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Investigation
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July 11, 2016

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Stainless
Steel Sheet and Strip from the People's Republic of China

I. SUMMARY

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

II. BACKGROUND

A. Initiation and Case History

On February 12, 2016, AK Steel Corporation, Allegheny Ludlum, LLC d/b/a ATI Flat Rolled Products, North American Stainless, and Outokumpu Stainless USA, LLC (collectively, Petitioners) filed a countervailing duty (CVD) petition on stainless sheet and strip from the PRC.¹ Supplements to the CVD Petition and our consultations with the Government of the PRC (GOC) are described in the CVD Initiation Checklist.² On March 3, 2016, the Department initiated a CVD investigation on stainless sheet and strip from the PRC.³

¹ See "Petition for the Imposition of Countervailing Duties on Imports of Stainless Steel Sheet and Strip from the People's Republic of China," February 12, 2016 (CVD Petition).

² See "Countervailing Duty Initiation Checklist: Stainless Steel Sheet and Strip from the People's Republic of China," May 3, 2016 (CVD Initiation Checklist).

³ See *Stainless Steel Sheet and Strip From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 13322 (March 14, 2016) (*Initiation Notice*).



We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.⁴ On March 7, 2016, the Department released the CBP entry data under administrative protective order.⁵ Section 777A(e)(1) of the Act directs the Department to calculate individual countervailable subsidy rates for each known producer/exporter of the subject merchandise. However, when faced with a large number of producers/exporters, and, if the Department determines it is therefore not practicable to examine all companies, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise that can reasonably be examined.

On March 25, 2016, the Department selected Ningbo Baoxin Stainless Steel Co., Ltd. (Ningbo Baoxin) and Shanxi Taigang Stainless Steel Co. Ltd. (Taigang) as mandatory respondents, and issued the Initial Questionnaire to the GOC.⁶ The Department instructed the GOC to forward the questionnaire to the selected mandatory respondents. Ningbo Baoxin did not respond to the Department's questionnaire. Consequently, because Ningbo Baoxin decided not to participate in this proceeding, we selected Daming International Import Export Co Ltd (Daming) as an additional mandatory respondent and instructed the GOC to forward the Initial Questionnaire to Daming on May 5, 2016.⁷ On May 17, 2016, Tianjin Taigang Daming Metal Product Co., Ltd. (Tianjin Daming) notified the Department that it would not participate in this proceeding.⁸ Daming also did not respond to the Department's questionnaire. Based on a critical circumstances allegation filed by Petitioners,⁹ the Department issued a Critical Circumstances Questionnaire to both Taigang and Daming on May 16, 2016.¹⁰

On April 18, 2016, Taigang timely responded to our questions in the Initial Questionnaire related to its affiliated companies.¹¹ Taigang identified five additional companies with whom it was cross-owned that either produced subject merchandise or inputs consumed in the production of

⁴ *Id.*, 80 FR at 37223, 37226–37227.

⁵ See Memorandum, “Stainless Steel Sheet and Strip from the People’s Republic of China: Customs Entry Data for Respondent Selection,” March 7, 2016.

⁶ See Memorandum, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Respondent Selection,” March 25, 2016 (Respondent Selection Memorandum); see also Letter to the GOC, “Stainless Steel Sheet and Strip from the People’s Republic of China: Countervailing Duty Questionnaire,” March 28, 2016 (Initial Questionnaire).

⁷ See Memorandum, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Second Analysis Regarding Respondent Selection,” May 5, 2016; see also Letter to the GOC, “Stainless Steel Sheet and Strip From the People’s Republic of China: Countervailing Duty Questionnaire,” May 5, 2016.

⁸ Tianjin Daming was not selected as a respondent in this investigation.

⁹ See Letter from Petitioners, “Antidumping and Countervailing Duty Investigations of Stainless Steel Sheet and Strip from the People’s Republic of China Petitioners’ Allegation of Critical Circumstances,” May 6, 2016 (Critical Circumstances Allegation).

¹⁰ See, e.g., Letter to Taigang, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People’s Republic of China: Request for Quantity and Value Shipment Data,” May 16, 2016 (Critical Circumstances Questionnaire).

¹¹ See Letter from Taigang, “Section III Identifying Affiliated Companies Response: Stainless Steel Sheet and Strip from the People’s Republic of China,” April 18, 2016 (Taigang April 18 Affiliation QR).

subject merchandise, and for whom it would be submitting full responses to the Initial Questionnaire, as instructed. The cross-owned companies identified by Taigang in its affiliation response are: Tianjin TISCO & TPCO Stainless Steel Co., Ltd. (Taigang Tianguan), Shanxi Taigang Stainless Steel Precision Strip Co., Ltd. (Taigang Jingmi), Taigang (Group) International Economic and Trade Co., Ltd. (Taigang Guomao), Shanxi Taigang Wanbang Furnace Burden Co., Ltd. (Taigang Wanbang), and TISCO Metal Recycle Co., Ltd (Taigang Jinshu).¹² On May 2, 2016, the Department issued a supplemental affiliation questionnaire, and requested that Taigang submit full responses to the Initial Questionnaire for the following companies: Shanxi Taigang Xinlei Resource Co., Ltd. (Taigang Xinlei), TISCO Mining Branch Company (TISCO Mining Branch) and Taiyuan Iron and Steel Group Co., Ltd. (TISCO).¹³¹⁴

Taigang timely responded to the Initial Questionnaire on May 11, 2016,¹⁵ the affiliation supplemental questionnaire on May 18, 2016,¹⁶ and the Critical Circumstances Questionnaire on May 26, 2016.¹⁷ The GOC timely responded to the Initial Questionnaire on May 18, 2016.¹⁸ Supplemental questionnaires were issued to Taigang on June 9, 2016 and to the GOC on June 10, 2016.¹⁹ The GOC and Taigang's responses to these supplemental questionnaires were timely filed.²⁰

Petitioners filed comments in advance of this preliminary determination on June 23, 2016.²¹ We have considered these comments in making this determination.

¹² *Id.*

¹³ See Letter to Taigang, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Affiliation Supplemental Questionnaire," May 2, 2016.

¹⁴ We are referring to the following companies collectively as the "Taigang Companies": Taigang, Taigang Tianguan, Taigang Jingmi, Taigang Guomao, Taigang Wanbang, Taigang Jinshu, TISCO Mining Branch, and TISCO.

¹⁵ See Letter from Taigang, "Taigang's CVD Questionnaire Response and Request for Extension of Time to Response to Question D.4 of the Questionnaire Stainless Steel Sheet and Strip from the People's Republic of China," May 11, 2016 (Taigang's May 11 QR).

¹⁶ See Letter from Taigang, "Taigang's Response to the Department's Affiliation Supplemental Questionnaire: Stainless Steel Sheet and Strip from China," May 18, 2016 (Taigang's May 18 SQR).

¹⁷ See Letter from Taigang, "Taigang's Monthly U.S. Shipment Data: August 2015 – April 2016 Stainless Steel Sheet and Strip from China," May 13, 2016.

¹⁸ See Letter from the GOC, "The Government of the People's Republic of China's Initial Response to the Department's CVD Questionnaire: Stainless Steel Sheet and Strip from China," May 18, 2016 (GOC's May 18 QR).

¹⁹ See Letter to Taigang, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Supplemental Questionnaire," June 9, 2016; see also Letter to the GOC, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Supplemental Questionnaire," June 10, 2016 (GOC's June 10 SQR).

²⁰ See Letter from GOC, "The Government of the People's Republic of China's First Supplemental Questionnaire Response: Stainless Steel Sheet and Strip from China," June 23, 2016 (GOC's June 23 SQR); see also Letter from Taigang, "Taigang's Second Supplemental Questionnaire Response Stainless Steel Sheet and Strip From People Republic of China," June 27, 2016 (Taigang's June 27 SQR).

²¹ See Letter from Petitioners, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China – Petitioners' Pre-Preliminary Comments," June 23, 2016.

B. Postponement of Preliminary Determination

On April 14, 2016, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from Petitioners. The Department postponed the preliminary determination until July 11, 2016, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).²²

C. 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, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.²³

We received several comments concerning the scope of the antidumping (AD) and CVD investigations of stainless sheet and strip from the PRC. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on September 9, 2016. We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is stainless steel sheet and strip, whether in coils or straight lengths. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product with a width that is greater than 9.5 mm and with a thickness of 0.3048 mm and greater but less than 4.75 mm, and that is annealed or otherwise heat treated, and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, annealed, tempered, polished, aluminized, coated, painted, varnished, trimmed, cut, punched, or slit, etc.) provided that it maintains the specific dimensions of sheet and strip set forth above following such processing. The products described include products regardless of shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges).

²² See *Stainless Steel Sheet and Strip From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 81 FR 23457 (April 21, 2015).

²³ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*, 81 FR 13322.

For purposes of the width and thickness requirements referenced above: (1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

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

Subject merchandise includes stainless steel sheet and strip that has been further processed in a third country, including but not limited to cold-rolling, annealing, tempering, polishing, aluminizing, coating, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the stainless steel sheet and strip.

Excluded from the scope of this investigation are the following: (1) sheet and strip that is not annealed or otherwise heat treated and not pickled or otherwise descaled; (2) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); and (3) flat wire (*i.e.*, cold-rolled sections, with a mill edge, rectangular in shape, of a width of not more than 9.5 mm).

The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.13.0081, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

V. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On May 6, 2016, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.²⁴ On June 27, 2016,

²⁴ See Critical Circumstances Allegation.

the Department issued its preliminary critical circumstances determinations.²⁵ Pursuant to this determination the Department determined that critical circumstances exist for imports of subject merchandise from Taigang, Daming, Ningbo Baoxin, and all other producers/exporters. Additionally, we have calculated a preliminary subsidy rate for a program that is inconsistent with the SCM Agreement (*i.e.*, the Export Seller's Credit program).

VI. INJURY TEST

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On March 28, 2016, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of stainless sheet and strip from the PRC.²⁶

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

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

“given the substantial differences between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.”²⁷

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.²⁸ Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated as non-market economies (NMEs) under section 771(18) of the Act, such as the PRC.²⁹

Additionally, for the reasons stated in *CWP from the PRC*, we are using the date of December 11, 2001, the date on which the PRC became a member of the World Trade Organization (WTO), as the date from which the Department will identify and measure subsidies in the PRC for purposes of this CVD investigation.³⁰

²⁵ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Preliminary Determination of Critical Circumstances*, 81 FR 41519 (June 27, 2016).

²⁶ See *Stainless Steel Sheet and Strip From China*, 81 FR 18887 (April 1, 2016).

²⁷ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum (CFS IDM) at Comment 6.

²⁸ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying Issues and Decision Memorandum (CWP IDM) at Comment 1.

²⁹ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

³⁰ See, e.g., CWP IDM at Comment 2.

VIII. ALIGNMENT

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the Petitioners' request,³¹ we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of stainless sheet and strip from the PRC. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than November 23, 2016, unless postponed.

IX. 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.³²

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

³¹ See Letter from Petitioners, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China – Petitioners' Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination," June 24, 2016.

³² 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.”³³ 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.”³⁴

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.”³⁵ It is the Department’s practice to consider information to be corroborated if it has probative value.³⁶ 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.³⁷ However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.³⁸

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.³⁹

For purposes of this preliminary determination, we are applying AFA with respect to the GOC, Taigang, Ningbo Baoxin and Daming in the following circumstances, as outlined below.

