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Investigation
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December 11, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Cast Iron Soil
Pipe Fittings from the People's Republic of China

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (PRC), as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On July 13, 2017, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (PRC), filed in proper form, on behalf of the Cast Iron Soil Pipe Institute (the petitioner).¹ The CVD petition was accompanied by an antidumping duty (AD) petition for soil pipe fittings from the PRC. On August 2, 2017, the Department initiated the CVD investigation of soil pipe fittings from the PRC.² The initial allegations and supplements to

¹ See Petitioner's Letter, "Cast Iron Pipe Fittings from the People's Republic of China – Petition for the Imposition of Antidumping and Countervailing Duties," dated July 13, 2017 (the Petition).

² See *Cast Iron Soil Pipe Fittings From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 82 FR 37048 (August 8, 2017) (CVD Initiation).

the Petition are described in the CVD Initiation Checklist.³

In the CVD Initiation, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe fittings from the PRC during the period of investigation (POI).⁴ Accordingly, on August 18, 2017, the Department selected Shanxi Xuanshi Industrial Group Co. Ltd. (Shanxi Xuanshi), Shijiazhuang Chengmei Import & Export Co., Ltd. (Shijiazhuang Chengmei), and Wor-Biz International Trading Co., Ltd. (Anhui) (Wor-Biz), the three largest exporters/producers of the subject merchandise by volume, for individual examination as mandatory respondents in this investigation.⁵

On August 21, 2017, the Department issued the CVD questionnaire to the Government of the PRC (GOC) and the mandatory respondents.⁶ Between September and November 2017, the GOC, Shanxi Xuanshi, and Wor-Biz and its unaffiliated supplier, Guang Zhou Premier & Pinan Foundry Co., Ltd. (Guang Zhou Premier),⁷ filed responses to the Department's affiliation,⁸ initial⁹ and supplemental questionnaires.¹⁰

On October 31, 2017, we placed memoranda on the record concerning China's financial system, non-market economy (NME) status, and whether particular enterprises should be considered to be "public bodies."¹¹ On November 1, 2017, the petitioner submitted timely filed new subsidy allegations.¹² On November 13, 2017, the petitioner submitted data for the Department to consider using as benchmarks in the less than adequate remuneration (LTAR) subsidy rate calculations.¹³

³ See Countervailing Duty Initiation Checklist: Cast Iron Soil Pipe Fittings from the People's Republic of China, dated August 2, 2017 (CVD Initiation Checklist).

⁴ See *CVD Initiation*, 82 FR 37048, 37051.

⁵ See Memorandum, "Countervailing Duty Investigation of Cast Iron Soil Pipe Fittings from the People's Republic of China: Respondent Selection," dated August 18, 2017.

⁶ See Department Letter, "Countervailing Duty Questionnaire," dated August 21, 2017 (Initial Questionnaire).

⁷ See Section IX - Subsidies Valuation, below.

⁸ See Shanxi Xuanshi's September 12, 2017 Affiliation Response (Shanxi Xuanshi AFFR), and Wor-Biz's September 14, 2017 Affiliation Response (Wor-Biz AFFR).

⁹ See GOC's October 4, 2017 Initial Questionnaire Response (GOC IQR), Shanxi Xuanshi's October 4, 2017 Initial Questionnaire Response (Shanxi Xuanshi IQR); Guang Zhou Premier's October 6, 2017 Initial Questionnaire Response (Guang Zhou Premier IQR); and Wor-Biz's October 6, 2017 Initial Questionnaire Response (Wor-Biz IQR).

¹⁰ See Shanxi Xuanshi's October 26, 2017 First Supplemental Questionnaire Response (Part 1) (Shanxi Xuanshi SQR1); Wor-Biz's October 26, 2017 First Supplemental Questionnaire Response; Shanxi Xuanshi's October 30, 2017 First Supplemental Questionnaire Response (Part 2) (Shanxi Xuanshi SQR2); Guang Zhou Premier's October 30, 2017 First Supplemental Questionnaire Response; GOC's November 3, 2017 First Supplemental Questionnaire Response (GOC SQR1); Shanxi Xuanshi's November 13, 2017 Second Supplemental Questionnaire Response; and GOC's November 14, 2017 Second Supplemental Questionnaire Response (GOC SQR2).

¹¹ See Memorandum, "Placing Information on the Record," dated October 31, 2017.

¹² See Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Additional Subsidy Allegations," dated November 1, 2017 (NSA Submission); see also Section IV- New Subsidy Allegations, below.

¹³ See Letter from the petitioner, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Submission of Data for LTAR Benchmarks" (Benchmarks Submission).

B. Postponement of Preliminary Results

On September 12, 2017, the Department postponed the deadline for the preliminary determination of the investigation to the full 130 days permitted under section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).¹⁴

C. Period of Review

The POR is January 1, 2016, through December 31, 2016.

III. SCOPE OF THE INVESTIGATION

The scope of this investigation covers cast iron soil pipe fittings. The complete description of the scope of this investigation is contained in Appendix I of the preliminary determination *Federal Register* notice. Merchandise subject to the investigation is classified under HTSUS category 7307.11.0045. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

IV. NEW SUBSIDY ALLEGATIONS

As noted above, on November 1, 2017, the petitioner submitted a New Subsidy Allegation (NSA) submission in which it alleges that the companies under investigation were provided iron ore, metallurgical coke, and coking coal for less than adequate remuneration (LTAR). The petitioner also alleges that Wor-Biz's affiliate may have received tax incentives because it was located in the China (Shanghai) Pilot Free Trade Zone. Additionally, the petitioner alleges that Wor-Biz's unaffiliated supplier, Guang Zhou Premier, a foreign invested enterprise (FIE), may have been exempt from paying value added tax (VAT) on purchases of Chinese-made equipment. The petitioner also alleges that Shanxi Xuanshi may have been exempted from paying import tariffs and VAT on imported equipment because it is located in the Western Region of China. Furthermore, the petitioner alleges that Shanxi Xuanshi benefitted, in the form of grants or credit, from the Jincheng City Branch of the People's Branch of China to support a soil pipe project. Finally, the petitioner alleges that Hefei City (where Wor-Biz is located) provides export credit insurance or loans for exporters.

For the reasons discussed in the NSA Memorandum, the Department has initiated an investigation of the following alleged subsidy programs: the Provision of Metallurgical Coke for LTAR Directly Through State-Owned Enterprises, Provision of Iron Ore for LTAR, Provision of Coking Coal for LTAR, Tax Incentives for Businesses in China (Shanghai) Pilot Free Trade Zone, VAT Refunds for Foreign Invested Enterprises on Purchases of Chinese-Made Equipment, Financial Support for Xuanshi Soil Pipe Project, and the Hefei City Special Financial Support for Hefei City Exporters: Loans.¹⁵ We will issue questionnaires to both respondents, as well as the GOC, and a post-preliminary analysis addressing these programs prior to the final determination.

¹⁴ See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 44160 (September 21, 2017).

¹⁵ See Memorandum, "New Subsidy Allegation Memorandum," dated concurrently with this memorandum (NSA Memorandum).

V. ALIGNMENT

In accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), and based on the petitioner's request,¹⁶ we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of cast iron soil pipe fittings from the People's Republic of China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than April 24, 2018, unless postponed.¹⁷

VI. INJURY TEST

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On May 25, 2017, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of soil pipe fittings from the PRC that are alleged to be subsidized by the GOC.¹⁸

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

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

{G}iven 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.¹⁹

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.²⁰ Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated

¹⁶ See Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Request to Align the Final Determinations," dated November 16, 2017.

¹⁷ See *Cast Iron Soil Pipe Fittings from People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 82 FR 55989 (November 27, 2017).

¹⁸ See *Cast Iron Soil Pipe Fittings from China: Investigation Nos. 701-TA-583 and 731-TA-1381 (Preliminary)*, Publication 4722, September 2017; see also *Cast Iron Soil Pipe Fittings from China*, 82 FR 42114 (September 6, 2017).

¹⁹ See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum (CFS IDM) at Comment 6.

²⁰ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying Issues and Decision Memorandum (CWP IDM) at Comment 1.

as NMEs under section 771(18) of the Act, such as the PRC.²¹ The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.²²

VIII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

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 withholds information that has been requested; fails to provide information within the established deadlines or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides information that cannot be verified, as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Under the Trade Preferences Extension Act of 2015 (TPEA), numerous amendments to the AD and CVD laws were made. Amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act were included.²³ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.²⁴

Section 776(b) of the Act provides that the Department may use adverse facts available (AFA) when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁵ Furthermore, section 776(b)(2) of the Act states that AFA may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a

²¹ Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

²² See Pub. L. No. 112-99, 126 Stat. 265 §1(b).

²³ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The text of the TPEA may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

²⁴ See *Applicability Notice*, 80 FR at 46794-46795.

²⁵ See section 776(b)(1)(B) of the Act; see also section 502(1)(B) of the TPEA.

previous administrative review, or other information placed on the record.²⁶

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.²⁷ Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.²⁸ Furthermore, the Department is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.²⁹

Finally, under the new section 776(d) of the Act, when applying AFA, the Department may use a 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 countervailable subsidy rate for a subsidy program from a proceeding that the Department considers reasonable to use.³⁰ The TPEA also makes clear that, when selecting facts available with an adverse inference, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.³¹

For purposes of this preliminary determination, we are applying AFA for the circumstances outlined below.

B. Application of Total AFA: Non-Responsive Company

As noted in the “Initiation and Case History” section above, the Department selected three mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe fittings from the PRC during the POI. On August 21, 2017, the Department issued a CVD questionnaire to the GOC and the mandatory respondents.³²

Of the three mandatory respondents, Shijiazhuang Chengmei did not respond to the Department’s request for information. Accordingly, we preliminarily determine that Shijiazhuang Chengmei withheld necessary information that was requested of it, failed to provide information within the deadline established, and significantly impeded this proceeding. Thus, the Department will rely on facts otherwise available in making its preliminary determination with respect to this company, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that AFA is warranted, pursuant to section 776(b) of the Act, because Shijiazhuang Chengmei failed to cooperate by not acting to the best of its ability to comply with the Department’s request for information. Accordingly, we preliminarily find that

²⁶ See also 19 CFR 351.308(c).

²⁷ See also 19 CFR 351.308(d).

²⁸ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1 at 870, reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (1994) (SAA).

²⁹ See section 776(c)(2) of the Act; see also section 502(2) of the TPEA.

³⁰ See section 776(d)(1) of the Act; see also section 502(3) of the TPEA.

³¹ See section 776(d)(3) of the Act; see also section 502(3) of the TPEA.

³² See Initial Questionnaire.

use of AFA is warranted to ensure that this company (*i.e.*, Shijiazhuang Chengmei) does not obtain a more favorable result by failing to cooperate than if they had fully complied with our request for information.

