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Investigation
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June 17, 2016

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 Countervailing Duty
Investigation of Certain Biaxial Integral Geogrid Products from the
People's Republic of China: Decision Memorandum for the
Preliminary Determination

I. SUMMARY

The Department of Commerce (the “Department”) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain biaxial integral geogrid products (“geogrids”) in the People’s Republic of China (“PRC”), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the “Act”).

II. BACKGROUND

A. *Case History*

On January 13, 2016, the Department received countervailing duty (“CVD”) and antidumping duty (“AD”) Petitions concerning geogrids from the PRC, filed in proper form by Tensar Corporation (“Petitioner”).¹ On February 8, 2016, the Department initiated the CVD investigation of geogrids from the PRC and issued quantity and value (“Q&V”) questionnaires to each of the 28 producer/exporters of geogrids named in the Petition for purposes of respondent selection.² The Department received two total responses, and 25 parties did not respond to our

¹ See Letter from Petitioner, regarding Certain Biaxial Integral Geogrid Products from the People’s Republic of China, dated January 13, 2016 (“Petition”).

² In CVD investigations, the Department normally relies on U.S. Customs and Border Protection import data to select mandatory respondents. Because the value of imports for geogrids is based on data from the Harmonized Tariff Schedule of the United States (“HTSUS”) are basket provisions which include many varied products that are not geogrids, the Department resorted to Q&V data for respondent selection.



request for information.³ On February 16, 2016, the Department published the notice of initiation for the AD and CVD investigations of geogrids from the PRC.⁴ On March 1, 2016, the Department selected two mandatory respondent companies for this investigation⁵ and, on March 1, 2016, issued CVD questionnaires to them and the Government of the PRC (“GOC”). The GOC and the two mandatory respondents filed initial questionnaire responses with the Department on April 15, 2016. Between May 3, 2016, and May 27, 2016, the Department issued supplemental questionnaires to the GOC and the two mandatory respondents; the mandatory respondents filed responses to these questionnaires between May 16, 2016, and June 3, 2016. On June 14, 2016, Petitioner filed a request that the Department align the final determination of this CVD investigation with the companion AD investigation of geogrids from the PRC.

B. *Period of Investigation*

The period of investigation (“POI”) is January 1, 2015, through December 31, 2015.

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*.⁶ We did not receive any comments on the scope of the investigation.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by the investigation is certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner toward the middle between the junctions than at the junctions themselves) constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term “integral” refers to strands

³ See Memorandum from James C. Doyle, Director, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Respondent Selection,” dated March 1, 2016 (“Respondent Selection Memo”).

⁴ See *Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 7745 (February 16, 2016) (“*Initiation*”). On the same date we also published a notice of initiation for the AD investigation of geogrids from the PRC. See *Certain Biaxial Integral Geogrid Products from the People’s Republic of China*, 81 FR 7755 (February 16, 2016).

⁵ See “Respondent Selection” section, below.

⁶ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation*, 81 FR at 7746.

and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter (“kN/m”) according to American Society for Testing and Materials (“ASTM”) Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

V. ALIGNMENT

As noted above, on June 14, 2016, 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. Because the AD and CVD investigations have the same scope with regard to the merchandise covered, 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 geogrids from the PRC. The final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on or about October 31, 2016.

VI. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs the Department to calculate individual CVD 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 that 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 the producers/exporters accounting for the largest volume of the subject merchandise that can be reasonably examined.

As noted above, on March 1, 2016, the Department determined that it was not practicable to examine more than two respondents in the instant investigation.⁷ Therefore, the Department selected, based on responses to the Q&V questionnaire, the two exporters/producers accounting for the largest volume of geogrids exported from the PRC during the POI: BOSTD

⁷ See Respondent Selection Memo.

Geosynthetics Qingdao Ltd. (“BOSTD Qingdao”) and Taian Modern Plastic Co., Ltd. (“Taian Modern”).⁸

VII. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On May 2, 2016, Petitioner filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of geogrids from the PRC.⁹ Petitioners provided certain U.S. import data in support of its allegation.¹⁰ On May 5, 2016, the Department requested from BOSTD Qingdao and Taian Modern monthly shipment data of subject merchandise to the United States for the period October 2015 through March 2016.¹¹ On May 16, 2016, BOSTD Qingdao and Taian Modern provided the requested information.¹²

Section 703(e)(1) of the Act states that if the petitioner alleges critical circumstances, the Department will determine, on the basis of information available to it at the time, if there is a reason to believe or suspect the alleged countervailable subsidies are inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (the “SCM Agreement”) and whether there have been massive imports of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.¹³

In determining whether there are “massive imports” over a “relatively short period,” pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

⁸ *Id.*

⁹ See Letter from Petitioner, “Amendment to Petition for the Imposition of Antidumping and Countervailing Duties: Biaxial Integral Geogrid Products from the People’s Republic of China,” dated May 2, 2016, (“Petitioner’s Allegation”).

¹⁰ See Petitioner’s Allegation at Exhibit Supp.II-21 and Exhibit Supp.III-152, and Exhibit Supp.II-22 and Exhibit Supp.III-153; see also Department Memorandum, “Monthly Shipment Q&V Analysis for Critical Circumstances,” dated concurrently with this memorandum (“Critical Circumstances Memo”).

¹¹ See Letter to BOSTD Qingdao from the Department, re: “Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Request for Monthly Quantity and Value Shipment Data,” dated May 5, 2016 and Letter to Taian Modern from the Department, re: “Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Request for Monthly Quantity and Value Shipment Data,” dated May 5, 2016.

¹² See Letter from BOSTD Qingdao, re: “Monthly Shipment Data,” dated May 16, 2016 and Letter from Taian Modern, re: “Monthly Shipment Information,” dated May 16, 2016.

¹³ See, e.g., Policy Bulletin 98/4 Regarding Timing of Issuance of Critical Circumstances Determinations, 63 FR 55364 (October 15, 1998).

BOSTD Qingdao

As discussed in the "Analysis of Programs" section below, the Department has preliminarily determined that BOSTD Qingdao has received countervailable benefits under one program that is contingent upon export performance: Foreign Trade Promotion Fund. 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 SCM Agreement. Although the countervailable subsidy rate for this export subsidy is *de minimis*, use of an export subsidy program is sufficient to make an affirmative preliminary determination of critical circumstances under section 703(e)(1)(A) of the Act.¹⁴ In determining whether there were massive imports from BOSTD Qingdao, we analyzed its respective monthly shipment data for the period October 2015 through December 2015 compared to January 2016 through March 2016.¹⁵ Based upon our analysis of BOSTD Qingdao's data, we preliminarily find that BOSTD Qingdao's shipments did increase by more than 15 percent during the "relatively short period."¹⁶ Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for BOSTD Qingdao.

Taian Modern

While we preliminarily determine that there was a massive increase in shipments of subject merchandise to the United States by Taian Modern during the three-month period immediately following the filing of the Petition based on our analysis of Taian Modern's data for the period October 2015 through December 2015 compared to January 2016 through March 2016, we preliminarily determine that Taian Modern did not receive any subsidies inconsistent with the SCM Agreement.¹⁷ Consequently, the Department preliminarily determines that critical circumstances do not exist with regard to imports of the merchandise under consideration shipped by Taian Modern.

All-Other Exporters or Producers

With regard to whether imports of subject merchandise by the "all other" exporters or producers of geogrids from the PRC were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the SCM 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 October 2015 through March 2016, using shipment data provided by

¹⁴ See *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186, 43189-90 (August 17, 2001); and *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada*, 67 FR 36070 (May 22, 2002) (the unchanged final determination).

¹⁵ See Critical Circumstances Memo.

¹⁶ *Id.*

¹⁷ *Id.*

Petitioner. The resulting data indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h).¹⁸ Accordingly, the Department preliminarily finds that critical circumstances exist with regard to imports of subject merchandise by “all other” exporters or producers of geogrids from the PRC.

As a result of an affirmative preliminary determination of critical circumstances, in part, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to suspend liquidation, with regard to BOSTD Qingdao and “all other” exporters or producers of geogrids, of any unliquidated entries of the merchandise under consideration 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*.

The Department will make final determinations concerning critical circumstances when we make final subsidy determinations in this investigation. All interested parties will have the opportunity to address these determinations further in case briefs.

VIII. 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 March 4, 2016, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of geogrids from the PRC.¹⁹

IX. APPLICATION OF THE CVD LAW TO IMPORTS FROM THE PRC

On October 25, 2007, the Department published its final determination on coated free sheet paper from the PRC.²⁰ 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.²¹

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.²² Furthermore, on March 13, 2012, Public Law 112-99 was enacted which

¹⁸ See Critical Circumstances Memo.