A. Application of AFA: Ningbo Baoxin, Daming, and the GOC

As discussed in the “Initiation and Case History” section, Ningbo Baoxin and Daming were selected as mandatory respondents in this investigation, but have either withdrawn or are not participating in this investigation. Therefore, we preliminarily find that each of these companies withheld information that had been requested and failed to provide information within the deadlines established. By not responding to the questionnaire, each of these companies significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant

³³ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

³⁴ 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.

³⁵ See, e.g., SAA at 870.

³⁶ See SAA at 870.

³⁷ See, e.g., SAA at 869.

³⁸ See SAA at 869-870.

³⁹ See section 776(d)(3) of the Act.

to sections 776(a)(2)(A) and (C) of the Act, we based the CVD rates for these companies on facts otherwise available.

Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Initial Questionnaire, each of these companies did not cooperate to the best of their ability to comply with the request for information in this investigation. Accordingly, we preliminarily find that use of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information. Further, as discussed under “Attribution of Subsidies,” we are finding that Ningbo Baoxin is cross-owned with the following other producers/exporters: Baosteel Stainless Steel Co., Ltd, Baoshan Iron & Steel Co., Ltd., Baosteel Desheng Stainless Steel Co., Ltd., Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd. (collectively, Baosteel Group). We are also finding that Daming is cross-owned with Tianjin Daming. Accordingly, we are applying the same AFA rate to the Baosteel Group and Tianjin Daming.⁴⁰

The GOC provided sufficient information concerning the countervailability of 11 programs used by Taigang, and, as explained below, the Department is preliminarily finding all of these programs to be countervailable in this investigation, and we have included these programs in the determination of the AFA rate.⁴¹ For those alleged programs under investigation but not used by Taigang, we have adversely inferred from the AFA Companies’ decision not to participate in this investigation that they did, in fact, use these programs. As such, we selected an AFA rate for each of these programs and included them in the determination of the AFA rate applied to each of the AFA Companies. We also note that the GOC provided no information on these programs, and so adversely infer that they provide a financial contribution and are specific. We note that the Department has previously countervailed these identical or similar programs.⁴² Additionally, we find that current record information provides additional bases to infer, as AFA, that these programs constitute financial contributions and meet the specificity requirements of the Act.⁴³

When selecting AFA rates, section 776(d) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Consistent with section 776(d) of the Act and our established practice, for each programs under investigation, we selected the highest calculated rate for the same or similar program as AFA.⁴⁴ When selecting

⁴⁰ We are collectively referring to Ningbo Baoxin, Baosteel Group, Daming, and Tianjin Daming as the AFA Companies.

⁴¹ See Appendix.

⁴² See *infra* notes 50-73.

⁴³ See CVD Initiation Checklist.

⁴⁴ 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”).

rates, if we have a cooperating respondent, as we do in this investigation, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If no rate above zero has been calculated for an identical program 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).⁴⁵ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in a CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company and non-industry specific program in a CVD case involving the same country.⁴⁶

In determining the AFA rate we will apply to each of the AFA Companies, we are guided by section 776(d) of the Act and the Department's methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondent in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for Taigang for the following programs:

- Policy Loans to the Stainless Steel Sheet and Strip Industry⁴⁷
- Export Seller's Credit
- Enterprise Tax Law Research and Development Program
- Import Tariff and Value-Added Tax (VAT) Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Provision of Land to State-Owned Enterprises (SOEs) for Less than Adequate Remuneration (LTAR)
- Provision of Iron Ore for LTAR
- Provision of Coking Coal for LTAR
- Provision of Steam Coal for LTAR
- Provision of Nickel/Nickel Pig Iron for LTAR
- Provision of Ferrochrome/Chromium for LTAR
- Provision of Electricity for LTAR

⁴⁵ 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 (IDM) at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

⁴⁶ See Shrimp IDM at 13-14.

⁴⁷ Consistent with recent investigations, we are using a single AFA rate for "Government Policy Lending" and "Preferential Loans to SOEs," because an analysis of the specifics of these two allegations in this investigation reveals they would apply to the same loans provided by state-owned commercial banks (SOCBs). See, e.g., *Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 59221 (October 1, 2014), and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."

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

- Income Tax Reductions for High and New Technology Enterprises (HNTes)
- Income Tax Reductions and Exemptions for HNTes in Designated Zones
- Income Tax Deductions for Enterprises Engaged in Comprehensive Resource Utilization
- Income Tax Deductions/Credits for Purchase of Special Equipment

The standard income tax rate for corporations in the PRC in effect during the POI was 25 percent.⁴⁸ Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, the four programs, combined, provide a 25 percent benefit). Consistent with past practice, the 25 percent AFA rate does not apply to tax credit, tax rebate, or import tariff and VAT exemption programs because such programs may not affect the tax rate.⁴⁹

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

- Preferential Loans for Key Projects and Technologies⁵⁰
- Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified as “Honorables Enterprises”⁵¹
- Export Loans⁵²
- Export Buyer’s Credits⁵³
- Export Credit Guarantees⁵⁴
- Treasury Bond Loans⁵⁵
- Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program⁵⁶

⁴⁸ See CVD Initiation Checklist, at 16.

⁴⁹ See, e.g., *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying IDM at 12.

⁵⁰ See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from the PRC*), and accompanying Ministerial Errors for Final Determination Memorandum at “Preferential Lending to the Coated Paper Industry.”

⁵¹ *Id.*

⁵² See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 79 FR 108 (January 2, 2014), and accompanying IDM at 18.

⁵³ See *Coated Paper from the PRC*, and accompanying Ministerial Errors for Final Determination Memorandum at “Preferential Lending to the Coated Paper Industry.”

⁵⁴ See *Chlorinated Isocyanurates from the People's Republic of China Final Affirmative Countervailing Duty Determination*, 79 FR 56560 (September 22, 2014) (*Chlorinated Isos from the PRC*), and accompanying IDM at 12-13.

⁵⁵ See *Coated Paper from the PRC*, and accompanying Ministerial Errors for Final Determination Memorandum at “Preferential Lending to the Coated Paper Industry.”

- Debt-to-Equity Swaps⁵⁷
- Equity Infusions⁵⁸
- Exemptions for SOEs from Distributing Dividends to the State⁵⁹
- Loans and Interest Forgiveness for SOEs⁶⁰
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment⁶¹
- Reduction in or Exception from Fixed Assets Investment Orientation Regulatory Tax⁶²
- Income Tax Benefits for Domestically-Owned Enterprises Engaged in R&D⁶³
- Preferential Income Tax Policy for Enterprises in the Northeast Region⁶⁴
- Stamp Exemption on Share Transfer Under Non-Tradeable Share Reform⁶⁵
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring⁶⁶
- VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund⁶⁷
- Subsidies for Development of Famous Export Brands and China World Top Brands⁶⁸
- State Key Technology Renovation Project Fund⁶⁹
- Grants for Energy Conservation and Emission Reduction⁷⁰
- Grants for Retirement of Capacity⁷¹
- Grants for Relocating Production Facilities⁷²
- Export Assistance Grants⁷³

⁵⁶ *Id.*

⁵⁷ See *Chlorinated Isos from the PRC*, and accompanying IDM at 14.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See *Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying IDM at 13.

⁶¹ See *Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32363 (June 8, 2010), and accompanying IDM at 14; see also *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) (*Passenger Tires from the PRC*), and accompanying IDM at 23.

⁶² See *New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010) (*Off-the-Road Tires from the PRC CVD Review Preliminary Results*), and accompanying IDM at "C. VAT and Import Duty Exemptions on Imported Material," (unchanged in *New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011) (*Off-the-Road Tires from the PRC CVD Review Final Results*)).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See *Chlorinated Isos from the PRC*, and accompanying IDM at 14.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for each of the AFA Companies to be 193.92 percent *ad valorem*.⁷⁴

B. Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁷⁵ The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.⁷⁶

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.⁷⁷ 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.⁷⁸

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.⁷⁹

In the absence of record evidence concerning the AFA Companies’ usage of the subsidy programs at issue due to their decision not to participate in the investigation, the Department has reviewed the information concerning PRC subsidy programs in other proceedings. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. The relevance of these rates is that they are actual calculated CVD rates for PRC programs, from which the AFA Companies could actually receive

⁷⁴ See Appendix.

⁷⁵ See SAA at 870.

⁷⁶ *Id.*

⁷⁷ *Id.* at 869-870.

⁷⁸ See section 776(d) of the Act.

⁷⁹ See, e.g., *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

a benefit.⁸⁰ Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

C. Application of AFA: Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

In its May 11, 2016 questionnaire response, Taigang stated that it was “unable to confirm a response at this time and have requested an extension to address the question as part of the scheduled May 18, 2016 to submit responses” for remaining companies.⁸¹ In response to this, the Department issued a letter to Taigang and stated that “[b]y requesting an extension in the response, Taigang has failed to submit a proper extension request. Any information submitted after May 11, 2016, regarding this program, will not be accepted by the Department. Any such information will be considered new information, and will be rejected as untimely.”⁸² However, in its May 18 Supplemental Questionnaire, Taigang submitted the Standard Questions and Income Tax Programs Appendices for this program.⁸³ This response was not filed on behalf of one of the three affiliates whose initial questionnaire deadline was May 18, 2016, but instead was filed on behalf of Taigang, whose response to this program was due on May 11, 2016. Therefore, the Department determined that this exhibit was an untimely new information submission, and rejected it from the record.⁸⁴

Additionally, the Department requested that the GOC complete the Standard Questions appendix and Tax Program appendix for this program. In its May 18, 2016 questionnaire response, the GOC acknowledged that at least one of the Taigang Companies used this program. However, the GOC stated that “[g]iven the limited timeframe and resource constraints, the GOC is unable to respond to the appendices for this program.”⁸⁵

Therefore, we find that necessary information is not available on the record, and that the Taigang Companies withheld information requested by the Department. In accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act, we determine that the use of facts otherwise available is warranted in calculating the Taigang Companies’ benefit from this program. Moreover, because the Taigang Companies failed to provide complete details regarding the usage of this program, despite the Department’s request that it do so, we find that the Taigang Companies failed to act to the best of their ability in providing requested information that was in their possession, and

⁸⁰ See, e.g., *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From the People’s Republic of China: Preliminary Affirmative Determination*, 80 FR 68843 (November 6, 2015) (*CORE from the PRC Preliminary Determination*); unchanged in *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) (*CORE from the PRC Final Determination*).

⁸¹ See Taigang’s May 11 QR at 23.

⁸² See Letter to Taigang, “Stainless Steel Sheet and Strip From the People’s Republic of China: Improperly Filed Extension Request,” May 17, 2016.

⁸³ See Taigang’s May 18 SQR at 25.

⁸⁴ See Letter to Taigang, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Rejection of New Factual Information,” June 3, 2016.

⁸⁵ See GOC’s May 18 QR at 66.

that the application of AFA is warranted, pursuant to section 776(b) of the Act, in determining the benefit.

