



C-570-111  
Investigation  
POI: 01/01/2018 – 12/31/2018  
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July 24, 2019

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Determination in the  
Countervailing Duty Investigation of Vertical Metal File Cabinets  
from the People's Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of vertical metal file cabinets (file cabinets) from the People's Republic of China (China), as provided in section 703 of the Tariff Act of 1930, as amended (Act). The estimated countervailable subsidy rates are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

## II. BACKGROUND

### A. Initiation and Case History

On April 30, 2019, Commerce received petitions from Hirsh Industries, LLC (the petitioner) seeking the imposition of antidumping (AD) and countervailing duties (CVD) on file cabinets from China.<sup>1</sup> In accordance with section 702(b)(1) of the Act, the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of file cabinets in China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing file cabinets in the United States consistent with section 702(b)(1) of the Act and 19 CFR 351.202.<sup>2</sup>

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<sup>1</sup> See Petitioner's Letter, "Vertical Metal File Cabinets from the People's Republic of China - Petition for the Imposition of Antidumping and Countervailing Duties," dated April 30, 2019 (Petition).

<sup>2</sup> See *Vertical Metal File Cabinets from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 84 FR 24089 (May 24, 2019) (*Initiation Notice*).



Supplements to the petitions and our consultations with the Government of China (GOC) are described in the *Initiation Notice* and accompanying Initiation Checklist.<sup>3</sup> On May 24, 2019, Commerce published the *Initiation Notice* for the CVD investigation of file cabinets from China.<sup>4</sup>

We stated in the *Initiation Notice* that, if respondent selection became necessary, we intended to base our selection of mandatory respondents on the United States Customs and Border Protection (CBP) entry date for the Harmonized Tariff Schedule of the United States (HTSUS) subheading listed in the scope of the investigation.

On May 16, 2019, Commerce released the CBP entry data under administrative protective order (APO).<sup>5</sup> Interested parties were given three business days from the publication date of the notice of the investigation to comment on the CBP data.<sup>6</sup> On May 17, 2019, the petitioner submitted comments regarding the CBP entry data.<sup>7</sup> Specifically, the petitioner requested that Commerce issue quantity and value (Q&V) questionnaires because the HTSUS subheading listed in the scope of the investigation covers all metal file cabinets, rather than just vertical metal file cabinets.<sup>8</sup> We did not receive comments regarding the CBP data from any other interested party.

On May 28 and 29, 2019, Commerce issued Q&V questionnaires to the 62 companies identified in the *Initiation Notice* as potential producers or exporters of file cabinets from China and placed the Q&V questionnaire on the administrative record.<sup>9</sup> We did not receive any Q&V questionnaire responses.<sup>10</sup>

On June 14, 2019, the International Trade Commission (ITC) notified Commerce that it had made affirmative determinations in the preliminary phase of the AD and CVD investigations.<sup>11</sup>

On June 18, 2019, the petitioner submitted comments regarding non-responsive companies.<sup>12</sup>

Commerce is conducting this investigation in accordance with section 701 of the Act.

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<sup>3</sup> See *Initiation Notice* and accompanying Initiation Checklist.

<sup>4</sup> See *Initiation Notice*.

<sup>5</sup> See Memorandum, “Countervailing Duty Investigation of File Cabinets from China: Release of U.S. Customs and Border Protection Data,” dated May 16, 2019 (CBP Release Memo).

<sup>6</sup> See *Initiation Notice*.

<sup>7</sup> See Petitioner’s Letter, “Vertical Metal File Cabinets from the People’s Republic of China - Petitioner’s Comments on Customs and Border Protection Data,” dated May 17, 2019.

<sup>8</sup> *Id.*

<sup>9</sup> See Commerce’s Letter, “Quantity and Value Questionnaire,” dated May 28, 2019.

<sup>10</sup> See Memorandum, “Countervailing Duty Investigation of File Cabinets from the People’s Republic of China: Delivery of Quantity and Value Questionnaire to Exporters/Producers,” dated July 5, 2019 (Q&V Delivery Memo).

<sup>11</sup> See International Trade Commission’s Letter, dated June 21, 2019.

<sup>12</sup> See Petitioner’s Letter, “Vertical Metal File Cabinets from the People’s Republic of China – Petitioner’s Comments Regarding Non-Responsive Companies,” dated June 18, 2019.

## B. Period of Investigation

The period of investigation (POI) is January 1, 2018 through December 31, 2018. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

## III. SCOPE OF THE INVESTIGATION

For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

## IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,<sup>13</sup> the *Initiation Notice* set aside a period for parties to raise issues regarding product coverage, *i.e.*, the scope, of vertical metal file cabinets.<sup>14</sup> No parties commented on the scope of this investigation.

## V. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs Commerce to calculate individual countervailable subsidy rates for each known producer or exporter of the subject merchandise. As stated above, Commerce released CBP data to the administrative record for the purposes of determining mandatory respondents in this investigation.<sup>15</sup> However, the HTSUS subheading listed in the scope included all producers and exporters of metal file cabinets. Accordingly, on May 28 and 29, 2019, Commerce issued Q&V questionnaires to the potential producers or exporters named in the *Initiation Notice*.<sup>16</sup> However, Commerce did not receive any responses to the Q&V questionnaires.

Accordingly, we have not selected mandatory respondents for this investigation.

## 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 June 20, 2019, the ITC determined that there is reasonable indication that an industry in the United States is materially injured by reason of imports of file cabinets from China.<sup>17</sup>

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<sup>13</sup> *See Antidumping Duties: Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>14</sup> *See Initiation Notice*, 84 FR at 24093.

<sup>15</sup> *See* CBP Release Memo.

<sup>16</sup> *See Initiation Notice*.

<sup>17</sup> *See Vertical Metal File Cabinets from China*, 84 FR 28855 (June 20, 2019).

## 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.<sup>18</sup>

Commerce affirmed its decision to apply the CVD law to China in numerous subsequent determinations.<sup>19</sup> 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 non-market economies (NMEs) under section 771(18) of the Act, such as China.<sup>20</sup> The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.<sup>21</sup>

## VIII. DIVERSIFICATION OF CHINA'S ECONOMY

Concurrently with this decision memorandum, Commerce is placing the following excerpts from the China Statistical Yearbook from the National Bureau of Statistics of China on the record of this investigation:<sup>22</sup> Index Page; Table 14-7: Main Indicators on Economic Benefit of State-owned and State-holding Industrial Enterprise by Industrial Sector; Table 14-11: Main Indicators on Economic Benefit of Private Industrial Enterprise by Industrial Sector. This information reflects a wide diversification of economic activities in China. The industrial sector in China alone is comprised of 37 listed industries and economic activities, indicating the diversification of China's economy.

## IX. 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: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly

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<sup>18</sup> 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 (IDM) at Comment 6.

<sup>19</sup> 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), and accompanying IDM at Comment 1.

<sup>20</sup> Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

<sup>21</sup> See Public Law 112-99, 126 Stat. 265 1(b).

<sup>22</sup> See Memorandum, "Additional Documents Memorandum," dated concurrently with this memorandum.

impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."<sup>23</sup> Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>24</sup>

Section 776(c) 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 "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."<sup>25</sup> It is Commerce's practice to consider information to be corroborated if it has probative value.<sup>26</sup> In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.<sup>27</sup> However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.<sup>28</sup>

In a CVD investigation, 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, applying 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.

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

<sup>24</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

<sup>25</sup> See, e.g., SAA at 870.

<sup>26</sup> See SAA at 870.

<sup>27</sup> See, e.g., SAA at 869.

<sup>28</sup> See SAA at 869-70.

Otherwise, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>29</sup>

For purposes of this preliminary determination, we are applying either facts available (FA) or AFA in the circumstances outlined below.

B. Application of FA: GOC

As discussed in the “Initiation and Case History” section above, we issued CBP data on May 16, 2019, with the intention of selecting respondents based on this data.<sup>30</sup> However, the HTS subheading listed in the scope included all metal file cabinets, rather than just vertical metal file cabinets, so Commerce issued Q&V questionnaires to each of the potential producers or exporters listed in the Petition.<sup>31</sup> On July 5, 2019, Commerce placed a memorandum on the record which included proof of delivery for 46 of the 62 companies for which Q&V questionnaires were issued.<sup>32</sup> We did not receive any responses to the Q&V questionnaires.<sup>33</sup> With unusable CBP data and no responding companies, Commerce did not select mandatory respondents in this investigation. Following the publication of the preliminary determination in the *Federal Register*, we intend to issue a modified Section II of the initial questionnaire to the GOC, asking questions related to financial contribution and specificity of the programs alleged,<sup>34</sup> but omitting questions specific to respondent companies. The date to respond to this questionnaire will fall after the issuance of this preliminary determination. Accordingly, the information regarding specificity and financial contribution that we would seek from the GOC is absent from the record pursuant to section 776(a)(1) of the Act.

Therefore, for this preliminary determination, we will rely on facts otherwise available in order to determine whether each program alleged is specific and provides a financial contribution. The only facts available on the administrative record with respect to these determinations are contained in the Petition.<sup>35</sup> Accordingly, for the preliminary determination, we have relied upon the Petition, as facts otherwise available, in order to determine whether each program we are investigating is specific and provides a financial contribution.

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<sup>29</sup> See section 776(d)(3) of the Act.

<sup>30</sup> See CBP Release Memo.

<sup>31</sup> See Q&V Delivery Memo; see also Petition.

<sup>32</sup> See Q&V Delivery Memo at Attachment 2.

<sup>33</sup> *Id.*

<sup>34</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; and section 771(5A) of the Act regarding specificity.

<sup>35</sup> See Petition at Volume III.

### C. Application of Total AFA: Non-Responsive Companies

As discussed in the “Initiation and Case History” section above, we did not receive responses to the Q&V questionnaires in this investigation for the 46 companies for which we confirmed receipt of our questionnaire. Accordingly, we did not select mandatory respondents or issue questionnaires. Thus, we find that the necessary information to calculate the benefit for these non-responsive companies is not on the record within the meaning of section 776(a)(1) of the Act. We also find that, by not providing Q&V data so that we can select mandatory respondents, the companies that did not provide such data, withheld information that was requested by Commerce, failed to provide such information by our deadline and in the form and manner requested, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, respectively. Therefore, we are basing our determination of the subsidy rates for these companies on facts otherwise available.