We included all programs upon which the Department initiated in this investigation to determine the AFA rate, as well as other programs that were reported by the mandatory respondents. As AFA, we are preliminarily determining based on the non-responsive company's decision not to participate in this investigation that the company, in fact, used these programs during the POI.

Selection of the AFA Rate

It is the Department's practice in CVD proceedings to compute a total AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.³³ When selecting AFA rates, section 776(d) of the Act provides that the Department may use a countervailable subsidy rate applied for the same or a similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.³⁴ Accordingly, when selecting AFA rates, if we have cooperating respondents, as we do in this investigation, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If there is no identical program that resulted in a subsidy rate above zero for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).³⁵ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any

³³ See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 24, 2008) (unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009), and accompanying Issues and Decision Memorandum at "Application of Facts Available, Including the Application of Adverse Inferences"); see also *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions PRC Final*), and accompanying Issues and Decision Memorandum at "VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies."

³⁴ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from the PRC*), and accompanying Issues and Decision Memorandum (Shrimp IDM) at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

³⁵ For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.³⁶

In applying AFA to Shijiazhuang Chengmei, we are guided by the Department's methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondents in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for either of the cooperating respondents for the following programs (the last nine programs in this category are programs reported as "other subsidies" by the respondents):

- Policy Loans to Soil Pipe Fittings Industry
- Export Loans
- Treasury Bond Loans
- Preferential Loans for State-Owned Enterprises (SOEs)
- Preferential Lending to Soil Pipe Fittings Producers and Exporters Classified as "Honorable Enterprises"
- Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
- Provision of Pig Iron for Less than Adequate Remuneration
- Provision of Electricity for Less than Adequate Remuneration
- Aid for Middle and Small Enterprise for Developing International Market
- Bonus to Middle and Small Enterprise
- Bonus for Foreign Trade
- Assistance on Credit Insurance
- Assistance Fund
- Foreign Trade Promotion Fund in 2016
- Fund to Middle and Small Enterprise for Developing Markets
- Bonus for the Company's Sports Brand in Exhibition
- Promotion Funds for Coordinated Development of Foreign Trade and Economic Region
- Brand Building Funds for Medium, Small and Micro-sized Enterprises, 2016
- Interest Discount Funds

To calculate the program rate for the following income tax reduction programs on which the Department initiated an investigation, we determined, as AFA, that Shijiazhuang Chengmei paid no income tax during the POI (the last program in this category is a program reported by Wor-Biz's unaffiliated supplier, Guang Zhou Premier, as "other subsidies"):

- Preferential Income Tax Program for High and New Technology Enterprises (HNTEs)
- Preferential Deduction of Research & Development (R&D) Expenses for HNTEs
- Preferential Income Tax Policy for Enterprises in the Northeast Region
- Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Preferential Income Tax Subsidies for FIEs – Export Oriented FIEs
- Income Tax Benefits for Domestically-Owned Enterprises Engaging in R&D
- Small Low-Profit Enterprise Income Tax Preferential Policy

³⁶ Shrimp IDM at 13-14.

The standard income tax rate for corporations in the PRC in effect during the POI was 25 percent.³⁷ Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying 25 percent as an AFA rate on a combined basis (*i.e.*, the six programs, combined, provide a 25 percent benefit). Consistent with past practice, the 25 percent AFA rate does not apply to income tax credit and rebate, accelerated depreciation, or import tariff and value-added tax (VAT) exemption programs, because such programs may not affect the tax rate.³⁸

For programs for which we did not calculate an above-zero rate for the other mandatory respondents in this proceeding, we are applying the highest non-*de minimis* subsidy rate calculated for the same or, if lacking such rate, for a similar program in a PRC CVD investigation or administrative review. For this preliminary determination, we are able to match, based on program name, description, and treatment of the benefit, the following programs to identical programs from other PRC CVD proceedings:

- Provision of Ferrous Scrap for LTAR
- Provision of Land to SOEs for LTAR
- Debt-to-Equity Swaps
- Exemptions for SOEs from Distributing Dividends to the State
- Loan and Interest Forgiveness for SOEs
- VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
- Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment
- State Key Technology Fund
- Foreign Trade Development Fund
- Export Assistance Grant
- Subsidies for Development of Famous Export Brands and China World Top Brands
- Grants to Loss-Making SOEs
- Export Interest Subsidies
- Grants for Energy Conservation and Emission Reduction
- Grants for Retirement of Capacity
- Grants for Relocating Production Facilities

For this preliminary determination, we are able to match, based on program name, description, and treatment of the benefit, the following programs to similar programs from other PRC CVD

³⁷ See CVD Initiation Checklist at 15.

³⁸ See, e.g., *Aluminum Extrusions from the People's Republic of China: Final Results, and Partial Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 77325 (December 14, 2015) (*Aluminum Extrusions 2013 Review*), and accompanying Issues and Decision Memorandum at "Application of Total AFA to Non-Cooperative Companies."

proceedings (these are all programs reported as “other subsidies” by the respondents for which the benefit was not measurable during the POI):

- Patent Assistance Funds
- Party Construction Fund for the Year 2015
- Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement) the First Tranche of the Year 2015
- Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement), the Second Tranche of the Year 2015
- Supporting Funds for Circulating Program
- Financial Funds Introduction
- Supporting Funds for Private Economy Development of Small and Medium Enterprises (SME)
- Funds for Energy Saving Technology Improvement Project in Smelting Section
- Government Awards for Brand Name Product in Shanxi Province
- Certificate of Shanxi Brand Name Product

Accordingly, we preliminarily determine the AFA countervailable subsidy rate for Shijiazhuang Chengmei to be 102.31 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”³⁹ The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.⁴⁰

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.⁴¹ Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁴²

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits

³⁹ See SAA at 870.

⁴⁰ *Id.*

⁴¹ *Id.* at 869-870.

⁴² See section 776(d) of the Act.

resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.⁴³

In the absence of responses from Shijiazhuang Chengmei concerning the alleged programs due to its decision not to participate in this investigation, the Department reviewed the information concerning PRC subsidy programs in this and other cases.⁴⁴ Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. Additionally, the relevance of the rates applied above is that they are actual calculated CVD rates for PRC programs, from which Shijiazhuang Chengmei could actually receive a benefit. Due to the lack of participation by Shijiazhuang Chengmei and its failure to provide a response concerning each of these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

C. Application of AFA: Input Producers Are “Authorities”

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

In response to the Initial Questionnaire, Wor-Biz’s unaffiliated supplier, Guan Zhou Premier, provided a list of its producers and suppliers of pig iron and suppliers of ferrous scrap.⁴⁵ The GOC indicated that Guan Zhou Premier’s producers of pig iron involved in this case are either a limited liability company or limited liability company (state-controlled).⁴⁶ To support this assertion, the GOC provided summary data denoting the business registration information and a list of shareholders for the producers reported. As such, the GOC concluded that the producers were not “authorities.”

As for ferrous scrap, the GOC contended that, because ferrous scrap is not a product that can be produced, there are no producers.⁴⁷ Therefore, the GOC did not identify the producers of ferrous scrap. The reporting of this information is critical, as the Department’s analysis largely focuses

⁴³ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

⁴⁴ Specifically, the Department examined information in the Petition regarding each alleged program and compared its description with that of programs examined in other cases. See the Petition and CVD Initiation Checklist.

⁴⁵ See Guang Zhou Premier IQR at Exhibits 8a and 8b.

⁴⁶ See GOC IQR at Exhibit E-2.

⁴⁷ *Id.* at 50.

on the “authority” status of the ultimate producers, rather than the status of intermediate suppliers. This deficiency was not addressed in the GOC’s supplemental response.⁴⁸ Additionally, for Guang Zhou Premier’s ferrous scrap purchases, Guang Zhou Premier was unable to identify the original producers of the ferrous scrap inputs.⁴⁹ Accordingly, because the Department did not receive information on the identity of the ferrous scrap producers, there is limited record information on whether these producers are “authorities.”

Additionally, even for the producers of pig iron identified by Guang Zhou Premier, the GOC did not provide a full response to the Department’s questions regarding these producers. The GOC provided summary data denoting the business registration information and basic shareholder information for a number of producers of pig iron, but did not provide the additional information (*e.g.*, company by-laws, articles of incorporation, licenses, *etc.*) that was specifically requested by the Department. Nor did the GOC elect to supplement its initial filing when presented with a second opportunity.⁵⁰ Instead, the GOC indicated that it “provided the ownership structure and basic registration information, including the key information of these companies in Exhibits E-1 and E-2 of the GQR dated October 4, 2017.”⁵¹ Furthermore, the GOC stated that “{t}he information in the ECIPS is the officially registered information and therefore should be sufficient for the Department to understand the ownership of these companies.”⁵² Again, this response undermined the Department’s ability to accurately determine whether the producers constitute “authorities.”

Furthermore, we requested information on the owners, members of the board of directors, or managers of the producers who were also government or Chinese Communist Party (CCP) officials or representatives during the POI. The GOC did not provide this requested information for any of the producers. Instead, the GOC argued that “even if an owner, a director, or a manager of a supplier company is a member or representative of these organizations, this circumstance would not make the management and business operations of the company in which he/she serves subject to any intervention by the GOC.”⁵³ Because the GOC did not provide information necessary for our analysis, we asked for this information a second time, in our supplemental questionnaire. Instead of providing the requested information, the GOC referred back to its Initial Questionnaire response and stated that it could not provide additional information.⁵⁴

The information we requested regarding the role of CCP officials in the management and operations of these producers is necessary for our determination as to whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP, or that it consulted any other sources. The GOC’s responses in prior CVD proceedings involving the PRC demonstrate that it is, in fact, able to

⁴⁸ See GOC SQR1 at 10-13.

⁴⁹ See Guang Zhou Premier IQR at Exhibits 8b.

⁵⁰ See GOC SQR1 at 5-6.

⁵¹ *Id.*

⁵² *Id.*

⁵³ See GOC IQR at 30.

⁵⁴ See GOC SQR1 at 7-8.

access information similar to what we requested.⁵⁵ Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any of the requested information, it should have promptly explained to the Department what attempts it undertook to obtain this information and proposed alternative forms of providing the information.⁵⁶

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on “facts otherwise available” in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act.⁵⁷ Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, we find that AFA is warranted pursuant to section 776(b) of the Act. As AFA, we are preliminarily finding that each of the producers of pig iron and ferrous scrap, for which the Guang Zhou Premier and the GOC failed to provide complete information which is necessary for our financial contribution analysis, are “authorities” within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rate for the respondents, *see* below at “Provision of Pig Iron for LTAR” and “Provision of Ferrous Scrap for LTAR.”

