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Investigation
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March 4, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Countervailing Duty Determination in the Countervailing Duty
Investigation of Monosodium Glutamate from the People's
Republic of China; and Preliminary Affirmative Determination of
Critical Circumstances

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of monosodium glutamate (MSG, or subject merchandise) from the People's Republic of China (PRC), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act). We further preliminarily determine that critical circumstances, as provided in section 703(e)(1) of the Act and 19 CFR 351.206, exist with respect to imports of subject merchandise from the PRC.

II. BACKGROUND

A. Initiation and Case History

On September 16, 2013, Ajinomoto North America Inc. (Ajinomoto, or Petitioner) filed a petition with the Department seeking the imposition of countervailing duties (CVDs) on MSG from, *inter alia*, the PRC.¹ Supplements to the petition and our consultations with the

¹ See Letter from Petitioner, "Petition for Antidumping and Countervailing Duties: Monosodium Glutamate from the People's Republic of China and the Republic of Indonesia," (September 16, 2013) (the petition).



Government of China (GOC) are described in the Initiation Checklist.² On October 23, 2013, the Department initiated a CVD investigation on MSG from the PRC.³

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. On October 24, 2013, the Department released the CBP entry data under administrative protective order (APO).⁴

The only interested party to submit comments on respondent selection was Petitioner.⁵ Based on information provided in Petitioner's comments, we limited the use of CBP data to one HTSUS subheading, 2922.42.1000, which is the only subheading under which subject merchandise is likely to have been exported to the United States during the period of investigation (POI).⁶ On December 18, 2013, we selected Henan Lotus Flower Gourmet Powder Co., Ltd. (Henan Lotus), Langfang Meihua Bio-Technology Co., Ltd. (Langfang Meihua), and Tongliao Meihua Biological Sci-Tech Co. Ltd. (Tongliao Meihua) as mandatory respondents.⁷ There were no parties that requested treatment as a voluntary respondent.

On December 19, 2013, we sent our CVD questionnaire seeking information regarding the alleged subsidies to the mandatory respondents and the GOC.⁸ Initial questionnaire responses from Langfang Meihua and Tongliao Meihua were received on February 3, 2014 and February 18, 2014,⁹ respectively. In these responses, both companies identified themselves as part of the "Meihua Group" of companies, by virtue of being wholly owned by a single parent company, Meihua Holdings Group Co., Ltd. (Meihua Holdings).¹⁰ In accordance with the instructions in the Department's questionnaire to provide additional questionnaire responses for companies involved in the production of subject merchandise, Meihua Holdings and Tongliao Jianlong Acid Produce Co., Ltd. (Tongliao Jianlong) submitted a questionnaire response on February 10, 2014.¹¹ Tongliao Meihua's February 18, 2014 questionnaire response was also accompanied by

² See "Countervailing Duty Initiation Checklist: Monosodium Glutamate from the People's Republic of China," (October 23, 2013).

³ See *Monosodium Glutamate From the People's Republic of China and the Republic of Indonesia: Initiation of Countervailing Duty Investigations*, 78 FR 65269 (October 31, 2013) (*Initiation Notice*).

⁴ See Department Memorandum, "Countervailing Duty Investigation of Monosodium Glutamate from the People's Republic of China: Entry Data," (October 24, 2013).

⁵ See Letter from Petitioner, "Monosodium Glutamate from China: Comments on CBP Data and Respondent Selection," (November 6, 2013).

⁶ See Department Memorandum, "Countervailing Duty Investigation of Monosodium Glutamate from the People's Republic of China: Respondent Selection," (December 18, 2013) at page 2 (Respondent Selection Memorandum).

⁷ See *id.*

⁸ See Letter from Department to the PRC, "Countervailing Duty Investigation of Monosodium Glutamate from the People's Republic of China: Countervailing Duty Questionnaire," (December 19, 2013).

⁹ See Letter to the Department from Langfang Meihua, "Monosodium Glutamate from the People's Republic of China: Langfang Meihua CVD Response," dated February 3, 2014 (Langfang Meihua response); Letter to the Department from Tongliao Meihua, "Monosodium Glutamate from the People's Republic of China: 3rd CVD Response," dated February 18, 2014 (Tongliao Meihua response).

¹⁰ Meihua Holdings Group Co., Ltd. and its subsidiaries, including Langfang Meihua and Tongliao Meihua, are hereinafter referred to as "the Meihua Group".

¹¹ See Letter to the Department from the Meihua Group, "Monosodium Glutamate from the People's Republic of China: 2nd CVD Response," dated February 10, 2014 (Meihua Holdings response).

a response from another Meihua Group subsidiary, Langfang Meihua Seasoning Co., Ltd. (Langfang Seasoning).¹²

The Department did not receive a response to its initial questionnaire from Henan Lotus.¹³

The GOC submitted its initial questionnaire response on February 10, 2014.¹⁴ After receiving a partial extension to respond to certain portions of the Department's questionnaire, the GOC submitted additional information on February 18, 2014.¹⁵

Extension of Preliminary Deadline: On December 3, 2013, the Department extended the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a finding that concerned parties were cooperating in the investigation and that the investigation was extraordinarily complicated.¹⁶ Based on this finding, the Department postponed the preliminary determination until March 3, 2014, in accordance with section 703(c)(1)(B) of the Act and 19 CFR 351.205(b)(2).¹⁷ Due to the closure of the Federal Government in Washington, DC on March 3, 2014, the Department reached this determination on the next business day (*i.e.*, March 4, 2014).¹⁸

B. Period of Investigation

The POI is January 1, 2012, through December 31, 2012.