Moreover, we preliminarily determine that an adverse inference is warranted in selecting from among the facts otherwise available for the companies who received our Q&V questionnaire but did not respond to it, pursuant to section 776(b) of the Act. Each of these companies failed to respond to Commerce’s Q&V questionnaire, and thus, did not cooperate to the best of its ability in responding to requests for information. Accordingly, we preliminarily find that the use of AFA is warranted to ensure that the non-responsive companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

For each of the programs determined to be countervailable, pursuant to our FA finding above, we are finding that these programs confer a benefit within the meaning of section 771(5)(B) and (E) of the Act. As AFA, we find that the non-responsive companies, in fact, used these countervailable programs during the POI. We selected an AFA rate for each of these programs.

#### *Selection of the AFA Rate*

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 country.<sup>36</sup> 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

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<sup>36</sup> 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 IDM 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 from China Final*), and accompanying IDM at “VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies.”

administering authority considers reasonable to use, including the highest of such rates.<sup>37</sup> Accordingly, when selecting AFA rates, if we have cooperating respondents, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If there are no cooperating respondents, as in this case, 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).<sup>38</sup> 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.<sup>39</sup>

Commerce's methodology is consistent with section 776(d)(1)(A) of the Act. Section 776(d)(1)(A) of the Act states that when applying an adverse inference in selecting from the facts otherwise available, Commerce may (i) use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or (ii) if there is no same or similar program, use a countervailable subsidy for a subsidy rate from a proceeding that Commerce considers reasonable to use. Thus, section 776(d)(1)(A) of the Act expressly allows for Commerce's existing practice of using an adverse facts available hierarchy in selecting a rate "among the facts otherwise available" in CVD cases, should the facts warrant such a selection.

Section 776(d)(2) of the Act authorizes Commerce to rely on the highest prior rate under certain circumstances. In deriving an adverse facts available rate under section 776(d)(1)(A) of the Act described above, the provision states that Commerce "may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available." No legislative history accompanied this provision. Accordingly, Commerce is left to interpret this "evaluation by the administering authority of the situation" language in light of existing agency practice, and the structure and provisions of section 776(d) of the Act itself.

We find that the Act anticipates a two-step process for determining an appropriate adverse facts available rate in CVD cases: 1) Commerce may apply its hierarchy methodology, and 2) Commerce may apply the highest rate derived from this hierarchy to a respondent, should it choose to apply that hierarchy in the first place, unless, after an evaluation of the situation that

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<sup>37</sup> 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 China*), and accompanying IDM at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

<sup>38</sup> 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 IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

<sup>39</sup> See *Shrimp from China* IDM at 13-14.

resulted in the use of adverse facts available, Commerce determines that the situation warrants a rate different than the rate derived from the hierarchy be applied.<sup>40</sup>

In applying the adverse facts available rate provision, it is well established that when selecting the rate from among possible sources, Commerce seeks to use a rate that is sufficiently adverse to effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in a timely manner. This ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>41</sup> Further, “in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin.”<sup>42</sup> It is pursuant to this knowledge and experience that Commerce has implemented its adverse facts available hierarchy in CVD cases to select an appropriate adverse facts available rate.<sup>43</sup>

In applying its adverse facts available hierarchy in CVD investigations, Commerce’s goal is as follows: in the absence of necessary information from cooperative respondents, Commerce is seeking to find a rate that is a relevant indicator of how much the government of the country under investigation is likely to subsidize the industry at issue, through the program at issue, while inducing cooperation. Accordingly, in sum, the three factors that Commerce takes into account in selecting a rate are: 1) the need to induce cooperation, 2) the relevance of a rate to the industry in the country under investigation (*i.e.*, can the industry use the program from which the rate is derived), and 3) the relevance of a rate to a particular program, though not necessarily in that order of importance.

Furthermore, the hierarchy (as well as section 776(d)(1) of the Act) recognizes that there may be a “pool” of available rates that Commerce can rely upon for purposes of identifying an adverse facts available rate for a particular program. In investigations for example, this “pool” of rates could include the rates for the same or similar programs used in either that same investigation, or

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<sup>40</sup> This differs from AD proceedings, for which no hierarchy applies, under section 776(d)(1)(B) of the Act. Under that provision, “any dumping margin from any segment of the proceeding under the applicable antidumping order” may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

<sup>41</sup> See SAA, H.R. Doc. No. 103-316, vol. 1, at 870, reprinted in 1994 U.S.C.C.A.N 4040, 4090; see also *Essar Steel*, 678 at 1276 (citing *F. Lii De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F. 3d 1027, 1032 (Fed. Cir. 2000) (finding that “{t}he purpose of the adverse facts statute is ‘to provide respondents with an incentive to cooperate’ with Commerce’s investigation, not to impose punitive damages.”) (*De Cecco*).

<sup>42</sup> See *De Cecco*, 216 F. 3d at 1032.

<sup>43</sup> Commerce has adopted a practice of applying its hierarchy in CVD cases. See, e.g., *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at Comment 4 at 28-31 (applying the AFA hierarchical methodology within the context of a CVD investigation); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying IDM at 11-15 (applying the AFA hierarchical methodology within the context of a CVD administrative review). However, depending on the type of program, Commerce may not always apply its AFA hierarchy. See e.g., *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM at 7-8 (applying, outside of the AFA hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that “pool” of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

Under the first step of Commerce’s investigation hierarchy, Commerce applies the highest nonzero rate calculated for a cooperating company for the identical program in the investigation. Under this step, we will even use a *de minimis* rate as adverse facts available if that is the highest rate calculated for another cooperating respondent in the same industry for the same program. However, if there is no identical program match within the investigation, or if the rate is zero, then Commerce will shift to the second step of its investigation hierarchy, and either apply the highest non-*de minimis* rate calculated for a cooperating company in another CVD proceeding involving the same country for the identical program, or if the identical program is not available, for a similar program. This step focuses on the amount of subsidies that the government has provided in the past under the investigated program. The assumption under this step is that the non-cooperating respondent under investigation uses the identical program at the highest above *de minimis* rate of any other company using the identical program.

Finally, if no such rate exists, under the third step of Commerce’s investigation hierarchy, Commerce applies the highest rate calculated for a cooperating company from any noncompany-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.<sup>44</sup>

In all three steps of Commerce’s adverse facts available investigation hierarchy, if Commerce were to choose low adverse facts available rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the “reward” for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce’s investigation adverse facts available hierarchy (which is different from selecting the highest possible rate in the “pool” of all available rates), Commerce strikes a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.<sup>45</sup>

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<sup>44</sup> In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

<sup>45</sup> It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007), and accompanying IDM at 2 (“As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and Policy lending programs of the other producer/producer in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed...”). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party

Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an adverse facts available rate under section 776(d)(1) of the Act; that is, after “an evaluation of the situation that resulted in the application of an adverse inference,” Commerce may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

There are no facts on this record that suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as adverse facts available. As explained above, Commerce is preliminarily applying adverse facts available because the companies chose not to cooperate by not providing the information Commerce requested, namely, Q&V data. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.

Thus, for this preliminary determination we are assigning an AFA rate to all non-responsive companies. In determining the rates for these non-responsive companies, we are guided by Commerce’s methodology detailed above. Further, for all companies which did not have a deliverable address, Commerce will apply the average of all the AFA rates as the “all-others” rate.<sup>46</sup>

Accordingly, we are utilizing the AFA CVD hierarchy to assign the highest applicable rates to the following programs which Commerce is investigating.

- A. Preferential Lending
  - 1. Policy Loans to the Vertical File Cabinets Industry
  - 2. Export Loans from Chinese State-Owned Banks
  - 3. Export Seller’s Credit
  - 4. Export Buyer’s Credit
  - 5. Export Credit Guarantees
  
- B. Income Tax and Direct Tax Program
  - 6. Income Tax Reduction for High or New Technology Enterprises
  - 7. Income Tax Deduction for Research and Development (R&D) Expenses Under the Enterprise Income Tax Law
  - 8. Provincial Government of Guangdong (PGOG) Tax Offset for R&D
  
- C. Indirect Tax Programs
  - 9. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
  - 10. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment

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makes this decision in an environment in which Commerce may apply the highest rate as adverse facts available under its hierarchy.

<sup>46</sup> See section 776 of the Act (Commerce may use “any reasonable method” for assigning an all-other rate).

- D. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)
11. Provision of Land for LTAR
  12. Provision of Hot-Rolled/Cold-Rolled Steel for LTAR
  13. Provision of Galvanized Steel for LTAR
  14. Provision of Zinc for LTAR
  15. Provision of Electricity for LTAR
- E. Grant Programs
16. GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands
  17. Special Fund for Energy Savings Technology Reform
  18. SME International Market Exploration/Development Fund
  19. SME Technology Innovation Fund
  20. Export Assistance Grants

*Corroboration of AFA Rate*

Section 776(c)(1) of the Act provides that, in general, 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.”<sup>47</sup> The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.<sup>48</sup>

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.<sup>49</sup> Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>50</sup>

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

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<sup>47</sup> See SAA at 870.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 869-870.

<sup>50</sup> See section 776(d) of the Act.

will not use information where circumstances indicate that the information is not appropriate as AFA.<sup>51</sup>

Commerce has reviewed the information concerning China subsidy programs in this and other proceedings. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. The relevance of these rates is that they are actual calculated CVD rates for subsidy programs in China, from which the non-responsive companies could actually receive a benefit. Thus, we are applying subsidy rates, which were calculated in previous China CVD investigations or administrative reviews. Therefore, we have corroborated the rates pursuant to section 776(c)(1) of the Act to the extent practicable for purposes of this investigation.

