UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Investigation
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DATE: October 21, 2016

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

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China

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I. SUMMARY

The Department of Commerce (the "Department") determines that countervailable subsidies are being provided to producers and exporters of certain iron mechanical transfer drive components ("IMTDCs") from the People's Republic of China ("PRC") within the meaning of section 705 of the Tariff Act of 1930, as amended (the "Act").[1] Petitioner in this matter is TB Wood's Incorporated ("Petitioner"). The mandatory respondents are Powermach Import & Export Co., Ltd. (Sichuan) ("Powermach I&E")[2] and NOK (Wuxi) Vibration Control China Co. Ltd. ("NOK Wuxi"). Below is the complete list of issues in this investigation for which we received comments from interested parties.

Issues:

Comment 1:	Whether to Apply Total Adverse Facts Available ("AFA") with Respect to NOK Wuxi
Comment 2:	Whether to Apply Total AFA with Respect to the Powermach Companies
Comment 3:	Whether to Apply AFA or facts available to Purchases of Pig Iron and Ferrous Scrap

[1] *See also* section 701(f) of the Act.
[2] Powermach I&E is cross-owned with three other entities that participated in this proceeding: Sichuan Dawn Precision Technology Co., Ltd. ("Dawn Precision"), Sichuan Dawn Foundry Co. Ltd. ("Dawn Foundry"), and Powermach Machinery Co. Ltd. ("Powermach Machinery"). We collectively refer to these four companies as "Powermach" or the "Powermach Companies." During the period of investigation ("POI"), the Powermach Companies were cross-owned with a fifth company, Zhejiang Cenfit Machinery Co., Ltd. ("Cenfit"). As discussed below in Comment 6, Cenfit did not participate in this proceeding.

Comment 4:	Whether to Apply AFA with Respect to the Program Titled "Value-Added Tax ("VAT") and Import Tariff Exemptions for Imported Equipment"
Comment 5:	Whether to Revise the Total AFA Rate Calculated in the Preliminary Determination
Comment 6:	Whether to Recalculate the Neutral Facts Available Rate Applied to Cenfit
Comment 7:	Whether to Revise the Benchmark for Pig Iron and Ferrous Scrap
Comment 8:	Whether to Exclude VAT from the Less than Adequate Remuneration ("LTAR") Benchmarks
Comment 9:	Whether to Revise the Calculation of Benefits from the Land for LTAR Program
Comment 10:	Whether to Revise the Inland Freight Costs Included in Input Benchmarks
Comment 11:	Whether to Correct Ministerial Errors
Comment 12:	Whether Producers of Pig Iron and Ferrous Scrap are "Authorities"
Comment 13:	Whether Inputs for LTAR are Specific
Comment 14:	Whether to Use Tier One Benchmarks for LTAR Programs
Comment 15:	Whether the Provision of Electricity for LTAR is Countervailable
Comment 16:	Whether the GOC Provided Policy Loans During the POI
Comment 17:	Whether the Department Properly Investigated Uninitiated Programs
Comment 18:	Whether the Department Should Find that the Program Titled "Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment" has been Terminated
Comment 19:	Whether Baldor Electric Company (Canada) Should Receive the All-Others Rate

II. BACKGROUND

A. Case History

On October 28, 2015, the Department received a countervailing duty ("CVD") petition concerning imports of IMTDCs from the PRC, filed in proper form by Petitioner.[3] On November 17, 2015, the Department initiated the CVD investigation of IMTDCs from the PRC.[4] Powermach I&E and NOK Wuxi accounted for the largest volume of exports of the merchandise under consideration during the period of investigation ("POI"), and these companies were selected as mandatory respondents.[5]

On December 18, 2015, the Department issued a CVD questionnaire to the Government of the PRC ("GOC").[6] On January 4, 2016, NOK Wuxi filed its affiliated companies questionnaire

[3] *See* "Petition for the Imposition of Countervailing Duties on Imports of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China," dated October 28, 2015 ("Petition").
[4] *See Certain Iron Mechanical Transfer Drive Components From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 80 FR 73722 (November 25, 2015) ("*Initiation Notice*").
[5] *See* "Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Respondent Selection," dated December 16, 2015 ("Respondent Selection Memorandum").
[6] *See* Countervailing Duty Questionnaire from the Department to Ms. Liu Fang, First Secretary, Embassy of the People's Republic of China, Washington, D.C., dated December 18, 2015 ("Initial Questionnaire").

response,[7] and on January 11, 2016, Powermach filed its affiliated companies questionnaire response.[8] On February 1, 2016, NOK Wuxi filed its response to the Department's Initial Questionnaire,[9] and on February 5, 2016, Powermach filed its response to the Initial Questionnaire.[10] The GOC filed its Initial Questionnaire response on February 5, 2016.[11] Respondents and the GOC filed responses to the Department's supplemental questionnaires on March 4, March 7, March 8 and March 23, 2016.[12]

On March 2, 2016, Petitioner and Powermach submitted proposed benchmark prices for use in calculating benefits under the alleged subsidy programs.[13] On March 11, 2016, Petitioner and Powermach submitted pre-preliminary comments.[14] On March 14, 2016, Petitioner and Powermach submitted benchmark rebuttal filings.[15] On March 24, 2016, Petitioner and Powermach submitted additional benchmark responses, as requested by the Department.[16] On March 24, 2016, Petitioner also filed a request that the Department align the final determination

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[7] *See* Submission from NOK Wuxi, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Affiliated Companies Response," dated January 4, 2016 ("NOK Wuxi ACQR").

[8] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Submission of the Response to the Affiliated Company Questionnaire," dated January 11, 2016. ("Powermach ACQR").

[9] *See* Submission of NOK Wuxi, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Sections II and III response," dated February 1, 2016 ("NOK Wuxi IQR").

[10] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Section III Questionnaire Response," dated February 5, 2016 ("Powermach IQR").

[11] *See* Letter from the GOC to the Secretary of Commerce, "Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC Initial Response" dated February 5, 2016 ("GOC IQR").

[12] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Section III Supplemental Questionnaire Response," dated March 4, 2016 ("Powermach SQR"); Submission of NOK Wuxi, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Response to the Department's Supplemental Questionnaire," dated March 3, 2016 and March 7, 2016 ("NOK Wuxi SQR"); Submission of GOC, "Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC First Supplemental Response," dated March 8, 2016 ("GOC SQR"); Submission of GOC, "Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC Second Supplemental Response," dated March 23, 2016 ("GOC Second SQR").

[13] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Benchmark Submission," dated March 2, 2016 ("Powermach Benchmark Submission"); Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Benchmark Submission," dated March 2, 2016 ("Petitioner Benchmark Submission").

[14] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Pre-Preliminary Determination Comments," dated March 11, 2016 ("Petitioner's Pre-Prelim Comments"); Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Prepreliminary Comments," dated March 14, 2016 ("Powermach Pre-Prelim Comments").

[15] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Benchmark Rebuttal Comments," dated March 14, 2016 ("Powermach Benchmark Rebuttal"); Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Rebuttal Information to Powermach's Benchmark Submission," dated March 14, 2016 ("Petitioner Benchmark Rebuttal").

[16] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Response to Department's March 22, 2016 Memorandum," dated March 24, 2016; Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Additional Benchmark Information," dated March 24, 2016.

of this CVD investigation with the companion antidumping investigation of IMTDCs from the PRC.[17]

On April 11, 2016, the Department issued its *Preliminary Determination* in this matter.[18] In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on Petitioner's request,[19] we aligned the final CVD determination in this investigation with the final determination in the antidumping duty investigation of IMTDCs from the PRC.

On March 30, 2016, prior to the *Preliminary Determination*, Petitioner filed an amendment to the scope of the investigation to exclude certain finished torsional vibration dampeners ("TVDs"), as defined in the amended scope.[20] Petitioner noted that it was considering a potential additional exclusion to the scope to cover certain parts of TVDs.[21] Also on March 30, 2016, NOK Wuxi notified the Department of its intent to withdraw from this investigation, contingent on the Department's acceptance and inclusion of Petitioner's amendment to the scope.[22] Because Petitioner's proposed scope amendment was filed two days before the due date for the *Preliminary Determination*, the Department did not have sufficient time before the fully extended scheduled preliminary signature date to consider this proposed amendment to the scope. However, the Department subsequently evaluated the exclusion request and preliminarily determined that TVDs were properly excluded.[23] In response, on April 19, 2016, NOK Wuxi notified the Department of its withdrawal from this investigation.[24]

From April 26, 2016 through April 29, 2016, Department officials conducted verification of Powermach's questionnaire responses. On May 6, 2016, Powermach submitted exhibits from the Department's verification.[25] On May 11, 2016, Petitioner and Powermach requested that the Department hold a hearing.[26] On August 29 and 30, 2016, both parties withdrew their hearing

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[17] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination," dated March 24, 2016 ("Petitioner Alignment Request").

[18] *See Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components From the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 21316 (April 11, 2016) ("*Preliminary Determination*") and accompanying Preliminary Decision Memorandum ("PDM"); *see also* Memorandum, "Countervailing Duty Investigation of Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination Analysis for Powermach I&E," dated April 1, 2016 ("Preliminary Analysis Memorandum").

[19] *See* Petitioner Alignment Request.

[20] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Amendment to the Scope," dated March 30, 2016.

[21] *Id.*

[22] *See* Submission of NOK Wuxi, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Withdrawal from Investigation," dated March 30, 2016 ("NOK Wuxi Letter of Intent to Withdraw").

[23] *See* Memorandum from Abdelali Elouaradia to Christian Marsh, "Certain lron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Regarding Exclusion of Certain Finished Torsional Vibration Dampers," dated April 8, 2016.

[24] *See* Letter from NOK Wuxi to the Secretary of Commerce, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Withdrawal from Investigations," dated April 19, 2016 ("NOK Wuxi Withdrawal Letter").

[25] *See* Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Verification Exhibits," dated May 6, 2016 ("Verification Exhibits").

[26] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Request for a Hearing," dated May 11, 2016; Submission of Powermach I&E, "Certain Iron

requests.[27] On June 17, 2016, the Department issued its verification report.[28] On July 5, 2016, Petitioner, Powermach, the GOC and Baldor Electric Company Canada filed case briefs in this matter.[29] On July 11, 2016, Petitioner, Powermach and the GOC submitted rebuttal briefs.[30]

The "Analysis of Programs" and "Subsidies Valuation" sections below describe the subsidy programs and the methodologies used to calculate the subsidy rates for our final determination. Based on our verification findings, we made certain modifications to the *Preliminary Determination*, which are discussed below under each program. For details of the resulting revisions to the Department's rate calculations resulting from those modifications, *see* the Final Analysis Memorandum.[31] We recommend that you approve the positions we describe in this memorandum.

B. Period of Investigation

The POI for which we are measuring subsidies is January 1, 2014 through December 31, 2014.

III. SCOPE OF THE INVESTIGATION

The final version of the scope, reflecting the changes referenced in the "SCOPE COMMENTS" section, below, appears in Appendix II of the accompanying *Federal Register* notice.

Mechanical Transfer Drive Components from the People's Republic of China: Hearing Request," dated May 11, 2016; Submission of GOC, "Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC Request to Participate in Hearing, if Requested," dated May 11, 2016.

[27] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Withdrawal of Hearing Request," dated August 29, 2016; Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Withdrawal of Hearing Request," dated August 30, 2016.

[28] *See* Memorandum to File, "Verification Report of Powermach Import & Export Co., Ltd. (Sichuan), Sichuan Dawn Precision Technology Co., Ltd., Sichuan Dawn Foundry Co. Ltd., and Powermach Machinery Co. Ltd.," dated June 15, 2016 ("Verification Report").

[29] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Case Brief of TB Wood's Incorporated," dated July 5, 2016 ("Petitioner Brief"); Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Case Brief," dated July 5, 2016 ("Powermach Brief"); Submission of GOC, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: GOC Case Brief," dated July 5, 2016 ("GOC Brief"); Submission of Baldor, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Case Brief of Baldor Electric Company Canada," dated July 5, 2016 ("Baldor Brief").

[30] *See* Submission of Petitioner, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Rebuttal Brief of TB Wood's Incorporated," dated July 11, 2016; Submission of Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Rebuttal Brief," dated July 11, 2016; Submission of GOC, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: GOC Rebuttal Brief," dated July 11, 2016.

[31] *See* Memorandum from Robert Galantucci to Robert Bolling, "Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Powermach Final Analysis Memorandum," dated October 21, 2016 ("Final Analysis Memorandum").

IV. SCOPE COMMENTS

As noted in the corresponding *Federal Register* notice, for a summary of the product coverage comments and rebuttal responses submitted to the record of this final determination, and the Department's accompanying discussion and analysis of all comments timely received, see the Department's Final Scope Decision Memorandum.[32]

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

On October 25, 2007, the Department published its final determination on coated free sheet paper from the PRC.[33] In *CFS from the PRC*, the Department found that:

> . . . given the substantial differences between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.[34]

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.[35] Furthermore, on March 13, 2012, Public Law 112-99 was enacted, which confirms that the Department has authority to apply the CVD law to countries designated as non-market economies under section 771(18) of the Act, such as the PRC.[36] The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[37]

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.[38]

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[32] *See* Memorandum, "Antidumping Duty Investigations of Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China and Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Scope Decision Memorandum for the Final Determinations," ("Final Scope Decision Memorandum") dated concurrently with this final determination.

[33] *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 ("Coated Paper IDM") at Comment 6.

[34] *Id*.

[35] *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.

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

[37] *See* Public Law 112-99, 126 Stat. 265 §1(b).

[38] *See* CWP IDM at Comment 2.

VI. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

The Department has made no changes to the allocation period used in the *Preliminary Determination* and no issues were raised by interested parties in case briefs regarding the allocation period. For a description of the allocation period and the methodology used for this final determination, *see* the *Preliminary Determination*.[39]

B. Attribution of Subsidies

The Department has made no changes to the methodologies used in the *Preliminary Determination* for attributing subsidies. For a description of the methodology used for this final determination, *see* the Final Analysis Memorandum.[40]

C. Denominators

In accordance with 19 CFR 351.525(b), the Department considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales, or portions thereof. As a result of verification and the comments received, we have revised the sale values for the Powermach Companies. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs are described in the Final Analysis Memorandum.

VII. BENCHMARKS AND DISCOUNT RATES

The Department has made changes to our benchmarks based on comments from interested parties,[41] and has made no changes to the discount rates used in the *Preliminary Determination*. For a description of the benchmarks and discount rates used for this final determination, *see* the Final Analysis Memorandum.

VIII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

The Department relied on "facts otherwise available," including AFA, for several findings in the *Preliminary Determination.*[42] The Department continues to rely on partial AFA with respect to its treatment of the following programs: Electricity for LTAR,[43] Provision of Pig Iron and Ferrous Scrap for LTAR,[44] Powermach's Receipt of Grants,[45] and Land for LTAR.[46] The

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[39] *See* PDM at 6-7.
[40] *See* Memorandum from Robert Galantucci to Robert Bolling, "Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Powermach Final Analysis Memorandum," dated October 21, 2016 ("Final Analysis Memorandum").
[41] *See* Comments 7 and 8, below.
[42] *See* PMD at 15-20.
[43] *See* Comment 15.
[44] *See* Comments 12-14 (addressing "authority" status of input producers (pig iron/ferrous scrap), the specificity of inputs for LTAR programs (pig iron/ferrous scrap), and market distortion (ferrous scrap).
[45] *See* PDM at 28-29; *see also* Comment 17.

Department also continues to apply total AFA to the companies that failed to respond to the Department's quantity and value ("Q&V") questionnaire.[47]

The Department continues to rely on facts available to calculate a rate for Cenfit; however, its calculation of this rate has been modified since the *Preliminary Determination* to eliminate averaging Powermach's rates with that of NOK Wuxi, as discussed in Comment 6.

