



C-570-999  
Investigation  
POI 1/1/12 – 12/31/12  
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April 11, 2014

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Countervailing Duty Investigation of 1,1,1,2-Tetrafluoroethane  
from the People's Republic of China: Decision Memorandum for  
the Preliminary Determination and Alignment of Final  
Determination With Final Antidumping Determination

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## I. SUMMARY

The Department of Commerce (“Department”) preliminarily determines that countervailable subsidies are being provided to producers and exporters of 1,1,1,2-Tetrafluoroethane (“tetrafluoroethane”) in the People’s Republic of China (“PRC”), as provided in section 703 of the Tariff Act of 1930, as amended (“Act”).

## II. BACKGROUND

### A. Initiation and Case History

On October 22, 2013, the Department received a countervailing duty (“CVD”) Petition concerning imports of tetrafluoroethane from the PRC, and an antidumping duty (“AD”) Petition concerning imports of tetrafluoroethane from the PRC, filed in proper form by Mexichem Fluor, Inc. (“Petitioner”).<sup>1</sup> On December 9, 2013, the Department published a notice of initiation for the CVD investigation of tetrafluoroethane from the PRC.<sup>2</sup> Supplements to the Petition and our consultations with the Government of the PRC (“GOC”) are described in the Initiation Checklist.

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<sup>1</sup> See “Petition for the Imposition of Antidumping and Countervailing Duties on 1,1,1,2-Tetrafluoroethane from the People’s Republic of China, dated October 22, 2013 (“Petition”).

<sup>2</sup> See 1,1,1,2-Tetrafluoroethane from the People’s Republic of China: Initiation of Countervailing Duty Investigation, 78 FR 73839 (December 9, 2013) (“Initiation”). On the same date we also published a notice of initiation for the AD investigation of tetrafluoroethane from the PRC. See 1,1,1,2-Tetrafluoroethane from the People’s Republic of China: Initiation of Antidumping Duty Investigation, 78 FR 73832 (December 9, 2013).



The Department stated in the Initiation that we intended to select respondents based on data obtained from U.S. Customs and Border Protection (“CBP”).<sup>3</sup> On December 3, 2013, we released the CBP entry data under administrative protective order (“APO”) for the Harmonized Tariff Schedule of the United States (“HTSUS”) listed in the scope of the investigation. We received comments on the CBP data from Petitioner on December 13, 2013, and from Jiangsu Bluestar Green Technology Co., Ltd. (“Bluestar”) on December 13, 2013, and December 17, 2013.

On January 2, 2014, the Department selected two mandatory respondent companies for this investigation<sup>4</sup> and, on January 3, 2014, issued a CVD questionnaire to the GOC.<sup>5</sup> The GOC and the two mandatory respondents filed initial questionnaire responses with the Department on February 24, 2014. Between March 20 and 27, 2014, the Department issued supplemental questionnaires to the GOC and the two mandatory respondents, and they filed responses to these questionnaires between March 28 and 31, 2014. On April 4 2014, Petitioners filed a request that the Department align the final determination of this CVD investigation with the companion AD investigation of tetrafluoroethane from the PRC.<sup>6</sup>

On January 7, 2014, Petitioner requested an extension of the preliminary determination. On January 17, 2014, the Department fully extended the preliminary determination pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).<sup>7</sup>

On March 4, 2014, Petitioner filed new subsidy allegations, which the Department is still considering. As soon as practicable following the release of the Preliminary Determination, the Department will issue a separate memorandum to announce whether to initiate an investigation as to each newly alleged subsidy.

#### B. Period of Investigation

The period of investigation (“POI”) is January 1, 2012, through December 31, 2012.

### III. SCOPE COMMENTS

In accordance with the preamble to the Department’s regulations, and as noted in the Initiation, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the Initiation.<sup>8</sup> We received no comments concerning the scope of this investigation.

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<sup>3</sup> See Initiation, 78 FR at 73841.

<sup>4</sup> See “Respondent Selection” section below.

<sup>5</sup> See Letter to the Government of the People’s Republic of China, re: 1,1,1,2 Tetrafluoroethane from the People’s Republic of China, dated January 3, 2014.

<sup>6</sup> See Petitioner’s 1,1,1,2-Tetrafluoroethane from the People’s Republic of China: request for alignment and comments regarding benchmarks, dated April 4, 2014.

<sup>7</sup> See 1,1,1,2 Tetrafluoroethane from the People’s Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation, 79 FR 3178 (January 17, 2014).

<sup>8</sup> See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997); see also Initiation, 78 FR at 73839.

#### **IV. SCOPE OF THE INVESTIGATION**

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is  $\text{CF}_3\text{-CH}_2\text{F}$ , and the Chemical Abstracts Service (“CAS”) registry number is CAS 811-97-2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

Merchandise covered by the scope of this investigation is currently classified in the HTSUS at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

#### **V. ALIGNMENT**

The AD and CVD investigations of tetrafluoroethane from the PRC have the same scope with regard to the merchandise covered. As noted above, on April 4, 2014, Petitioner submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination with the final determination in the companion AD investigation of tetrafluoroethane from the PRC. We will issue the final CVD determination on the same date as the final AD determination, which is currently scheduled for on or about August 4, 2014.

#### **VI. 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.

As noted above, on January 2, 2014, the Department determined that it was not practicable to examine more than two respondents in the instant investigation.<sup>9</sup> Therefore, based on data from CBP, the Department selected the two exporters/producers accounting for the largest volume of

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<sup>9</sup> See Memorandum from James C. Doyle, Director, Office V, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations “1,1,1,2 Tetrafluoroethane from the People’s Republic of China: Respondent Selection,” dated January 2, 2014 (“Respondent Selection Memo”).

tetrafluoroethane exported from the PRC during the POI: Zhejiang Quhua Fluor-Chemistry Co., Ltd. (“Quhua Fluor-Chemistry”) and T.T. International Co., Ltd.<sup>10</sup>

On December 3, 2013, Bluestar filed a request to be selected as a voluntary respondent. Additionally, Bluestar submitted timely filed responses to the Department’s questionnaires to date.<sup>11</sup> On March 11, 2014, Bluestar renewed its request to be considered a voluntary respondent, arguing that it has been fully cooperating in this investigation as a supplier of subject merchandise to T.T. International. Moreover, according to Bluestar, because T.T. International is a non-producing trading company, the Department will need to calculate a subsidy rate for Bluestar in order to determine a deposit rate for T.T. International and, thus, selecting Bluestar as a voluntary respondent and granting it an individual subsidy rate will pose no additional burden to the Department.<sup>1213</sup>