## **X. ANALYSIS OF PROGRAMS**

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

### **A. Programs Preliminarily Determined to Be Countervailable**

#### *1. Policy Loans to the File Cabinets Industry*

When examining a policy lending program, Commerce looks to whether the 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* to further conclude that national and local government control over the SOCBs render the loans a government financial contribution.<sup>52</sup>

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s provision of Policy Loans to the Vertical File Cabinets Industry constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Record information indicates the file cabinets industry has benefitted from government-directed policy lending. For example, through the *Outline of the 12<sup>th</sup> Five-Year Plan for National Economic and Social Development of the People’s Republic of China (2011-15)* (12th Five-Year Plan), which states that the industrial restructuring and reorganization should be undertaken with the objective of “transform{ing} and improv{ing} the consumer goods industries.<sup>53</sup> In addition, the 12th Five-Year Plan promotes the growth of “a number of advanced manufacturing bases with international competitiveness,” using a regionally-based design to “develop modern industrial clusters with distinctive characteristics, a

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<sup>51</sup> See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

<sup>52</sup> See *CFS from China* IDM at Comment 8.

<sup>53</sup> See Petition at Exhibit CVD-19.

prominent brand image, and a sound service platform.”<sup>54</sup> The 12th Five-Year Plan seeks to maintain “current advantage{s} in export markets” while “{supporting} new advantages based on technology, branding, quality and service” to “extend the value-added chain in China.”<sup>55</sup> Further, the 12th Five-Year Plan seeks to create a “favorable environment to activate the development of SMEs...{by} increase{ing} the size and percentage of lending to SMEs, and broaden{ing} channels of direct financing.”<sup>56</sup>

The provincial government of Shandong pursued the national economic development goals set forth by the GOC under the *11th Five-Year National and Economic Social Development Plan of Shandong Province* (Shandong 11th Five-Year Plan), which supported the economic growth and “opening up” of the province by implementing the national steel industry policy, developing high-performance steel products, and promoting international trade.<sup>57</sup>

In addition, the provincial government of Guangdong implemented industrial economic plans designed to support downstream steel processors, including producers of file cabinets. For example, the *11th Five-Year National and Economic Social Development Plan of Guangdong Province* (Guangdong 11th Five-Year Plan) selected the Pearl River Delta as a leading region for economic development, the location of producers and exporters of file cabinets.<sup>58</sup> In order to “enhance the development level,” the Guangdong 11th Five-Year Plan urged improvement in innovation, technology, and the level of industrial structure in order to create a “world-class manufacturing base” in the Pearl River Delta and to focus on “domestic iron and steel enterprises {to} jointly build {the} coastal steel base.”<sup>59</sup>

Moreover, the provincial government of Guangdong continued these goals with the *12th Five-Year National and Economic Social Development Plan of Guangdong Province (2011-2015)* (Guangdong 12th Five-Year Plan). This plan encouraged an industrial structure in which “state-owned capital” was concentrated in “backbone enterprises,” small and medium-sized enterprises (SMEs), such as file cabinet manufacturers, focusing on downstream, value-added products and emphasizing an outward-orientation.<sup>60</sup> The *13th Five-Year National Economic and Social Development Plan of Guangdong Province* seeks to maintain the industrial layout with the production of value-added steel products along the provincial coast.<sup>61</sup>

In the Jiangsu province, the *Provincial Government Notice on the Issuance of the Jiangsu Province Iron and Steel Industry Adjustment and Revitalization Plan Outline (Jiangsu Iron and Steel Plan)* also encouraged coordinated regional development for downstream steel products, aimed at converting SMEs, including file cabinet manufacturers, “into mechanized assembly

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<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at Exhibit CVD-24.

<sup>58</sup> *Id.* at Exhibits CVD-21 and CVD-22.

<sup>59</sup> *Id.* at Exhibit CVD-21.

<sup>60</sup> *Id.* at Exhibit CVD-9.

<sup>61</sup> *Id.* at Exhibit CVD-23.

manufacturers of metal goods.”<sup>62</sup> Under the *Jiangsu Province Iron and Steel Plan*, provincial authorities recommended increased financing for supported enterprises through SOCBs, among other mechanisms, in order to “vigorously expand the export market” through value-added production.<sup>63</sup>

The current *National 13<sup>th</sup> Five-Year Plan of Economic and Social Development (2016-2020)* (13<sup>th</sup> Five-Year Plan) continues the national objectives, and calls for a focus on the steel industry, among others, in order to “encourage more of China’s equipment {and} technology... to go global by engaging in international cooperation on production capacity and equipment manufacturing through overseas investments, project contracting, technology cooperation, equipment exporting, and other means, with a focus on industries such as steel... {and} engineering machinery.”<sup>64</sup> The 13<sup>th</sup> Five-Year Plan further encourages the “transform{ation} and upgrade {of} major manufacturing technologies and improv{ing} policies to support enterprises... thereby helping key manufacturing sectors move into the medium-high end {and} improv{ing} the supply of consumer goods.”<sup>65</sup> To achieve this goal, the 13<sup>th</sup> Five-Year Plan states support for the development of “specialized small and medium enterprises,” such as downstream processors.<sup>66</sup> The 13<sup>th</sup> Five-Year Plan promotes the development of “a number of competitive, well-known brands” through improvements in both product quality and product supervision.<sup>67</sup> Finally, the 13<sup>th</sup> Five Year-Year Plan calls for lowering business costs by reducing taxes and fees, “maintain{ing} proper liquidity and interest rates,” and extending credit by creating a “national financing guaranty fund.”<sup>68</sup>

Based on the foregoing information, as FA, we determine that the GOC’s provision of policy loans to the file cabinet industry confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. In particular, we preliminarily find that loans by the GOC-controlled banks<sup>69</sup> constitute a direct transfer of funds under section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find, pursuant to section 771(5A)(D)(i) of the Act, policy loans to Chinese producers of file cabinets are *de jure* specific because the GOC has policies in place to encourage and support the growth of the steel processing sector in China,<sup>70</sup> of which we find the file cabinet industry to be a part.<sup>71</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies

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<sup>62</sup> *Id.* at Exhibit CVD-11.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at Exhibit CVD-70.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Commerce has found that China’s banking sector does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the continued dominant role of the government in the sector. *See* Memorandum, “Analysis of Banks and Trust Companies in China Memo,” dated July 24, 2019 (Lending Memorandum).

<sup>70</sup> *See* Petition at Exhibits CVD-9, CVD-19, CVD-20, and CVD-21.

<sup>71</sup> *Id.* at Vol. I Section 1.E.3.

benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for the non-responsive companies, a rate calculated for the same or similar program in another CVD proceeding involving imports from China.<sup>72</sup>

## 2. *Export Loans from Chinese State-Owned Banks*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s provision of Export Loans from Chinese State-Owned Banks constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Record evidence indicates that the file cabinets industry has benefitted from export loans from Chinese state-owned banks. As detailed in the “Policy Loans to the File Cabinets Industry” section, the GOC has a concerted strategy to develop the steel processing sector in China,<sup>73</sup> through special export financing from SOCBs through policy loans. As discussed above, we find that the steel processing sector in China includes the file cabinet industry.<sup>74</sup> Further record evidence indicates that the GOC has a coordinated export financing strategy which impacts the file cabinet industry. For example, in May 2014, the State Council issued a new export policy, *Decisions on Promotion of Stable Growth of Foreign Trade by General Office of the State Council*, which called for improving financing services for export-oriented enterprises.<sup>75</sup> This included “{i}mprov{ing} administration of credit grant by Chinese financial institutions; {and} strengthen{ing} cooperation with export enterprises in key industries.”<sup>76</sup> In addition, the 12th Five-Year Plan promoted various policies to assist Chinese companies in developing new competitive advantages to extend the domestic value-added chain, and to “Go Global” by investing overseas, creating an “international sales and marketing network and name brand products.”<sup>77</sup>

Based on the foregoing information, as FA, in regard to financial contribution, we preliminarily find that export loans provide a direct financial contribution from the GOC policy banks and SOCBs in China<sup>78</sup>, pursuant to section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find that, because the loans are contingent on export performance, this program is considered specific under sections 771(5A)(A) and (B) of the Act.<sup>79</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the

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<sup>72</sup> See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from China*).

<sup>73</sup> See Petition at Vol. Section 1.E.3.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at Exhibit CVD-27.

<sup>76</sup> *Id.* at Exhibit CVD-27 and Vol I, Section IV.

<sup>77</sup> *Id.* at Exhibit CVD-19.

<sup>78</sup> See Lending Memorandum.

<sup>79</sup> See Petition at Exhibits CVD-19 and CVD-27.

Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>80</sup>

### 3. *Export Seller’s Credit*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s provision of Export Seller’s Credit constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. According to the available record evidence, the mandate of the Export-Import Bank of China (EIBC) is to “facilitate national development strategies” through its financial support of “foreign trade, cross-border investment, the Belt and Road Initiative, international industrial capacity and equipment manufacturing cooperation, science and technology, cultural industry, {and} ‘going global’ endeavors of small and medium enterprises.”<sup>81</sup> Through the Export Seller’s Credit program, the EIBC provides loans to Chinese companies to finance their exports of manufactured vessels, equipment, general mechanical and electronic products, and high and new-technology as well as agricultural products.<sup>82</sup> Based on the available information, manufacturers of the subject merchandise receive such financing due to the export-orientation of their production and high-tech enterprise designation. For example, subject merchandise producer, Shenzhen Zhilai Sci and Tech Co., Ltd. (Zhilai) highlights its attendance at international expos aimed to expand exports and increase its international market share.<sup>83</sup> Moreover, Zhilai and subject merchandise producer, Jiangxi Yuanjin Science & Technology Group Co. have been designated as “High-Tech Enterprises” according to public information.<sup>84</sup> Paying out more than RMB 250.43 billion in export sellers credits, this program serves as a significant part of the EIBC’s objective to “promot{e} steady economic growth and structural adjustment, {support} foreign trade, and {implement} the ‘going global strategy.’”<sup>85</sup>

As FA, we determine that the GOC’s provision of export seller’s credits from the EIBC confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. In particular, in regard to financial contribution, we preliminarily find that the Export Seller’s Credit program provides a financial contribution through the direct transfer of funds from the EIBC under section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find as FA that the export seller’s credit are specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act.<sup>86</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies

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<sup>80</sup> See *Coated Paper from China*.

