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Investigation
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January 23, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Determination in
the Countervailing Duty Investigation of Certain Fabricated
Structural Steel from Mexico

I. SUMMARY

The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain fabricated structural steel (fabricated structural steel) from Mexico, as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2018 through December 31, 2018.

Below is the complete list of issues in this investigation for which we received comments:

Comment 1: Eighth Rule
Comment 2: Calculation of Total Adverse Facts Available Rate
Comment 3: Application of Adverse Facts Available to BSM
Comment 4: Application of Adverse Facts Available to Certain Companies
Comment 5: Modification of Corey's Denominators

II. BACKGROUND

A. Case History

On July 12, 2019, Commerce published the *Preliminary Determination* in this investigation.¹ Between August 1, 2019 and August 9, 2019, we conducted verifications of the questionnaire

¹ See *Certain Fabricated Structural Steel from Mexico: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 33227 (July 12, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).



responses submitted by Building Systems de Mexico S.A. de C.V. (BSM), Corey S.A. de C.V. (Corey) and the Government of Mexico (GOM).² On August 13, 2019 and October 3, 2019, we issued supplemental questionnaires to the GOM.³ On September 20, 2019 and October 9, 2019, we received supplemental questionnaire responses from the GOM.⁴

On October 29, 2019, interested parties submitted affirmative case briefs,⁵ and on November 4, 2019, parties submitted rebuttal briefs.⁶ On November 20, 2019, the petitioner withdrew its request for a hearing in this matter.⁷

B. Period of Investigation

The POI is January 1, 2018 through December 31, 2018.

III. SCOPE OF THE INVESTIGATION

The product covered by this investigation is fabricated structural steel from Mexico. For a complete description of the scope of this investigation, *see* Appendix I of the accompanying *Federal Register* notice.

² See Memorandum, “Verification of the Questionnaire Responses of Building Systems de Mexico S.A. de C.V.,” dated September 6, 2019 (BSM Verification Report); Memorandum, “Verification of the Questionnaire Responses of the Government of Mexico,” dated September 10, 2019 (GOM Verification Report); and Memorandum, “Verification of the Questionnaire Responses of Corey S.A. de C.V.,” dated September 26, 2019 (Corey Verification Report).

³ See Commerce’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Supplemental Questionnaire for the Government of Mexico,” dated August 13, 2019; and Commerce’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Fourth Supplemental Questionnaire for the Government of Mexico,” dated October 3, 2019.

⁴ See GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Redacted Version of Government of Mexico’s Third Supplemental Questionnaire Response,” dated September 20, 2019 (GOM September 20, 2019 SQR); and GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Government of Mexico’s Fourth Supplemental Questionnaire Response,” dated October 9, 2019 (GOM October 9, 2019 SQR).

⁵ See Corey’s Letter, “Certain Fabricated Structural Steel from Mexico: Corey S.A. de C.V.’s Case Brief,” dated October 29, 2019 (Corey Case Brief); GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Case Brief of the Government of Mexico,” dated October 29, 2019 (GOM Case Brief); and Petitioner’s Letter, “Certain Fabricated Structural Steel from Mexico: Case Brief,” dated October 29, 2019 (Petitioner Case Brief).

⁶ See BSM’s Letter, “Certain Fabricated Structural Steel from Mexico: Rebuttal Brief of BSM,” dated November 5, 2019 (BSM Rebuttal Brief); Corey’s Letter, “Certain Fabricated Structural Steel from Mexico: Corey S.A. de C.V.’s Rebuttal Brief,” dated November 5, 2019 (Corey Rebuttal Brief); GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Rebuttal Brief of the Government of Mexico,” dated November 5, 2019 (GOM Rebuttal Brief); and Petitioner’s Letter, “Certain Fabricated Structural Steel from Mexico: Rebuttal Brief,” dated November 5, 2019 (Petitioner Rebuttal Brief).

⁷ See Petitioner’s Letter, “Certain Fabricated Structural Steel from Mexico: Withdrawal of Request for Hearing,” dated November 20, 2019.

IV. SCOPE COMMENTS

During the course of this investigation, and the concurrent antidumping duty and countervailing duty investigations of fabricated structural steel from Canada, China, and Mexico, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and establish a period of time for parties to address scope issues in scope case and rebuttal briefs.⁸ We received comments from interested parties on the Preliminary Scope Decision Memoranda, which we address in a Final Scope Decision Memorandum.⁹ As a result, for this final determination, we made certain changes to the scope of these investigations from that published in the *Preliminary Determination*.

V. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

In the *Preliminary Determination*, we relied on total adverse facts available (AFA) to calculate a subsidy rate for five companies that did not respond or provide a timely response to our quantity and value (Q&V) questionnaire (collectively, the non-responsive companies).¹⁰ We applied AFA to the non-responsive companies to find that the companies used the program, and, therefore, the existence of a benefit for each of the 17 initiated-upon subsidy programs. Additionally, we applied AFA with respect to the GOM to find specificity and financial contribution for 15 of the 17 programs.¹¹

As discussed in Comment 2, we have revisited our application of AFA with respect to the GOM. As a result, we have solicited additional information regarding specificity and financial contribution for 15 of the 17 subsidy programs. Based on this information, we are modifying our calculation of the total AFA rate. Specifically, we are removing the following programs from the total AFA rate assigned to the non-responsive companies: Maquiladora Program Tax Benefit (Maquila Program); and Immediate Deduction Program.¹²

VI. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

We made no changes to, and interested parties raised no issues in their case briefs regarding, the allocation methodology used in the *Preliminary Determination*. For a description of the

⁸ See Memorandum, “Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Preliminary Scope Decision Memorandum,” dated July 5, 2019 (Preliminary Scope Memorandum); *see also* Memorandum, “Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Second Preliminary Scope Memorandum,” dated September 3, 2019 (collectively, Preliminary Scope Decision Memoranda).

⁹ See Memorandum, “Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China: Final Scope Decision Memorandum,” dated concurrently with this memorandum (Final Scope Decision Memorandum).

¹⁰ See PDM at 7-13.

¹¹ *Id.* at 7-8. For the remaining two programs Commerce preliminarily found, based on record evidence, that the programs are specific and provide a financial contribution. This finding is unchanged in this final determination.

¹² See Appendix.

allocation period and the methodology used for this final determination, *see the Preliminary Determination*.¹³

B. Attribution of Subsidies

We made no changes to, and interested parties raised no issues in their case briefs regarding, the methodology underlying our attribution of subsidies in the *Preliminary Determination*. For a description of the methodology used for this final determination, *see the Preliminary Determination*.¹⁴

C. Denominators

As a result of minor corrections accepted at verification, we made adjustments to the denominators relied on for the calculation of BSM's and Corey's subsidy rates.¹⁵

VII. ANALYSIS OF PROGRAMS

A. Programs Determined to Be Countervailable

1. Eighth Rule Permit Program (Eighth Rule)

Corey, the GOM, and the petitioner provided comments regarding this program, which are addressed in Comment 1. We have not changed our methodology for calculating a subsidy rate for BSM or Corey under this program.¹⁶

BSM: 0.01 percent *ad valorem*
Corey: 13.62 percent *ad valorem*

2. Program of Sectoral Promotion (PROSEC)

BSM commented on our methodology for calculating a subsidy rate for BSM under this program.¹⁷ Based on our analysis of the comments received, we continue to determine that PROSEC confers no measurable benefit to BSM.

We also continue to find that, although Corey was authorized under PROSEC, it did not use the program to obtain countervailable benefits during the average useful life (AUL) period or during the POI.

¹³ See PDM at 13-14.

¹⁴ *Id.* at 13-14.

¹⁵ See BSM Verification Report at 2; and Corey Verification Report at 2; *see also* Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Final Calculation Memorandum for Building Systems de Mexico, S.A. de C.V.," dated concurrently with this memorandum (BSM Final Calculation Memorandum); and Memorandum, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Final Calculation Memorandum for Corey S.A. de C.V.," dated concurrently with this memorandum (Corey Final Calculation Memorandum).

¹⁶ See BSM Final Calculation Memorandum; and Corey Final Calculation Memorandum.

¹⁷ See BSM Rebuttal Brief at 8 n.22.

B. Programs Determined Not to Be Used by BSM or Corey

Federal Programs:

1. Innovation Incentive Program
2. Bancomext Maquiladora Loans
3. Program for the Use of Renewable Energy Sources – Accelerated Depreciation for Renewable Energy Investments
4. Deduction for New Fixed Assets for Small Companies
5. Special Economic Zones
6. Program for the Manufacturing Industry, Maquiladora and Export Services (IMMEX)¹⁸
7. Tarifa I-15 Program
8. Tarifa I-30 Program
9. Grants from Renewable Energy Funds (Green Fund, Emergent Technologies Fund, Rural Electrification Fund, and Research and Technological Development Fund)
10. Program to Boost Industrial Productivity and Competitiveness

State Programs:

1. Law for the Promotion of Investments in the State of Jalisco
2. State Government of Baja California Economic Incentive Program
3. Law to Promote Investment and Employment for the State of Nuevo Leon

C. Programs Found to be Terminated

1. Maquila Program
2. Immediate Deduction Program

VIII. ANALYSIS OF COMMENTS

Comment 1: Eighth Rule

Corey's Comments

- Commerce should revisit its preliminary finding that the GOM does not have a reasonable and effective system in place to ensure that temporary imports under the Eighth Rule are ultimately exported. Although the GOM does not require that all Eighth Rule participants provide a production formula to facilitate tracking of imported inputs, or undergo mandatory verification, the GOM's input monitoring system nonetheless satisfied the requirements of 19 CFR 351.519(a)(4)(i). Commerce's regulations only require that an administering government's system of tracking inputs consumed in the production of

¹⁸ BSM and Corey used IMMEX as a basis for obtaining the temporary import authorizations under the Eighth Rule program. BSM and Corey also used IMMEX to obtain value-added tax (VAT) relief; however, the VAT component of the program was not under investigation. Accordingly, BSM and Corey did not independently use IMMEX to obtain countervailable benefits during the POI.

merchandise is: (1) reasonable; (2) effective for the purposes intended; and (3) based on the generally accepted commercial practices in the country of export.

- The regulations do not require that an administering government use a production formula as part of its input tracking system. Due to the nature of fabricated structural steel, there can be no production formula for the industry, because each product is unique and made to customer specification.
- The GOM requires that companies participating in IMMEX, and by extension the Eighth Rule, maintain inventory management systems, and the GOM verifies this system. The GOM also monitors usage of the Eighth Rule program and may conduct increased monitoring and/or verification of a participating company's facilities. Companies that are found to be noncompliant can be suspended or have their authorization to use the program cancelled.
- Corey tracks all materials imported under the Eighth Rule from when they enter the company's facilities until they are exported as part of finished merchandise or used as securement or are sold to an IMMEX recycler. Thus, all Eighth Rule inputs are accounted for, and Corey's process is adequate under 19 CFR 351.519.
- Commerce states that its determination regarding the adequacy of the GOM's input tracking system is consistent with past practice in analyzing temporary import programs under 19 CFR 351.519(a)(4)(i). However, Commerce must, nonetheless, explain how its determination satisfies the statutory standard.
- Commerce should also revisit its analysis with respect to the timing of accrual for Eighth Rule benefits. Under 19 CFR 351.519(b)(2), Commerce normally considers benefits from a duty exemption program to be received as of the date of the exportation. Commerce has not overcome the presumption that benefits under the Eighth Rule accrue at the time of exportation. Accordingly, because Corey did not have any Eighth Rule exports during 2018, it did not benefit under the program.
- Corey's exemption from Mexican antidumping duties (as distinct from standard import duties), should not be countervailed. The Mexican antidumping duty order covering Corey's imported hot-rolled steel plate excluded Eighth Rule imports from the coverage of the order. Therefore, because Corey's Eighth Rule imports of hot-rolled steel plate were not classified under the hot-rolled steel plate tariff classification that would typically cover the imports – and were reclassified under a designated Eighth Rule tariff heading – the applicable antidumping duties were not owed by Corey. As such, Corey's non-payment of the antidumping duties does not constitute a benefit received. The reclassification of Corey's imported hot-rolled steel plate into the Eighth Rule tariff heading is akin to a ruling that the merchandise is outside of the scope of the applicable order.

GOM's Comments

- The GOM's system for monitoring temporary imports under the Eighth Rule meets the requirements of 19 CFR 351.519(a)(4)(i). The GOM's system confirms which inputs are consumed in the production of the eventual exported product, and in what amounts, and the system or procedure is reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.
- The GOM conducts an initial verification of participants as part of the underlying IMMEX authorization, which is required for an Eighth Rule temporary import authorization. During the verification, the GOM confirms where the production process will occur, and

confirms that the company has the infrastructure necessary to conduct the production that will incorporate the input. The GOM engages in ongoing monitoring of companies that import and export under the programs. If found to be non-compliant with the program(s), a company's authorization can be suspended or cancelled, and fines can be imposed.

- Commerce's focus on the application of an input/output or production formula for its analysis under 19 CFR 351.519(a)(4)(i) is both misplaced and misguided. The regulations require a system or procedure, not a "formula," to confirm the consumption of inputs in exported products. The GOM's requirement that companies maintain an inventory control system is akin to the type of "company-specific" production information used to track materials that Commerce previously endorsed in *Citric Acid from Thailand*.¹⁹ Similarly, in *Coated Free Sheet Paper from Korea*, Commerce found the administering government's system reasonable and effective when it pre-approved a company-specific formula to account for imports used for exported products, based on the company's production experience.²⁰
- The GOM's system is not unlike the system of customs compliance followed in the United States, where an administering government requires that companies maintain certain records and are subject to selective verification.
- The GOM's procedures satisfy 19 CFR 351.519(a)(4)(ii), which provides that where the government does not have an adequate input tracking system or procedure, or the system or procedure is not applied effectively, the government in question may carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts. The GOM's verification process meets this standard.
- Should Commerce decide to countervail benefits under the Eighth Rule, Commerce should determine that benefits accrue at the time of exportation. Notwithstanding the fact that companies receive a duty exemption upon importation, they are still obligated to pay that duty should they later opt not to export the merchandise in question. Accordingly, it is only upon exportation that the value of the Eighth Rule benefits is identifiable.

