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Investigation
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DATE: February 1, 2017

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 Stainless Steel Sheet and
Strip from the People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of stainless steel sheet and strip (stainless sheet and strip) 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 Below is the complete list of issues in this investigation for which we received comments from interested parties.

Issues:

Comment 1: Subsidies Received by Taigang Xinlei
Comment 2: Previously Unreported Government Grants Received by the Taigang Companies Discovered at Verification
Comment 3: TISCO's Exemption from Distributing Dividends to the State
Comment 4: Equity Investments in Taigang Wanbang
Comment 5: The Department's Preliminary Calculations Relating to the Provision of Land for LTAR Significantly Understate the Countervailable Benefit to TISCO
Comment 6: The Department's Preliminary Calculations Contain Errors in Certain Formulas for Calculating the Benefit from the Provision of Electricity for LTAR
Comment 7: The Department Must Use Taigang's Consolidated Sales in Calculating Any Subsidy Rate with Respect to Subsidies Received Directly by Taigang

¹ See also section 701(f) of the Act.

Comment 8:	The Correct Benchmark for Nickel Pig Iron
Comment 9:	Provision of Inputs and Financing from Taigang’s Cross-Owned Affiliates
Comment 10:	Countervailability of Certain Chromium Purchases
Comment 11:	Use of AFA in Finding Deed Tax Exemption Used by Taigang/Untimely Submission

II. BACKGROUND

A. Case History

The sole cooperating mandatory company respondent in this proceeding is Shanxi Taigang Stainless Steel Co. Ltd. (Taigang). Taigang provided a countervailing duty (CVD) questionnaire response on behalf of itself and its cross-owned affiliates Tianjin TISCO & TPCO Stainless Steel Co., Ltd. (Taigang Tianguan), Shanxi Taigang Stainless Steel Precision Strip Co., Ltd. (Taigang Jingmi), Taigang (Group) International Economic and Trade Co., Ltd. (Taigang Guomao), Shanxi Taigang Wanbang Furnace Burden Co., Ltd. (Taigang Wanbang), TISCO Metal Recycle Co., Ltd (Taigang Jinshu), TISCO Mining Branch Company (TISCO Mining Branch), Shanxi Taigang Xinlei Resource Co., Ltd. (Taigang Xinlei), and Taiyuan Iron and Steel Group Co., Ltd. (TISCO).² On July 18, 2016, the Department published the *Preliminary Determination* in this proceeding.³ In the *Preliminary Determination*, we stated that the remaining mandatory respondents, Ningbo Baoxin Stainless Steel Co., Ltd. (Ningbo Baoxin) and Daming International Import Export Co Ltd (Daming), all did not participate in the investigation, and, thus, assigned them a subsidy rate relying on adverse facts available (AFA).⁴

Between November 24 and 27, 2016, we conducted verification of the questionnaire responses submitted by the Taigang Companies and the Government of the PRC (GOC).⁵ Interested parties submitted case and rebuttal briefs, between November 23, and December 5, 2016.

B. Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2015, through December 31, 2015.

² We are referring to the following companies collectively as the “Taigang Companies:” Taigang, Taigang Tianguan, Taigang Jingmi, Taigang Guomao, Taigang Wanbang, Taigang Jinshu, TISCO Mining Branch, Taigang Xinlei and TISCO.

³ See *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*, 80 FR 46643 (July 18, 2016) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

⁴ See PDM at 8-13.

⁵ See Memorandum, “Verification of the Questionnaire Responses Submitted by Shanxi Taigang Stainless Steel Co. Ltd.,” November 10, 2016 (Taigang Verification Report); Memorandum, “Verification of the Questionnaire Responses Submitted by the Government of China,” November 10, 2016 (GOC Verification Report).

III. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART

Based on the shipment data placed on the record by Taigang, as requested by the Department, and Global Trade Atlas (GTA) data, we examined whether the increase in imports was massive by comparing shipments over the period of November 2015, through January 2016, with the period February 2016, through April 2016.⁶ The Department preliminarily determined that critical circumstances existed for Taigang, Daming, Ningbo Baoxin, and all other producers or exporters.⁷

Based on the shipment data placed on the record by Taigang after the *Preliminary Determination*, as requested by the Department, and additional GTA data placed on the record by the Department, we examined whether the increase in imports was massive by comparing shipments over the period of August 2015, through January 2016, with the period February 2016, through July 2016.⁸ For this final determination, the Department continues to find that critical circumstances exist for Daming and Ningbo Baoxin, but not for Taigang and all other producers or exporters.⁹

IV. SCOPE COMMENTS

In the *Preliminary Determination*, we did not modify the scope language as it appeared in the *Initiation Notice*.¹⁰ No interested parties submitted scope comments in case or rebuttal briefs; therefore, the scope of this investigation remains unchanged for this final determination.

V. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is stainless steel sheet and strip, whether in coils or straight lengths. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product with a width that is greater than 9.5 mm and with a thickness of 0.3048 mm and greater but less than 4.75 mm, and that is annealed or otherwise heat treated, and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, annealed, tempered, polished, aluminized, coated, painted, varnished, trimmed, cut, punched, or slit, etc.) provided that it maintains the specific dimensions of sheet and strip set

⁶ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Determination of Critical Circumstances*, 81 FR 41519 (June 27, 2016) (*Preliminary Critical Circumstances Determination*).

⁷ See *Preliminary Critical Circumstances Determination*; see also PDM at 5-6.

⁸ See Memorandum, "Monthly Shipment Quantity and Value Analysis for Critical Circumstances Final Determination," dated concurrently with this memorandum (Final Critical Circumstances Memorandum). We requested that Taigang submit shipment data through the month of the publication of the preliminary determination of the investigation, *i.e.*, July 2016. See Letter to Taigang, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Request for Quantity and Value Shipment Data," May 16, 2016. Likewise, when additional GTA data become available after the *Preliminary Determination*, the Department placed that information (through the month of July) on the record for determining whether critical circumstances exist for all other producers or exporters. Therefore, we are using data through July 2016, in determining critical circumstances for Taigang.

⁹ See Final Critical Circumstances Memorandum.

¹⁰ See PDM at "Scope Comments."

forth above following such processing. The products described include products regardless of shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

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

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

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

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

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

VI. 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.¹¹ 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.¹²

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.¹³ 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.¹⁴ The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.¹⁵

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.¹⁶

VII. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

The Department has made no changes to the allocation period and the allocation methodology used in the *Preliminary Determination*, and no issues were raised by interested parties in case briefs regarding the allocation period or the allocation methodology. For a description of the allocation period and the methodology used for this final determination, see the *Preliminary Determination*.¹⁷

¹¹ 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 (IDM) at Comment 6.

¹² *Id.*

¹³ 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 (IDM) at Comment 1.

¹⁴ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

¹⁵ See Public Law 112-99, 126 Stat. 265 §1(b).

¹⁶ See *CWP from the PRC* and accompanying IDM at Comment 2.

¹⁷ See PDM at 26.

B. Attribution of Subsidies

In a change from the *Preliminary Determination*, based on business proprietary information submitted by Taigang, the Department now concludes that Taigang can use or direct the individual assets of the Taigang Xinlei in essentially the same ways it can use its own assets, thus meeting the definition of cross-ownership in 19 CFR 351.525(b)(vi). The Department has made no other changes to the methodologies used in the *Preliminary Determination* for attributing subsidies and no issues were raised by interested parties in case briefs regarding the attribution of subsidies.¹⁸ For descriptions of the methodologies used for this final determination, see the *Preliminary Determination*.¹⁹

C. Denominators

In accordance with 19 CFR 351.525(b), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, e.g., to the respondent's export or total sales, or portions thereof. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in the "Final Analysis Memorandum," prepared for this final determination.²⁰ As a result of verification, we have revised the sales values for the Taigang Companies to calculate the subsidy rates in this final determination.²¹ Additionally, in the *Preliminary Determination*, we found that, because it was not a producer of an input primarily dedicated to the production of steel, subsidies received by Taigang Xinlei were irrelevant to the analysis. However, as explained in detail in response to Comment 1 below, the Department has now determined that Taigang Xinlei is a producer of lime, a product primarily dedicated to the production of steel. Furthermore, business proprietary information submitted by Taigang leads the Department to conclude that Taigang can use or direct the individual assets of Taigang Xinlei in essentially the same ways it can use its own assets, thus meeting the definition of cross-ownership in 19 CFR 351.525(b)(vi). As discussed below in Comments 7 and 1, respectively, the Department has revised the denominators for Taigang and identified the denominators necessary for the inclusion of Taigang Xinlei in the benefit calculations.

VIII. BENCHMARKS AND DISCOUNT RATES

As discussed in Comment 8, the Department has modified the calculation of the nickel pig iron benchmark. No other changes have been made to the benchmarks or the discount rates used in the *Preliminary Determination*. For a description of the benchmarks and discount rates used for this final determination, see the *Preliminary Determination* and the Final Analysis Memorandum.

¹⁸ *Id.*, at 26-28.

¹⁹ *Id.*

²⁰ See Memorandum, "Final Determination Analysis for Shanxi Taigang Stainless Steel Co. Ltd.," dated concurrently with this memorandum (Final Analysis Memorandum).

²¹ See Taigang Verification Report at "Corrections to Response;" Letter from Taigang, "Taigang's Verification Minor Corrections Submission Stainless Steel Sheet and Strip from China," October 25, 2016 (Minor Correction Exhibits).

IX. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

The Department relied on “facts otherwise available,” including AFA, for several findings in the *Preliminary Determination*. With some exceptions explained below, the Department has not made any changes to its use of facts otherwise available and AFA from the *Preliminary Determination*. For a description of these decisions, see the *Preliminary Determination*.²² In a change from the *Preliminary Determination*, we are now relying on AFA in finding that Taigang used and benefited from grants for energy conservation and emission reduction, grants for the retirement of capacity, export assistance grants, several unreported grants to TISCO, and Export Buyer’s Credits. Furthermore, due to changes in Taigang’s rates, the Department has adjusted the total AFA rate for the non-cooperating mandatory respondents. The Department also adjusted the AFA rate for “Export Credit Guarantees.”²³

Grants for Energy Conservation and Emission Reduction; Grants for Retirement of Capacity; Export Assistance Grant; Grants to TISCO

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.

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.”²⁴ The

²² See Attachment for the subsidy rates used to calculate the AFA rate for non-cooperating companies.

²³ The Department is applying a rate of 10.54 percent *ad valorem*, the highest calculated, *non-de minimis* rate for similar programs. See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from the PRC*), and accompanying Ministerial Errors for Final Determination Memorandum at “Preferential Lending to the Coated Paper Industry.”

