain the efforts it undertook to try and obtain the requested information. Furthermore, the GOC stated that “there is no central informational database to search for the requested information identifying any individual owners, members of the board of directors, or senior managers as a Government of CCP official and the industry and commerce administration do not require the companies to provide such information. Therefore, the GOC cannot obtain the information requested by the Department.”<sup>100</sup>

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<sup>94</sup> See Initial Questionnaire at section II.

<sup>95</sup> *Id.*

<sup>96</sup> See GOC October 21 QR at 9-72.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> See, e.g., GOC October 21 QR at 17-27.

<sup>100</sup> See GOC October 21 QR at 29.

In addition to not providing all of the requested information regarding government and CCP officials, the GOC also declined to answer questions about the CCP's structure and functions that are relevant to our determination of whether the producers of HRS, CRS, zinc, and primary aluminum are "authorities" within the meaning of section 771(5)(B) of the Act. In its initial questionnaire response, the GOC objected to our questions, stating that the CCP, along with other related organizations, is not a government organization and cannot be compelled to provide the GOC with information.<sup>101</sup>

The information we requested regarding the role of CCP officials in the management and operations of these producers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act.<sup>102</sup> The GOC did not indicate that it had attempted to contact the CCP, or that it consulted any other sources. The GOC's responses in prior CVD proceedings involving the PRC demonstrate that it is, in fact, able to access information similar to what we requested.<sup>103</sup> Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any information, it should have promptly explained to the Department what attempts it undertook to obtain this information and proposed alternative forms of providing the information.<sup>104</sup>

We preliminarily find that the GOC has withheld the necessary information that was requested of it and failed to provide information in the form and manner requested; thus, that the Department must rely on "facts otherwise available" in issuing our preliminary determination, pursuant to sections 776(a)(2)(A) and (B) of the Act. Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. As AFA, we are finding that certain producers of HRS, CRS, zinc, and primary aluminum, for which the GOC failed to identify whether the members of the board of directors, owners or senior managers were CCP officials, are "authorities" within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rate for YPC, *see* "Provision of Inputs for LTAR."

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<sup>101</sup> *Id.* at 9-72.

<sup>102</sup> *See* Memorandum, "Additional Documents and Benchmark Information for Preliminary Determination," dated concurrently with this memorandum (Additional Documents Memorandum) at Attachments I (CCP Memorandum) and II (Public Body Memorandum).

<sup>103</sup> *See, e.g., High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying Issues and Decision Memorandum at 13.

<sup>104</sup> Section 782(c)(1) of the Act states, "If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority of the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party." Furthermore, the Department's questionnaire explicitly informs respondents that if they are unable to respond completely to every question in the attached questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, the respondents must notify the official in charge and submit a request for an extension of the deadline for all or part of the questionnaire response.

#### **D. Application of AFA: Inputs are Specific**

In response to our questions concerning specificity, the GOC contends that the provision of HRS, CRS, zinc, or primary aluminum is not specific, stating that “the {corrosion-resistant steel} industry is not a disproportionate or predominant consumer” of these inputs, and that all of the inputs have a wide variety of applications across so many industries that they cannot all be named.<sup>105</sup> These contentions notwithstanding, for each of the LTAR programs discussed herein, the Department had also requested that the GOC “{p}rovide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.”<sup>106</sup> In the case of HRS and CRS, the GOC did not provide this requested information, instead stating that “{t}he GOC does not collect official data regarding industries in China that purchase {the input} directly, nor does such data exist by standard industrial classification. In addition, to the best of the GOC’s knowledge, no {input} producer compiles its sales volume and value ‘by industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.’”<sup>107</sup> With respect to zinc and primary aluminum, the GOC did not provide the information nor did it provide any explanation about why it did not provide the information.<sup>108</sup> As in previous cases, we find the GOC’s assertions to be insufficient inasmuch as it has not provided relevant data regarding the industries that actually purchased the inputs or the volume and value of each industry’s respective purchases for the POI and the prior two years.<sup>109</sup>

Consequently, in light of the GOC’s failure to provide necessary information or, in the case of zinc and primary aluminum, to explain why it did not provide this information, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.<sup>110</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. The GOC did not adequately answer the questions posed by the Department, nor did the GOC ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available.<sup>111</sup> In drawing an adverse inference, we find that the purchasers of HRS, CRS, zinc, and primary aluminum provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act.

#### **E. Application of AFA: Input Industry Distortions**

In order to determine the appropriate benchmark with which to measure the benefit of inputs provided at LTAR under 19 CFR 351.511, the Department asked the GOC several questions

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<sup>105</sup> See GOC October 7 QR at 21, 25, 33, 37, 45, 56, and 60.

<sup>106</sup> See Initial Questionnaire at section II (page II-10).

<sup>107</sup> See GOC October 7 QR at 25, 37.

<sup>108</sup> *Id.* at 49, 60.

<sup>109</sup> See, e.g., *Utility Scale Wind Towers From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422 (June 6, 2012) (unchanged in *Wind Towers from the PRC*).

<sup>110</sup> See section 776(a)(2)(A) of the Act.

<sup>111</sup> See section 776(b) of the Act.

concerning the structure of the industries for HRS, CRS, zinc, and primary aluminum (inputs used by the cooperative mandatory respondent, YPC). Among these questions, we asked for information regarding the input industry in the PRC in the POI and the prior two years. We requested information on the number of producers, the total volume and value of Chinese domestic consumption and production, the total volume and value of imports of the input, among other information. In response, the GOC stated that it “has not obtained all information within the limited amount of time provided by the Department. The GOC will provide relevant information once they are available.”<sup>112</sup>

As an initial matter, the Department notes that it requested that the GOC provide responses to this information no later than October 7, 2015.<sup>113</sup> The Department explained to the GOC in the cover letter of the Initial Questionnaire that:

“If you are unable to respond completely to every question in the attached questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, you must . . . submit a request for an extension of the deadline for all or part of the questionnaire response. . . . {A}n extension for only part of your response . . . should be submitted separately from the portion of your response filed under the current deadline. Statements included within a questionnaire response regarding a respondent’s ongoing efforts to collect part of the requested information, and promises to supply such missing information when available in the future, do not substitute for a written extension request . . . .