Because the GOC has declined to provide information necessary for our analysis of whether this program provides a financial contribution and is specific, we find that the GOC has withheld information that was requested and has impeded our investigation, within the meaning of sections 776(a)(2)(A) and 776(a)(2)(C) of the Act. Further, the GOC has not cooperated to the best of its ability in responding to our request for information and, therefore, we find the use of AFA is warranted in determining the financial contribution and specificity of this program, pursuant to section 776(b) of the Act. Accordingly, relying on AFA, we are finding that this program confers a financial contribution and is specific for this preliminary determination. Since this indirect tax is provided for, or tied to, the capital structure or capital assets of a firm, the Department treated this tax as a non-recurring benefit.⁸⁶

Following our AFA hierarchy described above, we find that the Taigang Companies benefited from this program at the rate of 9.71 percent *ad valorem*, the highest rate determined for a similar program in a prior PRC CVD proceeding.⁸⁷

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 corroborate that information, to the extent practicable. To corroborate secondary information, the Department will examine the reliability and relevance of the information to be used, but need not prove that the selected facts available are the best alternative information.⁸⁸ In this case, the 9.71 percent rate for non-recurring indirect tax program is an appropriate rate to apply because it is a rate calculated in a CVD PRC final determination for a similar program based on the treatment of the benefit. Because the available record information regarding this subsidy could not be verified, the rate calculated in another proceeding provides the most reliable and relevant information about the government's practices regarding these kinds of programs. Many factors go into the calculation of a rate in any proceeding. When selecting an AFA rate, the Department must rely on the facts otherwise available about the impact of such factors in the case at hand given the unverified record evidence regarding the program. In the absence of verified information to control for a comparison of such factors between another case and the case at hand, the Department corroborated the rate selected to the extent practicable, *i.e.*, by relying on a rate calculated for a similar program in a prior proceeding pertaining to the PRC.⁸⁹

⁸⁶ See 19 CFR 351.524(b).

⁸⁷ See *Off-the-Road Tires from the PRC CVD Review Preliminary Results*, 75 FR at 64275; unchanged in *Off-the-Road Tires from the PRC CVD Review Final Results*.

⁸⁸ See SAA at 869-870.

⁸⁹ We are relying on a rate of 9.71 percent calculated for this program in *Off-the-Road Tires from the PRC CVD Review*. We have used this calculated rate as an AFA rate in numerous proceedings for this program. See, e.g., *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), and accompanying IDM at Attachment.

D. Application of AFA: Input Producers are “Authorities”

As discussed under the section “Programs Preliminarily Determined to be Countervailable,” the Department is investigating the provision of iron ore, coking coal, steam coal, nickel/nickel pig iron, and ferrochrome/chromium for LTAR by the GOC. We requested from the GOC information necessary for our analysis regarding the specific companies that produced these input products that the Taigang Companies purchased during the POI.⁹⁰ Specifically, we sought information from the GOC that would allow us to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.⁹¹

Regarding those companies classified by the GOC as privately held, in its initial questionnaire response of May 18, 2016, the GOC provided incomplete ownership information for many of the companies that produced the iron ore, coking coal, steam coal, nickel/nickel pig iron, and ferrochrome/chromium purchased by the Taigang Companies.⁹² While in most instances the GOC was able to trace the ultimate individual owners of the input providers, it provided only limited amounts of the requested information in the standard “input producer” appendix used to determine the extent of GOC control, if any, over the producers.⁹³ For example, it did not provide capital verification reports, articles of association, by-laws, and annual reports for the input producers.⁹⁴ Further, the GOC provided no information at all regarding the identification of owners, directors, or senior managers who may also be GOC or Chinese Communist Party (CCP) officials.⁹⁵ Nor did the GOC explain the efforts it undertook to try and obtain the requested information. Additionally, the GOC stated that “there is no central informational database to search for the requested information identifying any individual owners, members of the board of directors, or senior managers is a Government or CCP official, and the industry and commerce administration do not require the companies to provide such information. Therefore, the GOC cannot obtain the information requested by the Department.”⁹⁶

In addition to not providing all of the requested information regarding government and CCP officials, the GOC also declined to answer questions about the CCP’s structure and functions that are relevant to our determination of whether the producers of iron ore, coking coal, steam coal, nickel/nickel pig iron, and ferrochrome/chromium are “authorities” within the meaning of section 771(5)(B) of the Act. In its initial questionnaire response, the GOC objected to our questions, stating that the CCP, along with other related organizations, is not a government organization and cannot be compelled to provide the GOC with information.⁹⁷ We asked the GOC for a second time to provide this information, but it did not do so.⁹⁸

⁹⁰ See Initial Questionnaire at section II.

⁹¹ *Id.*

⁹² See GOC’s May 18 QR at Exhibits II.E.2.a.1-1, II.E.2.b.1-1, II.E.2.c.1-1, II.E.2.d.1-1, II.E.2.e.1-1.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See, e.g., GOC’s May 18 QR at 89.

⁹⁶ *Id.*

⁹⁷ *Id.*, at 80-90.

⁹⁸ See GOC’s June 23 SQR at 5.

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.⁹⁹ 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.¹⁰⁰ 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.¹⁰¹

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

For details on the calculation of the subsidy rate for the Taigang Companies, *see* “Provision of Inputs for LTAR.”

E. Application of AFA: Inputs are Specific

In response to our questions concerning specificity, the GOC contends that the provision of iron ore, nickel/nickel pig iron and ferrochrome/chromium is not specific, stating that the “GOC does not prepare official statistics regarding the industries in China that purchase iron ore, directly, nor does such statistics exist by standard industrial classification. In addition, to the best of the GOC’s knowledge, no iron ore producer compiles or reports its sales volume and value ‘by the

⁹⁹ See Memorandum, “Additional Documents and Benchmark Information for Preliminary Determination,” dated concurrently with this memorandum (Additional Documents Memorandum) at Attachments I (CCP Memorandum) and II (Public Body Memorandum).

¹⁰⁰ See, e.g., *High Pressure Steel Cylinders From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying IDM at 13.

¹⁰¹ Section 782(c)(1) of the Act states, “If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority of the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.” Furthermore, the Department’s questionnaire explicitly informs respondents that if they are unable to respond completely to every question in the attached questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, the respondents must notify the official in charge and submit a request for an extension of the deadline for all or part of the questionnaire response.

industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.”¹⁰² Additionally, the GOC states that suppliers of all three inputs are free to sell their product to any purchaser at any price, and that the GOC does not impose limitations on the consumption of these three inputs.¹⁰³ These contentions notwithstanding, for each of the LTAR programs discussed herein, the Department had also requested that the GOC “{p}rovide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.”¹⁰⁴ In the case of these three inputs, the GOC did not provide this requested information, as noted above. As in previous cases, we find the GOC’s assertions to be insufficient inasmuch as it has not provided relevant data regarding the industries that actually purchased the inputs or the volume and value of each industry’s respective purchases for the POI and the prior two years.¹⁰⁵ We requested that the GOC again submit this information in a supplemental questionnaire,¹⁰⁶ but it has not, instead stating that the GOC “does not prepare official statistics regarding the industries in China that purchase iron ore, nickel/nickel pig iron, and ferrochrome/chromium directly.”¹⁰⁷

Insofar as the GOC is claiming the data is unavailable, such a claim is in contrast to what the Department learned during the investigation of off-the-road tires. In that investigation, “the GOC provided information on the total production and consumption of natural and synthetic rubber in the PRC as well as the relative shares of such rubber produced by SOEs, produced by private Chinese companies, or imported.”¹⁰⁸ Moreover, the GOC has routinely provided data concerning the production of inputs by companies in which it maintains an ownership or management interest in other proceedings.¹⁰⁹ In the investigation of solar products, for example, the GOC provided such information for polysilicon, aluminum sections, and flat glass.¹¹⁰ In that investigation, the GOC stated that it gathered such information from the SSB; *e.g.*, “{t}he GOC provides the total output volume of polysilicon by companies in which the GOC maintains an ownership or management interest either directly or through other government entities in 2010,

¹⁰² See, *e.g.*, GOC’s May 18 QR at 99. The GOC filed a similar response for nickel and chromium as well. See GOC’s May 18 QR at 174 and 197.

¹⁰³ *Id.*

¹⁰⁴ See Initial Questionnaire at section III (page III-12).

¹⁰⁵ See, *e.g.*, *Utility Scale Wind Towers From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422 (June 6, 2012) (unchanged in *Utility Scale Wind Towers from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012)).

¹⁰⁶ See GOC’s June 10 SQR.

¹⁰⁷ See GOC’s June 23 SQR at 10-11.

¹⁰⁸ See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), and accompanying IDM at 11.

¹⁰⁹ See *Certain Crystalline Silicon Photovoltaic Products From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014) (*Solar Products Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at 14-15; see also *Countervailing Duty Investigation of 1,1,1,2-Tetrafluoroethane From the People’s Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Determination*, 79 FR 21895 (April 18, 2014), and accompanying PDM at 17 (unchanged in *Countervailing Duty Investigation of 1,1,1,2-Tetrafluoroethane From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 62594 (October 20, 2014)).

¹¹⁰ See *Solar Products Preliminary Determination*.

2011 and 2012 as maintained by SSB.”¹¹¹ It later elaborated that “{t}he SSB does not routinely gather information on the actual shareholders of companies. Instead, the SSB relies on the enterprises’ declaration and enterprise registration made with the authority for Industry and Commerce.”¹¹² It also provided a list of industry codes available in the SSB statistics system. The list includes “Manufacture of Rubber and Plastic Products” (e.g., synthetic and natural rubber), “Processing of Petroleum, Coking and Processing of Nuclear Fuel” (e.g., carbon black), and “Manufacture of Chemical Fibres” (e.g., nylon cord).¹¹³

During the verification of the solar products investigation, the GOC explained that the SSB industry codes are further broken down within its system into sub-codes for particular products and industry sub-divisions.¹¹⁴ All-in-all, the GOC explained, it maintains data for more than 360,000 enterprises on an annual basis,¹¹⁵ and the database viewed by the Department at verification included a column for shareholding information.¹¹⁶

Thus, it seems clear that the GOC, through the SSB or other means (e.g., industry associations) is able to report information concerning the production of a wide variety of inputs by companies in which it maintains an ownership or management interest.

Additionally, we requested that if the “GOC does not maintain this information for these industries, please explain the steps taken by the GOC to reach this conclusion. Document your responses.”¹¹⁷ In response, the GOC provided no explanation on the steps it took to determine that the SSB or other sources did not maintain this information.¹¹⁸

Consequently, in light of the GOC’s failure to provide necessary information, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.¹¹⁹ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. The GOC did not adequately answer the questions posed by the Department, nor did the GOC ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available.¹²⁰ In drawing an adverse inference, we find that the purchasers of iron ore,

¹¹¹ See Additional Documents Memorandum, at Attachment III (which places on the record of this investigation the GOC’s April 21, 2014 questionnaire response in the investigation of certain crystalline silicon photovoltaic products (solar products) from the PRC, at 130. The GOC made the same statements about aluminum sections and flat glass).

¹¹² *Id.*, at Attachment IV (which places on the record of this investigation the GOC’s July 29, 2014 questionnaire response in the investigation of solar products, at 2).

¹¹³ *Id.*, at exhibit S2-1.A.

¹¹⁴ *Id.*, at Attachment V (which places on the record of this investigation the Memorandum from Justin Neuman to Mark Hoadley, “Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China; Verification of the Questionnaire Responses Submitted by the Government of the People’s Republic of China,” October 3, 2014, at 8).

¹¹⁵ *Id.*, at Attachment VI (page 7).

¹¹⁶ *Id.*, at Attachment VI (page 11).