¹⁹ See Certain Biaxial Integral Geogrid Products from China: Investigation No. 701-TA-554 and 731-TA-1309 (Preliminary); *Certain Biaxial Integral Geogrid Products from China*, 81 FR 11591 (March 4, 2016).

²⁰ 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*”).

²¹ *Id.*, at Comment 6.

²² 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

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.²³ The effective date of the enacted legislation makes clear that this provision applies to this proceeding.²⁴

X. 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 11 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.²⁵ The Department notified the respondents of the 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 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.²⁶ In certain circumstances, a large minority voting interest (for

(June 5, 2008) (“*CWP from the PRC*”) and accompanying Issues and Decision Memorandum (“IDM”) at Comment 1.

²³ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

²⁴ See Public Law 112-99, 126 Stat. 265 §1(b).

²⁵ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods attached as Exhibit III-17 of the Petition.

²⁶ See, *e.g.*, *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (“*CVD Preamble*”).

example, 40 percent) may also result in cross-ownership.²⁷ The Court of International Trade upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.²⁸

BOSTD

BOSTD Qingdao is the producer of the merchandise under consideration during the POI and responded to the Department's original and supplemental questionnaires on behalf of itself and its parent company, Beijing Orient Science & Technology Development Co., Ltd. ("BOSTD Beijing").²⁹ Based on BOSTD Qingdao's responses, BOSTD Qingdao and BOSTD Beijing are cross-owned companies within the meaning of 19 CFR 351.525(b)(6)(iii), through BOSTD Beijing's status as a parent company.³⁰ To the extent that any subsidies were provided to BOSTD Beijing, we are attributing the subsidy to the consolidated sales of BOSTD Qingdao and BOSTD Beijing, in accordance with 19 CFR 351.525(b)(6)(iii).

Taian Modern

Taian Modern is the producer of the merchandise under consideration during the POI and responded to the Department's original and supplemental questionnaires. Taian Modern did not report any affiliated or cross-owned companies.³¹

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.³²

²⁷ See CVD Preamble

²⁸ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁹ See, e.g., BOSTD Qingdao's April 15, 2016, submission at 1.

³⁰ *Id.*, at 3.

³¹ See Letter from Taian Modern, "Certain Biaxial Integral Geogrid Products from the People's Republic of China: Questionnaire Response to Section III Identifying Affiliated Companies," dated March 15, 2016.

³² See Memorandum to the File, through Catherine Bertrand, Program Manager, from Ryan Mullen, Case Analyst, "Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China : Taian Modern Plastic Co., Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum ("Taian Modern Calculation Memo"), and Memorandum to the File, through Catherine Bertrand, Program Manager, from Bob Palmer, Case Analyst, "Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China: BOSTD Geosynthetics Qingdao Ltd. Preliminary Calculation Memo," dated concurrently with this memorandum ("BOSTD Calculation Memo").

XI. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by both mandatory respondents from Chinese policy banks and state-owned commercial banks (“SOCBs”), as well as non-recurring, allocable subsidies received by both mandatory respondents.³³ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Renminbi-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.³⁴ 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.”³⁵

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.³⁶ 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.³⁷

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and later updated in *Thermal Paper from the PRC*.³⁸ 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

³³ See 19 CFR 351.524(b)(1).

³⁴ See 19 CFR 351.505(a)(3)(i).

³⁵ See 19 CFR 351.505(a)(3)(ii).

³⁶ See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (“*CFS from the PRC*”) and accompanying Issues and Decision Memorandum at Comment 10.

³⁷ 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.”

³⁸ See *CFS IDM* at Comment 10; see also *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.

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 2001 through 2009, the PRC fell in the lower-middle income category.³⁹ Beginning in 2010, however, the PRC was classified in the upper-middle income category and remained there from 2011 to 2014.⁴⁰ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2001-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.⁴¹

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

In each of the years from 2001-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.⁴² For 2010, however, the regression does not yield that outcome for the PRC's income group.⁴³ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2014. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund ("IMF"), and they are included in that agency's International Financial Statistics ("IFS"). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2014 and "lower middle income" for 2001-2009.⁴⁴ First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any

³⁹ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> ("World Bank Country Classification"); see also BOSTD Calculation Memo and Taian Modern Calculation Memo; Memorandum to the File, from Bob Palmer, International Trade Analyst, Office V, AD/CVD Operations, re: "Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum ("Interest Rate Benchmark Memorandum").

⁴⁰ See World Bank Country Classification.

⁴¹ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates" (unchanged in *Shrimp from the PRC*).

⁴² See Additional Documents Memorandum at Attachment 4; see also Interest Rate Benchmark Memorandum.

⁴³ See Interest Rate Benchmark Memorandum.

⁴⁴ *Id.*

country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.⁴⁵ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.⁴⁶

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.⁴⁷

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.⁴⁸ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.⁴⁹ The resulting inflation-adjusted benchmark lending rates are provided in the BOSTD Calculation Memo and Taian Modern Calculation Memo.

B. Foreign Currency-Denominated Loans

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

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question. The resulting inflation-adjusted benchmark lending rates are provided in our Interest Rate Benchmark Memorandum.⁵⁰

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See, e.g., *Thermal Paper from the PRC* and accompanying Issues and Decision Memorandum at 10.

⁴⁸ See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (“*Citric Acid from the PRC*”), and accompanying Issues and Decision Memorandum (“*Citric Acid IDM*”) at Comment 14.

⁴⁹ See Interest Rate Benchmark Memorandum.

⁵⁰ *Id.*

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 GOC provided non-recurring subsidies.⁵¹ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the BOSTD Calculation Memo and the Taian Modern Calculation Memo.

D. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of polypropylene in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration (“LTAR”). These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).

E. Provision of Land-Use Rights for LTAR Benchmark

As explained in detail in previous investigations, the Department cannot rely on the use of the so-called “tier one” and “tier two” benchmarks described above to assess the benefits from the provision of land for LTAR in the PRC. Specifically, in *Sacks from the PRC*, the Department determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable “tier one” benchmarks exist.⁵² Furthermore, the Department also found that “tier two” benchmarks (world market prices that would be available to purchasers in the PRC) are not appropriate.⁵³ Accordingly, consistent with Department’s past practice, we are relying on the use of so called “tier three” benchmarks for purposes of calculating a benefit for this program.

For this investigation, we are placing on the record benchmark information to value land from “Asian Marketview Reports” by CB Richard Ellis (“CBRE”) for Thailand for 2010,⁵⁴ which was also relied upon in calculating land benchmarks in the CVD investigations of *Solar Cells from*

⁵¹ See BOSTD Calculation Memo and Taian Modern Calculation Memo; *see also* Interest Rate Benchmark Memorandum.

⁵² See, *e.g.*, *Laminated Woven Sacks From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (unchanged in “*Sacks from the PRC*”).

⁵³ *Id.*

⁵⁴ See Memorandum to the File, from Bob Palmer, International Trade Analyst, Office V, AD/CVD Operations, re: “Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Asian Marketview Report,” dated concurrently with this memorandum.

*the PRC and ITDCs from the PRC.*⁵⁵ We initially selected this information in the *Sacks from the PRC* investigation after considering a number of factors, including national income levels, population density, and producer’s perceptions that Thailand is a reasonable alternative to the PRC as a location for Asian production.⁵⁶ We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to account for any countervailable land received by Taian Modern during the AUL of this investigation.⁵⁷

XII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.⁵⁸

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (“AFA”) rate from among the possible sources of information, the Department’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a

⁵⁵ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (“*Solar Cells from the PRC*”), and accompanying Issues and Decision Memorandum (“*Solar Cells IDM*”), at 6 and Comment 11; *Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 21316 (April 11, 2016) (“*ITDCs from the PRC*”), and accompanying Issues and Decision Memorandum at 13.

⁵⁶ The complete history of our reliance on this benchmark is discussed in the above-referenced *Solar Cells IDM*. In that discussion, we reviewed our analysis from the *Sacks from the PRC* investigation and concluded the CBRE data remained a valid land benchmark.

⁵⁷ See Taian Modern Calculation Memo.

⁵⁸ On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this investigation.

timely manner.”⁵⁹ 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.”⁶⁰

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.”⁶¹ It is the Department’s practice to consider information to be corroborated if it has probative value.⁶² In analyzing whether information has probative value, it is the Department’s practice to examine the reliability and relevance of the information to be used.⁶³ However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.⁶⁴

Finally, under the new section 776(d) of the Act, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁵

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 AFA with respect to the GOC’s responses to questions on the alleged provision of electricity and land for LTAR, as described below. In addition, we find it necessary to apply AFA with respect to those companies that received our Q&V questionnaire, but did not respond.