“If the Department does not receive either the requested information or a written extension request before . . . the established deadline, we may conclude that the government . . . {has} decided not to cooperate in this proceeding. . . . {F}ailure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

In this particular case, while the GOC requested two extensions to the Initial Questionnaire it received from the Department, it did not request additional time on October 7, 2015, to submit its responses to parts of the questionnaire that remained outstanding. Instead, the GOC simply stated that it would provide this requested information when it was available, effectively granting itself an indefinite extension to file the information in the future without specifying when or to what extent it would be able to provide the information. Finally, we note that, the final portion of the GOC’s initial questionnaire responses were due on October 21, 2015 and it did not provide any of this requested information in that submission or any time afterwards either. Having filed two extension requests earlier, the GOC was well aware of the need to file extension requests with the Department if it was unable to provide certain portions of the requested information within the allotted time. As explained in the cover letter, the GOC’s failure to provide timely

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<sup>112</sup> See, e.g., GOC October 7 QR at 21.

<sup>113</sup> See Letter to the GOC, “Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Countervailing Duty Questionnaire Second Extension Request,” October 1, 2015.

and complete responses and, if not, to file an extension request, may result in the application of facts available with adverse inferences.

Insofar as the GOC is claiming that certain data are unavailable, we note that the GOC has in the past provided data concerning the production of inputs by companies in which it maintains an ownership or management interest in other proceedings.<sup>114</sup> For example, in *CWP from the PRC*, the GOC “reported that {the China Iron and Steel Association} accounted for approximately 71 percent of {HRS} production in China in 2006.”<sup>115</sup> Additionally, in other cases the GOC has provided production and consumption data obtained from other sources such as the Chinese national statistics agency, SSB.<sup>116</sup> The GOC has also previously provided a list of industry codes and titles available in the SSB statistics system, showing industry classifications such as “Mining and Processing of Ferrous Metals,” “Smelting and Pressing of Ferrous Metals,” “Manufacture of Metal Products” (e.g., HRS, CRS) and others such as “Mining and Processing of Non-ferrous Metals” and “Smelting and Pressing of Non-ferrous Metals” (e.g., zinc and primary aluminum).<sup>117</sup>

Thus, the GOC has demonstrated that it has the ability, through the SSB or other sources (e.g., industry associations), to report data concerning the production of a wide variety of inputs by companies in which it maintains an ownership or management interest. Therefore, we preliminarily determine that the GOC, having failed to provide such data, has withheld information that was requested of it, and that the use of facts available is warranted pursuant to section 776(a)(2)(A) of the Act.

Further, in light of the GOC’s failure to file an extension request to submit this information and, instead, granting itself an indefinite self-extension, we preliminarily find that the GOC has not cooperated to the best of its ability in responding to these input industry questions. As a result, we are making an adverse inference within the meaning of section 776(b) of the Act. As AFA, the Department preliminarily determines that the domestic markets for these inputs are distorted through the intervention of the GOC, and is therefore relying on an external benchmark for determining the benefit from the provision of these inputs at LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

## **F. Application of AFA: Provision of Electricity for LTAR**

The GOC did not provide complete responses to the Department’s questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the

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<sup>114</sup> See, e.g., CWP IDM at 9-12.

<sup>115</sup> See CWP IDM at 10.

<sup>116</sup> See, e.g., *Certain Crystalline Silicon Photovoltaic Products From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014), and accompanying Preliminary Decision Memorandum at 14-15 (unchanged in *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014)).

<sup>117</sup> See Additional Documents Memorandum at Attachment III.

meaning of section 771(5)(E) of the Act, and whether such a provision was specific with the meaning of section 771(5A) of the Act. In order for the Department to analyze the financial contribution and specificity of this program, we request in our Initial Questionnaire that the GOC provide a detailed explanation of certain information for each province in which a respondent is located. In particular, we request they explain: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories. In its initial questionnaire response, the GOC did not adequately address these questions.<sup>118</sup>

Specifically, the GOC did not explain how cost elements in the price proposals led to retail price increases, but stated, without any supporting documents or providing the relevant laws and regulations referenced, that “the {National Development and Reform Commission (NDRC)} should, according to relevant laws and regulations, adequately solicit the opinions from local authorities in the provinces, power grid and generation companies. For this purpose, the NDRC holds a series of conferences to solicit the opinions from all parties concerned. In these conferences, the impact of rising coal prices on the business operations of the power enterprises, the security of the power supply under such circumstances, and the matters in promoting energy conservation were researched, analyzed, and discussed.”<sup>119</sup> The GOC did not provide any details on how much each of these factors weighed in its decision-making process, or the specifics on any of these conferences or research. Additionally, the GOC reported that

“{C}ost elements that are considered are not derived from any complicated calculation, but instead are obtained directly from the data provided by the power generating companies and grid companies. Importantly, the price for fuel and coal, which are the main inputs to power generation, is completely determined by the market (including international market forces). The interests of the power generation, transmission and distribution enterprises are adequately considered, and the capacity of users and residents is also taken into account. This makes the electricity rates fully reflective of the changes in the supply and demand of the market, and further the international commitments and government policies made by the GOC for energy conservation and emission reduction.”<sup>120</sup>

The GOC provided this general theoretical outline of the cost elements, but provided no practical examples of their application in the provincial rates during the POI. Further, the GOC did not explain how the cost elements in the price proposals led to retail price increases for electricity for the provinces where the mandatory respondents are located.<sup>121</sup>

Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of a financial contribution and specificity and, thus, that the Department

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<sup>118</sup> See GOC October 7 QR at 68-70.

<sup>119</sup> *Id.* at 68-72.

<sup>120</sup> *Id.* at 71.

<sup>121</sup> *Id.*

must rely on “facts available” in making our preliminary determination.<sup>122</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. The GOC did not adequately answer the questions, nor did the GOC ask for additional time to gather and provide such information. As such, an adverse inference is warranted in the application of facts available.<sup>123</sup> In drawing an adverse inference, we 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. Because the GOC refused to provide information concerning the relationship (if any) between provincial tariff schedules and cost, we also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.<sup>124</sup> The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* the “Provision of Electricity for LTAR” section.

