



C-570-127
Investigation
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August 24, 2020

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

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination in the Countervailing Duty Investigation of Certain
Non-Refillable Steel Cylinders from the People's Republic of
China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain non-refillable steel cylinders (non-refillable cylinders) from the People's Republic of China (China), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act). Pursuant to section 701(f) of the Act, Commerce is applying the countervailing duty law to countries designated as non-market economies under section 771(18) of the Act, such as China.

II. BACKGROUND

A. Initiation and Case History

On March 27, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of non-refillable cylinders from China, filed in proper form on behalf of Worthington Industries (the petitioner).¹ Pursuant to section 702(b)(4)(A)(ii) of the Act, we invited representatives of the Government of China (GOC) for consultations with respect to the Petition;² however, the GOC did not request consultations.

On April 22, 2020, Commerce published the notice of initiation of this CVD investigation of

¹ See Petitioner's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China – Petition for the Imposition of Antidumping and Countervailing Duties," dated March 27, 2020 (Petition).

² See Commerce's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated April 2, 2020.

non-refillable cylinders from China.³

As discussed in the “Respondent Selection” section of the *Initiation Notice*, Commerce stated that it normally selects mandatory respondents in a CVD investigation using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope of the investigation.⁴ However, for this investigation, the HTSUS numbers under which the subject merchandise enters (*i.e.*, 7311.00.0060 and 7311.00.0090, 7310.29.0025 and 7310.29.0050) are basket categories under which non-subject merchandise may enter.⁵ Therefore, we stated that we could not rely on CBP entry data in selecting respondents and, instead, would issue quantity and value (Q&V) questionnaires to each potential respondent identified in the Petition.⁶ The petitioner named 15 companies as potential producers and/or exporters of non-refillable cylinders from China.⁷

On April 17, 2020, Commerce issued the Q&V questionnaire via Federal Express (FedEx) and ACCESS for those companies that filed an entry of appearance.⁸ FedEx was not able to deliver the questionnaire to three of the 15 companies: two companies are located in zip codes to which FedEx could not deliver and one company was closed.⁹ We received timely responses from five companies to which the Q&V questionnaire was sent.¹⁰ We also received timely responses from three companies to which the questionnaire was not sent.¹¹ Of the 15 companies identified in the Petition, seven of them did not respond to the Q&V questionnaire.¹² For information on Commerce’s treatment of these non-responsive companies, *see* “Application of AFA: Non-Responsive Companies,” *infra*.

On May 11, 2020, pursuant to section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2), Commerce selected Ningbo Eagle Machinery & Technology Co., Ltd. (Ningbo Eagle) and Wuyi

³ *See Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 22407 (April 22, 2020) (*Initiation Notice*), and accompanying Initiation Checklist.

⁴ *See Initiation Notice*, 85 FR at 22409.

⁵ *Id.*

⁶ *Id.*

⁷ *See* Petition at Volume I, Exhibit GEN-7.

⁸ *See* Commerce Letter, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Issuance of Quantity and Value Questionnaire,” dated April 17, 2020 (Q&V Questionnaire).

⁹ The two companies with ineligible zip codes are Zhejiang Huijin Machinery Manufacture Co., Ltd. and Zhejiang Jucheng Steel Cylinder Co., Ltd. The company that was closed is Shandong Xinhao Special Equipment Co., Ltd. *See* Memorandum, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Issuance and Receipt of Quantity and Value Questionnaires,” dated May 11, 2020 (Q&V Issuance and Receipt Memorandum).

¹⁰ The five companies are Sanjiang Kaiyuan Co., Ltd.; T.T. International Co., Ltd.; Wuyi Xilinde Machinery Manufacture Co., Ltd.; Zhejiang Kin-Shine Technology Co., Ltd.; and Zhejiang Well Industrial & Trading Co., Ltd./Zhejiang Weiou Industry & Trade Co., Ltd. *See* Q&V Issuance and Receipt Memorandum.

¹¹ The three companies are ICOOL International Commerce Limited; Hangzhou JM Chemical Co., Ltd.; and Ningbo Eagle Machinery & Technology Co., Ltd. *See* Q&V Issuance and Receipt Memorandum.

¹² These seven companies are Jiangsu Kasidi Chemical Machinery Co., Ltd.; Jinhua Sinoblue Machinery Manufacturing Co., Ltd.; Ningbo Runkey CGA Cylinders Co., Ltd.; Ninhua Group Co., Ltd.; Shanghai Ronghua High-Pressure Vessel Co., Ltd.; Zhejiang Ansheng Mechanical Manufacture Co., Ltd.; and Zhejiang Nof Chemical Co., Ltd. *See* Q&V Issuance and Receipt Memorandum.

Xilinde Machinery Manufacture Co., Ltd. (Wuyi Xilinde) as the mandatory respondents.¹³ These two companies are the largest producers/exporters of the subject merchandise by volume based on the Q&V questionnaire responses.

On May 11, 2020, we also issued the initial CVD questionnaire to the GOC with instructions to forward the questionnaire to Ningbo Eagle and Wuyi Xilinde.¹⁴ On May 26, 2020, we received the respondents' company affiliation responses,¹⁵ and on July 2, 2020, we received initial questionnaire responses from the GOC, Ningbo Eagle, and Wuyi Xilinde.¹⁶ Additionally, we received a questionnaire response from Jinhua Sinoblue Machinery Manufacturing Co., Ltd. (Sinoblue), the unaffiliated producer of the subject merchandise that was exported to the United States by Ningbo Eagle.¹⁷

The U.S. International Trade Commission (ITC) notified Commerce of its affirmative preliminary determinations on May 11, 2020.¹⁸ On May 15, 2020, the ITC published in the *Federal Register* a notice of its affirmative determinations in the preliminary phase of the AD and CVD investigations concerning imports of non-refillable cylinders from China.¹⁹

Between June 2 and August 5, 2020, we issued supplemental questionnaires to the GOC,²⁰

¹³ See Memorandum, "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Respondent Selection," dated May 11, 2020.

¹⁴ See Commerce's Letter, "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Countervailing Duty Questionnaire," dated May 11, 2020 (Initial Questionnaire).

¹⁵ See Ningbo Eagle's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Identifying Affiliates Response," dated May 26, 2020; see also Wuyi Xilinde's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Wuyi Xilinde's Affiliation Response," dated May 26, 2020 (Wuyi Xilinde Affiliation Response).

¹⁶ See GOC's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Government of China's Response to Initial Questionnaire," dated July 2, 2020 (GOC IQR); see also Ningbo Eagle's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Section III Questionnaire Response," dated July 2, 2020 (Ningbo Eagle IQR); and Wuyi Xilinde's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Wuyi Xilinde's Section III Response," dated July 2, 2020, (Wuyi Xilinde IQR).

¹⁷ See Sinoblue's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Sinoblue's Section III Questionnaire Response," dated July 2, 2020 (Sinoblue IQR).

¹⁸ See ITC's Letter, "Notification of ITC Affirmative Preliminary Determinations," dated May 11, 2020.

¹⁹ See *Non-Refillable Steel Cylinders from China; Determinations*, 85 FR 29484 (May 15, 2020) (*ITC Preliminary Determination*); see also ITC Publication 5057 (May 2020), entitled *Non-Refillable Steel Cylinders from China: Investigation Nos. 701-TA-644 and 731-TA-1494 (Preliminary)*.

²⁰ See Commerce's Letters, "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated July 9, 2020 (GOC First SQ); "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Addendum to the July 9, 2020 Supplemental Questionnaire," dated July 10, 2020 (GOC First Addendum); "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Addendum to the July 9, 2020 Supplemental Questionnaire," dated July 14, 2020; and "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated July 27, 2020 (GOC Second SQ).

Ningbo Eagle & Sinoblue,²¹ and Wuyi Xilinde,²² and between June 16 and August 10, 2020, received timely responses from the GOC,²³ Ningbo Eagle & Sinoblue,²⁴ and Wuyi Xilinde.²⁵

We received timely submitted factual information from the petitioner on July 27 and 29, 2020,²⁶ Ningbo Eagle on July 27, 2020,²⁷ from Wuyi Xilinde on July 27, 2020,²⁸ and the GOC on August 7, 2020.²⁹

²¹ See Commerce's Letters, "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated June 3, 2020; "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated July 8, 2020; "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated July 27, 2020; "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Land Benchmark Clarification," dated July 28, 2020; and "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire," dated August 5, 2020.

²² See Commerce's Letters, "Company Affiliation," dated June 2, 2020; "Request for Certain Trading Companies to Respond to Initial Questionnaire," dated June 26, 2020 (Wuyi Xilinde Second QR); and "Request for Ranged Data," dated July 15, 2020.

²³ See GOC's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Government of China's Response to Supplemental Questionnaire and Subsequent Addendums," dated July 23, 2020 (GOC First SQR); and "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Government of China's Response to Second Supplemental Questionnaire," dated August 3, 2020 (GOC Second SQR).

²⁴ See Ningbo Eagle's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Identifying Affiliates Supplemental Response," dated June 17, 2020 (Ningbo Eagle June 17 SQR); "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire Response," dated July 22, 2020 (Ningbo Eagle July 22 SQR); "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire Response," dated August 3, 2020; and "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire Response," dated August 10, 2020; *see also* Sinoblue's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Sinoblue Supplemental Questionnaire Response," dated July 22, 2020.

²⁵ See Wuyi Xilinde's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Wuyi Xilinde's Supplemental Affiliation Response," dated June 16, 2020 (Wuyi Xilinde June 16 SQR); "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Questions 2 and 3 Wuyi Xilinde's Supplemental Response," dated July 20, 2020; "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Wuyi Xilinde's Supplemental Response," dated July 27, 2020; "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Wuyi Xilinde's Response to the Supplemental Questionnaire Dated June 26, 2020 (Section III Response of Hangzhou JM Chemical Co., Ltd.)," dated July 27, 2020; and "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Response to the Supplemental Questionnaire Dated June 26, 2020, Pertaining to Hangzhou Juming Import & Export Co., Ltd.," dated July 27, 2020 (Wuyi Xilinde July 27 SQR3).

²⁶ See Petitioner's Letters, "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Submission of Factual Information to Measure the Adequacy of Remuneration," dated July 27, 2020 (Petitioner July 27th Factual Information); and "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Comments and Submission of New Factual Information to Rebut, Clarify or Correct the Government of the People's Republic of China's Supplemental Questionnaire Response," dated July 29, 2020 (Petitioner July 29th Factual Information).

²⁷ See Ningbo Eagle's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Benchmark Submission," dated July 27 2020 (Ningbo Eagle Factual Information).

²⁸ See Wuyi Xilinde's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Benchmark Information," dated July 27, 2020 (Wuyi Xilinde Factual Information).

²⁹ See GOC's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Government of China's Comments to the New Factual Information," dated August 7, 2020.