Petitioner's Rebuttal Comments

- Commerce should continue to find the Eighth Rule countervailable, as the program does not meet the requirements for non-countervailability established in 19 CFR 351.519(a)(4)(i) or (ii). Nothing has transpired or has been placed on the record since the *Preliminary Determination* that warrants a change in Commerce's analysis with respect to this program.
- In its *Preliminary Determination*, Commerce described at length the GOM's inability to establish that it maintained an adequate tracking system. Commerce's verification of the GOM only confirmed that it does not have an adequate Eighth Rule monitoring system for

¹⁹ See GOM Case Brief at 9 (citing *Citric Acid and Certain Citrate Salts From Thailand: Final Negative Countervailing Duty Determination, and Final Negative Critical Circumstances Determination*, 83 FR 26004 (June 5, 2018) (*Citric Acid from Thailand*) and accompanying Issues and Decision Memorandum (IDM) at 13-14 and 24-26; and *Final Negative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Thailand*, 70 FR 13462 (March 21, 2005) and accompanying IDM (*PET Resin from Thailand*) at 9).

²⁰ See *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007) (*CFS Paper from Korea*) and accompanying IDM at 12-14.

inputs consumed in the production of exported merchandise which meets the requirement of 19 CFR 351.519(a)(4)(i). The GOM's authorization and monitoring processes – conducted for the purposes of companies' participation in the PROSEC and IMMEX programs – do not suffice to establish an adequate monitoring system as it relates to the distinct Eighth Rule program.

- Although the GOM emphasizes that companies must maintain inventory control systems, this alone does not constitute an adequate input tracking system. The system of input tracking required under 19 CFR 351.519(a)(4)(i) relates to a *government's* system of oversight, not a company's internal controls. Therefore, respondents' focus on Corey's particular inventory management system is misplaced. Moreover, as discussed at length in Commerce's *Preliminary Determination*, the GOM has not established that the inventory control requirement imposed through the GOM's administration of the IMMEX program is adequately monitored and/or enforced.
- The various cases cited by the GOM do not support a finding that the Eighth Rule monitoring process is adequate. The programs administered in each of the cited cases involved more rigorous methods for tracking/monitoring temporary inputs from importation through to the exportation of finished merchandise.
- The Eighth Rule does not meet the requirements of 19 CFR 351.519(a)(4)(ii), because the GOM did not, as required, carry out an examination of the actual inputs involved to confirm which inputs, in what amounts, are consumed in the production of the exported product. Corey concedes this point. The GOM's "examinations" that took place were selective verifications of a small number of companies – none of which were the mandatory respondents.
- With respect to the timing of the benefit, Commerce should continue to find that the benefit from the Eighth Rule accrues at the time of importation. The record here is clear: Eighth Rule participants are not required to pay the import duties on their imports of inputs under the Eighth Rule, and these duties would have otherwise been required at time of importation. Therefore, it is appropriate, and consistent with past practice, to consider the benefit as having been conferred at the time of importation.²¹
- Furthermore, Corey's and the GOM's proposed approach to analyzing the timing of Eighth Rule benefits leads to inappropriate results. Corey has admitted that its reported POI sales denominators include transactions that were physically exported after the POI. Therefore, under Corey's and the GOM's interpretation, Corey could import inputs under the Eighth Rule in 2018, and book sales in 2018, even though that merchandise was not physically exported until 2019. In such a scenario, Corey's 2018 denominator would include sales of merchandise that incorporate the Eighth Rule inputs, notwithstanding the fact that the materials were actually exported after the POI.
- Commerce should continue to find that Corey was exempted from paying duties imposed by a Mexican antidumping duty order by virtue of its participation in the Eighth Rule program. Commerce should reject Corey's and the GOM's argument that there were no antidumping duties due on the imports. Although the GOM asserts that the Mexican

²¹ To the extent that the Eighth Rule program does not squarely fit within the coverage of 19 CFR 351.519, Commerce may alternatively rely on 19 CFR 351.510 or 351.503 and still justifiably recognize the benefit of this program at the time Corey otherwise would have had to pay the import duties in the absence of the Eighth Rule program, *i.e.*, at the time of importation.

antidumping duty order on steel plate specifically excluded plate imported via the Eighth Rule from the scope of the order, this exclusion is not akin to a scope exclusion, as the GOM contends. The exclusion is not based on the physical characteristics of the merchandise; rather, the exclusion is based entirely on Corey's participation in the Eighth Rule.²²

Commerce's Position: In the *Preliminary Determination*, we found that the Eighth Rule provided a countervailable benefit to BSM and Corey. Corey and the GOM assert that the program is not countervailable. They further assert that, if the program is determined to be countervailable, the benefit should accrue at the time of exportation. Commerce disagrees with this argument.

Under the Eighth Rule program, the Secretariat of Economy (SE) authorizes companies to temporarily or permanently import machinery, equipment, materials, supplies, parts and components without the payment of duties.²³ The program allows companies to enter imported products under a designated tariff heading that is duty free, regardless of the item's normal tariff classification. To qualify for the Eighth Rule program, a company must have an existing authorization under one (or both) of Mexico's other import duty exemption programs, *i.e.*, IMMEX and/or PROSEC.²⁴ To utilize the Eighth Rule's provision for the temporary and duty-free importation of inputs, a company must have an active IMMEX authorization.

BSM and Corey relied on the aspect of the Eighth Rule program that permits the temporary, duty-free importation of raw materials used in production.²⁵ Both respondents imported raw material inputs which, under the IMMEX/Eighth Rule requirements, are expected to be subsequently used in the production of merchandise for export.

As we explained in the *Preliminary Determination*, import duty exemptions on raw material inputs are generally not countervailable if the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.²⁶ However, the government in question must have in place, and apply, an adequate system to confirm which inputs are consumed in the production of the exported product, and in what amounts.²⁷ This system must be reasonable, effective for the purposes intended, and based on generally accepted

²² The applicable antidumping duty order contains scope exclusions based on physical characteristics of the merchandise. The order also contains an exclusion which excludes merchandise that is classified under the Eighth Rule program's designated harmonized tariff heading (*i.e.*, otherwise-within-scope merchandise that has been imported via the Eighth Rule).

²³ See GOM's Letter, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Initial Questionnaire Response of the Government of Mexico," dated May 20, 2019 (GOM May 20, 2019 IQR), Volume IV, at 1-2.

²⁴ *Id.* at 1.

²⁵ See BSM's Letter, "Certain Fabricated Structural Steel from Mexico: Response of BSM to Section III of the Department's Initial Questionnaire," dated May 20, 2019 (BSM May 20, 2019 IQR) at Exhibit 24; see also Corey's Letter, "Certain Fabricated Structural Steel from Mexico: Corey S.A. de C.V.'s Section III Questionnaire Response," dated May 20, 2019 (Corey May 20, 2019 IQR) at Exhibit 33.

²⁶ See PDM at 17.

²⁷ See 19 CFR 351.519(a)(4)(i).

commercial practices in the country of export.²⁸ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.²⁹

As an initial step in our analysis, we must determine whether the GOM has in place an adequate input tracking system, as required by 19 CFR 351.519(a)(4)(i). We find that the record does not establish that the GOM implements an adequate system to confirm which inputs, in what amounts, are consumed in the production of the exported product.

In arguing that the Eighth Rule tracking system is adequate, the GOM highlights several aspects of the IMMEX/Eighth Rule temporary import programs. First, in order to obtain an IMMEX certification – which underlies a company’s Eighth Rule temporary import authorization – a company must have an inventory management system in place.³⁰ Therefore, companies are required to maintain internal controls relating to input tracking. Second, the GOM notes that, through the SE and the Servicio de Administración Tributaria (SAT), it obtains data on companies’ imports under the Eighth Rule program, as well as information on their export activities.³¹ Based on these data, the GOM can also elect to verify a company. Third, the GOM may sanction companies that fail to comply with the applicable regulations.³² Despite these considerations, we find that the GOM does not have an adequate system to confirm which inputs, in what amounts, are consumed in the production of the exported product.

To determine whether a government has an adequate system to track temporary inputs under 19 CFR 351.519, consistent with the regulations, Commerce requires that the administering government has a reliable method in place to determine which inputs are being used and how much of a given input is used to produce the finished product for export. Without such a method, the government has no way to independently ensure that the full amount of the duty-exempt input is ultimately exported. In many instances, an administering government obtains consumption rate data – *i.e.*, standard input-output norms (SIONs) based on companies’ production experiences – to facilitate the tracking of imported inputs through to exportation. Without applying reliable SIONs or some alternative mechanism for accurately tracking temporary imports, we have found that the government’s system for monitoring temporary imports is not adequate. The absence of such a system in the context of the Eighth Rule is a key factor that we have considered here, and our analysis is consistent with Commerce’s long-standing practice.

For example, in *PET Film from India*, we found that the Government of India (GOI) did not have a reasonable and effective system or procedure in place to ensure that imports inputs were used

²⁸ *Id.*

²⁹ See 19 CFR 351.519(a)(4)(i)-(ii).

³⁰ See GOM May 20, 2019 IQR at 8.

³¹ See GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Second Supplemental Questionnaire Response of the Government of Mexico,” dated June 17, 2019 (GOM June 17, 2019 SQR) at 1-5.

³² See GOM June 17, 2019 SQR at 5.

in exported merchandise.³³ We explained that, because “the GOI failed to provide the Department with its SION calculations for PET film ... the Department could not conclude that the system the GOI has in place with respect to the {duty exemption program} was reasonable or was applied in a manner effective for the purposes intended.”³⁴ Similarly, in *Lined Paper Products from India*, we found that the GOI’s tracking procedure was inadequate because “{t}he GOI is still unable to document how it developed the underlying SION in effect for the lined paper” and “was unable to provide source documents concerning the initial formation and subsequent revision of the SION used for the lined paper industry, including the SION in effect during the POI.”³⁵ In fact, in that case, we explicitly noted that Commerce’s verification team “reviewed how inputs and exports were tracked by the GOI through its Directorate General for Foreign Trade” and how the GOI maintains “a customs database that it uses to track the inputs imported duty-free” imports under the program.³⁶ Despite our observations regarding these monitoring procedures, we nonetheless found that the GOI’s system did not constitute a reasonable and effective input tracking system.

Commerce has conducted similar assessments of governments’ input tracking systems in other contexts as well. For example, in *Carrier Bags from Vietnam*, we noted that the Government of Vietnam (GOV) did not have a reasonable and effective system or procedure in place to ensure that imported inputs were used in exported merchandise because, although the customs authorities “regularly check exports against imports and require regular reconciliation ... they do not check on whether the yield factor accurately reflected actual consumption to produce one unit of the finished product.”³⁷ Similarly, in *Hangers from Vietnam*, we explained that “{t}he GOV has not sufficiently demonstrated that its system ensures that the imported materials, against which import duty exemptions/reimbursements are claimed, are used in the production of the products exported and that the company properly accounts for scrap.”³⁸ In that case, we noted that “{a}t verification, the Customs Officials stated that they performed a ‘quick check’ of the norms reported by {the participating company} and that they did not corroborate that the reported per-unit amounts of raw materials and scrap were the amounts used in the production of the exported goods.”³⁹ As a result, we found that the monitoring system was inadequate, and that the duty exemption program was countervailable.

³³ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 71 FR 7534 (February 13, 2006) (*PET Film from India*) and accompanying IDM at 9.

³⁴ *Id.*

³⁵ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006) and accompanying IDM at 20-21; see also *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013) and accompanying IDM at 7 (finding temporary import program countervailable where the government did not establish a mechanism to “accurately measure inputs consumed in the production” of subject merchandise).

³⁶ See *Lined Paper from India* IDM at 20.

³⁷ *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 75 FR 16428 (April 1, 2010) (*Carrier Bags from Vietnam*) and accompanying IDM at 9.

³⁸ *Certain Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 75973 (December 26, 2012) (*Hangers from Vietnam*) and accompanying IDMat 29.

³⁹ *Id.*

In all of the cases discussed above, we determined that the administering government’s system for monitoring temporary inputs was inadequate. Specifically, we found that, absent a reliable and verifiable method to link the amount of materials that are imported duty-free to the exported products that are produced with such inputs, the program is countervailable under 19 CFR 351.519. The import tracking system that is utilized by the GOM is actually less robust than the monitoring systems described – and found to be inadequate – in the various cases discussed above. In the above-referenced cases, we found that the governments’ application of SIONs was unreliable and/or not subject to verification. Here, the GOM does not consistently apply SIONs, or any other similar mechanism, on an industry or product-specific basis to track inputs from importation to eventual exportation.⁴⁰ As a result, the GOM does not adequately ensure that the imported input is fully incorporated into merchandise for export or is otherwise properly disposed.

In contrast, in cases where a government solicits reliable and verifiable data to monitor temporary imports, Commerce may find that an adequate input tracking system is in place. For example, in *Cold-Rolled Steel from Brazil*, we found that the Government of Brazil (GOB) had an adequate input tracking system in place, and observed that “[p]rior to granting approval to companies to use the Integrated Drawback Scheme, the GOB requires the companies to prepare a ‘technical report’ that details the inputs and the amounts that are consumed in production of the finished products.”⁴¹ We further noted that “[t]his technical report becomes the basis for tracking the purchases of inputs, whether imported or domestic, and the taxes exempted, deferred, or paid on those purchases, and for determining whether a company has fulfilled its obligation to export finished products such that the exemptions and deferrals can be finalized, or the duties and taxes paid can be rebated.”⁴² On this basis, we found the GOB’s program to have an adequate tracking mechanism under 19 CFR 351.519, and found the program not countervailable. The tracking system applied by the GOB in the case discussed above presents a stark contrast with the GOM’s process for tracking temporary inputs here.

The various cases cited by the GOM do not require a departure from our preliminary finding; in fact, they fully support Commerce’s analysis. The GOM asserts that the mandatory “inventory control system {it applies} is akin to the type of ‘company-specific’ production information used to track materials that Commerce endorsed in *Citric Acid from Thailand*.”⁴³ We disagree. In *Citric Acid from Thailand*, we found that the Government of Thailand (RTG) had an adequate system in place to track imported raw materials through to the eventual exported products, and specifically noted that the RTG *does* collect and verify participating companies’ stock production

⁴⁰ Corey notes that, for certain industries, the GOM asks participating companies to indicate how much of an input is used for each unit of a final product, as well as the percentage of loss and waste associated with the production process. See Corey Case Brief at 14 (citing Corey IQR at Exhibit 29). However, this requirement does not apply across industries and does not apply to the industry grouping that encompasses fabricated structural steel. See Corey IQR at Exhibit 29.