<sup>81</sup> See Petition at Exhibit CVD-28.

<sup>82</sup> *Id.* at Exhibits CVD-29 and CVD-30.

<sup>83</sup> *Id.* at Exhibit CVD-31.

<sup>84</sup> *Id.* at Exhibit CVD-33.

<sup>85</sup> *Id.* at Exhibit CVD-28.

<sup>86</sup> *Id.* at Exhibits CVD-29 – CVD-31.

benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 4.25 percent *ad valorem* for the non-responsive companies, a rate calculated for the same program in another CVD proceeding involving imports from China.<sup>87</sup>

#### 4. *Export Buyer’s Credit*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s provision of the Export Buyer’s Credit constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Based on record evidence, another one of the mechanisms through which the EIBC facilitates the GOC’s national development strategies is through the Export Buyer’s credit program. Export buyer’s credits are loans at preferential rates to foreign companies, such as importers, to promote the export of Chinese products, technology, and services.<sup>88</sup> According to the EIBC’s 2017 Annual Report, the annual increase in the export buyer’s credit for goods amounted to RMB 13.31 billion in 2017, leaving a year-end outstanding balance of RMB 94.98 billion, an increase of 16.3 percent over the previous year.<sup>89</sup>

As FA, we determine that the GOC’s provision of the Export Buyer’s Credit confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that the Export Buyer’s Credit program provides a financial contribution through the direct transfer of funds from the EIBC under section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find that Export Buyer’s Credit program is specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act.<sup>90</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>91</sup>

#### 5. *Export Credit Guarantees*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s provision of Export Credit Guarantees constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act.

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<sup>87</sup> See *Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011) (*Citric Acid from China*).

<sup>88</sup> See Petition at Exhibit CVD-34.

<sup>89</sup> *Id.* at Exhibit CVD-28.

<sup>90</sup> *Id.* at Exhibits CVD-34 and CVD-35.

<sup>91</sup> See *Coated Paper from China*.

Record evidence indicates that the EIBC provides export-oriented financing through export credit guarantees. Export credit guarantees permit banks to lower the rates charged for export financing. Categorized as an “important policy-based business of the Bank,” the \$12.878 billion in letters of guarantee issued in 2017 assisted “equipment manufacturing cooperation” and “provided financing support to medium- and small-sized businesses in ways such as supply chain financing to help them grow.”<sup>92</sup> The EIBC has focused its trade financing to give “major support to the ‘going global’ endeavors of Chinese high-tech, culture, and small and medium-sized companies. . . help{ing} them expand overseas markets and enhance their international competitiveness.”<sup>93</sup>

As FA, we determine that the GOC’s provision of the Export Credit Guarantee program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Based on the information available on the record, with regard to financial contribution, we preliminarily find that the Export Credit Guarantee program provides a financial contribution through the direct transfer of funds from the EIBC under section 771(5)(D)(i) of the Act.<sup>94</sup> Moreover, in regard to specificity, we preliminarily find that the Export Credit Guarantee program is specific because the guarantees are contingent upon export performance under section 771(5A)(A) and (B) of the Act.<sup>95</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(iii) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>96</sup>

#### 6. *Income Tax Reduction for High or New Technology Enterprises*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the Income Tax Reduction for High or New Technology Enterprises constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. According to record evidence, enterprises that are qualified as high- or new-technology enterprises (HNTEs) are entitled to a reduced rate of 15 instead of 25 percent.<sup>97</sup> Further, according to the *Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology, Ministry of Finance, and State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises*, manufacturers in “key” sectors, including steel production, are eligible for benefits through an income tax reduction.<sup>98</sup> As noted

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<sup>92</sup> See Petition at Exhibit CVD-28.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> See *Coated Paper from China*.

<sup>97</sup> See Petition at Exhibit CVD-36.

<sup>98</sup> *Id.*

above, Zhilai, a producer of file cabinets, has been designated as a “National High-Tech Enterprise,” making it eligible for this tax incentive.

As FA, we determine that the GOC’s provision of Income Tax Reduction for High or New Technology Enterprises confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Accordingly, in regard to financial contribution, we preliminarily find that an income tax exemption or reduction qualifies as a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act. Moreover, in regard to specificity, we preliminarily find that the income tax reductions for HNTEs are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited as a matter of law to only certain enterprises whose products are designated as being in “high-tech fields with state support.”<sup>99</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI pursuant to 19 CFR 351.509(a)(1)

The standard income tax rate for corporations in China in effect during the POI was 25 percent.<sup>100</sup> Thus, the highest possible benefit for all income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, for this program, as well as the Income Tax Deduction for Research and Development Expenses Under the Enterprise Income Tax Law program, combined, provide a 25 percent benefit). Consistent with past practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and VAT exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.<sup>101</sup>

#### 7. *Income Tax Deduction for Research and Development (R&D) Expenses Under the Enterprise Income Tax Law*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the Income Tax Deduction for R&D Expenses Under the Enterprise Income Tax Law (EITL) program constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. According to available evidence, Article 30.1 of the EITL allows Chinese companies in “important industries and projects whose development is supported and encouraged by the state,” specifically “important high-tech enterprises necessary to be supported by the state” to deduct from taxable income “expenditures for researching and developing new technologies, new products, and new techniques,” including

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<sup>99</sup> See Petition at Exhibit CVD-36.

<sup>100</sup> *Id.* at Volume III at 34 and Exhibit CVD-36.

<sup>101</sup> See, e.g., *Aluminum Extrusions from China Final IDM* at “Application of Adverse Inferences: Non-Cooperative Companies”; and *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 84 FR 5989 (February 25, 2019), and accompanying Preliminary Decision Memorandum (PDM) at 28-29, unchanged in *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Final Affirmative Countervailing Duty Determination of Critical Circumstances*, 84 FR 32723 (July 9, 2019) (collectively, *12-16.5 Inch Steel Wheels from China*).

Chinese producers of fabricated metal products.<sup>102</sup> Moreover, according to record evidence, several producers of subject merchandise invest in qualifying research and development to improve production, making them eligible for this program.<sup>103</sup>

As FA, we determine that the GOC's provision of Income Tax Deduction for R&D Expenses Under the Enterprise Income Tax Law confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. In particular, in regard to financial contribution, we preliminarily find that the income tax deduction provided by Article 30.1 of the EITL qualifies as a financial contribution in the form of revenue forgone by the GOC in accordance with section 771(5)(D)(ii) of the Act.<sup>104</sup> Moreover, in regard to specificity, we also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D in eligible high-technology sectors, and thus, is specific under section 771(5A)(D)(i) of the Act.<sup>105</sup> We note that we have previously determined this program to be countervailable in other determinations.<sup>106</sup>

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI pursuant to 19 CFR 351.509(a)(1). Consistent with Commerce's AFA rate selection methodology for income tax programs, as discussed above, we are applying the 25 percent AFA rate on a combined basis.

#### 8. *Provincial Government of Guangdong Tax Offset for R&D*

For the reasons explained in the "Facts Otherwise Available: GOC" section, our preliminary determination regarding whether the Provincial Government of Guangdong (PGOG) Tax Offset for R&D constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Available record evidence indicates that the PGOG permits enterprises to deduct R&D expenses incurred for new products and technologies.<sup>107</sup> The PGOG's consecutive five-year plans identify research and development as a primary aim in the advancement of the high-level manufacturing industry.<sup>108</sup> Furthermore, the five-year plans indicate the PGOG's intent to "pay more attention to the supply side of the structural reform" and promote high-end, intelligent, green, and intensive steel processing industries to become internationally

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<sup>102</sup> See Petition at Exhibit CVD-36.

<sup>103</sup> *Id.* at Exhibit CVD-38.

<sup>104</sup> *Id.* at Exhibit CVD-36.

<sup>105</sup> *Id.*

<sup>106</sup> See *Certain Tool Chests and Cabinets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 43331 (September 15, 2017), unchanged in *Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 56582 (November 29, 2017); *Aluminum Extrusions from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review, 2014*, 81 FR 92778 (December 20, 2016) (*Aluminum Extrusions 2014 Review*), and accompanying IDM at Comment 11; and *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers*).

<sup>107</sup> See Petition at 37-38 and Exhibits CVD-9, CVD-21, and CVD-23.

<sup>108</sup> *Id.* at Exhibits CVD-9, CVD-21, and CVD-23.

competitive.<sup>109</sup> We find that the PGOG’s consecutive five-year plans evidence the PGOG’s preferential selection of certain industries and projects which conform to the industrial development plans for the receipt of development assistance.<sup>110</sup> As a steel processing industry, the file cabinets sector is targeted for support under the PGOG’s provincial industrial plan.<sup>111</sup>

As FA, we determine that the GOC’s provision of the PGOG Tax Offset for R&D confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that income tax reductions provide a financial contribution in the form of revenue forgone by the PGOG in accordance with section 771(5)(D)(ii) of the Act. Moreover, in regard to specificity, we preliminarily find that this program is specific under section 771(5A)(D)(i) of the Act because it is limited to certain designated industries, including the steel processing industry.<sup>112</sup> We note that we have also found this program to be countervailable in previous determinations.<sup>113</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI pursuant to 19 CFR 351.509(a)(1). Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 9.71 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>114</sup>

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

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. According to the available record evidence, Foreign Invested Enterprises (FIEs) and certain domestic enterprises in encouraged industries receive an exemption from paying value-added taxes (VAT) and tariffs on imported equipment not for resale.<sup>115</sup> The program seeks to encourage foreign investment and introduce advanced equipment from abroad into China for upgrading domestic

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<sup>109</sup> *Id.* at Exhibits CVD-9, CVD-21, and CVD-23.

<sup>110</sup> *Id.* at 37-38 and Exhibits CVD-9, CVD-21, and CVD-23. (In previous Commerce determinations, we have found that that these tax deductions are only available to projects which conform to the central and provincial governments’ industrial development plans. *See, e.g., Aluminum Extrusions from China Final IDM* at 30).

<sup>111</sup> *See* Petition at Exhibits CVD-9, CVD-21, and CVD-23.