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse “as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and

⁵⁹ 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) (“*Drill Pipe from the PRC*”); 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).

⁶⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (“SAA”) at 870.

⁶¹ See, e.g., SAA at 870.

⁶² See SAA at 870.

⁶³ See, e.g., SAA at 869.

⁶⁴ See SAA at 869-870.

⁶⁵ See section 776(d)(3) of the Act.

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

A. *Application of AFA: Provision of Electricity for LTAR*

As discussed below under the section “Programs Preliminarily Found to be Countervailable,” the Department is investigating whether the GOC provided electricity for LTAR. The GOC did not provide complete responses to the Department’s questions regarding the alleged provision of electricity for LTAR. These questions requested information to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act and whether such a provision was specific within the meaning of section 771(5A) of the Act. In both the Department’s original questionnaire and the December 30, 2014, supplemental questionnaire, for each province in which a respondent is located, the Department asked the GOC to provide a detailed explanation of: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses and transmission, and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories. The GOC provided no provincial-specific information in response to these questions in its initial questionnaire response.⁶⁸ The Department reiterated these questions in a supplemental questionnaire and the GOC did not provide the requested information in its supplemental questionnaire response.⁶⁹

Consequently, we preliminarily determine that the GOC withheld necessary information that was requested of it, and thus, that the Department must rely on facts otherwise available in making our preliminary determination, pursuant to sections 776(a)(1) and (a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. In this regard, the GOC did not explain why it was unable to provide the requested information, nor did the GOC ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available under section 776(b) of the Act. In drawing an adverse inference, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. We also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit. The benchmark rates we selected are derived from information from the record of the instant investigation and are the highest electricity rates on this record for the applicable rate and user categories.⁷⁰

⁶⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁶⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong. 2d Session, at 870 (1994) (“SAA”).

⁶⁸ See the GOC’s submission, dated April 14, 2016, at 33-38.

⁶⁹ See the GOC’s submission, dated May 18, 2016, at 24-25.

⁷⁰ See Preliminary Benchmark Memo.

B. *Land-Use Rights for LTAR*

With respect to questions on Taian Modern's land-use rights, the Department requested that the GOC answer all questions in the Standard Questions Appendix and other appendices (as applicable) pertaining to this allegation.⁷¹ In its April 14, 2016, response, the GOC provided the Land Administration Law of the People's Republic of China (2004 Revision), Regulation on the Implementation of the Land Administration Law of the People's Republic of China (2014 Version), and Provisions on the Assignment of State-owned Construction Land Use Right through Bid Invitation Auction and Quotation.⁷² The GOC did not provide a listing of the names and addresses of the government authorities that are responsible for administering land-use rights in the different provinces where Taian Modern is located and the GOC provided no information regarding land-use rights received by Taian Modern. Further, the GOC did not provide any application or approval documents for land-use rights obtained by Taian Modern as requested, and only stated that we should refer to Taian Modern's responses for this information.⁷³ When we attempted to gather this information again in a supplemental questionnaire, the GOC provided a chart which identified the transferor of the land-use rights and the date Taian Modern obtained the land-use rights, but did not provide a discussion on how land-use rights obtained after 2008 were acquired through either a public bid invitation, auction, or quotation process, and failed to provide any information on how Taian Modern acquired its land.⁷⁴ In its supplemental response, the GOC again provided no explanation at all regarding the provision of land-use rights before the 2008 land-use rights regime change and did not provide a complete response to the Department's questions regarding the provision of land-use rights for LTAR.⁷⁵ While the GOC reports that it provides provincial and city level law pertaining to land-use rights, the GOC provided incomplete translations of these local laws.⁷⁶

Since 1998, Taian Modern has leased land-use rights and, in 2008 and 2011, purchased land-use rights.⁷⁷ The Department requested that the GOC provide a discussion of how the price of land or land-use rights was established and provide a reconciliation between the prices paid by mandatory respondents and those dictated by the laws and regulations of the relevant provinces, cities, and counties.⁷⁸ While the GOC provided a very brief discussion explaining that the price of land-use rights is established between companies and the local governments or between the entities that transfer the land-use rights, referring to Regulation on the Implementation of the Land Administration Law of China, it failed to explain fully how the price of the land-use was established between Taian Modern and the local authorities and it did not reconcile the price paid by Taian Modern and the price dictated by the laws of the relevant provinces, cities and counties.⁷⁹ In its initial questionnaire, the Department also requested that the GOC provide information on the policies of the relevant local governments that had jurisdiction over the land

⁷¹ See GOC's submission, dated April 14, 2016.

⁷² *Id.*, at 25-26 and Exhibit 12.

⁷³ *Id.*, at 25.

⁷⁴ See GOC's submission, dated May 18, 2016, at 25-26.

⁷⁵ *Id.*

⁷⁶ *Id.* at Exhibit 8.

⁷⁷ See Taian Modern's submission, dated April 7, 2016, at 22.

⁷⁸ See GOC's submission, dated April 14, 2016.

⁷⁹ *Id.*, at 26.

and land-use rights,⁸⁰ but the GOC failed to do so. In a supplemental questionnaire, the Department again requested that the GOC provide a complete response regarding Taian Modern's land-use rights purchase, but the GOC failed to do so.⁸¹

Because the GOC did not provide complete responses to either the Department's initial or supplemental questions regarding the derivation of the prices paid by Taian Modern for land-use rights, the Department is unable to determine whether the provision of these land-use rights was specific. Therefore, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on facts available pursuant to section 776(a)(2)(A) of the Act in making our preliminary specificity determination for Taian Modern. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. The GOC refused to provide necessary information regarding prices paid by Taian Modern for its tracts of land in its questionnaire responses. Consequently, the GOC has not cooperated to the best of its ability and an adverse inference is warranted in the application of facts available.⁸² In drawing an adverse inference, we find that the GOC's provision of land tracts to Taian Modern is specific within the meaning of section 771(5A) of the Act given the GOC's failure to provide information regarding how land prices were determined for land-use rights held by Taian Modern in certain instances (land provided before 2008, and land that is auctioned). Finally, because the GOC provided no information regarding the entities that provided land-use rights to Taian Modern, we preliminarily determine as AFA that these entities are authorities and that the provision of land-use rights to Taian Modern constitutes a financial contribution. For details regarding the remainder of our analysis for this program, see the "Provision of Land for LTAR" section below.

C. *Application of AFA: Input Suppliers are "Authorities"*

As discussed below, under the section "Programs Preliminarily Found to be Countervailable," the Department is investigating whether the GOC provided polypropylene for LTAR. As part of its analysis, the Department sought information that would allow us to analyze whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. Specifically, we asked the mandatory respondents to provide a complete list of the suppliers and producers from which they sourced polypropylene during the POI. Then, the Department requested a variety of information from the GOC to assess the relationship between the identified producers of polypropylene and the GOC.

In response to the Initial Questionnaire, BOSTD Qindao and Taian Modern provided a list of their suppliers of polypropylene.⁸³ The GOC indicated that "all the input producers in this investigation are independent business entities."⁸⁴ To support this assertion, the GOC provided summary data denoting the business registration information and basic shareholder for the producers listed. As such, the GOC concluded that the suppliers were not "authorities."

⁸⁰ *Id.*

⁸¹ See GOC's submission, dated May 18, 2016, at 25-26.

⁸² See section 776(b) of the Act.

⁸³ See BOSTD Qingdao's submission, dated April 14, 2016, at Exhibit P.D.1; Taian Modern's submission, dated April 14, 2016, at Exhibit D-3.

⁸⁴ See GOC's submission, dated April 14, 2016, at 28.

However, the GOC did not provide a full response to the Department's questions regarding these producers. The GOC provided summary data denoting the business registration information and basic shareholder information for a number of producers and suppliers, but did not provide the additional information (e.g., company by-laws, articles of incorporation, licenses, etc.) that was specifically requested by the Department. Instead, the GOC indicated that "The information provided in Exhibit 13 {Input Supplier Ownership Information} is sufficient to demonstrate the ownership status and changes (if any) to all the private polypropylene producers reported by the reporting companies during the POI."⁸⁵ This response undermined the Department's ability to determine accurately whether the producers constitute "authorities."

