



C-570-971
Administrative Review
POR: 01/01/2017—12/31/2017
Public Document
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January 31, 2020

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

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

SUBJECT: Decision Memorandum for the Preliminary Results in the
Countervailing Duty Administrative Review of Multilayered Wood
Flooring from the People’s Republic of China; 2017

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of multilayered wood flooring (wood flooring) from the People’s Republic of China (China), as provided in section 703 of the Tariff Act of 1930, as amended (Act).

II. BACKGROUND

A. Case History

On December 8, 2011, Commerce published the countervailing duty (CVD) order on wood flooring from China.¹ On December 4, 2018, we published a notice of “Opportunity to Request Administrative Review” of the *Order*.² We received timely requests for an administrative review

¹ See *Multilayered Wood Flooring from the People’s Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011); see also *Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012), wherein the scope of the *Order* was modified (collectively, *Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 62293 (December 3, 2018).



from the petitioner³ and other interested parties.⁴ In accordance with 19 CFR 351.221(c)(1)(i), we published a notice initiating the review on March 14, 2019.⁵ On March 7, 2019, Jiaxing Brilliant Import & Export Co., Ltd. (Jiaxing Brilliant) submitted a letter opposing the review request filed by the petitioner, and requested that Commerce exclude it from this review because it was excluded from the *Order* as a result of the final determination in the investigation segment of this proceeding.⁶

On March 14, 2019, we released and requested comments on data obtained from U.S. Customs and Border Protection (CBP) regarding entries of the subject merchandise from China during the period of review (POR) for all of the exporters and/or producers for which a review was requested.⁷ On March 21-22, 2019, the petitioner, Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. (Senmao) and Jiaxing Hengtong Wood Co., Ltd. (Hengtong) submitted comments on the CBP data and respondent selection.⁸ On May 21, 2019, we selected Baroque Timber Industries (Baroque Timber) and Jiangsu Guyu International Trading Co., Ltd. (Guyu) as

³ See American Manufactures of Multilayered Wood Flooring’s Letter, “Request for Administrative Review: Multilayered Wood Flooring from the People’s Republic of China,” dated December 31, 2018 (Petitioner’s Review Request). The petitioner in this review is the American Manufactures of Multilayered Wood Flooring (AMMF) and its individual members.

⁴ See Anhui Boya Bamboo & Wood Products Co., Ltd.’s *et al* Letter, “Request for Administrative Review: Multilayered Wood Flooring from the People’s Republic of China,” dated December 20, 2018; *see also* CDC Distributors, Inc.’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review,” dated December 31, 2018; Dunhua Shengda Wood Industry Co., Ltd.’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review,” dated December 20, 2018; Fine Furniture (Shanghai) Limited’s *et al* Letter, “Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Request for Review,” dated December 31, 2018; Katy Green Trading Company, LLC’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review,” dated January 2, 2019; Kember Flooring, Inc.’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review – 2017 CVD Review Period,” dated December 31, 2018; Riverside Plywood Corporation’s *et al* Letter, “Request for Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People’s Republic of China,” dated January 28, 2019; Scholar Home (Shanghai) New Material Co., Ltd.’s *et al* Letter, “Request for Administrative Review of the Countervailing Duty Order on Multilayered Wood Flooring from the People’s Republic of China,” dated December 31, 2018; Yihua Lifestyle Technology Co., Ltd.’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review of Countervailing Duty Order,” dated December 31, 2018; and Zhejiang Dadongwu GreenHome Wood Co., Ltd.’s *et al* Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review,” dated December 20, 2018.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019).

⁶ See Jiaxing Brilliant’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Jiaxing Brilliant’s Response to AMMWF’s Review Request,” dated March 7, 2019, citing *Multilayered Wood Flooring From the People’s Republic of China: Countervailing Duty Order*, 76 FR 76693, 76694 (December 8, 2011).

⁷ See Memorandum, “Administrative Review of the Countervailing Duty Order of Multilayered Wood Flooring from the People’s Republic of China: Customs and Border Protection Data for Respondent Selection,” dated March 14, 2019.

⁸ See the Petitioner’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Comments on CBP Data and Respondent Selection,” dated March 21, 2019; *see also* Senmao’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Comments on CBP Data and Request for Issuance Q&V Questionnaires,” dated March 21, 2019; and Hengtong’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Comments on CBP Data and Respondent Selection,” dated March 21, 2019.

mandatory respondents in this administrative review.⁹

On August 13, 2019, the petitioner timely submitted new subsidy allegations (NSAs) and alleged four additional subsidy programs: (1) Provision of Plywood for Less than Adequate Remuneration (LTAR), (2) Provision of Sawn Wood and Continuously Shaped Wood for LTAR, (3) Provision of Particleboard for LTAR, and (4) Provision of Fiberboard for LTAR.¹⁰ On August 22, 2019, the Government of China (GOC), submitted NSA rebuttal comments.¹¹ On October 17, 2019, Commerce initiated an investigation on all four NSAs.¹²

We issued initial and supplemental questionnaires to Baroque Timber, Guyu, and the GOC between May 24, 2019, and December 19, 2019.¹³ Baroque Timber and Guyu submitted affiliation responses, initial responses, and supplemental responses between July 14, 2019, and January 8, 2020.¹⁴ The GOC submitted an initial response and supplemental responses between July 15, 2019 and January 9, 2020.¹⁵

Between August 12, 2019 and November 13, 2019, the GOC and Baroque Timber submitted

⁹ See Memorandum, “Countervailing Duty Administrative Review: Multilayered Wood Flooring from the People’s Republic of China: Respondent Selection,” dated May 21, 2019.

¹⁰ See the Petitioner’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: New Subsidy Allegations,” dated August 12, 2019 (Petitioner NSA Letter).

¹¹ See the GOC’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: GOC’s Rebuttal Comments to Petitioner’s New Subsidy Allegations,” dated August 22, 2019.

¹² See Memorandum, “Countervailing Duty Administrative Review on Multilayered Wood Flooring from the People’s Republic of China: Decision Memorandum on New Subsidy Allegations,” dated October 17, 2019.

¹³ See Commerce’s Letter, “2017 Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: Countervailing Duty Questionnaire,” dated May 24, 2019 (Commerce CVD Questionnaire); see also Commerce’s Letter to Baroque Timber, “Multilayered Wood Flooring from the People’s Republic of China: Affiliated Companies Questionnaire Response,” dated August 28, 2019 (Baroque Timber AQ); Commerce’s Letter to Guyu, “Multilayered Wood Flooring from the People’s Republic of China: Affiliated Companies Questionnaire Response,” dated September 9, 2019 (Guyu AQ); Commerce’s Letter to the GOC, “Multilayered Wood Flooring from the People’s Republic of China: 2017 Countervailing Duty Administrative Review Supplemental,” dated October 4, 2019 (GOC SQ); Commerce’s to Baroque Timber Letter, “Multilayered Wood Flooring from the People’s Republic of China: Second Supplemental Questionnaire,” dated December 18, 2019 (Baroque Timber Second SQ); Commerce’s to Guyu Letter, “Multilayered Wood Flooring from the People’s Republic of China: Second Supplemental Questionnaire,” dated December 18, 2019 (Guyu Second SQ); Commerce’s Letter to the GOC, “Multilayered Wood Flooring from the People’s Republic of China: 2017 Countervailing Duty Administrative Review,” dated December 19, 2019 (GOC Second SQ).

¹⁴ See Baroque Timber’s Letter, “Baroque Timber Affiliation Questionnaire Response,” dated June 14, 2019 (Baroque Timber AQR); see also Guyu’s Letter, “Response to Section III Identifying Affiliated Companies,” dated June 21, 2019 (Guyu AQR); Baroque Timber’s Letter, “Baroque Timber Initial Questionnaire Response,” dated July 16, 2019 (Baroque Timber IQR); Guyu’s Letter, “Response to Section III: Multilayered Wood Flooring from the People’s Republic of China,” dated July 15, 2019 (Guyu IQR); Baroque Timber’s Letter, “Baroque Timber First Supplemental Response,” dated September 16, 2019 (Baroque Timber SQR); Guyu’s Letter, “Response to Section III Supplemental Questionnaire,” dated September 30, 2019 (Guyu SQR); Baroque Timber’s Letter, “Baroque Timber Second Supplemental Questionnaire Response,” dated January 8 2019 (Baroque Timber Second SQR); Guyu’s Letter, “Response to Second Supplemental Questionnaire,” dated January 8, 2020 (Guyu Second SQR).

¹⁵ See the GOC’s Letter, “Government of China’s Initial Questionnaire Response,” dated July 15, 2019 (GOC IQR); see also the GOC’s Letter, “Government of China’s Supplemental Questionnaire Response,” dated October 28, 2019 (GOC SQR); and the GOC’s Letter, “Government of China’s Second Supplemental Questionnaire Response,” dated January 9, 2019.

data for Commerce to consider using as benchmarks in the LTAR subsidy rate calculations.¹⁶ On September 3, 2019, and November 13, 2019, the petitioner submitted benchmark information.¹⁷ On November 25, 2019, Baroque Timber submitted rebuttal comments to the petitioner's benchmark submissions.¹⁸ On January 3, 2020, Commerce requested information to be used to benchmark reported domestic transportation;¹⁹ on January 10, 2020, the petitioner and Baroque Timber submitted the requested benchmark information.²⁰

B. Postponement of Preliminary Results

Commerce postponed the deadline for the preliminary results until January 31, 2020, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).²¹

C. Period of Review

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

D. Requests for Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. On May 9, 2019, Shenzhenshi Huanwei Woods Co., Ltd. (Shenzhenshi) withdrew its request for a review of itself. On June 12, 2018, Fine Furniture (Shanghai) Limited and Double F Limited (collectively, Fine Furniture) also withdrew their request for a review. However, the petitioner also requested an administrative review of Fine Furniture and Shenzhenshi.²² Therefore, because the petitioner has not withdrawn its review request of these two companies, Fine Furniture and Shenzhenshi remain under administrative review.

¹⁶ See the GOC's Letter, "GOC's Initial Benchmark Submission," dated August 12, 2019; *see also* Baroque Timber's Letter, "Benchmark Data Submission," dated August 12, 2019; and Baroque Timber's Letter, "Second Benchmark Data Submission," dated November 13, 2019.

¹⁷ See Petitioner's Letter, "Other Factual Information and Benchmark Pricing Information," dated September 3, 2019; *see also* Petitioner's Letter, "Other Factual Information and Benchmark Pricing Information Regarding New Subsidy Allegations," dated November 13, 2019 (Petitioner Second Benchmark).

¹⁸ See Baroque Timber's Letter, "Benchmark Rebuttal," dated November 25, 2019 (Baroque Timber Rebuttal Benchmark).

¹⁹ See Commerce's Memorandum, "Request for Domestic Transportation Costs Benchmark," dated January 3, 2020.

²⁰ See Petitioner's Letter, "Pricing Information Regarding Domestic Transportation and Related Costs," dated January 10, 2020; *see also* Baroque Timber's Letter, "Comments on Domestic Inland Freight Benchmark," dated January 10, 2020.

²¹ See Memorandum, "Multilayered Wood Flooring from the People's Republic of China: Extension of Deadline for Preliminary Results of 2017 Countervailing Duty Administrative Review," dated September 11, 2019 (postponing the preliminary results until December 13, 2019); *see also* Memorandum, "Multilayered Wood Flooring from the People's Republic of China: Second Extension of Deadline for Preliminary Results of 2017 Countervailing Duty Administrative Review," dated November 18, 2019 (further postponing the preliminary results until January 31, 2020).

²² See Petitioner's Review Request at 4 and 11, respectively.