<sup>112</sup> *Id.* at Exhibits CVD-9, CVD-21, and CVD-23.

<sup>113</sup> *See Aluminum Extrusions 2014 Review IDM* at Comment 11; and *Wind Towers IDM* at 18.

<sup>114</sup> *See New Pneumatic Off-the-Road Tires from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010), unchanged in *New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 23286 (April 26, 2011) (collectively, *OTR Tires from China*).

<sup>115</sup> *See* Petition at Exhibit CVD-39.

industrial technology.<sup>116</sup> We find that the steel processing sector in China includes the file cabinet industry, which is an “encouraged industry” according to the *Circular of the State Council Concerning the Adjustment Policy of Import Equipment*.<sup>117</sup> Available record evidence indicates that at least one of the manufacturers of file cabinets is also an FIE that would qualify for this incentive.<sup>118</sup>

As FA, we determine that the GOC’s provision of Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that this program provides a financial contribution in the form of revenue forgone by the Chinese government in accordance with section 771(5)(D)(ii) of the Act.

Moreover, in regard to specificity, we preliminarily find that pursuant to section 771(5A)(D)(i) of the Act, this program is *de jure* specific because only certain enterprises are eligible to benefit from these exemptions.<sup>119</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 9.71 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>120</sup>

#### 10. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the VAT Refunds for FIEs Purchasing Domestically-Produced Equipment constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Information on the record indicates that the file cabinet industry is eligible to benefit from VAT refunds received during the relevant AUL. Specifically, under the tax system in effect prior to the EITL’s establishment in 2007,<sup>121</sup> FIEs, foreign enterprises, certain “encouraged” or “restricted” categories, and those that purchased from domestic markets for investment projects were eligible for VAT rebates on purchases of certain domestically-produced equipment.<sup>122</sup> Article 27 of the *Interim Regulations of the People’s Republic of China on Value-Added Tax* stated that value-added tax shall be collected from FIEs in accordance with resolutions of the Standing Committee of the National People’s Congress.<sup>123</sup> However, certain

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<sup>116</sup> *Id.* at Exhibit CVD-39.

<sup>117</sup> *Id.* at Exhibits CVD-39 and CVD-40.

<sup>118</sup> *Id.* at Exhibit CVD-42.

<sup>119</sup> *Id.* at Exhibits CVD-39 through CVD-42.

<sup>120</sup> See *OTR Tires from China*.

<sup>121</sup> See Petition at Exhibit CVD-36.

<sup>122</sup> *Id.* at Exhibits CVD-39, CVD-42, CVD-44, and CVD-45.

<sup>123</sup> *Id.* at Exhibit CVD-43.

entities, as noted above, were eligible for VAT rebates on purchases of certain domestically-produced equipment under the *Notice of the State Administration of Taxation Concerning the Proposed Management Methods for Tax Refund to Foreign-funded Enterprises for Their Domestic Equipment Purchases, No. 171*.<sup>124</sup> While there is no record evidence to indicate that this program continued with the establishment of the EITL, the benefits received from tax rebates on domestically-produced equipment will continue until the equipment has completely depreciated in value, which depending on the equipment, could continue through the AUL of this investigation.<sup>125</sup> Moreover, the steel processing industry, of which the file cabinet industry is a part, is considered an encouraged industry, and qualifies for this incentive.<sup>126</sup>

As FA, we determine that the GOC's provision of VAT Refunds for FIEs Purchasing Domestically-Produced Equipment confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that the VAT subsidy program qualifies as a financial contribution under section 771(5)(D)(ii) of the Act because it represents revenue forgone by the GOC.

Moreover, in regard to specificity, we preliminarily find that this program is specific within the meaning of sections 771(5A)(A) and (C) of the Act because the program is contingent upon the use of domestic over imported goods.<sup>127</sup> We note that we have found this program countervailable in prior determinations.<sup>128</sup>

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. Consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 9.71 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>129</sup>

### 11. Provision of Land for LTAR

For the reasons explained in the "Facts Otherwise Available: GOC" section, our preliminary determination regarding whether the GOC's Provision of Land constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. In examining this program, Commerce looks to whether government plans or other policy

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<sup>124</sup> *Id.* at Exhibit CVD-39 and CVD-45.

<sup>125</sup> *Id.* at Exhibit CVD-18.

<sup>126</sup> *Id.* at Exhibits CVD-41 and CVD-45.

<sup>127</sup> *Id.* at Exhibit CVD-39, CVD-44, CVD-45.

<sup>128</sup> See *Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 27844 (August 14, 2017), and accompanying PDM at 48-49, unchanged in *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination*, 83 FR 9274 (March 5, 2018); *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014); and *CFS from China IDM* at 13).

<sup>129</sup> See *OTR Tires from China*.

directives lay out objectives or goals for developing the industry and call for preferential land pricing to support such objectives or goals. According to record evidence, the GOC's national five-year plans identify the provision of land and land financing as policy tools to direct economic development for key objectives.<sup>130</sup> Specifically, China's 13th Five-Year Plan continued the GOC's longstanding practice of allocating land: "siloing of land-use rights allows the government to determine what land is used for and prevents land from being put to use on the basis of market outcomes determined by individual users, thus distorting land prices in China and precluding meaningful, market-based land valuation."<sup>131</sup> Further, national and local governments "often sell land-use rights for artificially low prices and sometimes simply give them away," based on government policy and budgetary objectives, as well as government-determined land-use plans.<sup>132</sup>

For example, the 11th Five-Year Plan instructs strengthened support for industrial policy, especially for high tech industries, alongside strengthened cooperation of land policies: "Strengthen and improve industrial policy work, reinforce the unified planning for domestic industry development and for investment introduction, strengthen the cooperation of the policies in credit, land, environmental protection, safety and science and technology with the industrial policy and use economic means to promote the development of industries. Strengthen the support for the weak links of high tech industries and equipment manufacturing industry, mainly support research and development and foster core competitive power."<sup>133</sup> The 11th Five-Year Plan further calls for giving development priority to the high technology industry and intensive processing by enhancing the efficiency of land resources and the functions of special economic zones.<sup>134</sup> Available record evidence indicates that certain file cabinet producers are located in the special economic zones of Huangkeng Industrial District, Jiangmen, Guangdong,<sup>135</sup> and Guangde County Development Zone, Anhui.<sup>136</sup>

As FA, we determine that the GOC's provision of Land for LTAR confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that the provision of land-use rights by the government constitutes a financial contribution through the provision of a good within the meaning of section 771(5)(D)(iii) of the Act. Moreover, in regard to specificity, we preliminarily find that the provision of land-use rights for LTAR is specific pursuant to section 771(5A)(D)(i) of the Act because it is limited to certain enterprises.<sup>137</sup>

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies

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<sup>130</sup> See Petition at Exhibit CVD-73; see also *12-16.5 Inch Steel Wheels from China* PDM at 48.

<sup>131</sup> See Petition at Exhibit CVD-73; see also Memorandum, "Land Analysis Memo," dated July 24, 2019 (Land Analysis Memorandum).

<sup>132</sup> See Petition at Exhibit CVD-73.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.* at Exhibit CVD-46.

<sup>136</sup> *Id.* at Exhibit GEN-8.

<sup>137</sup> See Land Analysis Memorandum; see also Petition at Exhibit CVD-73.

benefitted from this program during the POI within the meaning of section 771(5)(E)(iv) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 13.36 percent *ad valorem* for the non-responsive companies, a rate calculated for the same or similar program in another CVD proceeding involving imports from China.<sup>138</sup>

## 12. Provision of Hot-Rolled/Cold-Rolled Steel for LTAR

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s Provision of Hot-Rolled and Cold-Rolled Steel for LTAR constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act.

Available record evidence indicates that the primary input in the production of Chinese file cabinets is hot-rolled or cold-rolled carbon steel.<sup>139</sup> Available record evidence also supports that the GOC actively promotes the steel industry, including the hot-rolled and cold-rolled carbon steel industry, by consolidating government ownership of several large steel producers, which in turn, allows the GOC to control the implementation of its industrial policy by providing key steel inputs to certain steel processors.<sup>140</sup> We find that Article 20 of the *Order of the National Development and Reform Commission No. 35: Policies for Development of Iron and Steel Industry (Iron and Steel Policy Order)*, which promotes the development of a small number of large enterprise groups “possessing international competitive capacities” to be created through the government’s encouraged “strategic reorganization” supports this point.<sup>141</sup> Moreover, the *Circular of the Ministry of Industry and Information Technology on Printing and Distributing the Iron and Steel Industry 12<sup>th</sup> Five Year Development Plan Gon Xin Gui (2011) No. 480 (Iron and Steel Plan)* identifies specific Chinese steel companies to be supported and developed as national champions, including state-owned enterprises (SOEs).<sup>142</sup> Given the stated policy of the GOC and the Provincial Government of Jiangsu (PGOJ) to encourage consolidation of the steel industry through mergers and acquisitions, as noted in the 13<sup>th</sup> Five-Year Plan,<sup>143</sup> and the *Jiangsu Province Iron and Steel Plan*,<sup>144</sup> the predominant role of SOEs in the steel industry,<sup>145</sup> we find that significant government ownership of steel enterprises that supplied steel processing industries, including file cabinet producers, is present based on the available evidence.<sup>146</sup> Moreover, the record indicates that prices of hot-rolled and cold-rolled steel coils were 31 percent and 30 percent lower, respectively, than the rest of the world prices for each industry in

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<sup>138</sup> See *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) (*Woven Sacks from China*), and accompanying IDM at 18.

<sup>139</sup> See Petition at 45.

<sup>140</sup> *Id.* at Exhibit CVD-6.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.* at Exhibit CVD-7.

<sup>143</sup> *Id.* at Exhibit CVD-20.

<sup>144</sup> *Id.* at Exhibit CVD-11.

<sup>145</sup> See Memorandum, “Placing Documents on the Record,” dated July 24, 2019 (Public Bodies Memorandum) at 21-23.

<sup>146</sup> See Petition at Exhibits CVD-6, CVD-7, CVD-11, and CVD-13.