¹¹⁷ See GOC’s June 10 SQR.

¹¹⁸ *Id.*

¹¹⁹ See section 776(a)(2)(A) of the Act.

¹²⁰ See section 776(b) of the Act.

nickel/nickel pig iron and ferrochrome/chromium provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii) of the Act.

F. Application of AFA: Input Industry Distortions

In order to determine the appropriate benchmark with which to measure the benefit of inputs provided at LTAR under 19 CFR 351.511, the Department asked the GOC several questions concerning the structure of the industries for coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium (inputs used by the cooperative mandatory respondent, the Taigang Companies). Among these questions, we asked for information regarding the input industry in the PRC in the POI and the prior two years. We requested information on the number of producers, the total volume and value of PRC domestic consumption and production, the total volume and value of imports of the input, among other information. We also requested that the GOC indicate whether there were export quotas or export licensing requirements in place during the POI with regard to the input. In response, the GOC stated that it was either “still seeking information regarding the export licensing requirements on the input during the POI,” (steam coal, nickel/nickel pig iron and ferrochrome/chromium) or that the “GOC is still seeking information regarding the export quota on the coking coal during the POI” (coking coal).¹²¹ Additionally, the GOC reported export tariff rates for each input, ranging from three to twenty percent.¹²²

As an initial matter, the Department notes that it requested that the GOC provide responses to this information no later than May 18, 2016.¹²³ The Department explained to the GOC in the cover letter of the Initial Questionnaire that:

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

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

¹²¹ See, e.g., GOC’s May 18 QR at 123 and 173.

¹²² See GOC’s May 18 QR at 123, 147, 173, and 197.

¹²³ See Letter to the GOC, “Stainless Steel Sheet and Strip From the People’s Republic of China: Countervailing Duty Questionnaire Extension Request,” May 6, 2016.

In this particular case, while the GOC requested an extension on the Initial Questionnaire it received from the Department, it did not request additional time on May 18, 2016, to submit its responses to parts of the questionnaire that remained outstanding. Instead, the GOC simply stated that it would provide this requested information when it was available, effectively granting itself an indefinite extension to file the information without specifying when or to what extent it would be able to provide the information. The Department's regulations provided clear instructions on the form and manner which extension requests must take.¹²⁴ In any event, having filed an extension request earlier, the GOC was well aware of the need to file extension requests with the Department if it was unable to provide certain portions of the requested information within the allotted time. Furthermore, as explained in the cover letter, the GOC's failure to provide timely and complete responses and, if not, to file an extension request, could result in the application of facts available with adverse inferences.

In light of the GOC's failure to file an extension request to submit this information and, instead, attempt to grant itself an indefinite self-extension, we preliminarily find that the GOC has not cooperated to the best of its ability in responding to these input industry questions.¹²⁵ As a result, we are making an adverse inference within the meaning of section 776(b) of the Act. As AFA, the Department preliminarily determines that the domestic markets for these inputs are distorted through the intervention of the GOC, and is therefore relying on an external benchmark for determining the benefit from the provision of these inputs for LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

Regarding iron ore, the Department requested that the GOC provide, among other information, the "percentage of total volume and value of domestic production that is accounted for by companies in which the Government maintains some, but not a majority, ownership interest or some, but not a controlling, management interest, either directly or through other Government entities."¹²⁶ The GOC did not respond to this question, stating that it did not collect this information.¹²⁷ The Department preliminarily determines that the GOC's refusal to provide the information requested constitutes a lack of cooperation. The GOC has previously provided information from other government databases concerning the value and volume of production by enterprises producing input products.¹²⁸ Moreover, the Department has recently verified the operation of the GOC's new "Enterprise Credit Information Publicity System," established by the *Circular of the State Council on Printing and Issuing the Reform Proposals for the Registered Capital Registration System*.¹²⁹ The GOC explained to the Department that the new system, which went into effect in 2014, requires that the administrative authorities release detailed information of enterprises and other entities and is intended to bring clarity to companies

¹²⁴ See, e.g., 19 CFR 351.302.

¹²⁵ This is consistent with the Department's practice. See e.g., *CORE from the PRC Preliminary Determination*; unchanged in *CORE from the PRC Final Determination*.

¹²⁶ See GOC's May 18 QR at 95.

¹²⁷ *Id.*

¹²⁸ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review*; 2013, 80 FR 77318 (December 14, 2015), and accompanying IDM.

¹²⁹ See Additional Documents Memorandum at Attachment IX, at 7-8.

registered in the PRC.¹³⁰ The system is a national-level internal portal which permits the general public to access certain information regarding any PRC-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within the PRC have a profile in the system, regardless of whether they are private or an SOE. Thus we conclude that the necessary information detailing the GOC's minority ownership interests in iron ore producers is accessible to the GOC, and is apparently subject to public disclosure.¹³¹ Because the GOC failed to cooperate to the best of its abilities by refusing to provide the information requested, we preliminarily determine, as AFA, that the GOC's involvement in the iron ore industry through enterprises in which it owns an interest is significant, constituting one factor by which the GOC's control and distortion of the industry is demonstrated. The conclusion that the GOC's involvement in the iron ore industry through ownership in and control of suppliers/producers is supported by the overall record, such as the *Steel Plan* discussed below, demonstrating the strategic importance of the iron ore industry to the GOC's plans for its steel industry.

The information provided by the GOC indicates that the PRC produces 60 percent of the iron ore it consumes, and about 20 percent of domestic consumption is from companies the GOC identified as SOEs (*i.e.*, majority owned iron ore producers).¹³² The *Steel Plan* explains the importance of the industry to the GOC (a fact arguably established simply by the existence of an iron and steel plan in the first place). The plan states that the "mineral resources shall belong to the state. The state encourages large-scale iron and steel enterprises to carry out the exploration and development of such resources as iron mines."¹³³ This *Steel Plan* affirms the steel industry's (including stainless sheet and strip) strategic importance to the PRC's national economy. According to the *Steel Plan*, authorities are therefore encouraged to mine for iron ore for the benefit of steel producers, which are limited in number. The *Steel Plan* also indicates there are significant export controls: the "export of such preliminarily processed products as coke, iron alloy, pig iron, waste steel and steel base (ingot) with high energy-consumption and serious pollution shall be restricted and the tax refund for export of these products shall be decreased or canceled." The significance of this exclusion from export rebates is bolstered by the GOC's response, which indicates that there was a 10 percent export tariff on iron ore exported during the POI.¹³⁴ The denial of such an export rebate and presence of an export tariff deters the exportation of iron ore, diverting it to domestic consumption in downstream products such as stainless sheet and strip.

Thus, the totality of circumstances, including our inference as AFA that the GOC has a significant presence in the supply of iron ore consumed domestically, leads us to preliminarily determine that the domestic market for iron ore is distorted through the intervention of the GOC,

¹³⁰ *Id.*

¹³¹ The verification report notes that, relying on the new system, counsel for the GOC in the CORE from the PRC investigation was able to log into the portal and examine every supplier/producer reported by the mandatory respondent in that investigation. Counsel was able to review ownership information to determine whether the supplier/producer was public or private.

¹³² *Id.*

¹³³ See GOC's June 23 SQR at Exhibit SQ1-1.

¹³⁴ See GOC's May 18 QR at 98.

and we are therefore relying on an external benchmark for determining the benefit from the provision of iron ore for LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

G. Application of AFA: Provision of Electricity for LTAR

The GOC did not provide complete responses to the Department's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the 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 order for the Department to analyze the financial contribution and specificity of this program, we requested in our Initial Questionnaire that the GOC provide a detailed explanation of certain information for each province in which a respondent is located. In particular, we requested they explain: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories. In its initial questionnaire response, the GOC did not adequately address these questions.¹³⁵ Without the requested information, the Department determines as AFA that the unexplained differences in price schedules for electricity from province to province constitute regionally specific discounts provided to companies located in provinces with reduced tariff schedules compared to other provinces. The provision of such discounts based on region constitutes a financial contribution in the form of revenue forgone.

Specifically, the GOC did not explain how cost elements in the price proposals led to retail price increases, but stated, without any supporting documents or providing the relevant laws and regulations referenced, that "the {National Development and Reform Commission (NDRC)} should, according to relevant laws and regulations, adequately solicit the opinions from local authorities in the provinces, power grid and generation companies. For this purpose, the NDRC holds a series of conferences to solicit the opinions from all parties concerned. In these conferences, the impact of rising coal prices on the business operations of the power enterprises, the security of the power supply under such circumstances, and the matters in promoting energy conservation were researched, analyzed, and discussed."¹³⁶ The GOC did not provide any details on how much each of these factors weighed in its decision-making process, or the specifics on any of these conferences or research. Additionally, the GOC reported that

The cost elements that are considered are not derived from any complicated calculation, but instead are obtained directly from the data provided by the power generating companies and grid companies. Importantly, the price for fuel and coal, which are the main inputs to power generation, is completely determined by the market (including international market forces). The interests of the power generation, transmission and distribution enterprises are adequately considered, and the capacity of users and residents

¹³⁵ *Id.*, at 204-207.

¹³⁶ *Id.*, at 206.

is also taken into account. This makes the electricity rates fully reflective of the changes in the supply and demand of the market, and further the international commitments and government policies made by the GOC for energy conservation and emission reduction.”¹³⁷

The GOC provided this general theoretical outline of the cost elements, but provided no practical examples of their application in the provincial rates during the POI. Further, the GOC did not explain how the cost elements in the price proposals led to retail price increases for electricity for the provinces where the mandatory respondents are located.¹³⁸ We determine that the GOC’s refusal to provide the cost information requested, as outlined above, for this program is equivalent to a “non-response.”¹³⁹ The GOC refused to explain how increases in the cost elements in the price proposals led to retail price increases for electricity, including how these increases in the cost elements were derived and the sources for each of these listed cost elements, refused to detail the methodology used to calculate the cost element increases, and how all significant cost elements are accounted for within the province’s price proposal; and refused to respond to the Department’s request for each relevant province to explain 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. We have consistently found that a response to these questions is necessary for the Department to conduct its analysis on this program, and, as in other cases, the GOC has failed to provide such responses.¹⁴⁰ This is not a deficient response, but rather a failure even to attempt to provide information the Department deems necessary; a refusal apparently stemming from the GOC’s own beliefs that the requested information is not necessary.¹⁴¹

Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of a financial contribution and specificity and, thus, that the Department must rely on “facts available” in making our preliminary determination.¹⁴² Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. The GOC did not adequately answer the questions, nor did the GOC ask for additional time to gather and provide such information. As such, an adverse inference is warranted in the application of facts available.¹⁴³ In drawing an adverse inference, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. Because the GOC refused to provide information concerning the relationship (if any)

¹³⁷ *Id.*, at 207.

¹³⁸ *Id.*

¹³⁹ When a respondent, such as the GOC, does not respond to our questions, the Department is not required to issue deficiency questions under Section 782 of the Act. A respondent’s decision not to provide information is not a deficiency, but a failure to provide timely information in accordance with the Department’s prerogative to establish deadlines for the submission of information and to determine which information is relevant to its analysis.

¹⁴⁰ See, e.g., *CORE from the PRC Preliminary Determination*; unchanged in *CORE from the PRC Final Determination*.

¹⁴¹ *Id.*, at Comment 4. Additionally, in their May 18 QR at 205, the GOC states that it is “unable to provide them {price proposals} with this response. The GOC believes that sufficient information exists on the record for the Department to make a determination regarding this program without this requested information.”