With regard to determining a mandatory respondent’s deposit rate, the Department’s regulations at 19 CFR 351.107 address situations where the mandatory respondent is a trading company that does not itself produce the subject merchandise, but exports subject merchandise produced by other companies. According to subsection 351.107(b)(1), in such circumstances, the deposit rate for the trading company will normally establish a combination of the net subsidy rates calculated for the trading company and the producer of the subject merchandise exported by the trading company. Accordingly, the Department examined Bluestar, a producer of subject merchandise exported by a trading company, mandatory respondent T.T. International, in the course of determining a deposit rate for its shipments of subject merchandise. In particular, we examined information from responses timely submitted by Bluestar to all questionnaires the Department issued to the mandatory respondents (as well as other record evidence relevant to Bluestar), in order to determine a net countervailable subsidy rate for Bluestar. This was a necessary component in determining a deposit rate for T.T. International’s shipments of subject merchandise produced by other companies, including Bluestar. Thus, the Department conducted the same level of examination of Bluestar as the Department normally does of any mandatory respondent. Consequently, selecting Bluestar as a voluntary respondent with its own individually calculated deposit rate, for its own shipments of subject merchandise, poses no meaningful additional burden upon the Department’s resources. Therefore, we are selecting Bluestar as a voluntary respondent. Bluestar will be subject to the same requirements as the mandatory respondents selected pursuant to section 777A(e)(2)(A) of the Act, including section 782(a) of the Act and, where applicable, the use of facts available under section 776 of the Act and 19 CFR 351.308.

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<sup>10</sup> Id.

<sup>11</sup> See, e.g., Letter to the Department from Bluestar; Re: Response of Jiangsu Bluestar Green Technology Co., Ltd. to the Department’s Countervailing Duty Investigation Questionnaire, dated February 24, 2014.

<sup>12</sup> See Letter to the Department from Bluestar; Re: Comments on the Calculation of CVD Cash Deposit Rates and Renewal of Request for Treatment as a Voluntary Respondent, dated March 11, 2014. We note that Bluestar also requested that the Department assign it a separate combination rate as a supplier to T.T. International. In the CVD context, our practice is to derive a weight-averaged rate from the combination rates of the largest producers and to apply the weight-averaged rate as the one deposit rate for all subject exports of the respondent trading company. However, as a voluntary respondent, Bluestar will receive a rate separate from T.T. International.

<sup>13</sup> See Bluestar’s February 24, 2014, submission.

## VII. 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 December 13, 2013, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of tetrafluoroethane from the PRC.<sup>14</sup>

## VIII. 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.<sup>15</sup> 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.<sup>16</sup>

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.<sup>17</sup> Furthermore, on March 13, 2012, Public Law 112-99 was enacted which confirms 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.<sup>18</sup> The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.<sup>19</sup>

Additionally, for the reasons stated in CWP from the PRC, we are using the date of December 11, 2001, the date on which the PRC became a member of the World Trade Organization (“WTO”), as the date from which the Department will identify and measure subsidies in the PRC for purposes of CVD investigations.<sup>20</sup>

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<sup>14</sup> See 1,1,1,2-Tetrafluoroethane From China: Investigation Nos. 701-TA 509 and 731-TA-1244 (Preliminary), 78 FR 79007 (December 27, 2013).

<sup>15</sup> See Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 72 FR 60645 (October 25, 2007) (“CFS from the PRC”).

<sup>16</sup> Id., and accompanying Issues and Decision Memorandum at Comment 6.

<sup>17</sup> See, e.g., Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, 73 FR 31966 (June 5, 2008) (“CWP from the PRC”) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>18</sup> Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

<sup>19</sup> See Public Law 112-99, 126 Stat. 265 §1(b).

<sup>20</sup> See, e.g., CWP from the PRC, and accompanying Issues and Decision Memorandum at Comment 2.

## IX. 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. The Department finds the AUL in this proceeding to be 9.5 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.<sup>21</sup> The Department notified the respondents of the AUL in the initial questionnaire and requested data accordingly.<sup>22</sup> 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 same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

### B. Attribution of Subsidies

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 another corporation in essentially the same ways it can use its own assets. This standard will normally be met where there is a majority voting interest between two corporations, or through common ownership of two (or more) corporations.<sup>23</sup> In certain circumstances, a large minority voting interest (for example, 40 percent) may also result in cross-ownership.<sup>24</sup> The Court of International Trade upheld the Department’s authority to attribute subsidies based on whether a company could use

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<sup>21</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

<sup>22</sup> As discussed above and in accordance with the Department’s practice, regardless of the AUL chosen, we will not countervail subsidies conferred before December 11, 2001, the date of the PRC’s accession to the WTO. See, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, 77 FR 63788 (October 17, 2012) and accompanying Issues and Decision Memorandum at “Subsidies Valuation Information.”

<sup>23</sup> See, e.g., Countervailing Duties, 63 FR 65348, 65401 (November 25, 1998).

<sup>24</sup> Id.

or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.<sup>25</sup>

### JUHUA Companies

In the Respondent Selection Memo, the Department identified Quhua Fluor-Chemistry as a mandatory respondent.<sup>26</sup> Record information shows that Quhua Fluor-Chemistry is owned by Zhejiang Juhua Co., Ltd. (“Juhua Stock”), a producer of subject merchandise exported by Quhua Fluor-Chemistry.<sup>27</sup> Moreover, Juhua Stock owns a number of other companies that are involved in some manner in the manufacture and sale of subject merchandise, including another producer of the subject merchandise.<sup>28</sup> Accordingly, and as further explained below, we examined Quhua Fluor-Chemistry as an integral part of Juhua Stock and its subsidiaries, which we are treating as one entity (“JUHUA”).