### G. Application of AFA: YPC’s Reported Grants

YPC reported that it had received certain grants that were not addressed elsewhere in the Initial Questionnaire. As part of the Initial Questionnaire, we requested the GOC provide information regarding YPC’s use of any other subsidies not otherwise covered in the Initial Questionnaire:

“Does the GOC (or entities owned directly, in whole or in part, by the GOC or any provincial or local government) provide, directly or indirectly, any other forms of assistance to producers or exporters of {corrosion-resistant steel}? Please coordinate with the respondent companies to determine if they are reporting usage of any subsidy program(s). For each such program, please describe such assistance in detail, including the amounts, date of receipt, purpose and terms, and answer all questions in the **Standard Questions Appendix**, as well as other appropriate appendices attached to this questionnaire.”<sup>125</sup>

The GOC responded that it had cooperated with respect to the Department’s request, and that in the “absence of allegations and sufficient evidence in respect of ‘other’ subsidies, consistent with Article 11.2 and other relevant articles of the WTO Agreement on Subsidies and Countervailing Measures, no reply to this question is warranted or required.”<sup>126</sup> The GOC further stated in its response, filed more than two months after YPC reported receiving these grants, that it would be willing to answer “specific questions regarding those specifically identified programs in a supplemental questionnaire.”<sup>127</sup> Despite the Department’s clear request for information, the GOC provided no information, and again allowed itself the opportunity for more time to complete the Initial Questionnaire, without actually requesting such an extension from the Department.

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<sup>122</sup> *See* section 776(a)(2)(A) of the Act.

<sup>123</sup> *See* section 776(b) of the Act.

<sup>124</sup> *See* section 776(b)(4) of the Act.

<sup>125</sup> *See* Initial Questionnaire at II-13.

<sup>126</sup> *See* GOC October 7 QR at 76.

<sup>127</sup> *Id.*

Consequently, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.<sup>128</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. The GOC did not adequately answer the questions, nor did the GOC ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available.<sup>129</sup> In drawing an adverse inference, we preliminarily find that these grants to YPC constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act, and are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. Consistent with prior cases, we will use the grant amounts reported by YPC to determine if benefits exist for each grant.<sup>130</sup>

## H. Application of Facts Available: Land-Use Rights in Jiangsu Province

We requested that the GOC “provide any Jiangsu province iron and steel industry plans that were in place during the average useful life (AUL) (*i.e.*, from 2001 through 2014).”<sup>131</sup> In response, the GOC stated that to the best of its knowledge, there was no specific iron and steel industry plans for Jiangsu province in place from December 11, 2001 through the POI.<sup>132</sup> However, we note that certain information in the case record, derived from public sources, indicates that such a plan exists, and that the plan apparently encourages the development of certain sectors including the corrosion-resistant steel industry through, *inter alia*, priority in land use.<sup>133</sup> In the Initial Questionnaire sent to the GOC, we stated that “it is the responsibility of the GOC to provide full and complete responses to questions on all programs under investigation from all regional, provincial, municipal or local authorities.”<sup>134</sup> The GOC did not explain to what extent it made any effort to address the Department’s request by seeking to ascertain the facts with provincial officials regarding any such provincial plan for Jiangsu Province. Therefore, we are finding, as facts available, that Jiangsu province does indeed have such iron and steel industry plans which

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<sup>128</sup> See section 776(a)(2)(A) of the Act.

<sup>129</sup> See section 776(b) of the Act.

<sup>130</sup> See *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*), and accompanying Issues and Decision Memorandum (Solar Cells IDM) at Comment 23.

<sup>131</sup> See Letter to the GOC, “Supplemental Questionnaire for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” October 9, 2015.

<sup>132</sup> See Letter from the GOC, “Certain Corrosion-Resistant Steel Products from China; CVD Investigation GOC Supplemental Questionnaire Response,” October 21, 2015 (GOC First SQR) at 2.

<sup>133</sup> See, e.g., CVD Petition, at Exhibit III-3, which attached a copy of the United States’ recent WTO submission (a public document) under the Subsidies Agreement, Article 25.10, presenting at Attachment 8 a translated copy of the “Provincial Government Notice on the Issuance of the Jiangsu Province Iron and Steel Industry Adjustment and Revitalization Plan Outline.” This plan applies to certain industries located in Jiangsu province, where YPC is located. These policies specifically cover the corrosion-resistant steel industry, “focus on market demand for autos...and increase the proportion of plate, rolled, and pipe products to around 55 percent.” In Article IV(II), land-use rights for LTAR are specifically encouraged, “to implement the different solutions for different situations principle with regard to land policies, and must deny the use of land to unauthorized projects to begin construction, renovate, expand, or relocate, as well as other such iron and steel projects. At the same time, iron and steel projects in which base-type, and land-saving type projects are working in coordination, must be given land use priority.

<sup>134</sup> See Initial Questionnaire at II-2.

were requested from the GOC, but were not provided to the Department, and that Jiangsu province provides preferential land-use rights at LTAR, and that such land provision is specific in accordance with 771(5A)(D)(i) of the Act because it is limited in numbers, *i.e.*, to the corrosion-resistant steel industry.

## **IX. SUBSIDIES VALUATION**

### **A. Allocation Period**

The Department normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.<sup>135</sup> The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.<sup>136</sup> The Department notified the respondents of the 15-year AUL in the Initial Questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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

### **B. Attribution of Subsidies**

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to the Department’s regulations further clarifies the Department’s cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

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<sup>135</sup> See 19 CFR 351.524(b).

<sup>136</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.<sup>137</sup>

Thus, the Department’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade 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>138</sup>

## YPC

As discussed above, we selected YPC as a mandatory company respondent. YPC is a producer and exporter of subject merchandise. In accordance with 19 CFR 351.525 (b)(6)(i), we are preliminarily attributing subsidies received by YPC to its own sales. YPC reported that it is wholly foreign-owned by Yieh Phui Enterprise Co., Ltd. in Taiwan, through another company named Yieh Phui (Hong Kong) Holdings Limited, which is an investment vehicle incorporated in Hong Kong.<sup>139</sup> YPC stated that a small volume of subject merchandise was sold to the United States during the POI through YCL, an affiliated export trading company in Hong Kong and operating in Taiwan. Pursuant to 19 CFR 351.525(c), “{b}enefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated.” YCL responded to the Initial Questionnaire, and reported that none of the alleged subsidies were used or applicable to YCL. When the Department asked if YCL had received *any* subsidy from the GOC or any provincial or local government directly or indirectly, or any other forms of assistance, YCL stated that it had “never received any other subsidies from the GOC or any provincial or local government of China since YCL’s establishment.”<sup>140</sup> Therefore, we preliminarily find that there are no benefits attributable to YPC from any subsidies to YCL. We intend to verify the accuracy of these assertions.