²⁴ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

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."²⁵

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."²⁶ The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.²⁷ 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.²⁸ However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.²⁹

Finally, under the new section 776(d) of the Act, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.³⁰

Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.³¹ When selecting rates, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program (excluding zero rates). If there is no identical program above zero in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical

²⁵ 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.

²⁶ *Id.*, at 870.

²⁷ *Id.*

²⁸ 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).

²⁹ See SAA at 869-870.

³⁰ See section 776(d)(3) of the Act.

³¹ 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 IDM at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

program (excluding rates that are *de minimis*). 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. Where there is no comparable program, we apply the highest calculated rate from any non-company specific program in a CVD case involving the same country, but we do not use a rate from a program if the industry in the proceeding cannot use that program.³²

The Department has determined that the use of AFA is warranted in determining the countervailability of grants for energy conservation and emission reduction, grants for the retirement of capacity, export assistance grants, and several unreported grants to TISCO. As discussed below in response to Comments 2 and 11, Taigang did not provide the requested information needed to allow the Department to verify these programs.

On the first day of verification, the Taigang Companies presented previously unreported grants, *i.e.*, grants for energy conservation and emission reduction, grants for the retirement of capacity, and export assistance grants, as minor corrections.³³ The Department rejected information concerning the specific amounts received by the Taigang Companies as untimely new information.³⁴ The Department also discovered several unreported grants to TISCO from years prior to 2014.³⁵ We have noted that “whether a program was used or not by a company is not ‘minor’ in the view of the Department.”³⁶ Furthermore, the Department’s initial questionnaire asked respondents to report “other subsidies.”³⁷ The questionnaire is clear in instructing respondents to report “any other forms of assistance to {the} company.”³⁸ Therefore, we find that the Taigang Companies withheld information requested by the Department and that the Taigang Companies’ original responses regarding “other subsidies” failed to verify. In accordance with sections 776(a)(2)(A) and 776(a)(2)(D) of the Act, we determine that the use of facts available is warranted in calculating Taigang’s benefits from these programs. Moreover, because Taigang failed to the best of its ability to answer our questions on “other subsidies,” including reporting assistance which should have been discovered in its accounting system, we find that Taigang failed to act to the best of its ability in providing requested, necessary information that was in its possession, and that the application of AFA is warranted, pursuant to 776(b) of the Act. Relying on AFA, we find, as discussed below under Comments 2 and 11, that Taigang benefited at the rate of 0.58 percent *ad valorem* per missing program, the highest rate determined for a similar program in a prior CVD proceeding.³⁹

³² See *Shrimp from the PRC*, and accompanying IDM at 13-14.

³³ See Taigang Verification Report at 3.

³⁴ *Id.*

³⁵ *Id.*

³⁶ See *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015) (*Passenger Tires from the PRC*), and accompanying IDM at 18.

³⁷ See Letter to BKT “Stainless Steel Sheet and Strip from the People’s Republic of China: Countervailing Duty, Questionnaire,” March 28, 2015, at III-15 and III-56.

³⁸ *Id.*

³⁹ See *Off-the-Road Tires from the PRC CVD Review Preliminary Results*, 75 FR at 64275, unchanged in *Off-the-Road Tires from the PRC CVD Review*.

Export Buyer's Credits

The Department has determined that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program because the GOC did not provide the requested information needed to allow the Department to analyze this program fully. In its questionnaire responses, the GOC claimed that none of the U.S. customers of the respondent companies used export buyer's credits from the China Export-Import Bank (China Ex-Im Bank) during the POI.⁴⁰ Information on the record indicates that the GOC revised this program in 2013 to eliminate a USD 2 million minimum contract amount requirement.⁴¹ In response to our request that it provide the documents pertaining to the 2013 program revision and to respond to an apparent discrepancy between the revision and the GOC's previous claims that the minimum threshold is still in effect, the GOC refused to provide them, stating that the "The Export-Import Bank of China has confirmed to the GOC that its 2013 revised Administrative Measures are internal to the bank, non-public, and not available for release."⁴² Through its response to the Department's supplemental questionnaire, the GOC refused to provide the requested information or any information concerning the 2013 program revision, which is necessary for the Department to analyze how the program functions.

Moreover, information on the record also indicates that the China Ex-Im Bank may disburse Export Buyer's Credits directly or through a third-party partner and/or correspondent banks.⁴³ We asked the GOC to confirm whether it extended credit through third-party banks. Instead of providing a response stating whether third-party banks play a role in the disbursement/settlement of export buyer's credits, the GOC replied that "Since none of the U.S. customers of the respondent used the Export Buyer's Credit from EX-IM Bank during the POI, this question is not applicable."⁴⁴ The Department also requested that the GOC provide a list of all third-party banks involved in the disbursement/settlement of Export Buyer's Credits. Instead of providing the information requested, the GOC again advised us that our question was not applicable.⁴⁵

Pursuant to sections 776(a)(2)(A) and (a)(2)(C) of the Act, when an interested party withholds information requested by the Department or significantly impedes a proceeding, respectively, the Department uses facts otherwise available. Because the GOC withheld the requested information described above, thereby significantly impeding this proceeding, we determine that the use of facts available is appropriate. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding information and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted.

⁴⁰ See Letter from the GOC, "The Government of the People's Republic of China's First Supplemental Questionnaire Response: Stainless Steel Sheet and Strip from China," June 23, 2016 (GOC's June 23, 2016 QR) at 4.

⁴¹ See Memorandum, "Placing Information on the Record," September 16, 2016.

⁴² See Letter from the GOC, "The GOC's Third Supplemental Questionnaire Response: Stainless Steel Sheet and Strip from China," September 28, 2016, (GOC's September 28, 2016 SQR) at 1-2.

⁴³ See Department Memorandum, "Placing Information on the Record," (October 21, 2016).

⁴⁴ See the GOC's September 28, 2016 SQR at 1-3.

⁴⁵ *Id.*

As noted above, the GOC has not answered our questions with respect to this program. As a result, the GOC has not provided information that would permit us to make a determination as to whether this program constitutes a financial contribution and whether this program is specific. Because the GOC has not cooperated to the best of its ability in response to the Department's specific information requests, we determine, as AFA, that this program constitutes a financial contribution and meets the specificity requirements of the Act.⁴⁶

Moreover, the GOC has not provided information with respect to whether the China Ex-Im Bank limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million. In addition, the GOC has not provided information on whether it uses third-party banks to disburse/settle Export Buyer's Credits. Such information is critical to understanding how Export Buyer's Credits flow to/from foreign buyers and the China Ex-Im Bank. The nature of the GOC's responses to those information requests further indicates that any attempt to request the information again from the GOC would be futile. Absent the requested information, the GOC's and respondent company's claims of non-use of this program are not verifiable. Therefore, because the Department received these GOC questionnaire responses, after the *Preliminary Determination*, we now find, in a change from the *Preliminary Determination*, that the GOC has not cooperated to the best of its ability and, as AFA, find that Taigang used and benefited from this program, despite its claims of non-use and certifications of non-use from its customers.

Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.⁴⁷ We are applying a rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in a prior CVD proceeding.⁴⁸

X. ANALYSIS OF PROGRAMS

A. Programs Determined to Be Countervailable and Used by Taigang

The Department has made certain changes to its *Preliminary Determination* with regard to the methodology used to calculate the subsidy rates for some of the following programs. Where a change has been made, the Department notes that change below.⁴⁹ For the descriptions, analyses, and calculation methodologies of the unchanged programs, *see* the *Preliminary Determination*. Further, as discussed in Comment 1, the Department has determined that it is appropriate to include Taigang Xinlei in the benefit calculations. As such, we have added Taigang Xinlei's reported program data to the calculations, where appropriate. Except where

⁴⁶ *See Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences."

⁴⁷ *See, e.g., Shrimp from the PRC* and accompanying IDM at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

⁴⁸ *See New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Review*, 75 FR 64268 (October 19, 2010), unchanged in the final determination, *New Pneumatic Off-the-Road Tires From the People's Republic of China Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011).

⁴⁹ *See* Final Analysis Memorandum.

noted, no issues were raised by interested parties in case briefs regarding these programs. The final Taigang program rates are as follows.

1. Policy Loans to the Stainless Sheet and Strip Industry

As discussed in Comment 9, the Department has removed all loans from affiliated companies from the loan benefit calculation.

Taigang: 4.45 percent *ad valorem*

2. Export Buyer's Credits

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are basing our determination regarding the GOC's provision of "Export Buyer's Credits," on AFA. Therefore, as an adverse inference, we determine that the subsidies are specific under section 771(5A)(B) of the Act, there is a financial contribution pursuant to section 771(5)(D)(i) of the Act, and that benefits were conferred under 19 CFR 351.504.

Taigang: 10.54 percent *ad valorem*

3. Export Seller's Credit from State-Owned Banks

The Department has not changed its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.

Taigang: 0.80 percent *ad valorem*

4. Enterprise Income Tax Law, Research and Development (R&D) Program

The Department has not changed its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.

Taigang: 0.31 percent *ad valorem*

5. Import Tariff and VAT Exemptions for Foreign Invested Enterprises and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

The Department has not changed its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.

Taigang: 0.14 percent *ad valorem*

6. Deed Tax Exemption for State-Owned Enterprises (SOEs) Undergoing Mergers or Restructuring

The GOC and Taigang submitted comments in their case brief regarding this program.⁵⁰ As explained below, the Department has not changed its methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.

Taigang: 9.71 percent *ad valorem*

7. Provision of Goods for Less than Adequate Remuneration (LTAR)

a. Provision of Land to SOEs for LTAR

Petitioners submitted comments in their case brief regarding this program.⁵¹ Taigang also submitted minor corrections to its submissions during verification, which were incorporated into this *Final Determination*.⁵² As explained in Comment 5, the Department has modified the methodology for calculating a subsidy rate for this program from the *Preliminary Determination*.

Taigang: 2.15 percent *ad valorem*

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

The GOC and Taigang submitted comments in their case brief regarding this program.⁵³ Taigang also submitted minor corrections to its submissions during verification which were incorporated into this *Final Determination*.⁵⁴ As explained in Comment 8, the Department has changed its methodology for calculating the benchmark for nickel pig iron from the *Preliminary Determination*. Additionally, as noted in Comment 9, the Department has adjusted the purchases of iron ore included in the benefit calculation. Furthermore, as noted in Comment 10, the Department adjusted the benefit calculation methodology for certain purchases of chromium.⁵⁵

Taigang: 0.04 percent *ad valorem* for iron ore, 4.66 percent *ad valorem* for coking coal, 3.75 percent *ad valorem* for steam coal, 2.71 percent *ad valorem* for nickel/nickel pig iron, 9.26 percent *ad valorem* for ferrochrome/chromium

⁵⁰ See Comment 11; Letter from the GOC and Taigang, “Joint Case Brief of the GOC and Taigang Stainless Steel Sheet and Strip from the People’s Republic of China,” November 23, 2016 (GOC and Taigang Case Brief) at 25-29.