Quhua Fluor-Chemistry submitted responses to the Department’s questionnaires on behalf of itself and its parent Juhua Stock, as well as for the other companies owned by Juhua Stock, namely, Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. (“Lianzhou”), Zhejiang Quzhou Juxin Fluorochemical Industry Co., Ltd. (“Juxin”), Zhejiang Quzhou Jusu Chemical Co., Ltd. (“Jusu”), and Zhejiang Kaisheng Fluorochemical Co., Ltd. (“Kaisheng”). Additionally, Quhua Fluor-Chemistry submitted questionnaire responses on behalf of other affiliated companies, namely, Juhua Group Corporation (“Juhua Group”), Zhejiang Juhua Chemical Mining Co., Ltd. (“Juhua Mining”), Zhejiang Juhua Calcium Carbide Co., Ltd. (“Juhua C.C.”), Huangshan City Juhua Fluorspar Co., Ltd. (“Huangshan Juhua”), Juhua Quzhou Utility Co., Ltd. (“Juhua Utility”), Juhua Group Corporation Thermal Power Plant (“Juhua Group TP Plant”), Quzhou Lianfu Trade Co., Ltd. (“Lianfu”), and Juhua Group Imp. & Exp. (“Juhua EXIM”).

Information from the responses indicates the nature of the affiliations and the roles in the production and sales chains of the subject merchandise as to the following Juhua Stock companies:<sup>29</sup>

#### *Juhua Stock*

A producer of subject merchandise, Juhua Stock is owned by Juhua Group, which is in turn owned by the Zhejiang Province State-owned Assets Supervision and Administration Commission of the State Council (“Zhejiang SASAC”). Thus, Juhua Stock is ultimately a state-owned enterprise (“SOE”). Juhua Stock generates consolidated financial statements that cover the companies mentioned immediately below.

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<sup>25</sup> See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

<sup>26</sup> See Respondent Selection Memo, at 6

<sup>27</sup> See JUHUA’s February 24, 2014, Questionnaire Response (“JUHUA QR”) at 4-5.

<sup>28</sup> *Id.*

<sup>29</sup> Unless otherwise noted see JUHUA QR at 4-7; see also Memorandum To: Catherine Bertrand, From: Josh Startup, Re: Countervailing Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People’s Republic of China: Cross-ownership Zhejiang Quhua Fluor-Chemistry Co., Ltd. and its Cross-Owned Affiliates, dated April 11, 2014, for the proprietary details of the ownership structures.

*Juxin*

Like its parent, Juxin produces subject merchandise, which was exported by Quhua Fluor-Chemistry and Lianzhou during the POI.

*Quhua Fluor-Chemistry*

An exporter, but not a producer, of subject merchandise, Quhua Fluor-Chemistry also produces anhydrous hydrofluoric acid, which it supplies to Juxin and Juhua Stock as an input into their production of subject merchandise.

*Lianzhou*

This company packages and exports subject merchandise produced by Juxin and Juhua Stock.

*Lianfu*

This company is owned by Lianzhou.<sup>30</sup> Lianfu exported subject merchandise in 2010 and 2011, but not during the POI.<sup>31</sup>

*Kaisheng*

An acidspar trading company, Kaisheng purchased acidspar from unaffiliated suppliers, some of which it used to produce hydrogen fluoride that it supplied to Juxin and Juhua Stock as an input into their production of subject merchandise. It sold the rest of the acidspar to unaffiliated companies.

*Jusu*

Also owned by Juhua Stock, Jusu produced trichloroethylene, which it supplied to Juxin and Juhua Stock as an input into their production of subject merchandise.

*Zhejiang Jinju Chemical Co., Ltd. (“Jinju Chemical”)*

Owned by Juhua Stock, Jinju Chemical sold coal gas and nitrogen gas to Juxin and Juhua Stock as inputs into their production of subject merchandise.<sup>32</sup>

As noted above, in this investigation we are treating Juhua Stock and its subsidiaries Quhua Fluor-Chemistry, Juxin, Lianzhou (including Lianfu), Kaisheng and Jusu, as one entity, JUHUA. Thus, we are treating any purchases, production and sales by any of these companies as purchases, production and sales made by JUHUA. To the extent that any subsidies were provided to any of these companies, we are attributing the benefit directly to JUHUA, in accordance with 19 CFR 351.525(b)(6)(i).

The responses also provide information regarding the nature of the affiliations and the roles in production and sales as to the following additional companies:<sup>33</sup>

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<sup>30</sup> See JUHUA’s March 21, 2014, submission for Lianfu (“JUHUA First Supp.”) at 4.

<sup>31</sup> *Id.*, at 6; see also EXIM’s March 21, 2014, submission at 4.

<sup>32</sup> See JUHUA QR at 6-7.

<sup>33</sup> Unless otherwise noted see JUHUA QR, submission at 4-7.

### *Juhua Group*

The parent company of Juhua Stock, Juhua Group is owned by Zhejiang SASAC and is, therefore, an SOE. Additionally, the company has its own productive operations, including the manufacture of certain chemical products, but reportedly did not produce, sell or export subject merchandise during the POI.

### *Juhua Mining*

Owned by Juhua group, Juhua Mining mined and sold iron pyrite to Juhua Stock for the production of sulfuric acid and hydrogen fluoride, both of which are inputs into Juhua Stock's production of subject merchandise. Juhua Mining also supplied acidspar to Kaisheng for Kaisheng's production of hydrogen fluoride.

### *Huangshan Juhua*

Owned by Juhua Mining, Huangshan Juhua sold fluorspar to Juhua Mining for Juhua Mining's production of acidspar, which was then supplied to Kaisheng for Kaisheng's production of hydrogen fluoride.<sup>34</sup>

### *Juhua CC*

Owned by Juhua Group, Juhua CC supplied calcium carbide to Juhua Stock as an input into Juhua Stock's production of acetylene and trichloroethylene, and ultimately the production of subject merchandise.

### *Juhua Utility*

Also owned by Juhua Group, Juhua Utility is a water treatment company that treats water for industrial use. Juhua Utility supplied a very small percentage of its treated water to Juhua Stock and Juxin as an input into their production of subject merchandise, while the company sold the majority of its treated water to the responding companies.<sup>35</sup>

### *Juhua Group TP Plant*

Also owned by Juhua Group, Juhua Group TP Plant is a power generator that supplied steam to Juhua Stock and Juxin for use in their production of subject merchandise. However, the company sold the majority of its steam to responding companies for use in the production of many different products other than the subject merchandise. Additionally, Juhua Group TP Plant also sold all of its electricity production to responding companies.<sup>36</sup>

### *Juhua EXIM*

Owned by Juhua Group;<sup>37</sup> Juhua EXIM exported a small quantity of subject merchandise during the POI,<sup>38</sup>

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<sup>34</sup> Id., at 5-6.