Additionally, besides YCL, YPC provided details of numerous other affiliated companies, none which meets the requirements under our attribution rules under 19 CFR 351.525 for attribution of any subsidy benefits to YPC, *i.e.*, not China-registered holding companies or trading

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<sup>137</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

<sup>138</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>139</sup> See YPC Affiliation QR at 4.

<sup>140</sup> See YCL Primary QR.

companies that export subject merchandise, or producers of subject merchandise or inputs used in the production of subject merchandise.

### Handan and Duferco

As discussed above, we selected Duferco and Handan as mandatory company respondents. On September 21, 2015, we placed public information on the record and stated that we believed this information indicated that Duferco, Handan, HBIS, and TIS are cross-owned producers and exporters of subject merchandise pursuant to 19 CFR 351.525(b)(6)(vi).<sup>141</sup> Interested parties were given an opportunity to submit factual information to rebut, clarify, or correct the information submitted by the Department, but no party filed comments. The public information includes company overviews and articles which state that HBIS holds a controlling stake in Duferco (51 percent),<sup>142</sup> and that TIS and Handan are subsidiaries of HBIS.<sup>143</sup> Therefore, based on the facts on the record, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Duferco, Handan, and TIS are cross-owned through common ownership by their parent company, HBIS. As a result, because Duferco and Handan are not cooperating in the investigation, we have applied AFA when assigning a rate for both companies and will apply the same rate to HBIS and TIS.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's exports or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in further detail in the YPC Preliminary Analysis Memorandum, prepared for this investigation.<sup>144</sup> Consistent with 19 CFR 351.525(b)(3), we have used YPC's total "free-on-board" sales from the year the subsidy was received as the sales denominator.<sup>145</sup> YCL reported that it did not receive any subsidies; therefore, we have not included its sales, which it did report to the Department, in our sales denominators.

## **X. BENCHMARKS AND INTEREST RATES**

The Department is investigating loans received by the respondents from Chinese policy banks and SOCBs, as well as non-recurring, allocable subsidies.<sup>146</sup> The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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<sup>141</sup> See Memorandum, "Placing Additional Public Information on the Record of the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China," September 21, 2015 (Duferco Ownership Memorandum).

<sup>142</sup> *Id.* at Attachment 4.

<sup>143</sup> *Id.* at Attachment 2.

<sup>144</sup> See Memorandum, "Countervailing Duty Investigation of Corrosion-Resistant Steel Products from the People's Republic of China: Preliminary Determination Analysis for Yieh Phui (China) Technomaterial Co., Ltd.," dated concurrently with this memorandum (YPC Preliminary Analysis Memorandum).

<sup>145</sup> We note that YPC only reported receiving domestic subsidies.

<sup>146</sup> See 19 CFR 351.524(b)(1).

## A. Short-Term Renminbi-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.<sup>147</sup> If the firm did not have any comparable commercial loans during the period, the Department’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”<sup>148</sup>

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, 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>149</sup> Because of this, any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, 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 using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department’s practice. For example, in *Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.<sup>150</sup>

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and more recently updated in *Thermal Paper from the PRC*.<sup>151</sup> 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*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.<sup>152</sup> Beginning in 2010, however, the PRC is in the upper-middle income category and remained there from 2011 to 2014.<sup>153</sup> Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and

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<sup>147</sup> See 19 CFR 351.505(a)(3)(i).

<sup>148</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>149</sup> See CFS IDM at Comment 10.

<sup>150</sup> 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) (*Lumber from Canada*), and accompanying Issues and Decision Memorandum at “Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

<sup>151</sup> See CFS IDM at Comment 10; see also *Thermal Paper* IDM at 8-10.

<sup>152</sup> See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>; see also YPC Preliminary Analysis Memorandum; Memorandum “Countervailing Duty Investigation of Corrosion-Resistant Steel Products from the People’s Republic of China: Interest Rate Benchmark Memorandum” dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).

<sup>153</sup> *Id.*

discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.<sup>154</sup>

After the Department identifies the appropriate interest rates, the next step in constructing the benchmark has been 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 of the years from 2003-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.<sup>155</sup> For 2010, however, the regression does not yield that outcome for the PRC's income group.<sup>156</sup> This contrary result for a single year does not lead us 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 and 2011-2014. 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 2010-2014 and "lower middle income" for 2001-2009.<sup>157</sup> First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. 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>158</sup> Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.<sup>159</sup>

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<sup>154</sup> See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates" (unchanged in *Shrimp from the PRC*).

<sup>155</sup> See Additional Documents Memorandum at Attachment 4; see also YPC Preliminary Analysis Memorandum; Interest Rate Benchmark Memorandum.

<sup>156</sup> See Interest Rate Benchmark Memorandum.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

## **B. Long-Term Renminbi-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>160</sup>

In *Citric Acid from the PRC*, 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>161</sup> Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.<sup>162</sup>

## **C. Foreign Currency-Denominated Loans**

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

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question. The resulting inflation-adjusted benchmark lending rates are provided in the YPC Preliminary Analysis Memorandum.

## **D. Discount Rates**

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 GOC provided non-recurring subsidies.<sup>163</sup> The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the YPC Preliminary Analysis Memorandum.

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<sup>160</sup> See, e.g., Thermal Paper IDM at 10.

<sup>161</sup> See Citric Acid IDM at Comment 14.

<sup>162</sup> See Interest Rate Benchmark Memorandum.

<sup>163</sup> See YPC Preliminary Analysis Memorandum; see also Interest Rate Benchmark Memorandum.

## E. Input Benchmarks

We selected benchmarks for determining the benefit from the provisions of HRS, CRS, zinc, and primary aluminum at LTAR in accordance with 19 CFR 351.511. 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 (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As discussed in the “Application of AFA: Input Industry Distortions” section, we are relying on “tier two” (world market) prices for the input benchmarks for these programs.