⁵¹ See Comment 5; Letter from Petitioners, Stainless Steel Sheet and Strip from the People’s Republic of China Petitioners’ Case Brief, November 23, 2016 (Petitioners’ Case Brief) at 10.

⁵² See Taigang Verification Report at “Corrections to Response;” Minor Correction Exhibits.

⁵³ See Comment 8; GOC and Taigang Case Brief at 16-22.

⁵⁴ See Taigang Verification Report at “Corrections to Response;” Minor Correction Exhibits.

⁵⁵ See Final Analysis Memorandum.

c. Provision of Electricity for LTAR

Petitioners submitted comments in their case brief on the Department’s calculation in the *Preliminary Determination* regarding this program.⁵⁶ Taigang also submitted minor corrections to its submissions during verification which were incorporated into this *Final Determination*.⁵⁷ The Department has not changed its methodology for calculating a subsidy rate for this program but does note that, as explained in Comment 6, we have corrected certain errors that were made in the *Preliminary Determination*.

Taigang: 5.62 percent *ad valorem*

8. Grants for Energy Conservation and Emission Reduction

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our determination regarding the GOC’s provision of “Grants for Energy Conservation and Emission Reduction” on AFA. Therefore, as an adverse inference, we determine that the subsidies discussed below are specific under section 771(5A)(D) of the Act, that there is a financial contribution pursuant to section 771(5)(D)(i) of the Act, and that benefits were conferred under 19 CFR 351.504.

Taigang: 0.58 percent *ad valorem*

9. Grants for Retirement of Capacity

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our determination regarding the GOC’s provision of “Grants for Retirement of Capacity” on AFA. Therefore, as an adverse inference, we determine that the subsidies discussed below are specific under section 771(5A)(D) of the Act, there is a financial contribution pursuant to section 771(5)(D)(i) of the Act, and that benefits were conferred under 19 CFR 351.504.

Taigang: 0.58 percent *ad valorem*

10. Export Assistance Grants

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our determination regarding the GOC’s provision of “Export Assistance Grants” on AFA. Therefore, as an adverse inference, we determine that the subsidies discussed below are specific under section 771(5A)(D) of the Act, that there is a financial contribution pursuant to section 771(5)(D)(i) of the Act, and that benefits were conferred under 19 CFR 351.504.

⁵⁶ See Comment 6; Petitioners’ Case Brief at 13.

⁵⁷ See Taigang Verification Report at “Corrections to Response;” Minor Correction Exhibits.

Taigang: 0.58 percent *ad valorem*

11. Other Unreported Subsidies to TISCO

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our determination regarding several unreported subsidies to TISCO on AFA. Therefore, as an adverse inference, we determine that the subsidies discussed below are specific under section 771(5A)(D) of the Act, that there is a financial contribution pursuant to section 771(5)(D)(i) of the Act, and that benefits were conferred under 19 CFR 351.504.

Taigang: 19.72 percent *ad valorem*

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

1. Preferential Loans for SOEs
2. Preferential Loans for Key Projects and Technologies
3. Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified as “Honorable Enterprises”
4. Export Loans
5. Export Credit Guarantees
6. Treasury Bond Loans
7. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
8. Debt-to-Equity Swaps
9. Equity Infusions
10. Exemptions for SOEs from Distributing Dividends⁵⁸
11. Loan and/or Interest Forgiveness for SOEs
12. Income Tax Reductions for High and New Technology Enterprises
13. Income Tax Reductions and Exemptions for HNTEs in Designated Zones
14. Income Tax Deductions for Enterprises Engaged in Comprehensive Resource Utilization
15. Income Tax Deductions/Credits for Purchase of Special Equipment
16. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
17. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
18. Income Tax Benefits for Domestically-Owned Enterprises Engaging in Research and Development
19. Preferential Income Tax Policy for Enterprises in the Northeast Region
20. Stamp Tax Exemption on Share Transfer Under Non-Tradeable Share Reform
21. VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund

⁵⁸ Petitioners submitted comments in their case brief regarding this program. *See* Petitioners’ Case Brief at 8-10. The countervailability of this program is discussed in Comment 3 below.

22. Subsidies for Development of Famous Brands and China World Top Brands
23. State Key Technology Project Fund
24. Grants for Energy Conservation and Emission Reduction
25. Grants for the Retirement of Capacity
26. Grants for Relocating Production Facilities
27. Export Assistance Grants
28. Grants to Baoshan

XI. ANALYSIS OF COMMENTS

Comment 1: Subsidies Received by Taigang Xinlei

Petitioners' Comments

- Although Taigang provided a questionnaire response for Taigang Xinlei, subsidies received by this input producer were not included in the *Preliminary Determination*, based on Taigang's assertion that Taigang Xinlei did not supply any productive inputs during the POI.
- Since the *Preliminary Determination*, Taigang clarified that Taigang Xinlei sold relevant inputs to Taigang during the POI.
- The Department verified Taigang Xinlei's questionnaire responses.

Department's Position: After the *Preliminary Determination*, in response to a supplemental questionnaire, Taigang corrected its earlier statements and clarified that Taigang Xinlei is a producer of lime,⁵⁹ an input primarily dedicated to the production of steel.⁶⁰ As Petitioners note, a questionnaire response for Taigang Xinlei had already been submitted before the correction, which the Department verified along with the responses of Taigang itself and several of its other affiliates. Therefore, the Department is including subsidies received by Taigang Xinlei in this final determination.

Comment 2: Previously Unreported Government Grants Received by the Taigang Companies Discovered at Verification

Petitioners' Comments

- The Department correctly refused to accept detailed information at verification concerning previously unreported subsidies received under programs subject to this investigation that Taigang attempted to present as "minor corrections."

⁵⁹ See Letter from Taigaing, Taigang's Third Supplemental Questionnaire Response, August 29, 2016 (Taigang's August 29, 2016 SQR) at 1.

⁶⁰ See *Countervailing Duty Investigation of Grain-Oriented Electrical Steel from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 79 FR 13617 (March 11, 2014), and accompanying Preliminary Decision Memorandum at 7 and 16 (unchanged in *Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 59221 (October 1, 2014), and accompanying IDM.

- The Department discovered even more unreported subsidies during the course of verification, including numerous grants booked by TISCO under “deferred income” and “special payables.”
- TISCO representatives at verification did not contest its receipt of these grants, but rather claimed the company “believed it was not obligated to report subsidies that did not fall under a properly alleged and initiated subsidy program.”⁶¹
- The Department should apply a rate of 0.58 percent for each unreported grant program, representing the highest rate applied for a grant program in any countervailing duty proceeding involving China.

GOC/Taigang Comments

- The Department’s “discovered subsidy practice” is inconsistent with U.S. WTO obligations under the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and with U.S. law.
- Valid CVD investigations and subsequent findings must be grounded in: specific allegations supported by reasonable evidence indicating the existence of a countervailable subsidy; consultations with the government concerned; and notice of initiation of an investigation. Subsidy findings in this proceeding that do not adhere to these requirements are contrary to U.S. WTO obligations and U.S. law.
 - Articles 11 and 13 of the SCM Agreement impose these requirements and Article 11 allows an authority to conduct a self-initiated investigation “only if they have sufficient evidence of the existence of a subsidy.”
 - Moreover, under Article 11, allegations and investigations are subsidy-specific. One alleged subsidy does not permit an authority to engage in a wide-ranging investigation. There must be a one-to-one correspondence between investigations and allegations.
 - Section 702 of the Act mirrors Articles 11 and 13 of the SCM Agreement.
 - The Department’s initiation “checklists” acknowledge the requirement of a one-to-one correspondence between investigations and allegations.
- These provisions and practices do not preclude the Department from engaging in additional investigations during the course of a proceeding and incorporating additional subsidy findings into final determinations.
 - For example, Petitioners are permitted to raise new subsidy allegations within 40 days of a scheduled preliminary determination under 19 CFR 351.301(c)(2)(iv)(A). Nevertheless, there must still be a properly framed and supported allegation.
 - The language of 19 CFR 351.311(b)-(d) acknowledges the need for an adequate investigation, sufficient time, and notice, even for subsidies discovered during the course of an investigation.
- Given the above requirements, there is no legal basis for the Department to investigate “other” subsidies, and, thereby, no basis to apply AFA and to countervail such “other” subsidies discovered during a proceeding.
- “Subsidy” is an inherently subjective term of art and unanswered requests for information pertaining to “other” subsidies cannot be the basis for AFA, merely because the

⁶¹ See Taigang Verification Report at 3.

Department discovers practices that appear in “its mind to constitute subsidies.” The Department is already in violation of the SCM Agreement and U.S. law simply by including such a request in an initial questionnaire.

Petitioners’ Rebuttal Comments

- All subsidies countervailed by the Department in the *Preliminary Determination*, as well as all of the grants disclosed or discovered at verification, were properly alleged in the petition and included in the Department’s initiation at the outset of this proceeding.⁶²
- Even if other subsidies were discovered during the proceeding that were not alleged by Petitioners, the Department has the authority to investigate such subsidies under section 775(1) of the Act, and to apply AFA where information regarding “other” subsidies is not provided as requested under section 776(b) of the Act.

GOC/Taigang Rebuttal Comments

- There is no basis for the Department to countervail any apparent subsidy practice except under circumstances where that practice has been properly alleged, sufficient evidence is presented to support initiation of an investigation, and an investigation is, in fact, initiated.
- Even in the context of “discovered” subsidies under the Department’s regulations, the Department cannot countervail such practices unless sufficient time exists to permit a proper examination and notice is given.
- In this proceeding, Petitioners submitted a generic allegation with respect to “grants received by TISCO,” framed in the context of grants received by TISCO during the POI (2015).

Department’s Position: We disagree with the GOC and Taigang that the Department unlawfully investigated “other subsidies” without first finding that the initiation standard had been satisfied. The Department has addressed these and similar arguments many times in the past, most recently in the investigation of truck and bus tires.⁶³ Investigations into potentially countervailable subsidies are initiated in one of two ways. First, an investigation can be self-initiated by the Department.⁶⁴ Second, when a domestic interested party files a petition for the imposition of countervailing duties on behalf of an industry, and the petition: (1) alleges the elements necessary for the imposition of a countervailing duty pursuant to section 701(a) of the Act; and (2) “is accompanied by information reasonably available to the petitioner supporting those allegations {,}” the Department will initiate an investigation into whether countervailing duties should be imposed.⁶⁵

⁶² See “Countervailing Duty Initiation Checklist: Stainless Steel Sheet and Strip from the People’s Republic of China,” at 6-37 (March 3, 2016) (CVD Initiation Checklist).