Furthermore, we requested information on the owners, members of the board of directors, or managers of the producers who were also government or Chinese Communist Party ("CCP") officials or representatives during the POI. The GOC did not provide this requested information for any producer. Instead, the GOC argued that "even if an owner, a director, or a manager of a privately-owned supplier company is a member of ... {a CCP organization}, it would not make the management and business operations of the company in which he/she serves subject to any levels of intervention by the GOC."⁸⁶

The information we requested regarding the role of CCP officials in the management and operations of these producers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP, or that it consulted any other sources. The GOC's responses in prior CVD proceedings involving the PRC demonstrate that it is, in fact, able to access information similar to what we requested.⁸⁷ Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any information, it should have promptly explained to the Department what attempts it undertook to obtain this information and proposed alternative forms of providing the information.⁸⁸

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on "facts otherwise available" in issuing our preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. As AFA, we are finding that certain producers of polypropylene for which the GOC failed to identify whether the members of the

⁸⁵ *Id.*, at 30.

⁸⁶ *Id.*, at 35.

⁸⁷ See, e.g., *High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) ("HPSC from the PRC"), and accompanying Issues and Decision Memorandum ("HPSC IDM") at 13.

⁸⁸ Section 782(c)(1) of the Act states, "{i}f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority of the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party."

board of directors, owners or senior managers were CCP officials, are “authorities” within the meaning of section 771(5)(B) of the Act.

C. *Non-Responsive Companies to the Q&V Questionnaire*

Last, as noted above, although the Department issued 28 Q&V questionnaires, 25 companies did not respond to our request for information.⁸⁹ Accordingly, we preliminarily determine that the Non-Responsive Companies withheld necessary information that was requested of them, failed to provide information within the deadlines established and significantly impeded this proceeding. Thus, the Department will rely on facts otherwise available in making our preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, the Non-Responsive Companies did not cooperate to the best of their ability to comply with the request for information in this investigation. Accordingly, we preliminarily find that use of AFA is warranted to ensure that the Non-Responsive Companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our request for information.

We have included all programs initiated on under investigation in the determination of the AFA rate. Although the GOC provided no information on 25 of 32 programs, we are adversely inferring from the Non-Responsive Companies’ decision not to participate in this investigation that they, in fact, use these programs.

It is the Department’s practice in CVD proceedings to compute a total AFA rate for non-cooperating companies 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.⁹⁰ When selecting AFA rates, section 776(d) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.⁹¹ Accordingly, when selecting AFA rates, if we have cooperating respondents, as we do in this investigation, we first determine if there is an identical program in the investigation

⁸⁹ Hereafter referred to as the “Non-Responsive Companies.”

⁹⁰ 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 Issues and Decision Memorandum 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), and accompanying Issues and Decision Memorandum (“Aluminum Extrusions IDM”) at “Application of Adverse Inferences: Non-Cooperative Companies.”

⁹¹ See, e.g., *Certain Frozen Warmwater Shrimp From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (“*Shrimp from the PRC*”), and accompanying Issues and Decision Memorandum (“*Shrimp IDM*”) at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding “hierarchical methodology for selecting an AFA rate”).

and use the highest calculated rate for the identical program. If there is no identical program that resulted in a subsidy rate above zero for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).⁹² If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.⁹³

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."⁹⁴ The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.⁹⁵

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.⁹⁶ Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.⁹⁷

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.⁹⁸

⁹² For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

⁹³ See Shrimp IDM at 13-14.

⁹⁴ See SAA at 870.

⁹⁵ *Id.*

⁹⁶ *Id.*, at 869-870.

⁹⁷ See section 776(d) of the Act.

⁹⁸ See, e.g., *Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

In determining the AFA rate we will apply to each of the non-responsive companies, we are guided by the Department's methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondents in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for BOSTD Qingdao or Taian Modern for the following programs:⁹⁹

- Policy Loans to the Geogrids Industry
- Provision of Land Use Rights for LTAR
- Provision of Polypropylene for LTAR
- Provision of Electricity for LTAR
- Preferential Income Tax Program for High or New Technology Enterprise ("HNTE")
- Preferential Deduction of Research and Development ("R&D") Expenses for HNTES

To calculate the program rate for the following income tax reduction programs on which the Department initiated an investigation, we applied an adverse inference that each of the non-responsive companies paid no income tax during the POI:

- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
- Preferential Income Tax Subsidies for Productive FIEs
- Preferential Income Tax Subsidies for High or New Technology FIEs
- Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D
- Taishan Zone Income Tax Program
- Feicheng Zone Income Tax Subsidy
- Preferential Deduction of R&D Expenses for HNTES
- Reduction In or Exemption From Fixed Assets Investment Orientation Regulatory Tax
- Preferential Tax Programs for Export-Oriented FIEs

With respect to income tax programs, we apply an adverse inference that the Non-Responsive Companies paid no income taxes during the POI. The standard corporate income tax rate in China is 25 percent. We, therefore, find the highest possible benefit for all income tax exemption and reduction programs combined is 25 percent (*i.e.*, the income tax programs combined provide a countervailable benefit of 25 percent.) Consistent with past practice, the 25 percent AFA rate does not apply to income tax credit and rebate, accelerated depreciation, or import tariff and value add tax exemption programs because such programs may not affect the tax rate.¹⁰⁰

⁹⁹ We note that respondents benefited from additional programs that were reported or discovered during the course of this proceeding. For the purposes of calculating the AFA rate, however, we are only referencing those programs on which we initiated this investigation.

¹⁰⁰ See, *e.g.*, *Aluminum Extrusions Final Determination* at "Application of Adverse Inferences: Non-Cooperative Companies."

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

- Export Seller’s Credits from the Export-Import Bank of China¹⁰¹
- Export Buyer’s Credits from the Export-Import Bank of China¹⁰²
- Preferential Loans for SOEs¹⁰³
- Interest Subsidies for SOEs¹⁰⁴
- State Key Technology Project Fund¹⁰⁵
- Export Credit Insurance¹⁰⁶
- Export Assistance Grants¹⁰⁷
- GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands¹⁰⁸
- Provision of Land to SOEs for LTAR¹⁰⁹
- Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries¹¹⁰
- Export Credit Guarantees¹¹¹
- Taishan Zone Infrastructure Fee Exemption¹¹²
- Taishan Zone Fiscal Charge Exemptions and Reductions¹¹³
- Taishan Zone Grants for Fixed Assets¹¹⁴
- Taishan Zone Collection of Charges Exemption¹¹⁵
- Feicheng Zone Infrastructure Fee Exemption¹¹⁶

¹⁰¹ See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) (“China CORE”) and accompanying Issues and Decision Memorandum.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ See *ITDCs from the PRC* and accompanying Issues and Decision Memorandum.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² See *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 74 FR 683 (January 7, 2009) (“Shelving and Racks”) and accompanying Issues and Decision Memorandum.

¹¹³ *Id.*

¹¹⁴ See *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) and accompanying Issues and Decision Memorandum.

¹¹⁵ See *Shelving and Racks* and accompanying Issues and Decision Memorandum.

¹¹⁶ *Id.*

- Ling County Economic Development Zone and Geosynthetics Production Base Grants¹¹⁷

Accordingly, we preliminarily determine the AFA countervailable subsidy rate is 128.27 percent *ad valorem*.¹¹⁸

The chart below summarizes the calculation of the AFA rate.

<u>Summary</u>	<u>AFA Rate (percent)</u>
Policy Loans to the Geogrids Industry	1.84
Export Seller's Credits from the Export-Import Bank of China	4.25
Export Buyer's Credits from the Export-Import Bank of China ¹¹⁹	10.54
Preferential Loans for SOEs	0.86
Interest Subsidies for SOEs	0.58
State Key Technology Project Fund	0.58
Export Assistance Grants	0.58
GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands	0.58
Provision of Land Use Rights for LTAR	2.37
Provision of Land to SOEs for LTAR	13.36
Provision of Polypropylene for LTAR	23.75
Provision of Electricity for LTAR	2.23
Preferential Income Tax Program for HNTEs	2.52
Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D	25.00
Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	
Preferential Income Tax Subsidies for Productive FIEs	
Preferential Income Tax Subsidies for High or New Technology FIEs	
Taishan Zone Income Tax Program	
Feicheng Zone Income Tax Subsidy	
Preferential Deduction of R&D Expenses for HNTEs	0.19
Reduction In or Exemption From Fixed Assets Investment Orientation Regulatory Tax	9.71

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

Preferential Tax Programs for Export-Oriented FIEs	9.71
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	0.93
Export Credit Insurance	0.58
Export Credit Guarantees	10.54
Taishan Zone Infrastructure Fee Exemption	1.51
Taishan Zone Fiscal Charge Exemptions and Reductions	1.51
Taishan Zone Grants for Fixed Assets	0.02
Taishan Zone Collection of Charges Exemption	1.51
Feicheng Zone Infrastructure Fee Exemption	1.51
Ling County Economic Development Zone and Geosynthetics Production Base Grants	1.51
<u>Total Ad Valorem Rate</u>	128.27

D. *BOSTD Qingdao's Self-reported Subsidies*

BOSTD Qingdao self-reported that it received several additional subsidies (*i.e.*, High-Tech and Base Support, Local Small and Medium Enterprises, Foreign Trade Promotion Fund, and Product Line Change).¹²⁰ The GOC has not yet provided complete responses to the Department's questions regarding these programs. Accordingly, we preliminarily determine that necessary information is not available on the record, and thus, that the Department must rely on facts otherwise available in making our preliminary determination with respect to these programs, pursuant to section 776(a)(1) of the Act. We discuss each of these programs, and the application of facts available to each below.