D. Application of AFA: Inputs Are Specific

The Department asked the GOC to provide a list of industries in the PRC that purchase pig iron and ferrous scrap directly, and to provide the amounts (volume and value) purchased by each of the industries, including the industry classification that includes soil pipe fittings producers.⁵⁸ The Department requests such information for purposes of its *de facto* specificity analysis. Specifically, our questionnaire asked the GOC to:

Provide a list of the industries in the PRC that purchase {the input} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please

⁵⁵ *See, e.g., High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) (*HPSC from the PRC*), and accompanying Issues and Decision Memorandum (“HPSC IDM”) at 13.

⁵⁶ Section 782(c)(1) of the Act states, “{i}f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.”

⁵⁷ *See* Volume III of the Petition at pages 55 and 58; *see also* CVD Checklist at 23-25.

⁵⁸ *See* Initial Questionnaire at II-9 and II-13.

clearly identify the industry in which the companies under investigation are classified.⁵⁹

The GOC did not provide this information, nor did it explain what efforts it made to compile this information. Instead, the GOC simply indicated that “Pig iron is the building block of the iron and steel industry. ... There are vast number{s} of uses for pig iron. The types of consumers that may purchase pig iron are highly varied in the world and Chinese markets.”⁶⁰ The GOC response contained similar language with respect to ferrous scrap.⁶¹ The GOC asserted that the scope of pig iron and ferrous scrap usage is too broad to be considered “specific” to the industry under consideration. This response is insufficient.

As an initial matter, the Department did not ask that the GOC provide pig iron usage data for each of the potentially numerous narrowly-drawn end-user categories. Rather, the Department asked that the GOC provide information on purchases by industry, using “whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry.”⁶² For example, an International Standard Industrial Classification (“ISIC”) category at the 2-digit level would encompass the soil pipe fittings industry (*e.g.*, ISIC Category 24 “Manufacture of basic metals”). A National Economy Industry Classification (“NEIC”) 2-digit category would appear to do so as well (*e.g.*, NEIC Category 33 “Industry of Metal Products”).⁶³ A number of the more nuanced sector classifications, at the 3- or 4-digit level, would encompass the soil pipe fittings industry as well. The GOC did not provide usage data pursuant to *any* classification grouping. Accordingly, the Department was precluded from examining and considering the actual relative consumption of pig iron by industrial sector, as the GOC provided no data.

With respect to ferrous scrap, the GOC similarly failed to provide information essential to the Department’s specificity analysis. Again, the GOC explained that there are too many ferrous scrap producers to meaningfully identify industry-by-industry consumption data. The GOC’s own response suggests otherwise. The GOC explained that the China Association of Metalscrap Utilization (“CAMU”) collects the ferrous scrap consumption data from numerous producers.⁶⁴ Given that the GOC admits that the identity of these producers are known to CAMU,⁶⁵ it is unclear why the GOC could not take steps to identify the underlying industry(ies) to which all CAMU members belong.

We do not agree with the GOC’s contention that the broad range of applications for pig iron and ferrous scrap undermines a finding of specificity. The Department has previously considered, and rejected, the arguments now made by the GOC. For instance, in *Steel Sinks from the PRC*, the Department noted that simply because an input is consumed by multiple industries, that does

⁵⁹ See Initial Questionnaire at II-9 and II-13.

⁶⁰ See GOC IQR at 41-42.

⁶¹ *Id.* at 58.

⁶² See Initial Questionnaire at II-9.

⁶³ See GOC IQR at Exhibits E-12 and E-13.

⁶⁴ See GOC SQR1 at 11.

⁶⁵ *Id.*

not undermine a finding of specificity.⁶⁶ There, the Department explained that where “potential users of stainless steel products fall into 20 or 32 different industry classifications using ISIC and Chinese national economy industry classifications {NEIC},” the stainless steel input could still be considered specific to the industry in question.⁶⁷ Similarly, in *Citric Acid from the PRC*, the Department considered whether sulfuric acid, steam coal and calcium carbonate were specific to the industry under consideration.⁶⁸ As here, the GOC argued that these inputs “are sold to a broad spectrum of industries for a wide variety of uses,” thus undermining a finding of specificity.⁶⁹ The Department rejected that argument in *Citric Acid from the PRC*, noting that a number of broad industry classifications were predominant users of such inputs. For example, with respect to sulfuric acid, the Department found that fertilizer producers and the “chemical industry” were predominant users of the input; accordingly, the Department found that sulfuric acid was specific to the industry in question.⁷⁰

Consistent with the cases cited above, the larger industry grouping to which soil pipe fittings producers belong (*e.g.*, manufacture of basic metals; industry of metal products, *etc.*) is likely to be a substantial consumer of pig iron and ferrous scrap.⁷¹ In this case, however, the GOC did not provide the required data on the relative consumption of pig iron or ferrous scrap at *any* industry level.

Therefore, consistent with past proceedings,⁷² we preliminarily determine that necessary information is not available on the record and that the GOC has withheld information that was requested of it, and, thus, that the Department must rely on “facts available” in making its preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act.⁷³ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, AFA is warranted, pursuant to section 776(b) of the Act. In applying AFA, we find that the GOC’s provision of pig iron and ferrous scrap is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

E. Application of AFA: Ferrous Scrap Industry Distortions

In order to determine the appropriate benchmark with which to measure the benefit from the provision of inputs at LTAR under 19 CFR 351.511, the Department asked the GOC several questions concerning the structure of the industries for pig iron and ferrous scrap (the key inputs used by the mandatory respondents).⁷⁴ Specifically, the Department requested that the GOC provide the following information for each input:

⁶⁶ See *Drawn Stainless Steel Sinks From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 46717 (August 6, 2012) (*Steel Sinks from the PRC*) (unchanged in *Drawn Stainless Steel Sinks From the People’s Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013)).

⁶⁷ *Id.*

⁶⁸ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015), and accompanying Issues and Decision Memorandum at Comment 1.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ See GOC IQR at Exhibits E-12 and E-13.

⁷² *Id.*

⁷³ See Volume III of the Petition at pages 55 and 58; see also CVD Checklist at 23-25.

⁷⁴ See Initial Questionnaire at II-8, 9, 11, and 12.

1. The total number of producers;
2. The total volume and value of Chinese domestic consumption of pig iron and ferrous scrap and the total volume and value of Chinese domestic production of pig iron and ferrous scrap;
3. The percentage of domestic consumption accounted for by domestic production.
4. The total volume and value of imports of pig iron and ferrous scrap;
5. The percentage of total volume and (separately) value of domestic production that is accounted for by companies in which the Government maintains a majority ownership or a controlling management interest, either directly or through other Government entities. Please also provide a list of the companies that meet these criteria.
6. If the share of total volume and/or value of production that is accounted for by the companies identified in paragraph “e”, above, is less than 50 percent, please provide the following information:
 - a. The percentage of total volume and value of domestic production that is accounted for by companies in which the Government maintains some, but not a majority, ownership interest or some, but not a controlling, management interest, either directly or through other Government entities.
 - b. A list of the companies that meet the criteria under sub-paragraph “i”, above.
 - c. A detailed explanation of how it was determined that the government has less than a majority ownership or less than a controlling interest in such companies, including identification of the information sources relied upon to make this assessment.
7. A discussion of what laws, plans or policies address the pricing of pig iron and ferrous scrap, the levels of production of pig iron and ferrous scrap, the importation or exportation of pig iron and ferrous scrap, or the development of pig iron and ferrous scrap capacity. Please state which, if any, central and subcentral level industrial policies pertain to the pig iron and ferrous scrap industries.

The Department requested such information to determine whether the GOC is the predominant provider of these inputs in the PRC and whether its presence in the market distorts all transaction prices.

In response, the GOC provided the applicable information relating to the pig iron industry. However, with respect to ferrous scrap,⁷⁵ the GOC stated that it does not maintain records on the ferrous scrap industry. As a result, the GOC stated that it was unable to identify the producers in

⁷⁵ See GOC IQR at 55.

which the GOC maintains an ownership or management interest – either directly or through other government entities.⁷⁶ In particular, the GOC asserted that, because there are so many producers of ferrous scrap, it would be impossible to identify a full list of producers.

The record evidence does indicate that the GOC levied a 40 percent tariff on ferrous scrap exports in the 2014-2016 period.⁷⁷ Export tariffs can increase the domestic quantity of ferrous scrap that is available in the PRC with the result that such measures will suppress domestic prices. Furthermore, with regard to the percentage of domestic consumption accounted for by domestic production, imports of ferrous scrap accounted for less than 0.1 percent of domestic ferrous scrap consumption in the PRC during the POI.⁷⁸

In a supplemental questionnaire, the Department specifically requested that the GOC provide the amounts (volume and value) purchased by the classification of which the mandatory respondent companies operate, as well as the totals purchased by every other industry classification which purchases the inputs. As with our Initial Questionnaire, the GOC again reiterated that too many industries are involved, and that it was unable to provide information.⁷⁹ The GOC, however, did not provide an explanation as to how it attempted to gather the requested information. Given that the CAMU has aggregate consumption figures collected from particular companies, the Department cannot accept the conclusion that the GOC has no way of identifying the industries to which these companies belong.

In past proceedings, the GOC has demonstrated that it has the ability, through the State Statistical Bureau or other sources (*e.g.*, industry associations), to report data concerning the production of a wide variety of inputs.⁸⁰ Therefore, we preliminarily determine that the GOC, having failed to provide such data, has withheld information that was requested of it, and that the use of facts available is warranted, pursuant to section 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information, and thus, the application of AFA pursuant to section 776(b) of the Act is warranted.

For these reasons and based on the record evidence discussed above, we preliminarily determine, as AFA, that domestic markets for ferrous scrap are distorted through the intervention of the GOC, and we are, therefore, relying on an external benchmark for determining the benefit from the provision of ferrous scrap at LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

⁷⁶ See GOC IQR at 55.

⁷⁷ See GOC IQR at 56.

⁷⁸ *Id.* at 52, 54.

⁷⁹ See GOC SQR1 at 9.

⁸⁰ See, *e.g.*, *Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014), and accompanying Preliminary Decision Memorandum at 14-15 (unchanged in *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014)) (*Crystalline Silicon Photovoltaic Products from the PRC*).

F. Application of AFA: Provision of Electricity for LTAR

GOC

The GOC did not provide complete responses to the Department's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

In order for the Department to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, the Department requested, *inter alia*: Provincial Price Proposals for each province in which mandatory respondents or any company "cross-owned" with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution. The Department requested this information in order to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout the PRC during the POI.