⁶³ See *Truck and Bus Tires from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 8606 (January 27, 2017) and accompanying IDM at 27-28.

⁶⁴ See section 702(a) of the Act.

⁶⁵ See section 702(b) of the Act.

After an investigation has been initiated through one of the above mechanisms, then, pursuant to section 775 of the Act and 19 CFR 351.311(b), the Department has the ability, during the course of that investigation, to examine discovered practices, subsidies, or subsidy programs if they appear to provide a countervailable subsidy. Indeed, if, after the commencement of an investigation, the Department “discovers a practice which appears to be a countervailable subsidy {}” that was not included in the petition, the Department “shall include the practice, subsidy, or subsidy program in the proceeding{.}”⁶⁶ Pursuant to section 775 of the Act, the Department has an “affirmative obligation” to “consolidate in one investigation...all subsidies known by petitioning parties to the investigation or by the administering authority relating to that merchandise” to ensure “proper aggregation of subsidization practices.”⁶⁷

The statute does not define what “appears” to be a countervailable subsidy. Although the GOC and Taigang argue that, whenever the Department itself “discovers” a potential subsidy, the Department is expected to apply the same initiation standard that applies when a subsidy is alleged by a petitioner, this interpretation is not supported by the statute. Pursuant to section 702 of the Act, “{a} countervailing duty investigation shall be initiated whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of duty under section 701 of the Act exits.” This statutory provision does not preclude the Department from investigating a program or subsidies “which appear {} to be a countervailable subsidy...with respect to the merchandise which is the subject of the proceeding,” and the Department is not “legally precluded from asking questions that enable it to effectuate this obligation, the goal of which is to consolidate all relevant subsidies into a single investigation.”⁶⁸ Indeed, under section 775 of the Act, the Department “shall” include in its investigation subsidies discovered during the course of the investigation.

The Department disagrees with the suggestion by the GOC and Taigang that the consultations provision in section 702(b)(4)(A)(ii) of the Act applies to subsidies discovered during an investigation. That provision only applies when a petition is filed by a domestic interested party. Section 775 of the Act contains no requirement that the responding government be invited to consultations. Regarding the notice requirement in 19 CFR 351.311(d), the record contains ample notification of our intent to investigate “Grants to TISCO” as well as “other subsidies” and clearly explains the discovery of such subsidies at verification. Our initial questionnaire requested details concerning “Grants to TISCO”⁶⁹ and “any other forms of assistance to producers or exporters of stainless sheet and strip.”⁷⁰ Our investigation of “Grants to TISCO” had previously been described in our initiation checklist (reprinted in the questionnaire) as an inquiry into significant amounts of government funds for “other projects” appearing in TISCO’s

⁶⁶ See section 775 of the Act.

⁶⁷ See *Allegheny Ludlum Corp. v. Unites States*, 112 F. Supp. 2d 1141, 1150, n. 12 (CIT 2000) (*Allegheny I*); see section 775 of the Act.

⁶⁸ See *Allegheny I*, 112 F. Supp. 2d at 1150, n. 12 (“Congress...clearly intended that all potentially countervailable programs be investigated and catalogued{.}”).

⁶⁹ See Letter from the GOC, The Government of the People’s Republic of China’s Initial Response to the Department’s CVD Questionnaire: Stainless Steel Sheet and Strip form the People’s Republic of China, May 18, 2016 (GOC’s May 18, 2016 QR), at 213.

⁷⁰ *Id.*

financial statements.⁷¹ All of the previously unreported subsidies either offered as a minor correction at the outset of verification or discovered during the course of verification were either grants to TISCO or grants provided under three other programs included in the Initiation Checklist.⁷² The verification report clearly notifies parties of the Department’s discovery of unreported “grants to TISCO.”⁷³ Nothing was offered at verification to rebut the conclusion that these were unreported grants, and, in fact, company officials “did not contest that they were government grants” and its counsel explained that the company had not reported the grants because it “believed it was not obligated to report subsidies that did not fall under a properly alleged and initiated subsidy program.”⁷⁴ More than a month before verification began, the Department had notified Taigang of its intent to verify reported usage of “Grants to TISCO,”⁷⁵ and “evidence of subsidies provided by your government under any subsidy program, including programs not currently subject to investigation,”⁷⁶ including subsidies recorded under “special payables,” “other payables,” and “government subsidies” accounts.⁷⁷ The “special payable” account was one of the two accounts where the unreported grants to TISCO were discovered (the other being “deferred income”).

Moreover, the Department’s question regarding “all other assistance” is not vague and does not exceed the Department’s information collecting authority. The Department has broad discretion to determine which information is relevant to its determination and to request that information.⁷⁸ The Department pursues information regarding “other assistance” expressly to satisfy the intent of the CVD law, to investigate and catalogue all potentially countervailable subsidies, “to consolidate all relevant subsidies into a single investigation.”⁷⁹ Consistent with U.S. law, the Department is not precluded from inquiring about other assistance to make determinations.⁸⁰ The Department “has an independent statutory authority to investigate discovered subsidies, and to ask questions to facilitate that investigation.”⁸¹ The Department may determine to use AFA in deciding whether the elements of a countervailable subsidy are met for both categories of subsidies (those alleged in a petition and those “discovered” during an investigation) if the Department determines that the respondents are being uncooperative. In this case, Taigang hindered the Department’s efforts to examine the “full scope of governmental assistance,” and to consolidate all relevant subsidies into this investigation when it withheld information responsive

⁷¹ See Initiation Checklist at 37.

⁷² The three other grants programs are “Grants for Energy Conservation and Emission Reduction,” “Grants for Retirement of Capacity,” and “Export Assistance Grants.” See Initiation Checklist at 33-34, and 36; see also Taigang Verification Report at 2.

⁷³ See Taigang Verification Report at 18-19.

⁷⁴ *Id.* at 19.

⁷⁵ See Letter to Taigang, Verification Agenda for the Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China, October 17, 2016, at 8.

⁷⁶ *Id.* at 7.

⁷⁷ *Id.*

⁷⁸ See, e.g., *Acciai Speciali Termini S.p.A. v. United States*, 26 C.I.T. 148, 167 (sustaining the Department’s application of adverse inferences when respondent engaged in “willful non-compliance” with requests for information); see *PAM, S.p.A. v. United States*, 495 F. Supp. 2d 1360, 1369 (CIT 2007) (sustaining the Department’s application of adverse inferences when respondent’s judgement that the information requested was irrelevant).

⁷⁹ See *Allegheny I.*

⁸⁰ See *Ansaldo Comptoni, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986).

⁸¹ *Id.*

to the Department's requests for information.⁸² To avoid the application of facts available or AFA, Taigang was required by law to respond to the Department's requests for information by conducting a thorough review of its records, regardless of whether it believed that the discovered subsidies fell outside the purview of the Department's investigation. Thus, its failure to report the discovered assistance to the Department in a timely manner reflects a deliberate and unilateral decision that the discovered subsidies were not relevant to the Department's investigation. A deliberate decision not to cooperate warrants the application of adverse facts available.

Respondents argue that the term "subsidy" is an inherently subjective term and the Department cannot countervail as AFA "discovered" subsidies merely because it uncovers practices that appear in "its mind to constitute subsidies." As explained above, however, the Department has a responsibility to consolidate all relevant subsidies into the determinations of an investigation, and to avoid the deferral of the examination of countervailable subsidies to administrative reviews to the extent possible. The reasons behind this responsibility are obvious. Deferring action against discovered subsidies until a subsequent review (in the event of an order) results in delayed provisional and final measures at the expense of the party petitioning for relief, and it risks the possibility that no order will be issued at all despite the existence of countervailable practices. The inability to investigate the discovered practices beyond the examination of relevant records at verification is a result of respondents' failure to report the measures in advance. Respondents cannot be allowed to force the deferral of the application of the countervailing duty law to actionable practices by deliberately forestalling the disclosure of such practices until it is too late to examine such practices to the extent they deem necessary within the time limits of an investigation.

In determining the appropriate rate for the unreported grants, we have followed our standard methodology for selecting AFA rates for CVD investigations as discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section above.

Regarding unreported grants provided under the programs "Grants for Energy Conservation and Emission Reduction," "Export Assistance Grants," and "Grants for Retirement of Capacity," the Department has not previously calculated a non-*de minimis* rate for these programs in another CVD proceeding involving the PRC. Therefore, we must use the highest non-*de-minimis* rate for a similar program (based on treatment of the benefit) in another CVD proceeding involving China. The highest rate for a similar program in a prior CVD proceeding involving China, a grant program, is 0.58 percent *ad valorem*,⁸³ and we are applying this rate for all three programs.

Regarding the numerous grants to TISCO discovered during the course of verification, because neither Taigang nor the GOC provided any information regarding any of these grants received before 2014, we cannot determine if the Department has previously calculated a rate for the "identical" programs. Therefore, we must use the highest non-*de minimis* rate for a similar program. Once again, we are using the rate of 0.58 percent, the highest rate calculated for a grant program in a previous proceeding. In order to determine the number of grants unreported

⁸² *Id.*

⁸³ See *Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination*; 2012 (September 22, 2014), and accompanying IDM at 14.

during the AUL, we have relied on information provided in response to our questionnaire concerning the number of grants recorded by TISCO in 2014 and information provided as a minor correction concerning the number of grants recorded by TISCO in 2015. The former indicates TISCO had 20 grants outstanding on its books and records in 2014 and 14 outstanding in 2015. The information provided by TISCO does not allow the Department to determine whether there is overlap between the two lists of grants. Therefore, we determine, as AFA, that the two lists added together and taken in conjunction with the AFA rate of 0.58 percent provide a reasonable estimate of the extent to which Taigang (through its parent TISCO) benefitted in the POI from countervailable grants received throughout the AUL. The resulting AFA rate for “Grants to TISCO” is therefore 34 times 0.58 percent or 19.72 percent *ad valorem*.

Therefore, the total AFA rate for previously unreported subsidies for Taigang is 21.46 percent *ad valorem* (0.58 percent times three, plus 0.58 times 34).

Comment 3: TISCO’s Exemption from Distributing Dividends to the State

Petitioners’ Comments

- As an SOE, TISCO was required to distribute dividends to the Government of Shanxi Province (GOSP) as of 2011.
- Despite this requirement, Shanxi SASAC issued a blanket exemption from 2014 profit distribution obligations to all provincial SOEs “in order to ease their burden during a difficult economic situation.”⁸⁴
- As the Department has consistently found, an exemption only available to SOEs is *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act.⁸⁵
- Alternatively, the exemption should be found *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, as a limited number of enterprises are provided with the subsidy.
- The Department should include TISCO’s exemption in the final determination.