¹⁴² See section 776(a)(2)(A) of the Act.

¹⁴³ See section 776(b) of the Act.

between provincial tariff schedules and cost, we also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.¹⁴⁴ The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* the “Provision of Electricity for LTAR” section.

H. Application of AFA: TISCO’s Reported Grants

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

Does the GOC (or entities owned directly, in whole or in part, by the GOC or any provincial or local government) provide, directly or indirectly, any other forms of assistance to producers or exporters of {stainless sheet and strip}? Please coordinate with the respondent companies to determine if they are reporting usage of any subsidy program(s). For each such program, please describe such assistance in detail, including the amounts, date of receipt, purpose and terms, and answer all questions in the **Standard Questions Appendix**, as well as other appropriate appendices attached to this questionnaire.¹⁴⁵

The GOC responded that it had cooperated with respect to the Department’s request, and that in the “absence of allegations and sufficient evidence in respect of ‘other’ subsidies, consistent with Article 11.2 and other relevant articles of the WTO Agreement on Subsidies and Countervailing Measures, no reply to this question is warranted or required.”¹⁴⁶ In a supplemental questionnaire, we again asked for information from the GOC regarding these grants. The GOC stated that “[w]ithout prejudice to the above objections, the GOC confirms that it has no comments on the other subsidies reported by the respondents, if any.”¹⁴⁷ Despite the Department’s clear request for information, the GOC provided no information.

Consequently, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.¹⁴⁸ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. The GOC did not adequately answer the questions, nor did the GOC ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available.¹⁴⁹ In drawing an adverse inference, we preliminarily find that these grants to TISCO constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act, and are

¹⁴⁴ See section 776(b)(4) of the Act.

¹⁴⁵ See Initial Questionnaire at II-13.

¹⁴⁶ See GOC’s May 18 QR at 213.

¹⁴⁷ See GOC’s June 23 SQR at 18.

¹⁴⁸ See section 776(a)(2)(A) of the Act.

¹⁴⁹ See section 776(b) of the Act.

specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. Consistent with prior cases, we will use the grant amounts reported by TISCO to determine if benefits exist for each grant.¹⁵⁰

X. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.¹⁵¹ The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.¹⁵² The Department notified the respondents of the 15-year AUL in the Initial Questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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

B. Attribution of Subsidies

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

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

¹⁵⁰ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying Issues and Decision Memorandum (Solar Cells IDM) at Comment 23.

¹⁵¹ See 19 CFR 351.524(b).

¹⁵² See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

Department's cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.¹⁵³

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.¹⁵⁴

The Taigang Companies

As discussed above, we selected Taigang as a mandatory company respondent. Taigang is a producer and exporter of subject merchandise. In its April 18, 2016 affiliation questionnaire response, Taigang reported that it would provide complete questionnaire responses for five cross-owned companies: Taigang Tianguan, Taigang Jingmi, Taigang Guomao, Taigang Wanbang, and Taigang Jinshu. The Department requested that Taigang provide complete questionnaire responses for Taigang Xinlei, TISCO Mining Branch and TISCO, which the company timely submitted. Taigang, either directly, or through its majority shareholder, TISCO, is the majority shareholder for each of these companies.¹⁵⁵ Because each of these companies are majority-owned by Taigang, or its majority shareholder, TISCO, they meet the definition of cross-ownership as described in the Department's regulations at 19 CFR 351.525(b)(6)(vi).

Taigang, Taigang Tianguan, and Taigang Jingmi are producers of subject merchandise.¹⁵⁶ Accordingly, we are attributing subsidies received by Taigang, Taigang Tianguan, and Taigang Jingmi to the combined sales of the three companies, excluding inter-company sales, in accordance with 19 CFR 351.525(b)(6)(ii). Taigang Guomao, Taigang Wanbang, Taigang Jingmi, and TISCO Mining Branch provide inputs for the production of subject merchandise.¹⁵⁷ We preliminarily determine that these inputs are primarily dedicated to the production of stainless sheet and strip in accordance with 19 CFR 351.524(b)(6)(iv). Therefore, we are attributing subsidies received by each of these three companies to the combined sales of the

¹⁵³ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

¹⁵⁴ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

¹⁵⁵ See Taigang April 18 Affiliation QR.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

company itself and the three producers of subject merchandise discussed above, excluding inter-company sales, in accordance with 19 CFR 351.525(b)(6)(iv). For subsidies received by TISCO, a holding company, we are attributing the benefits to the consolidated sales of the company itself and its subsidiaries in accordance with 19 CFR 351.525(b)(6)(iii).

Regarding Taigang Xinlei, the company had originally reported that it supplied lime to Taigang, but later corrected this fact, noting that in fact they did not supply Taigang with lime.¹⁵⁸ Based on record evidence,¹⁵⁹ we preliminarily determine that Taigang Xinlei is not an input provider to the Taigang Companies, and are excluding it from our analysis because it does not meet the requirements under our attribution rules under 19 CFR 351.525 for attribution of any subsidy benefits to the Taigang Companies.

Additionally, Taigang provided details of numerous other affiliated companies, none which meets the requirements under our attribution rules under 19 CFR 351.525 for attribution of any subsidy benefits to the Taigang Companies, *i.e.*, not PRC-registered holding companies or trading companies that export subject merchandise, or producers of subject merchandise or inputs used in the production of subject merchandise.

Ningbo Baoxin and Daming

As discussed above, we selected Ningbo Baoxin and Daming as mandatory company respondents. On May 2, 2016, we placed public information on the record and stated that this information indicated that Ningbo Baoxin is cross-owned with the following producers and exporters of subject merchandise pursuant to 19 CFR 351.525(b)(6)(vi): Baosteel Stainless Steel Co., Ltd, Baoshan Iron & Steel Co., Ltd., Baosteel Desheng Stainless Steel Co., Ltd., Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd.¹⁶⁰ Interested parties were given an opportunity to submit factual information to rebut, clarify, or correct the information submitted by the Department, but no party filed comments. The public information includes company overviews and articles which state that the companies are all part of the Baosteel Group.¹⁶¹

On June 13, 2016, we filed a memorandum on the record indicating that demonstrated that Daming and Tianjin Daming were the same company, and that we would apply the rate we determine for Daming to both Daming and Tianjin Daming.¹⁶² Interested parties were given an opportunity to submit factual information to rebut, clarify, or correct the information submitted by the Department, but no party filed comments.

Therefore, based on the facts on the record, pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily determine that Ningbo Baoxin is cross-owned with Baosteel Stainless Steel Co Ltd,

¹⁵⁸ *Id.* at 7, and Taigang's May 18 SQR at 1.

¹⁵⁹ See Taigang's June 27 SQR at 1 and Exhibit SQ2-1.1.

¹⁶⁰ See Memorandum, "Placing Baosteel Public Information on the Record," May 2, 2016.

¹⁶¹ *Id.* at Attachments.

¹⁶² See Memorandum, "Daming's Subsidy Rate," June 13, 2016.

Baoshan Iron & Steel Co, Ltd., Baosteel Desheng Stainless Steel Co., Ltd, Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd., and that Daming is cross-owned with Tianjin Daming. As a result, because Ningbo Baoxin and Daming are not cooperating in the investigation, we have applied AFA when assigning a rate for both companies and will apply the same rate to Baosteel Stainless Steel Co Ltd, Baoshan Iron & Steel Co, Ltd., Baosteel Desheng Stainless Steel Co., Ltd, Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd., and Tianjin Daming.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's exports or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in further detail in the Taigang Companies' Preliminary Analysis Memorandum, prepared for this investigation.¹⁶³

XI. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by the respondents from PRC policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies.¹⁶⁴ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Short-Term Renminbi-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark.¹⁶⁵ 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."¹⁶⁶

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.¹⁶⁷ Because of this, any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as

¹⁶³ See Memorandum, "Preliminary Determination Analysis for Shanxi Taigang Stainless Steel Co., Ltd.," dated concurrently with this memorandum (Taigang Companies' Preliminary Analysis Memorandum).

¹⁶⁴ See 19 CFR 351.524(b)(1).

¹⁶⁵ See 19 CFR 351.505(a)(3)(i).

¹⁶⁶ See 19 CFR 351.505(a)(3)(ii).

¹⁶⁷ See CFS IDM at Comment 10; *see also* Additional Documents Memorandum at Attachment VI.

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.¹⁶⁸

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and more recently updated in *Thermal Paper from the PRC*.¹⁶⁹ Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.¹⁷⁰ Beginning in 2010, however, the PRC is in the upper-middle income category and remained there from 2011 to 2014.¹⁷¹ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.¹⁷²

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

In each of the years from 2003-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real

¹⁶⁸ See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: *Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*), and accompanying IDM at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

¹⁶⁹ 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), and accompanying IDM (Thermal Paper IDM) at 8-10.

¹⁷⁰ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>; see also Memorandum, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).

¹⁷¹ *Id.*

¹⁷² 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 PDM at "Benchmarks and Discount Rates" (unchanged in *Shrimp from the PRC*).

interest rates, while weaker institutions meant relatively higher real interest rates.¹⁷³ For 2010, however, the regression does not yield that outcome for the PRC's income group.¹⁷⁴ 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 2001-2009.¹⁷⁵ First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.¹⁷⁶ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.¹⁷⁷

B. Long-Term Renminbi-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.¹⁷⁸

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.¹⁷⁹ Finally, because

¹⁷³ See Additional Documents Memorandum at Attachment 4; see also the Taigang Companies' Preliminary Analysis Memorandum; see also Interest Rate Benchmark Memorandum.

¹⁷⁴ See Interest Rate Benchmark Memorandum.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ See, e.g., Thermal Paper IDM at 10.

¹⁷⁹ See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying IDM at Comment 14.

these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.¹⁸⁰

C. Foreign Currency-Denominated Loans

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

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

D. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.¹⁸¹ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Taigang Companies’ Preliminary Analysis Memorandum.

E. Provision of Land-Use Rights for LTAR Benchmark

As explained in detail in previous investigations, the Department cannot rely on the use of so called “tier one” and “tier two” benchmarks described above to assess the benefits from the provision of land for LTAR in the PRC. Specifically, in *Sacks from the PRC*, the Department determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable “tier one” benchmarks exist.¹⁸² Furthermore, the Department also found that “tier two” benchmarks (world market prices that would be available to purchasers in the PRC) are not appropriate.¹⁸³ Accordingly, consistent with Department’s past practice, we are

¹⁸⁰ See Interest Rate Benchmark Memorandum.

¹⁸¹ See the Taigang Companies’ Preliminary Analysis Memorandum; see also Interest Rate Benchmark Memorandum.

¹⁸² See Additional Documents Memorandum at Attachment VIII.

¹⁸³ 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 *Laminated Woven Sacks From the People’s Republic of China: Final*

relying on the use of so called “tier three” benchmark for purposes of calculating a benefit for this program.