<sup>35</sup> See JUHUA First Supp. at 6.

<sup>36</sup> Id.

<sup>37</sup> See JUHUA's March 21, 2014, submission for EXIM at 4.

<sup>38</sup> See JUHUA's First Supp. at 12-13.

Based on the information on the record, we preliminarily determine cross-ownership exists among Juhua Group and its wholly or majority-owned subsidiaries, namely Juhua Mining (inclusive of Huangshan Juhua), Juhua CC, Juhua Utility, Juhua Group TP Plant and Juhua EXIM, in accordance with 19 CFR 351.525(b)(6)(vi). Additionally, we preliminarily find that cross-ownership within the meaning of 19 CFR 351.525(b)(6)(vi) also exists between the Juhua Group companies and JUHUA.

To the extent that subsidies were provided to any Juhua Group company that supplied JUHUA with an input that is primarily dedicated to the production of downstream products (inclusive of subject merchandise) produced by JUHUA, we are attributing any benefit to JUHUA at a rate equal to the amount of the benefit divided by the combined sales of the input and downstream products, in accordance with 19 CFR 351.525(b)(6)(iv). To the extent that subsidies were provided to Juhua Group itself, we are attributing any benefit to JUHUA at a rate equal to the amount of the benefit divided by the consolidated sales of Juhua Group, in accordance with 19 CFR 351.525(b)(6)(iii).

#### T.T. International

On January 16, 2014, T.T. International notified the Department that it is a trading company that exports, but does not produce, subject merchandise. T.T. International reported that during the POI it exported subject merchandise produced by the following four unaffiliated manufacturers: Bluestar, Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (“Sinochem Taicang”), , Zhejiang Sanmei Chemical Industry Co., Ltd. (“Sanmei”), and Quhua Fluor-Chemistry.<sup>39</sup> Sinochem Taicang and Bluestar submitted full questionnaire responses as suppliers to T.T. International, and Quhua Fluor-Industry submitted a response as a mandatory respondent on behalf of itself and JUHUA. The Department exempted Sanmei from providing a response to the questionnaire, given its relatively insignificant share of the volume of T.T. International’s exports of subject merchandise.<sup>40</sup> As noted above, in determining a deposit rate for a non-producing trading company such as T.T. International, the Department’s regulations state that we may calculate a deposit rate for each of the supplying producer and combine each producer rate with the trading company’s own deposit rate to establish producer-specific deposit rates for the trading company’s subject merchandise exports into the United States.<sup>41</sup>

While the Department normally opts to establish different producer-specific deposit rates a trading company respondent in the AD context, our practice in CVD proceedings has been to derive a weighted average of such rates to establish one deposit rate for the trading company for

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<sup>39</sup> See Letter to the Department from T.T. International, Re: Exempting Sanmei from Responding to the CVD Questionnaire, dated January 28, 2014 (“T.T. International Supplier Letter”).

<sup>40</sup> See Letter to T.T. International Co., Ltd., from Catherine Bertrand, Program Manager, Office V, Re: 1,1,1,2 Tetrafluoroethane from the PRC, dated January 29, 2014.

<sup>41</sup> See 19 CFR 351.107(b)(1).

all its subject merchandise exports, regardless of the producer.<sup>42</sup> Either way, however, in the course of determining the deposit rate(s) to apply to the trading company's subject entries, it is necessary for the Department to first determine the individual deposit rate for each producer of subject merchandise exported by the trading company. In the CVD context, this means the Department needs to identify and measure any subsidies that were provided to each producer, determine the benefits allocable to the POI, and calculate a net countervailable subsidy rate for each producer. Thus, regardless of whether a particular producer is selected as a mandatory respondent, the Department must conduct the same level of analysis of each producer's subsidization as it would for a mandatory respondent, including an analysis of the producer's corporate affiliations for the purposes of attributing any subsidy benefit under our attribution rules at 19 CFR 351.525(b)(6)(i)-(vi), 351.525(b)(7) and 351.525(c). With regard to Quhua Fluor-Chemistry, a supplier of subject merchandise to T.T. International that is also a mandatory respondent in this investigation, we addressed its affiliations for attribution purposes above.

Below we address the affiliations of Sinochem Taicang and Bluestar, the two other producer-suppliers of subject merchandise to T.T. International that we are examining in order to establish a CVD deposit rate for T.T. International.

### Sinochem Taicang

Sinochem Taicang submitted responses to the Department's questionnaires on behalf of itself, Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. ("Sinochem Xi'an"), China Newtech Development and Trade Co., Ltd. ("New Technology"), Sinochem Lantian Co., Ltd ("Sinochem Lantian"), Sinochem Group Co., Ltd. ("Sinochem Group"), Jiangxi Sanmei Chemical Co., Ltd. ("Jiangxi Sanmei"), Zhejiang Lansol Fluorchem Co., Ltd. ("Zhejiang Lansol"), Fujian Kings Fluoride Industry Co., Ltd ("Kings Fluoride"), Fujian Jianyang Kings Mining Co., Ltd. ("Kings Mining"), and Xingguo County Zhongying Mining Co. Ltd. ("Zhongying Mining"). Sinochem Taicang, which identified itself as a major producer of subject merchandise, reported that its ultimate parent is Sinochem Group, which owns Sinochem Taicang's parents Sinochem LantianNew Technology and Sinochem Xi'an.<sup>43</sup> Additionally,

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<sup>42</sup> See, e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy, 61 FR 30288, 30309 (June 14, 1996), under "Suspension of Liquidation" (in which the Department noted that "We calculated the ad valorem rate for Agritalia, an export trading company, by weight averaging, based on the value of exports to the United States represented by each of Agritalia's suppliers, the adjusted subsidy rate for each supplier and adding to this rate the subsidy rate calculated for Agritalia based on subsidies it received directly."); see also Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review, 66 FR 64214 (December 12, 2001), and accompanying "Issues and Decision Memorandum: Final Results of the 1999 Countervailing Duty Administrative Review of Certain Pasta from Italy," dated December 4, 2001 ("Italy Pasta"). While the Department did not explicitly discuss averaging in the later decision, averaging is implied by the fact that the Department examined two major suppliers to Agritalia, then derived just one deposit rate for Agritalia. Id., 66 FR at 64215 and in the "Subsidies Valuation Methodology" section of the Decision Memorandum under "Attribution;" see also Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 28557, 28559 (May 21, 2010), and the accompanying "Issues and Decision Memorandum for Final Determination," May 14, 2010, in "Attribution of Subsidies" section under "The Fasten Companies," at pp.8-9. As in the Italy Pasta review, the Department did not explicitly discuss averaging in this decision, but averaging is implied in the attribution for trading company Fasten I&E, for which the Department examined more than one producer but assigned a single deposit rate to Fasten I&E's parent, the Fasten Group Corporation.