GOC/Taigang Comments

- In only one year since the establishment of the distribution requirement did TISCO not distribute dividends to the state.
- This occurred in 2014 and was not specific to TISCO, but covered all enterprises with state-owned capital invested directly by the GOSP or through Shanxi SASAC.
- The election not to collect dividends is not a preference, but the practice of a rational shareholder in a difficult economic environment in which the shareholder chooses not to impair the longer term operations of its investment.

⁸⁴ See GOC Verification Report at 5; see also L-Taigang’s August 29, 2016 SQR, at Exhibit SQ3-5.

⁸⁵ See, *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), (*OTR Tires from the PRC*) and accompanying IDM at 20 (finding the provision of certain land use rights to be specific because only available to SOEs) and *OTR Tires from the PRC*, 72 FR 71360, and accompanying PDM at 41 (finding deed tax exemptions to be specific because the assistance is limited to SOEs involved in asset acquisitions).

- No law otherwise exists in the PRC requiring companies to pay dividends to their shareholders.
- Absent a showing that private investors would not take similar action, there is no basis to find the action specific to TISCO or any group of industries or enterprises.

Petitioners' Rebuttal Comments

- The record contradicts respondents' claim that "no law otherwise exists in China requiring that companies pay dividends to their shareholders."⁸⁶ Article 34 of the Company Law mandates that limited liability companies, such as TISCO, "shall" distribute profit "unless otherwise agreed by the shareholders."⁸⁷
- Thus, PRC shareholders have the expectation to receive dividends annually, and the waiver of this obligation was designed specially to assist local SOEs in a time of poor financial conditions.
- The exemption, therefore, benefited only one particular group of companies, provincial SOEs.

GOC/Taigang Rebuttal Comments

- The decision not to collect dividends in 2014 was made on a rational, market-driven basis in light of the current economic environment.
- The decision of Shanxi SASAC is no different from what an ordinary shareholder might choose under the same circumstances.
- No law requires the distribution of dividends to companies generally. Article 34 of the Company Law states that, should dividends be distributed, the default rule that they be distributed proportionately unless otherwise specified by agreement.⁸⁸

Department's Position: The record developed in this case does not indicate that the government has foregone revenue that was otherwise due. The record indicates TISCO experienced a loss in the POI, and, thus, the decision by its parent (SASAC) to have the company retain any earnings rather than pay them out as a dividend is consistent with general shareholder behavior. The record does not demonstrate that corporations (SOEs or non-SOEs) are required to pay dividends to shareholders each and every year. As respondents claim, Article 34 of the Company Law creates a default rule specifying how dividends should be paid out, not requiring that they be paid out: "Shareholders shall draw dividends in proportion to their actual capital contributions and when a company increases its capital, shall have a pre-emptive right to subscribe for the increased capital in proportion to their actual capital contributions, unless otherwise agreed by the shareholders."⁸⁹ Thus, the record of this investigation indicates that the discretion of a sole shareholder not to require a dividend exists for both SOE and non-SOE companies. Moreover, we verified that TISCO was required to pay dividends to SASAC in previous years of the AUL during which it was profitable.⁹⁰ Thus, we determine that the specific

⁸⁶ See GOC and Taigang Case Brief at 10.

⁸⁷ See GOC's September 28, 2016 SQR at 2-3.

⁸⁸ See GOC's May 18, 2016 SQR at Exhibit II.E.2.a.1-4 (p. 30/142 PDF).

⁸⁹ *Id.*

⁹⁰ See, e.g., GOC Verification Report at 6 (discussing the Department's examination of certified receipts of dividend payments at Shanxi SASAC for 2011 through 2014).

facts of this investigation do not indicate the provision of a financial contribution or benefit to TISCO during the POI.

Comment 4: Equity Investments in Taigang Wanbang

GOC/Taigang Comments

- The Department’s investigation of an equity infusion into Taigang Wanbang must conclude with a finding that no financial contribution occurred. The parties to the transaction concerned were all privately held.
- The Department confirmed these facts in detail at verification.

Department’s Position: The Department’s supplemental questionnaires requested information concerning the origin of equity contributed to Taigang Wanbang.⁹¹ In addition to the supplemental questionnaires, the Department met with officials of the Administration for Industry and Commerce (AIC) for both Shanxi Province and Jinzhong City during verification to review hardcopy and electronic files regarding the shareholders that had contributed the capital at issue.⁹² Among other documents, we reviewed minutes of shareholder meetings, corporate charters, capital verification reports, address certificates, business licenses, and company representative certifications maintained for the companies that contributed the equity. We then tied the information examined in the hard copy files to the electronic Enterprise Credit Information Publicity System maintained by AIC. We found no evidence that the infused funds came directly or indirectly from the GOC (national, provincial, or local governments). Therefore, there is no financial contribution and the Department determines that the equity infusions are not countervailable.

Comment 5: The Department’s Preliminary Calculations Relating to the Provision of Land for LTAR Significantly Understate the Countervailable Benefit to TISCO

Petitioners Comments

- The Department incorrectly applied the “0.5 percent test” of 19 CFR 351.524(b)(2) in its preliminary calculations separately to each tract of land countervailed.
- The Department’s calculation memorandum and its practice call for combining tracts of land leased or bought in the same year before applying the 0.5 percent test.
- Likewise, 19 CFR 351.524(b)(2) provides that the 0.5 percent test should be applied to the *total* amount approved under a subsidy program. The preamble to the regulations further explains that the Department “will apply the 0.5 percent test to all benefits associated with a particular program, not each individual benefit, if there are more than one.”⁹³
- Because the Department failed to apply the test on a combined basis, benefits from multiple tracts of land were expensed before the POI.

⁹¹ See Taigang’s August 29, 2016 SQR at 2; GOC August 29, 2016 QR at 1-2; and Taigang’s October 11, 2016 QR at 1.

⁹² See GOC Verification Report at 3-4.

⁹³ See *Countervailing Duties: Final Rule*, 63 FR 65348, 65394 (November 25, 1998).

GOC/Taigang Rebuttal Comments

- When dealing with land, the Department does not allocate over the AUL, but, instead, allocates over the specific duration of the land-use rights for each specific tract of land.
- Thus, it is appropriate that a separate expense test be performed for each transaction.
- The regulations plainly provide for this deviation in practice by the use of the term “normally” in 19 CFR 351.524(b)(2).

Department’s Position: We agree that our calculations in the *Preliminary Determination* understated benefits from the provision of land to TISCO and were inconsistent with how the Department determines to expense or allocate other non-recurring subsidies, such as grants, in accordance with 19 CFR 351.524(b)(2). In particular, 19 CFR 351.524(b)(2) states that the Department normally will expense “non-recurring benefits provided under a particular subsidy program to the year in which the benefits are received if the *total* amount approved under the subsidy *program* is less than 0.5 percent of relevant sales” (emphasis added). Thus, the regulation makes clear that the test should be performed on the aggregate amount of all disbursements received under a single program during the year, not on individual disbursements. In this investigation, all land being countervailed was provided pursuant to a single program, “Provision of Land to SOEs for LTAR,” providing unique allocated land-use rights to a single eligible group, SOEs. Moreover, TISCO reported receiving 41 distinct allocated land-use rights in 2014. Analyzing each tract separately would grossly underestimate the benefit received under the program in 2014, and would arbitrarily rest the decision of whether to expense or allocate benefits on the number of tracts into which the entire allotment of government provided land has been divided. While respondents are correct that the Department’s practice concerning the provision of land at LTAR is somewhat unique in that it does not rely on the AUL used for other non-recurring subsidies (instead we rely on the span of the land-use agreements), we fail to see how that fact indicates that we should also depart from the normal application of the 0.5 percent test. Obviously, the use of the word “normally” in 19 CFR 351.524(b)(2) provides the Department with some discretion in the application of the test, but respondents provide no reason why that discretion should be used in this instance.

Comment 6: The Department’s Preliminary Calculations Contain Errors in Certain Formulas for Calculating the Benefit from the Provision of Electricity for LTAR

Petitioners’ Comments

- Certain Excel formulas calculating the difference between the electricity benchmark and the rate paid by one of TISCO’s cross-owned affiliates are incorrect, resulting in an understatement of the benefit of 0.01 percent for Taigang’s program rate. Likewise, certain formulas used to calculate the benefit for electricity for another cross-owned affiliate are incorrect, also resulting in a 0.01 percent understatement of Taigang’s rate.

Department’s Position: The Department has reviewed its calculations for the two affiliates identified (as well as all other cross-owned affiliates and Taigang itself) and agrees that formulas in certain cells were incorrect in the preliminary calculations. We have corrected the errors for this final determination and the details of the corrections are provided in the associated final calculation memorandum.

Comment 7: The Department Must Use Taigang’s Consolidated Sales in Calculating Any Subsidy Rate with Respect to Subsidies Received Directly by Taigang

GOC/Taigang Comments

- In its preliminary calculations, the Department attributed Taigang’s alleged subsidies to Taigang’s unconsolidated sales combined with the sales of two cross-owned producers of subject merchandise. By doing so, the Department violated 19 CFR 351.525(b)(6)(iii), which requires subsidies received by a parent or holding company, including a parent with its own operations, to be attributed only to the consolidated sales of the parent or holding company.
- The only exception to the rule is for a holding company that merely serves as a “conduit” for the transfer of the subsidy to a subsidiary. There is no information on the record demonstrating Taigang was such a conduit.
- The “parent company rule” is reflected in significant precedent,⁹⁴ and has been upheld by the Court of International Trade.⁹⁵

Department’s Position: The *Preamble* allows for a certain amount of flexibility when the Department is applying its attribution rules because, “depending on the facts, several of the different rules may come into play at the same time.”⁹⁶ Given the facts presented in this investigation, for purposes of this final determination, we find that it is appropriate to attribute subsidies provided directly to Taigang to Taigang’s consolidated sales. As respondents note, the “parent rule” of 19 CFR 351.525(b)(6)(iii) is applicable, even when the parent is also a producer of subject merchandise, and even when there are multiple cross-owned affiliates producing subject merchandise. The CIT has upheld the application of the parent rule in this scenario.⁹⁷ Thus, for this final determination, we have attributed subsidies provided directly to Taigang to Taigang’s *consolidated* sales, *i.e.*, Taigang’s sales on a parent company basis. For subsidies provided to any of Taigang’s cross-owned producers of subject merchandise, we have continued to attribute them to Taigang under the “producer rule” of 19 CFR 351.525(b)(6)(ii), dividing the benefits from such subsidies by the combined sales of the subject merchandise producers, including the *unconsolidated* sales of Taigang, *i.e.*, Taigang’s sales as a producer of stainless steel, net of intercompany sales. Likewise, for subsidies provided to any cross-owned input supplier, we have continued to use Taigang’s *unconsolidated* sales, consistent with 19 CFR 351.525(b)(6)(iv)’s requirement that such subsidies be attributed to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).