⁴¹ See, e.g., *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Final Affirmative Determination*, 81 FR 49940 (July 29, 2016) and accompanying Issues and Decision Memorandum at 42 (internal citations omitted).

⁴² *Id.*

⁴³ See GOM Case Brief at 7 (citing *Citric Acid from Thailand* IDM at 12-14).

formulas, *i.e.*, SIONs.⁴⁴ There, we observed that the RTG “relies on company-specific production formulas when determining the amount of the imported product that is incorporated into the re-exported product,” and further highlighted that the RTG has a system in place that “verifies the accuracy of companies’ stock production formulas.”⁴⁵ Similarly, in *PET Resin from Thailand*, also cited by the GOM, Commerce explicitly noted that the RTG relied on “each company’s respective BG PET Resin {production} formula” to find that the RTG’s temporary duty exemption scheme was not countervailable.⁴⁶ Finally, the GOM cites *CFS Paper from Korea* in support of its position.⁴⁷ The facts underlying Commerce’s decision in that case are substantially different from the facts here. As acknowledged by the GOM, in finding one aspect of the Korean duty drawback program to be not countervailable, we noted that the Government of Korea required a pre-approved company-specific formula to account for imports used in the production of merchandise for export, based on the company’s particular experience.⁴⁸ Therefore, in all three of the cases cited by the GOM, the administering government applied SIONs to ensure that the input imported under the duty exemption program was ultimately exported. In contrast, the GOM did not rely on SIONs or any analogous methodology for tracking the mandatory respondents’ Eighth Rule imports here.

Corey and the GOM also assert that SIONs are not applicable in the context of fabricated structural steel, because the product is often produced on a made-to-order basis.⁴⁹ However, governments routinely require companies to prepare product or company specific SIONs in order to claim temporary import duty exemptions. In *Citric Acid from Thailand*, cited by the GOM, we noted that the RTG requires that a participating company provide a company-specific “stock production formulas (*e.g.*, input/output formulas)” for each promoted project.⁵⁰ We have also observed that, where a single product is made through different production processes, each process may require the establishment of a unique SION.⁵¹ In *Welded Pipe from Turkey*, we noted that the “input/output usage rates vary by product and industry and are determined using data from capacity reports submitted by companies that apply for” benefits under the program.⁵² In short, a SION-based system for input tracking has been used in contexts where companies produce multiple products, and for companies that produce a single product through several distinct production processes. Therefore, a company’s input/output formula for producing fabricated structural steel products could similarly be applied in administering a temporary import program, such as the Eighth Rule. However, Eighth Rule program participants, in many

⁴⁴ See *Citric Acid from Thailand* IDM at 14.

⁴⁵ *Id.*

⁴⁶ See GOM Case Brief at 7 (citing *PET Resin from Thailand* IDM at 9).

⁴⁷ *Id.* (citing *CFS Paper from Korea* IDM at 12-14).

⁴⁸ *Id.*

⁴⁹ See Corey Case Brief at 1-2, 5; see also GOM Case Brief at 7.

⁵⁰ See *Citric Acid from Thailand* IDM at 12-14.

⁵¹ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2015, 83 FR 5612 (February 8, 2018) and accompanying IDM at 18 n.87 (noting that “{t}here are three production processes for PET film,” and therefore “there are three SIONs for the product.”).

⁵² See *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006) (*Welded Pipe from Turkey*) and accompanying IDM at 10; see also *CFS Paper from Korea* IDM at 14 (observing that the Government of Korea obtains a product-specific formula from each participating company in the administration of its duty drawback program).

industries, including the fabricated structural steel industry, are not required to provide SIONs or similar data on a project, product or industry-wide basis.⁵³

Although the GOM emphasizes that it can monitor or review a company's imports (*i.e.*, of raw material inputs) and exports (*i.e.*, of the eventual finished merchandise), there is no system in place that would allow the GOM to independently confirm that all of an imported input is ultimately consumed in subsequent exports. We disagree with Corey and the GOM that such a system is unnecessary and have in fact rejected these arguments in the past. For instance, we have previously explained that SIONs, "are a critical element of {a duty exemption} system, providing the only link between the amount of materials that may be imported duty-free and the exported finished products that have been produced with such inputs."⁵⁴ As the Court of International Trade (CIT) has explained, this is "the core of a 19 CFR 351.519 analysis."⁵⁵

While Corey emphasizes the effectiveness of its inventory management system, we have previously rejected claims that a company's own tracking system can substitute for an adequate government program. The CIT has specifically explained that, under 19 CFR 351.519, "business records" of a beneficiary company are insufficient, because "the underlying concern is whether the government maintains and applies a consistent procedure in order to confirm the inputs consumed in the production."⁵⁶ Therefore, consistent with Commerce practice, we continue to find that the GOM does not apply an adequate system to confirm which inputs, in what quantities, are consumed in the production of the exported product, as required by 19 CFR 351.519(a)(4)(i).

If an administering government does not have a system in place to track temporary imports, a duty exemption program may nonetheless be found not countervailable if the government carried out "an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts," as completed by 351.519(a)(4)(ii). The GOM asserts that Commerce should find that its selective verification process meets the

⁵³ See, e.g., Corey June 20, 2019 SQR at 6 ("Corey does not provide a production formula to the GOM to demonstrate the quantities of raw materials necessary to produce one unit of the merchandise for export.").

⁵⁴ See *PET Film from India* IDM at 12 ("Respondents claim that the tracking system, not the SIONs, ensures that benefits are accurately tied to consumption in the production of exports. This statement ignores the fact that the only mechanism cited by the GOI as limiting and linking the amounts of inputs allowed to be entered duty-free under the ALP to the amounts needed to produce exports, are the SIONs."). The CIT has found that such considerations are an appropriate part of an analysis under 19 CFR 351.519(a)(4)(i). For example, the CIT recently found that Commerce's decision to countervail a duty exemption program was supported by substantial evidence where "the Government of India stated that its monitoring system ... does not consider waste and consumption production factors ... and physical inspections are atypical." *ATC Tires Private Ltd. v. United States*, 322 F. Supp. 3d 1365, 1372-73 (CIT 2018).

⁵⁵ *Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d 1261, 1279 (upholding Commerce's determination that an input tracking system was inadequate under 19 CFR 351.519(a)(4)(i) where the administering government "utterly neglect{ed} to provide specific details on how the {government} determined the quantity of rubber, nylon cord, and carbon black consumed in the production process"); see also *MTZ Polyfilms, Ltd. v. United States*, 659 F. Supp. 2d 1303, 1315.

⁵⁶ *Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d at 1278-79 (noting that, in conducting an analysis under 19 CFR 351.519, "Commerce is entitled to focus on the {administering government's} responses in light of the fact that its regulations specifically require that the Department determine that the 'government in question has in place and applies' an adequate tracking system") (emphasis in original).

requirements of this provision. However, it is undisputed that the GOM conducted no such verification – *i.e.*, an examination of “actual” input consumption – as it relates to BSM or Corey.⁵⁷ As noted in the *Preliminary Determination*, both respondents stated that they have never been verified following their approval for the Eighth Rule program.⁵⁸ Therefore, the GOM clearly did not carry out an examination of BSM’s and Corey’s actual inputs, and 19 CFR 351.519(a)(4)(ii) is not met.

For the reasons stated, we find that the Eighth Rule program does not meet the requirements of 19 CFR 351.519(a)(4)(i) or (ii).⁵⁹ Accordingly, the entire amount of the import duty exemption provided to the respondents constitutes a benefit under section 771(5)(E) of the Act.⁶⁰

We find that benefits provided under the Eighth Rule program are export contingent and, thus specific, under section 771(5A)(B) of the Act because a company must confirm that it has export obligations to receive approval under IMMEX, and it is this IMMEX approval that also provides the basis of eligibility for the temporary import program under the Eighth Rule.⁶¹ We have previously found that this type of export requirement establishes the specificity of a subsidy program.⁶² We also find that the program is specific under section 771(5A)(D)(i) of the Act because it is limited to a defined range of producers, namely, manufacturers that produce goods that are classified within a particular set of tariff headings.⁶³ We find that the duty exemption

⁵⁷ See BSM June 24, 2019 SRQ at 3 (“The Government of Mexico has not performed any verifications of {sic} BSM’s inventory management system”); see also Corey June 20, 2019 SQR at 5 (“The Government of Mexico has not conducted a verification of the Eighth Rule Permit program specifically.”).

⁵⁸ See BSM June 24, 2019 SQR at 3; see also Corey June 20, 2019 SQR at 5.

⁵⁹ The petitioner asserts that the Eighth Rule program could be analyzed under 19 CFR 351.510 or 351.503(b), and that 19 CFR 351.519 may not be the most appropriate regulation because section 351.519 specifically concerns the “remission or drawback of import charges upon export” and the relevant duty exemptions under the Eighth Rule are provided upon entry into Mexico. However, the *CVD Preamble* indicates that 19 CFR 351.510 is inapplicable to this type of program, and states that section 351.510 “deals only with programs that potentially would be considered import substitution subsidies or domestic subsidies,” while “Sections 351.517 through 519 deal with programs that potentially would be considered export subsidies under section 771(5A)(B) of the Act because separate guidelines must be applied when examining export subsidy programs that involve exemptions or rebates of indirect taxes or import charges.” See *Countervailing Duties*, 63 FR 65348, 65376 (November 25, 1998) (*CVD Preamble*). Because we determine that section 351.519 guides our analysis of the Eighth Rule, we also do not need to consider application of 351.503(b) as a catch-all or residual provision for finding countervailability.

⁶⁰ See 19 CFR 351.519(a)(4) (noting that, where a program does not meet the criteria established in 19 CFR 351.519(a)(4)(i) or (ii), Commerce “will consider the entire amount of an exemption, deferral, remission or drawback to confer a benefit.”).

⁶¹ See GOM Verification Report at 4 (noting that “[a] large portion of companies that obtained Eighth Rule authorizations during the POI did so in order to meet “commercial obligations in international markets.”).

⁶² See CFS Paper from Korea IDM at 76-77 (finding a program specific as export contingent where the application “includes a section on the anticipated ‘investment effects’ of the project, including the degree to which the project will promote exports.”); see also *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) and accompanying IDM at 72 (“Section 771(5A)(B) of the Act and 19 CFR 351.514(a) state that an export subsidy is a subsidy that is in law or in fact, contingent upon export performance, alone or as one or two or more conditions. Given that the program’s application form solicits information on export activity... we find that the program is contingent upon export performance and, thus, constitutes a specific export subsidy within the meaning of section 771(5A)(B) of the Act.”).

⁶³ See GOM Verification Report at 4 (noting that a participant must be in a covered sector and must produce covered merchandise to qualify for benefits under the program).

provides a financial contribution in the form of revenue forgone by the GOM, *i.e.*, the duties that would otherwise be assessed on imported raw materials, under section 771(5)(D)(ii) of the Act.

Pursuant to 19 CFR 351.519(b)(2), benefits from a duty exemption program are “normally” conferred as of the date of exportation of the shipment of merchandise incorporating the duty-free inputs. However, as explained in the *Preliminary Determination*,⁶⁴ the Eighth Rule program is unique in the timing of benefit conferral. Under the program, companies enter merchandise under a designated duty-free Eighth Rule-specific tariff heading, rather than the tariff heading that would otherwise cover the merchandise.⁶⁵ In analogous cases, we have found that the benefit is conferred at importation. For instance, in *OCTG from India*, we noted the respondent’s “duty reduction was obtained at the time of import of the input product” and therefore we determined that “[t]he benefit is earned at importation because [the respondent] did not pay the full duties due at that time, and thus was conferred the benefit.”⁶⁶ Similarly, here, BSM and Corey were exempted from duties upon importation.

Corey asserts that the Eighth Rule duty exemption is a contingent liability until exportation because under the GOM’s governing regulations a participant is ultimately “expected to export the merchandise.”⁶⁷ However, as discussed above, we have determined that the GOM’s process for monitoring and enforcement is not adequate under 19 CFR 351.519, because the GOM has no mechanism in place to reliably determine the amount of an imported input that has, in fact, been exported. Therefore, it is inappropriate to consider this system adequate to render the Eighth Rule’s export requirement a contingency that must be met prior to accrual of benefits.⁶⁸

We also find that relying on export date would not provide a direct link, in terms of timing, between the receipt of Eighth Rule benefits and the exports of merchandise incorporating such inputs. For this additional reason, treating Eighth Rule benefits as accruing at the time of

⁶⁴ See PDM at 20.

⁶⁵ Eighth Rule participants do not pay duties and then subsequently get a refund upon exportation. Nor do participating companies earn a credit against future duty payments after they export the merchandise. Rather, under the program, companies get an immediate duty exemption upon importation.

⁶⁶ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*OCTG from India*) and accompanying IDM at 55.

⁶⁷ See Corey Case Brief at 18 (citing GOM’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Response of the Government of Mexico to the Department’s May 24, 2019 Supplemental Questionnaire,” dated June 6, 2019 (GOM June 6, 2019 SQR) at 1-5.). Corey asserts that our methodology does not account for instances where a company failed to export all of the temporary import and was required to pay the customs duties that were initially exempted. See Corey Case Brief at 18. However, pursuant to 351.519(a)(4), in light of our decision that the GOM’s input tracking system is inadequate, the entire amount of the exemption confers a benefit.

⁶⁸ See, e.g., *OCTG from India* IDM at 55 (“[T]he Department has determined that the GOI does not have a system in place that confirms which inputs are consumed in the production of the exported products and in what amounts, making normal allowance for waste, and that the system is not reasonable and effective for the purposes intended. Thus, Jindal SAW is relying on a system that the Department has determined to not be reliable for monitoring the export obligation (EO), which Jindal SAW claims to be a contingent liability. Accordingly, we continue to find that Jindal SAW’s benefits under its ALP/AA licenses were earned at the time of the duty-free importation of the input.”).

importation is appropriate under these circumstances. For additional discussion on this point, *see* note 1 of the BPI Addendum.

Finally, with respect to the types of duties exempted under the Eighth Rule, BSM reported exemptions from standard duties, while Corey reported exemptions from standard duties and antidumping duties. Corey asserts that antidumping duties were actually not owed on its steel plate imports.⁶⁹ Specifically, Corey emphasizes that Mexico's antidumping duty order covering subject steel plate excluded merchandise imported under the Eighth Rule program and argues that the Eighth Rule did not provide relief from the antidumping duties.⁷⁰ We disagree. Although Corey attempts to frame the antidumping duty order's exclusion for Eighth Rule imports as akin to a scope exclusion, the subject exclusion is not related to the physical characteristics of the merchandise (*i.e.*, steel plate). Rather, it is only through Corey's participation in the Eighth Rule program that the company was able to reclassify the imported steel plate as outside of the scope of the antidumping duty order.