<sup>43</sup> See Sinochem Taicang's March 21, 2014, submission at pages 3-4.

Sinochem Taicang reported the operational roles of each of the following companies it identified as cross-owned within the definition of our attribution rules:

Sinochem Xi'an (parent) – producer of subject merchandise;  
Jiangxi Sanmei – producer of anhydrous hydrofluoric acid (“AHF”);  
Zhejiang Lansol – producer of AHF;  
Kings Floride – producer of AHF;  
Kings Mining – acidspar mining company;  
Zhongying Mining – acidspar mining company.<sup>44</sup>

Based on information on the record, we preliminarily determine that cross-ownership exists, in accordance with 19 CFR 351.525(b)(6)(vi), among the above-listed or mentioned companies through ultimate owner Sinochem Group.<sup>45</sup>

To the extent that subsidies were provided to the ultimate parent Sinochem Group, we would attribute any benefit to Sinochem Group's total consolidated sales (net of intercompany sales) in accordance with 19 CFR 351.525(b)(6)(iii). To the extent that subsidies were provided to any of Sinochem Taicang's parents –New Technology, Sinochem Lantian, Sinochem Xi'an, and Sinochem Group – we are attributing any benefit to the consolidated sales (net of intercompany sales) of the relevant parent company, also in accordance with 19 CFR 351.525(b)(6)(iii).

To the extent that subsidies were provided to any other cross-owned company that supplied an input that is primarily dedicated to the production of downstream products manufactured by Sinochem Taicang (inclusive of subject merchandise), we are attributing any benefit to the combined sales of the input and downstream products.

### Bluestar

Bluestar submitted responses to the Department's questionnaires on behalf of itself, Jiangsu Kangtai Holdings Group Company (“Jiangsu Kangtai”) and China Mass Enterprises (“China Mass”).<sup>46</sup> Bluestar reported that Jiangsu Kangtai and China Mass are both holding companies.<sup>47</sup> Bluestar further reported that neither Jiangsu Kangtai nor China Mass is engaged in production or sales activities.

As noted above, in addition to JUHUA, we are calculating separate net CVD rates for Bluestar and Sinochem Taicang, combining each rate with the individual rate calculated for T.T. International, then deriving a weighted average single deposit rate applicable to T.T. International for all of its subject entries, regardless of the producer. Additional details regarding the calculation of this deposit rate are contained in the preliminary calculation memorandum for T.T. International.

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<sup>44</sup> See, e.g., Sinochem Taicang's March 21, 2014, submission at pages 3-4.

<sup>45</sup> The Department's regulations at 19 CFR 351.525(b)(6)(vi) state that cross-ownership exists when one corporation can use or direct the assets of another corporation in essentially the same way it can use its own. Normally, however, “this standard will be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.”

<sup>46</sup> See Bluestar's February 24, 2014, submission at pages 4-5.

<sup>47</sup> Id.

### C. Denominators

When selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). For a further discussion of the denominators used, see the preliminary calculation memoranda.<sup>48</sup>

## X. BENCHMARKS AND DISCOUNT RATES

The Department is investigating loans received by the respondents from Chinese policy banks and state-owned commercial banks ("SOCBs"), as well as non-recurring, allocable subsidies, pursuant to 19 CFR 351.524(b)(1). 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.<sup>49</sup> If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."<sup>50</sup>

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in CFS from the PRC, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.<sup>51</sup> Because of this, any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is

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<sup>48</sup> See Memorandum to the File, through Catherine Bertrand, Program Manager, from Josh Startup, Case Analyst, "Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Quhua Fluor-Chemistry. Preliminary Calculation Memorandum," dated concurrently with this memorandum; see also Memorandum to the File, through Catherine Bertrand, Program Manager, from Katie Marksberry, Case Analyst, "Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: T.T. International ("Preliminary Calculation Memoranda").

<sup>49</sup> See 19 CFR 351.505(a)(3)(i).

<sup>50</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>51</sup> See CFS from the PRC, and accompanying Issues and Decision Memorandum at Comment 10; see also Memorandum to the File from Josh Startup, Case Analyst, "Countervailing Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China: Banking Memoranda," dated April 11, 2014 ("Banking Memoranda").

selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in Lumber from Canada, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.<sup>52</sup>

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in CFS from the PRC<sup>53</sup> and more recently updated in Thermal Paper from the PRC.<sup>54</sup> Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in CFS from the PRC, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.<sup>55</sup> Beginning in 2010, however, the PRC is in the upper-middle income category and remained there from 2011 to 2012.<sup>56</sup> 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.<sup>57</sup>

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

In each of the years from 2003-2009 and 2011-2012, 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.<sup>58</sup> For 2010, however, the regression does not yield that outcome for the PRC's income group.<sup>59</sup> This

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<sup>52</sup> See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada, 67 FR 15545 (April 2, 2002) ("Lumber from Canada") and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

<sup>53</sup> See CFS from the PRC, and accompanying Issues and Decision Memorandum at Comment 10.

<sup>54</sup> See Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 57323 (October 2, 2008) ("Thermal Paper from the PRC") and accompanying Issues and Decision Memorandum at 8-10.

<sup>55</sup> See World Bank Country Classification, <http://econ.worldbank.org/>; see also Memorandum to the File from Alexis Polovina, Case Analyst, "Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Benchmark Memo," dated concurrently with this memorandum ("Preliminary Benchmark Memo").

<sup>56</sup> See World Bank Country Classification.

<sup>57</sup> See, e.g., Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination, 78 FR 33346 (June 4, 2013) and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates," unchanged in Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 78 FR 50391 (August 19, 2013).

<sup>58</sup> See Banking Memoranda.

<sup>59</sup> See Preliminary Benchmark Memo.