E. Intent to Rescind, in Part, the Administrative Review

We received timely filed no-shipment certifications from ten companies.²³ We issued no-shipment inquiries to CBP requesting any information that might contradict the no-shipment claims. We have not received information from CBP to date that contradicts the claims made by Anhui Boya Bamboo Ltd. (Anhui Boya), Anhui Yaolong Bamboo and Wood Products Co. Ltd. (Anhui Yaolong), Armstrong Wood products (Kunshan) Co. Ltd. (Armstrong Wood), Changzhou Hawd Flooring Co. Ltd. (Changzhou Hawd Flooring), Dalian Shengyu Science and Technology Development Co. Ltd. (Dalian Shengyu Science), Hunchun Forest Wolf Wooden Industry Co. Ltd. (Hunchun Forest), Jiashan On-Line Lumber Co. Ltd. (Jiashan On-Line), Kingman Floors Co. Ltd. (Kingman Floors), Yingyi-Nature (Kunshan) Wood Industry Co. Ltd. (Yingyi-Nature), and Zhejiang Shiyou Timber Co Ltd.'s (Zhejiang Shiyou) that they made no sales, shipments, or entries of subject merchandise to the United States during the POR.²⁴ Because these companies timely filed their no-shipment certifications and there is no information on the record that contradicts the companies' claims, we preliminarily intend to rescind the review of these companies. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of these companies in the final results of review.

III. NON-SELECTED COMPANIES UNDER REVIEW

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. We also note that section 777A(e)(2) of the Act provides that "the

²³ See Anhui Boya Bamboo & Wood Products Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipments Certification," dated April 11, 2019; see also Anhui Yaolong Bamboo and Wood Products Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification," dated April 11, 2019; Armstrong Wood products (Kunshan) Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Statement from Armstrong Wood Products (Kunshan) Co., Ltd.," dated April 8, 2019; Changzhou Hawd Flooring Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Sales Certification," dated April 15, 2019; Dalian Shengyu Science and Technology Development Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipments Certification," dated April 11, 2019; Hunchun Forest Wolf Wooden Industry Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipments Certification," dated April 11, 2019; Jiashan On-Line Lumber Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipments Certification," dated April 11, 2019; Kingman Floors Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Sales Certification," April 11, 2019; Yingyi-Nature (Kunshan) Wood Industry Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Sales Certification," dated April 15, 2019; and Zhejiang Shiyou Timber Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification," dated April 11, 2019.

²⁴ See Memorandum, "Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: No Shipment Inquiry," dated May 16, 2019, stating that the CBP no-shipment data query did not identify entries of subject merchandise by Anhui Boya, Anhui Yaolong, Armstrong Wood, Changzhou Hawd Flooring, Dalian Shengyu Science, Hunchun Forest, Jiashan On-Line, Kingman Floors, Yingyi-Nature and Zhejiang Shiyou.

individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section {705(c)(5) of the Act}.” Section 705(c)(5)(A) of the Act states that for companies not investigated, in general, we will determine an all-others rate by using the weighted-average countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on the facts available.

As indicated in the accompanying *Federal Register* notice of the preliminary results, dated concurrently with this preliminary decision memorandum, we preliminarily determine that Baroque Timber and Guyu received countervailable subsidies that are above *de minimis*. Therefore, we are applying to the non-selected companies the weighted average of the net subsidy rates calculated for Baroque Timber and Guyu, which we calculated using publicly ranged sales data submitted by the mandatory respondents.²⁵ Accordingly, for each of the 157 companies for which a review was requested and not rescinded, and which were not selected as mandatory respondents, we are applying a preliminary subsidy rate of 24.61 percent *ad valorem*, consistent with section 705(c)(5) of the Act.²⁶

IV. SCOPE OF THE ORDER²⁷

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)²⁸ in combination with a core.²⁹ The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or “prefinished” (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any

²⁵ See Memorandum, “Calculation of the Non-Selected Rate for the Preliminary Results, 2017,” dated concurrently with this memorandum.

²⁶ For a list of the non-selected companies, see the *Federal Register* notice, signed concurrently with this decision memorandum.

²⁷ See Order; see also, *Multilayered Wood Flooring from the People’s Republic of China: Final Clarification of the Scope of the Antidumping and Countervailing Duty Orders*, 82 FR 27799 (June 19, 2017).

²⁸ A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

²⁹ Commerce Interpretive Note: The Department interprets this language to refer to wood flooring products with a minimum of three layers.

method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (“HDF”), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States³⁰ (“HTSUS”): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4160; 4412.31.4175; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5225; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.0640; 4412.32.0665; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2625; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3225; 4412.32.5600; 4412.32.5700; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500;

³⁰ On October 31, 2018, we added the following HTS numbers to update the ACE Case Reference File: 4412.33.0640, 4412.33.0665, 4412.33.0670, 4412.33.2625, 4412.33.2630, 4412.33.3225, 4412.33.3235, 4412.33.3255, 4412.33.3275, 4412.33.3285, 4412.33.5700, 4412.34.2600, 4412.34.3225, 4412.34.3235, 4412.34.3255, 4412.34.3275, 4412.34.3285, 4412.34.5700, 4418.74.2000, 4412.74.9000, 4418.75.4000, and 4418.75.7000. See Memorandum “Multilayered Wood Flooring from the People’s Republic of China (C-570-971): Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,” dated October 31, 2018.

4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; 4418.74.2000; 4418.74.9000; 4418.75.4000; 4418.75.7000; 4418.79.0100; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

V. DIVERSIFICATION OF CHINA'S ECONOMY

Dated concurrently with this decision memorandum, Commerce has placed the following excerpts from the National Bureau of Statistics of China's China Statistical Yearbook on the record of this review: Index Page; Table 14-7: Main Indicators on Economic Benefit of State-owned and State-holding Industrial Enterprise by Industrial Sector; and Table 14-11: Main Indicators on Economic Benefit of Private Industrial Enterprise by Industrial Sector.³¹ 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.

VI. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.³² Commerce finds the AUL for this segment of this proceeding to be 10 years (*i.e.*, 2008-2017), pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as updated.³³ Commerce notified the respondents of the 10-year AUL in the initial questionnaire and requested data accordingly.³⁴ No party in this segment of the proceeding disputed this allocation period.

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

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned

³¹ See Commerce's Memorandum, "China Statistical Yearbook," dated concurrently with this Memorandum.

³² See 19 CFR 351.524(b).

³³ See U.S. Internal Revenue Service Publication 946 (2015), *How to Depreciate Property*, U.S. Internal Revenue Service Publication 946 (2008), at Table B-2: Table of Class Lives and Recovery Periods.

³⁴ See Commerce CVD Questionnaire at 24 and at II-15.

affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³⁵

Baroque Timber's Cross-Ownership

Baroque Timber reports that it was established as a wholly foreign-owned company.³⁶ Baroque Timber has responded on behalf of itself, Riverside Plywood Corporation (Riverside Plywood) and Suzhou Times Flooring Co., Ltd (Suzhou Times).³⁷ These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.³⁸

Furthermore, Baroque Timber identified Riverside Plywood and Suzhou Times as producers of wood flooring.³⁹ We preliminarily determine that Riverside Plywood and Suzhou Times produce subject merchandise and, thus, for purposes of the preliminary results, to the extent that any subsidies were provided to Riverside Plywood and Suzhou Times we are attributing those subsidies to Baroque Timber pursuant to 19 CFR 351.525(b)(6)(ii), by dividing the benefit amounts by the combined sales of Baroque Timber, Suzhou Times, and Riverside Plywood (net of intercompany sales).

Guyu's Cross-Ownership

Guyu is an exporter that is wholly owned by Jiangsu Shengyu Flooring Co., Ltd. (Shengyu), which is a producer of subject merchandise.⁴⁰ During the POR, all of Guyu's subject merchandise exports to the United States were produced and supplied by Shengyu.⁴¹ Guyu reports that during the POR, Siyang County Shunyang Wood Co., Ltd. (Shunyang) supplied an

³⁵ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

³⁶ See Baroque Timber IQR at 6.

³⁷ *Id.* at 2.

³⁸ *Id.* at Exhibit 1, Exhibit 2, and Exhibit 3.

³⁹ See Baroque Timber AQR at 2.

⁴⁰ See Guyu AQR at Exhibit 2 and SQR at 2.

⁴¹ See Guyu SQR at 3.

input to Shengyu for the production of subject merchandise.⁴² Shanghai Woyuan Industrial Co., Ltd. (Woyuan) was the former sole shareholder of Guyu from October 20, 2014 to July 24, 2015.⁴³ Guyu is responding on behalf of itself, Shengyu, Shunyang, and Woyuan. These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.

Based on Guyu's responses, Commerce preliminarily finds that Guyu is a trading company and pursuant to 19 CFR 351.525(c), "{b}enefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated." We also preliminarily determine that Shengyu is a parent company that produces subject merchandise and pursuant to 19 CFR 351.525(b)(iii), Commerce will attribute subsidies to the consolidated sales of the parent company and its subsidiaries. For Shunyang, we preliminarily find that it is a cross-owned input supplier and pursuant to 19 CFR 351.525(b)(iv), Commerce will attribute subsidies received by the input supplier to the combined sales of the downstream products produced by Shengyu. Due to the proprietary nature of the affiliation and ownership between Guyu and its cross-owned companies, these findings are further discussed in the Guyu's Preliminary Calculation Memorandum.⁴⁴ Guyu reported that Woyuan did not receive any non-recurring subsidies during the AUL.⁴⁵ To the extent that any subsidies were provided to Shunyang, we are attributing the subsidies to the combined sales of Shengyu and Shunyang (less inter-company sales), in accordance with 19 CFR 351.525(b)(6)(iv). To the extent that any subsidies were provided to Guyu, we are attributing the subsidies to the combined sales of Guyu and Shengyu (less inter-company sales), in accordance with 19 CFR 351.525(c); and to the extent that any subsidies were provided to Shengyu, we are attributing the subsidies to the combined (less inter-company sales) or the consolidated sales of Shengyu and its cross-owned affiliates, in accordance with 19 CFR 351.525(b)(iii).

C. Denominators

When selecting an appropriate denominator to use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to Be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator.

⁴² *Id.* at 3.

⁴³ *See* Guyu SQR at 3.

⁴⁴ *See* Memorandum, "Guyu Preliminary Calculation," dated concurrently with this memorandum (Guyu Prelim Calc Memo).

⁴⁵ *See* Guyu IQR at 1.

VII. INTEREST RATE BENCHMARKS, DISCOUNT RATES, INPUTS, LAND-USE AND ELECTRICITY

Commerce is investigating loans received by the respondents and their cross-owned affiliates from Chinese policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies received by the mandatory respondents.⁴⁶ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, Commerce uses comparable commercial loans reported by the company as a benchmark.⁴⁷ If the firm did not have any comparable commercial loans during the period, Commerce’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”⁴⁸

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.⁴⁹ In an analysis memorandum dated July 21, 2017, Commerce conducted a re-assessment of the lending system in China.⁵⁰ Based on this re-assessment, Commerce has concluded that, despite reforms to date, the GOC’s role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, Commerce is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce’s practice. For example, in *Lumber from Canada*, Commerce used U.S. timber prices to measure the benefit for government-provided timber in Canada.⁵¹ In past proceedings involving imports from China, we calculated the external benchmark using the

⁴⁶ See 19 CFR 351.524(b)(1).

⁴⁷ See 19 CFR 351.505(a)(3)(i).

⁴⁸ See 19 CFR 351.505(a)(3)(ii).

⁴⁹ See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decision Memorandum at Comment 10.

⁵⁰ See Memorandum, “Review of China’s Financial System Memorandum,” dated concurrently with this memorandum, at Attachments 1 and 2.

⁵¹ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Lumber from Canada*), and accompanying IDM at “Analysis of Programs: Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

methodology first developed in *CFS from the PRC* and later updated in *Thermal Paper from the PRC*.⁵² Under that methodology, we first determine which countries are similar to China in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, China fell in the lower-middle income category.⁵³ Beginning in 2010, however, China was classified in the upper-middle income category and remained there from 2011 to 2017.⁵⁴ Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2017. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.⁵⁵

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

In each of the years from 2003-2009 and 2011-2017, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.⁵⁶ For 2010, however, the regression does not yield that outcome for China's income group.⁵⁷ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2017. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency's *International Financial Statistics (IFS)*. With the exceptions noted below, we used the interest and inflation rates reported in the *IFS* for the countries identified as "upper middle income" by the World Bank for 2010-2017 and "lower middle income" for 2001-

⁵² See *CFS from the PRC* IDM at Comment 10; see also *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*),

and accompanying IDM at 8-10.

