



C-570-080
Investigation
Public Document
E&C/V: AC, OQ

DATE: June 25, 2018

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: Scot Fullerton
Director, Office VI
Antidumping and Countervailing Duty Operations

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

I. SUMMARY

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

II. BACKGROUND

A. Initiation and Case History

On January 26, 2018, Commerce received a countervailing duty (CVD) petition concerning imports of soil pipe from China, 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 from China. On February 23, 2018, Commerce initiated the CVD investigation of soil pipe from China.² The initial allegations and supplements to the Petition are described in the CVD Initiation Checklist.³

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe from the People's Republic of China," dated January 26, 2018 (the Petition).

² See *Cast Iron Soil Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 8047 (February 23, 2018) (CVD Initiation).

³ See Countervailing Duty Initiation Checklist: Cast Iron Soil Pipe from the People's Republic of China, dated February 15, 2018 (CVD Initiation Checklist).

In the *CVD Initiation*, Commerce stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe from China during the period of investigation (POI).⁴ Accordingly, on March 22, 2018, Commerce selected Jiangxian Economic Development Zone Heng (HengTong) and Kingway Pipe Co Ltd (Kingway), the two largest exporters/producers of the subject merchandise by volume, for individual examination as mandatory respondents in this investigation.⁵

On March 28, 2018, Commerce issued the CVD questionnaire to the Government of China (GOC) and the mandatory respondents.⁶ Of the two mandatory respondents, Kingway did not respond to Commerce's request for information. In a letter to Commerce dated April 27, 2018, Kingway stated that it was withdrawing from the investigation.⁷ Between April and June 2018, the GOC and HengTong filed responses to Commerce's affiliation,⁸ initial,⁹ and supplemental questionnaires.¹⁰

On May 16, 2018, the petitioner submitted timely filed new subsidy allegations.¹¹ On May 29, 2018, the GOC submitted data for Commerce to consider using as benchmarks in the less than adequate remuneration (LTAR) subsidy rate calculations.¹² On May 30, 2018, the petitioner submitted data for Commerce to consider using as benchmarks in the LTAR subsidy rate calculations.¹³

B. Postponement of Preliminary Results

On April 9, 2018, Commerce 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

⁴ See *CVD Initiation*, 83 FR 8050.

⁵ See Memorandum, "Countervailing Duty Investigation of Cast Iron Soil Pipe from the People's Republic of China: Respondent Selection," dated March 22, 2018.

⁶ See Commerce Letter, "Investigation of Cast Iron Soil Pipe from the People's Republic of China: Countervailing Duty Questionnaire," dated March 28, 2018 (Initial Questionnaire).

⁷ See letter from Kingway to Commerce dated April 27, 2018, "Withdrawal of Kingway Pipe" (Kingway Withdrawal Letter).

⁸ See HengTong April 16, 2018 Affiliation Response (HengTong AFFR); HengTong May 8, 2018 Affiliations Supplemental Response (HengTong SAFFR).

⁹ See GOC's May 11, 2018 Initial Questionnaire Response (GOC IQR), HengTong's May 8, 2018 Initial Questionnaire Response (HengTong IQR).

¹⁰ See HengTong's May 24, 2018 First Supplemental Questionnaire Response (HengTong SQR1); HengTong's May 25, 2018 Second Supplemental Questionnaire Response (HengTong SQR2); and GOC's June 18, 2018 Supplemental Questionnaire Response (GOC SQR).

¹¹ See the petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Additional Subsidy Allegations," dated May 16, 2018 (NSA Submission); see also Section IV- New Subsidy Allegations, below.

¹² See Letter from the GOC, "Cast Iron Soil Pipe from the People's Republic of China, Case No. C-570-080: Benchmark Factual Information Submission" (GOC Benchmarks Submission).

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

¹⁴ See *Countervailing Duty Investigation of Cast Iron Soil Pipe from the People's Republic of China: Postponement of Preliminary Determination*, 83 FR 15129 (April 9, 2018).

C. Period of Investigation

The POI is January 1, 2017, through December 31, 2017.

III. SCOPE OF THE INVESTIGATION

The scope of this investigation covers cast iron soil pipe. 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 7303.00.0030. 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 May 16, 2018, the petitioner submitted a New Subsidy Allegation (NSA) submission in which it alleged that the companies under investigation were provided land-use rights, international ocean shipping services, and goods and services by private firms for less than adequate remuneration (LTAR).¹⁵ Commerce is currently reviewing these new subsidy allegations.

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 from China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be no later than November 7, 2018, unless postponed.¹⁷

VI. INJURY TEST

Because China 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 China materially injure, or threaten material injury to, a U.S. industry. On March 19, 2018, 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 from China that are alleged to be subsidized by the GOC.¹⁸

¹⁵ See NSA Submission.

¹⁶ See the petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Request to Align Preliminary Determinations," dated June 12, 2018.

¹⁷ See *Cast Iron Soil Pipe from the People's Republic of China: Initiation of Less Than-Fair Value Investigation*, 83 FR 8053 (February 23, 2018).

¹⁸ See *Cast Iron Soil Pipe from China: Investigation Nos. 701-TA-597 and 731-TA-1407 (Preliminary)*, Publication 4769, March 2018; see also *Cast Iron Soil Pipe from China*, 83 FR 12025 (March 19, 2018).