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.¹⁹ No parties commented on the scope of this investigation.

¹² See *supra* footnote 9.

¹³ The Department's questionnaire instructed the GOC to provide the company respondent portion of the questionnaire to Henan Lotus. The Department also sent a physical copy of the questionnaire directly to Henan Lotus, and received confirmation that it was delivered.

¹⁴ See Letter to the Department from the GOC, "Response of the Government of the People's Republic of China to the Department's Questionnaire: Monosodium Glutamate from the People's Republic of China (C-570-993)," dated February 10, 2014 (the GOC response).

¹⁵ See Letter to the Department from the GOC, "Supplemental Response of the Government of the People's Republic of China to the Department's Questionnaire: Monosodium Glutamate from the People's Republic of China (C-570-993)," dated February 18, 2014 (the GOC's second response).

¹⁶ See section 703(c)(1)(B) of the Act.

¹⁷ See *Monosodium Glutamate From the People's Republic of China and the Republic of Indonesia: Postponement of Preliminary Determination in the Countervailing Duty Investigations*, 78 FR 74115 (December 10, 2013).

¹⁸ See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹⁹ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*.

IV. SCOPE OF THE INVESTIGATION

The scope of this investigation covers monosodium glutamate (MSG), whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15 percent or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in this investigation regardless of physical form (including, but not limited to, substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG has a molecular formula of $C_5H_8NO_4Na$, a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule (HTS) of the United States at subheading 2922.42.10.00. Merchandise subject to the investigation may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry number, and UNII number are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

V. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs the Department to calculate individual countervailable subsidy rates for each known producer/exporter of the subject merchandise. However, when faced with a large number of producers/exporters, and, if the Department determines it is not practicable to examine all companies, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise.

On December 18, 2013, the Department determined that it was not practicable to examine more than three respondents in the instant investigation.²⁰ Therefore, the Department selected, based on data from CBP, the three exporters/producers accounting for the largest volume of MSG exported from the PRC during the POI: Henan Lotus, Langfang Meihua, and Tongliao Meihua.²¹

VI. INJURY TEST

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On November 15, 2013, the ITC determined that there is a reasonable indication that

²⁰ See Respondent Selection Memorandum at 5.

²¹ See *id.*

an industry in the United States is materially injured by reason of imports of MSG from, *inter alia*, the PRC.²²

VII. APPLICATION OF THE COUNTERVAILING DUTY LAW TO IMPORTS FROM THE PRC

On October 25, 2007, the Department published its final determination on coated free sheet paper from the PRC.²³ In *CFS from the PRC*, the Department found that:

. . . given the substantial differences between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.²⁴

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.²⁵ Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as the PRC.²⁶ The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.²⁷

Additionally, for the reasons stated in *CWP from the PRC*, we are using the date of December 11, 2001, the date on which the PRC became a member of the World Trade Organization (WTO), as the date from which the Department will identify and measure subsidies in the PRC for purposes of CVD investigations.²⁸

VIII. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.²⁹ The Department finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset

²² See *Monosodium Glutamate from China and Indonesia: Inv. No. 701-TA-503-504 and 731-TA-1229-1230 (Preliminary)* (November 2013); *Monosodium Glutamate From China and Indonesia*, 78 FR 76321 (December 17, 2013).

²³ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*).

²⁴ See *id.* and accompanying Issues and Decision Memorandum (IDM) at Comment 6.

²⁵ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying IDM at Comment 1.

²⁶ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

²⁷ See Public Law 112-99, 126 Stat. 265 §1(b).

²⁸ See, e.g., *CWP from the PRC*, and accompanying IDM at Comment 2.

²⁹ See 19 CFR 351.524(b).

Depreciation Range System.³⁰ The Department notified the respondents of the 10-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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

B. Attribution of Subsidies

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

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

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.³¹

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

³⁰ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

³¹ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

(CIT) upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³²

In a series of responses to the Department's initial questionnaire, the Meihua Group submitted information with respect to five companies involved in the production and export of MSG from the PRC. Langfang Meihua acts as a trading company, responsible for selling, both domestically and for export, MSG, among other products, produced by Meihua Group companies;³³ Tongliao Meihua produces MSG, as well as other products.³⁴ Both companies reported that they were wholly-owned subsidiaries of Meihua Holdings.³⁵ In its separate questionnaire response, Meihua Holdings acknowledged that it was the sole shareholder of both Langfang Meihua and Tongliao Meihua.³⁶ In that same response, Meihua Holdings also identified itself as a producer of MSG through one of its unincorporated operational branches, Meihua Holdings Group Co., Ltd. Bazhou Branch.³⁷ A fourth company, Tongliao Jianlong, is a wholly-owned subsidiary of Tongliao Meihua, and provides sulfuric acid to its parent company for use in the production of MSG.³⁸ Finally, Langfang Seasoning was incorporated as a wholly-owned subsidiary of Meihua Holdings in April of 2012.³⁹ Langfang Seasoning is mainly involved in repacking and selling prepackaged foods, including those containing MSG;⁴⁰ prior to the POI, these activities were carried out by Meihua Holdings Group Co., Ltd. Langfang Branch, an unincorporated entity.⁴¹

The consolidated financial statements for 2012 submitted by Meihua Group support its claims that each company involved in the production or export of subject merchandise is cross-owned through common majority ownership by Meihua Holdings.⁴² As noted in the *CVD Preamble*, above, and in 19 CFR 351.525(b)(6)(vi), the standard for cross-ownership is met where one company holds a majority voting interest in another.