⁵³ See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> (World Bank Country Classification).

⁵⁴ *Id.*

⁵⁵ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying IDM at "VII. Subsidies Valuation: Benchmarks and Discount Rates," unchanged in *Shrimp from the PRC*.

⁵⁶ See Memorandum, "Multilayered Wood Flooring from China: Interest Rate Benchmark Memorandum," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).

⁵⁷ *Id.*

2009.⁵⁸ First, we did not include those economies that Commerce considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to *IFS* for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated a short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.⁵⁹ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.⁶⁰

The lending rates reported in the *IFS* represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, Commerce developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.⁶¹

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term markup based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.⁶² Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component. The resulting inflation-adjusted benchmark lending rates are provided in the Interest Rate Benchmark Memorandum.

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used as the discount rate the long-term interest rate calculated for the year in which the nonrecurring subsidy was approved by the government. The interest rate benchmarks, and discount rates used in our preliminary calculations are provided in the Baroque Timber Preliminary Calculation Memorandum and Guyu Preliminary Calculation Memorandum.⁶³

C. Benchmarks to Determine Adequacy of Remuneration of Inputs

The adequacy of remuneration for government-provided goods or services is determined pursuant to 19 CFR 351.511(a)(2). Under 19 CFR 351.511(a)(2), Commerce measures the remuneration received by a government for goods or services against comparable benchmark prices to determine whether the government provided goods or services for LTAR. These

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *See, e.g.*, Thermal Paper IDM at 10.

⁶² *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying IDM at Comment 14.

⁶³ *See* Memorandum “Baroque Timber Preliminary Calculation,” dated concurrently with this memorandum (Baroque Timber Prelim Calc Memo); *see also* Guyu Prelim Calc Memo.

potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation (*i.e.*, tier one). This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

Provision of Inputs for LTAR

For all of the inputs, as discussed in the “Use of Facts Otherwise Available and Adverse Inferences” section below, we preliminarily determine Baroque Timber (including Riverside Plywood) and Guyu’s (including Shengyu and Shunyang) domestically purchased fiberboard, plywood, and/or veneers from suppliers that are “authorities.” We selected the benchmarks for measuring the adequacy of the remuneration for fiberboard, plywood, and veneers in accordance with 19 CFR 351.511(a)(2).

As discussed in the “Use of Facts Otherwise Available and Application of Adverse inferences” section below, as the GOC did not respond to Commerce’s CVD Questionnaire, we preliminarily find, as AFA, that the domestic markets for these inputs are distorted by the government’s involvement in those markets. Accordingly, to measure the adequacy of remuneration for the provision of all of the material inputs, we are relying instead on world market prices (tier two) to derive our benchmarks as provided for in 19 CFR 351.511(a)(2)(ii).

Pursuant to 19 CFR 351.511(a)(2)(iv), benchmarks should reflect “delivered prices” and should include import and delivery charges. As such, where appropriate, we have added freight charges, value added tax (VAT), and import duties applicable on purchases of these inputs in order to calculate the prices that Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) would have paid on the world market for these inputs.

We received fiberboard, plywood and veneer benchmark submissions from Baroque Timber and the petitioner. Specifically, the petitioner submitted average unit values of plywood from the UN Comtrade for Harmonized Tariff System (HTS) categories 4412.10, 4412.14, 4412.19, 4412.29, 4412.31, 4412.32, 4412.33, 4412.34, 4412.39, 4412.92, 4412.94, and 4412.99.⁶⁴ Baroque Timber submitted rebuttal comments contending that the following plywood HTS categories, submitted by the petitioner, are not applicable to the plywood benchmark calculation:

- 4412.10 (Plywood, veneer panels and similar laminated wood; of bamboo)
- 4412.19 (Plywood; consisting only of wood, each ply not thicker than 6mm, with at least one outer ply of wood n.e.s. in item no. 4412.11 and 4412.12)

⁶⁴ See Petitioner Second Benchmark at 2 and at Exhibit 1.

- 4412.94 (Blockboard, laminboard and battenboard (not bamboo, and other than plywood consisting only of sheets of wood each ply 6mm or thinner))
- 4412.99 (Plywood; with at least one outer ply of non-coniferous wood, not containing particle board)⁶⁵

We have evaluated all the benchmark information provided for each input and for the purposes of these preliminary results, we are excluding HTS categories 4412.10 (in part) and 4412.19. For HTS category 4412.10, we preliminarily determine that Baroque Timber and Riverside Plywood did not purchase bamboo plywood. Specifically, Baroque Timber reports that its plywood is made from eucalyptus, not bamboo, and using these data to calculate its benchmark would not properly represent Baroque Timber or Riverside Plywood's plywood purchases.⁶⁶ To support its claim, Baroque Timber provided its purchase contract for plywood that identifies eucalyptus plywood, not bamboo plywood.⁶⁷ Furthermore, Riverside Plywood provided its inventory in-slip and its GOC export declaration, establishing that its plywood is also made from eucalyptus, not bamboo. Because Guyu did not report its plywood species, Commerce will use HTS category 4412.10 to calculate Guyu's plywood benchmark.⁶⁸ For HTS category 4412.19, we preliminarily determine that the data only contain export information for two countries: Barbados and Philippines, and using these data would skew the data for all the other HTS categories that contain a broad range of plywood exporting countries.⁶⁹ For HTS categories 4412.94 and 4412.99, we preliminarily determine that it is appropriate to use these data because it includes plywood used to produce subject merchandise.

For these preliminary results, we used world export data from the UN Comtrade for HTS categories 4411.12, 4411.13, 4411.14, 4411.92, 4411.93 and 4411.94 to value fiberboard; HTS categories 4412.33, 4412.39, 4412.34, 4412.10 (in part), 4412.14, 4412.31, 4412.32, 4412.29, 4412.94, and 4412.99 to value plywood; and HTS categories 4408.10, 4408.39, and 4408.90 to value veneers.

Provision of Land-Use Rights for LTAR

As explained in detail in previous investigations, Commerce cannot rely on the use of tier one and/or tier two benchmarks to assess the benefits from the provision of land for LTAR in China.⁷⁰ Specifically, in *Laminated Woven Sacks from the PRC Prelim 2017*, Commerce

⁶⁵ See Baroque Timber Rebuttal Benchmark at 2-3.

⁶⁶ See Baroque Timber Rebuttal Benchmark at 2.

⁶⁷ *Id.* at Exhibit 1a.

⁶⁸ *Id.*

⁶⁹ See Guyu Second SQR at Exhibit Supp 2-1.

⁷⁰ See, e.g., *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015), and accompanying IDM at 10-11; and *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (*Laminated Woven Sacks from the PRC Prelim 2007*), unchanged in *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) (*Laminated Woven Sacks from the PRC Final 2007*).

determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable “tier one” benchmarks exist.⁷¹ Furthermore, Commerce also found that “tier two” benchmarks (world market prices that would be available to purchasers in China) are not appropriate.⁷² Accordingly, consistent with Commerce’s past practice, we are relying on the use of so called “tier three” benchmarks for purposes of calculating a benefit for this program.⁷³

For this review, we relied on the Thailand benchmark information, *i.e.*, “Asian Marketview Reports” by CB Richard Ellis (CBRE), which was used to calculate land benchmarks in the *Solar Cells from China Investigation*.⁷⁴ We first selected this information in the *Laminated Woven Sacks from the PRC Prelim 2007* investigation after considering a number of factors, including national income levels, population density, and producers’ perceptions that Thailand is a reasonable alternative to China as a location for production in the region.⁷⁵ We preliminarily find that these benchmarks, adjusted for inflation, are suitable for these preliminary results to measure any benefit received by the respondent companies through the provision of land by the government during the AUL period of this investigation.

Provision of Electricity for LTAR

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

VIII. USE OF FACTS OTHERWISE AVAILABLE AND APPLICATION OF ADVERSE INFERENCES

In a CVD proceeding, Commerce requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, Commerce may rely on adverse facts available (AFA) to preliminarily find that a financial contribution exists under the alleged program or that the program is specific.⁷⁶ However, where possible, Commerce will rely on the responsive producer’s or exporter’s records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable.

⁷¹ See, e.g., *Laminated Woven Sacks from China Prelim 2007*, unchanged in *Laminated Woven Sacks from China Final 2007*.

⁷² *Id.*

⁷³ See Memorandum, “Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: Land Analysis Memo,” dated concurrently with this memorandum.

⁷⁴ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from China Investigation*), and accompanying IDM at 6 and Comment 11.

⁷⁵ The complete history of our reliance on this benchmark is discussed in *Solar Cells from China Investigation* at 6 and Comment 11. In that discussion, we reviewed our analysis from the *Laminated Woven Sacks from China Prelim 2007* investigation and concluded the CBRE data were still a valid land benchmark.

⁷⁶ See, e.g., *Hardwood and Decorative Plywood from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying Issues and IDM at Comment 3.

Section 776(a) of the Act provides that Commerce shall, subject to section 782(d) of the Act, shall select from the “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person withholds information that has been requested; 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; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act.

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

Section 776(b) of the Act provides that Commerce may use an adverse inference in selecting from 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. In doing so, Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁷⁷ 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 CVD investigation, a previous administrative review, or other information placed on the record.⁷⁸

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.⁷⁹ Secondary information is defined as information derived from the petition that gave rise to the investigation, the determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁸⁰

Finally, under section 776(d) of the Act, when using an adverse inference when selecting from the facts otherwise available, Commerce may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use.⁸¹ When selecting from the facts otherwise available with an adverse inference, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate

⁷⁷ See section 776(b)(1)(B) of the Act.

⁷⁸ See 19 CFR 351.308(c).

⁷⁹ See 19 CFR 351.308(d).

⁸⁰ See Statement of Administrative Action, H.R. Doc. 103-316, vol 1 (1994) at 870 (SAA).

⁸¹ See section 776(d)(1) of the Act.

that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁸² For purposes of these preliminary results, we are applying AFA to the programs as outlined below.

A. Application of AFA: Provision of Inputs for LTAR

GOC – Markets Distorted by Government Presence

In this review, we are examining the provision of fiberboard, plywood, and veneers for less-than-adequate-remuneration (LTAR). During the review, Commerce requested that Baroque Timber and Guyu (including their cross-owned affiliates) report their fiberboard, particleboard, plywood, sawn wood and continuously shaped wood, and veneer purchases during the POR.⁸³ Baroque Timber reported that it purchased fiberboard, plywood and veneers during the POR, and its cross-owned affiliate, Riverside Plywood, only purchased plywood during the POR.⁸⁴ Guyu reported that its cross-owned affiliate, Shengyu, purchased fiberboard, plywood and veneers during the POR. Guyu also reported that its other cross-owned affiliate, Shunyang, purchased poplar core sheets during the POR.⁸⁵ As discussed in the “Provision of Veneers for LTAR” section below, Commerce is preliminarily determining that Shunyang’s reported poplar core sheets are veneers.

Commerce also requested that the GOC provide information concerning the industries for these inputs in China for the POR. Specifically, we requested that the GOC provide the following information for each input:

- a. The total number of producers.
- b. The total volume and value of Chinese domestic consumption of {input} and the total volume and value of Chinese domestic production of {input}.
- c. The percentage of domestic consumption accounted for by domestic production.
- d. The total volume and value of imports of {input}.
- e. The percentage of total volume and (separately) value of domestic production that is accounted for by companies in which the Government maintains an ownership or management interest, either directly or through other Government entities, including a list of the companies that meet these criteria.
- f. A discussion of what laws, plans or policies address the pricing of the input, the levels of production of the input, the importation or exportation of the input, or the development of

⁸² See section 776(d)(3) of the Act.

⁸³ See Commerce’s Letter to Baroque Timber, “2017 Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: New Subsidy Allegations Questionnaire,” dated October 22, 2019; see also Commerce’s Letter to Riverside Plywood, “2017 Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: New Subsidy Allegations Questionnaire,” dated October 22, 2019; and Commerce CVD Questionnaire at II-10.