In its initial questionnaire response, the GOC stated that "{w}ith the Notice of the NDRC on Completing Price Linkage Mechanism Between Coal and Electricity... which went into effect on January 1, 2016, the electricity price adjustment that happened on January 1, 2016 was purely generated by the fluctuation of thermal coal prices which are decided by the market."⁸¹ The GOC further stated that "{s}ince January 1, 2016, all the provincial governments, including Shanxi, Anhui, and Guangdong, have been given authority to prepare and publish the schedules of electricity tariff rates for their own jurisdictions under the Notices published and enforced by the NDRC, while providing NDRC with the notices of their prices schedules for its records."⁸² Therefore, according to the GOC, Provincial Price Proposals did not exist during the POI.⁸³ Consequently, according to the GOC, the NDRC no longer has any impact on prices, which are set autonomously at the provincial level. The GOC contends that electricity prices in China are

⁸¹ See GOC IQR at 60 and Exhibit E-20 (Notice 3169).

⁸² *Id.* at 62.

⁸³ *Id.*

based on purely market mechanisms and reflect market supply and demand.⁸⁴ The GOC states that the NDRC price adjustment notice in effect during the POI, Number 3105, was issued on December 27, 2015, and that the only corresponding regulation lies in Article 4 of the *Notice on Reducing the On-Grid Electricity Price of Coal-fired Electricity from NDRC ...* which went into effect on April 20, 2015 and only dealt with the elimination of the preferential electricity price of fertilizer production.⁸⁵ In a subsequent questionnaire response, the GOC confirmed that Notices 748, 3105, and 3169 are the most recent central government measures mandating delegation of what it claims to be electricity pricing authority to the provinces.⁸⁶

Article 1 of Notice 748 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.⁸⁷ Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.⁸⁸ Article 2 indicates that this price reduction is to be “mainly used for reducing the price of industrial and commercial electricity.”⁸⁹ Articles 3 and 4 specifically direct the reduction of the sales price of industrial and commercial electricity.⁹⁰ Articles 6 and 7, respectively, indicate that provincial pricing authorities shall “develop and issue specific adjustment plan of electricity price and sales price in accordance with the average price adjustment standards of Annex 1, and reported to our Commission for the record,” and that the “above price adjustment should be implemented since April 20, 2015.”⁹¹ Lastly, Article 10 directs that “[l]ocal price departments shall organize and arrange carefully to put in place the electricity price adjustment measures.”⁹²

NDRC Notice 3105, which was based upon consultations between the NDRC and the National Energy Administration, directs additional price reductions, and stipulates at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex and report resulting prices to the NDRC.⁹³

Article 2 of NDRC Notice 3169 provides that, when the “thermal coal price is fluctuated for more than {Renminbi (RMB)} 30 Yuan (inclusive) comparing with benchmark coal price during the cycle,” then an adjustment must be made pursuant to a “tiered regressive linkage for {the} excess portion” using a “linkage coefficient” which is also defined in Article 2.⁹⁴ Article 3 stipulates that “[b]enchmark on-grid electricity price of coal-fired machine unit should be strictly measured and determined by coal-electricity price linkage mechanism” using a specific formula defined in Appendix 1 of Notice 3169.⁹⁵ Article 3 further stipulates that the “industrial and commercial electricity price should be correspondingly adjusted; adjustment level should be

⁸⁴ *Id.* at 60.

⁸⁵ *Id.* at 63, Exhibit E-24 (Notice 3105).

⁸⁶ *See* GOC SQR1 at 15.

⁸⁷ *See* GOC IQR at Exhibit E-24.

⁸⁸ *See* GOC SQR1 at Exhibit S-17.

⁸⁹ *See* GOC IQR at Exhibit E-24.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at Exhibit E-23.

⁹⁴ *Id.* at Exhibit E-20.

⁹⁵ *Id.*

determined by on-grid electric quantity of coal-fired machine unit, on-grid electric quantity of other power sources, outsourced electric quantity condition, energy-saving and eco-friendly electricity price and other factors” using a specific formula defined in Appendix 1 of Notice 3169.⁹⁶

Consequently, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.⁹⁷ Rather, both notices indicate that the NDRC continues to play an influential role in setting and adjusting electricity prices, by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.⁹⁸ Moreover, while Article IV of Notice 3169 does indicate that “local government and relevant departments should not designate the transaction price,” Articles 2 and 3 of Notice 3169 also make clear that the NDRC stipulates the formulae by which prices are to be adjusted.

In a supplemental questionnaire, the Department requested that the GOC explain what steps are taken in the NDRC’s review of provincial price schedules. The GOC referred the Department to Notice 3169, and explained that, with Notice 3169 regulating the electricity calculation adjustment method in the adjustment on January 1, 2016, provincial agencies are delegated the authority to prepare and publish the price adjustment packages/schedules for their own jurisdiction respectively.⁹⁹ The GOC also stated that the relevant provincial agencies are only required to provide their final adjusted electricity price schedules to the NDRC for its records. The GOC also referred the Department to Notice 748, and stated that for electricity price adjustment in the middle of 2016, the provincial governments were only required to provide their final adjusted electricity prices schedules to the NDRC for its “review.”¹⁰⁰ However, as discussed above, these documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces and provide specific formulae by which price adjustments must be made. They neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. Additionally, we requested that the GOC explain whether the pricing values set forth in Notices 3169, 3105, and 748 were mandatory for each province and sub-Central jurisdiction, as indicated in the schedule. The GOC responded that “{t}he pricing values indicated in the Appendices are average reduction standards for on-grid prices and industrial and commercial electricity prices, and the benchmark prices of coal-fired, on-grid electricity prices after adjustment,” and claimed that “{t}hese are not the same kind of electricity prices published by provincial pricing departments.”¹⁰¹ This response does not accord with the directive language in Notice 748, as discussed above. Finally, we requested that the GOC explain what action the NDRC would take were any province not to comply with the directed price changes. The GOC responded that

⁹⁶ *Id.*

⁹⁷ *Id.* at 60.

⁹⁸ *See, e.g.*, Notice 748 Article 10 and Notice 3105 Articles II and X.

⁹⁹ *See* GOC SQR1 at 14.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 16 and 17.

“{s}ince this mechanism is newly established, this issue has not occurred,” and failed to explain what actions the NDRC would take in the event of non-compliance with directed price changes.¹⁰²

The Department additionally requested that the GOC explain, in detail, how the pricing values indicated in the Appendix to Notice 748 were derived, including the specific factors or information relied upon by the NDRC. In response, the GOC merely repeated its initial explanation, stating that the range of electricity sales prices was calculated through the formulae provided in the two appendixes of Notice 3169.¹⁰³ Subsequently, in our supplemental questionnaire, we asked the GOC whether NDRC Notifications, *e.g.* Notice 748, coincided with price changes set forth at the provincial level. The GOC responded that the price category in Notice 748 and Notice 3105 is different from the provincial electricity price tables. The GOC also stated that while the price in the NDRC Notifications is the average adjustment standard of grid-purchase electricity price and industrial and commercial electricity sales price (on average), the provincial electricity price tables contain specific electricity prices of each electricity usage category and voltage levels.¹⁰⁴ However, as discussed above, these documents, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces and provide specific formulae by which price adjustments must be made.¹⁰⁵

In addition to our request for a detailed explanation of how the NDRC derived the price reduction amounts indicated in Notice 748 and Notice 3105, we requested that the GOC explain how the increases/decreases in cost elements led to retail price increases/decreases with regards to the Shanxi, Anhui and Guangdong provinces. In its response, the GOC repeated its previously submitted, aforementioned responses regarding price derivation, *i.e.* that pursuant to NDRC Notice 3169, when the “thermal coal price is fluctuated for more than {Renminbi (RMB)} 30 Yuan (inclusive) comparing with benchmark coal price during the cycle,” then an adjustment must be made pursuant to a “tiered regressive linkage for {the} excess portion” using a “linkage coefficient” which is also defined in Article 2.¹⁰⁶ As part of its response to this question, the GOC again failed to provide requested sources and relevant documentation to support its statements with regards to the Shanxi, Anhui and Guangdong provinces.

As explained above, the GOC failed on multiple occasions to explain the roles and nature of cooperation between the NDRC and the provinces in deriving electricity price adjustments. Further, the GOC failed to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by the provinces themselves. Consequently, we preliminarily determine, in accordance with section 776(a)(1)(A), that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity and, thus, the Department must rely on facts available in making our preliminary determination.¹⁰⁷ Moreover, we preliminarily determine, in accordance with section 776(b), that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. We

¹⁰² *Id.* at 17.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 19.

¹⁰⁵ *Id.* at 17.

¹⁰⁶ *Id.* at 20.

¹⁰⁷ *See* section 776(a)(2)(A) of the Act.

also note that the GOC did not ask for additional time to gather and provide such information. Consequently, AFA is warranted.¹⁰⁸ We find, based on AFA, that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act.¹⁰⁹ The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, we are also applying AFA in selecting the benchmark for determining the existence and amount of the benefit.¹¹⁰ The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, see the "Provision of Electricity for LTAR" section.

G. Application of AFA: "Other Subsidies"

GOC

While Wor-Biz self-reported receiving "Other Subsidies" in its initial questionnaire response and Shanxi Xuanshi self-reported receiving "Other Subsidies" in its first supplemental questionnaire response, the GOC stated that:

The Department has requested information on numerous programs in this investigation. The responding companies and the GOC have cooperated to the best of their ability to provide the information requested. The GOC further notes that Article 11.2 of the *WTO Agreement on Subsidies and Countervailing Measures* dictates that investigations may not be initiated on the basis of 'simple assertion, unsubstantiated by relevant evidence.' Sufficient evidence with regard to the existence, amount, and nature of a subsidy must be presented for the Department to initiate the investigation of another program, consistent with Article 11.2(iii). The GOC believes, therefore, that an answer to this question is premature absent a more direct inquiry supported by credible evidence and the initiation of a discrete investigation by the Department.¹¹¹

In response, we issued two supplemental questionnaires to the GOC requesting full responses to the "Other Subsidies" reported by the respondents.

In our October 19, 2017, supplemental questionnaire, we asked the GOC to respond to the following questions concerning the "Other Subsidies" reported by Shanxi Xuanshi and Wor-Biz:

In Exhibit 10 of Wor-Biz International Trading Co., Ltd. (Anhui)'s (Wor-Biz Anhui) October 6, 2017, questionnaire response, Wor-Biz Anhui reports that itself and Wor-Biz International Trading Co., Ltd. (Shanghai) (Wor-Biz Shanghai) received grants other than

¹⁰⁸ See section 776(b) of the Act.

¹⁰⁹ See, e.g., Volume III of the Petition, at 58-62.

¹¹⁰ See section 776(b)(2)(D) of the Act.