## F. Provision of Land-Use Rights for LTAR Benchmark

As explained in detail in previous investigations, the Department cannot rely on the use of so called “tier one” and “tier two” benchmarks described above to assess the benefits from the provision of land for LTAR in the PRC. Specifically, in *Sacks from the PRC*, the Department determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable “tier one” benchmarks exist. Furthermore, the Department also found that “tier two” benchmarks (world market prices that would be available to purchasers in the PRC) are not appropriate.<sup>164</sup> Accordingly, consistent with Department’s past practice, we are relying on the use of so called “tier three” benchmark for purposes of calculating a benefit for this program.

For this investigation, no interested party submitted benchmark information to value land. The Department is placing on the record the same 2010 Thailand benchmark information, *i.e.*, “Asian Marketview Reports” by CB Richard Ellis (CBRE), that we relied upon in calculating land benchmarks in the CVD investigation of *Solar Cells from the PRC*.<sup>165</sup> We initially selected this information in the *Sacks from the PRC* investigation after considering a number of factors, including national income levels, population density, and producers’ perceptions that Thailand is a reasonable alternative to the PRC as a location for Asian production.<sup>166</sup> We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to account for any countervailable land received by YPC during the AUL of this investigation.<sup>167</sup>

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<sup>164</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 *Sacks from the PRC*).

<sup>165</sup> See Additional Documents Memorandum; see also *Solar Cells IDM* at 6 and Comment 11.

<sup>166</sup> The complete history of our reliance on this benchmark is discussed in *Solar Cells IDM*. In that discussion, we reviewed our analysis from the *Sacks from the PRC* investigation and concluded the CBRE data were still a valid land benchmark.

<sup>167</sup> See YPC Preliminary Analysis Memorandum.

## XI. ANALYSIS OF PROGRAMS

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

### A. Programs Preliminarily Determined To Be Countervailable

#### 1. Policy Loans to the Corrosion-Resistant Steel Industry

Petitioners allege that policy banks and SOCBs in the PRC make loans to corrosion-resistant steel producers at preferential terms as a matter of government policy.<sup>168</sup> According to Petitioners, at least two banks, the China Development Bank and the Export-Import Bank of China, provide policy loans specific to the steel industry.<sup>169</sup> The Department has also countervailed this program in previous investigations.<sup>170</sup>

Based on our review of the information and responses of the GOC, we preliminarily determine that loans received by the corrosion-resistant steel industry from SOCBs were made pursuant to government directives.

Record evidence demonstrates that the GOC, through its directives, has highlighted and advocated the development of the corrosion-resistant steel industry. At the national level, in the “Steel and Iron Industry Development Policy, Order No. 35 of the National Reform and Development Commission” (Steel Plan),<sup>171</sup> which was promulgated by the State Council in 2005, the GOC outlined objectives for the steel industry during the period 2006-2010. This plan affirmed the steel industry’s strategic importance to the PRC’s national economy and stressed the need for “the sound development of the iron and steel industry.”<sup>172</sup> Article 25 of the Steel Plan specifically encouraged financial institutions to “comply with development policies for the iron and steel industry,” which includes steel smelting and steel rolling (*i.e.*, producers of corrosion-resistant steel).<sup>173</sup>

More recently, the updated “Iron and Steel Industry 12th Five-Year Plan,” which covers 2011 through 2015, designates that “high-strength and high-toughness automobile use steel” (*i.e.*, cold-rolled corrosion-resistant steel) should be given developmental priority in the PRC.<sup>174</sup> This plan requires that government entities “coordinate” policies to this end, “including fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, {and} environmental protection policy . . . .”<sup>175</sup>

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<sup>168</sup> See CVD Initiation Checklist at 7.

<sup>169</sup> *Id.*

<sup>170</sup> See, e.g., *Drawn Stainless Steel Sinks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum at 24-25; see also OCTG IDM at 12.

<sup>171</sup> See GOC First SQR at Exhibit S1-A

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.* at Exhibit S1-B.

<sup>175</sup> *Id.*

The GOC implemented the “Decision of the State Council on Promulgating the Temporary Provisions on Promoting Industrial Structure Adjustment (No. 40 (2005))” (Decision 40) in order to achieve the objectives of the Eleventh Five-Year Plan.<sup>176</sup> Decision 40 references the “Directory Catalogue on Readjustment of Industrial Structure,” which outlines the projects which the GOC deems “encouraged,” “restricted,” and “eliminated,” and describes how these projects will be considered under government policies. For the “encouraged” projects, Decision 40 outlines several support options available to the government, including financing. The “Guidance Catalogue for the Industrial Structure Adjustment (Version 2011) (2013 Amendment)” (Guidance Catalogue) identifies corrosion-resistant steel as “encouraged.”<sup>177</sup> In addition to establishing eligibility for certain benefits from the central government, the Guidance Catalogue also gives provincial and local authorities the discretion to implement their own policies to promote the development of favored industries.

Therefore, on the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development of production of corrosion-resistant steel through policy lending. The loans to corrosion-resistant steel producers from policy banks and SOCBs in the PRC constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.<sup>178</sup> Finally, we determine that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC’s policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the corrosion-resistant steel industry.

To calculate the benefit from this program, we used the benchmarks discussed under the “Subsidy Valuation Information” section.<sup>179</sup> On this basis, we preliminarily determine a subsidy rate of 0.76 percent *ad valorem* for YPC.

## 2. Provision of Inputs for LTAR

### a. Provision of HRS, CRS, Zinc, and Primary Aluminum for LTAR

Petitioners alleged that the respondent received countervailable subsidies in the form of the provision of HRS, CRS, zinc, and primary aluminum for LTAR.<sup>180</sup> We requested information from the GOC regarding the specific companies that produced these inputs YPC purchased during the POI in order to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>181</sup> The GOC provided information indicating several producers of HRS, CRS, zinc, and primary aluminum are SOEs.<sup>182</sup> We understand the GOC’s

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<sup>176</sup> See GOC October 7 QR at Exhibit II.A.1.f.

<sup>177</sup> *Id.* at Exhibit II.A.1.g.

<sup>178</sup> See section 771(5)(E)(ii) of the Act.