B. Period of Investigation

The period of investigation (POI) is January 1, 2019 through December 31, 2019. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

C. Postponement of Preliminary Determination

On June 2, 2020, Commerce postponed the deadline for this preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from the petitioner.³⁰ As such, we postponed the preliminary determination until August 24, 2020, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).

D. Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), and based on the petitioner's request,³¹ we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of non-refillable cylinders from China. Consequently, the final CVD determination will be signed on the same date as the final AD determination, which is currently scheduled to be due no later than January 6, 2021,³² unless postponed.

E. Injury Test

Because China is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On May 11, 2020, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of non-refillable cylinders from China that are alleged to be sold at less than fair value and subsidized by the GOC.³³

III. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,³⁴ we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage.³⁵ The petitioner submitted comments concerning the scope of the AD and CVD investigations of non-

³⁰ See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 33631 (June 2, 2020); see also Petitioner's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Request to Postpone Preliminary Determination," dated May 22, 2020.

³¹ See Petitioner's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Request to Align Final Determinations," dated August 13, 2020.

³² See *Non-Refillable Steel Cylinders from the People's Republic of China: Postponement of the Preliminary Determination in the Less Than Fair Value Investigation*, signed August 14, 2020 (*AD Postponement Notice*).

³³ See *ITC Preliminary Determination*; see also ITC Publication 5057.

³⁴ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³⁵ See *Initiation Notice*, 85 FR at 22407-08.

refillable cylinders from China.³⁶ We are currently evaluating the scope comments filed. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, the deadline for which is October 23, 2020.³⁷ We will incorporate the scope decision from the AD investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation (USDOT) Specification 39, TransportCanada Specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 300-cubic inch (4.9 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and unfilled at the time of importation.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also be under HTSUS statistical reporting numbers 7310.29.0025 and 7310.29.0050. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

V. DIVERSIFICATION OF CHINA'S ECONOMY

We placed on the record of this investigation a memorandum in which we determined that the Chinese economy is diverse on a national and regional basis for purposes of any potential *de facto* specificity analysis of the programs under examination.³⁸ We provided an opportunity for the GOC to contest the information provided in the memorandum and did not receive a response.³⁹ Thus, we will continue to find China has a wide diversification of economic activities.

VI. SUBSIDIES VALUATION

A. Allocation Period

³⁶ See Petitioner's Letter, "Certain Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Scope Comments," dated May 8, 2020.

³⁷ See *AD Postponement Notice*.

³⁸ See Memorandum, "Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Economic Diversification Memorandum," dated June 5, 2020.

³⁹ See Initial Questionnaire at Section II, Standard Questions Appendix (Question N); see also GOC IQR.

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.⁴⁰ The U.S. Internal Revenue Service (IRS) has assigned an AUL of 12 years to productive assets employed in the manufacture of fabricated metal products, a classification that includes the subject merchandise.⁴¹ Therefore, Commerce finds the AUL in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2) and the IRS' "How to Depreciate Property" (Publication 946). Commerce notified the respondents of the 12-year AUL in the initial questionnaire and requested data accordingly.⁴² No party to this proceeding disputed this allocation period.

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the year in which the assistance was approved. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL. If the amount of the subsidies is greater than 0.5 of the relevant sales value, we used the standard grant allocation methodology described under 19 CFR 351.524(d)(1) to determine the amount of the benefit attributable to the POI.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to Commerce's regulations further clarifies Commerce's cross-ownership standard. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through

⁴⁰ See 19 CFR 351.524(b).

⁴¹ See Petition, Volume III, page 17 – 18 and Exhibit CVD-20.

⁴² See Initial Questionnaire.

common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁴³

Thus, Commerce’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) 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.⁴⁴

1. Ningbo Eagle

As noted above, Commerce selected Ningbo Eagle as a mandatory respondent. Ningbo Eagle is a trading company that exports, but does not produce, the subject merchandise.⁴⁵ During the POI, Ningbo Eagle exported to the United States non-refillable cylinders that were produced only by Sinoblue,⁴⁶ which submitted a questionnaire response in this investigation. Ningbo Eagle and Sinoblue are not cross-owned affiliates.⁴⁷

Pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with the benefits from subsidies provided to the firm which is producing the subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. As discussed *infra*, we preliminarily determine that Ningbo Eagle did not use any subsidy program and that Sinoblue received countervailable benefits from several domestic subsidy programs during the POI. Therefore, in accordance with 19 CFR 351.525(c), the subsidy benefits provided to Sinoblue are attributed to Ningbo Eagle.⁴⁸

2. Wuyi Xilinde

As noted, Commerce selected Wuyi Xilinde as a mandatory respondent. Wuyi Xilinde is a producer and exporter of subject merchandise.⁴⁹ During the POI, Wuyi Xilinde produced subject merchandise and sold a small amount to unaffiliated trading companies located in China and two of these trading companies, in turn, sold the subject merchandise to the United States during the POI.⁵⁰ At Commerce’s request,⁵¹ Wuyi Xilinde sought to obtain a complete response to the Initial Questionnaire from the two trading companies.⁵² Wuyi Xilinde was able to obtain a

⁴³ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (CVD Preamble).

⁴⁴ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁴⁵ See Ningbo Eagle IQR at 1.

⁴⁶ *Id.*; see also Sinoblue IQR at 2; and Ningbo Eagle July 22 SQR at 2.

⁴⁷ See Ningbo Eagle June 17 SQR.

⁴⁸ See Memorandum, “Countervailing Duty Investigation on Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Preliminary Determination Calculations for Ningbo Eagle Machinery & Technology Co., Ltd.,” dated concurrently with this memorandum (Ningbo Eagle Preliminary Determination Calculations Memorandum).

⁴⁹ See Wuyi Xilinde Affiliation Response at 8.

⁵⁰ See Wuyi Xilinde June 16 SQR at 10 and Exhibit 6.

⁵¹ See Wuyi Xilinde Second QR at 1.

⁵² See Wuyi Xilinde July 27 SQR2 at 1; see also Wuyi Xilinde July 27 SQR3 at 1-4.

complete response to the Initial Questionnaire for one of the trading companies (Hangzhou JM Chemical Co., Ltd. (Hangzhou JM)), which reported that it did not use any of the alleged subsidy programs and did not report receipt of any other forms of assistance from the GOC.⁵³ However, Wuyi Xilinde was unable to obtain a complete response to the Initial Questionnaire from the second trading company (Hangzhou Juming Import & Export Co., Ltd. (Hangzhou Juming)) because it had ceased operations, entered liquidation, and was no longer a going concern.⁵⁴

Pursuant to 19 CFR 351.525(b)(6)(i) and (ii), we are attributing subsidies received by Wuyi Xilinde solely to Wuyi Xilinde. We have not included Hangzhou JM in our subsidy analysis because it did not report receiving any subsidies. Additionally, we have not included Hangzhou Juming in our subsidy analysis. Though Hangzhou Juming did not provide a response to the Initial Questionnaire, it is not affiliated with Wuyi Xilinde, and Wuyi Xilinde documented its efforts to contact Hangzhou Juming and the fact that Hangzhou Juming was no longer in operation and was in the process of liquidation.⁵⁵ Therefore, we have determined that it is not appropriate to apply adverse inferences under section 776(b) of the Act to Wuyi Xilinde as a result of a lack of a response from Hangzhou Juming.

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program.⁵⁶ 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 (or the total combined sales of the cross-owned affiliates less inter-company sales) as the denominator. Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of inter-company sales. For a detailed explanation of the denominators used, *see* the Preliminary Determination Calculations Memoranda.⁵⁷

VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" (FA) if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner

⁵³ *See* Wuyi Xilinde July 27 SQR2 at 1.

⁵⁴ *See* Wuyi Xilinde July 27 SQR3 at 1-4 and Attachments 1-2.

⁵⁵ *Id.*

⁵⁶ *See* 19 CFR 351.525(b)(1)-(5).

⁵⁷ *See* Ningbo Eagle Preliminary Determination Calculations Memorandum; and Memorandum, "Countervailing Duty Investigation on Certain Non-Refillable Steel Cylinders from the People's Republic of China: Preliminary Determination Calculations for Wuyi Xilinde Machinery Manufacture Co., Ltd.," dated concurrently with this memorandum (Wuyi Xilinde Preliminary Determination Calculations Memorandum), (collectively, Preliminary Determination Calculations Memoranda).

requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide {Commerce} with complete and accurate information in a timely manner."⁵⁸ Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁵⁹ At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the statute does not provide an express definition of the "failure to act to the best of its ability" standard, the ordinary meaning of "best" is "one's maximum effort."⁶⁰ Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency's inquiries would suffice to find that a respondent did not act to the best of its ability. While the Federal Circuit noted that the "best of its ability" standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁶¹ The "best of its ability" standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, "have familiarity with all of the records it maintains," and "conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of" its ability to do so.⁶² Further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.⁶³

⁵⁸ See, e.g., *Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁵⁹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.

⁶⁰ See *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

⁶¹ *Id.*, 337 F. 3d at 1382.

⁶² *Id.*

⁶³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); see also *Preamble*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel*, 337 F. 3d at 1382-83.

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁶⁴ It is Commerce’s practice to consider information to be corroborated if it has probative value.⁶⁵ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.⁶⁶ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁶⁷ Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.⁶⁸

Finally, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁹

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

B. Application of AFA: Non-Responsive Companies

As noted *supra*, Commerce issued Q&V questionnaires to the 15 companies identified in the Petition via FedEx and ACCESS.⁷⁰ Of those companies, seven did not respond to the Q&V questionnaire.⁷¹

Consequently, the following seven companies, in alphabetical order, will be treated as non-responsive companies: Jiangsu Kasidi Chemical Machinery Co., Ltd.; Jinhua Sinoblue Machinery Manufacturing Co., Ltd.; Ningbo Runkey CGA Cylinders Co., Ltd.; Ninhua Group Co., Ltd.; Shanghai Ronghua High-Pressure Vessel Co., Ltd.; Zhejiang Ansheng Mechanical Manufacture Co., Ltd.; and Zhejiang Nof Chemical Co., Ltd.

We preliminarily determine that the non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established, and

⁶⁴ See, e.g., SAA at 870.

⁶⁵ See SAA at 870.

⁶⁶ See, e.g., SAA at 869.

⁶⁷ See SAA at 869-870.

⁶⁸ See section 776(c)(2) of the Act.

⁶⁹ See section 776(d)(3) of the Act.

⁷⁰ See Q&V Issuance and Receipt Memorandum.

⁷¹ *Id.*

significantly impeded this proceeding. Thus, Commerce will rely on facts otherwise available in making its preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act.⁷² Moreover, we preliminarily determine that an adverse inference is warranted in selecting from the facts available, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, each of these companies did not cooperate to the best of its ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

As AFA, we find the non-responsive companies used and benefitted from all programs at issue in this proceeding. There are six initiated-upon programs that were used by the cooperating mandatory respondents, and for which the GOC provided a partial or no response. By not responding to our requests for information regarding these programs, the GOC withheld information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding. It also failed to cooperate by not acting to the best of its ability to respond to our requests for information. Therefore, relying on sections 776(a)(2)(A)-(C) and 776(b) of the Act, we find that these programs constitute financial contributions and meet the specificity requirements of the Act.