¹¹¹ See GOC IQR at 75-76.

the grant programs listed in the Department's questionnaire. In 2016, Wor-Biz Anhui received grants from the following sources that appear to exceed the Department's threshold of measurability: Foreign Trade and Economic Cooperation Bureau of High and New Technology Development Zone of Hefei City, Bureau of Commerce of Hefei City, Bureau of Commerce of Hefei City, Bureau of Commerce of Shushan District Hefei City, and Anhui Branch of Credit Insurance Company. Additionally, Wor-Biz Shanghai, reported that it received grants from the Bureau of Finance, Pudong District Shanghai City, in 2016, that appears to exceed the Department's threshold of measurability. Therefore, please provide a full response, *i.e.*, the Department's Standard Questions Appendix, Allocation Appendix, and Grant Appendix, for each of the 2016 grants listed from the above-noted sources.

On page 12 of Shanxi Xuanshi Industrial Group Co., Ltd.'s (Shanxi Xuanshi) October 4, 2017, questionnaire response, Shanxi Xuanshi reports that it obtained the "Certificate of Shanxi Brand Name Product" issued by the Shanxi Brand Name Products Promotion Committee, in December 2013, which is valid for three years. Thus, please provide a full response to the Department's Standard Questions Appendix, Allocation Appendix, and Grant Appendix.¹¹²

In the GOC's November 3, 2017, supplemental questionnaire response, the GOC did not respond to the questions in our supplemental questionnaire with regard to "Other Subsidies." Instead, the GOC again referred to the *WTO Agreement on Subsidies and Countervailing Measures* (WTO SCM) to assert that it is not required to respond to the Department's inquiry into these "Other Subsidies." However, the GOC confirmed the reported usage, and acknowledged providing a financial contribution with respect to the respondents' self-reported subsidies.¹¹³ Furthermore, we note that the GOC provided no information regarding the criteria governing the eligibility for and receipt of any assistance under these programs.¹¹⁴

In our November 7, 2017, supplemental questionnaire, we asked additional questions concerning the "Other Subsidies" reported by Shanxi Xuanshi in its supplemental questionnaire response.¹¹⁵ Specifically, we explained that it appears that Shanxi Xuanshi reported certain grants for 2010, 2011, 2013, and 2016 which exceed the Department's threshold of measurability. Therefore, we requested that the GOC provide a full response to the Department's Standard Questions Appendix, Allocation Appendix, and Grant Appendix for each grant listed in the supplemental questionnaire.

Again, the GOC did not respond to the questions in the supplemental questionnaires concerning the "Other Subsidies." Instead, the GOC again confirmed the amounts received under each of the above-noted programs reported by Shanxi Xuanshi. The GOC also stated that it did not challenge the countervailability of the self-reported programs and stated that it is not providing

¹¹² See the Department's First Supplemental Questionnaire to the GOC, dated October 19, 2017.

¹¹³ See GOC SQR1 at 2 and Exhibit S-1b.

¹¹⁴ *Id.* at 2.

¹¹⁵ See the Department's Second Supplemental Questionnaire to the GOC, dated November 7, 2017.¹¹⁶ See GOC SQR2 at 2.

appendix responses for each of the programs. However, the GOC reiterated that it believes the Department cannot require the GOC and respondents to respond to the usage of unalleged subsidy programs pursuant to Article 11.2 of the WTO SCM.¹¹⁶

Therefore, based upon the above, we preliminarily determine that necessary information to determine whether these initially-reported “Other Subsidies” are specific is not available on the record and that the GOC withheld information that was requested of it, and, thus, that the Department must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, AFA is warranted, in accordance with section 776(b) of the Act. In applying AFA, we determine that the self-reported programs confer a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of the Act,¹¹⁷ and, based on the GOC’s decision not to provide information related to specificity, that the self-reported programs are specific either under section 771(5A)(B) or 771(5A)(D) of the Act (as appropriate, depending on whether the respondent reported the grant as export-related or as a domestic subsidy).

IX. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.¹¹⁸ In the Initial Questionnaire, we notified the respondents to this proceeding that the AUL period would be 15 years, pursuant to 19 CFR 351.524(d)(1) and the U.S. Internal Revenue Service Publication 946 (2017), “Appendix B - Table of Class Lives and Recovery Periods” (IRS Pub. 946).¹¹⁹ The 15-year period corresponds to IRS Pub. 946 asset class, “33.4 “Manufacture of Primary Steel Mill Products.” No party in this proceeding submitted comments challenging the proposed AUL period, and we therefore preliminarily determine that a 15-year period is appropriate to allocate benefits from non-recurring subsidies.

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

¹¹⁶ See GOC SQR2 at 2.

¹¹⁷ See *id.* at 2 and Exhibit S-1b.

¹¹⁸ See 19 CFR 351.524(b).

¹¹⁹ See U.S. Internal Revenue Service Publication 946 (2017), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

B. Attribution of Subsidies

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

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

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.¹²⁰

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case to determine whether cross-ownership exists. The U.S. Court of International Trade upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.¹²¹

Shanxi Xuanshi

Shanxi Xuanshi identified itself as a privately-owned Chinese exporter of the subject merchandise.¹²² In its AFFR, Shanxi Xuanshi did not identify any companies with which it was affiliated that were "involved in the production, export, or sale of subject merchandise in

¹²⁰ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

¹²¹ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600 (Ct. Int'l Trade 2001).

¹²² See Shanxi Xuanshi AFFR at Exhibit 1.

China.”¹²³ Therefore, we preliminarily determine that none of Shanxi Xuanshi’s affiliates are cross-owned.¹²⁴

Wor-Biz

Wor-Biz identified itself as a privately-owned Chinese trading company and exporter of the subject merchandise.¹²⁵ In the Wor-Biz AFFR, Wor-Biz explained that it exported subject merchandise produced by three unaffiliated companies.¹²⁶ Wor-Biz further explained that it was planning to submit a questionnaire response for one unaffiliated supplier, Guang Zhou Premier, which produces most of the subject merchandise sold by Wor-Biz. For the other two unaffiliated suppliers, Wor-Biz requested that the Department exempt these suppliers from providing full responses to the Department’s CVD questionnaire.¹²⁷ On September 26, 2017, based on Wor-Biz’s representation, subject to verification, the Department granted Wor-Biz’s request to exempt the aforementioned suppliers from providing complete responses to the CVD questionnaire.¹²⁸ In determining a deposit rate for a non-producing trading company such as Wor-Biz, the Department’s regulations state that we may calculate a deposit rate for each of the supplying producers and combine each producer rate with the trading company’s own deposit rate to establish producer-specific deposit rates for the trading company’s subject merchandise exports into the United States.¹²⁹

While the Department normally opts to establish different producer-specific deposit rates for a trading company respondent in the AD context, our practice in CVD proceedings has been to derive a weighted average of such rates to establish one deposit rate for the trading company respondent for all of its subject merchandise exports, regardless of the producer.¹³⁰ Either way, however, in the course of determining the deposit rate to apply to the trading company’s subject entries, it is necessary for the Department to first determine the individual deposit rate for each producer of subject merchandise exported by the trading company. In the CVD context, this means the Department needs to identify and measure any subsidies that were provided to each producer, determine the benefits allocable to the POI, and calculate a net countervailable subsidy rate for each producer. Thus, regardless of whether a particular producer is selected as a mandatory respondent, the Department must conduct the same level of analysis of each producer’s subsidization as it would for a mandatory respondent, including an analysis of the

¹²³ See Shanxi Xuanshi AFFR at 2-5.

¹²⁴ See 19 CFR 351.525(b)(6)(ii)-(v).

¹²⁵ See Wor-Biz AFFR at Exhibit 2.

¹²⁶ See Wor-Biz AFFR at 1-3.

¹²⁷ *Id.*

¹²⁸ See Department Letter re: Producer Reporting Requirements for Wor-Biz, dated September 26, 2017

¹²⁹ See 19 CFR 351.107(b)(1).

¹³⁰ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy*, 61 FR 30288, 30309 (June 14, 1996), under “Suspension of Liquidation” (in which the Department noted that “We calculated the ad valorem rate for Agritalia, an export trading company, by weight averaging, based on the value of exports to the United States represented by each of Agritalia’s suppliers, the adjusted subsidy rate for each supplier and adding to this rate the subsidy rate calculated for Agritalia based on subsidies it received directly.”); see also *Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001), and accompanying “Issues and Decision Memorandum: Final Results of the 1999 Countervailing Duty Administrative Review of Certain Pasta from Italy,” dated December 4, 2001.

producer's corporate affiliations for the purposes of attributing any subsidy benefit under our attribution rules at 19 CFR 351.525(b)(6)(i)-(vi), 351.525(b)(7) and 351.525(c).

In addition, Wor-Biz reported that it had acquired the capital of Wor-Biz Trading Co., Ltd. (Shanghai) (Wor-Biz Shanghai) in early 2016. Therefore, Wor-Biz reported certain grants received by Wor-Biz Shanghai.¹³¹

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* the Shanxi Xuanshi Preliminary Calculation Memorandum and the Wor-Biz Preliminary Calculation Memorandum.¹³²

Pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are cumulating the benefits from subsidies received by Guang Zhou Premier with the benefits from subsidies received by Wor-Biz based on the ratio of Wor-Biz's exports to the United States of subject merchandise produced by Guang Zhou Premier during the POI to Wor-Biz's total exports of subject merchandise to the United States during the POR (based on volume).¹³³

X. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by the respondents and their cross-owned affiliates from Chinese policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies received by the mandatory respondents.¹³⁴ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

¹³¹ *See* Wor-Biz IQR at 13.

¹³² *See* Memorandum, "Shanxi Xuanshi Industrial Group Co. Ltd.; Calculations for the Preliminary Determination," dated December 11, 2017 (Shanxi Xuanshi Preliminary Calculation Memorandum); and Memorandum, "Wor-Biz International Trading Co., Ltd. (Anhui); Calculations for the Preliminary Determination," dated December 11, 2017 (Wor-Biz Preliminary Calculation Memorandum).

¹³³ *See* Wor-Biz SAQR at 1. *See also* Wor-Biz Preliminary Calculation Memorandum.

¹³⁴ *See* 19 CFR 351.524(b)(1).

A. Short-Term and Long-Term RMB-Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.¹³⁵ If the firm did not have any comparable commercial loans during the period, the Department’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”¹³⁶

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.¹³⁷ In an analysis memorandum dated July 21, 2017, the Department conducted a re-assessment of the lending system in the PRC.¹³⁸ Based on this re-assessment, the Department has concluded that, despite reforms to date, the GOC’s role in the system continues to fundamentally distort lending practices in the PRC in terms of risk pricing and resource allocation, precluding the use of interest rates in the PRC for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department’s practice. For example, in *Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.¹³⁹ In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and later updated in *Thermal Paper from the PRC*.¹⁴⁰ Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank’s classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.¹⁴¹ Beginning in 2010, however, the PRC was classified in the

¹³⁵ See 19 CFR 351.505(a)(3)(i).