VII. APPLICATION OF THE CVD LAW TO IMPORTS FROM CHINA

On October 25, 2007, Commerce published its final determination in *CFS from China*, 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

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.²⁰ Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that Commerce has the authority to apply the CVD law to countries designated as NMEs under section 771(18) of the Act, such as China.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 Commerce 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 Commerce, 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 Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce 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, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that Commerce 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

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 China*), 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.

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).

information. In so doing, Commerce 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.²³ 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 previous administrative review, or other information placed on the record.²⁴

Section 776(c) of the Act provides that, in general, when Commerce 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.²⁵ 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.²⁶ Furthermore, Commerce is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.²⁷

Under section 776(d) of the Act, when applying AFA, Commerce 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 Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.²⁸

In a CVD case, as discussed further below, Commerce requires information from both the foreign producers and exporters of the merchandise under investigation and the government of the country where those producers and exporters are located. When the government fails to provide requested and necessary information concerning alleged subsidy programs, Commerce, as AFA, may find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, Commerce will rely on the responsive producer’s or exporter’s records to determine the existence and amount of the benefit conferred, to the extent that those records are useable and verifiable.

Otherwise, consistent with section 776(d) of the Act, it is Commerce’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

²³ See section 776(b)(1)(B) of the Act.

²⁴ See 19 CFR 351.308(c).

²⁵ See 19 CFR 351.308(d).

²⁶ 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).

²⁷ See section 776(c)(2) of the Act.

²⁸ See section 776(d)(3) of the Act.

country.²⁹ When selecting AFA rates, section 776(d) of the Act provides that Commerce 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.³⁰ 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).³¹ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.³²

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, Commerce selected two mandatory respondents based on CBP data for U.S. imports of soil pipe from China during the POI. On March 28, 2018, Commerce issued a CVD questionnaire to the GOC and the mandatory respondents.³³

²⁹ 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."

³⁰ 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").

³¹ 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."

³² See Shrimp IDM at 13-14.

³³ See Initial Questionnaire.

Of the two mandatory respondents, Kingway did not respond to Commerce's request for information. In a letter to Commerce dated April 27, 2018, Kingway stated that it was withdrawing from the investigation.³⁴ Accordingly, we preliminarily determine that Kingway withheld necessary information that was requested of it, failed to provide information within the deadline established, and significantly impeded this proceeding. Thus, Commerce 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 Kingway failed to cooperate by not acting to the best of its ability to comply with Commerce's request for information. Accordingly, we preliminarily find that use of AFA is warranted to ensure that this company (*i.e.*, Kingway) 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 Commerce initiated in this investigation to determine the AFA rate. 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

In applying AFA to Kingway, we are guided by Commerce's methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondent in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for the cooperating respondent for the following programs:

- Policy Loans to the Soil Pipe Industry
- Provision of Pig Iron for LTAR
- Provision of Ferrous Scrap for LTAR
- Provision of Metallurgical Coke for LTAR

To calculate the program rate for the following income tax reduction programs on which Commerce initiated an investigation, we determined, as AFA, that Kingway paid no income tax during the POI:

- Preferential Income Tax Reductions for High and New Technology Enterprises (HNTE)
- Preferential Deduction of 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
- Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development

³⁴ See Kingway Withdrawal Letter.

The standard income tax rate for corporations in China in effect during the POI was 25 percent.³⁵ 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 five 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.³⁶

For this preliminary determination, as further reflected in the Appendix, we are able to match, based on program name, description, and treatment of the benefit, the following programs to the same or similar programs from other PRC CVD proceedings:

- Treasury Bond Loans
- Preferential Loans for State-Owned Enterprises
- Preferential Lending to Soil Pipe Producers and Exporters Classified as “Honorable Enterprises”
- Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
- Debt-to-Equity Swaps
- Exemptions for SOEs from Distributing Dividends
- Loan and/or Interest Forgiveness for SOEs
- Preferential Deduction of R&D Expenses for HNTes
- Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
- Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund
- Import Tariff and VAT Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Deed Tax Exemptions for SOEs Undergoing Mergers or Restructuring
- Provision of Land to SOEs for LTAR
- Provision of Electricity for LTAR
- Provision of Iron Ore for LTAR
- Provision of Coking Coal for LTAR
- State Key Technology Project Fund
- Foreign Trade Development Fund Grants
- Export Assistance Grants
- Grants to Loss-Making SOEs
- Export Interest Subsidies
- Grants for Energy Conservation and Emission Reduction
- Grants for the Retirement of Capacity
- Grants for Relocating Production Facilities

³⁵ See CVD Initiation Checklist at 15.

³⁶ 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.”

Accordingly, we preliminarily determine the AFA countervailable subsidy rate for Kingway to be 111.20 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 Commerce 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.”³⁷ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.³⁸

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.³⁹ Furthermore, Commerce 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.⁴⁰

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.⁴¹

In the absence of responses from Kingway concerning the alleged programs due to its decision not to participate in this investigation, Commerce reviewed the information concerning PRC subsidy programs in this and other cases.⁴² 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 Kingway could actually receive a benefit. Due to the lack of participation by Kingway and its failure to provide a response concerning each of these

³⁷ See SAA at 870.

³⁸ *Id.*

³⁹ *Id.* at 869-870.

⁴⁰ See section 776(d) of the Act.

⁴¹ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

⁴² Specifically, Commerce 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.

programs, Commerce 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,” Commerce is investigating whether the GOC provided pig iron, ferrous scrap, and metallurgical coke for LTAR. As part of its analysis, Commerce 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, ferrous scrap, and metallurgical coke during the POI.⁴³ Commerce then requested various information from the GOC to assess the relationship between the GOC and the identified producers of pig iron, metallurgical coke, and ferrous scrap.