<sup>179</sup> See 19 CFR 351.505(c).

<sup>180</sup> See CVD Initiation Checklist at 28-30, 32-33.

<sup>181</sup> See Initial Questionnaire at section II (pages 8-11).

<sup>182</sup> See GOC October 21 QR at 9-72.

classification of certain companies as SOEs to mean that those companies are majority-owned by the government. As explained in the Public Body Memorandum, majority SOEs in the PRC 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.<sup>184</sup> Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that the respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the remaining producers, the GOC failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we determine as AFA that the remaining producers of HRS, CRS, zinc, and primary aluminum purchased by YPC are “authorities” within the meaning of section 771(5)(B) of the Act and, as such, that the provision of HRS, CRS, zinc, and primary aluminum constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Additionally, as discussed in the “Application of AFA: Inputs are Specific” section, the Department has determined as AFA that the inputs for LTAR programs are specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

Further, as AFA, we have determined that the domestic markets for these inputs are distorted through the intervention of the GOC and are relying on an external benchmark for determining the benefit from the provision of these inputs at LTAR. As discussed under the “Application of AFA: Input Industry Distortions” section, the Department is selecting for HRS, CRS, zinc and primary aluminum external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with the *CVD Preamble*.<sup>185</sup> In the case of HRS and CRS, the external benchmarks are derived from Steel Benchmark data contained within the CVD Petition.<sup>186</sup> With respect to zinc and primary aluminum, Petitioners submitted benchmark information from the IMF’s commodity database;<sup>187</sup> we have previously relied on that price data for the zinc and primary aluminum external benchmarks.<sup>188</sup> As explained in the YPC Preliminary Analysis Memorandum, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT

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<sup>183</sup> See Additional Documents Memorandum at Attachments I and II.

<sup>184</sup> See *Oil Country Tubular Goods from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 52301 (September 3, 2014), and accompanying Issues and Decision Memorandum at Comment 6.

<sup>185</sup> See *CVD Preamble*, 63 FR at 65377.

<sup>186</sup> See CVD Petition at Exhibit III-142.

<sup>187</sup> See Petitioners’ October 5, 2015 Benchmark Submission at Exhibit 2.

<sup>188</sup> See *Galvanized Steel Wire From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 76 FR 55031 (September 6, 2011) (unchanged in *Galvanized Steel Wire From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 17418 (March 26, 2012)); see also *Aluminum Extrusions From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 75 FR 54302 (September 7, 2010) at 54317-54318 (unchanged in *Extrusions from the PRC*). We note that the London Metals Exchange price data is what the IMF reports in its commodity database used in this investigation as the primary aluminum benchmark.

pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and the inland freight charges that would be incurred to deliver HRS, CRS, zinc and primary aluminum to YPC's production facilities. We added import duties as reported by the GOC, and the VAT applicable to imports of HRS, CRS, zinc, and primary aluminum into the PRC, also as reported by the GOC.<sup>189</sup> In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to YPC's reported purchase prices for individual domestic transactions, including VAT and delivery charges.<sup>190</sup>

Based on this comparison, we preliminarily determine that HRS, CRS, zinc, and primary aluminum were provided for LTAR and that a benefit exists for YPC in the amount of the difference between the benchmark prices and the prices YPC paid.<sup>191</sup> We divided the total benefits by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section, and in the YPC Preliminary Analysis Memorandum.

On this basis, we preliminarily determine subsidy rates for YPC of 21.63 percent *ad valorem* for HRS; 2.11 percent *ad valorem* for CRS; 0.22 percent *ad valorem* for zinc; and, 0.03 percent *ad valorem* for primary aluminum.

#### b. Provision of Electricity for LTAR

Petitioners alleged in the CVD Petition that the GOC, via the NDRC, uses preferential electricity rates as an industrial policy tool to support certain industries over others and that the Department has previously found this program to be countervailable.<sup>192</sup>

Based on the GOC's failure to provide information in its initial questionnaire response, as explained in the "Use of Facts Otherwise Available and Adverse Inferences" section, we are basing our determination regarding the GOC's provision of electricity, in part, on AFA. In a CVD proceeding, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, it is the Department's practice to find that a financial contribution exists under the alleged program and that the program is specific as AFA.<sup>193</sup> However, where possible, the Department will rely on respondents' reported information to determine the existence and the amount of the benefit to the extent that such information is useable and verifiable. Thus, in measuring the benefit under this

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<sup>189</sup> See GOC October 7 QR at 24, 36, 48, 59; see also YPC Preliminary Analysis Memorandum for a full explanation of how the benchmarks were adjusted.

<sup>190</sup> See YPC Preliminary Analysis Memorandum.

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

<sup>192</sup> See CVD Petition at 14; see also CVD Initiation Checklist at 34-35.

<sup>193</sup> See, e.g., *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 79 FR 71093 (December 1, 2014), and accompanying Preliminary Decision Memorandum at 35 (unchanged in *Passenger Tires from the PRC*).

program, we relied on the usage information reported by the respondents in each instance. YPC provided data on electricity consumed and electricity rates paid during the POI.<sup>194</sup>

As described above in detail, the GOC did not provide certain information requested regarding its provision of electricity to YPC and, as a result, we determine as AFA that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. To determine the existence and the amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on YPC's reported consumption volumes and rates paid. We compared the rates paid by YPC to the benchmark rates, which, as discussed above, are the highest rates charged in the PRC during the POI. We made separate comparisons by price category (*e.g.*, large industry peak, basic electricity, *etc.*) and voltage class (*e.g.*, 35kv). We multiplied the difference between the benchmark and the price paid by the consumption amount reported for that month and price category. We then calculated the total benefit during the POI for YPC by summing the difference between the benchmark prices and the prices paid by YPC.

To calculate the electricity benchmark, in accordance with 19 CFR 351.511(a)(2), we selected the highest rates in the PRC for the user category of the respondents (*e.g.*, "large industrial users") for the non-seasonal general, peak, normal, and valley ranges, as provided in the electricity tariff schedules submitted by the GOC.<sup>195</sup> This benchmark reflects an adverse inference, which we drew as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation.<sup>196</sup>

To calculate the subsidy rate, we divided the benefit amount by the appropriate total sales denominator, as discussed in the YPC Preliminary Analysis Memorandum. On this basis, we preliminarily determine a subsidy rate of 0.58 percent *ad valorem* for YPC.