Additionally, in this final determination, the Department has relied on AFA to determine the countervailing duty rate for NOK Wuxi.[48] NOK Wuxi ceased participation in this investigation immediately following issuance of the *Preliminary Determination*.[49] Pursuant to sections 776(a)(2)(C) and (2)(D) of the Act, when an interested party significantly impedes a proceeding and/or provides information that cannot be verified, the Department uses facts otherwise available to reach its determination. As discussed in Comment 1, we determine that NOK Wuxi significantly impeded the proceeding and provided information that could not be verified. Further, pursuant to section 776(b) of the Act, we find that NOK Wuxi failed to cooperate by not acting to the best of its ability when it declined to continue participating in the investigation prior to verification of its questionnaire responses, for the reasons discussed in Comment 1. Accordingly, the application of AFA is warranted. The Department's calculation of the total AFA rate is presented in Attachment 1.

IX. ANALYSIS OF PROGRAMS

A. Programs Determined To Be Countervailable and Used by Powermach

1. Policy Loans to the IMTDCs Industry

The GOC and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has not modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.[50] Therefore, the only modification to the final program rate is the incorporation of Powermach's revised denominators.

Powermach I&E: 0.79 percent *ad valorem*

2. Provision of Inputs for LTAR

a. Provision of Pig Iron for LTAR

The GOC, Powermach and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*. Specifically, the Department revised its benchmark calculation to exclude certain ocean freight data points as aberrational.[51]

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[46] *See* PDM at 29-31; *see also* Comment 9.
[47] *See* PDM at 15-20.
[48] *See* Comment 1.
[49] *See* Section titled "Case History"; *see also* Comment 1.
[50] *See* Comment 16.

Therefore, the final program rate reflects modifications to the Department's benchmark calculation, the correction of a ministerial error, and the incorporation of Powermach's revised denominators.[52]

Powermach I&E: 0.88 percent *ad valorem*

b. Provision of Ferrous Scrap for LTAR

The GOC, Powermach and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*. Specifically, the Department revised its benchmark calculation to exclude certain ocean freight data points as aberrational.[53] Therefore, the final program rate reflects modifications to the Department's benchmark calculation, the correction of a ministerial error, and the incorporation of Powermach's revised denominators.[54]

Powermach I&E: 5.94 percent *ad valorem*

c. Provision of Electricity for LTAR

The GOC, Powermach and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has not modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.[55] Therefore, the only modifications to the final program rate are the incorporation of Powermach's revised denominators and the minor corrections accepted at verification.

Powermach I&E: 0.99 percent *ad valorem*

d. Provision of Land-Use Rights for LTAR in Jiangsu and Sichuan Provinces

Powermach and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*. Specifically, the final program rate reflects the Department's reliance on government certificates to calculate the land-area and the incorporation of Powermach's revised denominators.[56]

Powermach I&E: 4.16 percent *ad valorem*

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[51] *See* Comment 7.
[52] *See* Comments 7 and 11.
[53] *See* Comment 7.
[54] *See* Comments 7 and 11.
[55] *See* Comment 15.
[56] *See* Comment 9.

3. Import Tariff and VAT Exemptions for Foreign-Invested Enterprises ("FIEs") and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Petitioner and the GOC submitted comments in their case briefs regarding this program. As explained below, the Department has not modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.[57] Therefore, the only modification to the final program rate is the incorporation of Powermach's revised denominator.

Powermach I&E: 0.01 percent *ad valorem*

4. Preferential Tax Rate for Companies in the Western Development Area

The GOC and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has not modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.[58] Therefore, the only modification to the final program rate is the incorporation of Powermach's revised denominator.

Powermach I&E: 2.15 percent *ad valorem*

5. Reported Grants

The GOC and Petitioner submitted comments in their case briefs regarding this program. As explained below, the Department has not modified its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.[59] Therefore, the only modification to the final program rate is the incorporation of Powermach's revised denominator.

Powermach I&E: 1.71 percent *ad valorem*

B. Programs Determined To Be Not Used by, or Not to Confer a Measurable Benefit to, Powermach during the POI

1. Treasury Bond Loans or Grants
2. Preferential Loans for Key Projects and Technologies
3. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
4. Foreign Trade Development Fund Grants
5. Export Assistance Grants
6. Export Interest Subsidies
7. Subsidies for Development of "Famous Brands" and China World Top Brands
8. Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands
9. Funds for Outward Expansion of Industries in Guangdong Province
10. Provincial Fund for Fiscal and Innovation Technologies

[57] *See* Comment 4.
[58] *See* Comment 17.
[59] *See* Comment 17.

11. State Special Fund for Promoting Key Industries and Innovation Technologies
12. Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers
13. Grants for Antidumping Investigations
14. Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology
15. Shandong Province's Environmental Protection Industry Research and Development Funds
16. Waste Water Treatment Subsidies
17. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
18. Technology to Improve Trade Research and Development Fund
19. Provision of Water for LTAR
20. Provision of Land to SOEs for LTAR
21. Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
22. Tax Offsets for Research and Development under the EITL
23. Income Tax Reductions for Export-Oriented FIEs
24. Income Tax Benefits for FIEs Based on Geographic Locations
25. Local Income Tax Exemption and Reduction Programs for "Productive" FIEs
26. Tax Offsets for Research and Development by FIEs
27. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
28. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
29. Preferential Income Tax Policy for Enterprises in the Northeast Region
30. Forgiveness of Tax Arrears For Enterprises Located in the Old Industrial Bases of Northeast China
31. VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment
32. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program
33. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment[60]

X. ANALYSIS OF COMMENTS

Comment 1: Whether to Apply AFA with Respect to NOK Wuxi

Petitioner's Comments

- Prior to the *Preliminary Determination*, mandatory respondent NOK Wuxi submitted a letter indicating its intent to withdraw from the proceedings, contingent on the Department's exclusion of particular merchandise from the scope of this investigation.[61] After issuance of the *Preliminary Determination*, and prior to verification, NOK Wuxi withdrew from the proceedings.[62]

[60] For the reasons stated in Comment 18, the Department has modified its analysis with respect to this program.
[61] *See* NOK Wuxi Letter of Intent to Withdraw.
[62] *See* NOK Wuxi Withdrawal Letter.

- By withdrawing from the proceedings, NOK Wuxi significantly impeded the investigation, failed to cooperate to the best of its ability, and prevented the Department from verifying its submissions.
- Given NOK Wuxi's failure to participate in this proceeding, the Department should apply a total AFA rate to the company.

GOC's Rebuttal Comments

- The Department has no lawful or factual basis to apply total AFA to NOK Wuxi.

Department's Position:

We agree with Petitioner. 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.[63]

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 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 timely manner."[64] 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."[65]

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 with independent sources that are reasonably at

[63] 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 antidumping 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.

[64] *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) and accompanying Issues and Decision Memorandum at 7.

[65] 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.

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."[66] The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.[67] 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.[68] However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.[69]

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, 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 section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[70]

Consistent with section 776(d) of the Act and our established practice, when choosing a rate to apply as AFA, we select the highest calculated rate for the same or similar program.[71] When selecting rates, we first determine if there is an identical program in the investigation and, if so, use the highest calculated rate for the identical program (excluding zero rates). If there is no identical program with a rate above zero in the investigation, we then determine if an identical program was examined in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding rates that are *de minimis*).[72] If no identical program exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country, and apply the highest calculated rate for the similar/comparable program.[73]

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[66] SAA at 870.
[67] *Id*.
[68] *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).
[69] *See* SAA at 869-870.
[70] *See* section 776(d)(3) of the Act.
[71] *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) ("*Essar Steel*") (upholding "hierarchical methodology for selecting an AFA rate").
[72] *See Pre-Stressed Concrete Steel Wire Strand from China, Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) ("*PC Strand*") and accompanying Issues and Decision Memorandum ("Strand IDM") at 13.
[73] *See* Shrimp IDM at 13-14.

For the purposes of this final determination, we are applying AFA with respect to NOK Wuxi. NOK Wuxi was selected as a mandatory respondent in this investigation. NOK Wuxi initially participated in this investigation, and responded to a number of the Department's questionnaires. However, immediately prior to the Department's issuance of its *Preliminary Determination*, NOK Wuxi submitted a statement indicating its intent to withdraw from this investigation, conditional on the Department's exclusion of finished TVDs from the scope of the investigation.[74] Once the Department preliminarily indicated that TVDs would be excluded,[75] NOK Wuxi notified the Department that it was ceasing its participation in this investigation.[76] Given that the Department must verify a respondent's submissions in order to rely upon those submissions in making its final determination in an investigation,[77] and NOK Wuxi's indication that it would not participate in the Department's verification of NOK Wuxi's submissions, we find that NOK Wuxi provided information that could not be verified under section 776(a)(2)(D) of the Act. Further, by indicating its unwillingness to submit to a required verification, NOK Wuxi significantly impeded this investigation under section 776(a)(2)(C) of the Act. Accordingly, the application of facts otherwise available is appropriate. Further, we determine that given the above facts, NOK Wuxi failed to cooperate with the Department to the best of its ability, warranting the application of AFA under section 776(b)(1) of the Act.

For the above reasons, we find that the application of AFA is warranted for NOK Wuxi for the final determination. The Department's calculation of NOK Wuxi's total AFA rate, which similarly applies to those companies that did not respond to the Department's initial Q&V questionnaire,[78] is presented in Attachment 1 and discussed further in Comment 5.

Comment 2: Whether to Apply AFA with Respect to the Powermach Companies[79]

Petitioner's Comments

- In its initial questionnaire, the Department directed the Powermach Companies to provide FOB sales figures for each year of the average useful life period. In a supplemental questionnaire, the Department requested that the Powermach Companies confirm that the sales figures reported were accurate. In response, Powermach indicated that the sales values were properly reported.
- At verification, Powermach presented corrections with respect to the sales figures submitted to the Department. The corrections indicate that the previous sales figures were not properly reported, despite the company's earlier statements to the contrary. Powermach knew, or should have known, that the sales values were not properly reported.

[74] *See* NOK Wuxi Letter of Intent to Withdraw.
[75] *See* Memorandum from Abdelali Elouaradia to Christian Marsh, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated May 31, 2016.
[76] *See* NOK Wuxi Withdrawal Letter.
[77] *See* section 782(i)(1) of the Act.
[78] *See* PDM at 15-20.
[79] The parties' comments on this issue, and the Department's related analysis, rely heavily on business proprietary information ("BPI"). Accordingly, further discussion of Comment 2 is contained in the Department's Final Analysis Memorandum.

- Prior to verification, the Department requested that Powermach confirm the accuracy of its sales figures, and Powermach did so. Accordingly, the Department should not accept the revised sales values Powermach provided at verification as minor corrections.[80] By accepting revised sales figures at verification, Petitioner was unable to fully review and comment on the figures.
- Even if the Department accepts revised sales figures for Powermach, the documentation on the record still raises questions regarding the company's method of reporting sales and expenses.[81]
- The Department should determine that the sales information provided by Powermach I&E was not verifiable. By providing data at verification, Petitioner and the Department were unable to fully review the data.
- The record suggests that the reported sales figures for the three production companies (*i.e.*, Dawn Precision, Dawn Foundry and Powermach Machinery) are not accurate.[82] These deficiencies were not fully addressed in the companies' pre-verification corrections submitted to the Department.
- As a result of the deficiencies in the Powermach Companies' reporting of their sales figures, the Department should apply total AFA. Alternatively, the Department should apply AFA by using the lowest reported sales value for any year within the average useful life ("AUL") period as the denominator in calculating each company's subsidy rate(s).

Powermach's Rebuttal Comments

- Application of AFA is inappropriate. There is no evidence missing from the record and no evidence that would support a finding that Powermach failed to cooperate. Nor is there any evidence that Powermach withheld requested information, failed to meet deadlines, significantly impeded the investigation, or provided unverifiable information.
- The Department properly accepted Powermach's revised sales figures as minor corrections given the small magnitude of the changes relative to the overall sales values.
- The Department verified the sales data for Powermach and found no discrepancies.
- Petitioner's assertion that the sales figures for Dawn Precision, Dawn Foundry and Powermach Machinery are improperly reported is entirely speculative.
- Furthermore, the purported discrepancies raised by Petitioner would not have a material impact on any of the calculations performed by the Department. Petitioner's attempt to elevate routine minor corrections to a level requiring the application of full AFA disregards the appropriate legal standard in this proceeding.

[80] *See* Petitioner Brief at 11. Petitioner also asserts that it is not clear that the Department accepted these corrections as minor. However, the Department indicated in the Verification Report that it accepted all minor corrections presented. *See* Verification Report at 2.
[81] *See* Petitioner Brief at 13-14.
[82] *Id*. at 15.

Department's Position:

We agree with Powermach. Accordingly, the Department has not applied AFA with respect to Powermach's sale figures, and has relied instead on the sales data provided by Powermach to the Department, including the minor corrections accepted at the start of verification.[83]

As an initial matter, we disagree with Petitioner's assertion that the Department should not have accepted modifications to Powermach I&E's figures as minor corrections at verification. Although it is true that Powermach I&E's initially reported sales figures contained deficiencies, and that these deficiencies were not corrected at the earliest opportunity afforded to the company, the errors were identified by the company and presented to the Department at the beginning of the verification process. The Department's verification outline instructed Powermach I&E that: "{i}f you find minor errors in the responses provided by the Powermach Companies while you prepare for verification, please provide the following at the outset of verification: (1) a list of the errors; (2) original documentation to show the corrections; and (3) a chart that shows the magnitude of changes to quantitative data."[84] Powermach I&E provided the information requested.

After reviewing the magnitude of the difference between Powermach I&E's initially-reported data and the revised sales figures, the Department determined that it was appropriate to accept these figures.[85] This is consistent with Department practice.[86] The Department must determine on a case-by-case basis whether corrections submitted as pre-verification corrections are minor. In the instant case, the Department determined to accept Powermach I&E's minor corrections and had the opportunity to examine the data and assess its credibility.[87]

Petitioner raises similar concerns regarding the sales values for Dawn Precision, Dawn Foundry and Powermach Machinery. For the same reasons as discussed above with regard to Powermach I&E, the Department determines that it was appropriate to accept changes to the companies' sales figures as minor corrections. Petitioner's additional critiques regarding the parties' sales figures are speculative, and therefore provide an insufficient basis to apply AFA.[88]

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[83] *See* Verification Report at 2-3 and 7-10.
[84] *See* Letter from the Department to Powermach, "Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Verification Outline for Powermach I&E," dated April 15, 2016 ("Verification Outline") at 2.
[85] *See* Verification Report at 2.
[86] *See, e.g., Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012) and accompanying Issues and Decision Memorandum at Comment 19 (noting that the Department accepted adjusted sales figures that were presented at the beginning of verification); *see also 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 Issues and Decision Memorandum ("CORE IDM") at "Subsidies Valuation Information: Denominators" (noting that the Department incorporated changers to sales values as a result of verification).
[87] *See* Verification Exhibits at Exhibit 1; *see also* Verification Report at 2.
[88] However, record evidence indicates that minor adjustments must be made to the sale figures for two years; accordingly, we made these adjustments. *See* Final Analysis Memorandum at Section V. These adjustments did not impact the Department's calculations of subsidy rates for any of the Powermach Companies.

Because the Department's discussion of this issue relies heavily on BPI, we have included portions of this discussion in our Final Analysis Memorandum issued concurrently with this decision.

Comment 3: Whether to Apply AFA or FA to Purchases of Pig Iron and Ferrous Scrap[89]

Petitioner's Comments

- Since the Department's *Preliminary Determination*, information has come to light that demonstrates that Powermach has not been forthcoming with the Department regarding its reported input purchases. Specifically, in the corresponding antidumping duty investigation, the Department preliminarily applied partial AFA with respect to Powermach's reporting of its input consumption; this development calls into question the accuracy of Powermach's reporting in this proceeding.
- The verification exhibits and accounting records on the record in this countervailing duty proceeding similarly indicate that Powermach may have failed to properly report its input purchases.
- The Department should rely on AFA and assign Powermach a rate of 22.32 percent for the pig iron for LTAR and ferrous scrap for LTAR programs, based on the subsidy rate calculated for a respondent using a similar program in a previous proceeding.