In response to the Initial Questionnaire, HengTong provided a list of its producers and suppliers of pig iron, ferrous scrap, and metallurgical coke.⁴⁴ The GOC provided exhibits with registration information and ownership structure for the producers reported.⁴⁵

For the producers of pig iron, ferrous scrap, and metallurgical coke identified by HengTong, the GOC did not provide a complete response to Commerce’s questions regarding these producers. The GOC provided summary data denoting the business registration information and basic shareholder information for a number of producers, but did not provide detailed information (*e.g.*, company by-laws, articles of incorporation, licenses, *etc.*) that was specifically requested by Commerce.⁴⁶ Nor did the GOC elect to supplement its initial filing when Commerce presented it with a second opportunity to respond.⁴⁷ Furthermore, the GOC stated that the information obtained from the Enterprise Credit Information Publication System (ECIPS), “is authoritative evidence of the ownership structure of enterprises in China,”⁴⁸ suggesting this was sufficient enough to understand the ownership structure of these producers. These responses lacked the information the Commerce requested and undermined Commerce’s ability to determine whether the producers constitute “authorities.” Accordingly, because Commerce did not receive complete information on the identity of the input producers, there is insufficient record information to allow Commerce to determine whether these producers are “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 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

⁴³ See Initial Questionnaire at II-7, II-11, and II-18.

⁴⁴ See HengTong’s IQR at Exhibits 8, 11, and 12.

⁴⁵ *Id.*

⁴⁶ *Id.* at Exhibits PI-10, PI-11, FS-03, FS-04, MC-05, and MC-06.

⁴⁷ See GOC SQR.

⁴⁸ *Id.* at Exhibits PI-01, FS-01, and MC-01.

not make the management and business operations of the company in which he/she serves subject to any intervention by the GOC.”⁴⁹ 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.⁵⁰

The information we requested regarding the role of CCP officials in the management and operations of these producers is also 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 China demonstrate that it is, in fact, able to access information similar to what we requested.⁵¹ 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 Commerce what attempts it undertook to obtain this information and proposed alternative forms of providing the information.⁵²

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that Commerce must rely on “facts otherwise available” in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act.⁵³ Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests 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, ferrous scrap, and metallurgical coke for which 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”, “Provision of Ferrous Scrap for LTAR”, and “Provision of Metallurgical Coke for LTAR.”

D. Application of AFA: The Pig Iron and Ferrous Scrap Inputs Are Specific

Commerce asked the GOC to provide a list of industries in China that purchase pig iron and ferrous scrap directly, and to provide the amounts (volume and value) purchased by each of the

⁴⁹ See GOC IQR at Exhibit FS – 1.

⁵⁰ See GOC SQR at 5-16.

⁵¹ 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.

⁵² 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.”

⁵³ See Volume III of the Petition at pages 14 and 17; *see also* CVD Checklist at 23-27.

industries, including the industry classification that includes soil pipe producers.⁵⁴ Commerce 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 clearly identify the industry in which the companies under investigation are classified.⁵⁵

The GOC did not provide this information, nor did it explain what efforts it made to compile this information. Instead, for pig iron, 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.”⁵⁶ The GOC response contained similar language with respect to ferrous scrap.⁵⁷ 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, Commerce did not ask that the GOC to provide pig iron usage data for each of the potentially numerous narrowly-drawn end-user categories. Rather, Commerce 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.”⁵⁸ For example, an International Standard Industrial Classification (ISIC) category at the 2-digit level would encompass the soil pipe industry (*e.g.*, ISIC Category 24 “Manufacture of basic metals”).⁵⁹ 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”).⁶⁰ A number of the more nuanced sector classifications, at the 3- or 4-digit level, would encompass the soil pipe industry as well. The GOC did not provide usage data pursuant to *any* classification grouping. Accordingly, Commerce 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 Commerce’s specificity analysis. Again, the GOC explained that there are too many ferrous

⁵⁴ See Initial Questionnaire at II-9, II-13, and II-16.

⁵⁵ *Id.*

⁵⁶ See GOC IQR at 23-26.

⁵⁷ *Id.* at 36-37.

⁵⁸ See Initial Questionnaire at II-9.

⁵⁹ See GOC IQR at Exhibit PI-7.

⁶⁰ *Id.* at Exhibit PI-6.

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.⁶¹ Given that the GOC admits that the identity of these producers is known to CAMU,⁶² 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.⁶³ Commerce has previously considered, and rejected, the arguments now made by the GOC. For instance, in *Steel Sinks from the PRC*, Commerce noted that simply because an input is consumed by multiple industries, that does not undermine a finding of specificity.⁶⁴ There, Commerce 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.⁶⁵ Similarly, in *Citric Acid from the PRC*, Commerce considered whether sulfuric acid, steam coal and calcium carbonate were specific to the industry under consideration.⁶⁶ As here, the GOC argued, for example, that these inputs are "widely used across virtually all sectors of industry in China," thus undermining a finding of specificity.⁶⁷ Commerce 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, Commerce found that fertilizer producers and the "chemical industry" were predominant users of the input; accordingly, Commerce found that sulfuric acid was specific to the industry in question.⁶⁸

Consistent with the cases cited above, the larger industry grouping to which soil pipe 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.⁶⁹ In this case, however, the GOC did not provide the required data on the relative consumption of pig iron and ferrous scrap at *any* industry level.