Because Meihua Holdings and Tongliao Meihua both produce the subject merchandise, in accordance with 19 CFR 351.525(b)(6)(ii) we would normally attribute subsidies received by the two companies to the combined sales of both companies. However, because Meihua Holdings is also the parent company of Tongliao Meihua, 19 CFR 351.525(b)(6)(iii) also applies. 19 CFR 351.525(b)(6)(iii) states that, “[i]f the firm that received a subsidy is a holding company, including a parent company with its own operations, the Secretary will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries.” Thus, any subsidies received by either Meihua Holdings or Tongliao Meihua will be attributed to the consolidated sales of Meihua Holdings and its subsidiaries.

³² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

³³ See Langfang Meihua response, at 9.

³⁴ See Tongliao Meihua response, at 8-9.

³⁵ See Langfang Meihua response, at 11 and Tongliao Meihua response, at 4.

³⁶ See Meihua Holdings response, at 5.

³⁷ See *id.*, at 10.

³⁸ See *id.*, at 5 and at Exhibit 1.

³⁹ See Langfang Seasoning response, at 8.

⁴⁰ See *id.*, at 7-8.

⁴¹ See Meihua Holdings response at 2.

⁴² See *id.*, at Exhibit 2, page 68 of the 2012 consolidated financial statements.

We will cumulate any subsidies received by Langfang Meihua, a trading company that does not produce any goods, with the subsidies received by the producers of the merchandise sold by Langfang Meihua, in accordance with 19 CFR 351.525(c). Langfang Meihua reported that it did not export subject merchandise produced by companies outside the Meihua Group,⁴³ but that it did export MSG on behalf of both Meihua Holdings and Tongliao Meihua. Therefore, any benefits provided to Langfang Meihua will be attributed to the consolidated sales of Meihua Holdings.

Tongliao Jianlong and Langfang Seasoning both reported that they received no subsidies attributable to the POI. Therefore, we do not reach a preliminary determination with respect to attribution of subsidies for these companies. Should we find for the final determination that these companies received subsidies under the investigated programs, we will determine the proper method to attribute the subsidies if appropriate.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's exports or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in the "Preliminary Calculation Memorandum," prepared for this investigation.⁴⁴

IX. BENCHMARKS AND DISCOUNT RATES

The Department is investigating loans received by the Meihua Group from Chinese policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.⁴⁵ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Short-Term RMB-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark.⁴⁶ If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."⁴⁷

⁴³ See Langfang Meihua response at 9.

⁴⁴ See Department Memoranda, "Countervailing Duty Investigation of Monosodium Glutamate from the People's Republic of China: Meihua Group Preliminary Calculation Memorandum," dated concurrently with this memorandum (Preliminary Calculation Memorandum).

⁴⁵ See 19 CFR 351.524(b)(1).

⁴⁶ See 19 CFR 351.505(a)(3)(i).

⁴⁷ See 19 CFR 351.505(a)(3)(ii).

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.⁴⁸ Because of this, any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.⁴⁹

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC*⁵⁰ and more recently updated in *Thermal Paper from the PRC*.⁵¹ Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.⁵² Beginning in 2010, however, the PRC is in the upper-middle income category and remained there from 2011 to 2012.⁵³ Accordingly, as explained further below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2012. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.⁵⁴

After the Department identifies the appropriate interest rates, the next step in constructing the benchmark has been to incorporate an important factor in interest rate formation, the strength of governance as reflected in the quality of the countries' institutions. The strength of governance

⁴⁸ See *CFS from the PRC*, and accompanying IDM at Comment 10; see also Department Memorandum, "Countervailing Duty Investigation of Monosodium Glutamate from the People's Republic of China: Banking Memorandum," dated March 4, 2014 (Banking Memorandum).

⁴⁹ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*) and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

⁵⁰ See *CFS from the PRC*, and accompanying IDM at Comment 10.

⁵¹ See *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying IDM at 8-10.

⁵² See World Bank Country Classification, <http://econ.worldbank.org/>; see also Banking Memorandum).

⁵³ See *id.*

⁵⁴ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013) and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates," unchanged in *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013).

has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each of the years from 2003-2009 and 2011-2012, the results of the regression analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.⁵⁵ For 2010, however, the regression does not yield that outcome for the PRC's income group.⁵⁶ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2012. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2012 and "lower middle income" for 2001-2009.⁵⁷ First, we did not include those economies that the Department considered to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. For example, Jordan reported a deposit rate, not a lending rate, and the rates reported by Ecuador and Timor L'Este are dollar-denominated rates; therefore, the rates for these three countries have been excluded. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.⁵⁸ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.⁵⁹

B. *Long-Term RMB-Denominated Loans*

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.⁶⁰

⁵⁵ See Banking Memorandum.

⁵⁶ See *id.*

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See *id.*

⁶⁰ See, e.g., *Thermal Paper from the PRC*, and accompanying IDM at 10.