Powermach's Rebuttal Comments

- Petitioner's arguments regarding pig iron are predicated on new factual information that was submitted after the deadline for factual information had passed. Therefore, Petitioner's allegations in its case brief regarding Powermach's pig iron and scrap purchases should be disregarded in full.[90]
- Petitioner's assertions regarding Powermach's reporting of pig iron purchases are based on a preliminary, pre-verification finding in another segment (*i.e.*, the parallel antidumping investigation). The Department's finding in the parallel antidumping investigation is legally irrelevant here.
- During verification in this countervailing duty proceeding, the Department did not find discrepancies between the input purchase records and Powermach's submissions. The Department found no evidence of the issues raised by Petitioner during its verification.[91]
- The arguments made by Petitioner with respect to input purchases are nothing more than allegations that revolve around differences of opinion on translations. Nothing in Powermach's questionnaire responses, or observed by the Department at verification, lends support to Petitioner's allegations.[92]

<u>Department's Position</u>:

We agree with Powermach. As an initial matter, it is the Department's longstanding practice to treat each proceeding independently from other proceedings, and to base its findings in a given

[89] The parties' comments on this issue, and the Department's related analysis, rely heavily on BPI. Accordingly, further discussion of Comment 3 is contained in the Department's Final Analysis Memorandum.
[90] *See* Powermach Rebuttal Brief at 12-13.
[91] *Id*. at 13.
[92] *Id*. at 14.

segment solely on the facts on the record of that segment.[93] Accordingly, regardless of the Department's determination in a parallel proceeding, our determination here must be based upon record evidence in this proceeding.[94]

We examined the evidence on the record of this proceeding regarding Powermach's purchases of pig iron and ferrous scrap. As part of this process, the company provided supporting documentation for select input purchases, and we confirmed that the documentation was consistent with the purchase figures reported in Powermach's input purchase template.[95] Also, at verification, we reconciled the total reported purchase values with the company's accounting records, and found no discrepancies or other information that undermined Powermach's submissions to the Department.[96]

As Petitioner asserts, there appear to be inconsistent translations contained in Powermach's records.[97] Petitioner also suggests that certain accounting codes refer to materials different from those specified by Powermach's translation. However, we have determined that, when balanced with the Department's verification of Powermach's submissions to the Department, there is insufficient record evidence supporting Petitioner's argument to warrant applying AFA to Powermach's purchases of pig iron and/or ferrous scrap.

Because the Department's discussion of this issue relies heavily on BPI, we have included portions of this discussion in our Final Analysis Memorandum issued concurrently with this decision.

Comment 4: Whether to Apply AFA with Respect to the Program titled "VAT and Import Tariff Exemptions for Imported Equipment"

Petitioner's Comments

- Neither the GOC nor Powermach properly provided information concerning Powermach's usage of this program.[98]
- In response to the Department's initial questionnaire, Powermach indicated that it did not benefit from this program. However, subsequently it did acknowledge receiving benefits, but still did not provide a full response. Specifically, Powermach only provided invoices related to the equipment purchases and a photocopy of the Certificate for Duty exemption for Imports and Exports.[99]

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[93] *See, e.g., Certain Steel Threaded Rod from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2013-2014*, 80 FR 26222 (May 7, 2015) and accompanying Issues and Decision Memorandum at "Application of Facts Available and Use of Adverse Inference."

[94] Powermach also asserts that Petitioner cites to new factual information, namely Chinese translations for the names of certain materials. *See* Powermach Rebuttal at 12-13. However, in its brief, Petitioner cites to a submission that that was redacted in line with the Department's instructions. *See* Petitioner Brief at 21-23. Accordingly, Petitioner's argument now relies on information contained in verification exhibits and a preliminary finding of the Department, neither of which constitute new factual information.

[95] *See* Verification Report at 11.

[96] *Id.*

[97] *See, e.g.*, Verification Exhibit 17 at 7, 56, 135 and 160.

[98] *See* Petitioner Brief at 26-27.

[99] *Id.*

- The Department also requested that the GOC provide information on Powermach's usage of this program, and the GOC simply directed the Department to the responses provided by Powermach.[100]
- Typically, when the GOC does not properly respond to an inquiry from the Department, the Department will apply AFA to determine that the subsidy program in question is a financial contribution and is specific. However, under some conditions, the Department will also apply AFA with respect to benefit. In particular, the Department will apply AFA with respect to benefit when the non-cooperating government is in a position to verify a respondent's usage of a program, but refuses to do so.[101]
- Given the limited information on the record concerning this program, the Department was unable to properly verify Powermach's usage. The information provided by Powermach did not allow the Department to confirm that there were no additional purchases – beyond those identified by Powermach – that received exemptions under this program.[102]
- The Department's examination of equipment purchases during verification does not confirm that Powermach fully reported all purchases that might have implicated this program.[103]
- As AFA, the Department should apply to Powermach the highest margin it has calculated for this program in a prior countervailing duty proceeding.[104]

Powermach's Rebuttal Comments

- As Petitioner acknowledges, Powermach responded to the Department's questions regarding usage of this program.[105]
- The Department examined the accounting systems for each of the Powermach Companies and did not note any discrepancies with the information reported. Simply because the accounting system did not contain all the information requested by the Department, that does not render the Powermach Companies' responses incomplete.[106]
- The Department determined that it would not verify the GOC. Accordingly, the Department appropriately relied on the usage data provided by the Powermach Companies.[107] Additionally, although the GOC's information was not verified, the information was fully verifiable.[108]

GOC's Rebuttal Comments

- Contrary to Petitioner's assertions, the GOC provided a significant amount of information concerning the program titled "VAT and Import Tariff Exemptions for Imported Equipment." The GOC confirmed usage by the respondents, provided a detailed description of the program, and submitted the relevant governing regulations.[109]

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[100] Petitioner Brief at 27-28.
[101] *Id.* at 25-26.
[102] *Id.* at 30.
[103] *Id.* at 31.
[104] *Id.*
[105] *See* Powermach Rebuttal Brief at 15.
[106] *Id.* at 16.
[107] *Id.* at 16-17.
[108] *Id.*
[109] *See* GOC Rebuttal Brief at 3.

- Given that the Department opted not to verify the information provided by GOC, the Department must assume for the purposes of its determination that the factual statements of the GOC are accurate.[110]
- The Department's verification strategy of further examining various equipment purchases to ensure the completeness of Powermach's response was an appropriate method of verification.[111]
- The Department should not penalize Powermach simply because its accounting system does not record benefits under this program.[112]

Department's Position:

We agree with Powermach. Although Powermach initially failed to report receiving benefits under this program, it did respond to the Department's questions in a supplemental questionnaire regarding this program.[113] At verification, the Department confirmed the extent to which the Powermach Companies benefited pursuant to this program.[114]

We disagree with Petitioner's argument that the Department should apply AFA for this program because the GOC failed to adequately respond to the Department's inquiry. In CVD proceedings, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers/exporters. As Petitioner notes, when the government fails to provide requested information concerning alleged subsidy programs, the Department has in the past found, as AFA, that a financial contribution exists under the alleged program and that the program is specific.[115] However, the Department will normally rely on the respondent's records to determine the existence and amount of any benefit, to the extent that those records are usable and verifiable.[116] In the instant case, we found that the Powermach Companies' records were usable and verifiable. Accordingly, we relied on the Powermach Companies' records to determine the extent of the benefit received under this program.[117] Moreover, although the GOC did not provide detailed data on usage, it did state in its initial response which of the respondents received benefits under the program.[118]

We note that, as Petitioner asserts, the Department will sometimes require a government to provide usage data. This is true where the government is the only party that is positioned to provide the data, such as in *Solar Cells*, where the Department was unable to obtain and verify

[110] GOC Rebuttal Brief at 4-5.
[111] *Id.* at 5.
[112] *Id.*
[113] *See* Powermach SQR at 10, 44 and 58 and Exhibits 14.1, 14.2 and 25.
[114] *See* Verification Report at 20-21.
[115] *See Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010) and accompanying Issues and Decision Memorandum ("Bricks IDM") at Comment 12.
[116] *Id.*
[117] *See* Verification Report at 21-22.
[118] *See* GOC IQR at 17.

information on usage absent full participation by the GOC.[119] However, in the instant case, we were able to obtain verifiable usage information from the Powermach Companies.

Powermach provided information to support the value of the reported import duty exemptions.[120] For selected equipment acquisitions, we confirmed the value of the equipment and tracked the recording of such equipment in Powermach's books and records.[121] To assess the completeness of Powermach's reporting of these purchases, we examined the electronic accounting system.[122] Company officials identified the accounts in which they record equipment acquisitions. While examining these accounts, the Department selected a number of high-value equipment purchase entries for further inspection. We then obtained details from Powermach personnel concerning the manufacturer of the subject merchandise. Additionally, at verification, we confirmed that each of the selected entries related to merchandise obtained from a domestic supplier, and that the subject equipment would, therefore, not be an imported product that qualifies under the VAT and tariff exemption for imported equipment.[123] Thus, although VAT and import tariff exemptions are not directly recorded in a dedicated account in the companies' accounting system, the Department nonetheless took steps to examine the completeness of the company's reporting.

Moreover, during the course of verification, the Department found no evidence that Powermach failed to properly report its receipt of benefits pursuant to this program. Accordingly, for the final determination, the Department has not applied AFA with respect to this program.

Comment 5: Whether to Revise the Total AFA Rate Calculated in the Preliminary Determination

Petitioner's Comments

- To select the appropriate total AFA rate, in the *Preliminary Determination* the Department followed its normal practice of relying on the highest above *de minimis* rate calculated for the identical program in the subject proceeding, the highest rate calculated for the identical program in another proceeding, or the highest rate calculated for a similar/comparable program in another CVD proceeding concerning the same country.
- The Department should apply total AFA to both mandatory respondents, Powermach and NOK Wuxi. If the Department applies total AFA to both respondents, there will no longer be individually-calculated rates for any of the programs initiated upon. Therefore, for each program, the Department must identify the highest rate calculated for the program (or a similar program) in another PRC CVD proceeding, and include such rates in the total AFA rate.

[119] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China*, 77 FR 63788 (October 17, 2012) ("*Solar Cells*") and accompanying Issues and Decision Memorandum at Comment 18 ("Solar Cells IDM").
[120] *See* Verification Report at 21; *see also* Verification Exhibits 13-15.
[121] *See* Verification Report at 21; *see also* Verification Exhibits 13-15.
[122] *See* Verification Report at 21.
[123] *Id.* at 21.

Powermach's Rebuttal Comments

- There are no grounds for the application of total AFA to Powermach.[124]

GOC's Rebuttal Comments

- The facts do not support the Department's application of total AFA to Powermach and NOK Wuxi.
- In determining the total AFA rate, the Department followed its normal practice.
- Furthermore, the AFA rates suggested by Petitioner cannot be corroborated.

Department's Position:

The Department agrees with Petitioner, in part. Specifically, the Department agrees that application of total AFA to NOK Wuxi is appropriate because NOK Wuxi withdrew its participation in the proceeding and its submissions were not verified.[125] However, the Department does not agree with Petitioner that application of total AFA to Powermach is warranted for the reasons discussed in Comments 2 and 3, above. Accordingly, the Department has continued to apply its standard approach to selecting the total AFA rate, as it did in the *Preliminary Determination*.[126]

For programs for which we have calculated a rate above zero in this proceeding, we have incorporated these calculated rates into the total AFA rate. For programs for which no calculated rate from this proceeding is available, the Department has relied on rates calculated in prior CVD cases involving the same country and the same (or a similar) program.[127] The Department has applied the total AFA rate to the non-participating parties, *i.e.*, NOK Wuxi and the parties that did not respond to the Department's Q&V questionnaire.

For the final determination, we have made changes to the program-specific rates calculated in the *Preliminary Determination* and have made adjustments to the total AFA rate to reflect these changes.[128] The revised AFA calculation is contained in Appendix 1.

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[124] *See* the summary of Powermach's arguments relating to Comments 2 and 3, above.
[125] *See* Comment 1, above.
[126] *See* PDM at 14-20. The Department's calculation of the AFA rate, which incorporates changes discussed in this memorandum, is attached as Appendix I.
[127] *See, e.g.*, Shrimp IDM at 13; *see also Essar Steel*, 753 F.3d at 1373-1374.
[128] The Department will not calculate a rate for the program titled "Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment." *See* Comment 18, below. Accordingly, in our AFA rate calculation, the Department will rely on the rate calculated for the same/similar program in another PRC CVD proceeding. *See Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32362 (June 8, 2010) and accompanying Issues and Decision Memorandum ("Steel Grating" IDM) at 14 (determining a countervailable subsidy rate of 1.68 for the above-referenced program). The sources of other rates used in our AFA rate calculation are identified on pages 17-19 of the PDM. Further, given the Department's determination not to apply total AFA to Powermach, Petitioner's additional arguments regarding the proper selection of rates for all other countervailed programs are moot.

Comment 6: Whether to Recalculate the Neutral Facts Available Rate Applied to Cenfit

Powermach's Comments

- Powermach cooperated to the best of its ability in the course of this investigation, but was ultimately unable to secure the participation of Cenfit, which was Dawn Precision's parent company during the POI. Cenfit did not respond to any inquiries from Powermach, as there is ongoing litigation between Dawn Precision and Cenfit.[129]
- The Department's approach to applying a neutral facts available rate to Cenfit failed to account for Cenfit's sales. The Department assumes that Cenfit received all the same subsidies as the mandatory respondents, but failed to add a corresponding amount to the denominator of the subsidy rate calculation.
- The Department's approach constitutes an adverse inference against Powermach, notwithstanding its cooperation in this matter. Accordingly, this approach runs afoul of section 776(b) of the Act because the Department has not found that Powermach failed to cooperate, as is required for the application of AFA. Similarly, the Department's approach is inconsistent with the WTO Agreement on Subsidies and Countervailing Measures ("SCM Agreement"), because Powermach has not intentionally withheld information, and the Department has not found otherwise.[130]
- To avoid a methodological choice that leads to an adverse inference, the Department should combine the sales denominators for Powermach and NOK Wuxi when attributing benefits to Cenfit.[131] Alternatively, if NOK Wuxi receives a total AFA rate in the final determination, the Department should double the sales and benefit values for Powermach to account for subsidy usage by Cenfit. If the Department adopted this approach, Powermach's subsidy rate would not change.
- Powermach submitted record evidence indicating that Cenfit could not have benefited from the provision of pig iron at LTAR or the provision of ferrous scrap at LTAR.[132] Accordingly, the Department should exclude any benefits received pursuant to these programs when calculating a Cenfit rate.
- The Department should apply a facts available approach that results in no ultimate change to Powermach's subsidy rate.[133]

Petitioner's Rebuttal Comments

- Contrary to Powermach's assertions, the Department did not apply an adverse inference with respect to Cenfit. The Department's full AFA rate in its *Preliminary Determination* was 166.77, while the Cenfit rate was 13.24.[134]
- Powermach's assertion that the application of neutral facts available should not result in the increase of its subsidy rate has no basis in law. If the Department's application of facts available was not permitted to impact a subsidy rate, its ability to apply facts available would be meaningless.[135]

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[129] *See* Powermach Brief at 2.
[130] *Id.* at 7.
[131] *Id.* at 8.
[132] *Id.* at 8-9.
[133] *Id.* at 9.
[134] *See* Petitioner Rebuttal Brief at 4.
[135] *Id.*

- The facts relied upon by the Department were neutral, as it only relied on subsidy rates calculated for the respondents in this proceeding, *i.e.*, the Department did not presume that Cenfit benefited from any program that was not also found to benefit a respondent in this proceeding.
- Powermach's proposed approach to combining the denominators for Powermach and NOK Wuxi is unusable, as it would permit each party to ascertain the BPI of the other party.

Department's Position:

We agree with Petitioner. Although the Department did not find evidence of non-cooperation by Powermach,[136] given the lack of response for Cenfit, we properly applied facts available in our *Preliminary Determination*, and our application of facts available for Cenfit was not adverse to Powermach.