For this investigation, Petitioners submitted benchmark information to value land.¹⁸⁴ The Department is using this 2010 Thailand benchmark information, *i.e.*, “Asian Marketview Reports” by CB Richard Ellis (CBRE). We have relied upon this source for calculating land benchmarks in prior investigations.¹⁸⁵ We initially selected this information in the *Sacks from the PRC* investigation after considering a number of factors including national income levels, population density, and producers’ perceptions that Thailand is a reasonable alternative to the PRC as a location for Asian production.¹⁸⁶ We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to account for any countervailable land received by the Taigang Companies during the AUL of this investigation.¹⁸⁷

F. Input Benchmarks

We selected benchmarks for determining the benefit from the provisions of iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium at LTAR in accordance with 19 CFR 351.511. 19 CFR 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As discussed in the “Application of AFA: Input Industry Distortions” section, we are relying on “tier two” (world market) prices for the input benchmarks for these programs.

In the case of iron core, coking coal, and steam coal, the external benchmarks are publicly available information of world market prices derived from the Global Trade Atlas, as placed on the record by Petitioners.¹⁸⁸ The Taigang Companies submitted information from S&P Global Platts for use as a benchmark for coking coal and steam coal.¹⁸⁹ Petitioners note several

Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances, 73 FR 35639 (June 24, 2008) (*Sacks from the PRC*)).

¹⁸⁴ See Letter from Petitioners, “Countervailing Duty Investigation on Stainless Steel Sheet and Strip from the People’s Republic of China – Petitioners’ Submission of Factual Information to Measure Adequacy of Remuneration,” June 13, 2016.

¹⁸⁵ See Additional Documents Memorandum; *see also* Solar Cells IDM at 6 and Comment 11; *see also* *Passenger Tires from the PRC*.

¹⁸⁶ The complete history of our reliance on this benchmark is discussed in Solar Cells IDM. In that discussion, we reviewed our analysis from the *Sacks from the PRC* investigation and concluded the CBRE data were still a valid land benchmark.

¹⁸⁷ See the Taigang Companies’ Preliminary Analysis Memorandum.

¹⁸⁸ See Letter from Petitioners, “Countervailing Duty Investigation on Stainless Steel Sheet and Strip from the People’s Republic of China – Petitioners Submission of Factual Information to Measure Adequacy of Remuneration,” June 13, 2016 (Petitioners’ Benchmarks Submission).

¹⁸⁹ See Letter from Taigang, “Taigang’s Benchmark Submission Stainless Steel Sheet and Strip from the People’s Republic of China (C-570-043).” June 13, 2016 (Taigang’s Benchmark Submission).

concerns with this data source.¹⁹⁰ First, the data only contain series from a single country, and are therefore not indicative of world market prices. Second, the data series do not reflect actual transaction prices, and the prices may be adjusted subjectively by the company. Finally, there are no transaction volumes, which would prevent the Department from weight-averaging the different export pricing series provided by Taigang and Petitioners. For these reasons, we are using the Global Trade Atlas data provided by Petitioners as the external benchmarks for iron ore, coking coal and steam coal.

With respect to nickel, we are calculating monthly values by using a simple average of the monthly nickel data from the Global Trade Atlas placed on the record by Petitioners for HTS 7502.10,¹⁹¹ and the monthly average settlement prices for nickel as reported in the London Metal Exchange data placed on the record by Taigang.¹⁹² Regarding nickel pig iron, both Taigang and Petitioners note that it was invented by PRC steel producers who wanted a cheaper alternative to pure nickel, and that there are few sources of it outside of the PRC.¹⁹³ Taigang submitted shipping data for imports of nickel pig iron from Indonesia into India from EXIMPulse.com.¹⁹⁴ The HTS used for this data is 7201.50.90, and is for transactions from July 2015 through June 2016 (after the POI). As noted by Petitioners, “[g]iven the limited production and use of NPI {nickel pig iron} outside of China, however, NPI is not a widely traded global commodity, and the limited export data between two countries is not representative of a ‘world market price.’”¹⁹⁵ Due to these limitations, Petitioners suggest that because NPI has an average nickel concentration of 10 percent, we create a composite benchmark by using 10 percent of nickel under HTS 7502.10 to 90 percent pig iron under HTS 7201.10. These prices reflect the market value of each input commodity consumed in NPI production, and serve as a conservative estimate of the prices for NPI due to the exclusion of production costs beyond the primary inputs of nickel and pig iron. As discussed above, we are using a simple average of two data sources as the nickel benchmark. We have used this simple average to represent the nickel portion of the nickel pig iron benchmark (*i.e.*, 10 percent of the simple average nickel benchmark for the composite nickel pig iron benchmark). We have used this composite benchmark to value nickel pig iron.

With respect to ferrochrome/chromium, Petitioners submitted benchmark information from the Global Trade Atlas (for high carbon and low carbon ferrochrome only),¹⁹⁶ and Taigang submitted benchmark information from American Metal Market (chromium) and

¹⁹⁰ See Letter from Petitioners, “Countervailing Duty Investigation on Stainless Steel Sheet and Strip from the People’s Republic of China - Petitioners’ Submission to Rebut, Clarify, or Correct Factual Information Provided by Shanxi Taigang Stainless Steel Co., Ltd. to Measure Adequacy of Remuneration,” June 23, 2016 (Petitioners Rebuttal Benchmark Submission).

¹⁹¹ *Id.*

¹⁹² See Taigang’s Benchmark Submission at 4.

¹⁹³ *Id.*; see also Letter from Petitioners, “Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China – Petitioners’ Submission to Rebut, Clarify or Correct Factual Information on Nickel and Nickel Pig Iron to Measure Adequacy of Remuneration,” June 29, 2016 (Petitioners’ Nickel Rebuttal Submission).

¹⁹⁴ See Taigang’s Benchmark Submission at Attachment 7.

¹⁹⁵ See Petitioners’ Nickel Rebuttal Submission at 4.

¹⁹⁶ *Id.*

UNCOMTRADE (high carbon ferrochromium).¹⁹⁷ In their rebuttal benchmark comments, Petitioners submitted UNCOMTRADE data for “other” ferrochromium.¹⁹⁸ In accordance with 19 CFR 351.511(a)(2)(ii), when there is more than one commercially available world market price, the Department will average such prices to the extent practicable. For chromium, we are using the American Metal Market data provided by Taigang as the benchmark. For ferrochromium, we are weight-averaging the world market prices reported by Taigang and Petitioners as the benchmark. For any purchases reported as high carbon ferrochrome, we weight-averaged only the high ferrochrome data placed on the record by Petitioners with the high ferrochrome data placed on the record by Taigang.

XII. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined To Be Countervailable

1. Policy Loans to the Stainless Sheet and Strip Industry

Petitioners allege that policy banks and SOCBs in the PRC make loans to the stainless sheet and strip producers at preferential terms as a matter of government policy.¹⁹⁹ Petitioners contend that the GOC, through its constituent provinces and municipalities, has a policy in place to encourage and support the growth of specialty steel products such as stainless sheet and strip. Petitioners hold that the GOC and the SOCBs have lent significant sums of money to PRC steel producers as a means of advancing industrial policies that promote various steel industries including the stainless sheet and strip industry. The Department has also countervailed this program in previous investigations.²⁰⁰

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

Record evidence demonstrates that the GOC, through its directives, has highlighted and advocated the development of the stainless sheet and strip industry. At the national level, in the “*Steel and Iron Industry Development Policy, Order No. 35 of the National Reform and Development Commission*” (*Steel Plan*),²⁰¹ which was promulgated by the State Council in 2005, the GOC outlined objectives for the steel industry during the period 2006-2010. This plan affirmed the steel industry’s strategic importance to the PRC’s national economy and stressed the

¹⁹⁷ See Taigang’s Benchmark Submission.

¹⁹⁸ See Petitioners Rebuttal Benchmark Submission.

¹⁹⁹ See CVD Initiation Checklist at 6-7.

²⁰⁰ See, e.g., *Drawn Stainless Steel Sinks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum at 24-25.

²⁰¹ See GOC’s June 23 SQR at Exhibit SQ1-1.

need for “the sound development of the iron and steel industry.”²⁰² Article 25 of the *Steel Plan* specifically encouraged financial institutions to “comply with development policies for the iron and steel industry,” which includes steel smelting and steel rolling (*i.e.*, producers of stainless sheet and strip).²⁰³

The “*Twelfth Five-Year Plan Outline for the National Economic and Social Development of Shanxi Province*,” where several Taigang Companies are located, specifically notes that “we{Shanxi Province} should be oriented by large-scale enterprises, modernization of equipment, the layout of the base, and take mergers and acquisitions as a breakthrough, focus on stainless steel...strengthening the diversification of related industries, and actively promotion of industrial chain extension to raise the overall competitiveness of the metallurgical industry in our province.”²⁰⁴ The plan further states that the province will “accelerate the pace of consolidation and reorganization TISCO and steel enterprises in the province, focus on promoting the construction of TISCO Luliang steel base, Taiyuan stainless steel deep processing park. We must accelerate intensive metallurgical industry and the development of the Group.”²⁰⁵

More recently, the updated “*Iron and Steel Industry 12th Five-Year Plan*,” which covers 2011 through 2015, designates that “special steel” (*i.e.*, stainless sheet and strip) should be given developmental priority in the PRC.²⁰⁶ This plan requires that government entities “coordinate” policies to this end, “including fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, {and} environmental protection policy”²⁰⁷ Additionally, the *Specialty Steel Plan* also designates select types of stainless steel as critical for the development of PRC industries, including the nuclear power sector.²⁰⁸ To help companies meet these development goals, the GOC calls for preferential financing policies.²⁰⁹

The GOC implemented the “Decision of the State Council on Promulgating the Temporary Provisions on Promoting Industrial Structure Adjustment (No. 40 (2005))” (Decision 40) in order to achieve the objectives of the Eleventh Five-Year Plan.²¹⁰ Decision 40 references the “Directory Catalogue on Readjustment of Industrial Structure,” which outlines the projects which the GOC deems “encouraged,” “restricted,” and “eliminated,” and describes how these projects will be considered under government policies. For the “encouraged” projects, Decision 40 outlines several support options available to the government, including financing. The “Guidance Catalogue for the Industrial Structure Adjustment (Version 2011) (2013 Amendment)” (Guidance Catalogue) identifies stainless sheet and strip as “encouraged.”²¹¹ In addition to establishing eligibility for certain benefits from the central government, the Guidance

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ See GOC’s May 18 QR at Exhibit II-A.1.b-3.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at Exhibit II.A.1.c.

²⁰⁷ *Id.*

²⁰⁸ See GOC’s June 23 SQR at Exhibit SQ1-2.

²⁰⁹ *Id.*

²¹⁰ See GOC’s May 18 QR at Exhibit II.A.1.f.

²¹¹ *Id.* at Exhibit II.A.1.g.

Catalogue also gives provincial and local authorities the discretion to implement their own policies to promote the development of favored industries.