Comment 2: Calculation of Total Adverse Facts Available Rate

GOM's Comments

- Commerce must remove from the total AFA rate any programs that are terminated, non-used, or not specific.
- The following programs were terminated: (1) Maquila Program; (2) Tarifa I-15; (3) Tarifa I-30; and (4) Immediate Deduction Program. Accordingly, these programs could not provide a benefit to any companies during the POI and should be removed from Commerce's total AFA rate compilation.
- The record demonstrates that the five non-responsive companies did not receive benefits from the following six programs: (1) Program to Boost Productivity and Industrial Competitiveness; (2) Program of Stimulus for Research, Technological Development and Innovation; (3) Special Economic Zones; (4) Law to Promote Investment and Employment for the State of Nuevo Leon; (5) State Government of Baja California Economic Incentive Program; and (6) Fund for Energy Transition and Sustainable Energy Use. Accordingly, these programs should be removed from Commerce's total AFA rate.
- The record demonstrates that the following two programs are not specific: (1) Program for the Use of Renewable Energy Sources – Accelerated Depreciation for Renewable Energy Investments; and (2) Deduction for New Fixed Assets for Small Companies. Accordingly, these programs should be removed from Commerce's total AFA rate.

Petitioner's Rebuttal Comments

- Commerce should not adjust its calculation of the AFA rate for the final determination in this investigation. To the extent that the GOM's arguments on this issue depend on the GOM's third and fourth supplemental questionnaire responses, Commerce should decline to rely on these responses for its final determination. These questionnaires were unnecessary requests for information and the GOM's responses remain unverified.

⁶⁹ *See* Corey Case Brief at 19-20.

⁷⁰ *Id.* at 19-21.

- Commerce should decline to find any of the programs terminated. The programs in question could have provided (non-recurring) benefits during the AUL period, and therefore should still be countervailed.
- Commerce should find that all of the programs were used and conferred a benefit. The GOM's assertions regarding non-use are unconfirmed and speculative.
- Commerce should find all of the AFA rate programs to be specific. The programs were determined to be specific in the analysis contained in Commerce's initiation checklist. Additionally, Commerce precedent demonstrates that the programs in question are specific. The Program for the Use of Renewable Energy Sources is highly limited to a list of qualified renewable energy generation-related investments, and the Deduction for New Fixed Assets for Small Companies is limited to small companies which acquire first-time use fixed assets.

GOM's Rebuttal Comments

- Commerce should not ignore the GOM's third and fourth supplemental responses. The GOM acted consistently with Commerce's instructions in responding to the initial and various supplemental questionnaires. Therefore, the third and fourth supplemental responses did not represent improper additional opportunities to respond. Moreover, there is simply no requirement that Commerce verify every document submitted in an investigation.

Commerce's Position: We agree with the GOM, in part, and the petitioner, in part. In the *Preliminary Determination*, we assigned a total AFA subsidy rate to the five non-responsive companies that failed to properly respond to our Q&V questionnaire.⁷¹ We found that the companies' failure to properly respond warranted the application of AFA with respect to the benefit element for all 17 subsidy programs under investigation, in accordance with our standard practice. We also found that – because the GOM provided only a limited response to Commerce's initial questionnaire for 15 of the 17 programs – application of AFA with respect to financial contribution and specificity was appropriate for the 15 programs.⁷² Based on these findings, we found benefit, financial contribution, and specificity for each of the 17 subsidy programs under investigation.⁷³ Then, consistent with our practice, we applied our AFA hierarchy to assign subsidy rates to the non-responsive companies for each of these programs.⁷⁴ Shortly after the *Preliminary Determination*, the GOM asserted that Commerce's application of AFA with respect to the GOM was unwarranted.⁷⁵

⁷¹ See PDM at 7-8.

⁷² We obtained a complete response for the remaining two programs prior to the *Preliminary Determination* and performed a full analysis to affirmatively find financial contribution and specificity for those programs.

⁷³ See PDM at 7-8.

⁷⁴ *Id.* at 8-13.

⁷⁵ See, e.g., GOM's Letter, "Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Request for Ministerial Error Correction and Meeting Request," dated July 12, 2019 at 1-5; and GOM September 20, 2019 SQR at 4-7. On August 5, 2019, we issued a memorandum responding to the GOM's initial arguments regarding the application of AFA. There, we explained that "{r}egardless of the merits of the GOM's position, its allegation does not relate to ... a ministerial error within the meaning of 19 CFR 351.224(f)" and further explained that "{t}he GOM's arguments concerning the appropriateness of Commerce's application of partial AFA may be included in case briefs for consideration in advance of the final determination in this matter." See Memorandum,

As described in the *Preliminary Determination*, the application of AFA with respect to the GOM was based on the fact that the GOM provided only a limited response to our initial questionnaire for 15 of the programs.⁷⁶ We preliminarily determined that, based on this limited response, the GOM was not fully cooperative. For the *Final Determination*, we are reversing that determination, as we find that the GOM has been fully cooperative.

The initial CVD questionnaire instructed the GOM to provide a limited response with respect to a subsidy program if that program was not used by any of the “companies under investigation.”⁷⁷ The questionnaire reasonably could be read to equate the phrase “companies under investigation” with the “mandatory respondents,” rather than all producers/exporters subject to the investigation.

After the Preliminary Determination, Commerce provided the GOM an opportunity to provide information regarding specificity and financial contribution for the programs in question. Furthermore, our practice is to include all alleged subsidy programs in the AFA rate unless the record evidence makes it clear that the company in question could not have benefitted from that program because, for example, we have found the program to be not countervailable,⁷⁸ terminated with no residual benefits during the POI,⁷⁹ or otherwise not used by the company or industry in question.⁸⁰ In past cases, such record evidence could entail information provided by the government regarding whether certain non-cooperative companies used the program at issue, for instance, “complete, verifiable, positive evidence that non-cooperative companies (including

“Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Allegation of Ministerial Error in the Preliminary Determination,” dated August 5, 2019 at 3.

⁷⁶ See PDM at 7-8.

⁷⁷ For example, the initial countervailing duty questionnaire stated: “For each program, *if no companies under investigation or “cross-owned” companies as defined in Section III applied for, used, or benefited from that program during the POI*, the GOM must so state and provide a brief explanation of the program and a detailed description of the records kept on that program. Otherwise, please answer all of the questions listed ...” (emphasis added). See Commerce’s Letter, “Countervailing Duty Investigation of Certain Fabricated Structural Steel from Mexico: Countervailing Duty Questionnaire,” dated April 2, 2019 (CVD Questionnaire) at 12. Similarly, the Standard Questions Appendix to the questionnaire states that Questions E through N must only be answered “*if any of the companies under investigation, including all cross-owned companies and any trading companies, whether or not cross-owned, through which a company under investigation exported subject merchandise to the United States during the POI, applied for, received, claimed, accrued or used assistance under this program during the period designated.*” *Id.* at 17 (emphasis added) (internal citations omitted).

⁷⁸ See *Narrow Woven Ribbons With Woven Selvage From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2012*, 79 FR 36013 (June 25, 2014), and accompanying IDM at “Use of Facts Otherwise Available and Adverse Inferences”, unchanged in *Narrow Woven Ribbons With Woven Selvage From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78036 (December 29, 2014) and accompanying IDM; *Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Korea*, 67 FR 62102 (October 3, 2002), and accompanying IDM at “Methodology and Background Information.”

⁷⁹ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and accompanying IDM at Comment 24.

⁸⁰ *Id.*

all their facilities and cross-owned affiliates) are not located in particular provinces whose subsidies are being investigated{.}”⁸¹

Here, as discussed below, we find that the GOM provided “complete, verifiable, positive evidence” that the *Maquila Program* and *Immediate Deduction Program* had been terminated with no residual benefits during the POI. Therefore, we have removed these programs from the AFA rate calculation, as discussed further below. For the *Tarifa I-15 Program* and *Tarifa I-30 Program*, as discussed below, we disagree with the GOM that these programs have been terminated.

Additionally, the record contains some evidence concerning the non-responsive companies’ potential non-use of the *Program to Boost Productivity and Industrial Competitiveness* and *Program of Stimulus for Research, Technological Development, and Innovation*. However, as discussed further below, we find that such evidence does not demonstrate that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue. For instance, if any of the five non-responsive companies were cross-owned with program participants that received benefits under these programs, we would attribute subsidies to the non-responsive companies. However, as a result of the non-responsive companies’ failure to participate in this proceeding, we have limited information about the companies, including whether these companies have cross-owned affiliates. If these companies properly responded to our Q&V questionnaire, they might have been selected as mandatory respondents and received our standard questionnaire requesting affiliation information. Additionally, we note that there is evidence that the non-responsive companies could have benefitted from the programs because FSS producers operated under a sector covered by the programs at issue.⁸²

The GOM argues that the non-responsive companies did not use the following programs: *Special Economic Zones Program*, *State Government of Baja California Economic Incentive Program*, *Law to Promote Investment and Employment for the State of Nuevo Leon*, and *Fund for the Energy Transition and Sustainable Energy Use*. However, such arguments are unsupported assertions which are not substantiated by any record evidence. Thus, the GOM has not provided “complete, verifiable, positive evidence” that the companies and their potential cross-owned affiliates did not use the programs. Specifically, as discussed further below, the record is lacking evidence that the companies and their potential cross-owned affiliates are not located in particular states, or that the programs provided no potential residual benefits during the POI. The companies in question did not respond to our Q&V questionnaire, which precluded us from considering whether to select them as mandatory respondents in this investigation. Thus, we find that such statements by the GOM do not demonstrate non-use of the programs by the non-responsive companies, particularly where the record does contain evidence that the non-responsive companies could have benefitted from the programs, because, for instance, FSS

⁸¹ See *Certain Kitchen Shelving and Racks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Kitchen Shelving and Racks*) and accompanying IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

⁸² See *MacLean-Fogg Co. v. United States*, 885 F. Supp. 2d 1337, 1341-42 (Ct. Int’l Trade 2012) (*MacLean-Fogg*) (finding that Commerce appropriately included subsidy programs in its all others rate calculation when company information concerning manufacturing facilities and potential cross-ownership was missing from the record), *rev’d on other grounds*, 753 F.3d 1237 (Fed. Cir. 2014).

producers are located in the zones or states at issue, or the programs potentially provided residual benefits during the POI.

As further discussed below, we do not agree with the GOM's assertion that two of the programs (*Program for the Use of Renewable Energy Source – Accelerated Depreciation for Renewable Energy Investments* and *Deduction for New Fixed Assets for Small Companies*) are not specific. The record establishes specificity with respect to each of these programs.

Lastly, the GOM provided evidence which supports an affirmative finding of financial contribution and specificity for three programs (*IMMEX*, *Bancomext Maquiladora Loans*, and *Law for the Promotion of Investments in the State of Jalisco*) and provided no arguments to contest the inclusion of the programs in the AFA rate calculation.

As described in further detail below, we have continued to include all programs identified above, except the *Maquila Program* and *Immediate Deduction Program*, in the AFA rate calculation. Our findings regarding financial contribution, specificity, and benefit for each of these programs are further addressed below. Additionally, the GOM provided no arguments to contest the inclusion of the two programs found countervailable and used by one or both of the mandatory respondents, the *Eighth Rule Program* and *PROSEC*, in the AFA rate calculation. Therefore, we have not further addressed these programs.

1. *Maquila Program*

The GOM states that the *Maquila Program* was terminated in 2006, when the IMMEX program came into effect and subsumed the functions of the *Maquila Program* and the Temporary Import Program to Produce Export Goods (PITEX).⁸³ The *Maquila Program* allowed the temporary importation of goods for production, but its export requirement was gradually eliminated.⁸⁴ PITEX was a duty exemption program for goods used in an industrial process or service to produce, transform, or repair temporarily imported foreign goods for subsequent export or provision of export services.⁸⁵ The GOM states that the “programs were ‘merged’ in 2006” and explains the “the temporary importation provisions were continued under IMMEX.”⁸⁶ A WTO report submitted by the petitioner similarly indicates that “the Maquila and the PITEX, were amalgamated into the IMMEX programme at the end of 2006.”⁸⁷ The WTO report further explains that “{a}s a result of this amalgamation, the benefits of both {predecessor} programmes remained in effect until the IMMEX Programme entered into force fully, which was planned for 1 July 2007{, but in} October 2007, however, it was decided to defer its full application until January 2008.”⁸⁸ Therefore, we find that the record demonstrates that the *Maquila Program* was replaced by IMMEX. Additionally, because the record demonstrates that benefits provided by the program are recurring in nature, we find that no companies could have received benefits

⁸³ See GOM October 9, 2019 SQR at 1-2.

⁸⁴ *Id.* at 2.

⁸⁵ *Id.* at 1.

⁸⁶ *Id.*

⁸⁷ See Petitioner's Letter, “Certain Fabricated Structural Steel from Mexico: Deficiency Comments on GOM's Fourth Supplemental Questionnaire Response,” dated October 21, 2019, at Exhibit 1.

⁸⁸ *Id.*

under the *Maquila Program* during the POI.⁸⁹ As a result, we have removed this program from the AFA rate calculation.

2. *Immediate Deduction Program*

Under the Immediate Deduction program, which was part of the Income Tax Law of 2002, the GOM permitted companies outside of Mexico City, Monterrey, or Guadalajara to make an immediate tax deduction relating to new fixed assets, either in the tax year in which the investments were made or in the year in which they were first used.⁹⁰ Companies within Mexico City, Monterrey, or Guadalajara were also allowed to apply this provision, provided the new assets were for clean technologies that did not require the intensive use of water.⁹¹ The GOM stated that as of January 1, 2014, the Income Tax Law was repealed, and the Immediate Deduction program was no longer in effect.⁹² The GOM further states that following revocation of the program, “there has been no program to replace this provision.”⁹³

We inquired into whether the GOM subsequently administered any other similar “immediate deduction” tax programs that might constitute a replacement program. First, the GOM noted that it applied a separate immediate deduction provision, with different eligibility criteria, from September 2015 through 2017. This tax deduction program applied to companies whose total income was lower than \$100 million pesos or companies that carried out investments in particular fields.⁹⁴ Second, from September 15, 2014 to June 30, 2015 the GOM administered an immediate deduction program that was part of a disaster relief effort in Baja California.⁹⁵ The provision was limited to new fixed assets located and used exclusively within five municipalities of the State of Baja California Sur that were damaged by Hurricane Odile.⁹⁶

Based on the record evidence, both subsequent immediate deduction programs had substantially different coverage and eligibility criteria than the program initiated upon. Accordingly, we do not find that the programs are replacement programs.⁹⁷ Additionally, because the benefits provided by the initiated upon program are recurring in nature, we find that no companies could have received benefits under the Immediate Deduction during the POI.⁹⁸ As a result, we have removed this program from the AFA rate calculation.