In our *Preliminary Determination*, the Department preliminarily determined that it did not have sufficient information on the record to allow a proper analysis of any subsidies received by Cenfit, and accordingly reliance on facts otherwise available was warranted.[137] Accordingly, the Department calculated a rate for Cenfit based on facts available, and the approach consisted of several steps. First, for each program that was used by both Powermach and NOK Wuxi, we took a simple average of the two companies' rates, and assigned that rate to Cenfit for the program; the sum of these average rates was 10.17 percent. Second, we added to 10.17 percent the rates for programs used only by Powermach (3.07 percent), arriving at a facts available rate of 13.24 percent for Cenfit. Finally, we added the 13.24 percent rate for Cenfit to the rate calculated for Powermach (20.70 percent), for a combined Powermach/Cenfit rate of 33.94 percent.[138]

Since the *Preliminary Determination*, the Department has determined it is appropriate to apply AFA to NOK Wuxi. The Department does not find it appropriate, in calculating a neutral facts available rate, to use rates premised on AFA. Accordingly, the Department is modifying its calculation of Cenfit's rate from the *Preliminary Determination* to eliminate the averaging of Powermach's calculated rate with that of NOK Wuxi for any overlapping programs. As Powermach is the only remaining respondent for which we have calculated a rate, we find as neutral facts available that Cenfit benefited from programs at the same rate at which Powermach benefited from programs. Accordingly, the combined revised Powermach/Cenfit rate is 33.26 percent.

Contrary to Powermach's assertions, the Department's approach does not rely on, or otherwise indicate that the Department has applied, an adverse inference. As an initial matter, as Petitioner points out, the full AFA rate would be the 163.46 percent rate we are applying to the non-cooperating companies that failed to respond to the Q&V questionnaire and NOK Wuxi. That rate is determined in accordance with the Department's AFA hierarchy, as codified in the statute, with certain program rates drawn from other proceedings, as appropriate. The rate we are

[136] *See* Verification Report at 6-7.
[137] *See* PDM at 20-21.
[138] *See* Preliminary Analysis Memorandum at 11.

applying to Cenfit contains no element from the AFA hierarchy. Similarly, by not averaging the program rates between Powermach and NOK Wuxi, the Department is not indirectly incorporating the effect of NOK Wuxi's AFA rates. Rather, we are relying exclusively on rates calculated for programs that conferred a benefit to Powermach. Accordingly, by applying our facts available approach from the *Preliminary Determination*, modified to use only calculated rates and not NOK Wuxi's AFA rates, we are attributing benefit to Cenfit solely from the same programs, and to the same degree, as Powermach.

Moreover, the approach we have taken here bears pertinent comparison to *Seamless Pipe*, where the Department addressed a similar situation involving the failure of a cross-owned company to respond to the Department's questionnaire.[139] In *Seamless Pipe*, the Department applied AFA, and assumed that the unreported entity "benefitted from all countervailable programs that at least one respondent in this investigation has used" and explained that "{f}or each of these programs, we are applying *the highest rate* that we calculated for that program" for either of the respondents.[140] In the instant case, we made no adverse inference to reflect Powermach's cooperation and good-faith efforts to induce Cenfit's participation. In contrast to *Seamless Pipe*, we did not apply the highest rate calculated for each program, and simply selected the rates actually calculated for Powermach in this proceeding.

Finally, Powermach argues that the Department should not impute any benefits to Cenfit for the provision of pig iron and ferrous scrap for LTAR. Specifically, Powermach asserts that Cenfit does not utilize pig iron or ferrous scrap, as the products Cenfit produces are steel-made.[141] However, record evidence does not support this assertion. First, we simply have no verified record information with regard to Cenfit's production or operation, given that Cenfit has chosen not to cooperate. Second, with respect to pig iron, what record evidence there is indicates that at least some portion of Cenfit's production relates to cast iron products.[142] For instance, the product list submitted to the Department contains an entry for a product referred to as a "cast iron sprocket."[143] Therefore, Cenfit could very well rely on pig iron for production; we have no evidence to the contrary to support Powermach's assertion. Third, with respect to ferrous scrap, the term "ferrous scrap" encompasses both iron *and steel* scrap.[144] Therefore, contrary to Powermach's contentions, the evidence on the record does not support the proposition that Cenfit's production could not have relied on pig iron or ferrous scrap. Accordingly, as facts available, we have continued to incorporate rates for these programs.

For these reasons, for the final determination, the Department has continued to apply facts available to calculate a rate for Cenfit. Additionally, the Department's facts available calculation will continue to incorporate rates for the pig iron and ferrous scrap for LTAR programs.

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[139] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010) and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Facts Available."
[140] *Id.* (emphasis added).
[141] *See* Powermach Brief at 8-9.
[142] *See* Powermach IQR at Exhibit II-6.
[143] *Id*.
[144] *See id*. at Vol. 2, 16-19.

However, the Department has slightly altered its calculation of Cenfit's facts available rate to eliminate any reliance on NOK Wuxi, as NOK Wuxi is now receiving a total AFA rate.

Comment 7: Whether to Revise the Benchmark for Pig Iron and Ferrous Scrap

Powermach's Comments

- To construct a pig iron benchmark, the Department improperly relied on pig iron price data that were placed on the record as part of Petitioner's benchmark rebuttal submission. These data were submitted for the purpose of rebutting data placed on the record by Powermach.[145]
- The Department improperly rejected Powermach's price data for ferrous scrap without explaining why domestic prices were unacceptable. Additionally, the domestic prices would have been readily available to international buyers.[146]
- The Department should exclude portions of the ocean freight data relied upon in the *Preliminary Determination* as aberrational.

Petitioner's Rebuttal Comments

- Powermach has provided no justification—statutory, regulatory or otherwise—as to why the Department cannot utilize the additional pig iron data placed on the record. Given the Department's mandate to calculate subsidy rates as accurately as possible, the Department should continue to use all of the data on the record.
- It is the Department's practice not to rely on domestic prices when calculating an external benchmark because the Department's preference is to use prices that are available to purchasers in the PRC.[147]

Department's Position:

We agree with Petitioner, except with regard to Powermach's contention that we should exclude portions of the ocean freight data as aberrational. First, with respect to our calculation of a pig iron benchmark, in our *Preliminary Determination* we relied on data submitted by both Petitioner and Powermach to construct a benchmark. The data submitted by Powermach consisted of one series of pig iron prices from a pricing database. In its rebuttal submission, Petitioner provided the Department with additional pig iron pricing data from the same database. The Department elected to rely on all of the data submitted to construct the most robust benchmark possible.[148]

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[145] *See* Powermach Brief at 10-11.
[146] *Id.* at 11.
[147] *See* Powermach Rebuttal Brief at 7 (citing *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China*, 77 FR 21744 (April 11, 2012) and accompanying Issues and Decision Memorandum ("Shelving and Racks IDM") at 29 and *Certain Oil Country Tubular Goods From the Republic of Turkey*, 79 FR 41964 (July 18, 2014) and accompanying Issues and Decision Memorandum ("OCTG IDM") at 47-48).
[148] *See, e.g., Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 51775 (August 26, 2015) and accompanying Issues and Decision Memorandum at Comment 7 ("{T}he best methodology is to calculate a simple average of these {benchmark} prices. To derive the most robust … benchmark possible, we have sought to include as many data points as possible.").

Powermach provides no explanation for why the Department must disregard benchmark information on the record. Petitioner correctly submitted rebuttal data under section 19 CFR 351.301(c)(3)(iv). While that provision does bar the usage of rebuttal factual information to value factors in antidumping duty proceedings, there is no corresponding bar against the use of such information for measuring the adequacy of remuneration for the provision of a good in CVD proceedings. Accordingly, we have properly relied on all available data on the record to construct a robust pig iron benchmark price.

With regard to ferrous scrap, we disagree that the Department should have included Powermach's proposed ferrous scrap price series in our construction of a benchmark price. The data consisted of domestic prices in third countries, which by definition would be available only to purchasers in those countries. As we have stated in the past, "{t}he Department's preference is to use prices that are available to purchasers in {the country under investigation}, consistent with 19 CFR 351.511(b)(ii)."[149] Accordingly, the Department excludes domestic prices from the construction of benchmark prices.[150] The Department's decision to do so here was consistent with past practice.[151]

Finally, Powermach asserts that the Department must exclude certain values from the data used to calculate an ocean freight benchmark. The parties submitted 2013 Maersk ocean freight data, which we inflated appropriately for use in our (2014) POI. The data are monthly average freight rates for shipments between ten different ports and Qingdao. One of these ports, Long Beach, had significantly higher freight rates during the January through April period, which resulted in a higher composite monthly freight rate for those months. For the January-April period, Long Beach to Qingdao rates were about 11 times higher than Long Beach to Qingdao rates for May through December. Additionally, the Long Beach to Qingdao prices were approximately 5 to 10 times higher than the freight rates for any other city pairing (*e.g.*, Vancouver-Qingdao, Sydney-Qingdao, etc.) during the January through April time frame.[152]

We agree with Powermach that these particular Long Beach rates are patently aberrational and, thus, should be omitted from the calculation.[153] The Department has previously disregarded aberrational data when calculating benchmarks.[154] Accordingly, we have calculated the ocean freight component of our benchmark without the January through April prices for Long Beach to Qingdao.

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[149] *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 77 FR 21744 (April 11, 2012) and accompanying Issues and Decision Memorandum ("Shelving and Racks IDM") at Comment 5.

[150] Powermach also argues that domestic prices must be acceptable to the Department, because Petitioner provided domestic prices to support its allegations in the petition. We disagree. The data contained in the petition were provided prior to the full development of a factual record in this case, and well prior to Powermach's own submission of information concerning the inputs relied on in its manufacturing process.

[151] *See* Shelving and Racks IDM at Comment 5; *see also* OCTG IDM at Comment 4.

[152] *See* Petitioner Benchmark Rebuttal at Exhibit 1.

[153] Powermach also placed on the record a news article which, Powermach asserts, provides an explanation for the higher Long Beach freight rates.

[154] *See Aluminum Extrusions From the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Preliminary Intent To Rescind, in Part; 2014*, 81 FR 38137 (June 13, 2016) ("Therefore we have adjusted the {benchmark} data by removing the aberrational data related to Estonia from the export data for the months of January, February, and March 2014.").

For the final determination, we have continued to calculate benchmark prices for pig iron and ferrous scrap in the manner discussed above.[155] With respect to Powermach's argument regarding the incorporation of inland freight costs into the benchmark, the Department has addressed the issue separately under Comment 10.

Comment 8: Whether to Exclude VAT from the LTAR Benchmark Prices

Powermach's Comments

- The Department should revise its LTAR calculations to remove the 17 percent VAT from both the benchmark prices and the domestic purchase prices, as VAT is not an allowable adjustment under the plain language of the Department's regulations.[156]
- To calculate a "delivered" price, the Department is required to "adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product," and "{t}his adjustment will include delivery charges and import duties."[157] VAT, however, is not enumerated as a deduction. VAT costs also cannot be construed to constitute delivery charges or import duties, as VAT is treated as an "indirect tax" in the Department's regulations. Therefore, if the Department was required to add VAT to benchmark prices, the regulations would have specifically listed "indirect taxes" along with import duties and delivery changes.[158]
- When determining the adequacy of remuneration, the Act allows for the consideration of prevailing market conditions, including price, quality, availability, marketability, transportation, and other conditions of purchase or sale. VAT, however, is not expressly named as a market condition.[159]
- Under the SCM Agreement, a calculation of the amount of a subsidy shall be done in terms of the cost to the granting government. There is no cost to the GOC associated with providing a VAT rebate. Accordingly, by including VAT in the benchmark, the Department added a cost that does not exist, and violated the SCM Agreement.[160]
- VAT is paid upon the purchase of a product but is later recouped or refunded when the taxpayer either resells the good with value added domestically or exports the good. Accordingly, the cost of VAT should not be included in the benchmark.[161]
- With respect to electricity, the Powermach Companies reported VAT-exclusive electricity payments, and therefore the Department should compare the companies' electricity payments to a VAT-exclusive benchmark. The Department should adjust the electricity benchmark to remove VAT to facilitate such a comparison. Alternatively, if the Department does not reduce the benchmark price to remove VAT, the Department should use the Powermach Companies' VAT-inclusive price to determine the extent of benefits from the electricity for LTAR program.

[155] *See* Final Analysis Memorandum at 7.
[156] *See* Powermach Brief at 13.
[157] *Id.* at 13-14.
[158] *Id.* at 14.
[159] *Id.* at 15.
[160] *Id.* at 16.
[161] *Id.* at 15.

Petitioner's Rebuttal Comments

- Powermach's contention that the Department is prohibited from making a VAT adjustment because VAT is not expressly identified as a requisite adjustment in the regulations is baseless.
- The Department has previously found that, in constructing a benchmark, the Department properly incorporates duties and other taxes, such as VAT, into its calculation.[162] Moreover, even if it were correct that VAT is not encompassed by the regulation's reference to adjustments for "delivery charges" or "import duties," these items are not identified as the *only* items that may be excluded.
- Similarly, although VAT is not expressly named as a component of prevailing market conditions, there is no reason why VAT cannot be encompassed by other enumerated considerations, such as price, quality, availability, marketability, transportation, and other conditions of purchase or sale.
- Powermach has not demonstrated that the VAT it paid on inputs was refunded.
- With respect to the electricity benchmark prices, the Department should only adjust the electricity benchmark prices to remove VAT if it can be conclusively show that the benchmark rate is VAT-inclusive.

Department's Position:

The Department agrees with Petitioner. Pursuant to 19 CFR 351.511(a)(2)(iv), the Department will adjust benchmark prices to reflect the price a firm actually paid or would pay if it imported the product, while also making adjustments for delivery charges and import duties. The Department adds freight, import duties and VAT to the world prices in order to estimate what a firm would have paid if it imported the product. As long as VAT is reflective of what an importer would have paid, then VAT is appropriate to include in the benchmark. Accordingly, the Department finds that our regulations require us to consider all adjustments necessary to ensure an accurate comparison and are not limited to delivery charges and import duties. To exclude VAT and/or adjust the reported purchases by removing VAT would result in a less accurate comparison and, therefore, would be inconsistent with the Department's regulations. As such, and consistent with past practice, the Department has not excluded VAT from its benchmark prices.[163]

Powermach also contends that, because the goods are later resold or exported, it recoups the VAT paid and, therefore, VAT should be excluded from the benchmark prices and the domestic purchase prices for the inputs. This argument fails to consider the Department's obligation to conduct a comparison between a market price and the price paid by a respondent. As the Department has explained previously, "19 CFR 351.511(a)(2) does not contemplate future

[162] *See* Petitioner Rebuttal Brief at 9 (citing *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin From the People's Republic of China: Final Affirmative Determination*, 81 FR 13337 (March 14, 2016) and accompanying Issues and Decision Memorandum at Comment 14 and *High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) and accompanying Issues and Decision Memorandum ("Cylinders IDM") at Comment 9.).

[163] *See, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 46904 (July 19, 2016) and accompanying Issues and Decision Memorandum ("Solar Cells 2016 IDM") at Comment 8.

reimbursements or refunds of taxes, but instead requires us to evaluate the purchases in the form in which they are made."[164] Whether a firm recovers VAT subsequent to the delivery of the input is immaterial to the delivered price that the Department must use as the comparison price under 19 CFR 351.511(a)(2)(iv).[165] Accordingly, the Department has continued to include VAT in the benchmark and benefit calculations, consistent with our approach in the *Preliminary Determination*.

With respect to electricity payments, Powermach argues that the Department must adjust its electricity for LTAR calculations in one of two ways. First, Powermach asserts that the Department should adjust the electricity benchmark to remove VAT. Then, the Department should compare the VAT-exclusive benchmark to the VAT-exclusive electricity payments to determine benefits to each of the Powermach Companies. Alternatively, Powermach argues that the Department should compare the VAT-inclusive electricity benchmark with VAT-inclusive electricity payments. For our final determination, we have adopted the latter approach, as it is consistent with past practice, and amounts to an apples-to-apples price comparison.[166]

Therefore, for the final determination, the Department has continued to incorporate VAT into the construction of our benchmark prices, consistent with the discussion above.[167]

Comment 9: Whether to Revise the Calculation of Benefits from the Land for LTAR Program

Powermach's Comments

- The Department should rely on the land area recorded in the official government certificates for calculating the benefit received from the provision of land for LTAR.
- The Department should pro-rate the benefits accrued from receiving land at LTAR for certain land transactions. In particular, the Department should more precisely identify the number of days during which Dawn Precision's production benefitted from the land.

[164] Solar Cells 2016 IDM at Comment 8.