XIII. 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. *Policy Loans to the Geogrids Industry*

Petitioner alleges that policy banks and SOCBs in the PRC make loans to geogrids producers at preferential terms as a matter of government policy.¹²¹ The Department has countervailed this program in previous investigations.¹²²

¹²⁰ See BOSTD Qingdao's submission, dated May 16, 2016, at 13-26.

¹²¹ See CVD Initiation Checklist at 7.

¹²² See, e.g., *Drawn Stainless Steel Sinks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum ("Steel Sinks IDM") at 24-25.

In response to our questionnaire, Taian Modern identified several loans that it received from SOCBs.¹²³ Based on our review of the record, we preliminarily determine that loans received by the geogrids industry from SOCBs were made pursuant to government directives. We determine that the GOC, through its directives, has policies in place encouraging the use of loans to encourage and support the growth of favored industries, including equipment manufacturing and foundry industries.

For instance, the Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China (2000) indicates that the industry under consideration falls within the “Encouraged” category.¹²⁴ Under the general “petrochemical industry” heading, it enumerates numerous subgroupings related to geogrids production, such as “Production of engineering plastics and new plastic alloys” and “Production of geosynthetic raw materials” as encouraged sectors.¹²⁵ Moreover, the Industrial Restructuring Guidance Catalogue (2011), lists the “Development and application of soil erosion control technologies” in the “encouraged” category.¹²⁶ Geogrids production is clearly contemplated as falling within these encouraged categories, and several others as well.

On the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development and production of geogrids through policy lending. The loans to geogrids producers from policy banks and SOCBs in the PRC constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.¹²⁷ Finally, we determine that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC’s policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the geogrids industry.

To calculate the benefit from this program, we used the benchmarks discussed under the “Benchmarks and Interest Rates” section.¹²⁸ On this basis, we preliminarily determine a subsidy rate of 1.84 percent *ad valorem* for BOSTD Qingdao and 1.02 percent *ad valorem* for Taian Modern.

2. *Land-Use Rights for LTAR*

Petitioner alleges that producers of geogrids benefited from the provision of land-use rights for LTAR. Petitioner explained that the GOC directs government agencies to provide such land-use rights to favored projects and producers, including the geogrids industry. As discussed above, we are finding, as AFA, that the GOC's provision of land tracts to Taian Modern is specific

¹²³ See Letter to the Secretary of Commerce from Taian Modern, “Certain Biaxial Integral Geogrid Products from the People’s Republic of China: Questionnaire Response to Section III Questionnaire for Producers/Exporters of Subject Merchandise” (April 7, 2016) (“Taian Modern Initial Questionnaire Response”) at Exhibit C-1.

¹²⁴ See GOC’s Submission, dated April 14, 2016, at Exhibit 6.

¹²⁵ *Id.*

¹²⁶ *Id.*, at Exhibit 7.

¹²⁷ See section 771(5)(E)(ii) of the Act.

¹²⁸ See 19 CFR 351.505(c).

within the meaning of section 771(5A) of the Act given the GOC's failure to provide information regarding how land prices were determined for land-use rights held by Taian Modern in certain instances (land provided before 2008, and land that is auctioned). Additionally, because the GOC provided no information regarding the entities that provided land-use rights to Taian Modern, we preliminarily determine as AFA that these entities are authorities and that the provision of land-use rights to Taian Modern constitutes a financial contribution.

For this preliminary determination, we find, as AFA, that the GOC has policies in place to provide land to producers in the geogrids industry for LTAR. We also find, as AFA, that the land was provided to Taian Modern by the GOC, and constitutes a financial contribution. Taian Modern received its land-use rights for LTAR, constituting a financial contribution under section 771(5)(D)(iii) of the Act. This subsidy is specific under sections 771(5A)(D)(i) and (iii)(I) of the Act because preferential land-use rights at LTAR are provided to a limited number of industries or enterprises.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first multiplied the Thailand industrial land benchmarks discussed above under the "Benchmarks and Interest Rates" section, by the total land areas of the land-use rights held by of Taian Modern. We then subtracted the net price actually paid for the land to derive the total unallocated benefit. We next conducted the "0.5 percent test" provided for under 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales and, therefore, allocated the benefits to the POI. We allocated the total benefit amounts across the terms of the land-use agreements, using the standard allocation formula of 19 CFR 351.524(d), and determined the amounts attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section.¹²⁹ On this basis, we preliminarily determine a subsidy rate of 2.37 percent *ad valorem* for Taian Modern.

3. *Electricity for LTAR*

Both of the respondents used this program during the POI. For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are basing our determination regarding the government's provision of electricity, in part, on AFA.

In a CVD case, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, may find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, the Department will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable. BOSTD Qingdao and Taian Modern provided data on the electricity the companies consumed and the electricity rates paid during the

¹²⁹ See Taian Modern Calculation Memo.

As noted above, the GOC did not provide the information requested by the Department as it pertains to the provision of electricity for LTAR program despite multiple requests for such information. We find that, in not providing the requested information, the GOC did not act to the best of its ability. Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to the provision of electricity in the PRC pursuant to section 776(b) of the Act and we determine that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act. To determine the existence and amount of any benefit from this program, we relied on the respondents' reported information on the amounts of electricity used, and the rates the respondents paid for that electricity, during the POI. We compared the rates paid by the respondents for their electricity to the highest rates that they could have paid in the PRC during the POI.

To calculate the benchmark, we selected the highest rates in the PRC for the type of user (*e.g.*, "General Industry," "Lighting," "Base Charge/Maximum Demand") for the general, high peak, peak, normal, and valley ranges, as provided by the GOC.¹³¹ The electricity rate benchmark chart is included in the Preliminary Benchmark Memo. This benchmark reflects an adverse inference, which we drew as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation.

To measure whether the respondents received a benefit under this program, we first calculated the electricity prices the respondents paid by multiplying the monthly kilowatt hours or kilovolt amperes consumed for each price category, by the corresponding electricity rates charged for each price category. Next, we calculated the benchmark electricity cost by multiplying the monthly consumption reported by the respondents for each price category by the highest electricity rate charged for each price category, as reflected in the electricity rate benchmark chart. To calculate the benefit for each month, we subtracted the amount paid by the respondents for electricity during each month of the POI from the monthly benchmark electricity price. We then calculated the total benefit for each company during the POI by summing the monthly benefits for each company.¹³²

To calculate the subsidy rate pertaining to the GOC's provision of electricity for LTAR, we divided the benefit amount calculated for each respondent by the appropriate total sales denominator, as discussed in the "Subsidy Valuation Information" section above, and in the Preliminary Calculation Memoranda. On this basis, we preliminarily determine a countervailable subsidy of 2.23 percent *ad valorem* for the BOSTD companies, and 0.99 percent *ad valorem* for Taian Modern.¹³³

¹³⁰ See, *e.g.*, BOSTD Qingdao's submission, dated April 15, 2016, at Exhibits P.D.5 and P.D.6; Taian Modern's submission, dated April 7, 2015, at Exhibits D-5 and D-6.

¹³¹ See the GOC's April 14, 2016 submission at Exhibit 25.

¹³² See BOSTD Calculation Memo and Taian Modern Calculation Memo.

¹³³ *Id.*

4. *Income Tax Reduction for High and New Technology Enterprises*

Under Article 28.2 of the 2008 corporate tax law, the income tax a firm pays is reduced from the standard rate if an enterprise is recognized as a HNTE.¹³⁴ The Department previously found this program to be countervailable.¹³⁵ Taian Modern and BOSTD Qingdao reported that they use this program.¹³⁶

Based upon the information submitted by Taian Modern and BOSTD Qingdao, both companies paid reduced income tax rates on the tax returns filed during the POI.¹³⁷ In accordance with Article 28.2 of the tax law, they paid an income tax rate of 15 percent instead of the standard corporate income tax rate of 25 percent.¹³⁸

Consistent with our determination in *Warmwater Shrimp*, we preliminarily determine that this program constitutes a financial contribution in the form of revenue foregone by the GOC and confers a benefit in the amount of tax savings, as provided under sections 771(5)(D)(ii) and 771(5)(E) of the Act. We further determine that the income tax reduction afforded by this program is limited as a matter of law to certain enterprises whose products are designated as being in “high-tech fields with state support,” and, hence, is *de jure* specific, under section 771(5A)(D)(i) of the Act.