For the non-used programs upon which we initiated, the GOC did not respond to the Initial Questionnaire for those programs.⁷³ In the Initial Questionnaire, we requested that the GOC provide complete responses for all programs “regardless of whether the companies under investigation or their ‘cross-owned’ companies, as defined in Section III, applied for, used, or benefitted from that program during the POI.”⁷⁴ In its response, the GOC directed Commerce to refer to the respondents’ questionnaire responses or declined to answer some or all of the questions because, in the GOC’s “understanding,” the questions and relevant appendices were not applicable because the mandatory respondents did not use the program.⁷⁵ We issued a supplemental questionnaire to the GOC requesting that it provide a full and complete response for the programs regardless of whether the respondents applied for, used, or benefitted from them during the POI.⁷⁶ In its supplemental questionnaire response, the GOC stated, “The GOC takes the view that ‘necessary information’ in the context of an investigation shall be focused on or limited to programs that the respondents did apply for, use, or benefit from during the POI.”⁷⁷ In response to the individual questions for each reported non-used program, the GOC repeated that none of the responding companies applied for, used, or benefitted from the program during the POI and, therefore, the questions are not applicable.⁷⁸

For programs self-reported by Sinoblue and Wuyi Xilinde, as discussed *infra* at “Application of AFA: Other Subsidies,” the GOC did not provide a response for those programs in its initial or supplemental questionnaire responses. The GOC stated that Commerce’s request for disclosure

⁷² For the derivation of the preliminary AFA subsidy rate assigned to the non-responsive companies, *see* Appendix.

⁷³ *See* GOC IQR at 4 – 6, 13 – 24, 27 – 32, and 47.

⁷⁴ *See* Initial Questionnaire at Section II (p. 2).

⁷⁵ *See* GOC IQR at 4 – 6, 13 – 24, 27 – 32, and 47.

⁷⁶ *See* GOC First SQ; *see also* GOC First Addendum

⁷⁷ *See* GOC First SQR at 1 and 15.

⁷⁸ *Id.* at 1 – 4 and 15 – 22.

of all “other” subsidies is contrary to U.S. law and the WTO Agreement on Subsidies and Countervailing Measures, and referred Commerce to the responses of the responding companies for information about any other subsidies.⁷⁹

Commerce requires information about all programs in the event that the application of facts available is deemed appropriate in determining subsidy usage for uncooperative companies, including companies to which Commerce issued Q&V Questionnaires, but which did not respond to the questionnaires. 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 perform our analyses of financial contribution and specificity for the non-used and self-reported programs is not available on the record, the GOC has withheld information that was clearly requested of it, and that the GOC significantly impeded the investigation, and, as a result, we must rely on “facts available” in making our preliminary determination. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information when it failed to respond to our questionnaires. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the Act. In applying AFA, we find that the non-used and self-reported programs constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act.

Accordingly, we are including in the determination of the AFA rate for the non-responsive companies all programs under investigation, including those that we initiated upon and those that were self-reported by the respondent companies.⁸⁰ We selected an AFA rate for each program based on the statutory hierarchy provided in section 776(d) of the Act and in accordance with Commerce’s practice, and we summed the rates to determine the total AFA rate applied to the non-responsive companies. Commerce has previously countervailed the programs under investigation or similar subsidy programs. For a description of the selection of the AFA rate and our corroboration of this rate, *see* the “Selection of the AFA Rate” and “Corroboration of the AFA Rate” sections *infra*.

Selection of the AFA Rate

It is our practice in CVD proceedings to determine an AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country. When selecting AFA rates, section 776(d) of the Act provides that we may use a countervailable subsidy rate determined for the same or a similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates.⁸¹ Accordingly, when selecting AFA rates, if we have cooperating respondents, as there are in this investigation, we first determine if there is an

⁷⁹ *See* GOC IQR at 48 – 49; *see also* GOC First SQR at 12 – 14; and GOC Second SQR.

⁸⁰ *See* Appendix.

⁸¹ *See Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*), and accompanying Issues and Decision Memorandum (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”).

identical program in the instant investigation and use the highest calculated rate for the identical program. If there is no identical program for which we calculated a subsidy rate above zero for a cooperating respondent in the investigation, we then determine whether an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).⁸² If no such rate exists, we then determine whether there is a similar/comparable program (based on the treatment of the benefit) in any CVD proceeding involving the same country, and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.⁸³

Commerce's methodology is consistent with section 776(d)(1)(A) of the Act, which states that when applying an adverse inference in selecting from the facts otherwise available, we 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 we consider reasonable to use." Thus, section 776(d)(1)(A) of the Act expressly allows for our 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 we "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."⁸⁴ No legislative history accompanied this particular provision. Accordingly, we are 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.

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 from the rate derived from the hierarchy be applied.⁸⁵

⁸² For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

⁸³ See *Shrimp from China* IDM at 13-14.

⁸⁴ See section 776(d)(2) of the Act.

⁸⁵ This differs from antidumping proceedings, for which no hierarchy applies, under section 776(d)(1)(B) of the Act. Under that provision, "any dumping margin from any segment of the proceeding under the applicable antidumping order" may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

In applying the AFA rate provision, it is well established that when selecting the rate from among possible sources, we seek 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.”⁸⁶ Further, “in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin.”⁸⁷ It is pursuant to this knowledge and experience that we have implemented our AFA hierarchy in CVD cases to select an appropriate AFA rate.⁸⁸

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

Furthermore, the hierarchy (as well as section 776(d)(1) of the Act) recognizes that there may be a “pool” of available rates that we can rely upon for purposes of identifying an AFA rate for a particular program. In investigations, for example, this “pool” of rates could include the rates for the same or similar programs used in either that same investigation, or prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that “pool” of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

Under the first step of Commerce’ investigation hierarchy, we apply the highest non-zero rate calculated for a cooperating company for the identical program in the investigation. Under this

⁸⁶ 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*)).

⁸⁷ See *De Cecco*, 216 F. 3d at 1032.

⁸⁸ We have adopted a practice of applying this hierarchy in CVD cases. See, e.g., *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at 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 (applying the AFA hierarchical methodology within the context of CVD administrative review). However, depending on the type of program, we may not always apply the AFA hierarchy. See, e.g., *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM 7-8 (applying, outside of the AFA hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

step, we will even use a *de minimis* rate as AFA if that is the highest rate calculated for another cooperating respondent in the same industry for the same program.

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

Finally, if no such rate exists, under the third step of Commerce's investigation hierarchy, we apply the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.⁸⁹

In all three steps of Commerce's AFA investigation hierarchy, if we were to choose low AFA rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the "reward" for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce's investigation AFA hierarchy (which is different from selecting the highest possible rate in the "pool" of all available rates), we strike a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.⁹⁰ Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an AFA rate under section 776(d)(1) of the Act; that is, after "an evaluation of the situation that resulted in the application of an adverse inference," we may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

There are no facts on this record that suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as AFA. As explained above, we are preliminarily applying AFA because the companies that failed to submit a response to the Q&V Questionnaire chose not to cooperate

⁸⁹ In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

⁹⁰ It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying IDM at 2 ("As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and Policy lending programs of the other producer/producer in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did not receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed..."). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as AFA under its hierarchy.

by not providing the information we requested. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act. In applying AFA to determine a net subsidy rate for the non-cooperating companies, we applied the methodology detailed above. We began by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the mandatory respondents in the instant investigation. Accordingly, for the following programs, we are applying to the companies that did not respond to the Q&V Questionnaire the highest subsidy rate calculated for a mandatory respondent in this investigation:

1. Provision of Cold-Rolled Steel for Less Than Adequate Remuneration (LTAR)
2. Provision of Electricity for LTAR
3. Export Assistance Grants
4. Policy Loans to the Non-Refillable Cylinders Industry

Similarly, for all the programs self-reported by the mandatory respondents for which we calculated a rate, we selected that rate as the AFA rate applicable to the non-cooperating companies. These programs are:

1. Social Insurance Refund for Distressed Industrial Enterprises
2. Grant for Transformation and Upgrading of Small and Micro Enterprises to Enterprises Above Designated Size
3. Land Use Performance Award from Finance Bureau of Wuyi County
4. Big and Strong Enterprise Award from Finance Bureau of Wuyi County
5. Jinhua Industrial Design Competition Award from Finance Bureau of Wuyi County
6. Award to Municipal Industrial Design Center from Finance Bureau of Wuyi County
7. Award to Enterprise that Paid Much Taxes from Finance Bureau of Wuyi County
8. Award to High and New Technology Enterprise from Science and Technology Bureau of Wuyi County
9. Subsidy to Loan Interests for Shanghai Cooperative Enterprise from Finance Bureau of Wuyi County
10. Subsidy to Unemployment Insurance Payment from Human Resources and Social Security Bureau of Wuyi County
11. Subsidy for Participating in Guangzhou Hardware Trade Fair Exhibition from Finance Bureau of Wuyi County
12. Subsidy for Technology Reform from Finance Bureau of Wuyi County
13. Research and Development Expenses Award from Science and Technology Bureau of Wuyi County

In determining an AFA rate for the following income tax deduction programs on which we initiated an investigation, we are finding, as AFA, that the non-responsive companies paid no Chinese income tax during the POI:

1. Income Tax Reduction for High or New Technology Enterprises
2. Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law
3. Income Tax Exemption for Research and Development Expenses in Shenjia Economic Development Zone

4. Preferential Income Tax Policy for Enterprises in the Northeast Region

The standard income tax rate for corporations in China in effect during the POI was 25 percent.⁹¹ Thus, the highest possible benefit for income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the four programs, combined, provide a 25 percent benefit). Consistent with Commerce’s practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and value added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.⁹²

For all other programs not identified above, we are applying, where available, the highest above *de minimis* subsidy rate calculated for the same or comparable programs in a CVD proceeding involving China. For this preliminary determination, we are able to match, based on program names, descriptions, and treatment of the benefit, the following programs to the same programs from other CVD proceedings involving China:

1. GOC and Sub-Central Grants, Loans, and Other Incentives for Development of Famous Brands and China Top Brands
2. Special Fund for Energy Savings Technology Reform
3. Small and Medium-Sized (SME) International Market Exploration/Development Fund
4. SME Technology Innovation Fund
5. Export Loans from Chinese State-Owned Banks
6. Export Buyer’s Credit
7. Export Seller’s Credit
8. Export Credit Guarantees
9. Import Tariff and VAT Exemptions for Foreign Invested Enterprises (FIE) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
10. VAT Refunds for FIEs Purchasing Domestically Produced Equipment
11. Provision of Hot-Rolled Steel for LTAR
12. Provision of Land for LTAR in Shenjia Economic Development Zone
13. Provision of Land and/or Land Use Rights to SOEs for LTAR

For this preliminary determination, we were similarly able to match all of the subsidies that were self-reported by the mandatory respondents for which we did not calculate a rate in the instant investigation to similar programs from other China CVD proceedings, for purposes of including these programs in the AFA rate applicable to the non-cooperating companies. These programs are:

1. Grant for Technical Reform
2. Refund for Water Conservancy Construction Fund
3. Award for Provincial Industrial New Products from Finance Bureau of Wuyi County
4. Award to “Hidden Champion” Enterprise from Finance Bureau of Wuyi County

⁹¹ See GOC IQR at 18.