[165] Additionally, we note that Powermach provided no evidence regarding VAT refunds relating to purchases of material inputs. *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 14668 (March 17, 2014) and accompanying Issues and Decision Memorandum at 8-9 (rejecting the respondent's argument that VAT should be excluded from the benchmark price, and noting that the respondent did not "reference evidence on the record to show that it did not pay VAT on imported goods at the time of purchase nor did it provide any supporting evidence that the VAT paid on imported inputs used to produce exported goods is refunded."). Furthermore, contrary to Powermach's argument, *see* Powermach Brief at 15-16, we find it irrelevant whether Powermach benefited from initiated-upon VAT programs, as the VAT programs concerned purchases of fixed assets and equipment, not pig iron and ferrous scrap.

[166] *See Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane From the People's Republic of China: Final Affirmative Countervailing Duty*, 79 FR 62594 (October 20, 2014) and accompanying Issues and Decision Memorandum ("Tetrafluoroethane IDM") at Comment 8 (noting "that the electricity prices placed on the record by the GOC are inclusive of VAT.").

[167] *See* Final Analysis Memorandum at 3-5.

Petitioner's Rebuttal Comments

- The Department should not pro-rate benefits from receiving land at LTAR for any land transactions. Powermach has not identified any reason why the Department should deviate from its standard methodology in calculating a benefit from this program.

Department's Position:

The Department agrees with Powermach, in part, and Petitioner, in part. First, as suggested by Powermach, to determine parcel size in our calculation of Powermach's benefit under the land for LTAR program, we will rely on the government certificates, as these constitute the official recording documents.[168]

However, the Department will not pro-rate benefits received under the Land for LTAR program for any year. The Department allocates the benefit received from the receipt of land-use rights for LTAR over the life of the land-use rights contract.[169] The corresponding benefit amounts to the annual benefit that is allocable to the applicable POI. Powermach cites no precedent to support its proposed alternative methodology, and the Department has not deviated from standard practice.

Additional discussion of the Department's calculation of a benefit from this program is contained in the *Final Analysis Memorandum*.

Comment 10: Whether to Revise the Inland Freight Costs Included in Input Benchmarks

Powermach's Comments

- All of Powermach's input purchases were from domestic sources and were made on a delivered basis.[170] The Department should not include costs related to importation in calculating the benchmark price for pig iron and ferrous scrap.[171]
- The Department should apply its inland transportation and handling benchmark to the actual distances from Powermach's facilities to its pig iron and ferrous scrap suppliers.[172]
- The statute does not allow the Department to impose transportation costs on input purchases that do not exist for the investigated respondent. The requirement in the Department's regulation to "adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product," including "delivery charges," is contrary to the statute to the extent that it imputes "prevailing conditions" that do not exist for the respondent in question.[173]

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[168] *See* Powermach IQR at Vol. IV, Exhibit 19; Vol. V, Exhibit 16.
[169] *See, e.g., Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) and accompanying Issues and Decision Memorandum at "I. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province" (explaining that the Department allocated the benefit received over the life of the land-use rights contract to determine the period of review benefits).
[170] *See* Powermach Brief at 20.
[171] *Id.* at 20-21.
[172] *Id*. at 21.
[173] *Id.*

- The Department should cap freight costs at an amount that would actually be incurred by Powermach. Failure to cap these costs creates an arbitrary distinction with antidumping practice, and fails to properly reflect market reality.[174]

Petitioner's Rebuttal Comments

- Pursuant to 19 CFR 351.511, the Department will adjust benchmarks to "reflect the price that a firm actually paid or would pay if it imported the product." If Powermach imported pig iron and ferrous scrap, it would incur import charges and costs associated with transporting the merchandise from the nearest seaport to its facilities. Thus, these costs must be included in the benchmark.[175]
- The actual distances to Powermach's suppliers are irrelevant. The Department must identify an undistorted market price. As the Department has determined that prices within the PRC are distorted, it must rely on a world market price, and any accompanying costs, to obtain an accurate benchmark price.[176]

Department's Position:

We disagree with Powermach. Powermach asserts that the Department must remove import costs, as Powermach purchases from domestic suppliers, and thus does not pay these costs in practice. Similarly, Powermach asserts that we must adjust the inland freight costs to reflect the actual distance to its suppliers, rather than the distance from the closest port. In the Department's *Preliminary Determination*, we calculated benchmark prices for pig iron and ferrous scrap by relying on a world price for the inputs based on data submitted by Petitioner and Powermach. We increased the world prices to account for the various costs that would be associated with delivering the inputs to Powermach's facilities. These costs included ocean freight, import duties, VAT and inland freight.[177]

Further, the distance between Powermach and its suppliers is irrelevant to the Department's analysis. Pursuant to 19 CFR 351.511(a)(2)(iv), the Department determines a benchmark price "to reflect the price a firm actually paid or would pay if it imported the product." Given that the Department has determined that the relevant markets (*i.e.*, for pig iron and ferrous scrap) are distorted in the PRC, we must turn to world market prices. Accordingly, the Department also must calculate a benchmark price that approximates the price that would be incurred if Powermach were to import pig iron and ferrous scrap. This is precisely what the Department did in our *Preliminary Determination*, and the approach is consistent with substantial Departmental precedent.[178]

Additionally, we disagree with Powermach's assertion that failure to cap inland freight costs creates an arbitrary distinction with our antidumping practice, and fails to properly reflect market

[174] Petitioner Rebuttal Brief at 21.
[175] *See id.* at 13.
[176] *Id.* at 13-14.
[177] We relied on the inland freight values reported by Powermach for transportation of the finished product from plant to port of export. *See* the Final Analysis Memorandum for details on the calculation.
[178] *See, e.g., Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78788 (December 31, 2014) and accompanying Issues and Decision Memorandum ("Extrusions 2012 AR IDM") at "B. Provision of Primary Aluminum for LTAR."

reality. First, the Department treats freight costs differently in the antidumping context because the Department's antidumping analysis has a different goal. For instance, in non-market economy antidumping cases, the Department replicates the producer's production and sales process to ascertain normal value; the Department compares normal value to the export price or constructed export price to determine whether the product is being sold at less than fair value. Accordingly, replicating the producer's production and sales process as accurately as possible is paramount to the Department's calculation of the antidumping duty margin. In contrast, in the CVD benchmark context, the Department approximates the cost that a firm would incur if it imported the input in question to calculate the benchmark. Comparing this cost to the actual price at which the producer obtained the input allows the Department to assess whether the producer obtained the input for less than adequate remuneration. Accordingly, constructing the price of the input, if imported, is paramount to the Department's calculation of the amount of benefit received by the producer. Therefore, there is no contradiction created by the Department's practice of capping freight costs in the antidumping context while declining to cap such costs in the CVD benchmark context. Second, we rely on Powermach's reported inland freight costs for calculating the freight component of our benchmark. Therefore, the Department's approach reflects market realities.

Therefore, for the final determination, the Department has continued to include inland freight and import costs in the benchmark calculations for pig iron and ferrous scrap.[179]

Comment 11: Whether to Correct Ministerial Errors

Powermach's Comments

- In calculating the benchmark price for pig iron, the Department intended to average two benchmark sources, but inadvertently omitted one of these sources from its calculation.
- When calculating LTAR benefits for inputs purchases, the Department must exclude Dawn Foundry's input purchases from Sichuan Deen Transmission Machinery Corporation Limited ("Sichuan Deen"), because Sichuan Deen is the previous name of Dawn Precision, and thus was an affiliated producer during the POI.

Department's Position:

We agree with Powermach. In a memorandum to the file issued following our *Preliminary Determination*, the Department indicated that it agreed with Powermach's assertions regarding ministerial errors, and stated that it would make the appropriate modifications in the final determination.[180]

[179] *See* Final Analysis Memorandum at 3-5.
[180] *See* Memorandum to Christian Marsh, "Preliminary Determination in the Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Ministerial Error Memorandum," dated May 12, 2016.

Comment 12: Whether Producers of Pig Iron and Ferrous Scrap Are "Authorities"

GOC's Comments:

- There are no governmental programs to provide pig iron and ferrous scrap to the IMTDC industry, and Chinese producers of these inputs are not government authorities within the meaning of the U.S. CVD law.[181]
- The GOC clearly stated that all of Powermach's suppliers of pig iron and ferrous scrap are either foreign-invested companies or private companies. The GOC confirmed this statement by submitting ownership information and business registrations of pig iron and ferrous scrap suppliers available through the Enterprise Credit Information Publicity System, a public database.[182] The GOC also provided information on the ownership structures of the pig iron and ferrous scrap suppliers, information relating to shareholders/promoters of these companies, and records of alterations to show any changes with respect to key personnel.[183]
- Although the GOC was unable to provide all of the information requested by the Department, the information on the record does not justify a finding that pig iron and ferrous scrap suppliers were government authorities. Additionally, the large number of suppliers made it impossible for the GOC to provide full responses to all questions.
- Additionally, the GOC placed on the record the *Company Law of China*, which operates to ensure that, as independent business entities, ferrous scrap and pig iron suppliers conduct their business with autonomy from the GOC.[184]
- The Chinese Communist Party ("CCP") is not a "government authority." CCP officials are not eligible under PRC law to direct business operations. According to Article 53 of the *Civil Servant Law of China*, Chinese law prohibits the owners, members of the board of directors and managers of pig iron and ferrous scrap producers from being GOC or CCP officials.
- Although the Department found in *PC Strand* that CCP officials "can, in fact, serve as owners, members or the board or directors, or senior managers of companies," the finding in *PC Strand* actually concerned *membership* in the CCP and National Party Conference ("NPC"), not whether CCP *officials* could serve on boards of directors.[185] Furthermore, in *PC Strand* the Department found that membership in the CCP or NPC is insufficient to establish government control.
- Under Article 37 of the *Company Law of China*, shareholders exercise ultimate power over companies. Under Article 47, the board of directors and managers of companies are ultimately responsible to shareholders and are to implement shareholder resolutions. Under Article 148, directors, supervisors and management bear the obligations of fidelity and diligence to the company. These provisions of the *Company Law of China* demonstrate that the shareholders, directors and managers of a company are solely

[181] *See* GOC Brief at 5.
[182] *See id*. at 5.
[183] *Id*. at 6.
[184] *Id*. at 7.
[185] *See* Strand IDM at Comment 8.

responsible for the company's internal operations and that it is unlawful for CPP organization to interfere.[186]

- The Department has determined that the *Company Law of China* establishes an absence of legal state control over privately-owned companies in the PRC.[187]
- The Department's analysis with regard to CCP officials creates an impossibly difficult task for the GOC and respondents to complete. To have fully responded to the Department's questionnaires, the GOC would have been required to provide the Department information as to the CCP involvement in the management and operations of pig iron and ferrous scrap producers of hundreds, perhaps thousands, of natural persons serving as owners, members of the board of directors and managers of suppliers. Further, the line of inquiry is deeply intrusive, demanding information at the individual level as to persons' political activities.[188]
- The GOC responded to the best of its ability to questions relating to ownership and the CCP's involvement in the operations of the relevant input providers, and provided sufficient evidence to show that the input suppliers were not government authorities.
- The Department provides no evidence specific to this case supporting its assertion that CCP affiliations or activities are relevant to its "government authorities" analysis.

Petitioner's Rebuttal Comments:

- AFA is warranted because the GOC has not acted to the best of its ability to provide necessary information about whether suppliers are "authorities."
- In both the Initial Questionnaire and a supplemental questionnaire, the Department requested, for each input producer that is not majority-government owned, that the GOC provide the company's articles of incorporation, capital verification reports, articles of grouping, company by-laws, annual reports for the period of investigation and the two preceding years, articles of association, and tax registration documents. The GOC failed to provide this information.[189]
- Similarly, in the Initial Questionnaire and a supplemental questionnaire, the Department requested that the GOC provide information as to whether any owners, members of the board of directors, or senior managers of the relevant entities were government or CCP officials during the period of investigation. Again, the GOC did not provide this information.
- While the GOC claims that it was unable to provide all of the information requested by the Department, the GOC did not provide any indication of the steps it took to obtain such information and instead simply stated that it was not providing the information. In such circumstances, it has been the Department's consistent practice to make its "authorities" determination on the basis of AFA, and the GOC has provided no reason for the Department to deviate from this approach.[190]

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[186] *See* GOC Brief at 9.
[187] *Id.* at 10 (citing *Certain Cut-to-Length Carbon Steel Plate from China: Final Results of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 75 FR 8301 (February 24, 2010) and accompanying Issues and Decision Memorandum at Comment 2).
[188] *See* GOC Brief at 10.
[189] *See* Petitioner Rebuttal Brief at 15-16.
[190] *Id*. at 16.

- The Department has found that the CCP meets the definition of "government" for the purpose of the CVD law, and has found that PRC law provides that CCP organizations influence state, private, domestic, and foreign-invested companies.[191]
- Although the GOC asserts that Chinese law prohibits CCP officials from being owners, board members, or managers of the relevant input suppliers, the Department has already addressed this same argument and concluded that the argument "does not diminish the Department's position that complete information related to whether any senior company officials were government or CCP officials and the role of any CCP committee within the companies is essential to determine" whether input suppliers are authorities.[192]
- The GOC relies on a Department antidumping determination to argue that the *Company Law of China* can establish the absence of government control over input suppliers. This argument has been rejected by the Department previously; the Department has explained that its "evaluation of the *Company Law of China* in the context of separate rate analyses in {antidumping} proceedings does not evince a lack of state control here."[193]
- While the GOC asserts, in its brief, that it attempted to contact the CCP and consulted other sources, its questionnaire responses make no such indication. Specifically, in response to the Department's request for information on CCP involvement, the GOC stated that it could not require the CCP or other entities to provide the requested information and that there is no government database containing the requested information. Nothing in this response can be reasonably read to indicate that the GOC took any steps at all to obtain the requested information. Rather, the GOC simply asserted that it was not providing the requested information.[194]
- The GOC's argument that CCP activities or affiliations are not relevant has been rejected by the Department numerous times in the past. In any case, the Department has emphasized that it is not the GOC's role to determine whether the information missing from the record is, or is not, necessary. The Department asked for information relevant to its "authorities" analysis on two occasions, and the GOC declined to provide the requested information.

Department's Position:

The Department continues to find, based on AFA, that the companies producing the pig iron and ferrous scrap used by Powermach are "authorities" within the meaning of section 771(5)(B) of the Act, and that the goods provided by them are financial contributions within the meaning of section 771(5)(D)(iii) of the Act.

As explained in the *Preliminary Determination*, we sought information from the respondents and the GOC regarding input producers and suppliers. In several instances, Powermach's response to our Initial Questionnaire did not identify the producer of the input. This was critical, as the Department's analysis largely focuses on the "authority" status of the ultimate *producers* of the input, rather than the status of intermediate *supplier(s)* of the input. This deficiency was partially

[191] Petitioner Rebuttal Brief at 18-19.
[192] *Id.* at 19 (citing CORE IDM at Comment 1).
[193] *Id.* at 20 (citing CORE IDM at Comment 1).
[194] *Id.* at 20.

addressed in a supplemental questionnaire response.[195] With respect to pig iron producers, Powermach provided an updated list containing producer names.[196] However, the GOC did not update its initial response to provide requested information on the newly-identified producers contained in the revised list. With respect to ferrous scrap producers, Powermach was unable to identify the original source of the input for many of the relevant purchases.[197] In any instance where the Department did not receive information on the identity, status and/or structure of producer of an input, we were unable to determine whether the producer was majority state-owned, and thus was an "authority."

As noted in our *Preliminary Determination*, even for the producers that Powermach did identify, the GOC did not provide a full response to the Department's related questions. The GOC provided summary data denoting the business registration information and basic shareholder information for a number of input producers[198] and suppliers, but did not provide the additional information (*e.g.*, company by-laws, articles of incorporation, licenses, etc.) that was specifically requested by the Department. Nor did the GOC elect to supplement its initial filing when presented with a second opportunity. Instead, the GOC indicated that "{t}he requested Articles of Incorporation and Capital Verification Reports of each of pig iron suppliers simply supplement the GOC's initial response and the relevant documentation provided on the record."[199] This response undermined the Department's ability to accurately determine whether the identified input producers constitute authorities.