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.⁶¹ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.⁶²

C. *Discount Rates*

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.⁶³ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Preliminary Calculation Memorandum.⁶⁴

D. *Creditworthiness*

Based on allegations from Petitioner, we initiated an investigation on whether the Meihua Group was uncreditworthy from 2010-2012.⁶⁵ Based on our analysis of record information, we preliminarily find the Meihua Group to be uncreditworthy from 2010-2012. The analysis of our findings is discussed in the business proprietary memorandum, “Creditworthiness Analysis Regarding the Meihua Group,” dated concurrently with this memorandum. As a result of our finding, we will apply an uncreditworthiness benchmark to the program, “Policy Loans.”

X. **USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. For purposes of this preliminary determination, we find it necessary to apply facts otherwise available with an adverse inference to Henan Lotus.

As explained above in the “Initiation and Case History” section, the Department selected Henan Lotus as a mandatory company respondent and issued the initial questionnaire to Henan Lotus

⁶¹ See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*) and accompanying IDM at Comment 14.

⁶² See Preliminary Calculation Memorandum.

⁶³ See *id.*

⁶⁴ See *id.*

⁶⁵ See *Initiation Checklist*, at 9.

directly, as well as to the GOC with instructions to provide the questionnaire to the respondent company. However, Henan Lotus has not provided a response to that questionnaire or made an entry of appearance in this investigation. As a result of Henan Lotus' failure to participate in this investigation and its decision not to respond to the initial questionnaire, we find that Henan Lotus withheld information that has been requested and failed to provide information within the deadlines established. Further, by not responding to the questionnaire, Henan Lotus significantly impeded this proceeding. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(1), (2)(A), (B) and (C) of the Act, we are basing the CVD rate for Henan Lotus on facts otherwise available.

We further preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act because by not responding to the initial questionnaire, Henan Lotus did not cooperate to the best of its ability to comply with a request for information in this investigation. Accordingly, we preliminarily find that adverse facts available (AFA) is warranted to ensure that Henan Lotus does not obtain a more favorable result by failing to cooperate than had it fully complied with our request for information.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) and (2) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."⁶⁶ The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁶⁷

It is the Department's practice in CVD proceedings to compute a total AFA rate for the non-cooperating company using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.⁶⁸ Specifically, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, and the rate is not *de minimis*. If there is no identical program match within

⁶⁶ See, e.g., *Drill Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁶⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA).

⁶⁸ See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 24, 2008) (unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009) and accompanying IDM at "Application of Facts Available, Including the Application of Adverse Inferences"); see also *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions from the PRC*), and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

the investigation, or if the rate is *de minimis*, the Department uses the highest non-*de minimis* rate calculated for the same or for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country. Absent an above-*de minimis* subsidy rate calculated for the same or for a similar program, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating companies.⁶⁹

On this basis, we preliminarily determine the AFA subsidy rate for Henan Lotus to be 404.03 percent *ad valorem*. For a discussion of the application of the individual AFA rates for the programs under investigation, see the “Preliminary AFA Rates Determined for Programs Used by Henan Lotus” section, below.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁷⁰ It is the Department’s practice to consider information to be corroborated if it has probative value.⁷¹ Further, it is also the Department’s practice to corroborate secondary information by examining the reliability and relevance of the information to be used.⁷² However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.⁷³

When the Department applies AFA, to the extent practicable, it will determine whether such information has probative value by evaluating the reliability and relevance of the information used. With regard to the reliability aspect of corroboration, we note that these rates were calculated in prior final CVD determinations. No information has been presented that calls into question the reliability of these calculated rates that we are applying as AFA. Unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs.

With respect to the relevance aspect of corroborating the rates selected, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it.⁷⁴

⁶⁹ See *Aluminum Extrusions from the PRC*, and accompanying IDM at “Application of Adverse Inferences: Non-Cooperative Companies”; see also, e.g., *Lightweight Thermal Paper from the PRC* and accompanying IDM at “Selection of the Adverse Facts Available Rate.”

⁷⁰ See, e.g., SAA, at 870.

⁷¹ See *id.*

⁷² See, e.g., SAA, at 869.

⁷³ See *id.* at 869-870.

⁷⁴ See, e.g., *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996).

The Department reviewed the information concerning PRC subsidy programs in this and other cases. For those programs for which the Department found a program-type match, we find that programs of the same type are relevant to the programs of this case. For the programs for which there is no program-type match, the Department selected the highest calculated subsidy rate for any PRC program from which the non-cooperating companies could conceivably receive a benefit to use as AFA. The relevance of this rate is that it is an actual calculated CVD rate for a PRC program from which the non-cooperating company could actually receive a benefit. The Department corroborated the rates it selected to the extent practicable.

XI. CRITICAL CIRCUMSTANCES

On February 11, 2014, Petitioner alleged that critical circumstances exist with respect to imports of MSG from the PRC and submitted U.S. Census Bureau import data in support of its allegation.⁷⁵ On February 12, 2014, the Department requested from the Meihua Group monthly shipment data of subject merchandise to the United States for the period May 2013 through December 2013.⁷⁶ On February 18, 2014, Meihua Group submitted the requested data.⁷⁷

In its critical circumstances allegation, Petitioner alleges that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), including export subsidies and domestic substitution subsidies.⁷⁸ In particular, Petitioner cites to allegations including agricultural product export loans, preferential business taxes for exported agricultural products, Xinjiang preferential taxes for exporting enterprises, export tax rebates, and reduced tax rates for export-oriented foreign invested enterprises for which the Department initiated an investigation as evidence that this criteria is met.⁷⁹ Petitioner also claims that there have been massive imports of MSG over a relatively short period.⁸⁰ Petitioner provided data which it contends demonstrate that imports of subject merchandise in the three months following the filing of the petition increased by more than 15 percent, as compared to the three month period before the filing of the petition, which is considered “massive” under 19 CFR 351.206(h)(2).⁸¹

Analysis: Section 703(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period. When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of

⁷⁵ See Letter to the Department from Petitioner, “Monosodium Glutamate from China: Petitioner’s Critical Circumstances Allegation,” dated February 11, 2014 (Critical Circumstances Allegation).