⁸⁴ See Baroque Timber’s Letter, “Baroque Timber New Subsidy Allegations Questionnaire Response,” dated November 12, 2019 (Baroque Timber NSA) at 1.

⁸⁵ See Guyu’s Letter, “Response to New Subsidy Allegations,” dated November 8, 2019 (Guyu NSA Response) at 1.

the input capacity. Please state which, if any, central and subcentral level industrial policies pertain to the input industry.⁸⁶

Commerce requested such information to determine to what extent the GOC is involved as a provider of these inputs in China and whether its presence in these markets is such that it distorts transaction prices. For the provision of plywood and fiberboard for LTAR, the GOC failed to report total volume and value of domestic consumption and total volume and value of domestic production for these inputs.⁸⁷ Similarly, with respect to veneer suppliers, the GOC also stated that there is no official data of the exact number of veneer-producing households, or their exact input volume, and that the provision of veneers for LTAR is not possible because the central and local governments do not have this information.⁸⁸ As a result, we preliminarily determine that the GOC withheld necessary information that was requested of it and, thus, we must rely on facts available in these preliminary results.⁸⁹ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available.⁹⁰ In drawing an adverse inference, we preliminarily find that prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC.⁹¹ Therefore, we preliminarily find that the use of an external benchmark, consistent with 19 CFR 351.511(a)(2)(ii), is warranted for calculating the benefit for the provision of fiberboard, plywood and veneers for LTAR.

For details regarding the remaining elements of our analysis, *see* the “Provision of Fiberboard for LTAR,” “Provision of Plywood for LTAR” and “Provision of Veneers for LTAR” sections, below.

Certain Producers of Fiberboard, Plywood and Veneers are “Authorities”

As discussed above, Commerce is investigating the provision of fiberboard, plywood, and veneers for LTAR. We requested information from the GOC regarding the specific companies that produced the input products that Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) purchased during the POR. Specifically, we sought information from the GOC that would allow us to determine whether the producers are “authorities” within the meaning of section 771(B) of the Act.⁹² Furthermore we asked the GOC to: (1) provide information about the involvement of the Chinese Communist Party (CCP) in any input supplier identified by Baroque Timber and Guyu, including whether individuals in management positions are CCP members, in order to evaluate whether the input suppliers which supplied Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) are “authorities” with the meaning of section 771(B) of the Act; and (2) identify any owners, members of the board of directors, or managers of the input suppliers who were

⁸⁶ See Commerce CVD Questionnaire at II-10 to II-11.

⁸⁷ See GOC NSA Questionnaire Response at 28-29 and 73-74.

⁸⁸ See GOC IQR at 63; *see also* GOC SQR at 50-55.

⁸⁹ See section 776(a)(2)(A) of the Act.

⁹⁰ See section 776(b) of the Act.

⁹¹ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65377 (November 25, 1998) (*Preamble*).

⁹² See Commerce CVD Questionnaire at II-27 to II-29.

government or CCP officials during the POR.⁹³ The GOC failed to respond to Commerce’s questionnaire and stated that, “[T]he GOC is unable to require the CCP, the People’s Congress, the CPPCC or the rest of entities as mentioned in the question to provide the information as required by the Department, because they are not governmental agencies.”⁹⁴

By failing to respond to the questionnaire, the GOC withheld information requested of it regarding the CCP’s role in the ownership and management of Baroque Timber’s (including Riverside Plywood) and Guyu’s (including Shengyu and Shunyang) input suppliers. As we explained in the Additional Documents Memorandum,⁹⁵ we understand the CCP to exert significant control over economic activities in China. Thus, Commerce finds, as it has in prior CVD proceedings,⁹⁶ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of Baroque Timber’s (including Riverside Plywood) and Guyu’s (including Shengyu and Shunyang) input suppliers are necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act.

Therefore, we find that the GOC withheld necessary information that was requested of it and that Commerce must rely on facts available in conducting our analysis of the producers that supplied Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) with these inputs during the POR.⁹⁷ As a result of the GOC’s failure to participate in this review, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, we determine that the GOC withheld information, and that an adverse inference is warranted in the application of facts available.⁹⁸ In drawing an adverse inference, we find that CCP officials are present in each of Baroque Timber’s (including Riverside Plywood) and Guyu’s (including Shengyu and Shunyang) input suppliers as individual owners, managers and members of the boards of directors, and that this gives the CCP, as the government, meaningful control over the companies and their resources. As explained in the Public Bodies Memorandum, an entity with significant CCP presence on its board or in management or in party committees may be controlled, such that it possesses, exercises, or is vested with governmental authority.⁹⁹ Therefore, we preliminarily find that all the domestic producers that supplied Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) with fiberboard, plywood, and veneers during the POR are “authorities” within the meaning of section 771(5)(B) of the Act.

⁹³ *Id.*

⁹⁴ See GOC IQR at 75.

⁹⁵ See Memorandum, “2017 Countervailing Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: Additional Documents for the Preliminary Results,” at Attachment I-III, which includes the Public Bodies Memorandum and its attachment, the CCP Memorandum, dated concurrently with this memorandum (Public Bodies Memorandum).

⁹⁶ See, e.g., *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014), and accompanying IDM at Comment 5 (*Citric Acid 2012 AR*).

⁹⁷ See sections 776(a)(1) and 776(a)(2)(A) of the Act.

⁹⁸ See section 776(b) of the Act.

⁹⁹ See, e.g., Public Bodies Memorandum at Attachment III: Public Body Memorandum at 33-36, 38.

B. Application of AFA: Provision of Electricity for LTAR

During the review, Commerce requested Baroque Timber and Guyu (including their cross-owned affiliates) report their electricity supplier(s) and electricity rates during the POR.¹⁰⁰ Baroque Timber reported the POR electricity rates and electricity suppliers for itself and Riverside Plywood.¹⁰¹ Guyu reported the POR electricity rates and electricity suppliers for Shengyu and Shunyang.¹⁰²

As discussed below under the section “Programs Preliminarily Found to be Countervailable,” Commerce is investigating whether the GOC provided electricity for LTAR. The GOC did not provide complete responses to Commerce’s questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

In order to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC on electricity price adjustments. Specifically, we requested, *inter alia*: Provincial Price Proposals for each province in which mandatory respondents or any company “cross-owned” with those respondents is located for applicable tariff schedules that were in effect during the POR; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POR; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POR; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.¹⁰³ Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, identify entities that manage and impact price adjustment processes, and examine cost elements included in the derivation of electricity prices in effect throughout China during the POR.

In its initial questionnaire response, the GOC reported that the NDRC has no authority to make any change to the adjusted electricity prices and that the provinces have the authority to set their own prices, under the Notice of NDRC on *Lowering Coal-Fired Electricity On-Grid Price and General Industrial and Commercial Electricity Price* (Notice 3105).¹⁰⁴ According to the GOC,

¹⁰⁰ See Commerce CVD Questionnaire at III-10.

¹⁰¹ See Baroque Timber IQR at 14 and at Exhibit 9a and 9b.

¹⁰² See Guyu IQR at 7 and at Exhibit III-D-1 and III-D-2.

¹⁰³ See Commerce CVD Questionnaire at Electricity Appendix.

¹⁰⁴ See GOC IQR at 11-14 and Exhibit 4.

the creation of this new structure has eliminated the need for Provincial Price Proposals that had previously been used by the NDRC to set prices for each province.¹⁰⁵ Moreover, the GOC referenced its elimination of preferential rates for the fertilizer industry that went into effect under Article 4 of the *Notice of National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City)* (Notice 748) as part of Notice 748's intent to equalize electricity rates between industrial and commercial users.¹⁰⁶

However, both Notice 3105 and Notice 748 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Specifically, Article 1 of Notice 748 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.¹⁰⁷ Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.¹⁰⁸ Article 2 indicates that the price reduction is "mainly used for reducing the price of industrial and commercial electricity."¹⁰⁹ Articles 3 and 4 specifically direct the reduction of the sales price for industrial and commercial electricity.¹¹⁰ Articles 6 and 7 indicate that provincial pricing authorities will "develop and issue specific adjustment plan of electricity price and sales price in accordance with the average price adjustment standards of Annex 1" and will submit the adjustments to the NDRC, and further that the price adjustment will be enforced on April 20, 2015.¹¹¹ Finally, Article 10 directs that "[l]ocal price departments shall organize and arrange carefully to put in place the electricity price adjustment measures."¹¹² NDRC Notice 3105 also directs additional price reductions, and stipulates at Articles II and X, that local price authorities shall implement in time the price reductions included in its Annex, and must report resulting prices to the NDRC.¹¹³

Neither Notice 748 nor Notice 3105 explicitly stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC states to be the case.¹¹⁴ Rather, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices, by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.¹¹⁵ The notices do not explicitly eliminate Provincial Price Proposals and do not define distinctions in price setting roles between national and provincial pricing authorities. In a supplemental questionnaire, we requested that the GOC explain how the NDRC monitors compliance with the price changes directed in Notice 748 and what action the NDRC would take were any province not to comply with the directed price changes.¹¹⁶ The GOC's response failed to explain what

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 11 and Exhibit 2.

¹⁰⁷ *Id.* at Exhibit 2 (Article 1).

¹⁰⁸ *Id.* at Exhibit 2 (Annex 1).

¹⁰⁹ *Id.* at Exhibit 2 (Article 2).

¹¹⁰ *Id.* at Exhibit 2 (Article 3 and 4).

¹¹¹ *Id.* at Exhibit 2 (Article 6 and 7).

¹¹² *Id.* at Exhibit 2 (Article 10).

¹¹³ *Id.* at Exhibit 4 (Article II and X).

¹¹⁴ *Id.* at Exhibit 2 and 4.

¹¹⁵ *Id.* at 12-14.

¹¹⁶ *See* GOC SQ at 5.

actions the NDRC would take in the event of non-compliance with a directed price change and stated, “{n}otice 748 does not serve as NDRC’s notice of control over provincial electricity price adjustments.”¹¹⁷ Rather, this notice only provides the most basic principles for electrical adjustment and provides an average range of adjustments for the sales prices for each province.¹¹⁸ The GOC, did however, note that “{p}rovincial authorities do submit their price schedules to the NDRC to ensure that the price adjustments follow the principles laid out by the NDRC.”¹¹⁹

As explained above, the GOC’s response does not constitute a full explanation regarding the roles and nature of cooperation between the NDRC and provinces in deriving electricity price adjustments. In fact, the information provided by the GOC indicates that despite its claim that the responsibility for setting prices within each province has moved from the NDRC to the provincial governments, the NDRC continues to play a major role in setting and adjusting prices.

Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record, that the GOC withheld information requested by Commerce, and that the GOC significantly impeded this proceeding. Thus, we must rely on “facts available” in making our preliminary determination.¹²⁰ Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate to the best of its ability to comply with our repeated requests for information. As a result, an adverse inference is warranted in the application of facts available.¹²¹ In applying AFA, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, we are also relying on AFA in selecting the benchmark for determining the existence and amount of the benefit. The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* “Provision of Electricity for LTAR,” below.

C. Application of AFA: Export Buyer’s Credit

As discussed below under the section “Programs Preliminarily Determined to Be Countervailable,” Commerce is investigating the Export Buyer’s Credit Program. During the review, Commerce requested that Baroque Timber and Guyu (including their cross-owned affiliates) report all types of financing provided by the China ExIm Bank.¹²² Baroque Timber and Riverside Plywood reported that none of their customers used this program,¹²³ and to support

¹¹⁷ *See* GOC’s SQR at 11.

¹¹⁸ *Id.* at 11-14.

¹¹⁹ *Id.* at 12.

¹²⁰ *See* section 776(a) of the Act.

¹²¹ *See* section 776(b) of the Act.

¹²² *See* Commerce CVD Questionnaire at II-6.