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.<sup>60</sup> 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.<sup>61</sup> Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.<sup>62</sup>

#### 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.<sup>63</sup>

In Citric Acid from the PRC, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where "n" equals or approximates the number of years of the term of the loan in question.<sup>64</sup> Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.<sup>65</sup>

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<sup>60</sup> Id.

<sup>61</sup> Id.

<sup>62</sup> Id.

<sup>63</sup> See, e.g., Thermal Paper from the PRC, and accompanying Issues and Decision Memorandum at 10.

<sup>64</sup> See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 16836 (April 13, 2009) ("Citric Acid from the PRC") and accompanying Issues and Decision Memorandum at Comment 14.

<sup>65</sup> See Preliminary Calculation Memoranda.

### 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.<sup>66</sup> The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the respondents' Preliminary Calculation Memoranda.<sup>67</sup>

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

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

With regard to information we require to fully examine the provision of acidspars for less than adequate remuneration ("LTAR") program, the GOC requested extensions on its responses to the Input Producer Appendix in the initial questionnaire.<sup>68</sup> After granting four extensions to the GOC, we find that the information submitted is incomplete and unreliable for our analysis with regard to (a) the acidspars market in the PRC and (b) the level of government involvement in the companies that supplied acidspars to respondents during the POI. With regard to the acidspars market in the PRC, we preliminarily find that there are no reliable data to indicate that acidspars prices from transactions in the PRC provide a viable basis for deriving a benchmark for the acidspars purchases made by respondents during the POI. The GOC was only able to provide quantity and value data for five out of fifty five suppliers, and aggregate percentages of SOE shares in the market obtained by the GOC from the Fluorspar Professional Committee were based only on its membership, constituting only a subset of the market, and were not supported with underlying data.<sup>69</sup> Accordingly, the Department does not have complete information to determine whether the acidspars market is sufficiently free from government involvement such that the Chinese prices may be used for benchmark purposes. Therefore, we must rely on facts otherwise available in accordance with section 776(a)(2)(A) and (C) of the Act. Thus, for benchmarking respondents' acidspars purchases during the POI, and as further described below under the Provision of Acidspars for LTAR section, we are resorting to world market prices available on the record, which we find to be appropriate benchmarks for the acidspars purchases, consistent with 19 CFR 351.511(a)(2)(ii).

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<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> See the GOC's Extension Request, dated January 23, 2014; The GOC's Second Extension Request, dated February 12, 2014; The GOC's Third Request for Extension (Partial), dated February 21, 2014; and The GOC's Supplemental Extension Request, dated March 14, 2014.

<sup>69</sup> See the GOC's March 21, 2014 1<sup>st</sup> Supplemental Response, at 6-7.

With regard to the level of government involvement in the acidspar suppliers from which respondents purchased acidspar during the POI, we preliminarily find that the GOC did not act to the best of its ability to provide the information we require for our analysis. In particular, in response to our questions and requests for information regarding the role that Chinese Communist Party (“CCP”) officials may have played in any of the acidspar supplier’s operations, we find that the GOC unreasonably restricted its search and review of information to an incomplete and inadequate set of documents provided by only ten suppliers out of 55 suppliers in response to a different set of questions we asked in the Input Supplier Appendix.<sup>70</sup> We find it not credible that, in responding to questions regarding the role played by the government or by organs of the CCP, the GOC has no access to sources of information other than an incomplete set of documents provided by these ten suppliers. While the GOC did provide copies of capital verification reports and similar pro forma documents available from the relevant local levels of government, such documents provide only minimal information regarding the shareholding structure of companies, and do not provide other key information we requested regarding, e.g., the roles played by CCP officials on the companies’ boards of directors or in senior management positions, or by the government in making any appointments to these positions. Thus, in selecting from among the facts available with regard to government involvement in the operations of the acidspar suppliers, the Department determined that an adverse inference is warranted, pursuant to section 776(b) of the Act. Accordingly, we are preliminarily making the adverse inference that the acidspar purchased by respondents during the POI was provided by government authorities and, thus, provided a government financial contribution within the meaning of 771(5)(D)(iii) of the Act, and that such provision was specific to the fluoride chemicals industry as the predominant user of the good within the meaning of 771(5A)(D)(iii)(II) of the Act.

## **XII. ANALYSIS OF PROGRAMS**

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

### **A. Programs Preliminarily Determined to Be Countervailable**

#### **1. *Provision of Acidspar for Less Than Adequate Remuneration***

According to respondents’ responses, JUHUA’s cross-owned affiliate Kaisheng and Sinochem Taicang’s cross-owned affiliates Jiangxi Sanmei, Zhejiang Lansol, and Kings Fluoride purchased acidspar from various suppliers during the POI.<sup>71</sup> As discussed above in the “Use of Facts Otherwise Available and Adverse Inferences” section, we are basing our determination regarding the provision of acidspar for LTAR in part on adverse facts available (“AFA”). Consequently, we preliminarily determine that acidspar purchased by respondents during the POI constitutes a government-provided good and a financial contribution under section 771(5)(D)(iii) of the Act. Further, based on the GOC’s response that fluorite is predominantly used by the refrigerant

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<sup>70</sup> See GOC Supplemental Response, March 24, 2014, at pp.21-28.

<sup>71</sup> See JUHUA QR at 17-20, and Exhibit P.D.1, and Sinochem’s February 24, 2014 submission (“Sinochem QR”) at 25, and Exhibits 64-66.

industry,<sup>72</sup> we preliminarily determine that this provision was specific to the refrigerant industry which includes respondents as the predominant user of the good within the meaning of 771(5A)(D)(iii)(II).

To determine whether a financial contribution in the form of a good provided for LTAR confers a benefit within the meaning of 771(5)(E)(iv), the Department follows the benchmarking criteria under 19 CFR 351.511(a)(2), which sets forth the basis for identifying appropriate market-determined benchmarks for measuring the adequacy of remuneration for the government-provided good or service. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (e.g., actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation. This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

To identify an appropriate market-based benchmark for measuring the adequacy of remuneration for the acidspare purchased by respondents, we first considered whether we could compare the purchase price to a market-determined price for acidspare resulting from actual transactions in the PRC, in accordance with 19 CFR 351.511(a)(2)(i). As previously noted, we find that there are no reliable data for such transactions available in the record apart from the purchases made by respondents. Moreover, although we requested aggregate data with regard to the acidspare market in the PRC, we find that the information provided by the GOC is both inadequate and unreliable for determining whether that market is sufficiently free from government involvement and the resulting distortion in prices. Consequently, we preliminarily determine that we have no viable “tier one” prices appropriate to use as benchmarks under 19 CFR 351.511(a)(2)(i).