⁹² See, *e.g.*, *Aluminum Extrusions from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying IDM at “Application of Adverse Inferences: Non-Cooperative Companies.”

5. Energy Saving Special Fund from Finance Bureau of Wuyi County
6. Enterprise Brand Building Award from Finance Bureau of Wuyi County
7. Enterprise Innovation Award for Replacing People by Robots for 2014 from Finance Bureau of Wuyi County
8. Municipal High-Technology Research and Development Award from Finance Bureau of Wuyi County
9. Municipal Patent Demonstration Enterprise from Finance Bureau of Wuyi County
10. Patent Award from Finance Bureau of Wuyi County
11. Reduction of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County
12. Refund of House Property Tax from Local Taxation Bureau of Wuyi County
13. Refund of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County
14. Scientific and Technological Innovation Award from Management Committee of Wuyi Economic Development Zone of Zhejiang Province
15. Small and Medium-Sized Enterprise Development Award from Finance Bureau of Wuyi County
16. Social Contribution Award from Finance Bureau of Wuyi County
17. Subsidy for Declaring Individual Income Tax from Local Taxation Bureau of Wuyi County
18. Subsidy for Enterprise Meeting the Safety Production Standard from Finance Bureau of Wuyi County
19. Subsidy for Export-Oriented Economy Development in Under-Developed Area from Finance Bureau of Wuyi County
20. Subsidy from Science and Technology Bureau from Science and Technology Bureau of Wuyi County
21. Subsidy to Eliminate Heavy-Polluting Vehicles from Finance Bureau of Wuyi County
22. Subsidy under WZB (09) No. 59 Policy from Finance Bureau of Wuyi County
23. Subsidy to Loan Interests for Shanghai Cooperative Enterprise from Finance Bureau of Wuyi County
24. Technical Innovation Award from Finance Bureau of Wuyi County

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for the non-cooperating companies to be 190.67 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.⁹³

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the

⁹³ For the specific case proceedings from which the AFA rates were sourced, *see* Memorandum, “Countervailing Duty Investigation on Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Preliminary AFA Rate,” dated concurrently with this memorandum.

subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁹⁴ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.⁹⁵

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.⁹⁶ 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.⁹⁷

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.⁹⁸

In the absence of record evidence concerning the non-responsive companies’ usage of the subsidy programs at issue due to their decision not to participate in the investigation, we have reviewed the information concerning Chinese subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this investigation. The relevance of these rates is that they are actual calculated subsidy rates for Chinese programs, from which the non-responsive companies could actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, we have corroborated the rates we selected to use as AFA to the extent practicable pursuant to section 776(c)(1) of the Act for this preliminary determination.

B. Application of AFA: Export Buyer’s Credits

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 for Commerce to analyze this program fully.

In the Initial Questionnaire, we instructed the GOC to provide the information requested in the Standard Questions Appendix “with regard to all types of financing provided by the Export-Import Bank of China (China ExIm) under the Buyer Credit Facility,” which included translated copies of the laws and regulations pertaining to the program, identification of the agencies and

⁹⁴ See SAA at 870.

⁹⁵ *Id.*

⁹⁶ *Id.* at 869-870.

⁹⁷ See section 776(d) of the Act.

⁹⁸ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

types of records maintained for administration of the program, a description of the program, and the program application process, program eligibility criteria, and the program use data, and to respond to other program-specific questions.⁹⁹ The information requested by Commerce is necessary in order to understand the administration of the program and to analyze the specificity and financial contribution of the program.

Rather than responding to the questions, the GOC claimed that “none of the responding companies’ U.S. customers applied for, used, or benefitted from this program {Export Buyers’ Credits} during the POI.¹⁰⁰ However, in the Initial Questionnaire, we instructed the GOC to provide a full and complete response for each program listed in the questionnaire regardless of whether the companies under investigation applied for, used or benefitted from the program during the POI.¹⁰¹ It is Commerce and not the GOC that decides what information is necessary for this investigation.

In a supplemental questionnaire, we again requested the GOC to respond to the questions regarding the Export Buyer’s Credits program.¹⁰² In its supplemental response, the GOC stated:

“Since none of the responding companies’ U.S. customers applied for, used, or benefitted from this program during the POI, this question is not applicable. The GOC takes the view that ‘necessary information’ in the context of an investigation shall be focused on or limited to programs that the respondents did apply for, use, or benefit from during the POI.”¹⁰³

Information on the record indicates that the GOC revised this program in 2013.¹⁰⁴ In response to our request, in the supplemental questionnaire,¹⁰⁵ that it provide the 2013 revisions to the Export Buyer’s Credit program, the GOC stated that “To the best of GOC’s knowledge, none of the responding companies’ U.S. customers applied for, used, or benefitted from this program during the POI, therefore, this question is not applicable.”¹⁰⁶ Information on the record also indicates that the China Ex-Im Bank may disburse Export Buyer’s Credits directly or through third-party partner and/or correspondent banks.¹⁰⁷ In the supplemental questionnaire, we again requested

⁹⁹ See Initial Questionnaire at Section II (p. 5 – 6).

¹⁰⁰ See GOC IQR at 19 – 20.

¹⁰¹ See Initial Questionnaire at Section II (p. 2).

¹⁰² See GOC First SQ at 3.

¹⁰³ See GOC First SQR at 1 and 2 – 4.

¹⁰⁴ See Memorandum, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Placing Information on the Record,” dated July 31, 2020 (containing the Memorandum, “Administrative Review of Countervailing Duty Order on Citric and Certain Citrate Salts: Verification of the Questionnaire Responses Submitted by the Government of the People’s Republic of China,” dated October 7, 2014 (public version) at Export Credit Subsidy Programs: Export Buyer’s Credit); see also Petitioner July 29th Factual Information containing the GOC 7th Supplemental Response (public version), dated September 6, 2016, filed in the CVD investigation of Certain Amorphous Silica Fabric from China at Export Buyer’s Credit Program.

¹⁰⁵ See GOC First SQ at 3.

¹⁰⁶ See GOC First SQR at 4.

¹⁰⁷ See Petitioner July 29th Factual Information containing the GOC 7th Supplemental Response (public version), dated September 6, 2016, filed in the CVD investigation of Certain Amorphous Silica Fabric from China at Export Buyer’s Credit Program.

that the GOC provide a list of partner/correspondent banks involved in the program.¹⁰⁸ The GOC responded that “To the best of GOC’s knowledge, none of the responding companies’ U.S. customers applied for, used, or benefitted from this program during the POI, therefore, this question is not applicable.”¹⁰⁹

Thus, in its initial and supplemental questionnaire responses, the GOC refused to provide the requested information or any information concerning the 2013 program revisions and the partner/correspondent banks, which is necessary for Commerce to understand how the program operates and which is thus also necessary for Commerce to be able to verify claims of non-usage. Absent this information, Commerce has no assurance of its ability to differentiate ordinary commercial lending from GOC-supported credit in the books and records of the respondents’ U.S. customers, or to differentiate disbursements of funds to the respondents themselves pursuant to ordinary lending from disbursements pursuant to GOC-supported credit.

Additionally, Commerce would have no guidance to follow in identifying which banks or loans to scrutinize in attempting to verify non-use. Attempting to verify non-use of the Export Buyer’s Credit program without knowing where to look, or what to look for, would be unlikely to yield accurate or meaningful results. Commerce cannot verify claims of non-usage, whether originating with the respondents or their U.S. customers, if it does not know the names of the intermediary banks that might appear in the books and records of the recipient of the credit (*i.e.*, loan) or the cash disbursement made pursuant to the credit. There will not necessarily be an account in the name “China ExIm Bank” or “Ex-Im Bank” in the books and records (*e.g.*, subledger, tax return, bank statements) of either the exporter or the U.S. customer. Therefore, by withholding information concerning the operation of this program, the GOC has impeded not only Commerce’s ability to determine whether the provision of the credits constitutes a financial contribution and whether such credits are specific, but also Commerce’s ability to reach a verifiable conclusion regarding usage of the program.

Pursuant to sections 776(a)(2)(A) and (a)(2)(C) of the Act, when an interested party withholds information requested by Commerce and/or significantly impedes a proceeding, Commerce uses facts otherwise available to reach a determination. Because the GOC withheld the requested information described above, thereby impeding this proceeding, we preliminarily determine that the use of facts available is appropriate. Furthermore, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding information that was within its control, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted. Additionally, as AFA, we find that Ningbo Eagle and Wuyi Xilinde benefited from this program, despite their unsubstantiated claims of non-use.

Regarding specificity, although the record regarding this program suffers from significant deficiencies, we note that the GOC’s description of the program and supporting materials (albeit found to be deficient) demonstrate that through this program, state-owned banks, such as the China ExIm, provide loans at preferential rates for the purchase of exported goods from China.¹¹⁰

¹⁰⁸ See GOC First SQ at 3.

¹⁰⁹ See GOC First SQR at 3.

¹¹⁰ See GOC IQR at 21 – 22, and referenced exhibits.

In addition, the program was alleged by the petitioner as a possible export subsidy.¹¹¹ Finally, Commerce has found this program to be an export subsidy in the past.¹¹² Thus, taking all such information into consideration indicates the provision of export buyer's credits is contingent on exports within the meaning of sections 771(5A)(A) and (B) of the Act.

We therefore preliminarily find, as AFA, that under this program, the GOC bestowed a financial contribution pursuant to section 771(5)(D) of the Act, provided a benefit pursuant to section 771(5)(E) of the Act, and is contingent on exports within the meaning of sections 771(5A)(A) and (B) of the Act.

Under section 776(d) of the Act, Commerce may use, as AFA, 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, a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.¹¹³

Based on the AFA rate selection hierarchy, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in *Coated Paper from China Amended Final*, as the rate for these companies.¹¹⁴ Additionally, based on the methodology also described above for corroborating secondary information, we have corroborated the selected rate to the extent possible and find that the rate is reliable and relevant for use as an AFA rate for the Export Buyer's Credits program.

C. Application of AFA: Provision of Electricity for LTAR

The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR.¹¹⁵ These questions requested information needed to determine whether the provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provides a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision is specific within the meaning of section 771(5A) of the Act.

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National

¹¹¹ See Initiation Checklist at 11.

¹¹² See, e.g., *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*; 2016, 84 FR 17382 (April 25, 2019), and accompanying IDM at Comment 16.

¹¹³ See section 776(d)(3) of the Act.