⁹⁴ See *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) and accompanying IDM at 8; *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Final Affirmative countervailing Duty Determination*, 75 FR 59212 (September 27, 2010) and accompanying IDM at 112; *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) and accompanying IDM at 8-9.

⁹⁵ See *TMK IPSCO et. al. v. United States*, No. 10-00055, 2016 WL 3693714, at * 17 (CIT June 24, 2016).

⁹⁶ See *Countervailing Duties*, 63 FR 65348, 65399 (Nov. 25, 1998) (*Preamble*).

⁹⁷ See *TMK IPSCO et. al. v. United States*, No. 10-00055, 2016 WL 3693714, at * 17 (CIT June 24, 2016).

Comment 8: The Correct Benchmark for Nickel Pig Iron

GOC/Taigang Comments

- The Department improperly rejected transaction data for imports of nickel pig iron (NPI) from Indonesia into India, and instead elected to construct a world market price to value NPI.
- The Department inaccurately concluded NPI is not widely traded globally, and that there is limited trade between Indonesia and India.
- There is no evidence on the record that would indicate that prices for Indian imports from Indonesia would be unavailable to purchasers in the PRC. Rather, geographical proximity suggests such prices would be available to purchasers in the PRC.
- The Department faced a similar tradeoff between product specificity and trade volume in its investigation of uncoated paper from Indonesia, and chose Malaysian export statistics for the actual commodity at issue (pulpwood) instead of prices for an alternative commodity that was more heavily traded (woodchips), when there was limited information for valuing pulpwood due to a significantly reduced world demand for the pulpwood input.⁹⁸ In so doing, the Department acknowledged that transactions between just two countries (Malaysia and India) can constitute a world market price.⁹⁹
- The Department's constructed benchmark improperly assumes that NPI is a combination of refined nickel and pig iron. Thus, the Department inaccurately assumed that the constructed benchmark was "conservative," excluding production costs beyond the primary inputs of nickel and pig iron.
- Contrary to the Department's assumptions, the constructed benchmark is not conservative, but actually overstates the cost of producing NPI. The record demonstrates NPI is produced from smelting iron ore with high nickel content, thus eliminating production processes associated with refining nickel.¹⁰⁰
- There is no evidence that China dominates world markets for NPI or that, even if it does, that this dominance distorts world prices.

Petitioners' Rebuttal Comments

- Respondents' own submissions acknowledge there is little production of NPI outside the PRC.
- The Department has repeatedly refused to rely on import statistics to measure the adequacy of remuneration, but instead has relied on export prices, consistent with 19 CFR 351.511(a)(2)(ii).¹⁰¹

⁹⁸ See *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM at 39-40.

⁹⁹ *Id.*

¹⁰⁰ See Taigang's June 13, 2016 Benchmark Submission at 4.

¹⁰¹ See, e.g., *Drawn Stainless Steel Sinks from the People's Republic of China*, 78 FR 13017 (*Stainless Steel Sinks from the PRC*) (February 26, 2013) and accompanying IDM at 21 ("Consistent with our practice, we have not relied on the import prices because there is no evidence that such prices are available to SS sinks producers in the PRC."); *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China*, 75 FR 57444 (September 21, 2010) (*Seamless Pipe from the PRC*) and accompanying IDM at 69 ("Additionally,

- A world benchmark price does not need to be an exact match to the input product under examination. There is no requirement that the Department calculate world market prices solely reflective of a respondent's particularities. Doing so would detract from calculating a truly world market price.¹⁰²
- The Department seeks to derive the most robust benchmarks possible for world market prices and to include as many data points as possible.¹⁰³ The total import volume for respondents' proposed benchmark is only 19,955 metric tons.
- The CIT has held: "Commerce . . . is required only to select benchmarks that are comparable, not identical."¹⁰⁴
- Regardless of the production process, record evidence shows Chinese NPI is comprised of, on average, 10 percent nickel. Valuation of NPI based on its metal content provides a reasonable market price, which is in fact a conservative estimate due to the exclusion of production costs.

Department's Position: For this final determination, we have averaged the composite benchmark used in the *Preliminary Determination* and the Indonesian prices provided by Taigang. We disagree that the composite benchmark is unreasonable and find instead that it represents prices for a comparable product. As noted in the *Preliminary Determination*, the composite benchmark includes a ten percent nickel component, based on record information indicating NPI's minimum nickel content. That estimate is arguably low, as the record indicates many producers of NPI in the PRC include up to 15 percent nickel content in their product,¹⁰⁵ nickel being roughly 43 times more expensive per ton than iron ore, which makes up the remaining 90 percent of the composite benchmark.¹⁰⁶ Respondents did not take issue with the 10 percent and 90 percent weights.

Moreover, the record does not indicate, as respondents argue, that the nickel content of NPI is inferior to the refined nickel supposedly reflected by the nickel component of the benchmark, which is based on data retrieved from the IHS GTA. Instead, while the record indicates NPI is *produced* from low-grade nickel ore (laterite ores), the ore subsequently undergoes a refining process before the NPI is completed. Specifically, according to information submitted by Taigang "Nickel Pig Iron is produced from low-grade nickel ore (laterite ores) . . . loaded into a blast furnace where Ferro Nickel oxides are reduced into Nickel Pig Iron. Impurities and slags are then removed from the reduced nickel iron melt before the molten nickel iron is cast into the

where export prices that are available in the PRC are on the record, the Department does not need to use import prices to unspecified countries in 'East Asia.'").

¹⁰² See, *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) (*Citric Acid and Certain Citrate Salts; 2012*) and accompanying IDM at 64-68.

¹⁰³ See, *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (*OCTG from Turkey*) and accompanying IDM at 42.

¹⁰⁴ See *Archer Daniels Midland Co., v. United States*, 968 F. Supp. 2d 1269, 1278 (CIT 2014); *Beijing Tianhai Indus. V. United States*, 52 F. Supp. 2d 1351, 1369 (CIT 2015).

¹⁰⁵ See Letter from the "Petitioners", Submission to Rebut Factual Information on Nickel and Nickel Pig Iron to Measure Adequacy of Remuneration," June 29, 2016 (Petitioners' June 29, 2016, Benchmark Submission) at Attachment 2 (presentation at the 2012 Euro Nickel conference), page 7 (listing nickel composition for 16 PRC producers of NPI).

¹⁰⁶ *Id.* at Attachment 3.

pig-molds forming the Nickel Pig Iron.”¹⁰⁷ Thus, respondents’ arguments concerning low-grade nickel ore (laterite ores) seem to have nothing to do with the quality of the nickel content of the final NPI product, but only with the starting input. Adding to the ambiguity regarding levels of refinement, the GTA data for nickel do not indicate purity level or use any qualifying terms such as “pure” or “refined;” thus we see no reason to conclude that the nickel component of the composite benchmark reflects refined nickel. The Indonesian data submitted by respondents are likewise ambiguous, with some line items indicating only 2 to 6 percent nickel content (below the 10 or 15 percent nickel content of some PRC NPI) and other line items providing no indication of nickel content at all.¹⁰⁸ Thus, the record does not support respondents’ claims that the composite benchmark is an unreasonable estimate of the value of NPI or that the Indonesian sales are a better match for PRC consumption.

At the same time, while the composite benchmark appears to be a reasonable and comparable benchmark, so does the Indonesian shipment data proposed by Taigang. While the Department dismissed this data in the *Preliminary Determination* because we concluded NPI was not widely traded outside of the PRC, further review indicates the data account for approximately 1,000 standard 20-metric ton containers,¹⁰⁹ and constitute 98 separate transactions over a 12-month period. We disagree with Petitioners that the Department has a general practice precluding the use of import prices. Rather, our precedent indicates we prefer not to use prices for imports into particular countries when broader export data are available.¹¹⁰ The Department has expressed concerns in the past that import prices might reflect transportation expenses incurred in shipping products to the importing countries that would not be reflected in shipments to the PRC.¹¹¹ Thus, rather than a blanket prohibition of import prices, the practice is to use the best data among competing alternatives. In this investigation, while both sets of data are reasonable and comparable choices, neither alternative is clearly superior to the other. The composite benchmark is a constructed benchmark that does not reflect prices for actual NPI, and the Indonesian shipment data are for imports into only one country. Moreover, neither data set indicates shipment terms (none of the parties attempt to discuss or clarify the shipment terms in their briefs or elsewhere). Thus, despite being export data, the nickel and iron ore components of the composite benchmark share the same flaw with the Indonesian shipment data, a lack of any indication as to whether they might include delivery charges. Thus, given two reasonable, but imperfect options, we determine to average the two sets of prices, pursuant to 19 CFR 351.511(a)(2)(ii) (“{w}here there is more than one commercially available world market price,

¹⁰⁷ See Taigang’s June 13, 2016 Benchmark Submission at Attachment 4 (product description from Fondel Metals B.V.) and Attachment 5 (nearly identical description of the product by Indoferro, the Indonesian producer that supplies Fondel Metals B.V.).

¹⁰⁸ To the extent the Indonesian produced NPI includes only six to eight percent nickel, it would appear to be a possibly low estimate of the value of NPI consumed in the PRC. Of the 16 PRC producers listed in the Euro Nickel conference presentation, eight produce NPI with nickel content greater than ten percent, five produce NPI with nickel content less than eight percent, and no content is indicated for the NPI produced by the remaining three.

¹⁰⁹ The data totals 19,955 metric tons. Assuming 20 metric tons per container, the total would fill nearly 1,000 containers.

¹¹⁰ See *Stainless Steel Sinks from the PRC* and accompanying IDM at 21 (explaining our decision not to rely on prices for imports into “various Asian countries (not including the PRC)”) when global prices collected by a third-party research agency were on the record (*i.e.*, “the MEPs world market price data”); see also *Seamless Pipe from the PRC* and accompanying IDM at 69 (explaining that the Department will not rely on import prices to unspecified countries where export prices available to the PRC are on the record).

¹¹¹ See *Seamless Pipe from the PRC* and accompanying IDM at 69.

the Secretary will average such prices to the extent practicable”). Because neither dataset indicates delivered prices, we will add ocean freight and other movement expenses accordingly to derive prices for PRC shipments (this is the same assumption we made when using Petitioners’ composite benchmark in the *Preliminary Determination*).