3. *Tarifa I-15 Program*

4. *Tarifa I-30 Program*

⁸⁹ See 19 CFR 351.526(d)(1).

⁹⁰ See GOM May 20, 2019 IQR at 27.

⁹¹ *Id.*

⁹² *Id.*

⁹³ See GOM September 20, 2019 SQR at 54.

⁹⁴ *Id.*

⁹⁵ See GOM October 9, 2019 SQR at 3.

⁹⁶ *Id.*

⁹⁷ See 19 CFR 351.526(d)(2).

⁹⁸ *Id.*

Under these programs, companies receive a payment from the Federal Electricity Commission if they agree to limit electricity usage during particular time frames.⁹⁹ We find, based on the record evidence, that the programs provide a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.¹⁰⁰ Further, we find, based on the record evidence, these programs to be specific because eligibility for the program is limited to industrial companies that consume a particular amount of electricity.¹⁰¹ We have found these types of restrictions to constitute specificity in the past.¹⁰² Additionally, we note that Commerce has previously found similar programs countervailable, particularly with respect to steel products manufacturers and since some FSS producers could qualify as large industrial users of electricity, they could have benefitted under this program.¹⁰³ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM asserts that the Tarifa I-15/I-30 programs were terminated and, “by definition, could not have provided a financial contribution nor been specific during the POI, as they were not in effect during the POI.”¹⁰⁴ This assertion directly contradicts other statements provided by the GOM. Although “as of December 31, 2017 {prior to the POI} ... companies could not sign new agreements”¹⁰⁵ under the programs, existing agreements under the programs remained in force during the POI.¹⁰⁶ Accordingly, companies with existing agreements – *i.e.*, agreements entered into prior to December 31, 2017 – could still continue to receive benefits under the programs during the POI.¹⁰⁷ As a result, even if the programs were ultimately allowed to lapse prior to the end of 2017, we find that they continued to provide residual benefits during the POI.¹⁰⁸ Therefore, we find that it is appropriate to continue to include these programs in the AFA rate calculation for the non-responsive companies.

5. *Program to Boost Industrial Productivity and Competitiveness (PPCI)*

Under this program, the GOM pursues a variety of goals, including: boosting investment; fostering a transition towards sectors of high productivity and competitiveness; strengthening productive chains; and increasing the technological content and value added in national

⁹⁹ See GOM May 20, 2019 IQR at 1-2; see also Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China,” dated February 4, 2019 (Petition) Volume VI at 6-8.

¹⁰⁰ See Petition at Exhibit VI-5.

¹⁰¹ *Id.*; see also GOM September 20, 2019 SQR at GOM-SUPP3-110.

¹⁰² See *Supercalendered Paper from Canada: Final Results of Countervailing Duty Expedited Review*, 82 FR 18896 (April 24, 2017) and accompanying IDM at 30 (“In this instance, however, the program was found to expressly limit eligibility of the subsidy to industrial companies that consume more than 10 GwH of electricity and determined to be *de jure* specific. As such, the remaining arguments regarding program usage or other *de facto* criteria are inapposite.”).

¹⁰³ See GOM September 20, 2019 SQR at GOM-SUPP3-110; see also Petition, Volume VI at 6-8.

¹⁰⁴ GOM Case Brief at 18.

¹⁰⁵ GOM September 20, 2019 SQR at 115.

¹⁰⁶ See GOM October 9, 2019 SQR at 4 (noting that “{n}o new contracts could be issued after that point, but preexisting contracts were not canceled.”).

¹⁰⁷ See GOM September 20, 2019 SQR at 4.

¹⁰⁸ See 19 CFR 351.526(d)(1).

production.¹⁰⁹ We find, based on the record evidence, that the program provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.¹¹⁰ We also find, based on the record evidence, that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because, by law, eligibility is limited to manufacturing sector entities that “need to solve productivity problems and / or insertion in value chains,” and “present ... projects aligned to the public policy objectives pursued by the PPCI.”¹¹¹ Additionally, the first selection criterion is that the project contribute to the “improvement of the productivity of the regions and sectors defined by the subsecretary of industrial and Commerce.”¹¹² The program is also *de facto* specific because the actual recipients of the subsidy on an enterprise basis are limited in number, taking into account the number of eligible enterprises in the economy.¹¹³ Specifically, we note that the GOM stated that all companies nationwide, *i.e.*, 5,766,440 taxpayers, are eligible for the program, while only 22 companies were approved for assistance under this program during the POI.¹¹⁴

We disagree with the GOM’s assertion that the PPCI was not used by the five companies assigned an AFA rate. As an initial matter, we note that the record contains evidence in the form of a Mexican Ministry of Economy informational brochure demonstrating that FSS producers operated under a sector covered by the program, and, therefore, could have benefitted under the program.¹¹⁵ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM attempts to overcome the companies’ non-participation by pointing to evidence purportedly demonstrating non-use. Specifically, the GOM highlights that it provided a list of all PPCI recipients during 2016-2018 period, and none of the five non-responsive companies are included on these lists.¹¹⁶ However, as discussed above, we find that such evidence does not definitively demonstrate (*i.e.*, in the form of “complete, verifiable, positive evidence”) that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue.¹¹⁷ For instance, if any of the five non-responsive companies were cross-owned with PPCI’s recipients, we would attribute subsidies to the non-responsive companies. However, as a result of the non-responsive companies’ failure to participate in this proceeding, we have limited

¹⁰⁹ See GOM September 20, 2019 SQR at Exhibit 8.

¹¹⁰ *Id.* (explaining, at Article 21, the types of support offered under the program).

¹¹¹ *Id.* (describing, at subsection 6, the target population for the program).

¹¹² *Id.* (listing, at subsection 8, the various selection criteria for supported projects).

¹¹³ See *e.g.*, *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642 (October 25, 2007) and accompanying Issues and Decision Memorandum at 18 (finding a program *de facto* specific where five out of a total of 23 industries utilized the program).

¹¹⁴ See GOM September 20, 2019 SQR at 139.

¹¹⁵ See Petition at Exhibits VI-49 and VI-53.

¹¹⁶ See GOM Case Brief at 19 (citing Petitioner’s Letter, “Fabricated Structural Steel from Mexico (C-201-851) – Submission of Consultations Paper,” dated February 20, 2019 (GOM Consultations Paper) at Attachment 2 and GOM June 6, 2019 SQR at Exhibits GOM-Supp1-PPCI-1 and GOM-SUPP1-PPCI-2).

¹¹⁷ See, *e.g.*, *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available” (“{W}here the GOC can demonstrate through complete, verifiable, positive evidence that non-cooperative companies (including all their facilities and cross-owned affiliates) are not located in particular provinces whose subsidies are being investigated, the Department does not intend to include those provincial programs in determining the countervailable subsidy rate for the non-cooperative companies.”).

information about the companies, including whether these companies have cross-owned affiliates.¹¹⁸ In particular, if these companies properly responded to our Q&V questionnaire, they might have been selected as mandatory respondents and received our standard questionnaire requesting affiliation information. Alternatively, if the companies were not selected for individual examination, they would have been assigned the “all-others” rate. It is a direct result of the companies’ non-participation that we cannot establish, with confidence, that the non-responsive companies (or their potential cross-owned affiliates) did not benefit from the program. When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

6. *Program of Stimulus for Research, Technological Development and Innovation*¹¹⁹

Pursuant to this program, the GOM provides funds to entities that invest in “activities and projects related to research, technological development, and innovation.”¹²⁰ We find, based on the record evidence, that the program provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.¹²¹ Further, we also find, based on the record evidence, that the program is specific under section 771(5A)(D)(i) of the Act because it is limited to a defined range of producers that make investments related to research, technological development, and innovation, and is further limited to companies that are registered in the National Registry of Scientific and Technological Institutions and Enterprises.¹²²

We disagree with the GOM’s assertion that the program was not used by the five non-responsive companies. As an initial matter, we note that the record contains evidence in the form of a Mexican Ministry of Economy informational brochure demonstrating that FSS producers operated under a sector covered by the program, and, therefore, could have benefitted under the program.¹²³ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM attempts to overcome the non-responsive companies’ failure to properly participate by pointing to record evidence that purportedly demonstrates non-use. Specifically, the GOM emphasizes that it provided a list of all recipients under the above-referenced program, and none

¹¹⁸ See, e.g., *MacLean-Fogg*, 885 F. Supp. 2d at 1341-42.

¹¹⁹ This program was identified in the petition as the “Innovation Incentive Program.” See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China – Volume VI: Mexico CVD Petition,” dated February 4, 2019 (Petition).

¹²⁰ See GOM May 20, 2019 IQR at 14.

¹²¹ *Id.* at 15.

¹²² See GOM May 20, 2019 IQR at 14-15. See, e.g., *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) and accompanying IDM at 31 (explaining that “[r]egarding specificity, because the grant is limited to enterprises with technology innovation projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act,” and stating, with respect to another program, that “because the grant is limited to enterprises with research and development projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.”).

¹²³ See Petition at Exhibits VI-49 and VI-54.

of the five non-responsive companies are included on this list.¹²⁴ However, as discussed above, we find that such evidence does not definitively demonstrate (*i.e.*, in the form of “complete, verifiable, positive evidence”) that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue.¹²⁵ For instance, if any of the five non-responsive companies were cross-owned with the program’s recipients, we would attribute subsidies to the non-responsive companies. However, as a result of the non-responsive companies’ failure to participate in this proceeding, we have limited information about the companies, including whether these companies have cross-owned affiliates.¹²⁶ In particular, if these companies properly responded to our Q&V questionnaire, they might have been selected as mandatory respondents and received our standard questionnaire requesting affiliation information. Alternatively, if the companies were not selected for individual examination, they would have been assigned the “all-others” rate. It is a direct result of the companies’ non-participation that we cannot establish, with confidence, that the non-responsive companies (or their potential cross-owned affiliates) did not benefit from the program. When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

7. *Special Economic Zones*

Under this program, the GOM established special economic zones (SEZs) which “offer specialized customs and tax regimes, administrative simplification for business facilitation, and competitive infrastructure, among other incentives to promote investment.”¹²⁷ Based on the record evidence, we find that this program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone (the GOM does not contest financial contribution for this program).¹²⁸ Further, we find, based on the record evidence, that this program is specific within the meaning of section 771(5A)(D)(iv) of the Act, because it was established through a federal law targeting particular geographic locations.¹²⁹

We disagree with the GOM’s assertion that the program was not used by the five non-responsive companies. As an initial matter, aside from the evidence described above, we note that the record contains evidence in the form of screenshots of a Mexican government website about investment and infrastructure demonstrating that the GOM provides special incentives to companies located in SEZs.¹³⁰ Additionally, the record contains evidence in the form of

¹²⁴ See GOM Case Brief at 19 (citing Petitioner’s Letter, “Certain Fabricated Structural Steel from the People’s Republic of Canada: Responses to Supplemental Questions on Mexico CVD Volume VI of the Petition,” dated February 12, 2019 (Petition Supp) at Exhibit VI-Supp-19).

¹²⁵ See, e.g., *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹²⁶ See, e.g., *MacLean-Fogg*, 885 F. Supp. 2d at 1341-42.

¹²⁷ See GOM May 20, 2019 IQR at 32.

¹²⁸ The GOM stated that, with the exception of certain programs, “the GOM stipulates that the remaining programs {discussed in the response} involve the provision of a financial contribution by a government entity.” September 20, 2019 SQR at 7-8.

¹²⁹ See GOM May 20, 2019 IQR at 33-34.

¹³⁰ See Petitioner’s Letter, “Petition for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People’s Republic of China,” dated February 4, 2019 (Petition) at Exhibit VI-57 (noting that the program provided various benefits including duty exemptions).

screenshots from a Bank of Mexico webpage demonstrating that FSS producers may be located in these SEZs, and, therefore, could have benefitted under the program.¹³¹ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM attempts to overcome the non-responsive companies' failure to properly participate by asserting non-use of the program on their behalf.¹³² Specifically, in its consultations paper, the GOM explained that the petitioner's allegation demonstrates that the benefits would only be recognized after the end of 2018, which is outside of the POI.¹³³ The GOM's initial questionnaire response stated that "as mentioned in the Government of Mexico's consultations paper, this is a newly created program and FSS producers did not participate in any SEZ during the POI."¹³⁴ Also, in response to Commerce's third supplemental questionnaire, the GOM noted that, while the SEZ program "formally still exists ... it was never used and for practical purposes, it is no longer in effect."¹³⁵ We disagree. The petition exhibit cited by the GOM does not definitively indicate that for each of the potential seven SEZs, companies would not begin operation until the end of 2018. Further, the exhibit indicates that there could be varying benefits, not just tax benefits, that could accrue in the POI.¹³⁶ Thus, the record evidence contemplates the provision of non-recurring benefits for this program; therefore, notwithstanding the GOM's assertion about 2018 benefits, pre-POI benefits could still be attributable to the POI. Lastly, we note that the GOM did not provide any substantiating documentation which would otherwise support its claim of non-use by the five non-responsive companies, *i.e.*, "complete, verifiable, positive evidence" that the companies and their potential cross-owned affiliates did not use the program.¹³⁷ When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

8. *State Government of Baja California Economic Incentive Program*

Under this program, a company may receive tax relief or non-fiscal incentives including management consulting, training for entrepreneurs, technical assistance in accessing new markets, and public infrastructure support.¹³⁸ Based on the record evidence, we find that the program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone to the extent it provides tax relief.¹³⁹ Therefore, we find this program specific under section 771(5A)(D)(i) of the Act, because the set of companies eligible to receive a benefit

¹³¹ See Petition at Exhibits VI-55 – VI-58.

¹³² See GOM Case Brief at 20.

¹³³ See GOM Consultations Paper at 13.

¹³⁴ See GOM May 20, 2019 IQR, Volume II at GOM-33.