¹¹⁴ See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from China Amended Final*) (revised rate for "Preferential Lending to the Coated Paper Industry" program).

¹¹⁵ See GOC IQR at Electricity Appendix; see also GOC First SQR at 10 – 11.

Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, Commerce requested, *inter alia*, Provincial Price Proposals for each province in which mandatory respondents or any company “cross-owned” with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.¹¹⁶ Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, to identify entities that manage and affect price adjustment processes, and to examine cost elements supposedly accounted for in the derivation of electricity prices in effect throughout China during the POI.

In its initial questionnaire response, the GOC stated that, since January 1, 2016, “all of the provincial governments, including Zhejiang Province, where the mandatory respondents are located, have been given authority to prepare and publish electricity tariff rates for their own jurisdictions.”¹¹⁷ Therefore, according to the GOC, Provincial Price Proposals were eliminated.¹¹⁸ Consequently, according to the GOC, the NDRC’s role in regulating provincial electricity pricing is at the macro level, and the NDRC no longer determines the specific electricity sales prices.”¹¹⁹

Commerce preliminarily determines that the record indicates the NDRC continues to play a significant and determinative role in setting electricity prices,¹²⁰ and that the GOC’s failure to provide detailed information concerning the establishment of varying prices across provinces by the NDRC and the provinces constitutes a lack of cooperation. Because of this failure to cooperate fully, Commerce lacks information that would allow it to determine whether the varying provincial prices established under the NDRC-administered program are the result of market considerations or the result of a design to subsidize certain regions or industries. In particular, Notice 748 is based upon consultations between the NDRC and the “National Energy Administration” or “State Energy Bureau” (depending on translation).¹²¹ Article 1 contained therein stipulates a lowering of the coal-fired power grid benchmark price of “about 2 cents” per kilowatt hour.¹²² Annex 1 of Notice 748 applies this adjustment in varying amounts to the provinces. Article 2 indicates that the reduction {shall} “mainly used for reducing the price of industrial and commercial electricity.”¹²³ Articles 3 and 4 specifically direct the reduction of the

¹¹⁶ See Initial Questionnaire at Electricity Appendix.

¹¹⁷ See GOC IQR at Exhibit II.E.13 (Electricity Appendix) (p. 1 – 2).

¹¹⁸ *Id.* at p. 2.

¹¹⁹ *Id.* at p. 2 – 3.

¹²⁰ *Id.* at 1 – 10.

¹²¹ *Id.* at Exhibit II E.10.

¹²² *Id.*

¹²³ *Id.*

sales price of industrial and commercial electricity.¹²⁴ Article 6 requires that provincial pricing authorities “develop and issue specific adjustment plan of electricity price and sales price in accordance with the average price adjustment standards of Annex 1, and reported to our Commission for the record.”¹²⁵

NDRC Notice 3105, also based upon consultations between the NDRC and the National Energy Administration, directs additional price reductions, and stipulates at Article II that local price authorities shall implement the price reductions included in its appendix and report the resulting prices to the NDRC.¹²⁶ Consequently, both Notice 748 and Notice 3015 explicitly direct provinces to reduce prices and to report the enactment of such changes to the NDRC. Neither Notice 748 nor Notice 3105 stipulates that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC claims.¹²⁷ Instead, both notices indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices by mandating price adjustment targets.

Notice 748 and Notice 3105, issued by the NDRC, direct provinces to reduce prices by amounts specific to provinces. These notices neither explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. The GOC failed to explain fully the roles of each level of government and the nature of the cooperation between the NDRC and the provinces in deriving electricity price adjustments. 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. Furthermore, the GOC failed to explain both the derivation of price reductions required of the provinces by the NDRC and the derivation of the provincial prices themselves.

In a supplemental questionnaire, we requested that the GOC submit a revised response to the Electricity Appendix fully explaining the roles of the NDRC and the provinces in determining adjustments to electricity prices.¹²⁸ We also asked the GOC to explain how the change in the price of coal for generation leads to an adjustment of the benchmark issued by the NDRC and to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into electricity price adjustments.¹²⁹ In its supplemental response, the GOC did not submit a revised response to the Electricity Appendix.¹³⁰ Instead, the GOC stated that the NDRC is responsible for establishing general guidelines in setting and adjusting electricity prices, and the provincial pricing authority calculates the electricity price changes.¹³¹ With regard to the price of coal and cost increases, the GOC did not answer the questions asked, but rather provided a general statement on the thermal coal price index and stated that changes in cost items are monitored by the price authorities.¹³²

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.* at Exhibit II.E.11.

¹²⁷ *Id.*; *see also* Exhibit II.E.10.

¹²⁸ *See* GOC First SQ at 5 – 6.

¹²⁹ *Id.* at 6.

¹³⁰ *See* GOC First SQR at 10.

¹³¹ *Id.*

¹³² *Id.* and at 11.

We find that the GOC's responses do not constitute a full explanation regarding the roles and nature of cooperation between the NDRC and the provinces in deriving electricity prices and 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 that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity and, thus, Commerce must rely on "facts available" in making our preliminary determination.¹³³ 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. Thus, an adverse inference is warranted in the application of facts available.¹³⁴ In drawing an adverse inference, 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 the provincial governments. Therefore, we are also drawing an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.¹³⁵ The benchmark rates were selected from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. We have relied upon electricity usage and rates paid by the companies under investigation to calculate POI benefits attributable to the mandatory respondents. For details regarding the remainder of our analysis, see "Provision of Electricity for LTAR" section *infra*.

D. Application of AFA: Cold-Rolled Producers Are "Authorities"

As discussed below, under the section "Programs Preliminarily Found to Be Countervailable," Commerce is investigating whether the GOC provided cold-rolled steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing cold-rolled steel to the responding companies are "authorities" within the meaning of section 771(5)(B) of the Act. In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.¹³⁶

¹³³ See section 776(a)(2)(A) of the Act.

¹³⁴ See section 776(b) of the Act.

¹³⁵ See section 776(b)(4) of the Act.

¹³⁶ See, e.g., *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008), and accompanying IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009), and accompanying IDM at "Provision of Wire Rod for Less than Adequate Remuneration."

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of cold-rolled steel and to respond to the Input Producer Appendix for each producer which produced the cold-rolled steel purchased by the respondents.¹³⁷ We instructed the GOC to coordinate with the respondents to obtain a complete list of the cold-rolled steel producers, including the producers of inputs purchased through a supplier.¹³⁸ In response to the Initial Questionnaire, Sinoblue and Wuyi Xilinde identified the companies that produced and supplied the cold-rolled steel which they purchased during the POI.¹³⁹ The GOC confirmed the producers in its questionnaire response.¹⁴⁰

While the GOC provided the ownership of the producers of cold-rolled steel,¹⁴¹ it did not provide all the information requested of it in the initial and supplemental questionnaires.¹⁴² Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.¹⁴³

Regarding those enterprises producing cold-rolled steel that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.¹⁴⁴ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.¹⁴⁵ The GOC however did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that it is “impossible as a practical matter to collect the documents.”¹⁴⁶

As explained in the Public Bodies Memorandum,¹⁴⁷ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.¹⁴⁸ Record evidence demonstrates that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.¹⁴⁹ Therefore, we preliminarily determine that the majority government-owned enterprises from which Sinoblue and Wuyi Xilinde purchased cold-rolled steel are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act was provided.

¹³⁷ See Initial Questionnaire at Section II (p. 11 – 14).

¹³⁸ *Id.* at Section II (p. 8).

¹³⁹ See Sinoblue IQR at Exhibit 10; *see also* Wuyi Xilinde IQR at Exhibit 14.

¹⁴⁰ See GOC IQR at Exhibit II.E.1 and all cited exhibits.

¹⁴¹ *Id.* at Exhibit II.E.1 –1 and Exhibit II.E.1 – 4.

¹⁴² See Initial Questionnaire at Section II (p. 11 – 14); *see also* GOC First SQ at 4 – 5.

¹⁴³ *Id.*

¹⁴⁴ See Initial Questionnaire at Section II (Input Producer Appendix).

¹⁴⁵ See GOQ IQR at Exhibit II.E.1 (p. 1 – 2), Exhibit II.E.1 – 1, and Exhibit II.E.1 – 2.

¹⁴⁶ See GOQ IQR at Exhibit II.E.1 (p. 2).

¹⁴⁷ See Memorandum, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Public Bodies Analysis Memorandum,” dated June 8, 2020 (Public Bodies Memorandum).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

With respect to those entities producing cold-rolled steel that the GOC reported as being non-majority government-owned enterprises, the GOC provided ownership structure and basic registration information, but did not provide other relevant documentation requested by Commerce, including articles of incorporation, capital verification reports, company by-laws, annual reports, and articles of association.¹⁵⁰ The GOC again stated that it is “impossible as a practical matter to collect the documents”¹⁵¹ requested by Commerce.

Additionally, the GOC did not provide the information that Commerce requested regarding the Chinese Communist Party (CCP) for the cold-rolled steel producers identified as non-majority government-owned.¹⁵² Instead, the GOC asserted that the “CCP is a political party rather than a public authority that cannot interfere in the business operations of a company”¹⁵³ and that it “is unable to require the CCP, the People’s Congress, the CPPCC {Chinese People’s Political Consultative Conferences} or the rest of the entities referenced in the above question to provide the information as required by the Department, because they are not governmental agencies.”¹⁵⁴ The GOC further stated that “there is no governmental data system that can compile, keep, or upon request provide data or information, with respect to political attitudes and/or party or organization affiliations of an individual businessman.”¹⁵⁵ Thus, the GOC stated that “it is beyond the capacity of the GOC to access the information requested by the Department in its regard.”¹⁵⁶

As explained in the Public Bodies Memorandum, Commerce understands the CCP to exert significant control over economic activities in China.¹⁵⁷ Consequently, Commerce finds, as it has in prior CVD proceedings,¹⁵⁸ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the cold-rolled steel producers non-majority owned by the government is necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act.

Because the GOC did not submit the requested information, we lack the data necessary to reach a determination of whether the input producers that are non-majority government-owned are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the GOC not only withheld information that was requested of it with regard to the input purchases by Sinoblue and Wuyi Xilinde, but also impeded this investigation.¹⁵⁹

¹⁵⁰ See GOC IQR at Exhibit II.E.1 (p. 3 – 4), Exhibit II.E. 1 – 4, and Exhibit II.E.1 –5.

¹⁵¹ See GOQ IQR at Exhibit II.E.1 (p. 3 – 4).

¹⁵² See GOC IQR at Exhibit II.E.1 (p. 8 – 22); and GOC First SQR at 8 – 9.

¹⁵³ See GOC IQR at 23.

¹⁵⁴ See GOC IQR at Exhibit II.E.1 (p. 8).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ See Public Bodies Memorandum; see also Memorandum, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Placing Public Documentation on the Record,” dated June 8, 2020.

¹⁵⁸ See *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.