Comment 9: Provision of Inputs and Financing from Taigang’s Cross-Owned Affiliates

GOC/Taigang Comments

- The statute does not contemplate the idea that a respondent may subsidize itself. Cross-owned affiliates cannot be the source of subsidies.
- Cross-owned affiliates may be the source of attributed subsidies received directly by them, but they cannot originate subsidies themselves.
- They are not the government or a public body for purposes of the proceeding, no matter how they might be viewed in other contexts.
- Specifically, the Department improperly countervailed reported purchases of inputs from TISCO Mining Branch, a cross-owned affiliate, and financing extended by another cross-owned affiliate, Taigang (Group) Financing Co., Ltd. (Taigang Financing).

Petitioners’ Comments

- TISCO Mining Branch, which submitted a complete questionnaire response regarding subsidies it received from the GOC, was found to be a cross-owned input supplier, with countervailable benefits attributed to Taigang. Taigang Financing, however, did not submit a questionnaire response, and, thus, countervailable subsidies received by Taigang Financing are not reflected in Taigang’s countervailing duty rate.
- GOC policy loans extended to Taigang Financing by state-owned commercial banks (SOCBs), a non-producing entity, and subsequently transferred to the Taigang Companies, are attributable pursuant to 19 CFR 351.525(b)(6)(v).

Department’s Position: We agree that the *Preliminary Determination* improperly included in the rates calculated for certain LTAR programs inputs produced by TISCO Mining Branch, a company determined to be a cross-owned affiliate of Taigang.¹¹² Regarding financing extended by Taigang Financing, the record does not support Petitioners’ assumption that Taigang Financing “likely serves as a conduit for financing from SOCBs.”¹¹³ Moreover, while Petitioners note correctly that the lending at issue is not otherwise accounted for on the record, the Department does not view the issue as one of double counting. Rather, the issue is the origin of the lending (*i.e.*, is it internal financing among cross-owned affiliates or from an external party). Therefore, the Department will not include purchases of inputs from TISCO Mining

¹¹² See, e.g., *Passenger Tires from the PRC* and accompanying IDM at Comment 4. Comment 4 of the *Passenger Tires from the PRC* IDM also addresses products *supplied* to a respondent by a cross-owned affiliate (produced by an unaffiliated third party). Obviously, we would not countervail inputs supplied to a respondent by a cross-owned affiliate if the inputs were already countervailed as a subsidy to the cross-owned affiliate itself. That double-counting scenario is not the problem here. The current issue involves inputs originating with TISCO Mining Branch.

¹¹³ See Letter from Petitioners, *Stainless Steel Sheet and Strip from the People’s Republic of China* Petitioners’ Rebuttal Brief December 5, 2016 (Petitioners’ Rebuttal Brief) at 17-18.

Branch, and financing extended by Taigang Financing, in its calculation of countervailing duty rates for certain inputs for LTAR and policy lending.

Comment 10: Countervailability of Certain Chromium Purchases

GOC/Taigang Comments

- Consistent with its practice, the Department sought to exclude imported inputs from its LTAR calculations in the *Preliminary Determination*.
- Where Taigang reported “producer address” as “N/A,” the Department erroneously concluded that purchases of chromium were of PRC origin, despite the fact that Taigang had labeled the purchases as imports.
- In such instances, the supplier name and address plainly show the purchase was obtained from offshore. It makes little sense for Chinese material to be shipped offshore only to be supplied back to the domestic market.
- Nothing was found at verification suggesting these purchases were not imports.

Petitioners’ Comments

- In a separate proceeding, when one of the mandatory respondents was unable to identify the producer of an input purchased through a trading company, the Department resorted to facts available to determine whether the input was provided by a government authority.¹¹⁴
- In this investigation, verified record evidence fails to establish the identity of the producers at issue. Nothing found at verification proved the reported purchases were imports.

Department’s Position: In the *Preliminary Determination*, the Department determined as AFA that all PRC producers of chromium are authorities. Therefore, in determining the benefit from chromium provided at LTAR, we sought to include all purchases of domestic origin while excluding all material produced outside the PRC. No party contests this basic methodology. Nor does any party claim that Taigang knows whether the chromium purchases at issue were produced domestically or outside the PRC, and relatedly, no party argues that Taigang has failed to cooperate. Rather, Taigang draws an inference that merchandise it purchased from offshore suppliers must be produced outside the PRC. This inference excludes the possibility that a global metals supplier might warehouse chromium sourced from numerous countries and relies on the further inference that the location of the supplier necessarily indicates the point of lading (*i.e.*, chromium purchased from country X must have shipped from country X and thus must have been produced in country X). We believe a better inference, as “neutral” facts available, is that the mix of domestically produced and foreign produced chromium is the same for purchases for which Taigang was able to identify the country of origin as for purchases for which Taigang was unable to identify the country of origin. Thus, for this final determination, we have calculated the percentage of Taigang’s purchases for which it identified a domestic producer and applied that percentage to the purchases at issue.

¹¹⁴ See *Final Determination in the Countervailing Duty Investigation of Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China*, 74 FR 37012 (July 27, 2009) and accompanying IDM at 25-26.

Comment 11: Use of AFA in Finding Deed Tax Exemption Used by Taigang/Untimely Submission

GOC/Taigang Comments

- The question of the deed tax exemption was just one element of a questionnaire, Taigang's response to which was hundreds of pages long, covering numerous allegations.
- Taigang ultimately submitted the Standard Questions and Income Tax Programs Appendices for the program just one week beyond the original due date, and more than 40 days before the *Preliminary Determination*. Moreover, the Department continued collecting information concerning other programs long after the due date for the deed tax program, demonstrating that there was ample time remaining to evaluate additional information.
- At best, the failure to include information concerning the deed tax exemption program in its questionnaire response constituted a deficient submission that did not comply with a request for information. It was not a complete failure to respond to a question; just a single program section went unanswered while hundreds of other pages of documentation were provided.
- The Act requires the Department to provide a party with an opportunity to remedy or explain a deficiency, and the courts have, therefore, held that the Department's discretion in rejecting untimely information is not absolute.¹¹⁵
- When considering whether the Department's rejection of an untimely filing amounts to an abuse of discretion, the courts weigh the following: the remedial, and not punitive, purpose of the statute; the statute's goal of determining margins "as accurately as possible;" the burden imposed upon the agency accepting the large submission; and the need for finality at the final results state.¹¹⁶
- The Department's selected AFA rate for the deed tax exemption is inconsistent with the statute. The Department claimed to apply the highest rate from a "similar" program, but the similarity found by the Department is pure semantics.
- The Department over-simplifies and, thereby, distorts the nature of the program by concluding that it is both an indirect tax and one tied to the capital structure or capital assets of a firm, and therefore provides a non-recurring benefit. This formulation allows it to distort the comparison, equating a deed tax on land with VAT and duty exemptions on imported material – hardly similar programs.
- Moreover, the Department ignored the rate assigned to the identical program from another proceeding. In *Citric Acid*,¹¹⁷ the Department calculated a margin of 0.05 percent for a return of a deed tax.

¹¹⁵ See *Fine Furniture (Shanghai) Ltd. v. United States*, 865 F. Supp. 2d 1254, 1267 (CIT 2012) (citing *Timken U.S. Corp. v. United States*, 434 F.3d 1345, 1353-54 (Fed. Cir. 2006); *NTN Bearing Corp. v. United States*, 674 F.3d 1204, 1208-09 (Fed. Cir. 1995)).

¹¹⁶ See *Grobtest & I-Mei Indus. (Vietnam) Co. v. United States*, 815 F. Supp. 2d. 1342, 1365 (CIT 2012).

¹¹⁷ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid; 2011*) and accompanying IDM at 29.

Petitioners' Comments

- The courts have long held that the Department has discretion both to set deadlines and to enforce those deadlines by rejecting untimely filings.¹¹⁸
- Here, the Department properly refused to consider Taigang's untimely submitted information regarding the deed tax exemption program, because Taigang failed to provide the request information by the established deadline of May 11, 2016.
- Although Taigang filed an extension request, it was improperly included in its questionnaire response, rather than as a separate stand-alone submission.
- In rejecting the improperly filed extension request, the Department reiterated the clear instructions in the initial questionnaire that, in accordance with the Department's regulations, an extension request must be submitted separately, as a stand-alone document.
- Taigang's claim that the question regarding the deed tax exemption was "just one element of a questionnaire" is of no consequence, as the Department's instructions in the initial questionnaire made clear that an extension request for even a portion of a response must be filed separately from a questionnaire response.
- Even if the request had been separately filed, the Department's rejection was appropriate because the request was untimely. In particular, Taigang filed its request after 4:00 pm on May 11, 2016, just one hour before the deadline.¹¹⁹ This clearly did not provide the Department with sufficient time to consider and respond to Taigang's extension request before the applicable deadline. As the Department explained, absent a response by the Department granting an extension, the original May 11, 2016, deadline applied.
- Taigang filed a second, untimely request for an extension of time on May 17, 2016. The Department, again, properly rejected Taigang's second request, as well.
- The Federal Circuit concluded in 2015 that the Department properly exercised its discretion in rejecting a respondent's untimely filed extension requests and untimely filed supplemental questionnaire response despite the respondent's good cause claims. The Federal Circuit further concluded that the Department reasonably determined that the respondent was capable of at least submitting an extension request on time, but simply failed to do so and, therefore, found that good cause did not exist to extend the deadline retroactively.
- Here, Taigang failed to demonstrate or even argue the existence of extraordinary circumstances that prevented it from either taking reasonable measures to ensure that the submission was timely filed or otherwise filing a timely extension request.
- Notably, the Department had already provided Taigang with 37 days originally to respond to the questionnaire and then extended the deadline by an additional seven days.

¹¹⁸ See *NTN Bearing Corp. v. United States*, 74 F.3d 1204, 1206-07 (Fed. Cir. 1995); see also *Yantai Timken Col. V. United States*, 521 F. Supp. 2d 1356, 1271 (CIT 2007) ("In order for Commerce to fulfill its mandate to administer the antidumping duty law, including its obligation to calculate accurate dumping margins, it must be permitted to enforce the time frame provided in its regulation.").

¹¹⁹ See Letter from Taigang, "The CVD Questionnaire Response and Request for Extension of Time to Response to Question D.4 of the Questionnaire filed on ACCESS," May 11, 2016 (showing filed completed at 4:03 pm, May 11, 2016).