⁷⁶ See Letter to Langfang Meihua and Tongliao Meihua from the Department, “Countervailing Duty Investigation of Monosodium Glutamate from the People’s Republic of China: Critical Circumstances,” dated February 12, 2014.

⁷⁷ See Letter to the Department from Meihua Group, “Monosodium Glutamate from the People’s Republic of China: Critical Circumstances Response,” dated February 18, 2014.

⁷⁸ See section 703(e)(1)(A) of the Act; see also Critical Circumstances Allegation, at 1.

⁷⁹ See Critical Circumstances Allegation, at 3.

⁸⁰ See section 703(e)(1)(B) of the Act; see also Critical Circumstances Allegation, at 3.

⁸¹ See Critical Circumstances Allegation, at Exhibit 1.

domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).⁸² In determining whether imports of the subject merchandise have been “massive,” 19 CFR 351.206(h)(1) provides that the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the “relatively short period” (comparison period) increased by at least 15 percent compared to imports during an “immediately preceding period of comparable duration” (base period).⁸³ 19 CFR 351.206(i) defines “relatively short period” as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. For consideration of this allegation, we used a three-month base period (*i.e.*, June 2013 through August 2013) and a three-month comparison period (*i.e.*, September 2013 through November 2013).

Meihua Group

As discussed below, under “Analysis of Programs,” the Department finds that, during the POI, the Meihua Group companies received countervailable benefits under one program that is contingent upon export performance: the “Langfang Economic and Technical Development Zone” program. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that there is a program in this investigation which is inconsistent with the Subsidies Agreement. In determining whether there were massive imports from Meihua Group, we analyzed the Meihua Group’s monthly shipment data for the period June 2013 through November 2013. These data indicate that there was a massive increase in shipments of subject merchandise to the United States by Meihua Group during the three-month period immediately following the filing of the petition on September 16, 2013.⁸⁴

Henan Lotus

Because Henan Lotus is not participating in this investigation, consistent with Department practice, we based our critical circumstances determination for Henan Lotus on AFA, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308(c).⁸⁵ As AFA, we preliminarily determine that Henan Lotus received countervailable benefits under programs that are contingent upon export performance. Also, as AFA, we preliminarily determine that Henan Lotus made massive imports of subject merchandise over a relatively short period of time.

⁸² See, e.g., *Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China*, 73 FR 21588, 21589-90 (April 22, 2008) (unchanged in the final determination), and *Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod From Germany*, 67 FR 55808, 55809 (August 30, 2002).

⁸³ See 19 CFR 351.206(h)(2).

⁸⁴ See Department Memorandum, “Monthly Shipment Q&V Analysis for Critical Circumstances,” dated concurrently with this memorandum (Critical Circumstances Memorandum).

⁸⁵ See, e.g., *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People’s Republic of China*, 74 FR 2049, 2052–53 (January 14, 2009).

All Other Exporters

With regard to whether imports of subject merchandise by the “all other” exporters of MSG from the PRC were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipments by the “all other” companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period June 2013 through November 2013, using shipment data from the U.S. Census Bureau, adjusted to remove shipments reported by the only exporter actively participating in this investigation, the Meihua Group. The resulting data indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h).⁸⁶

As a result of an affirmative preliminary determination of critical circumstances, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to suspend liquidation, with regards to all exporters of MSG, of any unliquidated entries of subject merchandise from the PRC entered, or withdrawn from warehouse for consumption, 90 days prior to the date of publication of the Preliminary Determination in the *Federal Register*.

XII. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined To Be Countervailable

1. Preferential Loans and Interest Rates

Policy Loans

Petitioner alleges that GOC policies favor the provision of loans at preferential rates to the MSG industry, which is variously categorized as part of the food industry, the chemical industry, and the agricultural deep processing industry. Specifically, pursuant to the “Twelfth Five-year Plan for Food Industry,” Petitioner alleges that the GOC encouraged financing support by banks to promote the grain-processing industry and the development of the corn-processing industry.⁸⁷

Information on the record provided by the GOC also indicates that it placed great emphasis on encouraging the chemical and food industries for development in recent years. In response to the Department’s questionnaire, the GOC provided “Decision of the State Council on Promulgating the ‘Interim Provisions on Promoting Industrial Structure Adjustment’ for Implementation (No. 40 (2005) (Decision 40),” (Decision 40) which emphasizes industries encouraged by the GOC for further development through loans and other forms of assistance, with an additional emphasis on “key enterprises in pillar industries.”⁸⁸ The agricultural and chemical industries are among

⁸⁶ See Critical Circumstances Memorandum.

⁸⁷ See the petition at Exhibit III-14, at “Policies and Measures”.