Finding no useable “tier one” benchmarks for our analysis, we next examined whether there were world market prices on the record suitable for use under “tier two” of the hierarchy. Under 19 CFR 351.511(a)(2)(ii), we compare the price paid for the government-provided good with a world market price where it is reasonable to conclude that such price is available to purchasers in the country in question, in this case the PRC. Sinochem Taicang and JUHUA placed on the record prices for acidspare from Mexico and South Africa.<sup>73</sup> Additionally, the Department was able to obtain and place on the record prices for acidspare from Global Trade Atlas. We find that, with appropriate adjustments for certain delivery costs, these prices would be reasonably available to purchasers in the PRC and, thus, useable as “tier two” prices for comparing the prices paid for acidspare by respondents.

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<sup>72</sup> See the GOC’s February 24, 2014, submission at 19.

<sup>73</sup> See Sinochem Taicang and JUHUA’s March 12, 2014, benchmark submissions. Petitioner also submitted Global Trade Atlas data for acidspare, however, Petitioner did not submit the data until one-week prior to the preliminary determination, giving us insufficient time to evaluate the data and calculate the necessary ocean freight for all 26 listed countries. 19 CFR 351.301(b)(3)(i) requires factual information to measure the adequacy of remuneration in countervailing investigations to be submitted no later than 30 days before the preliminary determination. As Petitioner’s data was untimely, we did not use it for the preliminary determination.

Where there is more than one commercially available world market price, 19 CFR 351.511(a)(2)(ii) stipulates that we average such prices to the extent practicable, making due allowance for factors affecting comparability. Accordingly, we calculated monthly averages of the world market prices placed on the record to derive the “tier two” benchmarks with which we compared the acidspar prices paid by respondents during the POI. Comparing these adjusted benchmark prices to the prices paid by Kaisheng, Jiangxi Sanmei, Zhejiang Lansol, and Kings Floride for their acidspar purchases, we measured a benefit to the extent that the price paid by Kaisheng, Jiangxi Sanmei, Zhejiang Lansol, and Kings Floride, was less than the benchmark price.

We divided this difference by the respondent’s total sales in 2012. With regard to Kaisheng, because we are treating Kaisheng as an integral part of the mandatory respondent JUHUA, we used JUHUA’s consolidated sales as the denominator. On this basis, we preliminarily determine that JUHUA received a countervailable subsidy of 3.58 percent, and Sinochem received a countervailable subsidy of 34.55 percent ad valorem under this program. For the attribution of these net subsidy rates to T.T. International, see Preliminary Calculations Memoranda.

We preliminarily find no record evidence showing that Bluestar purchased acidspar during the POI.

## 2. “Two Free/Three Half” Program for FIEs

Under Article 8 of the “Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises,” an foreign-invested enterprise (“FIE”) that is “productive” and scheduled to operate for more than 10 years may be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years.<sup>74</sup> According to the GOC, the program was terminated, effective January 1, 2008, by the Enterprise Income Tax Law, but companies already enjoying the preference were permitted to continue paying taxes at reduced rates.<sup>75</sup> JUHUA did not claim these tax exemptions during the POI. However, one of T.T. International’s suppliers, Sinochem Taicang, reported that it and one of its cross-owned affiliated companies, Zhejiang Lansol, paid taxes at a reduced rate under this program during the POI.<sup>76</sup>

The Department previously found the “Two Free, Three Half” program to confer a countervailable subsidy.<sup>77</sup> Consistent with the earlier cases, we preliminarily determine that the “Two Free, Three Half” income tax exemption/reduction confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipient in the amount of the tax savings.<sup>78</sup> We also determine that the

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<sup>74</sup> See the GOC’s February 24, 2014, submission at 32.

<sup>75</sup> Id.

<sup>76</sup> See Sinochem’s February 24, 2014, submission at 20.

<sup>77</sup> See, e.g., CFS from the PRC, and accompanying Issues and Decision Memorandum; see also Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, 75 FR 57444 (September 21, 2010), and accompanying Issues and Decision Memorandum at 25.

<sup>78</sup> See section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

exemption/reduction afforded by the program is limited as a matter of law to certain enterprises, i.e., productive FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act.<sup>79</sup>

To calculate the benefit, we treated the income savings by Sinochem Taicang and Zhejiang Lansol as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the two companies' tax rates to the rates they would have paid in the absence of the program. We divided Sinochem Taicang and Zhejiang Lansol's tax savings for their returns filed during the POI by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section above, and in the Preliminary Calculations Memoranda, in accordance with 19 CFR 351.525(b)(6)(iii) and 19 CFR 351.525(b)(6)(iv), respectively. We then summed the benefits to Sinochem Taicang and Zhejiang Lansol to determine the benefit that we will attribute to T.T. International. On this basis, we preliminarily determine a countervailable subsidy rate for T.T. International of 4.46 percent ad valorem for this program.<sup>80</sup>

### 3. *Preferential Loans for HFC Replacements for CFC Refrigerants*

Petitioner alleges that GOC policies favor the provision of loans at preferential rates to the fluoride chemical industry, particularly to manufacturers of environmentally friendly products like tetrafluoroethane. Specifically, pursuant to the "Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China", and the "Catalogue for Guidance of Foreign Investment Industries," Petitioner alleges that the GOC encouraged financing support by banks to promote the fluoride chemical industry.<sup>81</sup>

Information on the record provided by the GOC also indicates that it placed great emphasis on encouraging the development of the fluoride chemical industry in recent years.<sup>82</sup> The GOC provided the "2011 Catalogue for Guiding Industrial Restructuring," where fine fluorine-containing chemicals are listed as "encouraged." The 2011 Catalogue for Guiding Industrial Restructuring states under Category I Encouragement, section XI Petrochemistry, "16. Development and application of special fluoride monomers such as perfluorinated ene ether; high-quality fluororesins such as FEP, PVDF, PTFCE, and ETFE; high-performance fluoros rubbers such as fluoroether rubber, fluorinated silicone rubber, AFLAS FEPM, and 246 high fluoride fluorine rubber; fluoride lubricating grease; substitutes of Ozone Depleting Substances (ODS) with zero Ozone-depleting Potentials(ODP) and low Global Warming Potentials (GWP); PFOS and PFOA and their salt substitutes and substitution technologies; fine chemicals containing fluorine and high-quality inorganic salt containing fluorine."<sup>83</sup>

In response to the Department's questionnaire, the GOC provided the "Decision of the State Council on Promulgating the 'Interim Provisions on Promoting Industrial Structure Adjustment'

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<sup>79</sup> See the GOC's February 24, 2014, submission at 35.