2018.<sup>147</sup> As FA, we find that, through ownership of the majority of Chinese steel producers, the GOC is able to encourage industrial development through low-cost provision of the primary input in the production of file cabinets, hot-rolled and cold-rolled steel.<sup>148</sup>

As FA, we preliminarily determine that the GOC's Provision of Hot-Rolled/Cold-Rolled Steel for LTAR confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, with regard to financial contribution, we preliminarily find that the GOC exercises meaningful control over the government and non-government-owned domestic producers of hot-rolled and cold-rolled steel and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.<sup>149</sup> Therefore, we preliminarily determine that these enterprises are "authorities" within the meaning of section 771(5)(B) of the Act.<sup>150</sup> Thus, the provision of hot-rolled/cold-rolled steel by SOEs to file cabinets producers for LTAR constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

Moreover, in regard to specificity, we preliminarily find that the provision of hot-rolled/cold-rolled steel for LTAR is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, as it is provided to a limited number of Chinese industries, namely, producers in steel processing industries.<sup>151</sup> Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies purchased hot-rolled and cold-rolled steel from authorities and benefitted from this program during the POI within the meaning of section 771(5)(E)(iv) of the Act. Consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 44.91 percent *ad valorem* for the non-responsive companies, a rate calculated for the same program in another CVD proceeding involving imports from China.<sup>152</sup>

### 13. Provision of Galvanized Steel for LTAR

For the reasons explained in the "Facts Otherwise Available: GOC" section, our preliminary determination regarding whether the GOC's Provision of Galvanized Steel for LTAR constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. The record indicates that file cabinet producers may purchase hot-rolled or cold-rolled steel coils that have been previously galvanized and coated in zinc, such as hot-dipped galvanized steel and electro-galvanized steel.<sup>153</sup> As noted above, the GOC has a concerted policy to promote the steel

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<sup>147</sup> *Id.* at Exhibit CVD-71.

<sup>148</sup> *See* Public Bodies Memorandum.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *See* Petition at 49 and Exhibits CVD-6, CVD-7, and CVD-45.

<sup>152</sup> *See Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 84 FR 11744 (March 28, 2019) (*Steel Wheels from China*), and accompanying IDM (citing *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 73 FR 31966 (July 22, 2008) (*Steel Pipe from China*))

<sup>153</sup> *See* Petition at Exhibit GEN-14; *see also* Appendix I for the scope of this investigation.

industry. This policy includes the support of producers of “high-strength and high-toughness” steel through the provision of “coordinate{d} policies . . . including fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, {and} environmental protection policy,” that support these industries.<sup>154</sup> Further, the GOC’s support is demonstrated through its predominant ownership role in five of China’s six largest steel producers, each of which produces galvanized steel products.<sup>155</sup> Moreover, the record indicates that galvanized steel prices were 36 percent lower than the rest of the world prices for in 2018.<sup>156</sup>

As FA, we determine that the GOC’s provision galvanized steel for LTAR confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that the GOC exercises meaningful control over the government and non-government-owned domestic producers of galvanized steel and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.<sup>157</sup> Therefore, we preliminarily determine that these enterprises are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>158</sup> Thus, the provision of galvanized steel by SOEs to file cabinets producers for LTAR constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

Moreover, in regard to specificity, we preliminarily find that the provision of galvanized steel for LTAR is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, as it is provided to a limited number of Chinese industries, namely, those in the steel processing industries.<sup>159</sup> We preliminarily consider the file cabinet industry to be a steel processing industry.<sup>160</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies purchased galvanized steel from authorities and benefitted from this program during the POI within the meaning of section 771(5)(E)(iv) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 44.91 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>161</sup>

#### *14. Provision of Zinc for LTAR*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s Provision of Zinc for LTAR constitutes a financial contribution and is specific is based on FA, pursuant to section 776(a)(1) of the Act. Available

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<sup>154</sup> See Petition at Exhibits CVD-6 and CVD-7.

<sup>155</sup> *Id.* at Exhibits CVD-47 through CVD-58.

<sup>156</sup> *Id.* at Exhibit CVD-71.

<sup>157</sup> See Public Bodies Memorandum.

<sup>158</sup> *Id.*

<sup>159</sup> See Petition at 55 and Exhibits CVD 7 and CVD-47.

<sup>160</sup> *Id.* at Vol. I Section 1.E.3.

<sup>161</sup> See *Steel Wheels from China* (citing *Steel Pipe from China*).

record evidence indicates that file cabinet producers powder-coat their hot-rolled and cold-rolled steel with zinc to provide resistance to corrosion.<sup>162</sup> Further, the record indicates that the zinc coating could be considered a significant input in the production process of file cabinets.<sup>163</sup> Furthermore, the GOC's stated objective to promote the non-ferrous metals industry, among others, through international cooperation on production capacity and equipment manufacturing, majority ownership in the non-ferrous metal industry,<sup>164</sup> and the tight controls and export restrictions on zinc (*e.g.*, quotas, licenses, and export taxes), which keep domestic zinc supplies artificially high, ensuring low-cost zinc to favored industries, including steel processing industries.<sup>165</sup> As noted above, we consider the file cabinet industry to be a steel processing industry.<sup>166</sup>

As FA, we determine that the GOC's provision of zinc for LTAR confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that the GOC exercises meaningful control over the government and non-government-owned domestic producers of zinc and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.<sup>167</sup> Therefore, we preliminarily determine that these enterprises are "authorities" within the meaning of section 771(5)(B) of the Act.<sup>168</sup> Thus, the provision of zinc to file cabinets producers for LTAR constitutes a financial contribution in the form of a provision of a good within the meaning of section 771(5)(D)(iii) of the Act.

Moreover, in regard to specificity, we preliminarily find that the provision of zinc for LTAR is specific within the meaning of section 771(5A)(D)(iii) of the Act, as it is provided to a limited number of Chinese industries deemed critical to the national economy, including steel processing industries.<sup>169</sup> As we explained above, we find that the file cabinet industry is part of the steel processing industry.

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies purchased zinc from authorities and benefitted from this program during the POI within the meaning of section 771(5)(E)(iv) of the Act. Consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 0.22 percent *ad valorem* for the non-responsive companies, a rate calculated for the same program in another CVD proceeding involving imports from China.<sup>170</sup>

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<sup>162</sup> See Petition at Vol. I Section 1.E.3 and Exhibit GEN-14; *see also* Appendix I for the scope of this investigation.

<sup>163</sup> See Petition at Exhibit CVD-59.

<sup>164</sup> *Id.* at Exhibits CVD-45, CVD-60, and CVD-70; *see also* Public Bodies Memorandum at 21.

<sup>165</sup> *Id.* at Exhibits CVD-60, CVD-61, and CVD-70.

<sup>166</sup> *Id.* at Vol. I Section 1.E.3.

<sup>167</sup> See Public Bodies Memorandum.

<sup>168</sup> *Id.*

<sup>169</sup> See Petition at Exhibits CVD-45 and CVD-60.

<sup>170</sup> See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016), and accompanying IDM at 10-11.

### 15. Provision of Electricity for LTAR

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding the GOC’s provision of electricity for LTAR is based on FA. As FA, we determine that the GOC’s provision of electricity for LTAR confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively.

The available record evidence demonstrates that the GOC uses energy subsidies, including the manipulation of the price of electricity, in pursuit of its critical economic objectives.<sup>171</sup> Furthermore, the record supports the notion that the GOC “tightly controls the price of ... electricity at well below {its} true economic level,” in particular for the “value-chain position of Chinese manufacturing” industries.<sup>172</sup> This electricity manipulation for economic pursuit persists in provincial government implementation as well. For example, in the *Jiangsu Province Iron and Steel Plan*, the PGOJ indicates that it shall follow the GOC’s direction to regulate electricity prices: “{the PGOJ}, {a}ccording to the spirit of the documents of the State Council and provincial people’s government, research the scope and standards for the establishment of tiered electricity pricing....”<sup>173</sup>

Moreover, the GOC considers the steel processing sector as critical to the country’s continued economic growth.<sup>174</sup> This evidence thus indicates, as FA, that the GOC employs preferential electricity rates as a policy tool to promote and encourage the development of China’s steel processing industries, while “encouraging the discontinuation of outdated production capacity.”<sup>175</sup> Accordingly, the GOC’s stated objective to support certain sectors (including the steel industry and its downstream processing industries) and specific regions (including economic development zones in which file cabinet producers are located), in tandem with the GOC’s manipulation of electricity rates in order to attain its economic development goals, lends support to our preliminary finding, as FA, that the GOC’s provision of electricity for LTAR to file cabinet producers and exporters is specific and provides a financial contribution.<sup>176</sup>

Specifically, in regard to financial contribution, we preliminarily find that the provision of electricity for LTAR by the GOC confers a financial contribution under section 771(5)(D)(iii) of the Act because the GOC is providing file cabinet producers a good or service. Moreover, we preliminarily find that the provision of electricity is specific, pursuant to section 771(5A)(D)(iii)(I) of the Act, because key industries, including steel, are provided with low-cost electricity as an economic incentive.<sup>177</sup>

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<sup>171</sup> See Petition at Exhibits CVD-14, CVD-20, and CVD-62.

<sup>172</sup> *Id.* at Exhibit CVD-62.

<sup>173</sup> *Id.* at Exhibit CVD-11.

<sup>174</sup> *Id.* at Exhibit CVD-20.

<sup>175</sup> *Id.* at Petition Exhibits CVD-7 and CVD-62.

<sup>176</sup> *Id.* at Exhibits CVD-6, CVD-7, CVD-20, and CVD-62.

<sup>177</sup> *Id.* at Exhibits CVD-20 and CVD-62.