The GOC indicated that on January 1, 2013, the *Capital Rules for Commercial Banks (Capital Rules)* (provisional), as enacted by the China Banking Regulatory Commission (CBRC), went into effect.²¹² According to the GOC, these *Capital Rules* establish tight disciplines on loan management.²¹³ The GOC claims that these changes demonstrate substantial changes in the PRC's commercial banking sector.²¹⁴ However, in light of the *Law of the People's Republic of China on Commercial Banks (Banking Law's)* provision that banks should carry out their loan business "under the guidance of the state industrial policies," we find that these changes do not call into question the Department's prior findings regarding the PRC banking sector.²¹⁵ The GOC has cited certain specific regulatory initiatives concerning bank loan management and lending rate floors that the GOC has recently undertaken. However, insufficient time has elapsed to see clearly the definitive, *de facto* results of these incremental reforms and regulatory initiatives, nor does the record contain any such evidence. More importantly, even under the assumption that sufficient time might have elapsed, the GOC has offered no demonstration or evidence of how these incremental reforms and regulatory initiatives have fundamentally changed, or relate to fundamental changes in, (i) core features of the state commercial bank relationship and (ii) the economic and institutional roles of banks and the banking sector in the PRC. (The Department noted these features and roles in its analysis in *CFS from the PRC*.)²¹⁶ In the absence of any argument or evidence of such change, the Department sees no basis at this time to depart from its analysis of the PRC's banking sector.²¹⁷

The Taigang Companies reported having outstanding loans during the POI, which they provided in response to this program.²¹⁸ Therefore, on the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development of production of stainless sheet and strip through policy lending. The loans to stainless sheet and strip 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.²¹⁹ 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 certain enterprises including the stainless sheet and strip industry.

²¹² *Id.*, at 5 and Exhibit II.A.1.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ See Additional Documents Memorandum, at Attachment VII.

²¹⁶ See CFS IDM at Comment 10.

²¹⁷ See, e.g., *Aluminum Extrusions From the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015), and accompanying IDM at Comment 3.

²¹⁸ See Taigang's May 11 QR at 11-12 and Exhibit A-1.

²¹⁹ See section 771(5)(E)(ii) of the Act.

To calculate the benefit from this program, we used the benchmarks discussed under the “Subsidy Valuation Information” section.²²⁰ On this basis, we preliminarily determine a subsidy rate of 4.64 percent *ad valorem* for the Taigang Companies.

2. Export Seller’s Credits from State-Owned Banks

Petitioners maintain that the Export-Import Bank of China (ExIm Bank), as well as other SOCBs, provides support to exporters through a variety of means, including the export seller’s credit.²²¹ The GOC provided the “Interim Rules for the Export Seller’s Credit of Export-Import Bank of China,” which states in Article 4 that “[t]he project loan of the seller’s credit on exports refers to the special policy-based loan issued by the Export-Import Bank of China to the exporters for supporting the export of the complete equipment, ships, airplanes, communications satellites and the spare parts.”²²² As part of the application requirements, enterprises must have “[a]pproval files for the import-export operation right.”²²³ The Department has previously countervailed this program.²²⁴

The Taigang Companies reported having outstanding loans from the ExIm Bank during the POI, which were provided under this program.²²⁵ The Department has consistently found that the ExIm Bank is a government policy bank,²²⁶ and has frequently determined in prior proceedings that such banks are authorities that provide a financial contribution through the direct contribution of funds to respondents.²²⁷ We find that the loans provided by the ExIm Bank under this program constitute financial contributions under sections 771(5)(B)(i) and 771(5)(D)(i) of the Act. The loans also provide a benefit under section 771(5)(E)(ii) of the Act in the amount of the difference between the amounts the recipient paid and would have paid on comparable commercial loans. Finally, the receipt of loans under this program is tied to actual or anticipated exportation or export earnings and, therefore, this program is specific under to sections 771(5A)(A)-(B) of the Act.

To calculate the benefit under this program, we compared the amount of interest the Taigang Companies paid on the outstanding loans to the amount of interest the companies would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates

²²⁰ See 19 CFR 351.505(c).

²²¹ See CVD Initiation Checklist, at 11.

²²² See GOC’s May 18 QR, at Exhibit II.A.6.a.

²²³ *Id.*

²²⁴ See, e.g., *Passenger Tires from the PRC*, and accompanying IDM at 22.

²²⁵ See Taigang’s May 11 QR at 15 and Exhibit A-6.

²²⁶ See, e.g., *Certain Oil Country Tubular Goods From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009), and accompanying IDM at 12-13; see also *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin From the People’s Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 48810 (August 14, 2015), and accompanying PDM at 22; unchanged in *Certain Polyethylene Terephthalate Resin From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 81 FR 13331 (March 14, 2016), and accompanying IDM at 32.

²²⁷ See, e.g., *CORE from the PRC Final Determination*, and accompanying IDM at Comment 5.

described in the “Benchmarks and Discount Rates” section above. We divided the total benefit amount by the respective companies’ export sales during the POI.

On this basis, we preliminarily determine a subsidy rate of 0.74 percent *ad valorem* for the Taigang Companies.

3. Enterprise Income Tax Law, R&D Program

Under Article 30.1 of the Enterprise Income Tax Law of the PRC, which became effective January 1, 2008, companies may deduct R&D expenses incurred in the development of new technologies, products, or processes from their taxable income.²²⁸ Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree 512 of the State Council, 2007) provides that, if eligible research expenditures do not “form part of the intangible assets value,” an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.²²⁹ Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets costs.²³⁰ The Department has previously countervailed this program.²³¹ The Taigang Companies reported using this program during the POI.²³²

We preliminarily determine that this program constitutes a countervailable subsidy. 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). We also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D 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 the Taigang Companies, we treated the tax deduction as a recurring benefit, consistent with 19 CFR 351.524(c)(1).²³³ To compute the amount of the tax savings, we calculated the amount of tax each respondent 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 for each respondent, respectively.

On this basis, we preliminarily determine a subsidy rate of 0.34 percent *ad valorem* for the Taigang Companies.

²²⁸ See GOC’s May 18 QR at Exhibit II.C.2-1.

²²⁹ *Id.*, at Exhibit II.C.2-2.

²³⁰ *Id.*

²³¹ See, *e.g.*, *Passenger Tires from the PRC*, and accompanying IDM at 31.

²³² See Taigang’s May 11 QR at Exhibit C-2.

²³³ These credits can be for either expensed or capitalized R&D expenditures. If a credit is for capitalized expenditures (*e.g.*, the expenditures were made toward developing an “intangible asset” or patent), however, the 50 percent deduction is amortized across the useful life of the developed asset. Therefore, even credits for capitalized expenditures would be allocated over tax returns filed during a number of years and would thus be recurring. See *e.g.*, *Solar Products Preliminary Determination*, and accompanying PDM at 34-35.

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

Circular 37 exempts FIEs and certain domestic enterprises from VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed lists of non-eligible items, in order to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.²³⁴ As of January 1, 2009, the GOC discontinued VAT exemptions under this program, but companies can still receive import duty exemptions.²³⁵ The Department has previously found VAT and tariff exemptions under this program to confer countervailable subsidies.²³⁶ Over the AUL, the Taigang Companies reported receiving VAT and tariff exemptions under this program.²³⁷

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

Since this indirect tax is provided for, or tied to, the capital structure or capital assets of a firm, as reported by the Taigang Companies, the Department treated this tax as a non-recurring benefit and applied our standard methodology for non-recurring grants to calculate the subsidy rate.²³⁸ Specifically, where the benefits exceeded 0.5 percent of the relevant sales of that year, we allocated the amount of the VAT and/or tariff exemptions over the AUL.²³⁹ To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. In the years that the benefits received by each company under this program did not exceed 0.5 percent of relevant sales for that year, we expensed those benefits in the years that they were received, pursuant to 19 CFR 351.524(b)(2). We used the discount rates described in the section “Subsidies Valuation Information,” to calculate the amount of the benefit allocable to the POI. Those benefits expensed or allocated to the POI were then used as the basis for calculating the net subsidy rate by dividing the total POI benefit by the applicable denominator.

On this basis, we preliminarily determine a subsidy rate of 0.15 percent *ad valorem* for the Taigang Companies.

²³⁴ See GOC’s May 18 QR at 57.

²³⁵ *Id.*

²³⁶ See, e.g., *Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying IDM at VII.D; see also *Wire Decking from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32902 (June 10, 2010) and accompanying IDM at 25-27.

²³⁷ See Taigang’s May 11 QR at 22 and Exhibit D-1A and D-1B; see also Taigang’s May 18 SQR at 24 and Exhibit SQ1 D1.

²³⁸ See 19 CFR 351.524(b).

²³⁹ See 19 CFR 351.524(c)(2)(iii) and (d)(2).

5. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are determining, as AFA, that the Taigang Companies used this program during the POI.

Relying on AFA, we preliminarily determine that the exemptions are a financial contribution in the form of revenue foregone by the GOC pursuant to section 771(5)(D)(ii) of the Act. We also determine that the exemptions afforded by the program are specific under section 771(5A)(D)(i) of the Act because the program is limited to SOEs involved in asset acquisitions. Lastly, as AFA, we have determined that the Taigang Companies received a benefit from this program pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

On this basis, we preliminarily determine a subsidy rate of 9.71 percent *ad valorem* for the Taigang Companies.

6. Provision of Inputs for LTAR

a. Provision of Land to SOEs for LTAR

Petitioners alleged that producers of stainless sheet and strip benefited from the provision of land to SOEs for LTAR. As the Department has found in prior investigations, SOEs in the PRC can receive “allocated” land use rights, which are transferred from the government to an SOE for a small one-time charge and do not expire (in contrast to other types of land use rights in the PRC such as granted land use rights which may require the payment of additional fees from the land user to the government).²⁴⁰ Further, any fees charged for allocated land use rights are well below anything resembling a market-determined price.²⁴¹ The Taigang Companies reported their land-use rights purchases and leases over the AUL.²⁴²

TISCO stated that it received 41 distinct allocated land use rights in 2014.²⁴³ For this preliminary determination, we find that TISCO, an SOE, received allocated 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) of the Act because the enterprises receiving allocated land use rights are limited to a single group – SOEs.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act, we first multiplied the Thailand industrial land benchmarks discussed above under the “Benchmarks and Discount Rates” section, by the total area of TISCO’s land. We then subtracted the net price actually paid for the land to derive the total unallocated benefit. We next conducted the “0.5 percent test” of 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total

²⁴⁰ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360, 71368 (December 17, 2007).

²⁴¹ *Id.*

²⁴² See Taigang’s May 11 QR at Exhibit E-1; see also Taigang’s May 18 SQR at Exhibit SQ1-E1.

²⁴³ See Taigang’s June 27 SQR at 13.

unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales and that allocation was appropriate for TISCO's land purchases. We allocated the total benefit amounts across the terms of the land-use agreement, using the standard allocation formula of 19 CFR 351.524(d), and determined the amount attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section.²⁴⁴

On this basis, we preliminarily determine a subsidy rate of 1.63 percent *ad valorem* for the Taigang Companies.

b. Provision of Iron Ore, Coking Coal, Steam Coal, Nickel/Nickel Pig Iron and Ferrochrome/Chromium for LTAR

Petitioners alleged that the respondent received countervailable subsidies in the form of the provision of iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium for LTAR. We requested information from the GOC regarding the specific companies that produced these inputs that the Taigang Companies purchased during the POI in order to determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. The GOC provided information indicating several producers of these inputs are SOEs. We understand the GOC's classification of certain companies as SOEs to mean that those companies are majority-owned by the government. As explained in the Public Body Memorandum, majority-owned SOEs in the PRC possess, exercise, or are vested with governmental authority. The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector. Therefore, we preliminarily determine that these entities constitute "authorities" within the meaning of section 771(5)(B) of the Act and that the respondents received a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As described in the "Use of Facts Otherwise Available and Adverse Inferences" section, for the remaining producers, the GOC failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we determine as AFA that the remaining producers of iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium purchased by the Taigang Companies are "authorities" within the meaning of section 771(5)(B) of the Act and, as such, that the provision of iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Additionally, as discussed in the "Application of AFA: Inputs are Specific" section, the Department has determined as AFA that iron ore, nickel/nickel pig iron and ferrochrome/chromium for LTAR programs are specific in accordance with section 771(5A)(D)(iii)(I) of the Act. Regarding the provision of coking coal for LTAR, the GOC provided a list from 2013 that listed about 40 industries that use "coal," but did not list the industries that consumed the more specific "coking coal" only, which would presumably have

²⁴⁴ See the Taigang Companies' Preliminary Analysis Memorandum.

fewer industries which use it. We preliminarily determine the provision of coking coal for LTAR is specific under section 771(5A)(D)(iii)(I) of the Act because coking coal is provided to a limited number of enterprises or industries. Regarding the provision of steam coal for LTAR, the GOC provided the Annual Report on Coal Market Development of China, which stated that “steam coal is consumed in electricity generation, metallurgy, construction materials, the chemical industry, civilian use and in other industries. Each of these industries can be further broken down into subcategories. The consumption percentages of certain industries are as follows: Electricity 62.1%, Construction materials 21.0%, and Other industry 16.7% according to the report.” We preliminarily determine the provision of steam coal for LTAR is specific under section 771(5A)(D)(iii)(I) of the Act because steam coal is provided to a limited number of enterprises or industries, including the metallurgy industry, which would include stainless sheet and strip products.