<sup>80</sup> See Preliminary Calculations Memoranda.

<sup>81</sup> See the petition at Volume III, Preferential loans for HFC replacements and CFC refrigerants, pages 11-12.

<sup>82</sup> See GOC's February 24, 2014, response at Exhibit A-7, and Memorandum to the File, from Alexis Polovina, Case Analyst, "Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Translation of 2011 Catalogue for the Guidance of Industrial Structure Adjustment," dated concurrently with this memorandum

<sup>83</sup> See GOC's February 24, 2014, response at Exhibit A-7.

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.<sup>84</sup> The chemical industries are among the favored industries listed in Decision 40.<sup>85</sup> Article 12 of Decision 40 states that “{t}he Guiding Catalogue for Industrial Restructuring is an important basis for guiding the direction of investment projects managed by the government, and formulation and implementation of fiscal and tax, credit, land, import and export, and other policies.”<sup>86</sup> As mentioned above, the GOC identified fine fluorine-containing chemicals are listed under the “encouraged category” in the 2011 Guiding Catalogue for Industrial Restructuring.

Two cross-owned affiliates of JUHUA, the Juhua Group,<sup>87</sup> and Juhua Stock;<sup>88</sup> and several cross-owned affiliates of T.T. International’s suppliers, Bluestar<sup>89</sup> and Sinochem,<sup>90</sup> as well as T.T. International<sup>91</sup> reported having short-term loans from SOCBs that were outstanding during the POI; the Juhua Group and Juhua Stock also had long-term loans from SOCBs<sup>92</sup> and the Juhua Group had bill discounting outstanding during this same period.<sup>93</sup> 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 fluoride chemical industry. As such, this program of preferential policy lending is de jure specific to tetrafluoroethane 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,<sup>94</sup> and thus, consistent with Department practice, loans from these SOCBs constitute financial contributions pursuant to section 771(5)(D)(i) of the Act.<sup>95</sup> 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.<sup>96</sup> We divided the Juhua Group, T.T. International, Bluestar, and Sinochem’s loan benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section above, and in the Preliminary Calculations Memoranda. On this basis, we preliminarily determine a subsidy rate of 0.46 percent ad valorem for the JUHUA, 0.67 percent ad valorem for T.T. International, 1.35 percent ad valorem for Bluestar, and 0.55 percent ad valorem for Sinochem.

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<sup>84</sup> Id., at Exhibit A-6

<sup>85</sup> Id.

<sup>86</sup> Id., at Exhibit A-6, Article 12.

<sup>87</sup> See JUHUA QR at 14, and Exhibit P.A.1.

<sup>88</sup> Id.

<sup>89</sup> See Bluestar QR at 12 and Exhibit 11.

<sup>90</sup> See Sinochem QR at 17, and Exhibits 55-65.

<sup>91</sup> See T.T. International’s February 24, 2014, response at Exhibit 9.

<sup>92</sup> See JUHUA’s second supplemental response dated March 28, 2014, at 1 and Exhibit S2-A.

<sup>93</sup> Id. at 4-6 and Exhibit S2-1.

<sup>94</sup> See Banking Memoranda at 6-8, and 62-64.

<sup>95</sup> 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 Issues and Decision Memorandum at Comment E.2; and Certain Oil Country Tubular Goods Partial Rescission and Preliminary Results of Countervailing Duty Administrative Review, 79 FR 10475 (February 25, 2014).

<sup>96</sup> See also 19 CFR 351.505(c).

#### 4. *Preferential Loans for State-Owned Enterprises*

Petitioner alleges that loans made by policy banks and SOCBs constitute direct financial contributions from the government.<sup>97</sup> However, because we examined all loans under the Preferential Loans for HFC Replacements for CFC Refrigerants program above, we are not examining loans separately under this program.

#### B. Programs for Which More Information is Required

##### 1. *Provision of Fluorspar Mining Rights LTAR*

Juhua Mining<sup>98</sup> and Kings Mining<sup>99</sup> reported that they received fluorspar mining rights. While these companies provided the requested documentation regarding the provision of these mining rights we are unable to make a determination on this LTAR allegation at this time. In our original questionnaire, we requested information to determine the price paid for those mining rights. Responses indicate that a company cross-owned with JUHUA and two companies cross-owned with Sinochem obtained mining rights. However, record information further indicates that other assets, such as buildings, equipment and infrastructure, were also obtained as an integral part of the transfer of the mining rights. Consequently, we find that we still require a significant amount of additional information regarding the extracted fluorspar and costs associated with the mining process, as well as all the other assets that were obtained along with the mining rights, to make a determination on this LTAR. Therefore, we intend to seek further information about this program and to address this program in a post-preliminary analysis.

#### C. Programs Preliminarily Determined Not to Be Used During the POI

With regard to the following programs, we preliminarily find no record evidence that either the respondents or cross-owned affiliates had operations in the locations where the alleged subsidies were provided. Accordingly, we preliminarily find that these programs were not used by respondents or their cross-owned affiliates during the POI:

1. *Fuxin Fluorine Industry Preferential Program: Exemption from Income Tax*
2. *Fuxin Fluorine Industry Preferential Program: Exemption from VAT*
3. *Fuxin Fluorine Industry Preferential Program: Subsidized Land Transfer Ratio*

### **XIII. VERIFICATION**

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted by the GOC, the Juhua Group, T.T. International, Bluestar, and Sinochem.

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<sup>97</sup> See Petition at Volume III, page 10.

<sup>98</sup> See JUHUA QR at 22-25, and Exhibits P.D.4 and P.D.5.

<sup>99</sup> See Sinochem QR at 27-29.

**XIV. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

\_\_\_\_\_  
Disagree

*Paul Piquado*  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

11 APRIL 2014  
Date