Therefore, consistent with past proceedings,⁷⁰ 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 Commerce must rely on "facts available" in making its preliminary

⁶¹ See GOC IQR at 32.

⁶² *Id.*

⁶³ *Id.* at 24-25, 37, and 49-50.

⁶⁴ 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)).

⁶⁵ *Id.*

⁶⁶ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015) (*Citric Acid and Certain Citrate Salts*), and accompanying Issues and Decision Memorandum at Comment 1.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See GOC IQR at 36-37 and Exhibit PI-06.

⁷⁰ See *Steel Sinks from the PRC*; see also *Citric Acid and Certain Citrate Salts*.

determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act.⁷¹ 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, Commerce asked the GOC several questions concerning the structure of the industries for pig iron, ferrous scrap, and metallurgical coke (the key inputs used by the mandatory respondents).⁷² Specifically, Commerce requested that the GOC provide the following information for each input:

1. The total number of producers;
2. The total volume and value of Chinese domestic consumption and the total volume and value of Chinese domestic production of each input;
3. The percentage of domestic consumption accounted for by domestic production.
4. The total volume and value of imports of each input;
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.

⁷¹ See Volume III of the Petition at pages 14 and 17; *see also* CVD Checklist at 23-27.

⁷² See Initial Questionnaire at II-8 – 9, 11 – 12, and 18 – 19.

7. A discussion of what laws, plans or policies address the pricing of each input, the levels of production of each input, the importation or exportation of these inputs, or the development of these inputs' scrap capacity. Please state which, if any, central and subcentral level industrial policies pertain to the inputs' industries.

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

In response, the GOC provided the applicable information relating to the pig iron and metallurgical coke industries. However, with respect to ferrous scrap,⁷³ 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 which the GOC maintains an ownership or management interest – either directly or through other government entities.⁷⁴

The record evidence does indicate that the GOC levied a 40 percent tariff on ferrous scrap exports in the 2015-2017 period.⁷⁵ Export tariffs can increase the domestic quantity of ferrous scrap that is available in China with the result that such measures will suppress domestic prices. Furthermore, with regard to the percentage of domestic consumption accounted for by domestic production, the GOC submitted proprietary information on the share of imports of ferrous scrap as a percentage of domestic ferrous scrap consumption in China during the POI.⁷⁶

In a supplemental questionnaire, Commerce 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.⁷⁷ 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, Commerce 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 SSB or other sources (*e.g.*, industry associations), to report data concerning the production of a wide variety of inputs.⁷⁸ 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

⁷³ See GOC IQR at 32 - 33.

⁷⁴ *Id.* at 33.

⁷⁵ *Id.* at 35.

⁷⁶ *Id.* at 32-33.

⁷⁷ See GOC SQR at 12.

⁷⁸ 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*).

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 the domestic market for ferrous scrap is 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).

IX. SUBSIDIES VALUATION

A. Allocation Period

Commerce 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.⁷⁹ 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).⁸⁰ 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.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce 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

⁷⁹ See 19 CFR 351.524(b).

⁸⁰ See U.S. Internal Revenue Service Publication 946 (2017), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

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 Commerce’s regulations further clarifies Commerce’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.⁸¹

Thus, Commerce’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 Commerce’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.⁸²

HengTong

HengTong identified itself as a privately-owned Chinese producer and exporter of the subject merchandise.⁸³ In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing the subsidies received by HengTong during the POI to its own sales.

At page 10 of the HengTong SAFFR, HengTong identified one company with which it was affiliated that was a producer of subject merchandise prior to 2014, Quwo Hengtong Casting Limited Company (Quwo HengTong).⁸⁴ HengTong reported that Quwo HengTong has not been operational since 2014.⁸⁵ Therefore, HengTong reported in its response all non-recurring subsidies that Quwo HengTong received during the AUL period from 2003 to 2013. Additionally, we issued a supplemental questionnaire requesting that HengTong provide detail regarding Quwo HengTong’s ownership structure.⁸⁶ HengTong stated that HengTong and Quwo HengTong have common controlling shareholders.⁸⁷ HengTong further stated that “{t}he shareholders of the two companies have the voting rights” in both companies.⁸⁸ As a result, the ownership structures of both HengTong and Quwo HengTong indicate cross-ownership exists between HengTong and Quwo HengTong, based on the cross-ownership definition outlined in

⁸¹ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

⁸² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600 (CIT 2001).

⁸³ See HengTong’s IQR at 5 and Exhibit 1.

⁸⁴ See HengTong’s AFFR at 2-5 and Exhibit 1.

⁸⁵ See HengTong SAFFR at 10.

⁸⁶ See HengTong SAFFR.

⁸⁷ *Id.* at 2.

⁸⁸ *Id.*

section 351.525(b)(6)(vi) of Commerce’s regulations, because “there is a majority voting ownership interest between two corporations” or a common ownership of two corporations exists.

In accordance with 19 CFR 351.525(b)(6)(ii), because Hengtong and Quwo HengTong are both producers of subject merchandise, we are preliminarily attributing the benefit from the subsidies received by Quwo HengTong prior to the POI to the combined sales of the products produced by both companies. Therefore, for conducting the 0.5 percent expense test for non-recurring subsidies that Quwo HengTong received prior to the POI, but during the AUL period, we are preliminarily attributing the benefit to HengTong and Quwo HengTong’s consolidated sales (net of intercompany sales) in the year in which the subsidy was approved, in accordance with 19 CFR 351.524(b)(2) and 19 CFR 351.525(b)(6)(ii).