- The Department had no obligation to provide Taigang with an opportunity to remedy or explain the deficiency once the deadline was missed. Pursuant to 19 CFR 351.302(d), the Department will reject requested information submitted after the established deadline.
- Consistent with its recent practice, the Department correctly relied on the 9.71 percent *ad valorem* rate found for a similar Chinese subsidy program (*i.e.*, VAT and Import Duty Exemptions on Imported Material).
- The program in *Citric Acid* cited by respondents is not the same as the program in this case. The program at issue in *Citric Acid* involved a grant from a local government to the company for a portion of the deed tax.¹²⁰ In this case, the deed tax exemption was provided by the central Chinese government for the entire amount of the deed tax.

Department’s Position: We continue to determine that we properly rejected the information provided in the May 18, 2016, supplemental response regarding the deed tax exemption program as untimely. We also continue to determine that we properly rejected Taigang’s improperly filed, last minute extension request submitted on May 11, 2016, and its request for a *post hoc* extension submitted on May 17, 2016, requesting that the Department reconsider the May 11, 2016, extension request. We explained our practice clearly in rejecting the untimely information and in rejecting the extension requests. As we stated in our May 17, 2016, rejection letter:

The Department has clearly explained that “{i}f you require an extension for only part of your response, such a request should be submitted separately from the portion of your response filed under the current deadline. Statements included within a questionnaire response regarding a respondent’s ongoing efforts to collect part of the request information, and promises to supply such missing information when available in the future, do not substitute for a written extension request. Section 351.302(c) of the Department’s regulations requests that all extension requests be in writing and state the reason for the request. Any extension granted in response to your request will be in writing; otherwise the original deadline will apply. . . . The Department will not accept any requested information submitted after the deadline. As required by section 351.302(d) of our regulations we will reject such submissions as untimely. Therefore, failure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.”¹²¹

That identical language was included in the original questionnaire issued on March 28, 2016. Thus, Taigang was provided with ample notice of our policy requiring “stand alone” extension requests. Moreover, as we had already rejected the extension request, Taigang was aware that

¹²⁰ See *Citric Acid; 2011* and accompanying IDM at 29.

¹²¹ See Letter to Shanxi Taigang Stainless Steel Co., Ltd., “Stainless Steel Sheet and Strip from the People’s Republic of China: Improperly Filed Extension Request,” May 17, 2016 (11:36 AM). There are three relevant letters placed on the record on May 17. First, the Department issued a letter to Taigang date stamped 11:36 AM rejecting the extension request Taigang included with its May 11, 2016 questionnaire response (in which it should have provided the requested information concerning the deed tax exemption program). Second, Taigang submitted a letter to the Department date stamped 2:56 PM requesting that the Department reconsider the extension request rejected earlier that day. Third, the Department issued a letter to Taigang date stamped 4:50 PM rejecting the request that we reconsider.

the deadline was not extended when it attempted to submit the information late on May 18, 2016, one week after the original deadline.

Moreover, the Department does not consider the withheld information a deficiency to which section 782(d) of the Act is applicable. Taigang was obviously aware of the fact that it was not responding to the Department's request for information. It noted that fact in the cover letter of its submission, and there is no attempt to answer the relevant questions in its May 11, 2016, questionnaire response. It is not a matter of having provided some, albeit inadequate or unclear information in its response, but rather a matter of having not provided any response at all. If the Department had to treat such intentional "non-responses" as deficiencies, and had to provide a second chance to submit withheld information, parties would be able essentially to grant themselves an extension to any deadline, simply by not responding, knowing that they would be provided additional time to "remedy" the "deficiency," after the Department issued a supplemental questionnaire.

We do not believe our rejection of the untimely information or our rejection of the improper May 11, 2016, extension request or the post hoc May 17, 2016, extension request amounts to an abuse of discretion. As explained above, we do not consider section 782(d) of the Act applicable. Moreover, the Department's long-standing practice has been to allow respondents 30 days to respond to the initial questionnaire, as reflected in 19 CFR 351.301(c)(1)(i), and, in fact, the Department typically provides 37 days, providing seven extra days to allow for dissemination and delivery of the questionnaire. In this instance, the Department provided a total of 44 days. Thus, Taigang was provided an amount of time consistent with what the Department has determined to be adequate for responding to an initial questionnaire, while still allowing the Department and other interested parties the opportunity to analyze and comment on the response, issue supplemental questionnaires as necessary, and incorporate all analysis and comments into the preliminary determination. As explained above in our response to Comment 2, the Department has a responsibility to incorporate all relevant information into its investigation determinations in a timely manner, to the extent possible, including preliminary determinations. Allowing respondents to submit late information, which cannot be subjected to analysis, comments from interested parties, and supplemental questionnaires well in advance of a preliminary determination runs the risk that provisional measures issued by the Department will not fully reflect all countervailable subsidies benefitting the industry under investigation.

Finally, we disagree with respondents that the Department's chosen AFA rate for this program is unreasonable. Respondents mischaracterize our reasoning for selecting the 9.71 percent rate and our determination that the rate is "similar." While the 9.71 percent rate was originally calculated for duty exemptions on imported equipment (capital equipment), the Department did not, as respondents suggest, determine that this rate is for a similar program by concluding that the deed tax exemption was an "indirect tax" or a tax tied to the "capital structure or capital assets of a firm" or a tax that provides "a non-recurring benefit." The Department, in fact, does not take such factors into consideration in determining the similarity of programs in applying our AFA methodology. Rather, we simply consider the type of benefit at issue. The duty exemption program and the deed tax exemption program are similar because they are two types of tax exemptions, other than certain income tax exemptions and reductions (for which the AFA

methodology has a specific provision).¹²² That is the level of accuracy the Department has chosen in matching programs for AFA purposes; we do not believe it is necessary to examine whether a program is recurring or non-recurring, an indirect or direct tax, or tied to capital structure. That level of detail is not required by statute or the Department's practice, nor is the Department required to select the "most similar" program. The Department is required to select only a reasonable rate in applying AFA,¹²³ and our practice in investigations is to choose the highest rate for a similar program when non-*de minimis* rates for identical programs are unavailable.

Regardless of whether the deed tax exemption countervailed in *Citric Acid* is identical to the deed tax exemption at issue, the Department would not rely on the *Citric Acid* rate of 0.05 percent. The AFA methodology requires a *non-de minimis* rate for an identical program in another proceeding; otherwise, the methodology calls for the highest rate for a similar program in another proceeding. For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*.¹²⁴ Therefore, a rate of 0.05 percent is not appropriate for AFA and we continue to rely on the rate of 9.71 percent *ad valorem* for this final determination.

XII. 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

¹²² For example, the Department has recently used the 9.71 percent rate for a variety of tax exemptions: "state tax exemption on share transfer under non-tradeable share reform," "deed tax exemption for SOEs undergoing mergers or restructuring," "preferential income tax policy for enterprises in the northeast region," "income tax benefits for domestically-owned enterprises engaging in research and development." See, e.g. *Certain Carbon and Alloy Steel Cut-to-Length Plate from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 8507 (January 26, 2017) and accompanying IDM at 8.

¹²³ See *F.Lii de Cecco di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) ("In the case of uncooperative respondents, the discretion granted by the statute {to the agency} appears to be particularly great, allowing Commerce to select among an enumeration of secondary sources as a basis for its adverse factual inferences.... Commerce is in the best position, based on expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin."); see also *Essar Steel Ltd. v. U.S. Steel Corp.*, 880 F. Supp. 2d 1327, 1331 (applying the *de Cecco* standard in the countervailing duty context to determine whether "Commerce chose a reasonably accurate estimate of the respondent's {subsidization} rate with some built-in increase to deter noncompliance"). More recently, the Federal Circuit explained that a reasonably accurate rate is one based on the requirements of section 776(b) of the Act and that the Department is not constrained by "conditions not present in or suggested by the statute's text" in selecting an AFA rate. *Nan Ya Plastics Corp., Ltd. v. United States*, 810 F.3d 1333, 1347 (January 19, 2016).

¹²⁴ See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.



Agree

Disagree

2/1/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Attachment

Appendix

AFA Rate Calculation

AFA Program Chart		
Program Name		Rate
Preferential Loans and Interest Rates		
		4.45%
1	Policy Loans to the Stainless Sheet and Strip Industry	
2	Preferential Loans for State-Owned Enterprises (SOEs)	
3	Preferential Loans for Key Projects and Technologies	10.54%
4	Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified As “Honorable Enterprises”	10.54%
5	Export Loans	1.10%
6	Export Seller's Credits	0.80%
7	Export Buyer's Credits	10.54%
8	Export Credit Guarantees	10.54%
9	Treasury Bond Loans	10.54%
10	Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program	10.54%
Debt-to-Equity Swaps, Equity Infusions, and Loan Forgiveness		
11	Debt-to-Equity Swaps	0.58%
12	Equity Infusions	0.58%
13	Exemptions for SOEs from Distributing Dividends	0.58%
14	Loan and/or Interest Forgiveness for SOEs	2.32%
Income Tax and Other Direct Tax Subsidies		
15	Income Tax Reductions for High and New Technology Enterprises	
16	Income Tax Reductions and Exemptions for HNTEs in Designated Zones	25.00%
18	Income Tax Deductions for Enterprises Engaged in Comprehensive Resource Utilization	
19	Income Tax Deductions/Credits for Purchase of Special Equipment	
17	Enterprise Tax Law Research and Development Program	0.31%
20	Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	1.68%
21	Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax	9.71%

22	Income Tax Benefits for Domestically-Owned Enterprises Engaging in Research and Development	9.71%
23	Preferential Income Tax Policy for Enterprises in the Northeast Region	9.71%
Indirect Tax Programs		
24	Import Tariff and VAT Exemptions for Foreign-Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	0.14%
25	Stamp Tax Exemption on Share Transfer Under Non-Tradeable Share Reform	9.71%
26	Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring	9.71%
27	VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund	9.71%
LTAR Programs		
28	Provision of Land to SOEs for LTAR	2.15%
29	Provision of Iron Ore for LTAR	0.04%
30	Provision of Coking Coal for LTAR	4.66%
31	Provision of Steam Coal for LTAR	3.75%
32	Provision of Nickel/Nickel Pig Iron for LTAR	2.71%
33	Provision of Ferrochrome/Chromium for LTAR	9.26%
34	Provision of Electricity for LTAR	5.62%
Grant Programs		
30	Subsidies for Development of Famous Brands and China World Top Brands	0.58%
31	State Key Technology Project Fund	0.58%
32	Grants for Energy Conservation and Emission Reduction	0.58%
33	Grants for the Retirement of Capacity	0.58%
34	Grants for Relocating Production Facilities	0.58%
35	Export Assistance Grants	0.58%
36	Grants to Baoshan	0.00%
37	Grants to TISCO	0.00%
Total AFA Subsidy Rate:		190.71%