¹³⁶ See 19 CFR 351.505(a)(3)(ii).

¹³⁷ See CFS IDM at Comment 10.

¹³⁸ See Memorandum, “Placing Information on Record,” dated October 31, 2017, at Attachments 1 and 2.

¹³⁹ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*), and accompanying Issues and Decision Memorandum at “Analysis of Programs: Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

¹⁴⁰ See CFS IDM at Comment 10; see also *Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum (Thermal Paper IDM) at 8-10.

¹⁴¹ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> (World Bank Country Classification).

upper-middle income category and remained there from 2011 to 2014.¹⁴² Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.¹⁴³

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

In each of the years from 2003-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.¹⁴⁴ For 2010, however, the regression does not yield that outcome for the PRC's income group.¹⁴⁵ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2014. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency's *International Financial Statistics (IFS)*. With the exceptions noted below, we used the interest and inflation rates reported in the *IFS* for the countries identified as "upper middle income" by the World Bank for 2010-2014 and "lower middle income" for 2001-2009.¹⁴⁶ First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to *IFS* for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year the Department calculated a short-term benchmark rate, we also excluded any countries with aberrational or negative real

¹⁴² See World Bank Country Classification.

¹⁴³ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying Preliminary Decision Memorandum at "VII. Subsidies Valuation: Benchmarks and Discount Rates" (unchanged in *Shrimp from the PRC*).

¹⁴⁴ See Memorandum to The File, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Interest Rate Benchmark Memorandum," dated December 11, 2017 (Interest Rate Benchmark Memorandum).

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

interest rates for the year in question.¹⁴⁷ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.¹⁴⁸

The lending rates reported in the *IFS* represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.¹⁴⁹

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term markup based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.¹⁵⁰ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component. The resulting inflation-adjusted benchmark lending rates are provided in the Interest Rate Benchmark Memorandum.

B. Discount Rates

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

C. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of pig iron and ferrous scrap in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). For all of the inputs, as discussed in the section entitled “Use of Facts Otherwise Available and Adverse Inferences,” above, we preliminarily determine that Guang Zhou Premier’s input producers are “authorities.” Therefore, prices from these producers do not constitute market-determined prices. Moreover, as discussed above in the “Application of AFA: Ferrous Scrap

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *See, e.g.*, Thermal Paper IDM at 10.

¹⁵⁰ *See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum at Comment 14.

Industry Distortions” section and below in the “Provision of Pig Iron for LTAR” section, we are relying on “tier two” (world market) prices for the input benchmark for these programs.

The petitioner submitted pig iron and ferrous scrap monthly data from the American Metal Market and SBB-Platts.¹⁵¹ The average of the export prices provided by the petitioner represents an average of commercially available world market prices for the inputs that would be available to purchasers in the PRC. Also, 19 CFR 351.511(a)(2)(ii) states that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, we averaged the prices to calculate a single benchmark by month.

D. Provision of Electricity for LTAR

As discussed above in the section, “Use of Facts Otherwise Available and Adverse Inferences,” we are relying on AFA to select the highest electricity rates that are on the record of this investigation as our benchmark for measuring the adequacy of remuneration.

XI. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Policy Loans to the Cast Iron Soil Pipe Fittings Industry

The petitioner alleges that the GOC provides policy loans to the soil pipe fittings industry at preferential terms as a matter of government policy.¹⁵² The Department has countervailed policy lending programs in previous investigations.¹⁵³ As discussed below, we preliminarily determine that Shanxi Xuanshi, Wor-Biz and its supplier, Guang Zhou Premier used this program during the POI.

When examining a policy lending program, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. Once that finding is made, we rely upon the analysis undertaken in *CFS from the PRC*¹⁵⁴ to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.

¹⁵¹ See Benchmarks Submission.

¹⁵² See CVD Initiation Checklist at 7.

¹⁵³ See, e.g., *Crystalline Silicon Photovoltaic Products from the PRC* and accompanying Preliminary Decision Memorandum at 24.

¹⁵⁴ See *CFS from the PRC*, and accompanying CFS IDM at Comment 8.

Shanxi Xuanshi, Wor-Biz, and Guang Zhou Premier reported having loans from PRC SOCBs that were outstanding during the POI.¹⁵⁵ The Department preliminarily finds that these loans provide countervailable subsidies under a policy lending program directed at the soil pipe fittings industry. Record information indicates that the GOC placed great emphasis on targeting the soil pipe fittings industry for development throughout recent years. For example, the “*National 12th Five-Year Plans of Economic and Social Development (2011-2015)*” encourages an optimization of the industrial layout in order to “transform and improve the consumer goods industry, and promoting the enlargement and enhancement of manufacturing industries,” including the creation of “advanced manufacturing bases with international competitiveness” and the development of “a number of modern industry clusters with distinctive characteristics, a prominent brand image and a sound service platform.”¹⁵⁶ It also indicates the maintenance of “the current advantage in export markets” and indicates that the GOC “will also speed up the nurturing of new advantages,” including encouraging “enterprises to build up international sales channels to increase their ability to expand international market shares” and “actively develop{ing} emerging markets and promote the diversification of the export market.”¹⁵⁷ The current “*National 13th Five-Year Plans of Economic and Social Development (2016-2020)*” continues these objectives, calling for “{c}arrying out deep structural adjustment and revitalizing the real economy, we will move ahead with supply- side structural reforms, foster new industries while upgrading traditional ones, and move faster to put in place a new modern industrial system that has strong innovative capabilities, provides quality services, is based on close collaboration, and is environmentally friendly.”¹⁵⁸

Further, the GOC’s Iron and Steel Plan seeks to promote the development of

the whole technical level of the iron and steel industry, promote the structural adjustment, improve the industrial layout, develop a recycling economy, lower the consumption of materials and energy, pay attention to the environmental protection, raise the comprehensive competitive capacity of enterprises, realize the industrial upgrading, and develop the iron and steel industry into an industry with international competitive capacity that may basically satisfy the demand of the national economy and social development in terms of quantity, quality and varieties. . .¹⁵⁹

and so that

{t}he comprehensive competitive capacity of iron and steel industry may reach to the international advanced level so that China may become a large country in iron and steel production and a great power country in world-wide competitive.¹⁶⁰

¹⁵⁵ See Shanxi Xuanshi IQR at Exhibit 10, Wor-Biz IQR at Exhibit 7, and Guang Zhou Premier IQR at Exhibit 7.

¹⁵⁶ See GOC IQR at Exhibit B-8, Chapter 9.

¹⁵⁷ *Id.* at Exhibit B-8, Chapter 51.

¹⁵⁸ See GOC SQR1 at Exhibit S-4, Chapter V.

¹⁵⁹ *Id.* at Exhibit S-2, Preamble.

¹⁶⁰ *Id.* at Chapter I, Article 1.

Further, large scale enterprises were to consolidate and expand production according to the GOC's directives.¹⁶¹ In particular, the Iron and Steel Plan emphasizes the importance of “strengthen{ing} the connection of fiscal, financial, trade, land, energy saving, environmental protection, safety and other policies with the steel industrial policy.”¹⁶²

Moreover, in the GOC's Iron and Steel Plan, the GOC has stated a policy of encouraging compliance with the development policies for the iron and steel industry, which includes the soil pipe fittings industry. For example, the policy states, “the financial institution shall not provide any loan or give credit support in any other form,” unless projects in industries, such as the soil pipe fittings, industry comply with the development policies for the iron and steel industry.¹⁶³ Furthermore, Article 25 of the policy states:

To grant mid- and long-term loans for the fixed-asset investment to the projects of iron smelting, steel smelting and steel rolling, a financial institution shall comply with the development policies for the iron and steel industry, and strengthen their risk management. For any fix-asset investment loan granted to any project of iron smelting, steel smelting and steel rolling with newly increased production capacity, the relevant reply, verification or archival documents as issued by the NDRC shall be required to be provided.¹⁶⁴

As noted above, the GOC policies are a clear indication that the SOCBs are an important means to accomplish GOC policies.

Accordingly, we preliminarily determine there is a program of preferential policy lending specific to the iron and steel industry, including soil pipe fittings producers, within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are “authorities.” The loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.¹⁶⁵ To calculate the benefit from this program, we used the benchmarks discussed above under the “Subsidies Valuation” section.¹⁶⁶ To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominator, as described in the “Subsidies Valuation” section above, and in the Shanxi Xuanshi Preliminary Calculation Memorandum and the Wor-Biz Calculation Memorandum.

¹⁶¹ *Id.* at Chapter V.

¹⁶² *See* European Commission Implementing Regulation (EU) 2017/969 (June 8, 2017), contained in the Petition at Exhibit III-2.

¹⁶³ *Id.* at Exhibit S-2, Article 24.

¹⁶⁴ *Id.* at Article 25.

¹⁶⁵ *See* section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

¹⁶⁶ *See* 19 CFR 351.505(c).

On this basis, we preliminarily determine that Shanxi Xuanshi received a net countervailable subsidy rate of 5.03 percent *ad valorem*, and Wor-Biz received a net countervailable subsidy rate of 1.24 percent *ad valorem*.^{167,168}

2. Provision of Ferrous Scrap for LTAR

The petitioner alleges that the respondents received countervailable subsidies in the form of the provision of ferrous scrap for LTAR. As discussed above, we requested information from the GOC regarding the specific companies that produced the ferrous scrap that respondents purchased during the POI in order to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act. Guang Zhou Premier, the only responding company which reported using ferrous scrap, was only able to identify the suppliers, and not the producers, of its purchased ferrous scrap. Furthermore, the GOC explained that companies only generate waste iron and steel scrap during the course of routine consumption or production of ferrous scrap. The GOC also explained that all ferrous product producers, consumers and producers could be considered “producers” of ferrous scrap (including individuals). Thus, the GOC did not provide information indicating the basic ownership structure for Guang Zhou Premier’s producers and the additional data requested by the Department in its initial questionnaire and again in a supplemental questionnaire.¹⁶⁹

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, the GOC failed to cooperate to the best of its ability in responding to our requests for information with respect to producers of ferrous scrap. Therefore, we preliminarily determine as AFA that the producers of the ferrous scrap purchased by respondents are “authorities” within the meaning of section 771(5)(B) of the Act and, as such, that the provision of ferrous scrap constitutes a financial contribution under section 771(5)(D)(iii) of the Act. Additionally, as discussed in the “Application of AFA: Inputs are Specific” section, the Department has determined as AFA that the ferrous scrap for LTAR program is specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

Further, we have determined that the domestic markets for these inputs are distorted through the intervention of the GOC. As discussed under the “Application of AFA: Ferrous Scrap Industry Distortions” section, the Department is preliminarily determining that the ferrous scrap industry is distorted. For these reasons, the Department is selecting for ferrous scrap external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with the the Department’s regulations.¹⁷⁰ The external benchmarks are derived from the American Metal Market and SBB-Platts.¹⁷¹

¹⁶⁷ See Shanxi Xuanshi Preliminary Calculation Memorandum and Wor-Biz Preliminary Calculation Memorandum.