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(iv) of the Act. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 20.06 percent *ad valorem* for the non-responsive companies, a rate calculated for the same program in another CVD proceeding involving imports from China.<sup>178</sup>

#### 16. GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding whether the GOC’s and Sub-Central Government’s Subsidies for the Development of Famous Brands and China World Top Brands constitute financial contributions and are specific is based on FA, pursuant to section 776(a)(1) of the Act. Available record evidence indicates that the General Administration of Quality Supervision, Inspection and Quarantine of China organizes and implements state measures and policies on the “promotion ... strategy of Famous Brand Names.”<sup>179</sup> The Famous Brands and China World Top Brands programs provide “grants, loans, and other incentives to enterprises in China, apparently in part to implement an industrial policy of promoting the development of global Chinese brand names, and to increase sales of Chinese branded and other Chinese merchandise around the world.”<sup>180</sup> These programs are explicitly tied to exports.<sup>181</sup>

As FA, we determine that the GOC’s provision of the GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that this program provides a financial contribution in the form of the direct transfer of funds, pursuant to section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find this program contingent upon export performance, alone or as one of two or more conditions, and, thus, countervailable in accordance with section 771(5A)(A) and (B) of the Act.<sup>182</sup> We also note that we have previously found assistance through this program to be countervailable.<sup>183</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies

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<sup>178</sup> See *Chlorinated Isocyanates from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*; 2012, 79 FR 56560 (September 22, 2014), and accompanying IDM (*Isos from China Investigation*).

<sup>179</sup> See Petition at Exhibit CVD-64.

<sup>180</sup> See *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives*, 74 FR 7494 (February 17, 2009).

<sup>181</sup> See Petition at Vol. I Section IV.

<sup>182</sup> *Id.* at Exhibit CVD-65.

<sup>183</sup> 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*), and accompanying IDM at 48; and *Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009).

benefitted from this program during the POI within the meaning of section 771(5)(E) of the Act and 19 CFR 351.504. Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 0.62 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>184</sup>

### 17. *Special Fund for Energy Savings Technology Reform*

The GOC has explicitly stated its intent to develop energy savings through improved technology in many of its regulations. For example, in the *Iron and Steel Policy Order*, the GOC designates “sustainable development” as an aim of its iron and steel policy.<sup>185</sup> The *Iron and Steel Plan* also details its plan to “strongly promote specialty steel enterprises to improve technologies and upgrade products, develop green, low carbon, energy-saving, and environmentally-friendly steel products ....”<sup>186</sup> In addition, the 12<sup>th</sup> Five-Year Plan outlines the GOC’s implementation plan for “nurturing and development the strategic and emerging industries” such as “energy saving and environmental protection,” through focus on “developing key technologies, equipment, products, and services that are highly efficient, energy-saving, advanced, environmentally-friendly, and featuring recycling of resources.”<sup>187</sup> The 13<sup>th</sup> Five-Year Plan states the GOC’s continued objective of implementing major technological transformation and upgrades through “support” for the “energy efficiency environmental protection” industry, as well as the promotion of “energy efficient innovation and industrialization of environmental protection.”<sup>188</sup> Moreover, the GOC identifies “comprehensive energy-saving technologies” as a major industry, product and/or technology encouraged for development.<sup>189</sup>

In addition, the *Jiangsu Province Iron and Steel Plan* indicates that, as one of its policy measures, the PGOJ shall, in part, “expand the current provincial-level special funds and strengthen the support provided to the iron and steel industry for technological improvement... energy savings, and reduction of emissions.”<sup>190</sup> Available record evidence also indicates that the GOC provides awards to enterprises undertaking energy-saving technology reform projects.<sup>191</sup> Specifically, the *Circular of Ministry of Finance and National Development and Reform Commission on Printing and Distributing Interim Measures on Administration of Energy-Saving Technology Reform Awards Fiscal Funds (Special Funds Circular)*, indicates that the “Ministry of Finance will distribute the funds to enterprises implementing these projects in time according to relevant treasury rules” and that these projects will be “issued by the National Development and Reform Commission.”<sup>192</sup> Furthermore, the *Special Funds Circular* indicates that “local

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<sup>184</sup> See *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*, 82 FR 27466 (June 15, 2017) (*Isos from China Review*).

<sup>185</sup> See Petition at Exhibit CVD-6.

<sup>186</sup> *Id.* at Exhibit CVD-7.

<sup>187</sup> *Id.* at Exhibit CVD-19.

<sup>188</sup> *Id.* at Exhibit CVD-20.

<sup>189</sup> *Id.* at Exhibit CVD-45.

<sup>190</sup> *Id.* at Exhibit CVD-11.

<sup>191</sup> *Id.* and Exhibit CVD-67.

<sup>192</sup> *Id.*

authorities responsible for energy-saving will work with local finance authorities to adopt necessary measures, implement relevant policies, and supervise the implementation of energy-saving technology renovation projects to ensure the completion of those projects and achieve the energy-saving goals.”<sup>193</sup>

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding the GOC’s provision of the Special Fund for Energy Savings Technology Reform program is based on FA. As FA, we determine that the GOC’s provision of the Special Fund for Energy Savings Technology Reform program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that grants provided under this program are financial contributions pursuant to section 771(5)(D)(i) of the Act.<sup>194</sup> Moreover, in regard to specificity, we preliminarily find that this program is specific under section 771(5A)(D)(i) or 771(5A)(D)(iii)(I) of the Act because it is limited to enterprises implementing projects approved by the National Development and Reform Commission, as a matter of law or as a matter of fact.<sup>195</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E) of the Act and 19 CFR 351.504(a). Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 0.62 percent *ad valorem* for the non-responsive companies, a rate calculated for the same program in another CVD proceeding involving imports from China.<sup>196</sup>

#### 18. *SME International Market Exploration/Development Fund*

Available record evidence indicates that the International Market Fund was established in 2000 and renewed in 2010 in order to encourage the development of SMEs through the reduction of operating risks in the international market.<sup>197</sup> In its 12<sup>th</sup> Five-Year Plan, the GOC underlines the importance of SMEs in its strategy to transform and upgrade economic structures and to improve the core competitiveness of its industries.<sup>198</sup> Specifically, the 12<sup>th</sup> Five-Year Plan states:

“Section 5: Boosting the Development of Small and Medium Enterprises: Vigorously developing small and medium enterprises and improving the systems of policies and laws for small and medium enterprises.... A favorable environment will be created to arouse the innovation vigor of small and medium enterprises. We will also establish and improve the financial service and credit guarantee system for small and medium enterprises, raise the scale and proportion of loans granted to small and medium

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<sup>193</sup> *Id.*

<sup>194</sup> *Id.* at Exhibit CVD-67.

<sup>195</sup> *Id.* at Exhibits CVD-7 and CVD-67.

<sup>196</sup> See *Isos from China Review*.

<sup>197</sup> See *Aluminum Extrusions 2013 IDM* at 49.

<sup>198</sup> See Petition at Exhibit CVD-19.

enterprises, expand the direct financing channels, well implement {sic} and improve the preferential tax policies and alleviate the social burden of small and medium enterprises.<sup>199</sup>“

The 13<sup>th</sup> Five Year Plan maintained the GOC’s stated intent to “support the development of specialized small- and medium-sized enterprises.”<sup>200</sup>

Record evidence also indicates that provincial governments offer similar grants.<sup>201</sup> The PGOG and the PGOJ refer to the support of SMEs as a central tenant of their provincial government development plans.<sup>202</sup> Specifically, PGOG implemented the Guangdong 12th Five-Year Plan, which encouraged an industrial structure in which “state-owned capital” was concentrated in “backbone enterprises,” SMEs, focusing on downstream, value-added products and emphasizing an outward-orientation.<sup>203</sup> The *Jiangsu Province Iron and Steel Plan* similarly asserts that the support of SMEs is one of its main goals: “Strengthen the classification of small- and medium-sized enterprises and encourage the launch of specialty products.”<sup>204</sup> These regulations indicate the national and provincial focus on SMEs as strategic and “central enterprises” for the development of the Chinese economy.<sup>205</sup>

The GOC has stated its intent to financially support industries and enterprises which it determines to be critical to its national economic development, generally, and to financially support SMEs through the development of financial mechanisms to “arouse innovative rigor,” specifically.<sup>206</sup> SMEs must also demonstrate an export focus: in order to qualify for the SME International Market Exploration/Development Fund, an SME should have: (1) export and import rights; (2) exports of less than \$45 million; (3) an accounting system; (4) personnel with foreign trade skills; and (5) a plan for international exploration.<sup>207</sup>

Available record evidence indicates that certain producers of file cabinets would be considered export-oriented SMEs. Specifically, certain named producers have less than 500 employees, and in certain instances, less than 100 employees, qualifying these companies as small- or medium-sized enterprises.<sup>208</sup> Furthermore, available record evidence indicates that file cabinet producers are export-oriented.<sup>209</sup>

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<sup>199</sup> *Id.*

<sup>200</sup> *See* Petition at Exhibit CVD-20.

<sup>201</sup> *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017).

<sup>202</sup> *See* Petition at Exhibits CVD-9 and CVD-11.

<sup>203</sup> *Id.* at Exhibit CVD-9.

<sup>204</sup> *Id.* at Exhibit CVD-11.

<sup>205</sup> *Id.* at Exhibits CVD-9, CVD-11, and CVD-20.

<sup>206</sup> *Id.* at Exhibits CVD-45 and CVD-19.

<sup>207</sup> *Id.*

<sup>208</sup> *Id.* at Exhibit GEN-14. (The available record evidence does not include the Chinese definition of “small” or “medium” within the SME-realm, however, it is reasonable to assume a company with less than 100 employees would be considered “small” under most conceptions of the term.)

<sup>209</sup> *Id.* at Exhibit GEN-14.

Accordingly, as FA, we preliminarily determine that the GOC's provision of the SME International Market Exploration/Development Fund program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find that grants provided under this program are financial contributions under section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find that the program is contingent on export performance under sections 771(5A)(A) and (B) of the Act.

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). Consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 0.62 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>210</sup>

#### 19. SME Technology Innovation Fund

The GOC established the SME Technology Fund in order to support commercial technological progress.<sup>211</sup> Administered by the Ministry of Science and Technology and the Ministry of Finance, qualifying enterprises must be "in line with national industrial policy, technology, high technology content, strong innovation," and must have production in an area with a "clear market demand and strong market competitiveness."<sup>212</sup>

For the reasons explained in the "Facts Otherwise Available: GOC" section, our preliminary determination regarding the GOC's provision of the SME Technology Innovation Fund program is based on FA. As FA, we determine that the GOC's provision of the SME Technology Innovation Fund program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Specifically, in regard to financial contribution, we preliminarily find grants provided under this program are financial contributions through direct transfer of funds under section 771(5)(D)(i) of the Act.