We calculated the benefit as the difference between taxes BOSTD Qingdao and Taian Modern would have paid under the standard 25 percent tax rate and the taxes that the company actually paid under the preferential 15 percent tax rate, as reflected on the tax returns filed during the POI, as provided for under 19 CFR 351.509(a)(1) and (b)(1). We treated the tax savings as a recurring benefit consistent with 19 CFR 351.524(c)(1). We then divide the benefit by the companies’ total sales during the POI. On this basis, we preliminarily determine a countervailable subsidy of 0.34 percent *ad valorem* for BOSTD Qingdao and 2.52 percent *ad valorem* for Taian Modern.

5. *Preferential Deduction of R&D Expenses for HNTES*

Article 30.1 of the Enterprise Income Tax Law of the PRC created a new program regarding the deduction of research and development expenditures by companies, which allows enterprises to deduct, through tax deductions, research expenditures incurred in the development of new technologies, products, and processes. Article 95 of Regulation 512 provides that, if eligible research expenditures do not “form part of the intangible assets value,” an additional 50 percent

¹³⁴ See Letter to the Secretary of Commerce from Petitioner, “Petition for the Imposition of Countervailing Duties on Imports of Certain Biaxial Integral Geogrid Products from the People’s Republic of China” (January 13, 2016) at Exhibit III-121.

¹³⁵ See, e.g., *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (“*Warmwater Shrimp*”) and accompanying Issues and Decision Memorandum at 25.

¹³⁶ See Taian Modern Initial Questionnaire Response at 17 and BOSTD Qingdao’s submission, dated April 14, 2016, at 14.

¹³⁷ *Id.*

¹³⁸ *Id.*

deduction from taxable income may be taken on top of the actual accrual amount. Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets costs.¹³⁹ BOSTD Qingdao reported use of this program during the POI. The Department previously found in *Wind Towers from the PRC* and *Solar Cells from the PRC* that this program provides a countervailable subsidy.¹⁴⁰

The Department verified the specificity of this program in *Wind Towers from the PRC*.¹⁴¹ This income tax deduction is a financial contribution in the form of revenue foregone by the government, and it provides a benefit to the recipients in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). Consistent with our previous finding,¹⁴² we also preliminarily determine that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with research and development in eligible high-technology sectors and, thus, is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit from this program to BOSTD Qingdao, we treated the tax credits as recurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we calculated the amount of tax the companies would have paid absent the tax deductions at the standard tax rate of 25 percent (*i.e.*, 25 percent of the tax credit). We then divided the tax savings by the appropriate total sales denominator (exclusive of inter-company sales), as described in the “Subsidies Valuation” section, above. On this basis, we preliminarily determine a countervailable subsidy rate of 0.19 percent *ad valorem* for BOSTD Qingdao.

6. *High Tech Base Support Grant*

BOSTD Qingdao self-reported receiving a technical innovation grant in 2014.¹⁴³ The program is available to all companies located in Chengyang District, Qingdao, PRC, and is used to promote the industrial transformation and updating through encouraging technology innovation of industrial enterprises.¹⁴⁴ The application is reviewed by Industry and Information Technology Bureau of Chengyang District and the Bureau of Finance in Chengyang District and approved by the Chengyang District government.¹⁴⁵

We preliminarily determine that this grant was provided by the Government of Chengyang District and that it constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further preliminarily determine that this grant confers a benefit equal to the amount of the grant

¹³⁹ See GOC’s submission, dated April 14, 2016, at Exhibit 11.

¹⁴⁰ See *Utility Scale Wind Towers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012), (“*Wind Towers from the PRC*”) and accompanying Issues and Decision Memorandum (Wind Towers IDM) at 18-19 and Comment 17; see also *Solar Cells IDM* at 17 and Comment 25.

¹⁴¹ See Wind Towers IDM at 18-19.

¹⁴² *Id.*

¹⁴³ See BOSTD Qingdao’s submission, dated April 15, 2016 and BOSTD Qingdao’s submission, dated May 16, 2016, at 13-16.

¹⁴⁴ See BOSTD Qingdao’s submission, dated May 16, 2016, at 13.

¹⁴⁵ See GOC’s submission, dated May 18, 2016, at 4.

provided in accordance with 19 CFR 351.504(a).

In order to conduct the analysis of whether a program is specific under section 771(5A) of the Act, it is essential that the government provide a complete response to the questions of specificity that are contained in the questionnaire, because it is only the government that has access to the information required for a complete analysis of specificity.¹⁴⁶ The GOC has not yet provided a complete response to the specificity questions related to this program.¹⁴⁷ As a result, we are resorting to the use of FA within the meaning of section 776(a)(1) of the Act because the necessary information from the GOC concerning the manner in which this program is administered is not on the record. Based on the information contained in BOSTD Qingdao's questionnaire response, which indicates that it received the grant because it is located in Chengyang District,¹⁴⁸ we preliminarily determine that the program is specific under sections 771(5A)(A) and (B) of the Act.¹⁴⁹ The Department intends to provide the GOC with another opportunity to provide complete specificity information for this program.

To calculate the benefit BOSTD Qingdao received under this program, we followed the methodology described in 19 CFR 351.524. To allocate the benefits not expensed, we used the discount rates described above in the section "Subsidies Valuation Information" to calculate the amount of the benefit allocable to the POI. We then divided the benefit by BOSTD Qingdao's total sales for the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.13 percent *ad valorem* for BOSTD Qingdao.¹⁵⁰

7. *Local Small and Medium Enterprise Program*

BOSTD Qingdao self-reported receiving a grant under this program in 2012.¹⁵¹ This program was administered by the Finance Administration of Chengyang District, and was applicable to small and medium sized companies located in Chengyang District which were established before the end of 2009. The program was developed to promote technology innovation and energy conservation of the local enterprises.¹⁵² The GOC reports that the "Local Small and Medium Enterprise Program" was established in 2010, under the authority of the "Provisional Measures of the Development Assets Management for the Small and Medium Enterprises with the Local Characteristics Industries."¹⁵³ BOSTD Qingdao reports that it filed an application with the Finance Administration of Chengyang District.¹⁵⁴ The Bureau of Finance in Qingdao reviews

¹⁴⁶ See, e.g., *Fine Furniture*, 748 F.3d 1370 (Fed. Cir. 2014).

¹⁴⁷ See the GOC's submission, dated May 18, 2016, at 7 "The GOC is unable to provide the data requested in this question, parts (a) to (e)."

¹⁴⁸ See BOSTD Qingdao's submission, dated May 16, 2016, at 14.

¹⁴⁹ See, e.g., *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 Issues and Decision Memorandum at Section VII.N. (where the Department applied FA in its specificity finding by relying on information provided the respondent, when the GOC did not respond to the Department's questions).

¹⁵⁰ See BOSTD Qingdao Calculation Memo.

¹⁵¹ See BOSTD Qingdao's submission, dated May 16, 2016, at 16.

¹⁵² *Id.* at 16.

¹⁵³ See GOC's submission, dated May 18, 2016, at 9 and Exhibit 4.

¹⁵⁴ See BOSTD Qingdao's submission, dated May 16, 2016, at 17.

the applications and allocates funding which is reviewed and approved by the State Ministry of Finance.¹⁵⁵

We preliminarily determine that this grant was provided by the Government of Chengyang District and that it constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further determine preliminarily that this grant confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a).

In order to conduct the analysis of whether a program is specific under section 771(5A) of the Act, it is essential that the government provide a complete response to the questions of specificity that are contained in the questionnaire, because it is only the government that has access to the information required for a complete analysis of specificity.¹⁵⁶ The GOC has not yet provided a complete response to the specificity questions related to this program.¹⁵⁷ As a result, we are resorting to the use of FA within the meaning of section 776(a)(1) of the Act because the necessary information from the GOC concerning the manner in which this program is administered is not on the record. Based on the information contained in BOSTD Qingdao's questionnaire response, which indicates that it received the grant because it is located in Chengyang District,¹⁵⁸ we preliminarily determine that the program is specific under sections 771(5A)(A) and (B) of the Act.¹⁵⁹ The Department intends to provide the GOC with another opportunity to provide complete specificity information for this program.