⁸⁸ See the GOC response at Exhibit 7, “Main Policies and Measures”.

the favored industries listed in Decision 40,⁸⁹ while Meihua Holdings identified itself as an “Agricultural Industrialized National Key Pillar Enterprise.”⁹⁰ Decision 40 further states that “{t}he people’s governments of all provinces, autonomous regions, and municipalities directly under the Central Government, the relevant administrative departments of the state for development and reform, public finance... banking supervision...etc. shall establish and improve the mechanism for organization, supervision and inspection of the industrial structure adjustment work... and effectively intensify the effectiveness of implementing industrial policies.”⁹¹ Article 12 of Decision 40 states that “{t}he ‘Catalogue for the Guidance of Industrial Structure Adjustment’ is the important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance...”⁹² That related document, submitted on the record as the “Directory Catalogue on Readjustment of Industrial Structure,” in turn lists “natural food additives and natural flavors” under the “Encouraged Category.”⁹³

Meihua Holdings, Langfang Meihua, and Tongliao Meihua reported having short-term loans from SOCBs that were outstanding during the POI; Meihua Holdings and Tongliao Meihua also had long-term loans from SOCBs outstanding during this same period. The Department preliminarily finds that the loans to these companies are countervailable, pursuant to a GOC policy of lending to preferred industries in the PRC, such as the agricultural, chemical, and food industries. As such, this program of preferential policy lending is *de jure* specific to MSG producers, within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that SOCBs are “authorities” within the meaning of section 771(5)(B) of the Act,⁹⁴ and thus, loans from these SOCBs constitute financial contributions pursuant to section 771(5)(D)(i) of the Act. Pursuant to section 771(5)(E)(ii) of the Act, we find these loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans. To calculate the benefit from this program, we used the benchmarks discussed above under the “Subsidy Valuation” section.⁹⁵ We divided the benefit to Meihua Holdings, Langfang Meihua, and Tongliao Meihua by the consolidated sales of Meihua Holdings. As discussed in the “Creditworthiness” section, we also preliminarily determine that the Meihua Group was uncreditworthy from 2010-2012. Thus we added a risk premium to the discount rate in accordance with 19 CFR 351.505(a)(3)(iii). On this basis, we preliminarily determine a subsidy rate of 12.27 percent *ad valorem* for the Meihua Group.

⁸⁹ See the GOC response, at Exhibit 7, Articles 4 and 7.

⁹⁰ See Meihua Holdings response, at 17.

⁹¹ See the GOC response, at page 1 of Exhibit 7.

⁹² See *id.*, at Article 12.

⁹³ See the GOC response, at Exhibit 8.

⁹⁴ See, e.g., *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) and accompanying IDM at Comment E.2.

⁹⁵ See also 19 CFR 351.505(c).

2. Preferential Tax Programs

Preferential Income Tax Policies for Enterprises in the West Development Region

The GOC explained in its initial questionnaire response that the purpose of this program is to encourage the investment in and economic development of China's western region, including the province of Inner Mongolia, where Tongliao Meihua is located.⁹⁶ This program was established in 2007 with the "Notice of the State Council on the Implementation of the Transitional Preferential Policies in Respect of Enterprise Income Tax (No. 39 {2007} of the State Council)."⁹⁷ The program is administered by the State Administration of Taxation (SAT), and implemented by the SAT at local branches within their respective jurisdictions.⁹⁸ Under the program, companies located in the West Development Region are eligible for a reduced income tax rate of 15 percent, instead of the normal 25 percent income tax rate.⁹⁹ According to the GOC, there are no special procedures to utilize this program, as the applicable reduced income tax rate is applied when an eligible company files its income taxes.¹⁰⁰

Information provided by the GOC indicates that this program was established by purview of a national law and is administered by an agency of the central government. However, eligibility is limited to enterprises located in the western region of China, such as the province of Inner Mongolia. The program is, therefore, specific on a regional basis under section 771(5A)(D)(iv) of the Act. We also find a reduced income tax rate provides a financial contribution in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act, and provides a benefit to the recipient in the amount of the difference between the taxes it paid and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1).

Meihua Holdings and Tongliao Meihua both reported receiving a reduced income tax rate of 15 percent under this program; however Meihua Holdings reported that it did not receive any benefit as a result of the reduced income tax rate.¹⁰¹ As discussed above under "Attribution of Subsidies," under 19 CFR 351.525(b)(6)(iii), the benefit to Tongliao Meihua is calculated by dividing the company's benefits under this program by the consolidated sales of the parent company and its subsidiaries during the POI. As a result of this calculation, we preliminarily determine a countervailable subsidy rate of 1.14 percent for Meihua Group.

3. Special Economic Zones

Langfang Economic and Technical Development Zone

Petitioner alleged that this program provides benefits to companies located in the Langfang Economic and Technical Development Zone in the form of, *inter alia*, grants. In its initial

⁹⁶ See the GOC response, at 13.

⁹⁷ See *id.*, at Exhibit 23.

⁹⁸ See *id.*

⁹⁹ See *id.*, at 18.

¹⁰⁰ See *id.*, at 17-18.

¹⁰¹ See Meihua Holdings response, at 26 and Tongliao Meihua response, at 22-23.

questionnaire response, Langfang Meihua identified itself as a company located in the Langfang Economic and Technology Development Zone, and reported that it received a grant known as the “Business Investment Attraction Subsidy.”¹⁰² The GOC, however, reported that the information provided by Langfang Meihua was incorrect; the grant received by Langfang Meihua is properly known as the “Foreign Trade Reward.”¹⁰³ The GOC did not provide any response to the questionnaire appendices with respect to this program.