¹²³ *See* Baroque Timber IQR at 20-21.

this claim Riverside Plywood provided its customer declarations¹²⁴ demonstrating its customers did not use this program. Guyu reported that none of its customers used this program during the POR.¹²⁵ To support this claim Guyu provided its customer declarations¹²⁶ demonstrating its customers did not use this program.¹²⁷

Commerce preliminarily determines that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program, because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program. In the initial questionnaire, we requested that the GOC provide original and translated copies of laws, regulations or other governing documents for this program.¹²⁸ This request included the 2013 *Administrative Measures* revisions (2013 Revisions) to the Export Buyer's Credit program; however, the GOC did not provide the 2013 amendment to these laws. In a supplemental questionnaire, Commerce provided the GOC with another opportunity to provide this information,¹²⁹ and the GOC again failed to provide the information requested stating, "{t}he Ex-Im Bank has confirmed to the GOC that its 2013 guidelines are internal to the bank, non-public, and not available for release."¹³⁰ Information obtained in a prior CVD proceeding indicates that the GOC revised the *Administrative Measures* regarding this program in 2013 and that the China Ex-Im Bank may disburse export buyer's credits directly or through third-party partner and/or correspondent banks.¹³¹ Furthermore, in response to our request that the GOC provide a list of all partner/correspondent banks involved in the disbursement of funds, the GOC stated that, "{t}he GOC has no authority or right to force the Ex-Im Bank to reveal details of other transactions because those are confidential commercial information belonging to Ex-Im Bank. Therefore, this question is not applicable."¹³² Therefore, in its initial and supplemental questionnaire responses, the GOC refused to provide the requested information or any information concerning the 2013 program revision and the partner/correspondent banks, which is necessary for Commerce to analyze how the program functions.

In its initial response, the GOC reported that the China Ex-Im Bank searched its database for the U.S. importers provided by the mandatory respondents, and it did not find any of the companies listed in its database. The GOC further claims that the China Ex-Im Bank's database contains all users of the Export Buyer's Credit program, regardless of whether the China Ex-Im Bank partnered with any other bank. In our supplemental questionnaire, we asked the GOC to provide screenshots of the database, and a step-by-step detail of how it determined that the Export Buyer's Credit was not used by the listed U.S. importers.¹³³ As evidence, the GOC submitted

¹²⁴ See Baroque Timber IQR at Exhibit 15b and Exhibit 15c. Baroque Timber provided customer declarations for 60 percent of Riverside Plywood's reported customers.

¹²⁵ See Guyu IQR at 11-12.

¹²⁶ See Guyu IQR at Exhibit IV-C-4 and Exhibit IV-C-5. Guyu provided customer declarations for approximately 50 percent of its reported customers.

¹²⁷ *Id.*

¹²⁸ See Commerce CVD Questionnaire at II-6 and II-7

¹²⁹ See GOC SQ at 4.

¹³⁰ See GOC SQR at 5.

¹³¹ See Public Bodies Memorandum.

¹³² See the GOC SQR at 5.

¹³³ See GOC SQ at 4-5.

screen shots of a data query from the China Ex-Im Bank showing no results for this program; however, the data query results for the search are unclear and there is no way to confirm what variables were used in the data query.¹³⁴ Additionally, the GOC's explanation on how the China Ex-Im Bank performed the query search is vague stating, "{A}fter searching through its system, the EX-IM Bank of China did not find any result, evidencing that none of the U.S. customers of the mandatory company respondents obtained an Export Buyer Credit."¹³⁵ Although the GOC provided us the requested screenshots of their purported search of the China Ex-Im Bank system, we find this information to be insufficient because it was incomplete, and without the additional information we requested, unusable. Specifically, the GOC provided us with screenshots (not fully translated) that did not contain any information tying the database to the Export Buyer's Credit Program, did not provide a trace showing the step-by-step process that the GOC took to obtain information showing that the respondents' customers did not participate in the Export Buyer's Credit Program, did not show how the companies listed in the screenshots are related to purchases from either of the respondents, nor explain how the screenshots would be dispositive to show that the companies participated in the Export Buyer's Credit Program. As a result, the GOC failed to respond to Commerce's request, and instead continued to merely claim that neither of the mandatory respondents, or their respective customers, used the program based on selectively provided, incomplete information.

Therefore, the evidence provided does not constitute complete, verifiable, and positive evidence that none of the companies under review received assistance under this program. Because of the complicated structure of loan disbursements for this program, Commerce's complete understanding of how this program is administered is necessary. Therefore, without the necessary information, we are not able to make a determination as to whether this program constitutes a financial contribution and is specific. Accordingly, we find that the GOC has not cooperated to the best of its ability in response to Commerce's specific information requests.¹³⁶

In their initial questionnaire responses, Baroque Timber and Guyu claimed non-use for this program, and submitted certifications of non-use from their customers.¹³⁷ However, the GOC is the only party that can answer questions about the internal administration of this program and thus, absent the requested information, the GOC's and respondent company's claims of non-use of this program are not verifiable. The GOC's refusal to provide the 2013 revisions to the administrative measures, which provide internal guidelines for how this program is administered by the China Ex-Im Bank, and a list of partner/correspondent banks that are used to disperse funds through this program, constitutes withholding necessary information and impeded Commerce's ability to analyze the program's operation or determine how the program could be properly verified. Additionally, the GOC has not provided information that would permit us, absent the use of facts available pursuant to section 776 of the Act, to make a determination as to whether this program constitutes a financial contribution or whether this program is specific. Accordingly, we preliminarily find that the GOC has not cooperated to the best of its ability in response to Commerce's specific information requests and determine, as AFA, that this program

¹³⁴ *Id.* at 6-7 and Exhibit SQ-3 and SQ-4.

¹³⁵ *See* the GOC SQR at 6-7.

¹³⁶ *See* Section 776(d) of the Act.

¹³⁷ *See* Guyu IQR at 12 and Exhibit IV-C-5; *see also* Baroque Timber IQR at 21 and Exhibit 15c

constitutes a financial contribution and meets the specificity requirements of the Act.¹³⁸ Additionally, consistent with our practice,¹³⁹ as AFA, we find that Baroque Timber and Guyu used and benefited from this program.

Pursuant to section 776(a)(1) of the Act, when necessary information is not available on the record, and sections (2)(A) and (C) of the Act, when an interested party withholds information requested by Commerce and significantly impedes a proceeding, Commerce uses facts otherwise available to reach a determination. Here, the record is missing necessary information because the GOC withheld the requested information described above, thereby impeding this proceeding. Accordingly, we preliminarily determine that the use of facts available is warranted based on the record. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding information and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Accordingly, we find that the application of AFA is warranted.

Selection of the AFA Rate

Consistent with section 776(d) of the Act and our established practice, we applied our CVD hierarchy to determine the AFA rate for the Export Buyer's Credit Program.¹⁴⁰ Under the first step of Commerce's CVD AFA hierarchy for administrative reviews, Commerce applies the highest non-*de minimis* rate calculated for the identical program in any segment of the same proceeding. If there is no identical program match within the same proceeding, or if the rate is *de-minimis*, under step two of the hierarchy, Commerce applies the highest non-*de minimis* rate calculated for a similar program within any segment of the same proceeding. If there is no non-*de minimis* rate calculated for a similar program within the same proceeding, under step three of the hierarchy, Commerce applies the highest non-*de minimis* rate calculated for an identical or similar program in another CVD proceeding involving the same country. Finally, if there is no non-*de minimis* rate calculated for an identical or similar program in another CVD proceeding involving the same country, under step four, Commerce applies the highest calculated rate for any program from the same country that the industry subject to the review could have used.¹⁴¹

Furthermore, Commerce's methodology is consistent with section 502 of the Trade Preferences Extension Act of 2015 (TPEA), which the President of the United States signed into law on June

¹³⁸ See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016), and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences."

¹³⁹ We have determined in previous cases, e.g., *Crystalline Silicon Photovoltaic Cells from China*, that because of the nature of this program, Commerce cannot rely on non-use statements from respondents without the corroboration of the GOC. Therefore, although we normally collect non-use information from the respondent directly, this program requires a fully cooperative GOC response to determine non-use. See *Crystalline Silicon Photovoltaic Cells from China, Whether or Not Assembled Into Modules from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Preliminary Intent to Rescind, in Part*: 2014, 82 FR 2317 (January 9, 2017), and accompanying IDM at 31 (*Crystalline Silicon Photovoltaic Cells from China*).

¹⁴⁰ See, e.g., *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 for an uncooperative respondent").

¹⁴¹ See section 776(d) of the Act; see also *SolarWorld Americas, Inc. v. United States*, CIT No. 15-00232 (CIT 2017) (*SolarWorld*) (sustaining Commerce's CVD AFA hierarchy and selection of AFA rate for CVD reviews).

29, 2015. Section 502 of the TPEA added new subsection (d) to section 776 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 AFA 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 AFA 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.”¹⁴² No legislative history accompanied this provision of the TPEA. 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 AFA 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 resulted in the use of AFA, Commerce determines that the situation warrants a rate different than the rate derived from the hierarchy be applied.¹⁴³

In applying the AFA 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.”¹⁴⁴ 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

¹⁴² See section 776(d)(2) of the Act.

¹⁴³ This differs from antidumping proceedings, for which no hierarchy applies, under section 776(d)(1)(B). 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.

¹⁴⁴ See SAA, at 870; 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*).

margin.”¹⁴⁵ It is pursuant to this knowledge and experience that Commerce has implemented its AFA hierarchy in CVD cases to select an appropriate AFA rate.¹⁴⁶

In applying its AFA hierarchy in CVD reviews, 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 review 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 or review (*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 AFA rate for a particular program. In reviews, for example, this “pool” of rates could include a non-*de minimis* rate calculated for the identical program in any segment of the proceeding, a non-*de minimis* rate calculated for a similar program in any segment of that proceeding, or 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.

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 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.”¹⁴⁷ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.¹⁴⁸

¹⁴⁵ See *De Cecco*, 216 F.3d at 1032.

¹⁴⁶ 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, Comment 4 at 28-31 (applying the AFA hierarchical methodology within the context of 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 (*Crystalline Silicon Photovoltaic Cell from China Final 2015*) (applying the AFA hierarchical methodology within the context of 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).

¹⁴⁷ See SAA at 870.

¹⁴⁸ *Id.*

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.¹⁴⁹ Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.¹⁵⁰

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.¹⁵¹

Consistent with section 776(d) of the Act and our established practice, we applied our CVD hierarchy to determine the AFA rate for the Export Buyers’ Credit Program.¹⁵² Our examination of the results of all the segments of this proceeding leads us to conclude that there are no calculated rates for this program in this proceeding - and thus no rates are available under step one of the CVD AFA hierarchy. Because we have not calculated a rate for an identical program in this proceeding, we then determine, under step two of the hierarchy, if there is a calculated rate for a similar/comparable program (based on the treatment of the benefit) in the same proceeding, excluding *de minimis* rates. When Commerce selects a similar program, it looks for a program with the same type of benefit. For example, it selects a loan program to establish the rate for another loan program, or it selects a grant program to establish the rate for another grant program.¹⁵³ Consistent with this practice, upon examination of the available above *de minimis* programs from the current review and the underlying investigation, Commerce selected the Policy Loans Program because it confers the same type of benefit as the Export Buyer’s Credit Program, as both programs are subsidized loans from the GOC.¹⁵⁴ On this basis, we are using an AFA rate of 0.84 percent *ad valorem*, the highest rate determined for a similar program in this proceeding (for the Policy Loans to the wood flooring industry program calculated in this review) as the rate for this program, applicable to both respondent companies.

¹⁴⁹ *Id.* at 869-870.

¹⁵⁰ See section 776(d) of the Act.

¹⁵¹ See, e.g., *Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People’s Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017) and accompanying IDM at 14 (citing *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996)).

¹⁵² See, e.g., *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 for an uncooperative respondent”).

¹⁵³ See *Crystalline Silicon Photovoltaic Cell from China Final 2015* and accompanying IDM at 14, 44; *Narrow Woven Ribbons With Woven Selvedge from the People’s Republic of China*, 79 FR 78036 (December 29, 2014) (final results administrative review), and accompanying IDM at 5; *Large Residential Washers from the Republic of Korea*, 80 FR 55336 (September 15, 2015) (final results administrative review), and accompanying IDM at 5.