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce 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 HengTong Preliminary Calculation Memorandum.⁸⁹

X. BENCHMARKS

Commerce 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 and recurring subsidies received by the mandatory respondents.⁹⁰ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Short-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, Commerce uses comparable commercial loans reported by the company as a benchmark.⁹¹ If the

⁸⁹ *See* Memorandum, “HengTong Calculations for the Preliminary Determination,” dated June 25, 2018 (HengTong Preliminary Calculation Memorandum).

⁹⁰ *See* 19 CFR 351.524(b)(1).

⁹¹ *See* 19 CFR 351.505(a)(3)(i).

firm did not have any comparable commercial loans during the period, Commerce’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”⁹²

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 China*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.⁹³ In an analysis memorandum dated July 21, 2017, Commerce conducted a re-assessment of the lending system in the China.⁹⁴ Based on this re-assessment, Commerce has concluded that, despite reforms to date, the Government of China’s role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in the China 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, Commerce is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce’s practice. For example, in *Lumber from Canada*, Commerce used U.S. timber prices to measure the benefit for government-provided timber in Canada.⁹⁵

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and later updated in *Thermal Paper from China*.⁹⁶ Under that methodology, we first determine which countries are similar to China 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 China*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, China fell in the lower-middle income category.⁹⁷ Beginning in 2010, however, China was classified in the upper-middle income category and remained there from 2011 to 2016.⁹⁸ Accordingly, as explained below, we are using the interest

⁹² See 19 CFR 351.505(a)(3)(ii).

⁹³ See CFS IDM at Comment 10.

⁹⁴ See Memorandum, “Placing Information on Record,” dated concurrently with this determination, at Attachments 1 and 2.

⁹⁵ 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.”

⁹⁶ 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 China*), and accompanying Issues and Decision Memorandum (Thermal Paper IDM) at 8-10.

⁹⁷ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> (World Bank Country Classification); see also “Memorandum Interest Rate Benchmark Memorandum,” dated concurrently with this preliminary determination and Memorandum “Interest Rate Benchmark Memorandum for years 2015 and 2016,” dated concurrently with this preliminary determination (collectively, Interest Rate Benchmark Memoranda).

⁹⁸ See World Bank Country Classification. The World Bank has not yet published World Governance Indicators for 2017. Therefore, for purposes of this preliminary determination, where the use of a short-term benchmark rate for 2017 is required, we have applied the 2016 short-term benchmark rate. Commerce notes that the short-term benchmark may be updated, pending the release of all the necessary 2017 data, by the final determination.

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 2010-2016. This is consistent with Commerce’s calculation of interest rates for recent CVD proceedings involving Chinese merchandise.⁹⁹

After Commerce 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 2011-2016, 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.¹⁰⁰ For 2010, however, the regression does not yield that outcome for China’s income group.¹⁰¹ 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 China* to compute the benchmarks for the years from 2001-2009 and 2011-2016. 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 2010-2016 and “lower middle income” for 2001-2009.¹⁰² First, we did not include those economies that Commerce 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 Commerce calculated a short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.¹⁰³ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.¹⁰⁴

⁹⁹ 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 China*).

¹⁰⁰ See Memorandum to The File, “Cast Iron Soil Pipe from China: Interest Rate Benchmark Memorandum,” dated June 25, 2018 (Interest Rate Benchmark Memorandum).

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

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, Commerce 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.¹⁰⁵

In *Citric Acid from China*, 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.¹⁰⁶ 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 Government of China provided non-recurring subsidies. The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the HengTong Calculation Memorandum.

C. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of pig iron, ferrous scrap, and metallurgical coke 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 HengTong’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 Industry Distortions” section and below in the “Provision of Pig Iron for LTAR” and “Provision of Metallurgical Coke” sections, we are relying on “tier two” (world market) prices for the input benchmark for these programs.

¹⁰⁵ See, *e.g.*, Thermal Paper IDM at 10.

¹⁰⁶ 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.

The petitioner submitted pig iron and ferrous scrap monthly data from a proprietary source.¹⁰⁷ The petitioner also submitted metallurgical coke quarterly data from the U.S. Energy Information Administration.¹⁰⁸ Additionally, HengTong also submitted pig iron, ferrous scrap, and metallurgical coke data.¹⁰⁹ The average of the export prices provided by the petitioner and HengTong represents an average of commercially available world market prices for the inputs that would be available to purchasers in China. Also, 19 CFR 351.511(a)(2)(ii) states that where there is more than one commercially available world market price, Commerce will average the prices to the extent practicable. Therefore, we averaged the prices to calculate a single benchmark by month.

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. 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.¹¹⁰ 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.¹¹¹ The GOC provided information indicating the basic ownership structure of the producers, but did not provide the additional data requested by Commerce in its Initial Questionnaire, and requested again in a supplemental questionnaire.¹¹²

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, Commerce 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, Commerce 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.

¹⁰⁷ See the petitioner’s Benchmarks Submission.

¹⁰⁸ *Id.*

¹⁰⁹ See HengTong SQR1 at Exhibit S1-2.

¹¹⁰ See CVD Initiation Checklist at 23-24.

¹¹¹ See Initial Questionnaire, at section II (pages 8-11).

¹¹² See Initial Questionnaire and GOC SQR1.