¹³⁵ See GOM September 20, 2019 SQR at GOM-SUPP3-74.

¹³⁶ See Petition at Exhibits VI-55 – VI-58.

¹³⁷ See, *e.g.*, *Kitchen Shelving and Racks* and accompanying IDM at "Use of Facts Otherwise Available and Adverse Facts Available{.}"

¹³⁸ See GOM September 20, 2019 SQR at 99; see also GOM September 20, 2019 SQR at GOM-SUPP3-91 (citing Petition at Exhibit VI-63 (describing various fiscal and non-fiscal incentives to be provided to recipient companies)).

¹³⁹ The GOM stated that, with the exception of certain programs, "the GOM stipulates that the remaining programs {discussed in the response} involve the provision of a financial contribution by a government entity." September 20, 2019 SQR at 7-8.

are limited to companies that carry out an investment project, and: (1) operate a system for wastewater treatment or hire older adults, persons with different abilities and/or graduates of shelters, home or social assistance institution for girls, boys and adolescents; (2) implement non-polluting renewable energy consumption and use projects; and (3) have 1 to 10 employees.¹⁴⁰

We disagree with the GOM's assertion that the program was not used by the five non-responsive companies that were assigned an AFA rate. As an initial matter, aside from the evidence described above, we note that the record contains evidence in the form of screenshots of a Mexican government website about state incentives in Baja and evidence in the form of AISC certifications demonstrating that several FSS producers are located in Baja, and, therefore, could have benefitted under the program.¹⁴¹ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM attempts to overcome the companies' non-participation by asserting non-use of the program on their behalf. Specifically, the GOM points to its statement that "neither the steel nor the {fabricated structural steel} industry received any funding during the POI."¹⁴² However, the GOM did not provide any substantiating documentation which would support its claim of non-use, *i.e.*, "complete, verifiable, positive evidence" that the companies and their potential cross-owned affiliates did not use the program.¹⁴³ When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

9. *Law to Promote Investment and Employment for the State of Nuevo Leon*

Under this program, the GOM provides tax incentives, reimbursements, and non-economic incentives to national and foreign investors for the creation of new companies and to encourage employment to strengthen and increase the capacity of existing companies in the State.¹⁴⁴ Based on the record evidence, we find that the program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone to the extent it provides tax relief, and provides a financial contribution under section 771(5)(D)(i) of the Act to the extent the GOM provides a direct transfer of funds (the GOM does not contest financial contribution for this program).¹⁴⁵ Further, based on the record evidence, we find this program specific under section 771(5A)(D)(i) of the Act because the administering authority is instructed to encourage employment, especially in "those sectors that favor more to the development of human capital, innovation, research, development and the transfer of knowledge and technologies" and in the

¹⁴⁰ See GOM September 20, 2019 SQR at 93-94; *see also* GOM September 20, 2019 SQR at GOM-SUPP3-91 (citing Petition at Exhibit VI-63).

¹⁴¹ See Petition at Exhibits VI-21, VI-33, VI-36, and VI-63.

¹⁴² See GOM Case Brief at 20 (citing GOM September 20, 2019 SQR at 96, 98).

¹⁴³ See, *e.g.*, *Kitchen Shelving and Racks* and accompanying IDM at "Use of Facts Otherwise Available and Adverse Facts Available."

¹⁴⁴ See GOM May 20, 2019 IQR at 47.

¹⁴⁵ See Petition Exhibit VI -64 (listing, at Chapter 1, Article V, the purpose of the law). The GOM stated that "we stipulate to the fact that under this program a financial contribution is provided by a government entity." GOM September 20, 2019 SQR at 104.

sectors “with the greatest impact on modernization and logistics competitiveness in the State.”¹⁴⁶ We also find that the program is specific under section 771(5A)(B) of the Act, because the law notes that one of the purposes of the program is to “{e}ncourage foreign trade with special emphasis on the development of strategic programs that promote the development and promotion of the exportable supply, as well as the strengthening of productive chains, the development of suppliers and the collection of foreign currency.”¹⁴⁷

We disagree with the GOM’s assertion that the program was not used by the five companies assigned an AFA rate. As an initial matter, aside from the evidence described above, we note that the record contains evidence in the form of a copy of the law to promote investment and employment in the state of Nuevo Leon demonstrating that the state of Nuevo Leon provides special incentives to companies located in the state. Additionally, the record also contains evidence in the form of AISC certifications demonstrating that several FSS producers are located in Nuevo Leon, and, therefore, could have benefitted under the program.¹⁴⁸ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM attempts to overcome the companies’ non-participation by asserting non-use of the program on their behalf. Specifically, the GOM points to its statement that “{a}lthough there was an approved budget for this program, during 2018, no incentive was granted because the Law is undergoing modifications.”¹⁴⁹ However, we find that the GOM’s assertion regarding 2018 benefits does not comprehensively demonstrate non-use. Despite the GOM’s statement that the program “underwent changes” in 2017, it has been in existence since 2007.¹⁵⁰ Moreover, the program contemplates the provision of non-recurring benefits; therefore, notwithstanding the GOM’s assertion about 2018 benefits, pre-POI benefits could still be attributable to the POI.¹⁵¹ Lastly, we note that the GOM did not provide any substantiating documentation which would otherwise support its claim of non-use by the five non-responsive companies, *i.e.*, “complete, verifiable, positive evidence” that the companies and their potential cross-owned affiliates did not use the program.¹⁵² When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

10. *Fund for Energy Transition and Sustainable Energy Use*¹⁵³

¹⁴⁶ See Petition Exhibit VI -64 (listing, at Chapter 3, Article VII, the incentives provided under the law).

¹⁴⁷ See GOM September 20, 2019 SQR at GOM-SUPP3-102 (citing Petition (listing, at Chapter 1, Article V, the purpose of the law).

¹⁴⁸ See Petition at Exhibits VI-38, VI-65, and VI-66.

¹⁴⁹ See GOM Case Brief at 20 (citing GOM September 20, 2019 SQR at 102).

¹⁵⁰ See GOM May 20, 2019 IQR at 47.

¹⁵¹ See GOM May 20, 2019 IQR at 47 (noting that benefits under the program can take the form of direct transfers, such as reimbursements for infrastructure and the purchase of real estate or other property, *i.e.*, non-recurring benefits).

¹⁵² See, *e.g.*, *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹⁵³ This program was identified in the Petition as “Grants from Renewable Energy Funds (Green Fund, Emergent Technologies Fund, Rural Electrification Fund, and Research and Technological Development Fund).”

Under this program, the GOM promotes the use of cleaner technologies and fuels, sustainable use of energy, as well as the improvement in energy productivity.¹⁵⁴ Based on the record evidence, we find that the program provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act (the GOM does not contest financial contribution for this program).¹⁵⁵ Further, based on the record evidence, we find the program specific under section 771(5A)(D)(i) of the Act because, by law, only a limited group of enterprises qualify as the program relates to companies utilizing renewable energy resources.¹⁵⁶

We disagree with the GOM's assertion that the program was not used by the five non-responsive companies that were assigned an AFA rate. As an initial matter, aside from the evidence described above, we note that the record contains evidence in the form of an annual report of the subsidiary of a steel producer in Mexico which benefits from a renewable energy grant under this program, and, therefore, demonstrates that FSS producers could have benefitted under the program.¹⁵⁷ Therefore, based on AFA, we find that the non-responsive companies benefitted from this program.

The GOM again attempts to overcome the companies' non-participation by asserting non-use of the program on their behalf. Specifically, the GOM points to its statement that "no assistance was provided to any company during 2018."¹⁵⁸ However, we find that the GOM's assertion regarding 2018 benefits does not comprehensively demonstrate non-use. The program contemplates the provision of non-recurring benefits; therefore, notwithstanding the GOM's assertion about 2018 benefits, pre-POI benefits could still be attributable to the POI.¹⁵⁹ Moreover, we note that the GOM did not provide any substantiating documentation which would otherwise support its claim of non-use by the five non-responsive companies, *i.e.*, "complete, verifiable, positive evidence" that the companies and their potential cross-owned affiliates did not use the program.¹⁶⁰ When faced with such a lack of evidence, combined with the evidence described above that FSS producers could have benefitted from the program, we find that it is appropriate to continue to include the program in the AFA rate calculation for the non-responsive companies.

11. *Program for the Use of Renewable Energy Sources – Accelerated Depreciation for Renewable Energy Investments*

¹⁵⁴ See GOM September 20, 2019 SQR at 124.

¹⁵⁵ The GOM stated that "we stipulate to the fact that under this program a financial contribution is provided by a government entity." GOM September 20, 2019 SQR at 126. According to the implementing legislation, the program's benefits come in the form of "recoverable and non-recoverable funding. See *id.* at Exhibit 6 (explaining, at Article 50, that incentives may include "granting of credit guarantees or other financial support for projects.") and Exhibit 7 (same).

¹⁵⁶ See GOM September 20, 2019 SQR at GOM-SUPP3-124-129.

¹⁵⁷ See Petition at Exhibits VI-10 and VI-11.

¹⁵⁸ GOM Case Brief at 20 (citing GOM September 20, 2019 SQR at 124, 130-131).

¹⁵⁹ See, *e.g.*, GOM September 20, 2019 SQR at Exhibit 6 (noting, at Article 51, that benefits "may be recoverable and *non-recoverable*," *i.e.*, loans and grants) (emphasis added).

¹⁶⁰ See, *e.g.*, *Kitchen Shelving and Racks* and IDM at "Use of Facts Otherwise Available and Adverse Facts Available."

Under this program, the GOM allows companies to depreciate, in one year, 100 percent of their investments in machinery and equipment for the generation of energy from renewable energy or from efficient systems.¹⁶¹ Based on the record evidence, we find that the program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone (the GOM does not contest financial contribution for this program).¹⁶² Further, we find the program specific under section 771(5A)(D)(i) of the Act because, by law, only a highly limited list of investments qualify for the 100 percent accelerated depreciation tax deduction, as the GOM limits the 100 percent deduction to machinery and equipment for the generation of energy from renewable sources, which it explains, includes solar, wind, “kinetic and potential water power,” “ocean energy,” geothermal, and energy from biomass or waste.¹⁶³ Although the GOM disputes that the program is specific, we have found similar programs specific in the past.¹⁶⁴ Therefore for the *Final Determination*, we determine the program to be specific and to have provided a financial contribution. Additionally, we note that the record contains evidence in the form of product brochures and annual reports of a subsidiary of a Mexican steel producer, indicating that the subsidiary could have benefitted from this program and that similarly, other FSS producers could have benefitted under the program.¹⁶⁵ Therefore, the record does not definitively demonstrate that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue.¹⁶⁶ Consequently, based on AFA, we find that the non-responsive companies benefitted from this program.

12. Deduction for New Fixed Assets for Small Companies

Under this program, the GOM provides an immediate deduction of expenses for companies earning less than 100 million pesos in the prior fiscal year if the expenses are related to the acquisition of fixed assets.¹⁶⁷ Based on the record evidence we find that the program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone (the

¹⁶¹ See GOM May 20, 2019 IQR at 22.

¹⁶² The GOM stated that, with the exception of certain programs, “the GOM stipulates that the remaining programs {discussed in the response} involve the provision of a financial contribution by a government entity.” September 20, 2019 SQR at 7-8.

¹⁶³ *Id.*

¹⁶⁴ See *Sugar From Mexico: Final Affirmative Countervailing Duty Determination*, 80 FR 57337 (September 23, 2015) and accompanying IDM (*Sugar From Mexico*) at 62 (“We continue to find that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because, by law, only a highly limited list of investments qualify for the 100 percent accelerated depreciation tax deduction. The GOM limits the 100 percent deduction to machinery and equipment for the generation of energy from renewable sources, which, it explains, includes solar, wind, ‘kinetic and potential water power,’ ‘ocean energy,’ geothermal, and energy from biomass or waste. Although any enterprise could, theoretically, qualify for the deduction by purchasing such assets, this does not overcome the fact that the law expressly limits access to the subsidy to certain enterprises with the requisite investments and the program is, thus, *de jure* specific. The Department routinely finds programs limited to enterprises using particular assets to be specific, including: tax deductions for research and development in eligible high-technology sectors; import tariff and value-added tax exemptions for ‘encouraged projects’; grants for solar electricity-generation projects; and loans to the renewable energy industry.”) (citations omitted).

¹⁶⁵ See Petition, Volume VI at 12 and Exhibits VI-8 and VI-9.

¹⁶⁶ See, e.g., *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹⁶⁷ See GOM May 20, 2019 IQR at 30.

GOM does not contest financial contribution for this program).¹⁶⁸ Further, we find the program specific under section 771(5A)(D)(i) of the Act because, in addition to being limited to small companies that purchase fixed assets, the law also excludes numerous industries from participation. Specifically, the applicable law provides that “the {deduction} option referred to in this Decree may not be exercised in the case of furniture and office equipment, automobiles, automobile armoring equipment, or any fixed assets not individually identifiable, or in the case of airplanes other than those dedicated to aerial fumigation agricultural.”¹⁶⁹ Although the GOM disputes that the program is specific, and emphasizes that being limited to small enterprises does not establish specificity, the program has additional eligibility restrictions, as highlighted above. Based on these considerations, we find this program to be specific.¹⁷⁰

13. IMMEX (i.e., Program for the Manufacturing Industry, Maquiladora, and Export Services)

Under this program, the GOM allows the temporary duty-free importation of goods for use in an industrial process or service for the manufacture, transformation, or repair of imported merchandise destined for export.¹⁷¹ The GOM explains that, pursuant to IMMEX, payment is deferred for import tariffs in the case of raw materials, parts and components used in the production process.¹⁷² We find, based on the record evidence, that the program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone (the GOM does not contest financial contribution for this program).¹⁷³ Further, we find that the program is specific under section 771(5A)(B) of the Act because it is contingent on export performance.¹⁷⁴ Additionally, we note that the record contains evidence in the form of screenshots of a Mexican government website that indicates that several FSS producers are maquiladoras and thus, could have benefitted under the program.¹⁷⁵ The record also contains evidence in the form of AISC certifications for several FSS producers, indicating that they are beneficiaries of this program¹⁷⁶ and screenshots of a Mexican government website identifying several FSS producers as beneficiaries of this program.¹⁷⁷ Therefore, the record does not

¹⁶⁸ The GOM stated that, with the exception of certain programs, “the GOM stipulates that the remaining programs {discussed in the response} involve the provision of a financial contribution by a government entity.” September 20, 2019 SQR at 7-8.