Furthermore, we requested information on the owners, members of the board of directors, or managers of the input producers who were also government or CCP officials or representatives during the POI.[200] The GOC did not provide this information for any producer. Instead, the GOC argued that "even if an owner, a director, or a manager of a privately-owned supplier company is a member of … {a CCP organization}, it would not make the management and business operations of the company in which he/she serves subject to any levels of intervention by the GOC."[201] We requested this information a second time in our supplemental questionnaire.[202] Instead of providing the requested information, the GOC referred back to its Initial Questionnaire response and stated that it could not provide additional information.[203]

The GOC claims that "{i}n stark contrast to the Department's claims, the GOC indeed attempted to contact the CCP and consulted other sources," and cites to page 38 of its Initial Questionnaire response.[204] However, the questionnaire response does not support the GOC's contentions. There, the GOC asserted that, "{t}he GOC further advises that there is no governmental data

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[195] *See* Powermach SQR at 8.
[196] *Id.*
[197] *Id.*
[198] As noted above, the GOC did not fully provide the summary information following Powermach's submission of the revised version of its questionnaire response, as requested by the Department. *See* GOC SRQ at 10.
[199] *Id.* at 10.
[200] *See* Initial Questionnaire at II-30 through II-32.
[201] *Id.* at 38.
[202] *See* Letter from the Department to GOC, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: First Supplemental Questionnaire – Government of China, dated February 23, 2016 ("GOC First Supplemental Questionnaire") at 4-8.
[203] *Id.*
[204] See GOC Brief at 11.

system that can compile, keep or upon request provide data or information, in regard to political attitude and/or party or organization affiliations of an individual businessman. Similarly, the Bureau of Industrial and Commercial Administration at all levels also do not require companies to provide information or data in this regard."[205] This passage does not explain, or provide support for, the assertion that the GOC attempted to respond to the Department's questionnaire to the best of its ability.

Moreover, in prior proceedings, the Department has determined that the GOC can in fact obtain information on CCP officials and CCP organizations. For instance, in the *2012 Citric Acid Review*, the GOC provided official government documentation regarding the CCP status of the owner of two input producers.[206] The Department has consistently determined that the GOC can obtain the CCP information we request,[207] and we see no reason to depart from these findings in the instant case. In this case, despite the fact that the Department provided ample opportunities for the GOC to respond to its questions regarding the "authority" status of input suppliers, the GOC simply refused to answer necessary questions regarding the CCP's structure and functions and failed to provide requested documents.

The Department has explained to the GOC its understanding of the CCP's involvement in the PRC's economic and political structure in numerous prior PRC CVD proceedings, and has explained why it considers the information regarding the CCP's involvement in the PRC's economic and political structure to be relevant.[208] Despite the importance of the information requested in the Input Producer Appendix, the GOC provided none of the requested information with regard to CCP officials and CCP primary organizations.

In the *Preliminary Determination*, relying on AFA, we concluded that the producers of IMTDCs are "authorities."[209] In particular, we found that the GOC withheld the necessary information that was requested of it and failed to provide information in the form and manner requested. Specifically, the GOC failed to provide capital verification reports, articles of association, by-laws, and annual reports for the input producers, and it declined to answer questions about the CCP's structure, functions and membership. The GOC also failed to explain the efforts it undertook to try and obtain the requested information. The information we requested regarding these producers is necessary to our determination of whether these producers are "authorities" within the meaning of section 771(5)(B) of the Act. Furthermore, because the GOC failed to cooperate to the best of its ability in responding to our requests for information, the Department determined that an adverse inference was warranted in selecting from among the facts available.

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[205] *See* GOC SQR at 38.
[206] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) ("*2012 Citric Acid Review*") and accompanying Issues and Decision Memorandum ("2012 Citric Acid IDM") at Comment 2.
[207] *See, e.g.*, CORE IDM at Comment 1; *Certain Uncoated Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 81 FR 3110 (January 20, 2016) and accompanying Issues and Decisions Memorandum ("Uncoated Paper IDM") at Comment 1; Cylinders IDM at "GOC - Government Authorities under Provision of Seamless Tube Steel for Less Than Adequate Remuneration" (noting that the Department has explained its "understanding of the CCP's involvement in the PRC's economic and political structure in numerous past proceedings).
[208] *See, e.g.*, CORE IDM at Comment 1; Uncoated Paper IDM at Comment 1.
[209] *See* PDM at 22-24.

The Department continues to find that the necessary information to conduct its analysis is not on the record of this investigation, and in using facts available, applying an adverse inference is warranted for the final determination. Contrary to the GOC's assertions and objections to our questions, it is the prerogative of the Department, not the GOC, to determine what information is relevant to our analysis.[210] The Department considers information regarding the CCP's involvement in the PRC's economic and political structure to be essential. In numerous previous cases, the Department has determined that CCP membership is relevant to companies—including purportedly private companies—in the PRC.[211] Specifically, the Department has determined that "the CCP meets the definition of the term 'government' for the limited purpose of applying the U.S. CVD law to China."[212] Further, the Department has found that PRC law requires the establishment of CCP organizations "in all companies, whether state, private, domestic, or foreign-invested" and that such organizations may wield a controlling influence in a company's affairs.[213] Furthermore, the GOC provided no evidence that it attempted to obtain the information we requested.

The GOC asserts that certain laws, such as the *Company Law of China*, preclude any role for the CCP in terms of being owners, board members, or managers of the relevant input suppliers. The GOC argues that the Department's findings in *PC Strand* do not suggest otherwise, as the case addressed whether CCP "members" (rather than "officials") could serve on boards of directors. The Department has already addressed this same argument and concluded that this distinction "does not diminish the Department's position that complete information related to whether any senior company officials were government or CCP officials and the role of any CCP committee within the companies is essential to determine" whether input suppliers are authorities.[214]

Finally, the Department disagrees with the GOC's assertion that – based on the Department's antidumping practice – the *Company Law of China* establishes an absence of legal state control over privately-owned companies in the PRC.[215] The Department's evaluation of the *Company Law of China* in the context of separate rate analyses in antidumping proceedings does not demonstrate a lack of state control here. As explained in *Aluminum Extrusions from the PRC*, antidumping PRC proceedings are separate and distinct from CVD PRC proceedings with the

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[210] *See NSK, Ltd. v. United States*, 919 F. Supp. 442, 447 (CIT 1996) ("NSK's assertion that the information it submitted to Commerce provided a sufficient representation of NSK's cost of manufacturing misses the point that 'it is Commerce, not the respondent, that determines what information is to be provided for an administrative review.'"); *see also Ansaldo Componenti, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986) (stating that "{i}t is Commerce, not the respondent, that determines what information is to be provided").

[211] *See Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Rescission in Part; 2012-2013*, 80 FR 69638 (November 10, 2015) and accompanying Issues and Decision Memorandum ("Sinks IDM") at Comment 1; *see also* CORE IDM at Comment 1; Uncoated Paper IDM at Comment 1

[212] *See* Sinks IDM at Comment 1; Uncoated Paper IDM at Comment 1.

[213] *See* Sinks IDM at Comment 1; Uncoated Paper IDM at Comment 1.

[214] *See* CORE IDM at Comment 1.

[215] *See* GOC Brief at 10 (citing *Certain Cut-to-Length Carbon Steel Plate from China: Final Results of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 75 FR 8301 (February 24, 2010) and accompanying Issues and Decision Memorandum at Comment 2).

application of different analyses and methodologies.[216] As such, the Department's finding in an antidumping review is not germane to this investigation.

In this proceeding, the GOC did not provide the information we requested regarding CCP officials' involvement in the operations of the input producers. The GOC also did not provide the requested details on the producers operations (*e.g.*, company by-laws, articles of incorporation, licenses, etc.). For these reasons, we have no basis to revise the Department's preliminary AFA finding that certain pig iron and ferrous scrap producers are "authorities" within the meaning of section 771(5)(B) of the Act.

For the final determination, we have continued to determine that the companies producing the pig iron and ferrous scrap purchased by Powermach are "authorities" within the meaning of section 771(5)(B) of the Act, and that Powermach received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

Comment 13: Whether Inputs for LTAR Are Specific

GOC's Comments:

- The pig iron and ferrous scrap industries are not specific because the potential users of such inputs are not limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the inputs are used in a variety of industries.
- Information on the record shows broad and diverse uses of pig iron and ferrous scrap. The inputs are so ubiquitous that the related industries are "too numerous to mention" and "touch all sectors of the Chinese economy."[217] Thus, the use of these inputs cannot be considered specific to one industry or a particular group of industries.
- In *Chlor-Isos from the PRC*, the Department determined that the subject input (*i.e.*, urea) was not specific because – even though the agricultural sector accounted for over 70 percent of urea consumption– urea was consumed by numerous industries. Similarly, the Department should determine that pig iron and ferrous scrap are too broadly used to be considered specific.[218]

Petitioner's Rebuttal Comments:

- The fact that pig iron and ferrous scrap may be used in a variety of applications does not foreclose a finding of specificity. If the Department determines that an enterprise or industry is a predominant user of the input, or disproportionately benefits from the subsidization of the input, these factors could also support a finding of specificity.
- As part of its specificity analysis, the Department requested information on the industries that use pig iron and ferrous scrap, the quantities of the inputs purchased by these industries, and the quantities purchased by other industries. The GOC failed to fully respond to this request for information on two occasions.

[216] *See* Extrusions 2012 AR IDM at Comment 8.
[217] *See* GOC Brief at 16.
[218] *See Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 79 FR 56560 (September 22, 2014) (*Chlor-Isos from the PRC*) and accompanying Issues and Decision Memorandum ("Chlor-Isos IDM") at Comment 4.

- Information was missing from the record due to the GOC's failure to cooperate to the best of its ability to provide the information requested by the Department. The Department should, as it did in the *Preliminary Determination*, continue to apply AFA with respect to its specificity finding.

Department's Position:

We agree with Petitioner. The Department asked the GOC to provide a list of industries in the PRC that purchase pig iron and ferrous scrap directly, and to provide the amounts (volume and value) purchased by each industry grouping, including the industry grouping that encompasses IMTDC producers. Although the GOC provided some general information regarding the consumption of the inputs, the information provided was inadequate for the purposes of the Department's analysis. Specifically, the information provided by the GOC consists of summary statements regarding the broad uses for the inputs, as well as unverifiable, secondary-source lists of industries that utilize pig iron and ferrous scrap.[219] The Department requires more systematic and verifiable data (*e.g.*, consumption and purchase) for its analysis.

Following the GOC's initial response, we requested purchase and consumption data based on a consistent industry classification (*e.g.*, International Standard Industrial Classification; National Economy Industry Classification). As we noted in our *Preliminary Determination*, several of the 2-digit industry categories listed in these classification schemes encompass the IMTDC industry.[220] Despite this additional guidance, and the Department's suggestion as to how to provide the requested data, the GOC did not provide the information requested.[221]

In fact, the limited data provided by the GOC suggest that the GOC could have provided industry consumption data. For instance, in response to our request for data on the ferrous scrap industry, the GOC explained that the China Association of Metalscrap Utilization ("CAMU") collects ferrous scrap consumption data from numerous producers.[222] Given that the GOC acknowledges that the identities of these producers are known to CAMU, and that these producers can be identified in the State Statistics Bureau database,[223] it is unclear why the GOC did not take steps to identify the underlying industry(ies) to which the CAMU members belong.

The Department explained in the *Preliminary Determination* that, "necessary information is not available on the record" and "the GOC has withheld information that was requested of it, and, thus, that the Department must rely on 'facts available' in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act."[224] We found that the GOC withheld requested information and that this amounted to a failure of the GOC to act to the best of its ability, within the meaning of sections 776(a) and (b) of the Act. Consequently, we determined that an adverse inference was warranted in the application of facts available. In drawing an adverse inference, we found that the purchasers of pig iron and ferrous scrap

[219] *See* GOC IQR at 52-55, 60-63 and exhibits cited therein.
[220] *See* PDM at 25.
[221] *See* GOC First Supplemental Questionnaire at 4-8; *see also* GOC SQR at 7-13.
[222] *See* GOC SQR at 12.
[223] *Id*.
[224] *See* PDM at 26.

provided for LTAR are limited in number within the meaning of section 771(5A)(D)(iii)(I) of the Act.

The Department continues to find that the GOC has withheld information requested of it, within the meaning of section 776(a)(2)(A) of the Act, and that the Department must continue to rely on facts available in making a specificity determination. Additionally, we continue to find that an adverse inference is warranted because the GOC did not adequately answer the questions posed by the Department, nor did the GOC ask for additional time to gather and provide information. As AFA, we find that the pig iron and ferrous scrap are provided to a limited number of users and are thus specific under section 771(5A)(D)(iii)(I) of the Act.

Finally, the Department's *de facto* specificity analysis is not limited simply to whether users are limited in number. Instead, sections 771(5A)(D)(iii)(II)-(III) of the Act provide that a subsidy is also *de facto* specific if an enterprise or industry is a predominant user of the subsidy or receives a disproportionately large amount of the benefit. Therefore, even if the GOC had presented systematic information establishing widespread use across industries, it still did not provide data that would have allowed the Department to determine whether the usage was concentrated in a select group of industries (including the industry grouping that encompasses IMTDC producers), as is contemplated by sections 771(5A)(D)(iii)(II)-(III) of the Act. Therefore, the facts of this investigation are not similar to *Chlor-Isos from the PRC*, in which the Department was provided with the data necessary for the complete *de facto* specificity analysis.[225] In *Chlor-Isos from the PRC*, the Department's finding that the provision of urea was not specific was based on the "overarching fact that a large number of diverse industrial sectors in the PRC use urea *and that the industry producing subject merchandise is not the predominant or disproportionate user of urea.*"[226] Here, in contrast, the Department did not have data to assess whether the industry grouping that includes IMTDC production was a predominant user of pig iron and ferrous scrap.

For the reasons stated above, for the final determination, the Department continues to find that sections 776(a)(1) and 776(a)(2)(A) of the Act are applicable because the GOC did not provide requested data and did not cooperate to the best of its ability to obtain and submit the data. Accordingly, we have continued to determine, based on AFA, that the provision of pig iron and ferrous scrap for LTAR is specific.

Comment 14: Whether to Use a Tier One Benchmark for LTAR Programs

GOC's Comments:

- The Department must use a PRC benchmark to determine the adequacy of remuneration for inputs for LTAR.
- The Department's finding in the *Preliminary Determination* that use of an in-country benchmark was inappropriate is not supported by the record and is inconsistent with U.S. international obligations under the WTO.
- No laws or policies in China govern the pricing and the levels of production of pig iron and ferrous scrap, as they are not included in the *Catalogue of Government-Set Prices*

[225] *See* Chlor-Isos IDM at Comment 4.
[226] *Id.* (emphasis added).

and there were no export controls, price controls, or price floors or ceilings for these inputs.
- The PRC prices of pig iron and ferrous scrap reflect market forces.

Petitioner's Rebuttal Comments:
- The absence of formal, express price controls, production quotas, or export controls does not preclude a finding of distortion, as the Department's analysis focuses on the potentially distorting presence of the GOC in the market.
- In broadly arguing that the facts of this case indicate that pig iron and ferrous scrap prices reflect market forces, the GOC failed to address the Department's multiple bases for its distortion findings. With respect to the ferrous scrap market, the Department noted that the GOC imposed a 40 percent export tax on the product and that imports of ferrous scrap accounted for less than 0.1 percent of domestic consumption.
- With respect to the pig iron market, the Department found that state-owned producers accounted for a majority of domestic production between 2012 and 2014, that there was a 25 percent export tariff on pig iron, and that import penetration was low, with imports accounting for less than 0.1 percent of domestic consumption.

Department's Position:

We agree with Petitioner. In order to determine the appropriate benchmark with which to measure the benefit from the provision of inputs at LTAR under 19 CFR 351.511, the Department asked the GOC a series of questions concerning the structure of the pig iron and ferrous scrap industries.