Further, as AFA, we have determined that the domestic markets for iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium are distorted through the intervention of the GOC and are relying on an external benchmark for determining the benefit from the provision of these inputs at LTAR.

As discussed above, the Department is selecting for iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with the *CVD Preamble*. As explained in the Taigang Companies’ Preliminary Analysis Memorandum, 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 the inland freight charges that would be incurred to deliver the inputs to the Taigang Companies’ production facilities. We added import duties as reported by the GOC, and the VAT applicable to imports of the inputs into the PRC, also as reported by the GOC. 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 the Taigang Companies’ reported purchase prices for individual domestic transactions, including VAT and delivery charges.

Based on this comparison, we preliminarily determine that iron ore, coking coal, steam coal, nickel/nickel pig iron and ferrochrome/chromium were provided for LTAR and that a benefit exists for the Taigang Companies in the amount of the difference between the benchmark prices and the prices the Taigang Companies paid. We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the Taigang Companies’ Preliminary Analysis Memorandum.

On this basis, we preliminarily determine subsidy rates for the Taigang Companies of 8.39 percent *ad valorem* for iron ore; 4.98 percent *ad valorem* for coking coal; 4.05 percent *ad valorem* for steam coal; 6.96 percent *ad valorem* for nickel/nickel pig iron; and, 9.96 percent *ad valorem* for ferrochrome/chromium.

c. Provision of Electricity for LTAR

Petitioners alleged in the CVD Petition that the GOC, via the NDRC, uses preferential electricity rates as an industrial policy tool to support certain industries over others and that the Department has previously found this program to be countervailable.²⁴⁵

Based on the GOC's failure to provide information in its initial questionnaire response, as explained in the "Use of Facts Otherwise Available and Adverse Inferences" section, we are basing our determination regarding the GOC's provision of electricity, in part, on AFA. In a CVD proceeding, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, it is the Department's practice to find that a financial contribution exists under the alleged program and that the program is specific as AFA.²⁴⁶ However, where possible, the Department will rely on respondents' reported information to determine the existence and the amount of the benefit to the extent that such information is useable and verifiable. Thus, in measuring the benefit under this program, we relied on the usage information reported by the respondents in each instance. The Taigang Companies provided data on electricity consumed and electricity rates paid during the POI.²⁴⁷

As described above in detail, the GOC did not provide certain information requested regarding its provision of electricity to the Taigang Companies and, as a result, we determine as AFA that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. To determine the existence and the amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on the Taigang Companies' reported consumption volumes and rates paid. To calculate the electricity benchmark, in accordance with 19 CFR 351.511(a)(2), we selected the highest rates in the PRC for the user category of the respondents (*e.g.*, "large industrial users") for the non-seasonal general, peak, normal, and valley ranges, as provided in the electricity tariff schedules submitted by the GOC.²⁴⁸ 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.²⁴⁹ We compared the rates paid by the Taigang Companies' to the benchmark rates, which, as discussed above, are the highest rates charged in the PRC during the POI. We made separate comparisons by price category (*e.g.*, large industry peak, basic electricity, *etc.*) and voltage class (*e.g.*, 35kv). We multiplied the difference between the benchmark and the price paid by the consumption amount reported for

²⁴⁵ See CVD Petition at 14; *see also* CVD Initiation Checklist at 34-35.

²⁴⁶ See, *e.g.*, *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 79 FR 71093 (December 1, 2014), and accompanying PDM at 35 (unchanged in *Passenger Tires from the PRC*).

²⁴⁷ See Taigang's May 11 QR at Exhibit E-3A through Exhibit E-3F; *see also* Taigang's June 27 SQR at Exhibit SQ2-43.

²⁴⁸ See GOC's May 18 SQR at Exhibit II.E.3.d.

²⁴⁹ See "Application of AFA: Provision of Electricity for LTAR" section.

that month and price category. We then calculated the total benefit during the POI for the Taigang Companies by summing the difference between the benchmark prices and the prices paid by the Taigang Companies.

To calculate the subsidy rate, we divided the benefit amount by the appropriate total sales denominator, as discussed in the Taigang Companies' Preliminary Analysis Memorandum. On this basis, we preliminarily determine a subsidy rate of 5.75 percent *ad valorem* for the Taigang Companies.

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

1. Preferential Loans for State-Owned Enterprises (SOEs)
2. Preferential Loans for Key Projects and Technologies
3. Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified As "Honorable Enterprises"
4. Export Loans
5. Export Buyer's Credits
6. Export Credit Guarantees
7. Treasury Bond Loans
8. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
9. Debt-to-Equity Swaps
10. Equity Infusions
11. Exemptions for SOEs from Distributing Dividends
12. Loan and/or Interest Forgiveness for SOEs
13. Income Tax Reductions for High and New Technology Enterprises
14. Income Tax Reductions and Exemptions for HNTes in Designated Zones
15. Income Tax Deductions for Enterprises Engaged in Comprehensive Resource Utilization
16. Income Tax Deductions/Credits for Purchase of Special Equipment
17. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
18. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
19. Income Tax Benefits for Domestically-Owned Enterprises Engaging in Research and Development
20. Preferential Income Tax Policy for Enterprises in the Northeast Region
21. Stamp Tax Exemption on Share Transfer Under Non-Tradeable Share Reform
22. VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund
23. Subsidies for Development of Famous Brands and China World Top Brands
24. State Key Technology Project Fund
25. Grants for Energy Conservation and Emission Reduction
26. Grants for the Retirement of Capacity
27. Grants for Relocating Production Facilities
28. Export Assistance Grants

- 29. Grants to Baoshan
- 30. Grants to TISCO

TISCO reported that it received numerous grants from provincial and local governments that were not included in any of the programs under investigation. As noted above under “Application of Adverse Facts Available – TISCO’s Reported Grants,” the Department has determined that all these grants confer countervailable subsidies to TISCO. Using AFA, we are finding all grant programs provide financial contributions pursuant to section 771(5)(D)(i) of the Act and are specific within the meaning of section 771(5A)(D)(i) of the Act.

The Department finds that all these grants provide benefits in the amount of the grants provided, pursuant to 19 CFR 351.504(a). The Department is treating these grants as non-recurring subsidies, pursuant to 19 CFR 351.524(c). As such, the Department applied the “0.5 percent test” of 19 CFR 351.524(b) to each grant, individually, to determine whether it should be allocated. None of the grants received prior to the POI passed the 0.5 percent test, and all have been expensed to the year in which they were received.

XIII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.²⁵⁰ Case briefs may be submitted to Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.²⁵¹

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁵² This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.²⁵³ Hearing requests should contain the party’s name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties

²⁵⁰ See 19 CFR 351.224(b).

²⁵¹ See 19 CFR 351.309(c)(1)(i) and (d)(1).

²⁵² See 19 CFR 351.309(c)(2) and (d)(2).

²⁵³ See 19 CFR 351.310(c).

that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties should file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.²⁵⁴ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,²⁵⁵ on the due dates established above.

XIV. CONCLUSION

We recommend that you approve the preliminary findings described above.

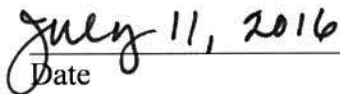
✓

Agree

Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



Date

²⁵⁴ See 19 CFR 351.303(b)(2)(i).

²⁵⁵ See 19 CFR 351.303(b)(1).

Appendix

AFA Rate Calculation

Preferential Loans and Interest Rates		RATE
1	Policy Loans to the Stainless Sheet and Strip Industry	4.64%
2	Preferential Loans for State-Owned Enterprises (SOEs)	
3	Preferential Loans for Key Projects and Technologies	10.54%
4	Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified As “Honorable Enterprises”	10.54%
5	Export Loans	1.10%
6	Export Seller's Credits	0.74%
7	Export Buyer's Credits	10.54%
8	Export Credit Guarantees	0.05%
9	Treasury Bond Loans	10.54%
10	Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program	10.54%
Debt-to-Equity Swaps, Equity Infusions, and Loan Forgiveness		
11	Debt-to-Equity Swaps	0.58%
12	Equity Infusions	0.58%
13	Exemptions for SOEs from Distributing Dividends	0.58%
14	Loan and/or Interest Forgiveness for SOEs	2.32%
Income Tax and Other Direct Tax Subsidies		
15	Income Tax Reductions for High and New Technology Enterprises	25.00%
16	Income Tax Reductions and Exemptions for HNTes in Designated Zones	
18	Income Tax Deductions for Enterprises Engaged in Comprehensive Resource Utilization	
19	Income Tax Deductions/Credits for Purchase of Special Equipment	
17	Enterprise Tax Law Research and Development Program	0.34%
20	Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	1.68%
21	Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax	9.71%
22	Income Tax Benefits for Domestically-Owned Enterprises Engaging in Research and Development	9.71%
23	Preferential Income Tax Policy for Enterprises in the Northeast Region	9.71%
Indirect Tax Programs		

24	Import Tariff and VAT Exemptions for Foreign-Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	0.15%
25	Stamp Tax Exemption on Share Transfer Under Non-Tradeable Share Reform	9.71%
26	Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring	9.71%
27	VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund	9.71%
LTAR Programs		
28	Provision of Land to SOEs for LTAR	1.63%
29	Provision of Iron Ore for LTAR	8.39%
30	Provision of Coking Coal for LTAR	4.98%
31	Provision of Steam Coal for LTAR	4.05%
32	Provision of Nickel/Nickel Pig Iron for LTAR	6.96%
33	Provision of Ferrochrome/Chromium for LTAR	9.96%
34	Provision of Electricity for LTAR	5.75%
Grant Programs		
30	Subsidies for Development of Famous Brands and China World Top Brands	0.58%
31	State Key Technology Project Fund	0.58%
32	Grants for Energy Conservation and Emission Reduction	0.58%
33	Grants for the Retirement of Capacity	0.58%
34	Grants for Relocating Production Facilities	0.58%
35	Export Assistance Grants	0.58%
36	Grants to Baoshan	0.00%
37	Grants to TISCO	0.00%
Total AFA Subsidy Rate:		193.92%