¹⁶⁹ See GOM September 20, 2019 SQR at GOM-SUPP3-65 (citing Petition at Exhibit VI-22).

¹⁷⁰ See, e.g., *Certain Steel Nails from the Sultanate of Oman: Final Negative Countervailing Duty Determination*, 80 FR 28958 (May 20, 2015) and accompanying IDM at 12 (noting that Commerce’s *de jure* specificity finding “relies on the fact that other industries in Oman are expressly ineligible for the exemption as a matter of law.”); and *Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Final Affirmative Countervailing Duty Determination*, 77 FR 64465 (October 22, 2012) and accompanying IDM at 17 (finding *de jure* specificity because “other industries in the UAE are denied the exemptions as a matter of law.”).

¹⁷¹ See GOM May 20, 2019 IQR at 36.

¹⁷² See *id.* As noted above, we determined that the GOM’s input tracking system for the Eighth Rule program is insufficient, and therefore that the program is countervailable.

¹⁷³ The GOM stated that, with the exception of certain programs, “the GOM stipulates that the remaining programs {discussed in the response} involve the provision of a financial contribution by a government entity.” September 20, 2019 SQR at 7-8.

¹⁷⁴ See *id.*; see also GOM September 20, 2019 SQR at 84.

¹⁷⁵ See Petition at Exhibit VI-29.

¹⁷⁶ *Id.* at Exhibits VI-19, VI-21, VI-27, VII-28, and VI-31 - VI-38.

¹⁷⁷ *Id.* at Exhibits VI-39 and VI-40.

definitively demonstrate that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue.¹⁷⁸ Consequently, based on AFA, we find that the non-responsive companies benefitted from this program.

14. *Bancomext Maquiladora Loans*

Pursuant to this program, the GOM, through the Banco Nacional de Comercio Exterior, S.N.C. (Bancomext), provides funds to “[a]ny company directly or indirectly linked to foreign trade activities” to support “working capital and/or investment projects.”¹⁷⁹ We find, based on the record evidence, that the program provides a financial contribution through the provision of loans pursuant to section 771(5)(D)(i) of the Act.¹⁸⁰ Further, we find that it is specific under section 771(5A)(B) of the Act, because it is limited to companies engaged in foreign trade, and, therefore, is contingent upon export performance.¹⁸¹ Additionally, we note that the record contains evidence in the form of screenshots of a Mexican government website that indicates that several FSS producers are maquiladoras and thus, FSS producers could have benefitted under the program.¹⁸² Therefore, based on AFA, we find that the non-responsive companies benefitted from this program. Moreover, we note that we have countervailed lending from the Bancomext in the past.¹⁸³ Lastly, the GOM raises no argument regarding the countervailability of this program or its inclusion in the AFA rate.

15. *Law for the Promotion of Investments in the State of Jalisco*

Under this program, the state of Jalisco may grant various types of government incentives to companies making investments in the state, including financing, land subsidies, expense reimbursements and other incentives.¹⁸⁴ Based on the record evidence, we find that the program provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act, and provides a financial contribution under section 771(5)(D)(iii) of the Act in the form of the provision of services.¹⁸⁵ We find that the program is specific under section 771(5A)(D)(i) of the Act, because it is limited to a defined range of producers, as the

¹⁷⁸ See, e.g., *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹⁷⁹ See GOM Case Brief at 20 (citing GOM IQR at 14).

¹⁸⁰ The GOM stated that “we stipulate to the fact that under this program a financial contribution is provided by a government entity.” GOM September 20, 2019 SQR at 19.

¹⁸¹ See GOM May 20, 2019 IQR at 14 (noting that a recipient must be “directly or indirectly linked to foreign trade activities”); see also GOM September 20, 2019 SQR at 20 (noting that “[e]xporting is required for some loans made by Bancomext.”).

¹⁸² See Petition at Exhibit VI-29.

¹⁸³ See *Certain Cut-to-Length Carbon Steel Plate from Mexico: Preliminary Results of Countervailing Duty Administrative Review*, 68 FR 52895 (September 8, 2003) and accompanying Issues and Decision Memorandum at “Bancomext Export Loans” (countervailing loans from Bancomext and noting that it “is a state-owned lending institution that offers financing to producers or trading companies engaged in export activities.”), unchanged in *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review*, 69 FR 1972 (January 13, 2004).

¹⁸⁴ See GOM September 20, 2019 SQR at GOM-SUPP3-28 (citing Petition at Exhibit VI-62 (listing, at Article 33, the varieties of incentives to be granted under the program)).

¹⁸⁵ Additionally, the GOM stated that “we stipulate to the fact that under this program a financial contribution is provided by a government entity.” GOM September 20, 2019 SQR at 29.

program’s decision making body must favor “productive investments or infrastructure projects that ... are considered essential for the consolidation of any relevant production chain in the country.”¹⁸⁶ Additionally, we find that the program is specific under section 771(5A)(B)-(C) of the Act, because the implementing legislation states that an applicant is required to provide export and domestic content information, including a quantification of “expected exports” and the “{p}ercentage of national integration of the products ... to which the benefits will be applied.”¹⁸⁷ Additionally, we note that the record contains evidence in the form of AISC certifications indicating that certain FSS producers are located in Jalisco and could have benefitted under the program.¹⁸⁸ Therefore, the record does not definitively demonstrate that the non-responsive companies, including all potential cross-owned affiliates, did not use the program at issue.¹⁸⁹ Consequently, based on AFA, we find that the non-responsive companies benefitted from this program. Moreover, we note that the GOM raises no argument regarding the countervailability of this program or its inclusion in the AFA rate.

Comment 3: Application of Adverse Facts Available to BSM

Petitioner’s Comments

- Commerce should apply AFA to BSM because the GOM and BSM failed to accurately report significant information in their questionnaire responses pertaining to BSM’s overall structure and usage of indirect tax exemptions.¹⁹⁰
- In its verification report for the GOM, Commerce reported findings that were contrary to what was previously reported by BSM in its questionnaire responses.¹⁹¹
- Furthermore, BSM was not fully forthcoming regarding the duty exemptions it received on imported capital equipment under the PROSEC program. At verification, Commerce was only able to verify part of the information reported by BSM regarding its PROSEC usage. As such, it appears that BSM failed to provide Commerce with all of the information necessary for the agency to verify this program.¹⁹²
- Lastly, at verification, Commerce found that BSM had provided inaccurate information pertaining to the Eighth Rule Permit Program. Specifically, it was not until verification that BSM officials explained that “the actual rate under the Eighth Rule Permit Program was 25 percent, not 15 percent. Company officials explained that they overlooked this change in rate and inadvertently reported the 15 percent rate.”¹⁹³

¹⁸⁶ See Petition at Exhibit VI-62 (describing, in Article 37, the types of projects that are properly classified as high-impact projects to be selected for incentives).

¹⁸⁷ *Id.* (listing, at Article 38, the factors to be considered by the granting authority in selecting recipients). We note that the GOM did not provide additional information relating to eligibility, and simply stated: “With the limited amount of time available to respond to this supplemental questionnaire, the GOM is unable to provide this information at this time.” See GOM September 20, 2019 SQR at 29-32.

¹⁸⁸ See Petition at Exhibits VI-19, VI-47, and VI-61.

¹⁸⁹ See, e.g., *Kitchen Shelving and Racks* IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹⁹⁰ See Petitioner Case Brief at 2.

¹⁹¹ See Petitioner Case Brief at 2-3.

¹⁹² See Petitioner Case Brief at 4-5.

¹⁹³ See Petitioner Case Brief at 6.

BSM's Rebuttal Comments

- There is no basis for applying AFA against BSM. There is no basis to even apply facts available, as no relevant information has been omitted from the record and the information on the record is usable.¹⁹⁴
- The petitioner's first argument about BSM incorrectly reporting certain information is based on a mistaken reference to a BSM questionnaire response in the GOM verification report. The petitioner points to a passage in Commerce's GOM verification report which incorrectly references a BSM questionnaire response. Thus, to the extent that there was any discrepancy discussed at the GOM verification, it pertained to the GOM's questionnaire response, not BSM's response.¹⁹⁵
- The petitioner's argument that BSM was not fully forthcoming regarding the duty exemptions it received on imported capital equipment under the PROSEC program is also inaccurate because at verification, BSM made available for inspection its GLOSA reports for the entirety of the AUL and had personnel and documents available to tie BSM's use of the PROSEC program into BSM's accounting system.¹⁹⁶ The GLOSA reports, generated monthly by the GOM's Tax Administration Service (SAT), demonstrated BSM's imports under PROSEC. Additionally, Commerce's verification of PROSEC usage at the GOM failed to identify any additional usage of PROSEC by BSM that was not previously reported.¹⁹⁷
- The petitioner's final argument with respect to BSM's minor correction at verification regarding the duty rate that would have applied to BSM's imports had BSM not used the Eighth Rule Permit Program was also wrong. Commerce's verification agenda instructs parties to provide at verification any errors identified in their questionnaire responses while preparing for verification. Commerce routinely accepts minor corrections as it did in this case.¹⁹⁸
- The correction that BSM submitted did not relate to BSM's own books and records. Rather, the mistake in the initial reporting stemmed from how the Mexican tariff schedule should be read when a party is not using the Eighth Rule Permit Program. Furthermore, because of BSM's limited use of the Eighth Rule Permit Program, the difference in the originally reported tariff rate versus the corrected tariff rate presented at verification has no effect on BSM's overall subsidy rate.¹⁹⁹

GOM's Rebuttal Comments

- There is nothing in Commerce's GOM's verification report that would justify applying AFA to BSM.²⁰⁰

¹⁹⁴ See BSM Rebuttal Brief at 1.

¹⁹⁵ See BSM Rebuttal Brief at 2-3.

¹⁹⁶ See BSM Rebuttal Brief at 5.

¹⁹⁷ See BSM Rebuttal Brief at 8; *see also id.* n. 22 (BSM argues that although there should not be any questions regarding BSM's usage of PROSEC prior to the POI, the petitioner's arguments regarding PROSEC usage during the AUL should be considered irrelevant because PROSEC is not a non-recurring benefit program).

¹⁹⁸ See BSM Rebuttal Brief at 8-9.

¹⁹⁹ See BSM Rebuttal Brief at 9-10.

²⁰⁰ See GOM Rebuttal Brief at 3.

- The minor misstatement in the GOM’s third supplemental questionnaire response that the petitioner points to as a basis for applying AFA to BSM, is inconsequential and irrelevant to Commerce’s analysis of BSM’s use of the Eighth Rule Permit Program.²⁰¹

Commerce’s Position: We agree with BSM. The petitioner’s argument regarding BSM incorrectly reporting information is based on their mistaken reference to a BSM questionnaire response. We asked the GOM to report the dates, and the purposes for which, the GOM conducted verifications of BSM and Corey. The GOM identified a 2015 verification of BSM. However, the basis for this verification was mischaracterized by the GOM in its questionnaire response and at verification, the GOM revised its statement and explained the correct basis for the 2015 audit of BSM. First, this mischaracterization by the GOM did not imply any errors in BSM’s reporting; it instead related to a GOM response. Second, the 2015 audit did not relate to any issue that could have impacted our decisions in this investigation. Based on record evidence, BSM did not withhold any information regarding its usage of indirect tax exemptions.

Additionally, BSM was fully forthcoming regarding the duty exemptions it received under PROSEC. At verification, BSM made available and we examined BSM’s PROSEC usage for the entire AUL and we found no discrepancies with BSM’s reporting.²⁰² Regarding BSM’s argument that PROSEC is a recurring benefit program, we disagree. As we stated in the *Preliminary Determination*, “we find that benefits provided under this program are non-recurring within the meaning of 19 CFR 351.524(b).”²⁰³ However, because we determined that the benefit under this program for BSM is less than 0.005 percent, we continue to find that there is no measurable benefit.²⁰⁴

Lastly, at verification, BSM provided a minor correction to its previously reported Eighth Rule Permit Program usage and we accepted BSM’s minor correction.²⁰⁵ At verification, BSM officials explained that, during the POI, the applicable duty rate for imports under the Eighth Rule Permit Program was higher than what the rate is typically.²⁰⁶ Company officials explained that the increase in the duty rate was a result of the GOM’s reaction to recent duties placed on steel products by the United States.²⁰⁷ The actual rate under the Eighth Rule Permit Program during the POI was 25 percent, not 15 percent.²⁰⁸ The rate change had no effect on BSM’s overall subsidy rate. Therefore, since the correction was minor, we accepted it at verification, pursuant to our long-standing practice.²⁰⁹

²⁰¹ See GOM Rebuttal Brief at 3-4.

²⁰² See BSM Verification Report at 7-8.

²⁰³ See PDM at 22.

²⁰⁴ See PDM at 22.

²⁰⁵ See BSM Verification Report at 2.

²⁰⁶ See BSM Verification Report at 2.

²⁰⁷ See BSM Verification Report at 2.

²⁰⁸ See BSM Verification Report at 2.

²⁰⁹ See *Husteel Co. v. United States*, 98 F. Supp. 3d 1315, 1356 (Ct. Int’l Trade 2015) (quoting *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003)).

Comment 4: Commerce's Application of Adverse Facts Available to Certain Companies

GOM's Case Brief

- Commerce should revisit its decision to apply AFA to two of the five companies that were deemed non-responsive in the *Preliminary Determination*. One of the companies (Preacero Pellizzari) did file a Q&V questionnaire response on the record of the antidumping investigation. The other company (Construcciones Industriales) filed a Q&V questionnaire response on the record of this investigation, even though the filing was four days late.
- Section 782(e) of the Act provides that, in reaching a final countervailing duty determination, Commerce shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by Commerce; and (5) the information can be used without undue difficulty.
- The requirements of section 782(e) of the Act are met here, and Commerce should have used the information submitted by Preacero Pellizzari and Construcciones Industriales.

Petitioner's Rebuttal Comments

- Commerce appropriately determined that Preacero Pellizzari and Construcciones Industriales withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding, warranting the application of AFA. Additionally, the record demonstrates that Commerce provided explicit filing instructions to all interested parties.
- Although Preacero Pellizzari filed a Q&V response on the parallel antidumping duty investigation record, its filing clearly does not amount to participation in *this* segment. The administrative record in each segment is independent. The GOM's reference to a document on the parallel antidumping proceeding does not cure the failure of Preacero Pellizzari to file a submission on this record.
- Commerce properly rejected the filing of Construcciones Industriales, which was not timely filed. The company has not made any effort to request reconsideration of Commerce's rejection of its Q&V response and has not requested even an untimely extension of time for filing its Q&V response.
- The fact that certain companies acted as *pro se* participants in this investigation does not relieve them of the duty to properly, and timely, file documents in this proceeding.