¹⁵⁴ See Policy Loans section below.

D. Application of AFA: Provision of Land-Use Rights to Certain Industrial Zones for LTAR

During the review, Commerce requested that Baroque Timber and Guyu (including their cross-owned affiliates) report land-use rights purchased from any governmental authority (including zones) for land located in the province, municipality, zone, *etc.*, during the period covering December 11, 2001, through the end of the POR.¹⁵⁵ Baroque Timber reported that its facilities are located in an industrial zone, and Riverside Plywood's facilities are located in an economic and technological development zone.¹⁵⁶ Guyu reported that Shengyu's facilities are located in an economic development zone.¹⁵⁷ Commerce also requested that the GOC provide information on the mandatory respondents' land-use rights purchases.¹⁵⁸ In its initial response, the GOC reported that Baroque Timber acquired one parcel of land, which was located in the Jinzhangzhu Industrial Zone, from the Bureau of Land Resources of Zhongshan City. With respect to Guyu, the GOC reported that Guyu's cross-owned affiliate, Shengyu, has one parcel of land located in the east of Hezhuang Road, Zhongxing Industrial Park.¹⁵⁹

Commerce, in its initial and supplemental questionnaire to the GOC, requested that the GOC identify any instances in which mandatory respondents received land-use rights in industrial zones. The GOC did not identify instances in which land or land-use rights were provided by the GOC to the mandatory respondents and stated that Commerce should refer to the mandatory respondents' questionnaire responses for this information.¹⁶⁰ The GOC also contends that no land was provided to any of the mandatory respondents or their cross-owned affiliates for LTAR,¹⁶¹ because industrial land parcels in the China are divided into 15 grades, corresponding to different minimum land transfer price national standard.¹⁶² In its supplemental response, the GOC stated that the unit prices of land for industrial use transferred from the GOC to enterprises shall not be lower than the benchmark determined pursuant to the *National Standards for the Minimum Transfer Prices of Land for Industrial Purposes*. However, the GOC failed to explain fully how the price of the land-use was established between the mandatory respondents and the local authorities and it did not reconcile the price paid by the mandatory respondents and the price dictated by the laws of the relevant provinces, cities and counties.

In response to our request to explain the basis upon which the land or land-use rights were provided (*i.e.*, status or activity) to the mandatory respondents, the GOC stated, "{t}he GOC understands that this question is directed to the mandatory respondents and therefore refers {Commerce} to their responses."¹⁶³ The GOC also notes that Baroque Timber's acquired land parcel did not involve any provision of land for LTAR because it was not transferred to Baroque Timber at a preferential price, but through public auction in 2010.¹⁶⁴ However, the GOC failed

¹⁵⁵ See Commerce CVD Questionnaire at II-9.

¹⁵⁶ See Baroque Timber IQR at 24-25.

¹⁵⁷ See Guyu IQR at 14 and Guyu SQR at 5 and at Exhibit Supp-3.

¹⁵⁸ See Commerce CVD Questionnaire at III-15.

¹⁵⁹ *Id.* at 59.

¹⁶⁰ See GOC IQR at 57-58.

¹⁶¹ *Id.* at 58.

¹⁶² *Id.* at 59; *see also* Exhibit 45 and Exhibit 46.

¹⁶³ *Id.* at 61.

¹⁶⁴ *Id.*

to address if any other bids were placed or to provide evidence of the bidding process. Furthermore, in its initial response, the GOC reported that Baroque Timber's public auction land purchase was only open to enterprises that met the following wood manufacturing conditions: (1) have the qualifications for the manufacture, production and processing of wood products; (2) holding a national license for the production of industrial products issued by the State Administration of Quality Supervision, Inspection and Quarantine of the people's Republic of China; (3) have obtained "Timber Management license" issued by the Guangdong Forestry Bureau and Zhongshan Forestry Bureau; and (4) are certified under the ISO9001:2008 standard.¹⁶⁵ The public auction details provided above by the GOC demonstrate that Baroque Timber's land purchase was preferential to companies that manufacture wood products; and therefore, Baroque Timber's land purchase was provided on a specific activity basis.

Given that the GOC has provided information regarding the provision of land and land-use rights in previous proceedings,¹⁶⁶ we preliminarily determine that the GOC has the necessary information that was requested of it and that, lacking the information, Commerce must rely on "facts otherwise available" in issuing its preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, because the GOC provided inconsistent information and failed to provide information it is otherwise able to provide, we preliminarily find that the GOC did not act to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the GOC's provision of land-use rights constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. For details regarding the remainder of our analysis for this program, see the "Provision of Land for LTAR" section below.

E. Application of AFA: "Other Subsidies"

GOC

While Baroque Timber and Guyu self-reported receiving "Other Subsidies" in their initial questionnaire responses, the GOC stated that:

{Commerce} has requested information on various programs in this investigation according to allegations made out in a petition and as initiated by {Commerce}. The GOC has cooperated with respect to {Commerce's} requests. Article 11.2 of the WTO Agreement on Subsidies and Countervailing Measures dictates that investigations may not be initiated on the basis of "simple assertion, unsubstantiated by relevant evidence." Sufficient evidence with regard to the

¹⁶⁵ *Id.* at 58.

¹⁶⁶ *See, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360, 71363 (December 17, 2007), and accompanying PDM at 10 ("{W}e examined these companies' land-use rights agreements and discussed the agreements with the relevant government authorities."), unchanged in *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) (*OTR Tires from China Final Determination*), and accompanying IDM (collectively, *OTR Tires from China Investigation*).

existence, amount, and nature of a subsidy must be presented for {Commerce} to initiate the investigation of another program, consistent with Article 11.2(iii). Therefore, in the absence of allegations and sufficient evidence in respect of “other” subsidies, consistent with Article 11.2 and other relevant articles of the SCM Agreement no reply to this question is warranted or required. For more details about any such other subsidies used by the respondent enterprises and their cross-owned affiliates, please refer to the response by the mandatory respondents.¹⁶⁷

In response, on October 4, 2019, we issued a supplemental questionnaire requesting the GOC’s full responses to the “Other Subsidies” reported by the respondents.¹⁶⁸ Specifically, we asked the GOC to respond to the following questions concerning the “Other Subsidies” reported by Baroque Timber and Guyu:

- On page 108 of the GOC’s Initial Questionnaire Response, you failed to fully respond to Commerce’s question. Please answer this question in full. The question is repeated below for your convenience.¹⁶⁹
- The GOC has not provided a Standard Questions Appendix and Usage Appendix response to the questions for certain grants received by Baroque Timber and Riverside Plywood during the AUL and POR. Please provide a complete response to the Standard Questions Appendix and Usage Appendix for the following:

Baroque Timber’s Other Subsidies (Exhibit 25):

- Subsidy No. 2: Steady Growth In Foreign Trade Exports
- Subsidy No. 4: Project Grant
- Subsidy No. 8: Export Credit Insurance
- Subsidy No. 11: High-Tech Enterprise Reward
- Subsidy No. 12: Personal Income Tax Return

Riverside Plywood’s Other Subsidies (Exhibit 25b):

- Subsidy No. 1: Incentives for Growth in International Trade of 2016
 - Subsidy No. 3: 2016 Science and Technology Plan Project Support Grants
 - Subsidy No. 4: 2016 High-Tech Enterprise Reward¹⁷⁰
- The GOC has not provided a Standard Questions Appendix and Usage Appendix response to the questions for certain grants received by Guyu and Shengyu during the AUL and POR. Please provide a complete response to the Standard Questions Appendix and Usage Appendix for the following:

¹⁶⁷ *Id.* at 108.

¹⁶⁸ *See* GOC SQ at 12.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

Guyu's Other Subsidies (Exhibit V-1 of Guyu's IQR)

- 2015 Chile Exhibition Grant
- Sinosure Export Credit Insurance Subsidy
- 2016 Award Fund
- Foreign Trade Import and Export Supplement Award
- 2017 Financial Subsidy
- 2016 Foreign Economic and Trade Development Fund
- 2017 US Exhibition Grant
- 2017 German Exhibition Grant

Shengyu's Other Subsidies (Exhibit V-2 of Guyu's IQR)

- Wood Industry Park Subsidies
- The Second Batch of Technological Innovations in 2011
- Financial Allocation
- 2012 Provincial Industrial Information Production
- Loan Interest Subsidy
- Talent Grant
- Science and Technology Bureau County Supporting Fund
- 2016 Incentive Fund
- 2016 Award Fund
- Finance Bureau Grant¹⁷¹

In its October 28, 2019, supplemental questionnaire response, the GOC supplied no substantive information about the programs but confirmed the reported usage, and acknowledged providing a financial contribution with respect to the respondents' self-reported subsidies.¹⁷² Furthermore, we note that the GOC provided no information regarding the criteria governing the eligibility for and receipt of any assistance under these programs and only reiterated its response from its initial questionnaire.¹⁷³

Therefore, based upon the above, we preliminarily determine that necessary information to determine whether these initially-reported "Other Subsidies" are specific is not available on the record and that the GOC withheld information that was requested of it, and, thus, that Commerce must rely on "facts available" in making its preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, AFA is warranted, in accordance with section 776(b) of the Act. Based on the GOC's decision not to provide information related to specificity, we preliminarily find that the self-reported programs are specific within the meaning of section 771(5A) of the Act.¹⁷⁴ For details regarding the remainder of our analysis, *see* the "Other Subsidies" section.

¹⁷¹ *Id.* at 12-13.

¹⁷² *See* GOC SQR at 3.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

IX. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Provision of Veneers for LTAR

Commerce determined in the last administrative review that this program was countervailable.¹⁷⁵ Specifically, we found the provision of veneers to be specific within the meaning of section 771(5A)(D) of the Act and confers a financial contribution within the meaning of section 771(5)(D) of the Act. Additionally, as stated above, in the “Application of AFA: Provision of Inputs for LTAR” section, the GOC failed to identify whether any of the veneer suppliers reported by Baroque Timber and Guyu were affiliated with any CCP authorities. The record information in this segment of the proceeding also supports the same findings as the last administrative review, and there is no other information on the record that leads us to reconsider that determination. Therefore, consistent with our practice not to revisit financial contribution and specificity determinations made in a prior segment of the same proceeding, absent the presentation of new facts or evidence,¹⁷⁶ we preliminarily continue to find that this program is specific within the meaning of section 771(5A)(D) of the Act and confers a financial contribution within the meaning of section 771(5)(D) of the Act.

In its NSA response, Guyu reported that Shunyang purchased poplar core sheets which are used to produce plywood.¹⁷⁷ Further, Guyu contends that Shunyang’s poplar core sheet input is substantially different from the face veneer purchases it reported.¹⁷⁸ However, as described above under “Scope of the Order,” at footnote 4, a “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled. The poplar core sheets purchased by Shunyang are thin slices of wood,¹⁷⁹ which, as previously noted, are veneers as defined by the scope. Accordingly, for these preliminary results, we have included these poplar core sheet purchases in our calculation of veneers for LTAR.

To determine the existence and the amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on the actual purchases of veneers reported by Baroque Timber and Guyu’s cross-owned affiliates Shengyu and Shunyang. As

¹⁷⁵ See *Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, Rescission of Review, in Part, and Intent To Rescind Review, in Part; 2016*, 83 FR 67229 (December 28, 2018) and accompanying IDM at 14-15 and 33 (*Multilayered Wood Flooring from the PRC Prelim 2016*), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2016*, 84 FR 38221 (August 6, 2019) (*Multilayered Wood Flooring from the PRC Final 2016*).

¹⁷⁶ See *Solar Cells from China 2012* IDM at 27 n.130.

¹⁷⁷ See Guyu’s Letter, “Response to New Subsidy Allegations: Multilayered Wood Flooring from the People’s Republic of China,” dated November 8, 2019 (Guyu NSA Response), at 2.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at Exhibit NSA-4.

discussed in the “Benchmarks to Determine Adequacy of Remuneration of Inputs” section above, Commerce is selecting benchmark prices for these veneer purchases based on 19 CFR 351.511(a)(2). As discussed above, we are applying tier two benchmark prices for veneers.