¹⁶⁸ For the attribution of Guang Zhou Premier’s subsidy rate to Wor-Biz, *see* Wor-Biz Preliminary Calculation Memorandum.

¹⁶⁹ See Initial Questionnaire at 11-14 and GOC SQ1 at 6-7.

¹⁷⁰ See 19 CFR 351.511.

¹⁷¹ See Wor-Biz Preliminary Calculation Memorandum.

As explained in the Wor-Biz Calculation Memorandum, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and inland freight charges that would be incurred to deliver ferrous scrap to Guang Zhou Premier's production facility. We added import duties as reported by the GOC, and the VAT applicable to imports of ferrous scrap into the PRC, also as reported by the GOC.¹⁷² In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to the respondent's reported purchase prices for individual domestic transactions, including VAT and delivery charges.¹⁷³

Based on this comparison, we preliminarily determine that ferrous scrap was provided for LTAR and that a benefit exists in the amount of the difference between the benchmark prices and the prices paid by Guang Zhou Premier.¹⁷⁴ We divided the total benefits by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section, and in the Wor-Biz Preliminary Calculation Memorandum. On this basis, we preliminarily determine a subsidy rate for Wor-Biz of 7.94 percent *ad valorem*.¹⁷⁵

3. Provision of Pig Iron for LTAR

The petitioner alleges that the respondents received countervailable subsidies in the form of the provision of pig iron for LTAR.¹⁷⁶ We requested information from the GOC regarding the specific companies that produced the pig iron that respondents purchased during the POI in order to determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act.¹⁷⁷ The GOC provided information indicating the basic ownership structure of the producers, but did not provide the additional data requested by the Department in its Initial Questionnaire, and requested again in a supplemental questionnaire.¹⁷⁸

As described in the "Use of Facts Otherwise Available and Adverse Inferences" section, the Department determines that the GOC failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we preliminarily determine as AFA that the producers of pig iron purchased by respondents are "authorities" within the meaning of section 771(5)(B) of the Act and, as such, that the provision of pig iron constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Additionally, as discussed in the "Application of AFA: Inputs are Specific" section, the Department has determined as AFA that the pig iron for LTAR program is specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

¹⁷² See GOC IQR at 56.

¹⁷³ See Wor-Biz Preliminary Calculation Memorandum.

¹⁷⁴ See 19 CFR 351.511(a).

¹⁷⁵ For the attribution of Guang Zhou Premier's subsidy rate to Wor-Biz, see Wor-Biz Preliminary Calculation Memorandum.

¹⁷⁶ See CVD Initiation Checklist at 23-24.

¹⁷⁷ See Initial Questionnaire, at section II (pages 8-11).

¹⁷⁸ See GOC SQR1 at 5-6.

Further, we have determined that the domestic market for pig iron is distorted through the intervention of the GOC, and are relying on an external benchmark for determining the benefit from the provision of this input at LTAR. With respect to pig iron, the GOC indicated that there are 467 producers of pig iron in the PRC.¹⁷⁹ The GOC also provided data on the domestic production and consumption of pig iron.¹⁸⁰ Of key importance, the GOC indicates that majority-state-owned producers accounted for 52.20, 51.60, and 50.10 percent of domestic production during the 2014-2016 time periods, respectively.¹⁸¹ The GOC also indicated that pig iron is subject to a 20 percent export tariff during the POI. Additionally, based on data provided by the GOC, import penetration is extremely low, accounting for less than 0.1 percent of domestic consumption in each year during 2014-2016.¹⁸² For these reasons, the Department finds that the GOC is heavily involved in the pig iron industry, and that this level of government involvement in the sector creates a distortion in the market. The Department is, accordingly, selecting external benchmark prices, *i.e.*, “tier two” or world market prices, for our LTAR analysis consistent with the Department’s regulations.¹⁸³ The external benchmarks are derived from the American Metal Market and SBB-Platts.¹⁸⁴

As explained in the Wor-Biz Preliminary Calculation Memorandum, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and inland freight charges that would be incurred to deliver pig iron to Guang Zhou Premier’s production facility. We added import duties as reported by the GOC, and the VAT applicable to imports of pig iron into the PRC, also as reported by the GOC.¹⁸⁵ In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to the respondent’s reported purchase prices for individual domestic transactions, including VAT and delivery charges.¹⁸⁶

Based on this comparison, we preliminarily determine that pig iron was provided for LTAR and that a benefit exists in the amount of the difference between the benchmark prices and the prices Guang Zhou Premier paid.¹⁸⁷ We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the Wor-Biz Preliminary Calculation Memorandum.

On this basis, we preliminarily determine a subsidy rate for Wor-Biz of 2.35 percent *ad valorem*.¹⁸⁸

¹⁷⁹ See GOC IQR at 38.

¹⁸⁰ *Id.* at 38-39.

¹⁸¹ *Id.* at 39.

¹⁸² *Id.* at 38.

¹⁸³ See 19 CFR 351.511.

¹⁸⁴ See Wor-Biz Preliminary Calculation Memorandum.

¹⁸⁵ See GOC IQR at 41.

¹⁸⁶ See Wor-Biz Preliminary Calculation Memorandum.

¹⁸⁷ *Id.*

¹⁸⁸ For the attribution of Guang Zhou Premier’s subsidy rate to Wor-Biz, see Wor-Biz Preliminary Calculation Memorandum.

4. Provision of Electricity for LTAR

The petitioner alleges that the National Development and Reform Commission (NDRC) establishes electricity rates for the provinces and that the NDRC employs preferential electricity rates as a policy tool to promote and encourage the development of the PRC's soil pipe fittings industry.¹⁸⁹ The Department has countervailed this program in previous investigations.¹⁹⁰ We preliminarily find that Shanxi Xuanshi and Guang Zhou Premier both used this program during the POI, because they both purchased electricity from provincial utilities.¹⁹¹

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 electricity for LTAR, in part, on AFA. Therefore, we determine that the GOC's provision of electricity confers a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act and is specific under section 771(5A)(D) of the Act.

For determining the existence and amount of any benefit under this program, we selected the highest non-seasonal provincial rates in the PRC for each electricity category (*e.g.*, "large industry," "general industry and commerce") and "base charge" (either maximum demand or transformer capacity) used by the respondent. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.¹⁹²

Consistent with our approach in *Tires from the People's Republic of China*,¹⁹³ we first calculated the respondents' variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid by the respondent during each month of the POI.¹⁹⁴ Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by the respondent during the POI from the monthly benchmark variable electricity costs.

To measure whether Shanxi Xuanshi or Guang Zhou Premier received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the companies by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company's consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the company

¹⁸⁹ See CVD Initiation Checklist at 25.

¹⁹⁰ See, *e.g.*, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008), and accompanying Issues and Decision Memorandum at 29.

¹⁹¹ See Shanxi Xuanshi IQR, at 24; and Guang Zhou Premier IQR, at 26.

¹⁹² See Shanxi Xuanshi Preliminary Calculation Memorandum and Wor-Biz Preliminary Calculation Memorandum.

¹⁹³ See *Certain New Pneumatic Off-The-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 46754 (October 6, 2017), and accompanying Issues and Decision Memorandum.

¹⁹⁴ *Id.* at 31-32.

during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from the respondent's variable electricity payments and base rate payments.¹⁹⁵

To calculate the net countervailable subsidy rate attributable to the respondents, we divided the total benefits by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section, and in the Shanxi Xuanshi Preliminary Calculation Memorandum and the Wor-Biz Calculation Memorandum. On this basis, we preliminarily determine that Shanxi Xuanshi received a net countervailable subsidy rate of 3.51 percent *ad valorem*, and Wor-Biz received a net countervailable subsidy of 0.86 percent *ad valorem*.^{196,197}

5. **"Other Subsidies"**

a. **Grants**

Both Shanxi Xuansi and Wor-Biz self-reported that they received the grants indicated below either in the POI or during the AUL period.¹⁹⁸ The GOC acknowledged providing a financial contribution with respect to the respondents' self-reported subsidies.¹⁹⁹ Additionally, for the reasons explained in the "Application of AFA: 'Other Subsidies'" section above, we are basing our preliminary determination regarding the following grants provided by the GOC to the respondents, in part, on AFA. Therefore, we preliminarily determine that the following grants confer a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of the Act,²⁰⁰ and based on the GOC's decision not to provide information related to specificity, that these grants are specific either under section 771(5A)(B) or 771(5A)(D) of the Act (as appropriate, depending on whether the respondent reported the grant as export-related or as a domestic subsidy). We find that the respondents received the following non-recurring grants during the POI or AUL period.²⁰¹

Shanxi Xuanshi

- i. **Promotion Funds for Coordinated Development of Foreign Trade and Economic Region**
- ii. **Brand Building Funds for Medium, Small and Micro-Sized Enterprises, 2016**
- iii. **Interest Discount Funds**

Wor-Biz

- i. **Aid for Middle and Small Enterprise for Developing International Market**

¹⁹⁵ See Shanxi Xuanshi Preliminary Calculation Memorandum and Wor-Biz Preliminary Calculation Memorandum.

¹⁹⁶ *Id.*

¹⁹⁷ For the attribution of Guang Zhou Premier's subsidy rate to Wor-Biz, see Wor-Biz Preliminary Calculation Memorandum.

¹⁹⁸ Shanxi Xuanshi SQR2 at 3 and Guang Zhou Premier IQR at 30.

¹⁹⁹ See GOC SQR1 at 2.

²⁰⁰ *Id.*

²⁰¹ See Shanxi Xuanshi SQR2 at Exhibit CVDS-2 and Guang Zhou Premier IQR at Exhibit 10.