¹⁵⁹ See sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

Accordingly, Commerce must rely on “facts otherwise available” in reaching a determination in this respect. Based on the record, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with the requests for information regarding the non-majority government-owned producers of cold-rolled steel because it did not provide the requested information.¹⁶⁰ Consequently, we find that an adverse inference is warranted in the application of facts available.¹⁶¹

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 government authority.¹⁶² Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminarily determine that the non-majority government-owned domestic producers of the cold-rolled steel purchased by Sinoblue and Wuyi Xilinde are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act, was provided.

For details on the calculation of the subsidy rate for the respondents, *see infra* at “Provision of Cold-Rolled Steel for LTAR.”

E. Application of AFA: Cold-Rolled Steel Is Specific

Commerce instructed the GOC to provide a list of industries in China that purchase cold-rolled steel. Specifically, we asked the GOC to:

Provide a list of the industries in the PRC that purchase cold-rolled steel directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.¹⁶³

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “there are a vast number of users for cold-rolled steel and the types of consumers that purchase cold-rolled steel varies across numerous industries, including automobile manufacturing, electrical products, rolling stock, aviation, precision instruments, canned food, etc.”¹⁶⁴ The GOC provided no purchase data or supporting documentation.¹⁶⁵ We issued a supplemental questionnaire to the GOC requesting again this purchase information that

¹⁶⁰ See sections 776(a) and (b) of the Act.

¹⁶¹ See section 776(b) of the Act.

¹⁶² See Public Bodies Memorandum.

¹⁶³ See Initial Questionnaire at Section II (p. 12).

¹⁶⁴ See GOC IQR at 38 – 39.

¹⁶⁵ *Id.*

is necessary for Commerce to analyze the number of users, industries, and quantities of cold-rolled steel supplied to various industries.¹⁶⁶ In its supplemental response, the GOC repeated the statement it made in its initial questionnaire response.¹⁶⁷

Consequently, we preliminarily determine that necessary information is not available on the record and that the GOC withheld information that was requested of it and significantly impeded this proceeding. Therefore, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) 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, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. In drawing an adverse inference, we preliminarily find that the GOC’s provision of cold-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.

F. Application of AFA: Cold-Rolled Steel Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of cold-rolled steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the cold-rolled steel industry in China. Specifically, we requested the GOC to provide information on the total number of cold-rolled steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.¹⁶⁸ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.¹⁶⁹ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.¹⁷⁰

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.¹⁷¹ However, we require additional data, as described above, to assess the GOC’s involvement in the cold-rolled steel market. In response to our request for other information, the GOC stated that it “does not have the number of cold-rolled steel producers” and “does not have the required {volume and value data for} Chinese domestic consumption or production of cold-rolled steel.”¹⁷² In response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that it “does not keep records of the requested data.”¹⁷³

We issued a supplemental questionnaire to the GOC requesting an explanation for why it does not have the requested cold-rolled steel data and to suggest alternative data for Commerce’s

¹⁶⁶ See GOC First SQ at 4.

¹⁶⁷ See GOC First SQR at 6 – 7.

¹⁶⁸ See Initial Questionnaire at Section II (p. 11 – 12).

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ See GOC IQR at Exhibit II.E.1.

¹⁷² See GOC IQR at 35.

¹⁷³ *Id.* at 35 – 36.

consideration based on the information that it does maintain.¹⁷⁴ In its supplemental response, the GOC simply stated that it “has been unable to obtain the requested data on cold-rolled steel.”¹⁷⁵

We note that the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.¹⁷⁶ Specifically, Commerce has verified the operation of the GOC’s “Enterprise Credit Information Publicity System,” which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.¹⁷⁷ Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.¹⁷⁸ Therefore, information related to the operation and ownership of companies within the cold-rolled steel industry is in fact available to the GOC.

The requested information on the cold-rolled steel industry is necessary for Commerce to conduct a full analysis of the GOC’s involvement in the market and thus determine if the domestic prices are distorted (*i.e.*, unusable as a “tier one” benchmark). We preliminarily determine that the necessary information on the cold-rolled steel market is not available on the record. Because the GOC withheld information that was requested of it and significantly impeded this proceeding, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) 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, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. Accordingly, as AFA, we preliminarily determine that the GOC’s involvement in the cold-rolled steel market in China results in the significant distortion of the prices of cold-rolled steel, such that they cannot be used as a tier one benchmark under 19 CFR 351.511(a)(2)(i), and hence, the use of external benchmarks, as described under 19 CFR 351.511(a)(2)(ii), is warranted to calculate the benefit for the provision of cold-rolled steel for LTAR.

G. Application of AFA: Other Subsidies

¹⁷⁴ See GOC First SQ at 4.

¹⁷⁵ See GOC First SQR at 4 – 5.

¹⁷⁶ See, *e.g.*, *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review: 2013*, 80 FR 77318 (December 14, 2015), and accompanying IDM at Comment 2.

¹⁷⁷ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 21-22, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017), and accompanying IDM.

¹⁷⁸ *Id.*

Sinoblue¹⁷⁹ and Wuyi Xilinde¹⁸⁰ reported in their initial questionnaire responses that they received certain “Other Subsidies” during the POI and over the AUL. The Initial Questionnaire requested the GOC to coordinate with the respondents regarding any other assistance under any other subsidy programs that the companies may have received and were reporting to Commerce.¹⁸¹ Therefore, the GOC was directed to provide full and complete responses regarding “other subsidies” programs self-reported by Sinoblue and Wuyi Xilinde.

In its initial questionnaire response, the GOC stated that Commerce’s request for disclosure of all “other subsidies” is contrary to U.S. law and the WTO Agreement on Subsidies and Countervailing Measures, and referred Commerce to the responses of the responding companies for information about any other subsidies used by the respondents.¹⁸² In a supplemental questionnaire, we requested that the GOC submit a complete response with regard to the other subsidies programs that Sinoblue and Wuyi Xilinde self-reported.¹⁸³ In its supplemental responses, the GOC reiterated its initial response and did not provide a response to the Standard Questions Appendix, Allocation Appendix, and Grant Appendix for the other subsidies.¹⁸⁴

We preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to perform our analyses of financial contribution and specificity for the “other subsidies programs is not available on the record, the GOC has withheld information that was clearly requested of it, and that the GOC significantly impeded the investigation, and, as a result, we must rely on “facts available” in making our preliminary determination. 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 when it failed to respond to our questionnaires. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the Act. In applying AFA, we find that the “other subsidies” programs self-reported by Sinoblue and Wuyi Xilinde constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act. Where such subsidies appear to be contingent upon export performance, we have found these subsidies to be specific within the meaning of section 771(5A)(B) of the Act.

VIII. BENCHMARKS AND INTEREST RATES

Commerce is investigating loans provided by Chinese policy banks and state-owned commercial banks (SOCBs) and non-recurring, allocable subsidies received by the respondents.¹⁸⁵ The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

A. Short-Term and Long-Term Loan Renminbi (RMB)-Denominated Loans

¹⁷⁹ See Sinoblue IQR at Exhibit 8.

¹⁸⁰ See Wuyi Xilinde IQR at Exhibit 20.

¹⁸¹ See Initial Questionnaire at Other Subsidies.

¹⁸² See GOC IQR at 48 – 49.

¹⁸³ See GOC First QR at 6 – 7; see also GOC Second QR at 3.

¹⁸⁴ See GOC First SQR at 12 – 14; see also GOC Second SQR.

¹⁸⁵ See 19 CFR 351.524(b)(1).

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.¹⁸⁶ 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.”¹⁸⁷

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from China*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.¹⁸⁸ In an analysis memorandum dated July 21, 2017, Commerce conducted a re-assessment of the lending system in China.¹⁸⁹ Based on this re-assessment, Commerce 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.¹⁹⁰

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and more recently updated in *Thermal Paper from China*.¹⁹¹ Under that methodology, we first determine which countries are similar to China in terms of gross national income, based on the World Bank’s classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from China*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, China fell in the lower-middle income category.¹⁹² Beginning in 2010, however, China fell within the upper-middle income category and remained

¹⁸⁶ See 19 CFR 351.505(a)(3)(i).

¹⁸⁷ See 19 CFR 351.505(a)(3)(ii).

¹⁸⁸ See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying IDM at Comment 10.

¹⁸⁹ See Memorandum, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Analysis of China’s Financial System,” dated June 8, 2020.

¹⁹⁰ See, e.g., *Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 46754 (October 6, 2017), and accompanying PDM at 21, unchanged in *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 16055 (April 13, 2018).

¹⁹¹ See *CFS from China* IDM at Comment 10; see also *Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from China*), and accompanying IDM at 8-10.

¹⁹² See World Bank Country Classification, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519s>; see also Memorandum, “Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Loan Interest Rate Benchmarks,” dated June 8, 2020 (Interest Rate Benchmark Memorandum).

there from 2011 to 2018.¹⁹³ 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 we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2018. This is consistent with Commerce’s calculation of interest rates for other CVD proceedings involving Chinese merchandise.¹⁹⁴

After Commerce identifies the appropriate interest rates, the next step in constructing the benchmark has been to incorporate an important factor in 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 2011-2018, 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.¹⁹⁵ For 2010, however, the regression does not yield that outcome for China’s income group.¹⁹⁶ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from China* to compute the benchmarks for the years from 2001-2009 and 2011-2018. 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 2010-2018 and “lower middle income” for 2001-2009.¹⁹⁷ 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 remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.¹⁹⁸ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.¹⁹⁹

¹⁹³ *Id.*

¹⁹⁴ 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 PDM at “Benchmarks and Discount Rates,” unchanged in *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013).

¹⁹⁵ See Interest Rate Benchmark Memorandum; see also Preliminary Determination Calculations Memoranda.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, Commerce developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.²⁰⁰

In *Citric Acid from China*, this methodology was revised by switching from a long-term mark-up 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.²⁰¹ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.²⁰²

Because the requisite data are not yet available to calculate a 2019 interest rate benchmark, we are using the 2018 interest rate benchmark as a proxy for 2019 where necessary in the preliminary calculations.

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.²⁰³ The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Preliminary Determination Calculations Memoranda.

C. Benchmarks for the Government Provision of Inputs at LTAR

1. Cold-Rolled Steel

Sinoblue and Wuyi Xilinde reported purchases of cold-rolled steel during the POI for the production of subject merchandise.²⁰⁴

Under 19 CFR 351.511(a)(2) Commerce sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).²⁰⁵ As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily

²⁰⁰ See, *e.g.*, *Thermal Paper from China* IDM at 10.

²⁰¹ 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 China*), and accompanying IDM at Comment 14.

²⁰² See Interest Rate Benchmark Memorandum.

²⁰³ *Id.*; see also Interest Rate Benchmark Memorandum.

²⁰⁴ See Sinoblue IQR at Exhibit 10; and Wuyi Xilinde IQR at Exhibit 14.