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 identified the number of producers of pig iron in China in its original questionnaire response.¹¹³ The GOC also provided data on the domestic production and consumption of pig iron.¹¹⁴ Of key importance, the GOC indicates that majority-state-owned producers accounted for a large percentage of domestic production during the 2015-2017 time periods, respectively.¹¹⁵ The GOC also indicated that pig iron is subject to a 10 percent or 20 percent export tariff during the POI, depending on the tariff item number.¹¹⁶ Additionally, based on proprietary data provided by the GOC, we preliminarily find that import penetration in the Chinese pig iron market is low.¹¹⁷ For these reasons, Commerce 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. Commerce is, accordingly, selecting external benchmark prices, *i.e.*, “tier two” or world market prices, for our LTAR analysis consistent with Commerce’s regulations.¹¹⁸ The external benchmarks are derived a proprietary source that the petitioner provided.¹¹⁹

As explained in the HengTong Preliminary Calculation Memorandum, Commerce adjusted the benchmark price to include import duties, delivery charges, 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 HengTong’s production facility. We added import duties as reported by the GOC, and the VAT applicable to imports of pig iron into China, also as reported by the GOC.¹²⁰ 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.¹²¹

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 HengTong paid.¹²² We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the HengTong Preliminary Calculation Memorandum.

On this basis, we preliminarily determine a subsidy rate for HengTong of 8.66 percent *ad valorem*.¹²³

¹¹³ See GOC IQR at 18.

¹¹⁴ *Id.* at 19.

¹¹⁵ *Id.* at 20. The specific percentages are business proprietary.

¹¹⁶ *Id.* at 22.

¹¹⁷ *Id.* at 18-20.

¹¹⁸ See 19 CFR 351.511.

¹¹⁹ See HengTong Preliminary Calculation Memorandum.

¹²⁰ See GOC IQR at 22-23.

¹²¹ See HengTong Preliminary Calculation Memorandum.

¹²² *Id.*

¹²³ *Id.*

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.¹²⁴ 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. HengTong identified the suppliers and producers of its purchased ferrous scrap.

The GOC estimates that nearly half of the ferrous scrap consumed comes from industrial producers and industrial users, while the other half is generated by individuals.¹²⁵ Furthermore, the GOC explained that there is not a ferrous scrap industry in a traditional sense, since scrap is not produced but is rather collected and traded (*i.e.*, it is a by-product).¹²⁶ Finally, the GOC stated that it does not maintain statistics on ferrous scrap production in China, and therefore cannot track what percentage of total volume and value of domestic production is accounted for by companies in which the Government maintains a majority ownership or a controlling management interest.¹²⁷

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, Commerce 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 market for ferrous scrap is distorted through the intervention of the GOC. As discussed under the “Application of AFA: Ferrous Scrap Industry Distortions” section, Commerce is preliminarily determining that the ferrous scrap industry is distorted. For these reasons, Commerce is selecting for ferrous scrap external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with Commerce’s regulations.¹²⁸ The external benchmarks are derived from a proprietary source that the petitioner provided.¹²⁹

As explained in the HengTong Calculation Memorandum, Commerce adjusted the benchmark price to include import duties, delivery charges, 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 HengTong’s production facility. We added import duties as

¹²⁴ See CVD Initiation Checklist at 24.

¹²⁵ See GOC IQR at 32.

¹²⁶ *Id.*

¹²⁷ *Id.* and 33.

¹²⁸ See 19 CFR 351.511.

¹²⁹ See HengTong Preliminary Calculation Memorandum.

reported by the GOC, and the VAT applicable to imports of ferrous scrap into the PRC, also as reported by the GOC.¹³⁰ 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.¹³¹

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 HengTong. We divided the total benefits by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section, and in the HengTong Preliminary Calculation Memorandum. On this basis, we preliminarily determine a subsidy rate for HengTong of 1.58 percent *ad valorem*.

3. Provision of Metallurgical Coke for LTAR

The petitioner alleges that the respondents received countervailable subsidies in the form of the provision of metallurgical coke for LTAR.¹³² We requested information from the GOC regarding the specific companies that produced the metallurgical coke that HengTong purchased during the POI in order to determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act.¹³³ The GOC provided information indicating the basic ownership structure of the producers, but did not provide the additional data requested by Commerce in its Initial Questionnaire, and requested again in a supplemental questionnaire.¹³⁴ As described in the "Application of AFA: Input Producers Are "Authorities"" section above, we preliminarily determine as AFA that the domestic producers of metallurgical coke purchased by respondents are "authorities" within the meaning of section 771(5)(B) of the Act, and, accordingly, that the provision of metallurgical coke by such producers constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

With respect to specificity, the GOC did not provide data specifically for the metallurgical coke industry, but did provide data for a broader category – coke (which includes metallurgical coke).¹³⁵ Because metallurgical coke is a type of coke, we preliminarily find it is reasonable to use the data provided for coke in making our determinations regarding specificity and market distortion. In particular, the GOC provided a list of 47 industries that consumed coke from 2006-2015, published by the National Bureau of Statistics. We note that the "Smelting and Pressing of Ferrous Metals" industry (which includes cast iron soil pipe) uses a large (predominant) amount.¹³⁶ Therefore, Commerce has determined preliminarily that the metallurgical coke for LTAR program is specific, in accordance with section 771(5A)(D)(iii)(II) of the Act.

¹³⁰ See GOC IQR at 22-23.

¹³¹ See HengTong Preliminary Calculation Memorandum.

¹³² See CVD Initiation Checklist at 26 – 27.

¹³³ See Initial Questionnaire, at section II (pages 18 – 21).

¹³⁴ See GOC IQR and GOC SQR.