To calculate the benefit BOSTD Qingdao received under this program, we followed the methodology described in 19 CFR 351.524. To allocate the benefits not expensed, we used the discount rates described above in the section "Subsidies Valuation Information" to calculate the amount of the benefit allocable to the POI. We then divided the benefit by BOSTD Qingdao's total sales for the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.11 percent *ad valorem* for BOSTD Qingdao.¹⁶⁰

8. *Foreign Trade Promotion Fund*

BOSTD Qingdao self-reported receiving a grant under this program in 2009.¹⁶¹ This program was administered by the Foreign Trade Municipal Bureau of Qingdao City, and was applicable to all companies located in Qingdao City which were established before the end of 2009. The program was developed to promote technology innovation and energy conservation of the local enterprises.¹⁶² The GOC reports that this program was established in 2009 to promote the sustainable development of foreign trade under the authority of the "Maintain Steady Growth in

¹⁵⁵ See GOC's submission, dated May 18, 2016, at 12.

¹⁵⁶ See, e.g., *Fine Furniture*, 748 F.3d 1370 (Fed. Cir. 2014).

¹⁵⁷ See the GOC's submission, dated May 18, 2016, at 14; "The GOC is unable to provide the data requested in this question, parts (a) to (e)."

¹⁵⁸ See BOSTD Qingdao's submission, dated May 16, 2016, at 14.

¹⁵⁹ See, e.g., *Aluminum Extrusions* at Section VII.M (where the Department applied FA in its specificity finding by relying on information provided the respondent, when the GOC did not respond to the Department's questions).

¹⁶⁰ See BOSTD Qingdao Calculation Memo.

¹⁶¹ See BOSTD Qingdao's submission, dated May 16, 2016, at 19-20.

¹⁶² *Id.* at 16.

Special Funds of Foreign Trade in Qingdao” provision.¹⁶³ BOSTD Qingdao reports that it filed an application with the Foreign Trade Municipal Bureau.¹⁶⁴ The Bureau of Finance in Qingdao allocates the funding.¹⁶⁵

We preliminarily determine that this grant was provided by the Government of Qingdao and that it constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further determine preliminarily that this grant confers a benefit equal to the amount of the grant provided, in accordance with 19 CFR 351.504(a).

In order to conduct the analysis of whether a program is specific under section 771(5A) of the Act, it is essential that the government provide a complete response to the questions of specificity that are contained in the questionnaire, because it is only the government that has access to the information required for a complete analysis of specificity.¹⁶⁶ The GOC has not yet provided a complete response to the specificity questions related to this program.¹⁶⁷ As a result, we are resorting to the use of FA within the meaning of section 776(a)(1) of the Act because the necessary information from the GOC concerning the manner in which this program is administered is not on the record. Based on the information contained in BOSTD Qingdao’s questionnaire response, which indicates that it received the grant because it is located in Qingdao and conducts product research and development for export goods,¹⁶⁸ we preliminarily determine that the program is specific under sections 771(5A)(A) and (B) of the Act.¹⁶⁹ The Department intends to provide the GOC with another opportunity to provide complete specificity information for this program.

To calculate the benefit BOSTD Qingdao received under this program, we followed the methodology described in 19 CFR 351.524. To allocate the benefits not expensed, we used the discount rates described above in the section “Subsidies Valuation Information” to calculate the amount of the benefit allocable to the POI. We then divided the benefit by BOSTD Qingdao’s total sales for the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.08 percent *ad valorem* for BOSTD Qingdao.¹⁷⁰

9. *Product Line Change Grant*

BOSTD Qingdao self-reported receiving a grant under this program in 2009.¹⁷¹ This program was administered by Qingdao Economic and Trade Commission and was applicable to all small

¹⁶³ See GOC’s submission, dated May 18, 2016, at 17 and Exhibit 5.

¹⁶⁴ See BOSTD Qingdao’s submission, dated May 16, 2016, at 20.

¹⁶⁵ See GOC’s submission, dated May 18, 2016, at 19.

¹⁶⁶ See, e.g., *Fine Furniture (Shanghai) Ltd. v. United States*, 748 F.3d 1365, 1370 (Fed. Cir. 2014).

¹⁶⁷ See the GOC’s submission, dated May 18, 2016, at 14; “The GOC is unable to provide the data requested in this question, parts (a) to (e).”

¹⁶⁸ See BOSTD Qingdao’s submission, dated May 16, 2016, at 20-21.

¹⁶⁹ See, e.g., *Aluminum Extrusions* at Section VII.M (where the Department applied FA in its specificity finding by relying on information provided the respondent, when the GOC did not respond to the Department’s questions).

¹⁷⁰ See BOSTD Qingdao Calculation Memo.

¹⁷¹ See BOSTD Qingdao’s submission, dated May 16, 2016, at 23.

and medium sized companies located in Qingdao City. This program was implemented for the promotion of technology innovation and stable growth of foreign trade.¹⁷²

We preliminarily determine that this grant was provided by the Government of Qingdao and that it constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further preliminarily determine that this grant confers a benefit equal to the amount of the grant provided, in accordance with 19 CFR 351.504(a).

In order to conduct the analysis of whether a program is specific under section 771(5A) of the Act, it is essential that the government provide a complete response to the questions of specificity that are contained in the questionnaire, because it is only the government that has access to the information required for a complete analysis of specificity.¹⁷³ The GOC states that it “believes the information provided on the record is sufficient for the DOC to make a determination and calculate a subsidy rate for this program” and “chooses not to challenge the countervailability of th{i}s program{s}.”¹⁷⁴ As a result, we are resorting to the use of FA within the meaning of section 776(a)(1) of the Act because the necessary information from the GOC concerning the manner in which this program is administered is not on the record. Based on the information contained in BOSTD Qingdao’s questionnaire response, which indicates that it received the grant because it is located in Qingdao,¹⁷⁵ we preliminarily determine that the program is specific under sections 771(5A)(A) and (B) of the Act.¹⁷⁶ The Department intends to provide the GOC with another opportunity to provide complete specificity information for this program.

To calculate the benefit BOSTD Qingdao received under this program, we followed the methodology described in 19 CFR 351.524. To allocate the benefits not expensed, we used the discount rates described above in the section “Subsidies Valuation Information” to calculate the amount of the benefit allocable to the POI. We then divided the benefit by BOSTD Qingdao’s total sales for the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.11 percent *ad valorem* for BOSTD Qingdao.¹⁷⁷

10. *Provision of Polypropylene for LTAR*

Both of our respondents purchased polypropylene during the POI. Petitioner alleges that respondents received countervailable subsidies in the form of the provision of polypropylene for LTAR.¹⁷⁸ We requested information from the GOC regarding the specific suppliers of polypropylene to the respondents. The GOC provided information regarding the uses of polypropylene and the consumption of polypropylene in the PRC in 2014, but did not provide the additional data requested by the Department in its initial questionnaire, nor in its supplemental

¹⁷² *Id.*

¹⁷³ *See, e.g., Fine Furniture*, 748 F.3d 1370 (Fed. Cir. 2014).

¹⁷⁴ *See* the GOC’s submission, dated May 18, 2016, at 23-24.

¹⁷⁵ *See* BOSTD Qingdao’s submission, dated May 16, 2016, at 23.

¹⁷⁶ *See, e.g., Aluminum Extrusions* at Section VII.M (where the Department applied FA in its specificity finding by relying on information provided the respondent, when the GOC did not respond to the Department’s questions).

¹⁷⁷ *See* BOSTD Qingdao Calculation Memo.

¹⁷⁸ *See* CVD Initiation Checklist at 16.

questionnaire response.¹⁷⁹

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, the Department determines that the GOC failed to cooperate to the best of its ability in responding to our two requests for information. Based on the information on the record that indicates that 68.13 percent of polypropylene production during the POI is accounted for by companies with majority state ownership, the Department determines that the producers are “authorities” within the meaning of section 771(5)(B) of the Act.¹⁸⁰ This, coupled with the fact that the GOC failed to provide supplier specific information, leads us to determine as AFA that this program provided a government financial contribution.

With respect to the issue of specificity, the GOC states that main sectors using polypropylene are (1) woven products (34.5 percent), (2) plastic injection products (29.5 percent), and (3) Biaxially Oriented Polypropylene (18 percent).¹⁸¹ Moreover, the record evidence shows that the GOC specifically promoted production of polypropylene in order to foster the development and production of engineering plastics and other advanced structural materials. These product groupings include geogrids.¹⁸²

The GOC’s contention that the broad range of applications for polypropylene undermines a finding of specificity must fail. The Department has previously considered, and rejected, the arguments here made by the GOC. For instance, in *Steel Sinks from the PRC*, the Department noted that simply because an input is consumed by multiple industries, does not undermine a finding of specificity.¹⁸³ There, the Department explained that where “potential users of stainless steel products fall into 20 or 32 different industry classifications using ISIC {International Standard Industry Classification} and Chinese national economy industry classifications {‘NEIC’},” the stainless steel input could still be considered specific to the industry in question.¹⁸⁴ Similarly, in *Citric Acid from the PRC*, the Department considered whether sulfuric acid, steam coal, and calcium carbonate were specific to the industry under consideration.¹⁸⁵ As it does here, the GOC argued then that these inputs “are sold to a broad spectrum of industries for a wide variety of uses.” The GOC argued that this undermines a finding of specificity.¹⁸⁶ However, the Department rejected that argument in *Citric Acid from the PRC*, noting that a number of broad industry classifications were predominant users of such inputs. For example, with respect to sulfuric acid, the Department found that fertilizer producers and the “chemical industry” were predominant users of the input; accordingly, the Department

¹⁷⁹ See GOC submission, dated May 18, 2016, at Exhibits 6 and 7.