Moreover, in regard to specificity, we preliminarily find these grants are specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii)(I) of the Act because the program beneficiaries are limited as a matter of law or fact.<sup>213</sup>

Furthermore, for the reasons explained in the "Application of Total AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E) of the Act and 19 CFR 351.504(a). Consistent with Commerce's AFA rate selection methodology, we determine a countervailable subsidy rate of 0.62 percent *ad valorem* for the non-responsive

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<sup>210</sup> See *Isos from China Review*.

<sup>211</sup> See Petition at Exhibit CVD-68.

<sup>212</sup> *Id.*

<sup>213</sup> See Exhibit CVD-68.

companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>214</sup>

## 20. *Export Assistance Grants*

For the reasons explained in the “Facts Otherwise Available: GOC” section, our preliminary determination regarding the GOC’s provision of the Export Assistance Grants program is based on FA. As FA, we determine that the GOC’s provision of the Export Assistance Grants program confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Available record evidence demonstrates the GOC and provincial governments’ stated intent to provide financial support to export-oriented industries, including the steel processing industry.<sup>215</sup> In its *Iron and Steel Policy Order*, the GOC states: “The state encourages the enterprises that engage in the production of iron and steel and equipment manufacture to export the technologies... {and} shall grant support...”<sup>216</sup> Moreover, in the 12<sup>th</sup> Five-Year Plan, the GOC indicates its intent to maintain and “cultivate new competitive advantages of export.”<sup>217</sup> Further, the GOC has designated “export-oriented products that are highly competitive in the international markets” as major industries, products, and/or technologies encouraged for development in China.<sup>218</sup> According to the GOC’s 13<sup>th</sup> Five-Year Plan, which, in part, is aimed at international cooperation on production capacity and equipment manufacturing on industries such as steel, the GOC stated that in order to support the aforementioned efforts, it will improve its taxation, finance, insurance, investment and financing platforms, and risk assessment.<sup>219</sup>

The PGOG indicates provincial government support for export-oriented enterprises. Specifically, the PGOG notes its intent to “advance export competition,” and “enhance the quality of foreign trade and the international competitiveness, achieve the sustainable development of foreign trade.”<sup>220</sup> Based on the national and provincial governments’ stated intent to provide financial support to export-oriented industries, in particular, steel processing industries, we find, as FA, that the GOC’s provision of export assistance grants programs confers a financial contribution and is specific. Specifically, in regard to financial contribution, we preliminarily find that grants provided under this program are financial contributions through direct transfer of funds under section 771(5)(D)(i) of the Act. Moreover, in regard to specificity, we preliminarily find that these grants are specific under section 771(5A)(A) and (B) of the Act because they are contingent on export performance.<sup>221</sup>

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<sup>214</sup> See *Isos from China Review*.

<sup>215</sup> See Petition at Exhibits CVD-6, CVD-9, CVD-11, CVD-19, CVD-23, and CVD-45.

<sup>216</sup> *Id.* at Exhibit CVD-6.

<sup>217</sup> *Id.* at Exhibit CVD-19.

<sup>218</sup> *Id.* at Exhibit CVD-45.

<sup>219</sup> *Id.* at Exhibit CVD-23.

<sup>220</sup> *Id.* at Exhibit CVD-9.

<sup>221</sup> *Id.* at Exhibits CVD-6 and CVD-23.

Commerce has found that certain downstream steel processing industries have benefitted from countervailable export grants.<sup>222</sup> In at least one instance, we have determined that the GOC provides grants based on the export performance or export marketing activities of certain companies.<sup>223</sup>

Furthermore, for the reasons explained in the “Application of Total AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E) of the Act and 19 CFR 351.504(a). Consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 0.62 percent *ad valorem* for the non-responsive companies, a rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>224</sup>

## **XI. CALCULATION OF THE ALL-OTHERS RATE**

Sections 703(d)(1)(A)(i) and 705(c)(5)(A) of the Act state 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. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates are zero, *de minimis*, or based entirely on facts available, Commerce may use “any reasonable method” for assigning an all-others rate. The SAA states that the “expected method” under “any reasonable method” is that Commerce will weight-average the rates that are zero, *de minimis*, and based entirely on facts available.<sup>225</sup> In this investigation, the only rates calculated are based entirely on facts available, pursuant to section 776 of the Act. Accordingly, we are using “any reasonable method” to establish the all-others rate. We find that it is reasonable to rely on a simple average of the total AFA rates computed for each of the non-responsive companies as the all-others rate in this preliminary determination. Commerce has taken this approach to calculating the all-others rate in other CVD investigations.<sup>226</sup>

## **XII. ITC NOTIFICATION**

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<sup>222</sup> *Id.* (citing *Drawn Stainless Steel Sinks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) (*Stainless Steel Sinks*); and *Galvanized Steel Wire from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 17418 (March 26, 2012)).

<sup>223</sup> *Id.* (citing *Stainless Steel Sinks* IDM at 25).

<sup>224</sup> *See Isos from China Review*.

<sup>225</sup> *See SAA* at 873.

<sup>226</sup> *See, e.g., Countervailing Duty Investigation of Stainless Steel Flanges from the People’s Republic of China: Preliminary Affirmative Determination*, 83 FR 3124 (January 23, 2018), and accompanying PDM at “Calculating of the All-Others Rate,” unchanged in *Countervailing Duty Investigation of Stainless Steel Flanges from the People’s Republic of China: Final Affirmative Determination*, 83 FR 15790 (April 12, 2018); and *Countervailing Duty Investigation of Ammonium Sulfate from the People’s Republic of China: Preliminary Affirmative Determination*, 81 FR 76332 (November 2, 2016), and accompanying PDM at “Calculation of the All-Other Rates,” unchanged in *Ammonium Sulfate from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 4850 (January 17, 2017).

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 administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance. In accordance with section 705(b)(2) of the Act, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce makes its final affirmative determination.

### **XIII. DISCLOSURE AND PUBLIC COMMENT**

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary determination within five days of its public announcement, or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA in the calculation of the benefit for the non-responsive companies, and the applied AFA rates are based on rates calculated in prior proceedings, there are no calculations to disclose.

Commerce will issue a memorandum establishing the deadline to file case briefs or other written comments for all issues following the publication of this preliminary determination in the *Federal Register*. These submissions may be made to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>227</sup> For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the concurrent antidumping duty investigation.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>228</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>229</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

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<sup>227</sup> See 19 CFR 351.309(c)-(d); see also 19 CFR 351.303 (for general filing requirements).

<sup>228</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>229</sup> See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using Commerce's electronic records system, ACCESS.<sup>230</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>231</sup> on the due dates established by Commerce.

**XIV. VERIFICATION**

Because we received no submissions of information from Chinese exporters or producers of file cabinets, Commerce does not intend to conduct verification.

**XV. RECOMMENDATION**

We recommend applying the above methodology for this preliminary determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

7/24/2019



Signed by: JEFFREY KESSLER

\_\_\_\_\_  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

<sup>230</sup> See 19 CFR 351.303(b)(2)(i).

<sup>231</sup> See 19 CFR 351.303(b)(1).

## Appendix

Program Name		Rate	Source	Export Subsidy
1	Policy Loans to File Cabinets Industry	10.54	<i>Coated Paper from China</i>	
2	Export Loans from Chinese State-Owned Banks	10.54	<i>Coated Paper from China</i>	X <sup>232</sup>
3	Export Seller's Credit	4.25	<i>Citric Acid from China</i>	X <sup>233</sup>
4	Export Buyer's Credit	10.54	<i>Coated Paper from China</i>	X <sup>234</sup>
5	Export Credit Guarantees	10.54	<i>Coated Paper from China</i>	X <sup>235</sup>
6	Income Tax Reduction for High or New Technology Enterprises	25.00	The standard income tax rate for corporations in China during the period of investigation was 25 percent. Thus, the highest possible benefit for all income tax reduction or exemption programs combined is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis ( <i>i.e.</i> , finding that the two programs, combined, provide a 25 percent benefit).	
7	Income Tax Deduction for Research and Development Expenses Under the Enterprise Income Tax Law			
8	Provincial Government of Guangdong (PGOG) Tax Offset for R&D	9.71	<i>OTR Tires from China</i>	
9	Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	9.71	<i>OTR Tires from China</i>	
10	VAT Refunds for FIEs Purchasing Domestically-Produced Equipment	9.71	<i>OTR Tires from China</i>	
11	Provision of Land for LTAR	13.36	<i>Woven Sacks from China</i>	

<sup>232</sup> See Initiation Checklist at 10.

<sup>233</sup> *Id.* at 11.

<sup>234</sup> *Id.* at 12.

<sup>235</sup> *Id.* at 13.

12	Provision of Hot-Rolled/Cold-Rolled Steel for LTAR	44.91	<i>Steel Wheels from China (citing Steel Pipe from China)</i>	
13	Provision of Galvanized Steel for LTAR	44.91	<i>Steel Wheels from China (citing Steel Pipe from China)</i>	
14	Provision of Zinc for LTAR	0.22	<i>CORE Final</i>	
15	Provision of Electricity for LTAR	20.06	<i>Isos from China Investigation</i>	
16	GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands	0.62	<i>Isos from China Review</i>	X <sup>236</sup>
17	Special Fund for Energy Savings Technology Reform	0.62	<i>Isos from China Review</i>	
18	SME International Market Exploration/Development Fund	0.62	<i>Isos from China Review</i>	X <sup>237</sup>
19	SME Technology Innovation Fund	0.62	<i>Isos from China Review</i>	
20	Export Assistance Grants	0.62	<i>Isos from China Review</i>	X <sup>238</sup>
<b>Total AFA Rate:</b>		<b>227.10</b>	<b>Total Export Subsidy Rate:</b>	<b>37.73</b>

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<sup>236</sup> *Id.* at 23.

<sup>237</sup> *Id.* at 25.

<sup>238</sup> *Id.* at 27.