### c. Provision of Land-Use Rights for LTAR in Jiangsu Province

Petitioners alleged that producers of corrosion-resistant steel benefited from the provision of land-use rights for LTAR. Petitioners explained that the GOC's steel policies direct government agencies to provide such land-use rights to favored projects and producers, including the corrosion-resistant steel industry. As discussed above, we are finding, as facts available, that an iron and steel policy plan exists in Jiangsu province that provides land-use rights to the corrosion-resistant steel industry. YPC reported its land-use rights in the province, which it states it received from governmental authorities.<sup>197</sup>

For this preliminary determination, we find that YPC received its land-use rights for LTAR, constituting a financial contribution under section 771(5)(D)(iii) of the Act. This subsidy is specific under sections 771(5A)(D)(i) and (iii)(I) of the Act because preferential land-use rights at LTAR are provided to a limited number of iron and steel enterprises or industries, particularly

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<sup>194</sup> See YPC Primary QR at Exhibit 29.

<sup>195</sup> See GOC October 7 QR at Exhibit II.E.3.c.

<sup>196</sup> See "Application of AFA: Provision of Electricity for LTAR" section.

<sup>197</sup> See YPC Primary QR at 35.

to the corrosion-resistant steel industry. To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first multiplied the Thailand industrial land benchmarks discussed above under the “Benchmarks and Discount Rates” section, by the total area of YPC’s land. We then subtracted the net price actually paid for the land to derive the total unallocated benefit. We next conducted the “0.5 percent test” of 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales and that allocation was appropriate for YPC’s land found to be countervailable. We allocated the total benefit amounts across the terms of the land-use agreement, using the standard allocation formula of 19 CFR 351.524(d), and determined the amount attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section.<sup>198</sup>

On this basis, we preliminarily determine a subsidy rate of 0.35 percent *ad valorem* for YPC.

### 3. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Circular 37 exempts FIEs and certain domestic enterprises from VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed lists of non-eligible items, in order to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.<sup>199</sup> As of January 1, 2009, the GOC discontinued VAT exemptions under this program, but companies can still receive import duty exemptions.<sup>200</sup> Over the AUL, YPC reported receiving VAT and tariff exemptions under this program.<sup>201</sup> The Department has previously found VAT and tariff exemptions under this program to confer countervailable subsidies.<sup>202</sup>

Consistent with these earlier cases, we preliminarily determine that VAT and tariff exemptions on imported equipment confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue foregone by the GOC and they provide a benefit to the recipient in the amount of VAT and tariff savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the VAT and tariff exemptions afforded by the program are specific under section 771(5A)(D)(i) of the Act because the program is limited to certain enterprises, *i.e.*, FIEs and domestic enterprises involved in “encouraged” projects.

Since this indirect tax is provided for, or tied to, the capital structure or capital assets of a firm, as reported by YPC, the Department treated this tax as a non-recurring benefit and applied our

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<sup>198</sup> See YPC Preliminary Analysis Memorandum.

<sup>199</sup> See GOC October 7 QR at 7, Exhibits II.D.3.a, II.D.3.b, II.D.3.c.

<sup>200</sup> *Id.* at 14, Exhibits II.D.3.f.

<sup>201</sup> See YPC Primary QR at 21-26, Exhibit 14; see also YPC First SQR at 7-8, Exhibit 14.

<sup>202</sup> See, *e.g.*, Extrusions IDM at VII.D; see also *Wire Decking from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32902 (June 10, 2010) and accompanying Issues and Decision Memorandum at 25-27.

standard methodology for non-recurring grants to calculate the subsidy rate.<sup>203</sup> Specifically, where the benefits exceeded 0.5 percent of the relevant sales of that year, we allocated the amount of the VAT and/or tariff exemptions over the AUL.<sup>204</sup> To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. In the years that the benefits received by each company under this program did not exceed 0.5 percent of relevant sales for that year, we expensed those benefits in the years that they were received, pursuant to 19 CFR 351.524(b)(2). We used the discount rates described in the section “Subsidies Valuation Information,” to calculate the amount of the benefit allocable to the POI. Those benefits expensed or allocated to the POI were then used as the basis for calculating the net subsidy rate by dividing the total POI benefit by the applicable denominator.

On this basis, we preliminarily determine a subsidy rate of 0.56 percent *ad valorem* for YPC.

#### 4. Reported Grants

YPC reported that it received numerous grants from provincial and local governments that were not included in any of the programs under investigation. However, before addressing the issues of financial contribution and specificity, we first determined whether any benefits exist in the POI from any of these reported grants. We treated these reported grants as non-recurring subsidies, pursuant to 19 CFR 351.524(c), and applied the “0.5 percent test” to each one, individually, to determine whether each grant should be allocated to the POI. None of the grants received prior to the POI passed the “0.5 percent test,” and therefore none have been allocated to the POI. In addition, none of the grants received during the POI passed the 0.5 percent test and, therefore, all such grants were allocated to the POI. To calculate the POI benefit, we divided the entire amount of each grant by the appropriate sales denominator, as described in the “Attribution of Subsidies” section. If the rate calculated for any grant was less than 0.005 percent *ad valorem*, it was determined to have no impact on the overall subsidy rate, and was therefore disregarded. Using this methodology, at least one reported grant was more than the 0.005 percent *ad valorem* threshold, and has an impact on the overall subsidy rate.

We preliminarily determine that the benefits from non-recurring grants that were greater than the 0.005 percent *ad valorem* threshold confer a countervailable subsidy. As noted above, we determine, as AFA, that the POI grants received by YPC under this program constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act and are *de facto* specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the grant are limited in number. The grants also provide a benefit under section 771(5)(D)(i) of the Act and 19 CFR 351.504.

On this basis, we preliminarily determine a subsidy rate of 0.02 percent *ad valorem* for YPC.

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<sup>203</sup> See 19 CFR 351.524(b).

<sup>204</sup> See 19 CFR 351.524(c)(2)(iii) and (d)(2).