¹⁸⁰ See GOC submission, date April 15, 2016, at Exhibit 13.

¹⁸¹ See GOC submission, dated May 18, 2016, at Exhibits 6 and 7.

¹⁸² See Petition at Exhibit III-9.

¹⁸³ See *Drawn Stainless Steel Sinks From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 46717 (August 6, 2012) (“*Steel Sinks from the PRC*”) (unchanged in *Drawn Stainless Steel Sinks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013)).

¹⁸⁴ *Id.*

¹⁸⁵ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015), and accompanying Issues and Decision Memorandum (Citric Acid IDM) at Comment 1.

¹⁸⁶ *Id.*

found that sulfuric acid was specific to the industry in question.¹⁸⁷

The evidence provided by the GOC to support its claim that polypropylene is used by various industries contains a list of users that are not well defined, are at various levels of aggregation, and may overlap each other, such as “woven products,” “packaging,” and “daily necessities.”¹⁸⁸ The SAA instructs the Department to apply the specificity test in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those foreign subsidies that truly are broadly available and widely used throughout an economy. The specificity test was intended to function as a rule of reason and to avoid the imposition of countervailing duties in situations where, because of the widespread availability and use of a subsidy, the benefit of the subsidy is spread throughout an economy.¹⁸⁹ The GOC has provided no evidence that the use of subsidized polypropylene is spread widely throughout the Chinese economy.

Consistent with these cases and the SAA, the evidence as described above shows that users of polypropylene are limited in number. This, together with the government promotion of polypropylene for use in geogrids shown above, leads us to determine preliminarily that the GOC’s provision of polypropylene is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

As explained in the BOSTD Calculation Memo and the Taian Modern Calculation Memo, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT, pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and inland freight charges that would be incurred to deliver polypropylene to respondents’ production facilities. We added the VAT applicable to imports of polypropylene into the PRC as reported by the GOC.¹⁹⁰ In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to respondents’ reported purchase prices for individual domestic transactions, including VAT and delivery charges.¹⁹¹

Based on this comparison, we preliminarily determine that polypropylene was provided for LTAR and that a benefit exists for respondents in the amount of the difference between the benchmark prices and the prices respondents paid.¹⁹² We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the BOSTD Calculation Memo and the Taian Modern Calculation Memo.

On this basis, we preliminarily determine a subsidy rate for BOSTD Qingdao of 11.60 percent *ad valorem*, and for Taian Modern we preliminarily determine a subsidy rate of 23.75 percent *ad valorem*.

¹⁸⁷ See Citric Acid IDM at Comment 1.A.

¹⁸⁸ See GOC submission, dated May 18, 2016, at Exhibit 7.

¹⁸⁹ See SAA at 913-914.

¹⁹⁰ See the GOC’s April 14, 2016 submission at 49.

¹⁹¹ See BOSTD Calculation Memo; Taian Modern Calculation Memo.

¹⁹² See 19 CFR 351.511(a).

C. *Programs Preliminarily Determined Not to Have Conferred a Measureable Benefit or Not to Have Conferred a Benefit During the POI*

1. *Export Credit Insurance*

BOSTD Qingdao reported that it maintained an insurance policy with the China Export & Credit Insurance Corporation (“SINOSURE”) during the POI.¹⁹³ SINOSURE provides export credit insurance to policyholders.¹⁹⁴ The company also reported receiving a claim payout from SINOSURE during this time period.¹⁹⁵

To determine whether an export insurance program is countervailable, we must examine whether the premium rates charged are adequate to cover the program's long-term operating costs and losses.¹⁹⁶ In its initial questionnaire response, the GOC was asked to provide a chart summarizing SINOSURE's overall long-term operating costs/losses. The GOC provided a chart in response to the Department's questionnaire;¹⁹⁷ however, the GOC was unable to explain how the values in the chart tied to the annual reports provided to the Department.¹⁹⁸ Therefore, the chart provided is not usable for the analysis called for in 19 CFR 351.520(a)(1). However, the GOC also provided the annual reports for SINOSURE for the years 2011 through 2014.¹⁹⁹ Each annual report states the net premiums earned, net claims paid out, and the operating expenses of the agency over a two-year period, and thus data for the years 2010-2014 are available.²⁰⁰ These data demonstrate that over the five-year period ending with the POI, the net claims paid out by SINOSURE and its operating expenses exceeded the net premiums earned by SINOSURE in three out of five years (*i.e.*, 2011-12 and 2014 the POI), and that the insurance programs offered by SINOSURE were not profitable as a result of its operations. As such we find that the premiums charged by SINOSURE are inadequate to cover the long-term operating costs and losses of the program within the meaning of 19 CFR 351.520(a)(1). Thus, we preliminarily determine that this program is countervailable during the POI.

Because insurance provided through this program is contingent upon export performance, we determine that the program is specific within the meaning of 771(5A)(B) of the Act. The Department finds that the export insurance provided by SINOSURE constitutes a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. In addition, we determine that the insurance provided by SINOSURE confers a benefit, in accordance with section 771(5)(E) of the Act and 19 CFR 351.520(a)(1), to the extent that the premium rates charged are inadequate to cover the long-term operating costs and losses of the program. The amount of the benefit received by BOSTD Qingdao is measured in accordance with 19 CFR 351.520(a)(2), such that the benefit is the amount by which the claims

¹⁹³ See BOSTD Qindao's submission, dated April 15, 2016, at 29.

¹⁹⁴ See GOC's submission, dated April 14, 2016, at 55.

¹⁹⁵ See BOSTD Qindao's submission, dated May 16, 2016, at 11.

¹⁹⁶ See 19 CFR 351.520(a)(1).

¹⁹⁷ See GOC submission, dated April 14, 2016, at 61.

¹⁹⁸ See GOC submission, dated June 3, 2016, at 6-7.

¹⁹⁹ See GOC submission, dated April 14, 2016, at Exhibit 26 and GOC submission, dated June 3, 2016, at 1.

²⁰⁰ In accordance with the *CVD Preamble*, the Department normally analyzes an insurance program over a five-year long-term period. See *CVD Preamble* at 65358.

paid to BOSTD Qingdao exceed the premiums paid by the company. To calculate the applicable CVD rate for this program, this benefit amount is divided by BOSTD Qingdao's total exports. The calculated subsidy rate for the BOSTD companies for this program is less than 0.005 percent *ad valorem*. Consistent with the Department's practice, we find that this net subsidy is not numerically significant and, thus, we have not included it in the total net subsidy for the BOSTD companies.²⁰¹

D. *Programs Preliminarily Determined Not to Be Used During the POI*

The Department preliminarily determines that the following programs were not used by BOSTD Qingdao or Taian Modern during the POI:

1. Export Seller's Credits and Export Buyer's Credits from the Export-Import Bank of China
2. Preferential Loans for SOEs
3. Interest Subsidies for SOEs
4. State Key Technology Project Fund
5. Export Assistance Grants
6. GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands
7. Provision of Land to SOEs for LTAR
8. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
9. Reduction In or Exemption From Fixed Assets Investment Orientation Regulatory Tax
10. Preferential Income Tax Subsidies for Productive FIEs
11. Preferential Income Tax Subsidies for High or New Technology FIEs
12. Preferential Tax Programs for Export-Oriented FIEs
13. Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D
14. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
15. Export Credit Insurance
16. Export Credit Guarantees
17. Taishan Zone Income Tax Program
18. Taishan Zone Infrastructure Fee Exemption
19. Taishan Zone Fiscal Charge Exemptions and Reductions
20. Taishan Zone Grants for Fixed Assets
21. Taishan Zone Collection of Charges Exemption
22. Feicheng Zone Income Tax Subsidy

XIV. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted by the BOSTD Qingdao and Taian Modern.

²⁰¹ See, e.g., *Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 64 FR 18521 (April 4, 2011) and accompanying Issues and Decision Memorandum at Section F and footnote 5.

XV. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date