On this basis, we preliminarily determine a subsidy rate of .11 percent *ad valorem* for Baroque Timber,¹⁸⁰ and 112.23 percent *ad valorem* for Guyu’s cross-owned affiliates Shengyu and Shunyang for veneers.¹⁸¹

2. Provision of Fiberboard for LTAR

Baroque Timber and Guyu’s cross-owned affiliate Shengyu reported purchasing fiberboard and identified the suppliers of fiberboard from whom it purchased during the POR.¹⁸² As stated above, in the “Application of AFA: Provision of Inputs for LTAR” section, the GOC failed to identify whether any of the fiberboard suppliers reported by Baroque Timber and Guyu were affiliated with any of CCP authorities. Additionally, the petitioner reported that State-Owned Enterprise (SOE) production accounts for significant quantities of engineered wood and furniture wood in China; therefore, SOEs likely supplied fiberboard to downstream wood flooring producers.¹⁸³

Based on the GOC’s involvement in the timber and wood flooring industries and its failure to provide the requested information, we preliminarily find, based in part on AFA, that this program provides a financial contribution under section 771(5)(D) of the Act, and is specific under section 771(5A)(D) of the Act. To the extent that the prices paid by Baroque Timber and Shengyu fall below the benchmark price, we preliminary find that a benefit exists under section 771(5)(E) of the Act and 19 CFR 351.511. To calculate the benefit from this program, we used the benchmarks discussed under the “Benchmarks to Determine Adequacy of Remuneration of Inputs” section. On this basis, we preliminarily determine a subsidy rate of 0.32 percent *ad valorem* for Baroque Timber,¹⁸⁴ and a subsidy rate of 0.02 percent for Guyu’s cross-owned affiliate Shengyu.¹⁸⁵

3. Provision of Plywood for LTAR

Baroque Timber, Riverside Plywood and Shengyu reported purchasing plywood and identified the suppliers of plywood from whom they purchased during the POR.¹⁸⁶ As stated above, in the “Application of AFA: Provision of Inputs for LTAR” section, the GOC failed to identify whether any of the plywood suppliers were affiliated with any CCP authorities. Additionally, as explained in the “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily

¹⁸⁰ See Baroque Timber Prelim Calc Memo at 5.

¹⁸¹ See Guyu Prelim Calc Memo at 4.

¹⁸² See Baroque Timber NSA at 1-2 and Exhibit 1; see also Baroque Timber Second SQR at Exhibit SS-2; Guyu NSA at 1 and at Exhibit NSA-2; Guyu Second SQR at Exhibit Supp 2-2.

¹⁸³ See Petitioner NSA Letter at 30.

¹⁸⁴ See Baroque Timber Prelim Calc Memo at 6.

¹⁸⁵ See Guyu Prelim Calc Memo at 5-6.

¹⁸⁶ See Baroque Timber NSA at 1-2 and Exhibit 1; see also Baroque Timber Second SQR at Exhibit SS-1; Guyu NSA at 1 and at Exhibit NSA-1; Guyu Second SQR at Exhibit Supp 2-1.

find that, as AFA, the domestic market for timber is distorted through the intervention of the GOC.

Based on the GOC's involvement in the timber and wood flooring industries and its failure to provide the requested information, we preliminarily find, based in part on AFA, that this program provides a financial contribution under section 771(5)(D) of the Act, and is specific under section 771(5A)(D) of the Act. To the extent that the prices paid by Baroque Timber, Riverside Plywood, and Shengyu fall below the benchmark price, we preliminary find that a benefit exists under section 771(5)(E) of the Act and 19 CFR 351.511. To calculate the benefit from this program, we used the benchmarks discussed under the "Benchmarks to Determine Adequacy of Remuneration of Inputs" section. On this basis, we preliminarily determine a subsidy rate of 14.35 percent *ad valorem* for Baroque Timber (including its cross-owned affiliate Riverside)¹⁸⁷ and a subsidy rate of 7.47 percent for Guyu's cross-owned affiliate Shengyu.¹⁸⁸

4. Provision of Electricity for LTAR

In the original investigation, Commerce determined this program to be countervailable based, in part, on the application of AFA.¹⁸⁹ As discussed in "Use of Facts Otherwise Available and Application of Adverse Inferences," we are preliminarily basing our finding on the government's provision of electricity, in part, on AFA. As AFA, we determine that the GOC's provision of electricity is a financial contribution in the form of the provision of a good or service under section 771(5)(D) of the Act, and that it is specific within the meaning of section 771(5A) of the Act.

In a CVD proceeding, Commerce requires information from both the government of the country whose merchandise is under investigation or review and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, Commerce, as AFA, may preliminarily find that a financial contribution exists under the alleged program and that the program is specific.¹⁹⁰ However, where possible, Commerce will rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit, to the extent that those records are useable and verifiable.

Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) reported using this program, and provided data on their electricity consumption and the electricity rates paid during the POR.¹⁹¹ To measure the benefit under the program, we

¹⁸⁷ See Baroque Timber Prelim Calc Memo at 5-6.

¹⁸⁸ See Guyu Prelim Calc Memo at 4-5.

¹⁸⁹ See *Multilayered Wood Flooring From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 76 FR 19034 (April 6, 2011), unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 64313 (October 18, 2011).

¹⁹⁰ See, e.g., *Hardwood and Decorative Plywood from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3, "Provision of Electricity."

¹⁹¹ See Baroque Timber IQR at 14-15 and Exhibit 9a, 9b, 10a, 10b, 11a, 11b; see also Guyu IQR at 7-8 and Exhibit III-D-1, III-D-2, III-D-3, and III-D-4.

compared the rates paid by each respondent for its electricity to the highest rates that it could have paid in China during the POR.

In deriving the benchmark,¹⁹² we selected the highest non-seasonal provincial rates in China during the POR for each applicable user category (*e.g.*, “large industrial user,” and “normal industrial and commercial user”), voltage class (*e.g.*, 1-10kv, 35kv), time period (general, peak, normal, and valley), and basic fee (*e.g.*, “base charge/maximum demand”) as provided by the GOC.¹⁹³ We calculated benchmark electricity payments by multiplying consumption volumes by the benchmark electricity rate corresponding to the user category, voltage class, and time period (*i.e.*, peak, normal, and valley), where applicable. We then compared the calculated benchmark payments to the actual electricity payments made by the company during the POR. Where the benchmark payments exceeded the payments made by the company, a benefit was conferred. Based on this comparison, we preliminarily find that electricity was provided for LTAR to Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang).

To calculate the countervailable subsidy rates for the POR, we summed each individual company’s benefits and divided the amount by the appropriate sales denominator for the POR. On this basis, we preliminarily determine that Baroque Timber (including Riverside Plywood) received a countervailable subsidy of 0.47 percent *ad valorem*,¹⁹⁴ and Guyu’s cross-owned affiliates Shengyu and Shunyang received a countervailable subsidy of 0.23 percent *ad valorem*.¹⁹⁵

5. Policy Loans to the Wood Flooring Industry

Commerce determined in the last administrative review that this program was countervailable.¹⁹⁶ Specifically, we found that policy lending was *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC’s policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the plywood and timber industry. Additionally, we found that loans to wood flooring producers from policy banks and SOCBs in China constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.¹⁹⁷

Baroque Timber and Guyu (including Shengyu and Shunyang) reported having loans outstanding from Chinese policy banks or SOCBs during the POR under this program.¹⁹⁸ To calculate the

¹⁹² See 19 CFR 351.511(a)(2).

¹⁹³ See GOC IQR at Exhibit 10.

¹⁹⁴ See Baroque Timber Prelim Calc Memo at 2.

¹⁹⁵ See Guyu Prelim Calc Memo at 2.

¹⁹⁶ See *Multilayered Wood Flooring from the PRC Prelim 2016* and accompanying IDM at 31 unchanged in *Multilayered Wood Flooring from the PRC Final 2016*

¹⁹⁷ See Section 771(5)(E)(ii) of the Act.

¹⁹⁸ See Baroque Timber IQR at 14-15 and Exhibit 9a, 9b, 10a, 10b, 11a, 11b; see also Guyu IQR at 7-8 and Exhibit III-D-1, III-D-2, III-D-3, and III-D-4.

benefit from this program, we used the benchmarks discussed under the “Subsidy Valuation Information” section. On this basis, we preliminarily determine a subsidy rate of 0.3 percent *ad valorem* for Baroque Timber¹⁹⁹ and a subsidy rate of 0.84 percent *ad valorem* for Guyu and its cross-owned affiliates, Shengyu and Shunyang.²⁰⁰

6. Provision of Land-Use Rights to Certain Industrial Zones for LTAR

Commerce determined in the last administrative review that this program was countervailable.²⁰¹ Specifically, we found that land-use rights are specific under section 771(5A) of the Act because the land-use rights are granted to promote exports of enterprises or industries located in industrial zones. Additionally, we found that land-use rights provided to wood flooring producers in China constitute financial contributions in the form of a provision of a good under section 771(5)(D)(iii) of the Act and a benefit is provided within the meaning of section 771(5)(E)(iv) of the Act because the provision is for below-market prices.

Baroque Timber is located in the Suian Industrial Zone, Gangkou Town, Zhongshan, Guangdong;²⁰² Riverside Plywood is located in the Economic and Technological Development Zone, Nantong City, Jiangsu Province;²⁰³ and Shunyang is located in Jiangsu Siyang Economic Development Zone Yiyang Industry and Technology Park.²⁰⁴ Baroque Timber, Riverside Plywood and Shunyang reported purchasing land-use rights in these industrial zones during the AUL and have provided supporting documentation.²⁰⁵ To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first multiplied the Thailand industrial land benchmarks discussed above under the “Interest Rate Benchmarks, Discount Rates, Inputs, Land-Use, and Electricity” section, by the total land areas of the land-use rights held by Baroque Timber, Riverside Plywood and Shunyang. We then subtracted the net price actually paid for the land to derive the total unallocated benefit. We next conducted the “0.5 percent test” provided for under 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales and, therefore, allocated the benefits to the POR over the applicable land-use rights period (*i.e.*, 50 years) and determined the amounts attributable to the POR. We divided this amount by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section. On this basis, we preliminarily determine a subsidy rate of 0.51 percent *ad valorem* for Baroque Timber (including Riverside Plywood),²⁰⁶ and a subsidy rate of 0.71 percent *ad valorem* for Guyu’s cross-owned affiliate Shengyu.²⁰⁷

¹⁹⁹ See Baroque Timber Prelim Calc Memo at 2.

²⁰⁰ See Guyu Prelim Calc Memo at 2.

²⁰¹ See *Multilayered Wood Flooring from the PRC Prelim 2016* and accompanying IDM at 12-13 and 28-29 unchanged in *Multilayered Wood Flooring from the PRC Final 2016*.

²⁰² See Baroque Timber IQR at 24.

²⁰³ *Id.* at 25.

²⁰⁴ See Guyu IQR at 14.

²⁰⁵ See Baroque Timber IQR at 24-28 and at Exhibit 21a, 21b, 22a, 22b, 23a and 23b; see also Guyu IQR at 14-15 and at Exhibit IV-D-3, IV-D-4 and IV-D-5.

²⁰⁶ See Baroque Timber Prelim Calc Memo at 4..

²⁰⁷ See Guyu Calc Memo at 3-4.