²⁰⁵ See 19 CFR 351.511(a)(2).

determine that the domestic input producers of cold-rolled steel are “authorities” and that the cold-rolled steel market is distorted. Therefore, domestic prices in China for cold-rolled steel cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of cold-rolled steel, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

Interested parties provided a variety cold-rolled steel prices as well as data on ocean freight, import duties, VAT, and inland freight. Concerning cold-rolled prices, the petitioner provided monthly, unit prices for exports of cold-rolled steel during the POI from 12 countries (none of which are China), as published by MEPS International Steel Review (MEPS),²⁰⁶ as well as quantity and value sales data for exports of cold-rolled steel from various countries during the POI, as published by Trade Data Monitor.²⁰⁷ The data from Trade Data Monitor are listed by the exporting country and corresponding partner country.²⁰⁸ Ningbo Eagle submitted monthly, unit prices of what it states are world market export prices for cold-rolled steel during the POI, published by MEPS.²⁰⁹ Wuyi Xilinde submitted monthly quantity and sales data of cold-rolled steel exports from Malaysia to various countries during the POI, as maintained by Malaysia’s Department of Statistics.²¹⁰ The Malaysian quantity and value data from Malaysia’s Department of Statistics are the same export data for Malaysia, as contained in the Trade Data Monitor data.²¹¹

When there is more than one commercially available world market price, Commerce is directed to average such prices to the extent practicable in accordance with its practice and 19 CFR 351.511(a)(2)(ii).²¹² Therefore, in this review, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the MEPS data submitted by the petitioner and the Trade Data Monitor data into our cold-rolled steel benchmark calculations because they reflect world market prices and they do not include (in the case of the MEPS data) or permit us to exclude (in the case of the Trade Data Monitor data) export prices of cold-rolled steel into China, which we preliminarily determine is a distorted market. However, the MEPS data from Ningbo Eagle reflect a world price for cold-rolled steel that do not permit us to exclude export prices into China. Therefore, we have not included the MEPS data from Ningbo Eagle in our cold-rolled steel benchmark calculations. Additionally, we have not included the Malaysian export prices of cold-rolled steel submitted by Wuyi Xilinde because the quantity and value data points are the same as the Malaysian quantity and value data points contained in the Trade Data Monitor data submitted by the petitioner.

²⁰⁶ See Petitioner’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China – Petitioner’s Amendment to Volume III Relating to the People’s Republic of China Countervailing Duties,” dated April 3, 2020 at Exhibit CVD-Supp-12.

²⁰⁷ See Petitioner July 27th Factual Information at Exhibit Attachment 1.

²⁰⁸ *Id.*

²⁰⁹ See Ningbo Eagle Factual Information at Exhibit 1-2. We note that it is unclear how Ningbo Eagle used the MEPS source data in Exhibit 2 to derive the unit prices for cold-rolled steel contained in Exhibit 1.

²¹⁰ See Wuyi Xilinde Factual Information at Exhibit 1.

²¹¹ *Id.*; see also Petitioner July 27th Factual Information at Exhibit Attachment 1.

²¹² See, e.g., *High Pressure Steel Cylinders from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*; 2017, 84 FR 71373 (December 27, 2019), and accompanying IDM at Comment 1.

Under 19 CFR 351.511(a)(2)(iv), when calculating a tier-two world market price, “Commerce will adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product. This adjustment will include delivery charges and import duties.” Thus, we have added ocean freight to the monthly, weighted-average benchmark prices for cold-rolled steel. The petitioner and Ningbo Eagle submitted monthly ocean freight rates for the POI, sourced from Maersk, for freight shipped from various starting points around the world to ports in China.²¹³ Thus, for each month, we calculated a simple average of the various ocean freight rates and added these ocean freight rates to the monthly, weighted-average benchmark price for cold-rolled steel.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly cold-rolled steel benchmark the applicable import duty and VAT for imports of cold-rolled steel, as provided by the GOC.²¹⁴ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly cold-rolled steel benchmark based on company-specific inland freight information submitted by Sinoblue and Wuyi Xilinde.²¹⁵ For further information concerning the derivation of the monthly, weighted-average benchmark prices for cold-rolled steel during the POI, *see* the mandatory respondents’ Preliminary Determination Calculations Memoranda.²¹⁶

2. Electricity

As discussed in the section, “Use of Facts Otherwise Available and Adverse Inferences,” we are relying on AFA to select the highest electricity rates as the benchmark for measuring the adequacy of remuneration for electricity. The GOC submitted on the record a copy of all provincial electricity tariff schedules that were in effect during the POI.²¹⁷ The selected electricity benchmarks are provided in the Preliminary Determination Calculations Memoranda.

IX. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Export Buyer’s Credits

Commerce is examining whether the GOC provides preferential financing to exporters by offering local and foreign currency loans to overseas borrowers through the China ExIm. For the reasons explained in the “Application of AFA: Export Buyer’s Credits” section, our preliminary determination regarding whether the GOC’s provision of export buyer’s credits constitutes a financial contribution, is specific, and confers a benefit is based on AFA, pursuant to sections

²¹³ *See* Petitioner July 27th Factual Information at Attachment 3; *see also* Ningbo Eagle Factual Information at Attachments 3-5.

²¹⁴ *See* GOC IQR at 37.

²¹⁵ *See* Sinoblue IQR at Exhibit 11; *see also* Wuyi Xilinde IQR at Exhibit 15.

²¹⁶ *See* Ningbo Eagle Preliminary Determination Calculations Memorandum; *see also* Wuyi Xilinde Preliminary Determination Calculations Memorandum.

²¹⁷ *See* GOC IQR at Exhibit II.E.13 – 5.

776(a) and (b) of the Act. As AFA, we preliminarily determine that the GOC's provision of export buyer's credits confers a financial contribution within the meaning of section 771(5)(D) of the Act. As AFA, we preliminarily determine that the Export Buyer's Credits program is specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act. As AFA, we preliminarily determine that this program confers a benefit to the mandatory respondents, pursuant to section 771(5)(E) of the Act. Furthermore, for the reasons explained in the "Application of AFA: Non-Responsive Companies" section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. For Ningbo Eagle, Wuyi Xilinde, and the non-responsive companies, we are preliminarily applying an AFA rate of 10.54 percent *ad valorem*, which is a rate calculated for a similar program in another CVD proceeding involving imports from China.²¹⁸

2. Provision of Electricity for LTAR

For the reasons explained *supra* in "Use of Facts Otherwise Available and Adverse Inferences," we are basing our preliminary determination regarding the GOC's provision of electricity for LTAR on AFA. Therefore, as AFA, we preliminarily determine that the GOC's provision of electricity confers a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act and is specific under section 771(5A)(D) of the Act. For determining the existence and amount of any benefit under this program, we selected the highest non-seasonal provincial rates in China for each electricity category (*e.g.*, large industry (1-10 kv) and reduced rate (1-10 kv)) and base charge (either maximum demand or transformer capacity) used by each company. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.

Consistent with our approach in *Wind Towers from China*, we first calculated each company's variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, high peak, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid during each month of the POI.²¹⁹ Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by the respective company during the POI from the monthly benchmark variable electricity costs.

To measure whether a company received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the company by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company's consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the company during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from each companies' variable electricity

²¹⁸ See *Coated Paper from China Amended Final*.

²¹⁹ See *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers from China*), and accompanying IDM at 21 – 22.

payments and base rate payments. To calculate the net subsidy rate attributable to each company, we divided the benefit amount by the appropriate total sales denominator, as discussed in the “Subsidies Valuation” section. On this basis we preliminarily determine a net countervailable subsidy rate of 0.25 percent *ad valorem* for Wuyi Xilinde.

Ningbo Eagle benefitted from this program to the extent that its supplier of subject merchandise, Sinoblue, purchased electricity during the POI. The net countervailable subsidy rate for Ningbo Eagle is the net countervailable subsidy rate for Sinoblue that we calculated according to the methodology described above in the “Subsidies Valuation” section. In accordance with 19 CFR 351.525(c), we preliminarily determine a net countervailable subsidy rate of 0.27 percent *ad valorem* for Ningbo Eagle.²²⁰

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest calculated rate for the mandatory respondents to preliminarily determine a subsidy rate of 0.27 percent *ad valorem* for non-responsive companies.²²¹

3. Provision of Cold-Rolled Steel for LTAR

We are examining whether the GOC or other “authorities” within China provided cold-rolled steel for LTAR. Sinoblue and Wuyi Xilinde reported that they purchased cold-rolled steel during the POI.²²²

The GOC reported that certain producers of the cold-rolled steel purchased by the respondents are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.²²³ As such, we find that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector. Therefore, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that the respondents received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²²⁴

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of cold-rolled steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that the respondents received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.²²⁵

²²⁰ See Ningbo Eagle Preliminary Determination Calculations Memorandum.

²²¹ See Appendix.

²²² See Sinoblue IQR at Exhibit 10, and Wuyi Xilinde IQR at Exhibit 14.

²²³ See Public Bodies Memorandum.

²²⁴ See *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009), and accompanying IDM at 6.

²²⁵ *Id.*

As AFA, we also preliminarily determine that the provision of cold-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act. *See* “Use of Facts Otherwise Available and Adverse Inferences” section. Further, we preliminarily determine, as AFA, that the domestic market for cold-rolled steel is distorted by government involvement in the market. *Id.* Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of cold-rolled steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Sinoblue and Wuyi Xilinde for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the respondents. To determine the net countervailable subsidy rate for Wuyi Xilinde, we divided the benefits received by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis we preliminarily determine a net countervailable subsidy rate of 5.95 percent *ad valorem* for Wuyi Xilinde.

Ningbo Eagle benefitted from this program to the extent that its supplier of subject merchandise, Sinoblue, purchased cold-rolled steel during the POI. The net countervailable subsidy rate for Ningbo Eagle is the net countervailable subsidy rate for Sinoblue that we calculated for this program according to the methodology described above in the “Subsidies Valuation” section. In accordance with 19 CFR 351.525(c), we preliminarily determine a net countervailable subsidy rate of 14.53 percent *ad valorem* for Ningbo Eagle.²²⁶

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest calculated rate for the mandatory respondents to preliminarily determine a subsidy rate of 14.53 percent *ad valorem* for non-responsive companies.²²⁷

4. “Other Assistance” – Grants Self-Reported by Sinoblue

Sinoblue self-reported the following grants in its initial questionnaire response:

- Social Insurance Refund for Distressed Industrial Enterprises²²⁸
- Grant for Transformation and Upgrading of Small and Micro Enterprises to Enterprises Above Designated Size²²⁹

As discussed above in the “Use of Facts Otherwise Available and Adverse Inferences” section, the GOC did not provide the required information for this program. Absent information from the GOC, in accordance with sections 776(a) and (b) of the Act, as AFA, we preliminarily find that grants under these programs constitute a financial contribution under section 771(5)(D)(i) of the Act, and are specific under section 771(5A) of the Act. We further preliminarily determine that the benefits received under these programs are equal to the amount of the grants provided in

²²⁶ *See* Ningbo Eagle Preliminary Determination Calculations Memorandum.