¹³⁵ See GOC IQR at Exhibit MC – 4.

¹³⁶ *Id.*

Further, we have preliminarily determined that the domestic market for metallurgical coke 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 metallurgical coke, the GOC identified the number of producers of metallurgical coke in China in its original questionnaire response.¹³⁷ The GOC also provided data on the domestic production and consumption of metallurgical coke.¹³⁸ Of key importance, the GOC indicates that majority-state-owned producers accounted for a large percentage of domestic production during the 2015-2017 time periods, respectively.¹³⁹ Additionally, based on proprietary data provided by the GOC, we preliminarily find that import penetration in the Chinese metallurgical coke market is low.¹⁴⁰ For these reasons, Commerce finds that the GOC is heavily involved in the metallurgical coke industry, and that this level of government involvement in the sector creates a distortion in the market. Commerce is, accordingly, selecting external benchmark prices, *i.e.*, “tier two” or world market prices, for our LTAR analysis, consistent with Commerce’s regulations.¹⁴¹ The external benchmarks are derived from the U.S. Energy Information Administration.¹⁴²

As explained in the HengTong Preliminary Calculation Memorandum, Commerce adjusted the benchmark price to include import duties, delivery charges, 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 metallurgical coke to HengTong’s production facility. We added import duties as reported by the GOC, and the VAT applicable to imports of metallurgical coke into China, also as reported by the GOC.¹⁴³ 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.¹⁴⁴

Based on this comparison, we preliminarily determine that metallurgical coke was provided for LTAR and that a benefit exists in the amount of the difference between the benchmark prices and the prices HengTong paid.¹⁴⁵ We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the HengTong Preliminary Calculation Memorandum.

On this basis, we preliminarily determine a subsidy rate for HengTong of 2.38 percent *ad valorem*.¹⁴⁶

¹³⁷ See GOC IQR at 45.

¹³⁸ *Id.* at 46.

¹³⁹ *Id.* at 47 (The specific percentages are business proprietary information).

¹⁴⁰ *Id.* at 46.

¹⁴¹ See 19 CFR 351.511.

¹⁴² See HengTong Preliminary Calculation Memorandum.

¹⁴³ See GOC IQR at 22-23.

¹⁴⁴ See HengTong Preliminary Calculation Memorandum.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

4. Policy Loans to the Cast Iron Soil Pipe Industry

The petitioner alleges that the GOC provides policy loans to the soil pipe industry at preferential terms as a matter of government policy.¹⁴⁷ Commerce has countervailed policy lending programs in previous investigations.¹⁴⁸ As discussed below, we preliminarily determine that HengTong used this program during the POI.

When examining a policy lending program, Commerce 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 China*¹⁴⁹ to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.

HengTong reported having loans from Chinese SOCBs that were outstanding during the POI.¹⁵⁰ Commerce preliminarily finds that these loans provide countervailable subsidies under a policy lending program directed at the soil pipe industry. Record information indicates that the GOC placed great emphasis on targeting the soil pipe industry for development throughout recent years. For example, the “*12th Five-Year Outline of the Guidelines for National Economic Development of the People’s Republic of China*” 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.”¹⁵¹ 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.”¹⁵² 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.”¹⁵³

¹⁴⁷ See CVD Initiation Checklist at 7 – 8.

¹⁴⁸ See, e.g., *Crystalline Silicon Photovoltaic Products from China* and accompanying Preliminary Decision Memorandum at 24.

¹⁴⁹ See *CFS from the PRC*, and accompanying CFS IDM at Comment 8.

¹⁵⁰ See HengTong IQR at 13 – 14 and Exhibit 7.

¹⁵¹ See GOC IQR at Exhibit Loan – 6, Chapter 9.

¹⁵² *Id.* at Exhibit Loan – 6, Chapter 51.

¹⁵³ See GOC IQR at Loan – 6, Part V.

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. . .¹⁵⁴

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.¹⁵⁵

Further, large scale enterprises were to consolidate and expand production according to the GOC's directives.¹⁵⁶ 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."¹⁵⁷

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.¹⁵⁸ 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.¹⁵⁹

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

¹⁵⁴ See the Petition at Exhibit III-14.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ See European Commission Implementing Regulation (EU) 2017/969 (June 8, 2017), contained in the Petition at Exhibit III-2.

¹⁵⁸ See the Petition at Exhibit III-14.

¹⁵⁹ *Id.*

Accordingly, we preliminarily determine there is a program of preferential policy lending specific to the iron and steel industry, including soil pipe 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.¹⁶⁰ To calculate the benefit from this program, we used the benchmarks discussed above under the “Subsidies Valuation” section.¹⁶¹ 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 HengTong Preliminary Calculation Memorandum.

On this basis, we preliminarily determine that HengTong received a net countervailable subsidy rate of 0.49 percent *ad valorem*.¹⁶²

B. Programs Preliminarily Determined to Not Confer a Measurable Benefit to HengTong

1. “Other Subsidies”

As discussed in Section XI.A.4, above, HengTong, through its cross-owned company, Quwo HengTong, reported that it received certain grants during the AUL period, but prior to the POI.¹⁶³ However, these benefits do not pass the “0.5 percent test” provided in CFR 351.524(b)(2), and they are allocated to the year of receipt. Thus, Commerce preliminarily finds that they provide no benefits during the POI.