7. Export Buyers' Credit

Based upon the preliminary application of AFA discussed above, we preliminarily determine the Export Buyers' Credit program to be countervailable, and the subsidy rate to be 0.84 percent for both respondents.²⁰⁸

8. "Other Subsidies"

a. Grants

Baroque Timber (including Riverside Plywood and Suzhou Times) and Guyu (including Shengyu) self-reported receiving the grants indicated below either in the POR or during the AUL period.²⁰⁹ Additionally, for the reasons explained in the "Application of AFA: 'Other Subsidies'" section above, we are basing our preliminary results partly on AFA. Based on the GOC's decision not to provide information related to specificity, we find that these grants are specific within the meaning of section 771(5A).²¹⁰ On this basis, we find that Baroque Timber (including Riverside Plywood and Suzhou) and Guyu (including Shengyu) received the following non-recurring grants during the POR or AUL period:²¹¹

Baroque Timber's (including Riverside Plywood and Suzhou) Other Subsidies

- Project Grant
- Personal Income Tax Return
- Steady Growth Export 2017
- Export Credit Insurance 2017
- High Tech Enterprise Reward 2017
- Attorney's Fee (Special Funds for Business Development in 2011 to Support the Transformation and Upgrading of International Trade)
- Incentives for Growth in International Trade
- Science and Technology Plan Project Support Grants
- High-Tech Enterprise Award - Riverside Plywood

Guyu's (including Shengyu) Other Subsidies

- Loan Interest Subsidy
- Talent Grant
- Science and Technology Bureau County Supporting Fun
- 2016 Incentive Fund
- 2016 Award Fund
- 2015 Chile Exhibition Grant

²⁰⁸ See Baroque Timber Prelim Calc Memo at 7; see also Guyu Prelim Calc Memo at 6.

²⁰⁹ See Baroque Timber IQR at 30 – 35 and at Exhibit 25a and 25b; see also Guyu IQR at 18 – 21 and Exhibit V-1, V-2 and V-3.

²¹⁰ *Id.*

²¹¹ See Riverside Plywood IQR at Exhibits 9a and 36.

- 2016 American Exhibition, German Exhibition Grant
- 2016 Award Fund
- Foreign Trade Import and Export Supplement Award
- Financial Subsidy
- Sinasure Export Credit Insurance Subsidy
- 2016 Foreign Economic and Trade Development Fund
- 2017 US Exhibition Grant
- 2017 German Exhibition Grant

To calculate the benefit received under these programs, Commerce followed the methodology described in 19 CFR 351.524. In accordance with 19 CFR 351.524(b)(2), we determine whether to allocate the non-recurring benefit from the grants over the AUL by dividing the approved grant amount by the company's total sales in the year of approval. If the approved amount was less than 0.5 percent of the company's relevant sales, we expensed the amounts received under the grants in the year received. To calculate the *ad valorem* subsidy rate for these grants, we divided the benefit conferred under each of these programs during the POR by the appropriate sales denominator, depending on the nature of the subsidy program. Based on this methodology, Commerce preliminarily calculated a cumulative *ad valorem* subsidy rate of 0.38 percent for Baroque Timber (including Riverside Plywood and Suzhou),²¹² and a subsidy rate of 0.92 percent *ad valorem* for Guyu (including Shengyu),²¹³ for the programs listed above.

b. Direct Taxes

Baroque Timber and Riverside Plywood reported receiving benefits from two tax programs: (1) Income Tax Reduction for High and New Technology Enterprises and (2) Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law.²¹⁴

Because the GOC did not respond to the "other subsidies" portion of Commerce's Initial Questionnaire with respect to these programs, we are basing our preliminary determination, in part, on AFA. Therefore, we preliminarily determine that these tax programs confer a financial contribution in the form of revenue forgone by the government under section 771(5)(D)(ii) of the Act, and are specific under section 771(5A)(D) of the Act. We find that Baroque Timber and Riverside Plywood received a recurring benefit in the form of the tax savings, consistent with 19 CFR 351.524(c)(1).

To compute the amount of the tax savings, we calculated the amount of tax Baroque Timber and Riverside Plywood would have paid absent the tax deductions. We then divided the benefit by the appropriate total sales denominator, as discussed in the "Subsidies Valuation Information" section. On this basis, we preliminarily determine that Baroque Timber (including Riverside Plywood) received net countervailable subsidy rates of 0.55 percent *ad valorem* under the Income Tax Reduction for High or New Technology Enterprises program, and 0.35 percent *ad*

²¹² See Baroque Timber Prelim Calc Memo at 3.

²¹³ See Guyu Calc Memo at 3

²¹⁴ See Baroque Timber IQR at 31-35.

valorem under the Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law program.²¹⁵

B. Programs Preliminarily Determined Not to Confer a Countervailable Benefit

1. Provision of Water for LTAR

Commerce determined in the last administrative review that this program was countervailable.²¹⁶ The GOC provided the “Water Law of the People’s Republic of China” and the “Regulation on the Administration of the License for Water Drawing and the Levy of Water Resources Fees” which made no indication that the wood flooring industry benefitted from the provision of water at LTAR.²¹⁷ Furthermore, in response to Commerce’s initial questionnaire, the GOC stated that Riverside Plywood is located in Jiangsu Province and this program was terminated on June 24, 2002 in Jiangsu Province.²¹⁸ As evidence, the GOC provided, “The Decision of the Government of Jiangsu Province for the Abolishment of Some Regulations Promulgated before 2001,” where 375 existing government regulations were annulled at the end of 2001, upon China’s accession to the WTO.²¹⁹ Specifically, with regards to water, the “Interim measures of Jiangsu Province for Town Water Resources Management” regulations were annulled.²²⁰ This regulation provided a reward of 20 percent on saved water fees for enterprises and institutions that achieved water conservation, which is no longer in effect.²²¹ Furthermore, as noted by the GOC, in *Passenger Vehicle and Light Truck Tires from China*,²²² the GOC provided information demonstrating the revocation of this program in the Jiangsu Province.²²³

The GOC also stated that Baroque Timber is located in Guangdong province, and Baroque Timber paid the Guangdong province water tariff rate and did not pay a preferential rate.²²⁴ Evidence placed on the record by the GOC regarding the water tariff rate and evidence provided by Baroque Timber demonstrate that the rate paid by Baroque Timber is the industrial rate and is not preferential because customer-pricing is not classified based on specific industries.²²⁵ Therefore, we preliminary determine that this program did not confer a benefit during the POR.

Guyu (including Shengyu and Shunyang) reported not using this program.²²⁶

²¹⁵ See Baroque Timber Prelim Calc Memo at 3-4.

²¹⁶ See *Multilayered Wood Flooring from the PRC Prelim 2016* and accompanying IDM at 37, unchanged in *Multilayered Wood Flooring from the PRC Final 2016*.

²¹⁷ See GOC SQR at Exhibits SQ-15 and SQ-16.

²¹⁸ See GOC IQR at 55 and Exhibit 42 (Decision of the Government of Jiangsu Province for the abolishment of Some Regulations Promulgated before 2001 at Annex 1)

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ See GOC SQR at 32-33 and Exhibit SQ-19 at Article 21.

²²² *Id.* at 30; see also *Passenger Vehicle and Light Truck Tires from China*.

²²³ See GOC IQR at 55.

²²⁴ *Id.* at 25B, 26B, and 38.

²²⁵ See GOC SQR at 45.

²²⁶ See Guyu IQR at 14; see also Guyu Second SQR at 5.

C. Programs Preliminarily Determined Not to Confer a Measurable Benefit

1. “Other Subsidies”

Baroque Timber (including Riverside Plywood) and Guyu (including Shengyu and Shunyang) self-reported that they received the grants below in the POR.²²⁷ However, these benefits either do not pass the “0.5 percent test” provided in CFR 351.524(b)(2) and are allocated to the pre-POR year of receipt, or they are less than 0.005 percent *ad valorem* during the POR, and thus not measurable under our practice.²²⁸ Therefore, we are not including these grants in our calculation of each company’s total subsidy rate for the POR:

Riverside Plywood

1. Incentives for Growth in International Trade 2016
2. Position Maintenance Subsidy
3. Staff’s Maternity Allowance and Nutrition Fee
4. Staff’s Maternity Allowance
5. 2016 Local Tax Withholding Agency Fee Refund

Baroque Timber

1. Funding for Party Member’s Activities
2. Product Certification
3. Equipment Upgrade Subsidy
4. City Engineering Center Award
5. Patent Award
6. Policy Reduction
7. Unemployment Survey

Suzhou

1. 2008 Grant

Guyu

1. 2010 Supporting Enterprise Development Award
2. Export Credit Insurance Subsidy
3. Financial Subsidy
4. 2012 SME International Market Development Fund
5. Sinasure 2012 Subsidy
6. 2014 Enterprise Foreign Trade Work Reward Fund
7. 2015 American Exhibition, German Exhibition Subsidy

²²⁷ See Baroque Timber IQR at 30 – 35 and at Exhibit 25a and 25b; see also Guyu IQR at 18 – 21 and Exhibit V-1, V-2 and V-3.

²²⁸ See *Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination*; 2012, 79 FR 56560 (September 22, 2014) and accompanying IDM at Section B.1.

8. Foreign Trade Steady Growth Funds
9. Special Funds for Business Development
10. Export Credit Insurance
11. Funds for SME International Market Development Projects in the second half of 2015
12. Preferential Income Tax Policy for Small Enterprises with Low Profits

Shengyu

1. Technology Special Fee
2. Wood Industry Park Subsidies
3. The Second Batch of Technological Innovations in 2011
4. Develop High Wear-Resistant Floor Bonus
5. Financial Allocation
6. Zhongxing Town Subsidy
7. Finance Bureau Grant
8. Accounting Center Fund
9. 2012 Provincial Industrial Information Production
10. 2013 County-Level Science and Technology Plan Project Fund
11. 2013 Business Development Special Fund
12. 2012 Provincial Industrial and Information Fund
13. Treasury Centralized Payment
14. 2013 Technology Enrichment Plan
15. Technology Innovation Volume Grant
16. Brand-name Product Reward
17. Transfer Project Funds
18. Forestry Loan Discount
19. 2013 Provincial Research Funding
20. 2012 Forestry Loan Interest
21. 2015 Outstanding Contribution Award
22. Incentive Policy Funds Cross-file Upgrade
23. Reward Policy Fund Patent Grant
24. Transformation and Upgrading of Transformation Funds
25. 2013 Forestry Loan Interest
26. Accounting Center Fund
27. Finance Bureau Grant

D. Programs Preliminarily Determined Not to Be Used

1. Value-Added Tax (“VAT”) and Tariff Exemptions on Imported Equipment
2. Income Tax Subsidies for FIEs Based on Geographic Location
3. Certification of National Inspection-Free on Products and Reputation of Well Known Firm – Jiashan County
4. International Market Development Fund Grants for Small and Medium Enterprises
5. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands (“Famous Brands”)
6. Minhang District Little Giant Enterprise Support

7. Minhang District Pujiang Town Enterprise Support
8. Technology Innovation Support
9. Support for Developing a National Technology Standard
10. Jinzhou New District 2012 Technology Innovation Award
11. Jinzhou District 2013 New and High Technology Research & Development Plan Industrialization Special Fund
12. 2005 Enterprise Development Special Funds Awarded to Penghong Wood
13. Technical Innovation Fund from Linyi Bureau of Finance
14. Local Income Tax Exemption and Reductions for “Productive” FIEs
15. Provision of Electricity at LTAR for FIEs and “Technology Advanced” Enterprises by Jiangsu Province
16. Program of Loan Interest Discount
17. Program of Provincial Famous Brand and New Product
18. Program of VAT Refunds for Production and Processing Comprehensive Utilization Products by Using Three Leftover Materials and Down-Graded Small Woods
19. Patent Application Support
20. Patent Fund
21. Provision of Standing Timber for LTAR
22. Provision of Formaldehyde for LTAR
23. Provision of Urea for LTAR²²⁹
24. Provision of Particleboard for LTAR
25. Provision of Sawn Wood and Continuously Shaped Wood for LTAR
26. Provision of Land-Use Rights to SOEs for LTAR
27. Provision of Export Credits – Export Sellers’ Credits
28. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
29. Preferential Loans to SOEs

²²⁹ Guyu reported that Shengyu purchased a negligible amount of urea during the POR for cleaning production equipment. Because the amount of urea purchased was negligible, and the urea was not used as an input for the production of wood flooring, Commerce is preliminary determining that the provision of urea for LTAR did not confer a measurable benefit for Shengyu.

X. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

1/31/2020



Signed by: CHRISTIAN MARSH