## **B. Programs Preliminarily Determined To Be Not Used by, or Not to Confer a Measurable Benefit to, YPC During the POI**

### 1. Programs to Rebate AD Legal Fees

Petitioners claim the Fair Trade Department of Zhejiang Province offers professional advice to local enterprises and has set up a fund for participating in AD litigation.<sup>205</sup> The GOC acknowledged that YPC “received some rebates of AD legal fees” by reference to YPC’s questionnaire responses, which state that the company “received some rebates of AD legal fees from {the} Changshu government in November 2014 for participating {in} Australia and Thailand AD investigations.”<sup>206</sup> Record information provided by YPC shows that the applications if submitted for these particular rebates were intended for AD litigation involving Australia and Thailand. Thus, the benefits to YPC from these rebates are unrelated to the U.S. export market and not attributable to YPC’s subject merchandise exports. Therefore, we preliminarily determine that the rebates received by YPC during the POI did not provide a countervailable benefit to YPC.

2. Export Loans
3. Treasury Bond Loans
4. Preferential Loans for SOEs
5. Preferential Loans for Key Projects and Technologies
6. Preferential Lending to Corrosion-Resistant Steel Producers and Exporters Classified as “Honorable Enterprises”
7. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
8. Debt-to-Equity Swaps
9. Equity Infusions
10. Exemptions for SOEs from Distributing Dividends to the State
11. Loans and Interest Forgiveness for SOEs
12. Preferential Income Tax Program for HNTEs
13. Preferential Income Tax Program for HNTEs in Designated Zones
14. Preferential Deduction of R&D Expenses for HNTEs
15. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
16. Preferential Income Tax Policy for Enterprises in the Northeast Region
17. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
18. Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax
19. Preferential Income Tax Subsidies for FIEs – ‘Productive’ FIEs
20. Preferential Income Tax Subsidies for FIEs – HNTE FIEs
21. Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs
22. Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D
23. Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform

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<sup>205</sup> See CVD Initiation Checklist at 37.

<sup>206</sup> See YPC Primary QR at 37.

24. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund
25. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
26. Provision of Land to SOEs for LTAR
27. Provision of Iron Ore for LTAR
28. Provision of Steam Coal for LTAR
29. Provision of Coking Coal for LTAR
30. State Key Technology Project Fund
31. Foreign Trade Development Fund Grants
32. Export Assistance Grants
33. Subsidies for Development of Famous Export Brands and China World Top Brands
34. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
35. Grants to Loss-Making SOEs
36. Export Interest Subsidies
37. Grants for Energy Conservation and Emission Reduction
38. Grants for the Retirement of Capacity
39. Grants for Relocating Production Facilities
40. Export Buyer's Credits
41. Export Seller's Credits from State-Owned Bank
42. Export Credit Insurance Subsidies
43. Export Credit Guarantees

## **XII. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>207</sup> Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.<sup>208</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>209</sup> This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by

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<sup>207</sup> See 19 CFR 351.224(b).

<sup>208</sup> See 19 CFR 351.309(c)(1)(i) and (d)(1).

<sup>209</sup> See 19 CFR 351.309(c)(2) and (d)(2).

5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.<sup>210</sup> Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>211</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>212</sup> on the due dates established above.

### XIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

Agree                       Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

2 NOVEMBER 2015  
Date

<sup>210</sup> See 19 CFR 351.310(c).

<sup>211</sup> See 19 CFR 351.303(b)(2)(i).

<sup>212</sup> See 19 CFR 351.303(b)(1).

## Appendix

### AFA Rate Calculation

Program Name		AFA Rate
1	Policy Loans to the Corrosion-Resistant Steel Industry	0.76%
2	Preferential Loans for SOEs	
3	Export Loans	1.10%
4	Treasury Bond Loans	10.54%
5	Preferential Loans for Key Projects and Technologies	10.54%
6	Preferential Lending to Corrosion-Resistant Steel Producers and Exporters Classified as "Honorable Enterprises"	10.54%
7	Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program	10.54%
8	Debt-to-Equity Swaps	0.58%
9	Equity Infusions	0.58%
10	Exemptions for SOEs from Distributing Dividends to the State	0.58%
11	Loans and Interest Forgiveness for SOEs	2.32%
12	Provision of Land-Use Rights for LTAR in Jiangsu Province	0.35%
13	Provision of Land-Use Rights to SOEs for LTAR	13.36%
14	Provision of HRS for LTAR	21.63%
15	Provision of CRS for LTAR	2.11%
16	Provision of Iron Ore for LTAR	22.32%
17	Provision of Steam Coal for LTAR	3.17%
18	Provision of Zinc for LTAR	0.22%
19	Provision of Primary Aluminum for LTAR	0.03%
20	Provision of Coking Coal for LTAR	5.51%
21	Provision of Electricity for LTAR	0.58%
22	Preferential Income Tax Program for HNTes	25.00%
23	Preferential Income Tax Program for HNTes in Designated Zones	
24	Preferential Deduction of R&D Expenses for HNTes	
25	Preferential Income Tax Subsidies for FIEs – “Productive” FIEs	
26	Preferential Income Tax Subsidies for FIEs – High or New Technology FIEs	
27	Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs	
28	Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	1.68%
29	Preferential Income Tax Policy for Enterprises in the Northeast Region	9.71%
30	Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China	0.51%

31	Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax	9.71%
32	Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D	9.71%
33	Stamp Exemption on Share Transfer Under Non-Tradable Share Reform	9.71%
34	VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund	9.71%
35	Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	0.56%
36	Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring	9.71%
37	State Key Technology Renovation Project Fund	0.58%
38	Foreign Trade Development Fund Grants	0.58%
39	Export Assistance Grants	0.58%
40	Programs to Rebate AD Legal Fees	0.58%
41	Subsidies for Development of Famous Export Brands and China World Top Brands	0.58%
42	Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands	0.58%
43	Grants to Loss Making SOEs	0.58%
44	Export Interest Subsidies	0.58%
45	Grants for Energy Conservation and Emission Reduction	0.58%
46	Grants for Retirement of Capacity	0.58%
47	Grants for Relocating Production Facilities	0.58%
48	Export Buyer's Credits	10.54%
49	Export Seller's Credits from State-Owned Bank	4.25%
50	Export Credit Insurance Subsidies	0.58%
51	Export Credit Guarantees	10.54%
<b>Total AFA Rate:</b>		<b>235.66%</b>