C. Programs Preliminarily Determined to Require Additional Information

1. 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 China’s soil pipe industry.¹⁶⁴ HengTong reported that it did not use this program during the POI because it purchased electricity from a local business located near its factory, not from the state or provincial power grid company.¹⁶⁵ We intend to solicit additional information from the GOC and HengTong as needed, and we are, therefore, deferring examination of this program until after the preliminary determination.

¹⁶⁰ See section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

¹⁶¹ See 19 CFR 351.505(c).

¹⁶² See HengTong Preliminary Calculation Memorandum.

¹⁶³ See HengTong’s AFFR at Exhibit 6.

¹⁶⁴ See CVD Initiation Checklist at 24 – 25.

¹⁶⁵ See HengTong IQR at 28 – 29; HengTong SQR1 at S1-5; and HengTong SQR2 at 1.

D. Programs Preliminarily Determined to Be Not Used by HengTong

Commerce preliminarily finds that the following programs were not used by HengTong during the POI:

1. Treasury Bond Loans
2. Preferential Loans for State-Owned Enterprises
3. Preferential Lending to Soil Pipe Producers and Exporters Classified as “Honorable Enterprises”
4. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
5. Debt-to-Equity Swaps
6. Exemptions for SOEs from Distributing Dividends
7. Loan and/or Interest Forgiveness for SOEs
8. Preferential Income Tax Reductions for High and New Technology Enterprises (HNTE)
9. Preferential Deduction of R&D Expenses for HNTEs
10. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
11. Preferential Income Tax Policy for Enterprises in the Northeast Region
12. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
13. Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development
14. VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund
15. Import Tariff and VAT Exemptions for Foreign Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
16. Deed Tax Exemptions for SOEs Undergoing Mergers or Restructuring
17. Provision of Land to SOEs for LTAR
18. Provision of Iron Ore for LTAR
19. Provision of Coking Coal for LTAR
20. State Key Technology Project Fund
21. Foreign Trade Development Fund Grants
22. Export Assistance Grants
23. Grants to Loss-Making SOEs
24. Export Interest Subsidies
25. Grants for Energy Conservation and Emission Reduction
26. Grants for the Retirement of Capacity
27. 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, Commerce 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, Commerce calculated an individual estimated countervailable subsidy rate for HengTong that is not zero, *de minimis*, or based entirely on facts otherwise available. Because the only individually calculated

rate is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average rate calculated for HengTong is the rate assigned to all-other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act. Thus, we calculated the all-others rate to be 19.10 percent *ad valorem*.

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.

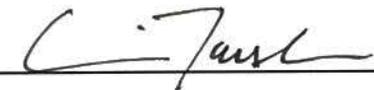
In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after Commerce makes its final determination.

IV. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

X 

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

	Program Name	AFA Rate	Source	Citation
1.	Policy Loans to the Soil Pipe Industry	0.49%	Calculated - HengTong	
2.	Treasury Bond Loans	5.03%	Highest Rate for Same Program Based on Benefit Type	<i>Cast Iron Soil Pipe Fittings from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures; 83 FR 7145 (February 20, 2018) (Pipe Fittings)</i>
3.	Preferential Loans for State-Owned Enterprises			
4.	Preferential Lending to Soil Pipe Producers and Exporters Classified as "Honorable Enterprises"			
5.	Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program			
6.	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>
7.	Exemptions for SOEs from Distributing Dividends	0.58%	Highest Rate for Same Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
8.	Loan and/or 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>
9.	Preferential Income Tax Reductions 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) (Tool Chests).</i>
10.	Preferential Deduction of R&D Expenses for HNTes	25%	Income Tax Rate	
11.	Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment	25.00%	Income Tax Rate	<i>Tool Chests</i>

12.	Preferential Income Tax Policy for Enterprises in the Northeast Region	25.00%	Income Tax Rate	<i>Tool Chests</i>
13.	Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax			
14.	Income Tax Benefits for Domestically Owned Enterprises Engaging in Research and Development			
15.	VAT and Tariff Exemptions for Purchasers 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) (Off-the-Road Tires PRC), unchanged in New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Countervailing Duty</i>
16.	Import Tariff and VAT Exemptions for Foreign Invested Enterprises (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>
17.	Deed Tax Exemptions for SOEs Undergoing Mergers or Restructuring	9.71%	Highest Rate for Similar Program Based on Benefit Type	<i>Off-the-Road Tires PRC</i>
18.	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>
19.	Provision of Pig Iron for LTAR	4.87%	Calculated - HengTong	
20.	Provision of Ferrous Scrap for LTAR	2.48%	Calculated - HengTong	
21.	Provision of Electricity for LTAR	3.51%	Highest Rate for Same Program Based on Benefit Type	<i>Pipe Fittings</i>

22.	Provision of Iron Ore for LTAR	8.66%	Highest Rate for Similar Program Based on Benefit Type Calculated for HengTong	
23.	Provision of Metallurgical Coke for LTAR through SOEs	1.89%	Calculated - HengTong	
24.	Provision of Coking Coal for LTAR	8.66%	Highest Rate for Similar Program Based on Benefit Type Calculated for HengTong	
25.	State Key Technology Project Fund	0.58%	Highest Rate for Same or Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
26.	Foreign Trade Development Fund Grants	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.	Grants to Loss-Making SOEs	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
29.	Export Interest Subsidies	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
30.	Grants for Energy Conservation and Emission Reduction	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
31.	Grants for the Retirement of Capacity	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>
32.	Grants for Relocating Production Facilities	0.58%	Highest Rate for Similar Program Based on Benefit Type	<i>Chlorinated Isocyanurates PRC Final</i>

Total AFA Rate:

111.20%