Commerce's Position: We agree with the petitioner. Preacero Pellizzari did not file the requested information on the record of this investigation, and Construcciones Industriales did not provide the requested information within the established deadline. Therefore, we properly applied AFA to these companies.

At the outset, we note that Commerce issued clear instructions to the Q&V questionnaire recipients regarding the filing requirements for the companies' responses. The first page of the cover letter sent to the Q&V recipients stated:

Your response is due to Commerce no later than **March 22, 2019**. *Please note that you must file your response to Attachment I to this letter separately, once on the record of the antidumping duty investigation (A-201-850), and once on the record of the countervailing duty investigation (C-201-851).*²¹⁰

Therefore, the questionnaire clearly indicated the deadline for filing. The questionnaire also highlighted the requirement that a company must separately file the Q&V information on both the antidumping duty and countervailing duty investigation records. This information was presented in bold or italics, for emphasis.

Despite these considerations, the GOM asserts that Commerce is obligated to accept the filings pursuant to section 782(e) of the Act. We do not agree. With respect to Construcciones Industriales, the company's filing does not meet the criteria set out in section 782(e) of the Act because it was not "submitted by the deadline established for its submission." Rather, it was submitted four days after the deadline, on March 26, 2019. Accordingly, the information was rejected from the record of this proceeding.

With respect to Preacero Pellizzari, the company's filing, similarly, does not meet the requirements of section 782(e) of the Act. Section 782(e) of the Act states that "Commerce shall not decline to consider information *that is submitted* by an interested party and is necessary to the determination" when certain conditions are met. However, the interested party did not "submit the information" because Preacero Pellizzari never placed its filing on the record of this proceeding. The fact that the information was placed on the record of the parallel antidumping duty investigation is immaterial; it is well-established that every proceeding has its own administrative record, and Preacero Pellizzari never submitted a Q&V response on the record of this investigation.

The GOM emphasizes that, under certain conditions, Commerce may accept untimely information. However, we decline to do so here. Neither party has demonstrated good cause for their improper filings.²¹¹ Both companies failed to comply with the filing requirements established by Commerce, and there are no "extremely compelling circumstances" that require a departure from our normal practice.²¹²

Finally, we also note that, during the course of a year, Commerce issues hundreds, in some cases thousands, of Q&V questionnaires at the outset of its antidumping and countervailing duty investigations and reviews. These responses are essential for conducting the respondent selection process and, in turn, for issuing initial questionnaires to the mandatory respondents in our proceedings. In order to meet statutory deadlines, it is imperative that Commerce be able to

²¹⁰ See, e.g., Commerce's Letter, "Quantity and Value Questionnaire," dated March 13, 2019 (emphasis in original).

²¹¹ See, e.g., *ArcelorMittal USA LLC v. United States*, 2019 Ct. Intl. Trade, Ct. No. 16-00168, Slip-Op 2019-97, at 22 (citing *Dongtai Peak Honey Industry Co., Ltd. v. United States*, 777 F.3d 1343, 1351-52 (Fed. Cir. 2015) (*Dongtai Peak Honey*)) ("Commerce . . . routinely rejects untimely-filed submissions' where, as here, a respondent fails to demonstrate good cause.") (internal quotations omitted).

²¹² See *Dongtai Peak Honey*, 777 F.3d at 1351.

obtain timely Q&V data and be able to consistently enforce deadlines for submission of such information.

Comment 5: Modification of Corey's Denominators

Petitioner's Case Brief

- Commerce should make two modifications to Corey's export sales denominator to remove certain expenses. Commerce should: (1) remove expenses associated with the use of subcontractors/tollers; and (2) remove post-importation expenses.
- With respect to subcontractor/toller expenses, Corey initially stated that it did not use tolling companies for the production of fabricated structural steel. Then, Corey subsequently stated that it did, in fact, use tollers/subcontractors during the AUL. Accordingly, Corey made misleading statements and withheld information from Commerce regarding its relationship with, and use of, subcontractors and tolling companies.
- As a result of Corey's responses on this issue, the record lacks information regarding any potential subsidies received by Corey's subcontractors and tollers, and such subsidies could have been attributed to Corey. Because information on these potential subsidies to tollers/subcontractors is missing from the numerator due to Corey's lack of cooperation, the inclusion of any expenses associated with the tollers/subcontractors in the sales denominator artificially and inappropriately lowers the subsidy margin to Corey's benefit. Therefore, for the final determination, Commerce should apply facts available to remove all expenses associated with tolling/subcontracting services from Corey's sales denominator.
- With respect to post-importation expenses, Commerce should remove such costs from Corey's sales denominator. Commerce's regulations, at 19 CFR 351.525(a), state that the agency normally will rely on sales values on a free-on-board (FOB) port basis if the product is exported. Additionally, the *CVD Preamble* notes that Commerce should rely on FOB sales in order to correspond to the basis on which U.S Customs and Border Protection (CBP) assesses duties. The applicable CBP regulation, *i.e.*, 19 CFR 152.103, states that international and U.S. freight expenses should *not* be included in the value used by CBP to assess duties. In addition to freight expenses, 19 CFR 152.103(i) further states that "any reasonable cost or charge that is incurred for the construction, erection, assembly, or maintenance of ... the merchandise after its importation into the United States" should also not be included in value used by CBP to assess duties.
- The record is clear that Corey did incur costs associated with post-importation construction, erection, assembly, or maintenance of subject merchandise. Specifically, Corey stated that it incurred post-importation costs "due to change in specifications, damage caused during shipment and sand blasting."
- For Corey's sales denominators to be stated on an FOB port basis – and, therefore, to correspond with the basis on which CBP assesses duties – Commerce should deduct the cost of activities that occur after importation from Corey's sales denominators. The fact that Corey booked these expenses as costs (rather than as revenue), does not alter this conclusion.

Corey's Rebuttal Brief

- Commerce should decline to deduct expenses associated with subcontractors and tollers from Corey's denominator. First, these expenses are costs to Corey, not revenue. Therefore, Corey's reported sales values do not represent these costs. Second, there is no cross-ownership between Corey and the subcontractors/tollers. As a result, even if the subcontractors and tollers did receive subsidies – which is an assumption underlying the petitioner's arguments – such benefits would not be attributed to Corey.
- Additionally, Corey did not withhold information regarding its relationship with subcontractors and tollers. Rather, Corey provided a full list of all subcontractors and tollers for the AUL period early enough in the proceedings that Commerce had the opportunity to request additional information regarding the subcontractors and tollers, if it deemed such information relevant.
- Moreover, the adjustment requested by the petitioner is contrary to Commerce's regulations and long-standing practice. In particular, the petitioner's proposed approach asks Commerce to attribute supposed subsidies received by non-cross-owned affiliates and unaffiliated companies to a respondent company. Commerce's regulations require attribution of subsidies only to cross-owned affiliates.
- The petitioner's request that Commerce deduct post-importation expenses incurred by Corey should also be rejected. Commerce's governing regulation, 19 CFR 351.525(a), does not require that a company's sales denominator be calculated according to 19 CFR 152.103. Rather, the regulation references a standardized International Commercial Term (INCOTERM) that defines the basis on which sales are to be reported. Any post-importation charges incurred by Corey are outside the scope of the charges governed by such INCOTERMs. The post-importation costs in this case were unrelated to the transportation of the product, which are the types of costs covered by INCOTERMs.
- Contrary to the petitioner's argument, 19 CFR 152.103 was not referenced in the *CVD Preamble*. In any case, 19 CFR 152.103 does not provide CBP's definition of "FOB port"; rather it describes transaction value. Furthermore, section 152.103(i) states that "the transaction value of imported merchandise does not include any of the following, "if *identified separately* from the *price actually paid or payable* and from any cost or other item referred ... {a}ny reasonable cost or charge that is incurred for .. {t}he construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States."²¹³ Here, such costs are not separately identified.
- Additionally, here, the post-importation charges were due to changes in specifications, damage caused during shipment and sand blasting. None of these activities fall into the category of construction, erection, assembly, maintenance, or technical assistance. Therefore, Corey's post-importation charges do not meet the categories of expenses that are removed from the transaction value under 19 CFR 152.103(i).
- Finally, there is no information on the record that would allow Commerce to make the petitioner's requested adjustment, and the petitioner does not point to record evidence otherwise. The record also does not indicate whether the post-importation expenses were incurred during the period of investigation such that they should be deducted from the

²¹³ Corey Rebuttal Brief at 12.

period of investigation sales denominator. Accordingly, as a practical matter, the adjustment requested by the petitioner cannot be made.

Commerce’s Position: We do not agree with the petitioner that an adjustment to Corey’s sales denominator is warranted. We will continue to use Corey’s export sales value, as adjusted to remove freight and related expenses, as the denominator in our subsidy rate calculations.

As an initial matter, we do not agree with the petitioner’s assertion that information regarding tollers/subcontractors is missing from the record, requiring a facts available adjustment to Corey’s sales denominator. Corey initially stated that it “does not use any tolling companies for the production of {fabricated structural steel} either for the domestic or the export product.”²¹⁴ In response to a supplemental questionnaire, Corey stated that it “did not use any tollers during the POI, but it did use tollers in the AUL.”²¹⁵ Corey also stated that “these tollers accounted for a minor portion of the cost of production” and provided data on the subcontractor/toller services as a proportion of the total cost of production.²¹⁶ We examined the reported information at verification and noted no discrepancies.²¹⁷

The petitioner asserts that Corey’s inconsistent statements regarding tollers/subcontractors render the record incomplete such that we do not know whether Corey’s subcontractors/tollers received subsidies which should be attributed to Corey itself. As an initial matter, Commerce’s regulations apply a standard of cross-ownership when determining whether to attribute subsidies received by another entity to the respondent itself.²¹⁸ A mere tolling relationship, or affiliation below the threshold of cross-ownership, is generally insufficient to meet this standard. In very limited instances, such as where a company acts as trading company and relies entirely on a toller/subcontractor for the production process, we have departed from this standard and attributed subsidies absent cross-ownership.²¹⁹ However, Corey’s relationships with its various subcontractors/tollers do not approximate this level of interdependence.²²⁰ Therefore, we would not attribute the hypothesized subsidies received by these entities to Corey. For these reasons, we do not find that relevant information is missing from the record that warrants a facts available adjustment to Corey’s denominator.

With respect to the petitioner’s arguments regarding the deduction of post-importation expenses, we do not agree that a deduction is appropriate here. First, we do not find any requirement in the Act, nor in Commerce’s regulations, that states that a respondent’s export sales denominator

²¹⁴ See Petitioner Case Brief at 9 (citing Corey’s Letter, “Certain Fabricated Structural Steel from Mexico: Corey S.A. de C.V.’s Response to Petitioner’s Comments on Corey’s Affiliated Companies Response,” dated May 14, 2019 at 6).

²¹⁵ See Corey June 10, 2019 SQR at 4.

²¹⁶ *Id.* at 4 and Exhibits 1.1 and 1.2.

²¹⁷ See Corey Verification Report at 9.

²¹⁸ See 19 CFR 351.525(b)(6).

²¹⁹ See e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 82 FR 12195 (March 1, 2017) and accompanying IDM at 7 (attributing subsidies to a tolling company to a respondent, where we observed a “relationship between {respondent} and its ‘tollers’ that is akin to the relationship between a producer and its trading company”), unchanged in *Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017).

²²⁰ See Corey June 10, 2019 SQR at Exhibits 1.1 and 1.2.

must precisely match the entered value for the associated sales. CBP's regulations are written to allow for the correct collection of duties by determining entered value; Commerce's regulations for attribution of benefit serve a different purpose and are not subverted or governed by CBP's regulations. Commerce's practice is to use sales denominators that can be tied to a company's audited financial statement.

Second, although we agree that, in some cases, it may be appropriate to remove revenue associated with a respondent's U.S. activities (*e.g.*, major assembly of fabricated structural steel projects and/or acquisition of additional materials), there is no data on the record of this investigation to make such an adjustment here. Therefore, we continue to rely on Corey's export sales, as reported, as the denominator for our subsidy rate calculations.

IX. RECOMMENDATION

We recommend approving all of the above positions. If these Commerce positions are accepted, we will publish the final determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

Agree

Disagree

1/23/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

Program Name	Rate (%)	Source
Preferential Lending Programs		
Innovation Incentive Program	6.55	<i>Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review, 69 FR 1972 (January 13, 2004) (CTL from Mexico - 2004)</i>
Bancomext Maquiladora Loans	6.55	<i>CTL from Mexico - 2004</i>
Law for the Promotion of Investments in the State of Jalisco	6.55	<i>CTL from Mexico - 2004</i>
Direct Tax Programs		
Program for the Use of Renewable Energy Sources – Accelerated Depreciation for Renewable Energy Investments	1.98	<i>Sugar From Mexico: Final Affirmative Countervailing Duty Determination, 80 FR 57337 (September 23, 2015) (Sugar from Mexico)</i>
Deduction for New Fixed Assets for Small Companies	2.57	<i>CTL from Mexico - 2004</i>
Special Economic Zones	2.57	<i>CTL from Mexico - 2004</i>
State Government of Baja California Economic Incentive Program	2.57	<i>CTL from Mexico - 2004</i>
Law to Promote Investment and Employment for the State of Nuevo Leon	2.57	<i>CTL from Mexico - 2004</i>
Indirect Tax Programs		
IMMEX Program	5.03	<i>Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review, 65 FR 13368 (March 13, 2000) (CTL from Mexico – 2000)</i>
PROSEC	5.03	<i>CTL from Mexico – 2000</i>
Eighth Rule Permit	13.62	Rate Calculated for Corey
Grant Programs		
Tarifa I-15 Program	3.32	<i>Sugar from Mexico</i>
Tarifa I-30 Program	3.32	<i>Sugar from Mexico</i>

Grants from Renewable Energy Funds (Green Fund, Emergent Technologies Fund, Rural Electrification Fund, and Research and Technological Development Fund)	3.32	<i>Sugar from Mexico</i>
Program to Boost Industrial Productivity and Competitiveness	3.32	<i>Sugar from Mexico</i>

Total AFA Subsidy Rate

68.87