The GOC provided the applicable information relating to the pig iron industry. Based on that information, the Department determined that the domestic market for pig iron is distorted through the intervention of the GOC. Of key importance, the GOC indicated that majority-state-owned producers accounted for 52.53, 51.71 and 52.22 percent of domestic production during each year from 2012 to 2014.[227] The GOC also indicated that pig iron is subject to a 25 percent export tariff. Further, based on data provided by the GOC, import penetration is extremely low, with imports accounting for less than 0.1 percent of domestic consumption of pig iron in each year during the 2012-2014 period.[228] Based on these considerations, we relied on an external benchmark for determining the benefit from the provision of pig iron at LTAR.

The GOC failed to provide the requested information (*e.g.*, the volume and value of domestic production that is accounted for by companies in which the GOC maintains an ownership or management interest) with respect to ferrous scrap. As a result, the Department was unable to determine the relative level of government involvement in the market for these inputs in the PRC and assess the extent to which the market could be a source of transaction prices sufficiently free of government distortion as to be usable for benchmarking purposes.

The GOC argues that there are no formal, express price controls, production quotas, or export controls concerning the inputs that would distort the market. Nonetheless, the GOC failed to

[227] *See* GOC IQR at 49-50.
[228] *Id.* at 50.

provide relevant information concerning the composition of the ferrous scrap market, particularly in terms of the government's presence in the market, which is necessary to the Department's analysis. Consequently, we are applying AFA in finding that the ferrous scrap industry was distorted.

Additionally, the record evidence indicates that the GOC levied a 40 percent tariff on ferrous scrap exports during the 2012-2014 period.[229] Further, statistics provided by the GOC demonstrate that imports of ferrous scrap accounted for less than 0.1 percent of domestic ferrous scrap consumption in the PRC during the POI.[230] These facts further reinforce the Department's findings that the ferrous scrap industry is distorted.

For the reasons stated above, we continue to find that the record evidence demonstrates that the GOC's presence in the pig iron market is distortive. Additionally, we continue to apply AFA to find that the ferrous scrap industry in similarly distorted. As a result, for the final determination, we have used external benchmarks for calculating the adequacy of remuneration for Powermach's pig iron and ferrous scrap purchases.[231]

Comment 15: Whether the Provision of Electricity for LTAR is Countervailable

GOC's Comments:

- The Department may not lawfully countervail the provision of electricity in this case because this alleged program constitutes general infrastructure and therefore is not a financial contribution under U.S. CVD law or the SCM Agreement.[232]
- There is no evidence on the record that the provision of electricity by the GOC in this case is "specific" to the IMTDCs industry, as is required in order to find any program countervailable.
- The Department did not find that the GOC placed restrictions on who may use the power grid, or that the power grid was built solely for use by the IMTDCs industry. The record evidence also fails to demonstrate that the GOC has given IMTDCs producers preferential rates or greater access to the power grids.
- The Department's *Preliminary Determination* to countervail the provision of electricity to the IMTDCs industry in China is unlawful and should be reversed in the final determination.

Petitioner's Rebuttal Comments:

- The Department has explicitly considered and rejected the GOC's argument that electricity constitutes general infrastructure.
- The GOC's arguments regarding specificity are inapposite, because the Department's analysis for specificity concerns the differences in rates across provinces, rather than within provinces.

[229] GOC IQR at 70.
[230] *Id.* at 75 (showing the aggregate consumption value of ferrous scrap as well as the value imported on an annual basis).
[231] *See* Final Analysis Memorandum at 3-4.
[232] *See* GOC Brief at 20.

- The Department's specificity finding was based on partial AFA, as the GOC did not provide information requested by the Department.

Department's Position:

We agree with Petitioner. In continuing to find this program countervailable, we rely on our findings in the *Preliminary Determination* that the GOC's provision of electricity confers a financial contribution, under section 771(5)(D) of the Act, and is specific, under section 771(5A) of the Act.[233] These findings were based on AFA as a result of the GOC's failure to provide certain data to the Department, including information regarding electricity costs, labor costs, and electricity price proposals.[234]

The GOC's arguments regarding specificity do not affect the Department's finding. The GOC argues that its electricity tariffs are not specific because the same price is charged to each type of end-user within a province. However, the Department's analysis and its specificity determination are not based on a conclusion that different users within a province are treated differently or that preferential rates otherwise exist within the province. Rather, we have focused our analysis on the GOC's failure to explain why rates differ *among* provinces, not *within* provinces. The GOC has failed to explain the reason for these differences in this and previous cases, claiming without support that the provincial governments set the rates for each province in accordance with market principles. Because the GOC has never sufficiently addressed our questions related to this program, we have determined as AFA that different electricity rates among provinces constitute a regionally-specific subsidy.[235]

Regarding the GOC's claim that the provision of electricity is not countervailable because it is general infrastructure, we disagree. The GOC refers to the Department's finding in *Wire Rod from Saudi Arabia* that certain benefits such as roads and ports are general infrastructure,[236] and argues that the Department should apply the same analysis to the provision of electricity in this case. However, the *Wire Rod from Saudi Arabia* determination was issued in 1986, and the Department has since revised its approach to assessing whether a particular financial contribution constitutes general infrastructure.[237] Similarly, the GOC's citation to *Bethlehem Steel*[238] is

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[233] *See* PDM at 21-22.
[234] As we did in the *Preliminary Determination*, we are using the Powermach Companies' reported electricity usage data, as verified by the Department, in calculating the benefit. *See* the Final Analysis Memorandum for additional details on the Department's calculation of a subsidy rate.
[235] *See* CORE IDM at 23.
[236] *See* GOC Brief at 20 (citing *Carbon Steel Wire Rod from Saudi Arabia*, 51 FR 4206 (February 3, 1986) ("*Wire Rod from Saudi Arabia*")).
[237] *See, e.g., Final Affirmative Countervailing Duty Determination Certain Hot-Rolled Carbon Steel Flat Products from Thailand,* 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at Comment 10 ("Furthermore, the electricity at issue here is not general infrastructure, but a good that is bought and sold in the marketplace. In the Department's view, the term infrastructure refers to the types of goods and services described in the Preamble to the regulations, including schools, interstate highways, health care facilities and police protection. According to our regulations, if we find that these types of infrastructure were provided for the broad societal welfare, they would be considered general infrastructure."); *see also Certain Steel Wheels from the People's Republic from China: Final Affirmative Countervailing Duty Determination, Final Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) ("*Steel Wheels from the PRC*") and accompanying Issues and Decision Memorandum ("Steel Wheels IDM") at Comment 20 ("The Department disagrees with the GOC's position

inapposite, because record evidence in that case showed that the Korean producer under review did not receive a countervailable benefit from infrastructure subsidies; we do not have similar record support here. Also, the Department has consistently found the provision of electricity to be the provision of a good, and not to be general infrastructure.[239] Finally, the Department's regulations explicitly categorize electricity within the provision of countervailable goods and services.[240]

For the reasons stated above, we have continued to find that the provision of electricity for LTAR provides a financial contribution through the provision of a good or service and we continue to determine that this program is specific.

Comment 16: Whether the GOC Provided Policy Loans during the POI

GOC's Comments:

- No loans to Powermach were issued pursuant to an industrial policy, and no policy lending program exists.
- The GOC provided evidence that there is no government-directed lending to the IMTDC industry, including the *Steel Industry Development Policy* and the NDRC. Neither mandates that the IMTDC industry must receive favorable lending.
- The *Capital Rules for Commercial Bank*s and *Interim Measures for the Administration of Working Capital Loans (provisional)* ("*Capital Rules*") eliminate industrial policies as a consideration for loans. Additionally, the *Capital Rules* establish tight disciplines on loan management in general, and risk management of loans in particular. The *Capital Rules*, therefore, demonstrate substantial changes in the Chinese commercial banking sector. All commercial banks in the PRC operate on commercial principles.
- PRC commercial banks, including PRC policy banks and state-owned commercial banks ("SOCBs"), are not government authorities. Pursuant to WTO rulings, the mere ownership or control over an entity by a government, without more, is not sufficient to establish that the entity is a public body. The Department wrongly assumes that government ownership in itself indicates that an entity is a government entity and this assumption violates the U.S.'s WTO obligations.
- The Department's use of external interest rates as benchmarks was unsupported by the record, and contrary to the Department's express regulations and past case precedents. Given the substantial changes regarding bank loan management stipulated under the *Capital Rules*, combined with the deregulation of floor interest rates in China's banking sector, the application of external interest rates as benchmarks is unsupported on the record of this case.
- The Department's calculation of an external benchmark rate using a regression analysis based on World Bank indicators and International Monetary Fund ("IMF") rates was

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that electricity is categorized as 'general infrastructure.' The Department has consistently found the provision of electricity to be the provision of a good, and not to be general infrastructure.").

[238] *See Bethlehem Steel Corp. v. United States*, 223 F. Supp. 2d 1372 (CIT 2002) ("*Bethlehem Steel*").

[239] *See, e.g.*, Steel Wheels IDM at Comment 20 ("The Department has consistently found the provision of electricity to be the provision of a good, and not to be general infrastructure.").

[240] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65377 (November 25, 1998).

flawed, illogical and arbitrary and does not provide an accurate third-country basket benchmark interest rate for the PRC.

Petitioner's Rebuttal Comments

- The GOC has a policy in place to encourage loans to the IMTDC industry. As the Department explained in its *Preliminary Determination*, the industry is covered as an "encouraged" industry in the *Industrial Restructuring Guidance Catalogue* ("*Catalogue*"), the *Decision of the State Council on Promulgating and Implementing the 'Temporary Provisions on Promoting Industrial Structure Adjustment' No. 40* ("*Decision 40*") identifies government financing as an option for "encouraged" projects, and the 10th five-year plan indicates that industrial development in the Western region (where the Powermach Companies are located) would be especially favored in terms of lending.
- The *Capital Rules* do not demonstrate that the GOC will not issue loans pursuant to policy objectives. The Department has found that the *Capital Rules* do not represent a significant change to the Chinese lending market.[241]
- The loans are a financial contribution because SOCBs are government authorities. The Department has repeatedly found that SOCBs are authorities, and this determination is based on considerations well beyond whether the banks are state-owned or not. The Department has addressed arguments similar to the ones the GOC makes here, and has repeatedly affirmed that SOCBs are authorities within the meaning of the statute.
- The Department's use of an external benchmark rate was lawful. The effect of the *Capital Rules* does not undermine the Department's conclusion in this regard.
- The GOC's argument concerning the Department's interest benchmark calculation have been addressed, and rejected, in prior cases.

Department's Position:

We agree with Petitioner and continue to find that lending from SOCBs constitutes a financial contribution, pursuant to sections 771(5)(B) and 771(5)(D)(i) of the Act, that the PRC lending market is distorted, and that external benchmarks should be used to determine any benefits from this program. Additionally, we continue to find that loans provided to Powermach are specific within the meaning of section 771(5A)(D)(i) of the Act.

The record of this investigation indicates that policy considerations are a significant factor in lending decisions. For instance, the *Catalogue* indicates that the industry under consideration falls within the "Encouraged" category;[242] under the general "machinery" heading, the *Catalogue* enumerates numerous subgroupings related to machinery and equipment manufacturing, such as "Precise forging and casting, with high-and-low-temperature, corrosion and wear resistance," as encouraged sectors.[243] IMTDC production falls within this encouraged category and several others contained in the *Catalogue*. In fact, the tax returns filed by Dawn Precision, Powermach

[241] *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 Issues and Decision Memorandum ("Extrusions 2015 IDM") at Comment 3.
[242] *See* GOC IQR at Exhibit 6.
[243] *Id.*

Machinery and Dawn Foundry explicitly state that each of the three companies fall within at least one of the enumerated encouraged categories.[244]

Decision 40 states in the preamble that "{a}ll relevant administrative departments shall speed up the formulation and amendment of policies on public finance, taxation, credit, land, import and export, etc., effectively intensify the coordination and cooperation with industrial policies, and further improve and promote the policy system on industrial structure adjustment" with respect to the listed industrial categories.[245] *Decision 40* explicitly references the *Catalogue* and describes how "encouraged" projects will be considered under government policies. For the "encouraged" projects, *Decision 40* outlines several support options available to the government, including financing. In addition to establishing eligibility for certain benefits from the central government, the *Catalogue* also gives provincial and local authorities the discretion to implement their own policies to promote the development of favored industries.

Additionally, the 10th 5-year plan indicates that industrial development in the Western region (where the Powermach Companies are located) would be especially favored in terms of lending. The plan explains that "{t}he nation will implement the policies and measures in order to pertinently support the Western Development, increase the financial transfer payment and construction fund investment in the Western region and adopt preferential opening-up, tax, land, resources and personnel policies."[246]

That these various government directives and plans encourage lending to the IMTDC industry is significant. As the Department has previously found, commercial banks in the PRC follow the "guidance" of central planning authorities. Specifically, the Department has found that "Article 34 of Law of the People's Republic of China on Commercial Banks (Banking Law) states that banks should carry out their loan business 'under the guidance of the state industrial policies.' . . . {Therefore} the Banking Law, in some measure, stipulates that lending procedures be based on the guidance of government industrial policy."[247] Thus, contrary to the GOC's arguments, there exists a link between the GOC's industrial policies and lending.

To the extent the GOC argues that such industrial policies no longer influence lending decisions, we disagree. For instance, the GOC indicated that the *Capital Rules*, as enacted by the China Banking Regulatory Commission, went into effect on January 1, 2013. According to the GOC, these *Capital Rules* establish tight disciplines on loan management, and these changes, combined with deregulation of floor interest rates by commercial banks, demonstrate substantial changes in the PRC's commercial banking sector. We find that these changes do not call into question the Department's prior findings regarding the PRC's banking sector. As we have explained previously, there is often a distinction between *de jure* reforms of the PRC's banking sector and

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[244] *See, e.g.*, Powermach IQR at Vol. 3, Exhibit 18; *see also* Powermach IQR, Vol. 4, at Exhibit 22 (noting that Dawn Precision falls under two encouraged categories within the general "machinery" category); Powermach IQR at Vol. 5, Exhibit 18 (same).
[245] *See* GOC IQR at Exhibit 8.
[246] *Id*. at Exhibit 4a.
[247] *See* Solar Cells IDM at Comment 14; Steel Wheels IDM at Comment 22; Extrusions 2012 AR IDM at Comment 3; *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 Issues and Decision Memorandum ("OCTG IDM") at Comment 21.

de facto banking practices.[248] *De jure* reform does not always translate into *de facto* reform. Regarding the most recent round of *de jure* modifications, 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. In the absence of any argument or evidence of such changes, the Department sees no basis at this time to depart from its analysis of the PRC's banking sector.[249]

The GOC cites the *Capital Rules* as sufficient information on the record to show that the lending market has significantly changed. However, the *Capital Rules* only address capital adequacy and loan management standards.[250] The rules do not address the use of policy considerations or the role of the government in the financial system. The record, therefore, contains no evidence that contradicts our findings in *CFS from the PRC*, and numerous subsequent proceedings, that the PRC's banking sector does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the continued dominant role of the government in the financial system and the government's use of banks to effectuate policy objectives.

Likewise, we continue to find that state-owned or controlled banks (including banks outside the "Big Four" SOCBs) are "authorities" within the meaning of section 771(5)(B) of the Act. The Department has repeatedly affirmed these findings in the proceedings following *CFS from the PRC*. In *OCTG from the PRC*, for example, we noted that:

> {T}he GOC has failed to provide evidence that the government has divested itself of ownership in Chinese banks. The GOC has failed to address the issue of real risk assessment within the Chinese banking sector. The GOC has failed to address interest rate and deposit rate ceilings and floors set by the government. The GOC has failed to address both *de jure* and *de facto* reforms within the Chinese banking sector. The GOC has failed to address the elimination of policy based lending within the Chinese banking sector. Therefore, the GOC has failed to provide the information that would warrant a reconsideration of the Department's determination in {the *CFS from the PRC* investigation}.[251]

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[248] *See, e.g.*, OCTG IDM at Comment 21.

[249] *See, e.g.*, *Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016) at "Policy Loans to the Stainless Sheet and Strip Industry"; Extrusions 2015 IDM at Comment 3; CORE IDM at Comment 5.

[250] *See* GOC IQR at Exhibit 41.