Although information on the record is limited, we preliminarily find that the description of the grant provided to Langfang Meihua, a trading company, under this program, “Foreign Trade Reward,” as sufficiently descriptive to find this program to be specific as an export subsidy, under section 771(5A)(B) of the Act. The grant provided under this program constitutes a direct transfer of funds under section 771(5)(D)(i) of the Act and provides a benefit in the amount of the grant, in accordance with 19 CFR 351.504(a). Because Langfang Meihua is a trading company, we attribute export-contingent grants to the company in accordance with 19 CFR 351.525(b)(2) and 19 CFR 351.525(c), by cumulating the export sales of Langfang Meihua with the export sales of the companies that actually produced the merchandise (*i.e.*, Meihua Holdings and Tongliao Meihua), minus any intercompany sales. However, the calculation of the subsidy from this grant results in a rate that is less than 0.005 percent *ad valorem* and, as such, this rate does not have an impact on the overall subsidy rate for the Meihua Group. Consistent with our past practice, we therefore have not included this program in our net subsidy rate calculations for the Meihua Group.¹⁰⁴

B. Programs Preliminarily Determined To Be Not Used or Not to Confer a Benefit During the POI

1. Preferential Loans and Interest Rates

- a. West Development Campaign
- b. Tibet Region’s Favorable Interest Loans and Preferential Tax Treatments
- c. Northeast Region Revitalization 12th Five-Year Plan

2. Preferential Tax Programs

- a. Transitional Enterprise Income Tax Preferential Policies
- b. Preferential Income Tax Rate
- c. Preferential Business Tax Rate
- d. Income Tax Reduction for High and New Enterprises
- e. Transportation Tax Waivers
- f. Preferential Income Tax Policies for Enterprises in Tibet
- g. Preferential Income Tax Policies for Enterprises in Shandong Province
- h. Preferential Income Tax Policies for Enterprises in Xinjiang Region

¹⁰² See Langfang Meihua response, at 61.

¹⁰³ See the GOC’s second response, at 9.

¹⁰⁴ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009), and accompanying IDM at “Exemption from the CST.”

- i. Preferential Income Tax Policies for Enterprises in the Inner Mongolia Autonomous Region
 - j. Township Rural-Area Benefits
3. Preferential Indirect Tax Programs: VAT Reductions, Export Tax Rebates, and Import Tariff Eliminations; Reduced VAT and Offsets for Encouraged Industries
- a. VAT Reductions for Preferred Enterprises in Favored Industries that Export Certain Products
 - b. VAT and Tariff Exemptions on Imported Equipment for Favored Industries

Tongliao Meihua reported that it imported eligible equipment under the “VAT and Tariff Exemptions on Imported Equipment for Favored Industries” program in 2006.¹⁰⁵ The company explained that the eligibility criterion to receive assistance under this program was based on the importation of overseas equipment.¹⁰⁶ The GOC reported that neither of the mandatory respondents used this program during the POI, and did not respond further to any of the questions in the Department’s initial questionnaire.¹⁰⁷

Nonetheless, we calculated the benefit using the information provided by Tongliao Meihua and find that the benefit from this program results in a subsidy rate that is less than 0.5 percent *ad valorem* in the year the subsidy was approved.¹⁰⁸ Thus, any benefit provided under the program would be expensed in the year the assistance was received, *i.e.*, 2006, in accordance with 19 CFR 351.524(b)(2). Because the program does not provide a benefit during the POI, *i.e.*, in 2012, there is no need to determine whether the program is otherwise countervailable.

4. Grant Programs

- a. Grants Promoting Rationalization
- b. Grants for Relocation to the “Corn Belt”
- c. Grants for Relocation to the “Coal Belt”
- d. Grants for Modernization and New Equipment
- e. The State Key Technology Project Fund
- f. Regional Grants – Xinjiang Region
- g. Regional Grants – Shandong
- h. Regional Grants – Inner Mongolia

5. Special Economic Zones

- a. Baoji High- and New-Tech Industrial Development Zone
- b. Hohhot Economic and Technical Development Zone
- c. Jining High-New Tech Industrial Development Zone
- d. Chiping Economic Development Zone

¹⁰⁵ See Tongliao Meihua response, at 25.

¹⁰⁶ See *id.*, at 66.

¹⁰⁷ See the GOC response, at 34.

¹⁰⁸ See Meihua Group Calculation Memorandum, at 4.

- e. Yongning Yanghe Industrial Park
 - f. Junan Economic Development Zone
6. Subsidies for Foreign-Invested Enterprises (FIEs)
- a. “Two Free, Three Half” Program
 - b. Reduced Income Tax Rates for FIEs Based on Location
 - c. Preferential Direct Tax Treatment for Purchases of Domestically-Made Equipment
 - d. VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
 - e. VAT Refunds for FIEs on Purchases of Chinese-made Equipment
 - f. Reduced Tax Rates for FIEs Recognized as High or New Technology Enterprises
 - g. Reduced Income Tax Rates for FIEs engaged in Research and Development
 - h. Reduced Income Tax Rates for Export-Oriented FIEs

C. Programs for Which Additional Information Is Needed

The Department finds that additional information is needed in order to determine whether the following programs are countervailable. The Department intends to issue questionnaires to the GOC and to the Meihua Group regarding these programs, and to provide a post-preliminary analysis of these programs that will be served on all interested parties. The programs for which we need additional information are:

1. Provision of Inputs for Less than Adequate Remuneration (LTAR)
 - a. Provision of Corn for LTAR

The GOC provided evidence that throughout its economy corn is consumed for a wide variety of industries, such as feed, food, industrial, and other purposes.¹⁰⁹ With respect to the issue of specificity, the GOC states that the diversity of corn usage in China matches worldwide patterns and is therefore not specific.¹¹⁰ Furthermore the GOC contends that corn is mostly provided directly by farms. However, through the course of the investigation and petitioner’s allegation, we believe the program analysis should be narrowed to corn provided by the China Grain Reserve Corporation (CGRC). Because we lack specificity information on the CGRC, the Department intends to follow-up with the GOC and the Meihua Group regarding the issue.