- ii. **Bonus to Middle and Small Enterprise**
- iii. **Bonus for Foreign Trade**
- iv. **Assistance Fund**
- v. **Foreign Trade Promotion Fund in 2016**
- vi. **Fund to Middle and Small Enterprise for Developing Markets**
- vii. **Bonus for the Company's Sports Brand in Exhibition**

To calculate the benefit received under these programs, the Department followed the methodology described in 19 CFR 351.524. Grants under the programs listed above were received by Shanxi Xuanshi and Wor-Biz during the POI or during the AUL period. In accordance with 19 CFR 351.524(b)(2), we determine whether to allocate the non-recurring benefit from the grants over the AUL by dividing the approved grant amount by the company's total sales in the year of approval. If the approved amount is less than 0.5 percent of the company's relevant sales, we expensed the amounts received under the grants in the year received. To calculate the *ad valorem* subsidy rate for these grants, the Department divided the benefit conferred under each of these programs during the POI by the appropriate sales denominator, depending on the nature of the subsidy program.²⁰² Based on the methodology outlined above, the Department preliminarily calculates a cumulative *ad valorem* subsidy rate of 0.12 percent for Shanxi Xuanshi and 0.23 percent for Wor-Biz for the programs listed above.²⁰³

b. Direct Taxes

Wor-Biz reported that Guang Zhou Premier received a benefit from the Small Low Profit Enterprise Income Tax Preferential Policy tax program in the POI.²⁰⁴ Because the GOC did not respond to the "other subsidies" portion of the Department's Initial Questionnaire with respect to this program, we are basing our preliminary determination regarding the Small Low Profit Enterprise Income Tax Preferential Policy tax program provided by the GOC to Guang Zhou Premier, in part, on AFA. Therefore, based on the GOC's decision not to provide the requested information, we determine that the Small Low Profit Enterprise Income Tax Preferential Policy tax program confers a financial contribution in the form of revenue forgone by the government, and it provides a benefit in the amount of the tax savings, under section 771(5)(D)(ii) of the Act, and is specific under section 771(5A)(D) of the Act. We find that Guang Zhou Premier received a recurring benefit consistent with 19 CFR 351.524(c)(1).

To calculate the benefit from this program to Guang Zhou Premier, we treated the tax deduction as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we calculated the amount of tax Guang Zhou Premier would have paid absent the tax deductions at the standard tax rate of 25 percent (*i.e.*, 25 percent of the tax credit). We then divided the benefit by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.10 percent *ad valorem* for Wor-Biz.²⁰⁵

²⁰² See Shanxi Xuanshi Preliminary Calculation Memorandum and Wor-Biz Preliminary Calculation Memorandum.

²⁰³ *Id.*

²⁰⁴ See Guang Zhou Premier IQR at 30-34.

²⁰⁵ For the attribution of Guang Zhou Premier's subsidy rate to Wor-Biz, see Wor-Biz Preliminary Calculation Memorandum.

B. Programs Preliminarily Determined to Not Confer a Measurable Benefit to Shanxi Xuanshi or Wor-Biz

1. “Other Subsidies”

As discussed in Section XI.A.4, above, Shanxi Xuanshi and Wor-Biz self-reported that they received the grants below in the POI period.²⁰⁶ However, these benefits either do not pass the “0.5 percent test” provided in CFR 351.524(b)(2), and they are allocated to the year of receipt, or they are less than 0.005 percent *ad valorem* during the POI, and they are not measurable. Thus, the Department preliminarily finds that they provide no benefits during the POI.

Shanxi Xuanshi

- a. **Patent Assistance Funds**
- b. **Party Construction Fund for the Year 2015**
- c. **Supporting Funds for Circulating Program**
- d. **Government Awards for Brand Name Product in Shanxi Province**
- e. **Financial Funds Introduction**
- f. **Supporting Funds for Private Economy Development of SME**
- g. **Funds for Energy Saving Technology Improvement Project in Smelting Section**
- h. **Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement), the First Tranche of the Year 2015**
- i. **Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement), the Second Tranche of the Year 2015**

Wor-Biz

- a. **Assistance on Credit Insurance**

2. Programs Preliminarily Determined to Be Not Used by Wor-Biz or Shanxi Xuanshi

The Department preliminarily finds that the following programs were not used by Shanxi Xuanshi or Wor-Biz during the POI:

1. **Export Loans**
2. **Treasury Bond Loans**
3. **Preferential Loans for State-Owned Enterprises**
4. **Preferential Lending to CISP Producers and Exporters Classified as “Honorable Enterprises”**
5. **Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program**
6. **Debt-to-Equity Swaps**
7. **Exemptions for SOEs from Distributing Dividends to the State**
8. **Loan and Interest Forgiveness for SOEs**

²⁰⁶ See Shanxi Xuanshi SQR2 at 3 and Wor-Biz IQR at 30 .

9. Preferential Income Tax Program for High and New Technology Enterprises
10. Preferential Deduction of R&D Expenses for High and New Technology Enterprises
11. Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development
12. Preferential Income Tax Policy for Enterprises in the Northeast Region
13. Reduction in Exemption from Fixed Assets Investment Orientation Regulatory Tax
14. Preferential Income Tax Subsidies for Foreign Invested Enterprises – Export Oriented FIEs
15. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
16. VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund
17. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
18. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
19. Provision of Land to SOEs for Less than Adequate Remuneration
20. The State Key Technology Fund
21. Foreign Trade Development Fund Grant
22. Export Assistance Grants
23. Subsidies for Development of Famous Export Brands and China World Top Brands
24. Grants to Loss-Making SOEs
25. Export Interest Subsidies
26. Grants for Energy Conservation and Emission Reduction
27. Grants for Retirement of Capacity
28. Grants for Relocating Production Facilities

XII. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, the Department calculated individual estimated countervailable subsidy rates for Shanxi Xuanshi and Wor-Biz that are not zero, *de minimis*, or based entirely on facts otherwise available. The Department calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.²⁰⁷ Thus, we calculated the all-others rate to be 10.37 percent *ad valorem*.

²⁰⁷ See Memorandum, "Countervailing Duty Investigation of Certain Cast Iron Soil Pipe Fittings from the People's Republic of China: Calculation of All-Others Rate," dated December 11, 2017.

XIII. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

IV. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

12/11/2017

X  _____

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

	Program Name	AFA Rate	Source	Citation
1.	Policy Loans to soil pipe fittings Industry	5.03%	Calculated – Shanxi Xuanshi	
2.	Export Loans			
3.	Treasury Bond Loans			
4.	Preferential Loans for State-Owned Enterprises			
5.	Preferential Lending to CISPF Producers and Exporters Classified as “Honorable Enterprises”			
6.	Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program			
7.	Debt-to-Equity Swaps	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2012, 79 FR 56560 (September 22, 2014) (Chlorinated Isocyanurates PRC Final).</i>
8.	Exemptions for SOEs from Distributing Dividends to the State	0.58%	Highest Rate for Same Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
9.	Loan and Interest Forgiveness for SOEs	2.32%	Highest Rate for Similar Program Based on Benefit Type	<i>Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 57323 (October 2, 2008).</i>
10.	Preferential Income Tax Program for High and New Technology Enterprises	25%	Income Tax Rate	<i>Certain Tool Chests and Cabinets from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, 82 FR 43331 (September 15, 2017).</i>

11.	Preferential deduction of R&D Expenses for High and New Technology Enterprises			
12.	Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development			
13.	Preferential Income Tax Policy for Enterprises in the Northeast Region			
14.	Reduction in Exemption from Fixed Assets Investment Orientation Regulatory Tax			
15.	Preferential Income Tax Subsidies for Foreign Invested Enterprises – Export Oriented FIEs			
16.	Small Low-Profit Enterprise Income Tax Preferential			
17.	Income Tax Credits for domestically owned companies purchasing Domestically Produced Equipment	0.55%	Highest Rate for Similar Program Based on Benefit Type	<i>Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 77 FR 75978 (December 26, 2012).</i>
18.	VAT and Tariff Exemptions for Purchases of Fixed Assets under the Foreign Trade Development Fund	9.71%	Highest Rate for Similar Program Based on Benefit Type	<i>New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, 75 FR 64268 (October 19, 2010), unchanged in New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty</i>

				<i>Administrative Review, 76 FR 23286 (April 26, 2011) (Off-the-Road Tires PRC)</i>
19.	Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	9.71%	Highest Rate for Same Program Based on Benefit Type	<i>Off-the-Road Tires PRC</i>
20.	Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring	9.71%	Highest Rate for Similar Program Based on Benefit Type	<i>Off-the-Road Tires PRC</i>
21.	Provision of Land to SOEs for LTAR	13.36%	Highest Rate for Similar Program Based on Benefit Type	<i>Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances, 73 FR 35639 (June 24, 2008)</i>
22.	Provision of Pig Iron for LTAR	2.35%	Calculated – Wor-Biz	
23.	Provision of Ferrous Scrap for LTAR	7.94%	Calculated – Wor-Biz	
24.	Provision of Electricity for LTAR	3.51%	Calculated – Shanxi Xuanshi	
25.	The State Key Technology Fund	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
26.	Foreign Trade Development Fund Grant	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
27.	Export Assistance Grants	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>

28.	Subsidies for Development of Famous Export Brands and China World Top Brands	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
29.	Grants to Loss-Making SOEs	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
30.	Export Interest Subsidies	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
31.	Grants for Energy Conservation and Emission Reduction	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
32.	Grants for Retirement of Capacity	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
33.	Grants for Relocating Production Facilities	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
34.	Patent Assistance Funds	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
35.	Brand Building Funds for Medium, Small and Micro-sized Enterprises, 2016	0.02%	Calculated – Shanxi Xuanshi	
36.	Party Construction Fund for the year 2015	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>

37.	Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement) the first Tranche of the year 2015	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
38.	Special Fund for Foreign Economic Development (on International Operation Capacity Enhancement), the Second Tranche of the year 2015	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
39.	Promotion Funds for Coordinated Development of Foreign Trade and Economic Region	0.09%	Calculated – Shanxi Xuanshi	
40.	Supporting Funds for Circulating Program	0.58%	Highest rate for Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
41.	Government Awards for Brand Name Product in Shanxi Province	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
42.	Financial Funds Introduction	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
43.	Supporting Funds for Private Economy Development of SME	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
44.	Funds for Energy Saving Technology Improvement Project in Smelting Section	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>

45.	Aid for middle and small enterprise for developing international market	0.09%	Calculated – Wor-Biz	
46.	Bonus to middle and small enterprise	0.04%	Calculated – Wor-Biz	
47.	Bonus for foreign trade	0.04%	Calculated – Wor-Biz	
48.	Assistance on credit insurance	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
49.	Assistance fund	0.01%	Calculated – Wor-Biz	
50.	Foreign trade promotion fund in 2016	0.01%	Calculated – Wor-Biz	
51.	Fund to middle and small enterprise for developing markets	0.01%	Calculated – Wor-Biz	
52.	Bonus for the company's sports brand in exhibition	0.04%	Calculated – Wor-Biz	
53.	Certificate of Shanxi Brand Name Product	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
54.	Interest Discount Funds	0.01%	Calculated – Shanxi Xuanshi	