[251] *See* OCTG IDM at Comment 20; *see also Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014) (*Solar Products From the PRC*) and accompanying Issues and Decision Memorandum ("Solar Products IDM") at Comment 9.

In a more recent investigation, we also noted that the banking system continues to be affected by the legacy of government policy objectives, which continue to undermine the ability of the domestic banking sector to act on a commercial basis, and allows continued government involvement in the allocation of credit in pursuit of those objectives.[252] Thus, our treatment of SOCBs as authorities turns on more than the existence of government ownership.

Because the Department is continuing to find that the policy lending market is distorted, we are also continuing to rely on external benchmarks to determine Powermach's benefit from this program. The Department has previously fully addressed the arguments raised by the GOC regarding the calculation of the Department's benchmark interest rate, including the use of certain rates published by the IMF,[253] the Department's practice with respect to certain negative inflation-adjusted rates,[254] its regression analysis based on a composite governance factor,[255] and adjustment of rates based on the spread between U.S. short and long-term "BB" bond rates.[256] Because the GOC offers no more than bare restatements of arguments that have previously been rejected, we find that none of these arguments warrant reconsideration of the Department's prior findings.[257]

For the reasons stated above, for the final determination, we have continued to countervail policy loans to Powermach.

Comment 17: Whether the Department Properly Investigated Uninitiated Programs

GOC Comments

- The Department improperly countervailed the "Preferential Tax Rate for Companies in the Western Development Area" program as well as eleven grant programs. These programs were not alleged by Petitioner or duly initiated by the Department.[258]
- Articles 11.1 and 11.2 of the SCM Agreement provide that an investigation of any alleged subsidy may be initiated only upon written application that must include sufficient evidence of a subsidy, injury, and a causal link between the subsidy and alleged injury. While the SCM Agreement provides the right to self-initiate an investigation in "special circumstances," the right can only be exercised on the basis of sufficient evidence of the existence of a subsidy, consistent with Article 11.6 of the SCM Agreement, and after an opportunity for consultation has been properly offered to the government of the exporting country under investigation, consistent with Article 13.1 and 13.2 of the SCM Agreement.

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[252] *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 Issues and Decision Memorandum ("Extrusions IDM") at Comment 7.
[253] *See, e.g.*, *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) and accompanying Issues and Decision Memorandum ("Citric Investigation IDM") at Comment 10.
[254] *See, e.g.*, Solar Cells IDM at Comment 16.
[255] *See, e.g.*, Citric Investigation IDM at Comment 12, *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014) and accompanying Issues and Decision Memorandum at Comment 8; OCTG IDM at Comment 23.
[256] *See, e.g.*, Citric Investigation IDM at Comment 13; OCTG IDM at Comment 27.
[257] *See* CORE IDM at 29.
[258] *See* GOC Brief at 26-27.

- Because the Department failed to properly initiate an investigation of the purported "tax program" and "grant programs," it should withdraw its preliminary findings related to them, and remove from the record all the information obtained through improper questionnaire requests.

Petitioner's Rebuttal Comments

- The arguments made by the GOC here have previously been rejected by the Department, and the GOC provides no new grounds that would justify the Department's departure from its prior determinations.[259]
- Pursuant to section 775 of the Act, if the Department "discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition ... {the Department} shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding{.}"[260] Thus, the Department's actions here are not only permitted, but in fact required by the Act.
- The Department acted consistently with the statute, its regulations, and its past practice in investigating the subsidy programs that were reported and/or discovered during the proceeding, and it should continue to countervail these programs for the final determination.

Department's Position:

We agree with Petitioner. Section 775 of the Act states that if, during a proceeding, the Department discovers "a practice that appears to provide a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition," the Department "shall include the practice, subsidy, or subsidy program if the practice, subsidy or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding." Under 19 CFR 351.311(b), the Department will examine the practice, subsidy or subsidy program if the Department "concludes that sufficient time remains before the scheduled date for the final determination or final results of review."

In response to the Department's Initial Questionnaire, the Powermach Companies stated that they received benefits pursuant to the Preferential Tax Rate for Companies in the Western Development Area program as well as numerous grant programs.[261] The Powermach Companies also provided a variety of documents, including financial statements and databases, substantiating the receipt of benefits under the programs. Following the issuance of several supplemental questionnaires[262] seeking additional information on these programs, the Department preliminarily determined that these programs constituted countervailable subsidies. The Department's decision to countervail these programs fell squarely within the guidelines

[259] *See* Petitioner Rebuttal Brief at 31-32.
[260] Petitioner Rebuttal Brief at 32 (citing 19 U.S.C. § 1677d(l) and 19 C.F.R. 351.311(b)).
[261] *See* Powermach IQR at Vol. 1, Exhibit 12; Vol. 3, Exhibit 17; Vol. 4, Exhibit 20; Vol. 5, Exhibit 17.
[262] *See* Letter from the Department to Powermach I&E, "Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: First Supplemental Questionnaire – Powermach I&E, dated February 19, 2016 ("Powermach First Supplemental Questionnaire"); *see also* GOC First Supplemental Questionnaire at 2-3.

established under section 775 of the Act and 19 CFR 351.311(b). Additionally, this approach was consistent with the Department's practice.[263]

Additionally, as stated in 19 CFR 351.311(d), the Department will notify the parties to the proceeding of any subsidy discovered in the course of an ongoing proceeding, and will state whether or not it will be included in the ongoing proceeding. In this instance, Powermach clearly had notice of these programs, as it self-reported the programs in its Initial Questionnaire response. Moreover, Powermach and the GOC were notified of the Department's investigation of these programs in light of the Department's issuance of supplemental questionnaires concerning the programs.[264] Subsequently, Powermach and the Petitioner commented on these programs during the course of these proceedings.[265]

For the reasons discussed above, the Department acted consistently with its statutory authority, as well as Departmental practice, in considering subsidy programs that came to light during the course of this proceeding. Therefore, for the final determination, we have continued to countervail these programs.

Comment 18: Whether the Department Should Find that the Program Titled "Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment" has Been Terminated

GOC Comments

- This program was terminated on January 1, 2008, according to the *Notice of Abolishing the Income Tax Credits Policy on Purchasing Domestically-Produced Equipment*. Additionally, the last tax year in which benefits could possibly be received under this program was the 2012 tax year, and the regulation provides no further extension or grace period.[266]
- There has been no replacement or substitute program.[267]
- The Department should determine that a "program wide change" has occurred and apply a zero cash deposit rate with respect to the program for Powermach. The Department should also recalculate the all-others rate to account for this modification, and should eliminate the program from the AFA program list applied to the non-responsive companies.[268]

[263] The Department has addressed these same arguments in the context of similar fact patterns before. *See, e.g.*, Steel Wheels IDM at Comment 5; Solar Cells IDM at Comment 23; and *Multilayered Wood Flooring from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 64313 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 3.
[264] *See* Powermach First Supplemental Questionnaire; *see also* GOC First Supplemental Questionnaire at 2-3.
[265] *See, e.g.*, Powermach IQR at Vol. 1, Exhibit 12; Vol. 3, Exhibit 17; Vol. 4, Exhibit 20; Vol. 5, Exhibit 17; *see also* Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Petitioner's Comments on the First Supplemental Response of the Government of China, dated March 18, 2016.
[266] *See* GOC Brief at 28-29.
[267] *Id*. at 28.
[268] *Id*. at 29-30.

Petitioner's Rebuttal Comments

- The GOC has not demonstrated that the requirements for the Department to implement a program-wide change have been met. Pursuant to the Department's regulations, to establish a program-wide change, a party must demonstrate not only that the program has been terminated, but also that there are no residual benefits and that no substitute program has been introduced.
- Consistent with Department practice, the GOC must do more than simply demonstrate that a program is terminated to warrant the Department's implementation of a program-wide change. Specifically, it must demonstrate that there is no replacement program.

Department's Position:

We agree with Petitioner. In prior proceedings, the Department has rejected the same arguments that the GOC is presenting here, for failure to show that there are no residual benefits and no replacement program, consistent with the requirements under 19 CFR 351.526(d).[269] Specifically, the regulation states that a program-wide change consists of not only the termination of the program, but also a determination that: (1) no residual benefits continue to be received under the program; and (2) no substitute program has been introduced.

In this proceeding, the Department asked, on two separate occasions, that the GOC respond to the Standard Questions appendix for this program. Several questions in the appendix specifically address changes to existing subsidy programs. One question asks: "If the program has been terminated and replaced by a similar type of program, please provide a discussion of the replacement program to include the purpose of the program and the date it was established." The GOC did not provide a response to the Department's inquiry regarding the establishment of a replacement program. Accordingly, as in *Woven Ribbons*, we find that the GOC has not demonstrated that the program was terminated without residual benefits or that no replacement program has been introduced. Therefore, we have no basis, pursuant to the regulation, to find that a program-wide change has occurred with respect to the program titled "Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment." For this reason, we find no justification for excluding this program from our AFA rate selection.[270]

Additionally, the issue is substantively moot with respect to Powermach. The Department has determined that it will modify its treatment of this program from the *Preliminary Determination*. In the *Preliminary Determination*, the Department treated the program as providing a non-recurring benefit.[271] For the final determination, the Department has determined that this program is more properly considered to be a recurring subsidy because the Department treats exemptions from direct taxes as recurring subsidies, consistent with 19 CFR 351.509(c)(1).

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[269] *See* Steel Grating IDM at Comment 9; *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 41801 (July 19, 2010) and accompanying Issues and Decision Memorandum at Comment 5 (*Woven Ribbons*) ("However, the GOC did not address our inquiry regarding the establishment of a replacement program. In the Department's view, the GOC has not demonstrated that the program was terminated without residual benefits or that no replacement program has been introduced.").
[270] *See* Steel Grating IDM at 14; *see also* Appendix 1.
[271] *See* Memorandum, "Countervailing Duty Investigation of Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination Analysis for Powermach I&E," dated April 1, 2016.

Therefore, the benefits are allocable only to the years the subsidy is conferred.[272] For this reason, we are finding that the program provided no benefit during the POI and, thus, has no effect on the subsidy rate for Powermach.

Comment 19: Whether Baldor Electric Company Canada Should Receive the All-Others Rate

Baldor Comments

- Baldor Electric Company Canada ("Baldor Canada") filed a quantity and value ("Q&V") questionnaire response with the Department. The response indicated that Baldor Canada exports Chinese-origin castings to the U.S.
- Pursuant to the scope of the PRC CVD investigation, "{s}ubject merchandise includes iron mechanical transfer drive components … that have been finished or machined in a third country." Accordingly, Baldor Canada's exports of Chinese-origin castings fall within the scope of the PRC CVD investigation.
- Baldor Canada was fully cooperative in this investigation. After Baldor Canada responded to the initial Q&V questionnaire, the Department never requested additional information from the company.
- Based on the fact that Baldor Canada was not selected as a mandatory respondent, was not identified as a non-responsive company, and timely submitted a response to the Department's Q&V, it should receive the "All-Others" rate.

Department's Position:

We agree with Baldor. In our *Preliminary Determination*, we noted that 30 companies failed to timely file Q&V questionnaires, as required by the Department in our *Initiation Notice*.[273] These companies were assigned a total AFA rate. However, Baldor Canada properly filed a Q&V response indicating that it exported merchandise that fell within the scope of this investigation – namely, the company indicated that it exported to the U.S. IMTDCs that were derived from castings sourced in the PRC.

The scope of this investigation states that, regardless of where finishing operations take place, IMTDCs that are derived from blanks cast in the PRC are products of the PRC.[274] Specifically, the scope states that "{s}ubject merchandise includes iron mechanical transfer drive components as defined above that have been finished or machined in a third country, including but not limited to finishing/machining processes such as cutting, punching, notching, boring, threading, mitering, or chamfering, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of

[272] *See* Tetrafluoroethane IDM at Comment 6 ("{R}egarding the income tax reductions for purchases of domestically produced equipment, we disagree with Sinochem that we should similarly treat the benefits as non-recurring. In contrast to our practice with regard to VAT and tariff incentives for the purchase or import of equipment, we have normally continued to treat the benefits from direct taxes as recurring subsidies, consistent with 19 CFR 351.509(c)(1). Therefore, for the final determination, we are continuing to treat Sinochem's benefits from income tax reductions for purchases of domestically produced equipment as recurring benefits.").
[273] *See* PDM at 2.
[274] *See* Preliminary Scope Comment Memorandum at 10.

the iron mechanical transfer drive components." As a result, IMTDCs exported by Baldor Canada that are made from castings created in the PRC fall within the scope of this investigation.

Baldor Canada was not a mandatory respondent in this proceeding and was not determined to be a non-cooperating company. Accordingly, Baldor Canada's exports of subject merchandise to the U.S. will receive the "All-Others" rate.

XI. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these Department positions are accepted, we will publish the final determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

✓

Agree Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

October 21, 2016

Date

Appendix I

AFA Rate Calculation

Program Name	AFA Rate	Source
Policy Loans to the ITDC Industry	0.79%	Calculated -- Powermach I&E
Provision of Pig Iron for LTAR	0.88%	Calculated -- Powermach I&E
Provision of Ferrous Scrap for LTAR	5.94%	Calculated -- Powermach I&E
Provision of Electiricty for LTAR	0.99%	Calculated -- Powermach I&E
Provision of Land for LTAR	4.16%	Calculated -- Powermach I&E
VAT and Import Duty Exemptions for Use of Imported Equipment	0.01%	Calculated -- Powermach I&E
Powermach I&E - Grant Programs	1.71%	Calculated -- Powermach I&E
Income Tax Reductions under Article 28 of the Enterprise Income Tax Law	25.00%	Highest Rate for Same/Similar Program Based on Benefit Type
Income Tax Benefits for FIEs Based on Geographic Locations		Highest Rate for Same/Similar Program Based on Benefit Type
Income Tax Reductions for Export-Oriented FIEs		Highest Rate for Same/Similar Program Based on Benefit Type
Local Income Tax Exemption and Reduction Programs for “Productive” FIEs		Highest Rate for Same/Similar Program Based on Benefit Type
Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises		Highest Rate for Same/Similar Program Based on Benefit Type
Preferential Income Tax Policy for Enterprises in the Northeast Region		Highest Rate for Same/Similar Program Based on Benefit Type
Preferential Income Tax Policy for Enterprises in the Western Region		Calculated -- Powermach I&E
Provision of Water for LTAR	20.06%	Highest Rate for Same/Similar Program Based on Benefit Type
Treasury Bond Loans	10.54%	Highest Rate for Same/Similar Program Based on Benefit Type
Preferential Loans for Key Projects and Technologies	10.54%	Highest Rate for Same/Similar Program Based on Benefit Type
Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program	10.54%	Highest Rate for Same/Similar Program Based on Benefit Type
Provision of Land to SOEs for LTAR	13.36%	Highest Rate for Same/Similar Program Based on Benefit Type
Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China	0.51%	Highest Rate for Same/Similar Program Based on Benefit Type

Tax Offsets for Research and Development under the EITL	9.71%	Highest Rate for Same/Similar Program Based on Benefit Type
Tax Offsets for Research and Development by FIEs	9.71%	Highest Rate for Same/Similar Program Based on Benefit Type
Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises	9.71%	Highest Rate for Same/Similar Program Based on Benefit Type
Grants for Antidumping Investigations	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Foreign Trade Development Grants	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Export Assistance Grants	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Subsidies for Development of Famous Export Brands and China World Top Brands	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment	9.71%	Highest Rate for Same/Similar Program Based on Benefit Type
VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program	9.71%	Highest Rate for Same/Similar Program Based on Benefit Type
Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	1.68%	Highest Rate for Same/Similar Program Based on Benefit Type
Export Interest Subsidies	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
State Special Fund for Promoting Key Industries and Innovation Technologies	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Funds for Outward Expansion of Industries in Guangdong Province	0.08%	Highest Rate for Same/Similar Program Based on Benefit Type
Provincial Fund for Fiscal and Innovation Technologies	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Waste Water Treatment Subsidies	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Technology to Improve Trade Research and Development Fund	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Shandong Province's Environmental Protection Industry Research and Development Funds	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type

Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology	0.58%	Highest Rate for Same/Similar Program Based on Benefit Type
Total AFA Rate:	**163.46%**	