- b. Provision of Electricity for LTAR
- c. Provision of Land for LTAR

2. Grant Programs

In their initial questionnaire responses, Meihua Group companies reported use of the programs below.¹¹¹ However, the GOC reported that these programs were not used by any

¹⁰⁹ See the GOC response, at Exhibit 37.

¹¹⁰ See *id.*; see also the GOC’s second response at 8.

¹¹¹ See Meihua Holdings response, at 42 and Tongliao Meihua response, at 37.

Meihua Group companies, and therefore did not provide in its response a description of the program or any other information that would allow us to conclude that these programs provided countervailable subsidies. We intend to request more information from the GOC regarding these programs following this preliminary determination.

- a. Subsidies for Development of “China Famous Brands”
- b. Fund for Clean Production and Water Treatment

For the grant programs listed below, the GOC reported that Meihua Group companies received benefits “between January 1, 2003 and the end of the POI” (*i.e.*, during the AUL period).¹¹² The Meihua Group did not report receiving any such benefits, limiting its responses to programs used during the POI.¹¹³

- a. Grants Provided in Support of Agricultural Development Projects
- b. Special Fund for Energy Saving Technology Reform
- c. Grants for “Going Public”

E. Preliminary AFA Rates Determined for Programs Used by Henan Lotus

As explained above, we are making the adverse inference that Henan Lotus received countervailable subsidies under each of the subsidy programs that the Department included in its initiation. Listed below are the AFA rates applicable to each program.

Program	Subsidy Rate (%)
Policy Loans	12.27
West Development Campaign	12.27
Tibet Region’s Favorable Interest Loans and Preferential Tax Treatments	12.27
Northeast Region Revitalization 12th Five-Year Plan	12.27
Transitional Enterprise Income Tax Preferential Policies	25.00 ¹¹⁴
Preferential Income Tax Rate	0.00
Income Tax Reduction for High and New Enterprises	0.00
Transportation Tax Waivers	0.00
Preferential Income Tax Policies for Enterprises in the West Development Region	0.00
Preferential Income Tax Policies for Enterprises in Tibet	0.00
Preferential Income Tax Policies for	

¹¹² See the GOC response, at 62, 75, and 88.

¹¹³ See, e.g., Meihua Holdings response at 44, “Meihua Group did not receiving any benefits from the program mentioned above *during the POI*” (emphasis added).

¹¹⁴ This rate applies to each of the tax programs, otherwise identified by a rate of “0.00”.

Enterprises in Shandong Province	0.00
Preferential Income Tax Policies for Enterprises in Xinjiang Region	0.00
Preferential Income Tax Policies for Enterprises in the Inner Mongolia Autonomous Region	0.00
Township Rural-Area Benefits	0.00
VAT Reduction for Preferred Enterprises in Favored Industries that Export Certain Products	1.51
VAT and Tariff Exemptions on Imported Equipment for Favored Industries	1.51
Grants Promoting Rationalization	16.12
Grants for Relocation to the “Corn Belt”	16.12
Grants for Relocation to the “Coal Belt”	16.12
Grants for Modernization and New Equipment	16.12
The State Key Technology Project Fund	16.12
Grants Provided in Support of Agricultural Development Projects	16.12
Subsidies for Development of “China Famous Brands”	16.12
Special Fund for Energy Saving Technology Reform	16.12
Fund for Clean Production and Water Treatment	16.12
Grants for “Going Public”	16.12
Regional Grants – Xinjiang Region	16.12
Regional Grants – Shandong	16.12
Regional Grants – Inner Mongolia	16.12
Langfang Economic and Technical Development Zone	16.12
Baoji High- and New-Tech Industrial Development Zone	16.12
Hohhot Economic and Technical Development Zone	16.12
Jining High-New Tech Industrial Development Zone	16.12
Chiping Economic Development Zone	16.12
Yongning Yanghe Industrial Park	16.12
Junan Economic Development Zone	16.12
“Two Free, Three Half” Program	0.00
Reduced Income Tax Rates for FIEs Based on Location	0.00
Preferential Direct Tax Treatment for Purchases of Domestically-Made Equipment	1.51

VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	1.51
VAT Refunds for FIEs on Purchases of Chinese-made Equipment	1.51
Reduced Tax Rates for FIEs Recognized as High or New Technology Enterprises	0.00
Reduced Income Tax Rates for FIEs Engaged in R&D	0.00
Reduced Income Tax Rates for Export-Oriented FIEs	0.00

XIII. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

XIV. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹¹⁵ Case briefs may be submitted to Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.¹¹⁶

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹¹⁷ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹¹⁸ Requests should contain the party’s name, address, and telephone number; the

¹¹⁵ See 19 CFR 351.224(b).

¹¹⁶ See 19 CFR 351.309(d).

¹¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹⁸ See 19 CFR 351.310(c).