²²⁷ *See* Appendix.

²²⁸ *See* Sinoblue IQR at Exhibit 8.

²²⁹ *Id.*

accordance with 19 CFR 351.504(a).

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Sinoblue as non-recurring. To measure the benefit of the grants that are allocable to the POI, we first conducted the “0.5 percent test.” We divided the total amount approved by the relevant sales for the year of approval. We find that both grants were less than 0.5 percent of the relevant sales and are expensed in the year of receipt, the POI.

The net countervailable subsidy rate for Ningbo Eagle is the net countervailable subsidy rate for Sinoblue that we calculated according to the methodology described above in the “Subsidies Valuation” section. In accordance with 19 CFR 351.525(c), we preliminarily determine the following net countervailable subsidy rates for Ningbo Eagle:

- Social Insurance Refund for Distressed Industrial Enterprises – 0.08 percent *ad valorem*
- Grant for Transformation and Upgrading of Small and Micro Enterprises to Enterprises Above Designated Size – 0.49 percent *ad valorem*.²³⁰

Consistent with Commerce’s AFA rate selection methodology, we are assigning the rates for the aforementioned programs to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

5. Policy Loans to Non-Refillable Steel Cylinders Industry

The petitioner alleges that the GOC provides policy loans to the non-refillable containers industry.²³¹ Wuyi Xilinde reported loans from banks for which it made interest payments during the POI.²³² Ningbo Eagle and Sinoblue reported that they did not have any financing outstanding during the POI.²³³

When examining a policy lending program, Commerce looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. Once that finding is made, we rely upon the analysis undertaken in *CFS from China* to further conclude that national and local government control over the banks render the loans a government financial contribution.²³⁴

Record information indicates the GOC placed great emphasis on targeting high value added, export, and steel industries, which include the non-refillable cylinders industry, for development throughout recent years. For example, the *National 11th Five-Year Plan for Economic and Social Development (2006-2010)* (11th Five-Year Plan) urges the development of high valued

²³⁰ See Ningbo Eagle Preliminary Determination Calculations Memorandum.

²³¹ See Initiation Checklist at 7-8.

²³² See Wuyi Xilinde IQR at 12 and Exhibit 9.

²³³ See Ningbo Eagle IQR at 8; *see also* Sinoblue IQR at 8.

²³⁴ See *CFS from China* IDM at Comment 8.

added exports and for Chinese companies to “...continue {to} develop processing trade, make efforts to enhance industrial level and processing depth, reinforce domestic ability to provide the auxiliary items and promote domestic industrial upgrading.”²³⁵ The 11th Five-Year Plan sets forth the goal of promoting industrial restructuring and development in eastern China and, in particular, “{c}onstructing bases of advanced equipment {and} top quality steel.”²³⁶ In order to achieve this goal, the 11th Five-Year Plan prioritizes the “development of advanced manufacturing... {and} develop{ing} intensive processing and top class products.”²³⁷ In addition, the 11th Five-Year Plan states that the GOC intends to “strengthen the cooperation of the policies in credit, land, environmental protection, safety and science and technology with the industrial policy and use economic means to promote the development of industries.”²³⁸

The GOC continued its support of the cylinders industry through the *12th Five-Year Outline of the Guidelines for National Economics and Social Development of the People’s Republic of China (2011-15)* (12th Five-Year Plan), which states that the industrial restructuring and reorganization should be undertaken with the objective of “transform{ing} and improv{ing} the consumer goods industry” and promoting “the enlargement and enhancement of manufacturing industries.”²³⁹ In addition, the 12th Five-Year Plan promotes the growth of “a number of advanced manufacturing bases with international competitiveness,” using a regionally-based design to “develop modern industrial clusters with distinctive characteristics, a prominent brand image, and a sound service platform.”²⁴⁰ The 12th Five-Year Plan seeks to maintain “current advantage{s} in export markets” while “{supporting} new advantages based on technology, branding, quality and service” to “extend the value-added chain in China.”²⁴¹ Further, the 12th Five-Year Plan seeks to create a “favorable environment to activate the development of SMEs... {by} increase{ing} the size and percentage of lending to SMEs, and broaden{ing} channels of direct financing.”²⁴²

The current *National 13thY Five-Year Plan of Economic and Social Development (2016-2020)* (13th Five-Year Plan) continues these objectives, and calls for a focus on the steel industry, among others, in order to “encourage more of China’s equipment {and} technology... to go global by engaging in international cooperation on production capacity and equipment manufacturing through overseas investments, project contracting, technology cooperation, equipment exporting, and other means, with a focus on industries such as steel... {and} engineering machinery.”²⁴³ The 13th Five-Year Plan further encourages the “transform{ation} and upgrade {of} major manufacturing technologies and improv{ing} policies to support enterprises... thereby helping key manufacturing sectors move into the medium-high end {and} improv{ing} the supply of consumer goods.”²⁴⁴ To achieve this goal, the 13th Five-Year Plan states support for the development of “specialized small and medium enterprises,” such as

²³⁵ See GOC IQR at Exhibit II.B.5.

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

downstream processors.²⁴⁵ The 13th Five-Year Plan promotes the development of “a number of competitive, well-known brands” through improvements in both product quality and product supervision.²⁴⁶ Finally, the 13th Five Year-Year Plan calls for lowering business costs by reducing taxes and fees, “maintain{ing} proper liquidity and interest rates,” and extending credit by creating a “national financing guaranty fund.”²⁴⁷

A key tool in the GOC’s economic development plans is preferential lending. In the *10th Five-Year Plan for the National Economic and Social Development of the People’s Republic of China (2001-2005)* (10th Five-Year Plan), the GOC established a goal “to reduce financing cost {by} utiliz{ing} the international commercial loans such as banking group loans.”²⁴⁸ The GOC continued to use preferential lending to pursue economic development goals through the 13th Five-Year Plan, which sets a target of maintaining “proper liquidity and interest rates, creat{ing} new direct financing product suitable to the needs of enterprises, and establishing a national financing guaranty fund.”²⁴⁹

Additional record evidence indicates financial support directed specifically toward certain encouraged industries, including the non-refillable cylinders industry. For example, the *Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation (Guo Fa {2005} No. 40)* (Decision 40) declares the need for the GOC “to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc.” based on the directives established in industrial guidance catalogues.²⁵⁰ Decision 40 indicates that the *Catalogue for the Guidance of Industrial Structure Adjustment (2005)* and the *Catalogue for the Guidance of Foreign Investment Industries* is an important basis for investment guidance and government administration of policies such as public finance, taxation, and credit.²⁵¹ Decision 40 further indicates that financial institutions “shall provide credit support in compliance with credit principles” to projects in “encouraged” industries.²⁵² The *Catalogue for Industrial Structure Adjustment (2011 Version with 2013 Amendment)* and the No. 36 Decree of the National Development and Reform Commission (NDRC) includes the following provisions among its list of encouraged industries and activities: “Manufacturing of biogas power generating sets, biogas purification equipment and complete equipment for biogas supply in pipelines and biogas filling in cylinders” and “Storage and transportation of crude oil, natural gas, liquefied natural gas, and oil and construction of pipeline transportation facilities and networks.”²⁵³

Thus, given the evidence demonstrating the GOC’s objective of developing advanced manufacturing and the development of industries that store biogas and transport and store liquefied natural gases (of which non-refillable containers is a part), as well as promoting exports

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ See Memorandum, “Placement of the Government of China’s (GOC) 10th Five-Year Plan on the Record of Investigation,” dated concurrently with this memorandum.

²⁴⁹ See GOC IQR at Exhibit II.B.5.

²⁵⁰ See GOC IQR at Exhibit II.B.8.

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.* at Exhibit II.B.9.

and the development of well-known brands, through preferential loans, we preliminarily determine there is a program of preferential policy lending specific to producers of non-refillable cylinders within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from banks under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because the banks are “authorities.”²⁵⁴ The loans provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans.²⁵⁵

To determine whether Wuyi Xilinde received a benefit from this program, we compared the amount of interest Wuyi Xilinde paid on the outstanding loans to the amount of interest the company would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates described in the “Benchmarks and Interest Rates” section above.²⁵⁶ To calculate the net countervailable subsidy rate under this program we divided the benefit by Wuyi Xilinde’s total POI sales. On this basis, we preliminarily determine a subsidy rate of 3.92 percent *ad valorem* for Wuyi Xilinde.²⁵⁷

Consistent with Commerce’s AFA rate selection methodology, we are assigning a countervailable subsidy rate of 3.92 percent *ad valorem* to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

6. Income Tax Reduction for High or New Technology Enterprises (HNTEs)

Wuyi Xilinde reported benefitting from this program during the POI.²⁵⁸ Ningbo Eagle and Sinoblue did not use this program.²⁵⁹ Thus, Commerce is examining whether the GOC is providing support to certain companies by allowing them to reduce their tax liabilities. The GOC has reported that this program was established according to Article 28 of the Enterprise Income Law of China and Article 93 of the Implementing Regulations of the Enterprise Income Tax Law of China, effective on January 1, 2008, to support and encourage development of high and new technology enterprises.²⁶⁰ Companies utilizing the program can benefit from a preferential income tax rate of 15 percent, rather than the usual 25 percent, if it is designated as a HNTE.²⁶¹

We preliminarily determine that the GOC’s provision of income tax reductions for HNTEs confers a financial contribution in the form of revenue forgone by the GOC within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the income tax reductions for HNTEs are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because

²⁵⁴ See, e.g., *CFS from China* IDM at Comment 1.

²⁵⁵ See section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

²⁵⁶ See 19 CFR 351.505(c).

²⁵⁷ See Wuyi Xilinde Preliminary Determination Calculations Memorandum.

²⁵⁸ See Wuyi Xilinde IQR at 15 and Exhibit 12.

²⁵⁹ See Ningbo Eagle IQR at 11; see also Sinoblue IQR at 11.

²⁶⁰ See GOC IQR at Exhibit II.C.1.

²⁶¹ *Id.*

they are limited as a matter of law to only certain enterprises designated as high and new technology enterprises.²⁶²

To calculate the benefit, in accordance with section 771(5)(E)(ii) of the Act and 19 CFR 351.509(a)(1), we calculated the difference between the tax actually paid at the reduced 15 percent rate and the tax that would otherwise be paid at the standard 25 percent tax rate. In accordance with 19 CFR 351.509(b)(1), we based our benefit calculation on the tax return that Wuyi Xilinde filed during the POI. We divided the benefits by Wuyi Xilinde's total sales for the POI. On this basis, we calculated a net countervailable subsidy rate of 0.36 percent *ad valorem* for Wuyi Xilinde.²⁶³

Consistent with Commerce's AFA rate selection methodology, we are assigning a countervailable subsidy rate of 0.36 percent *ad valorem* to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

7. Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law

Wuyi Xilinde reported receiving benefits under the program during the POI.²⁶⁴ Ningbo Eagle and Sinoblue reported that they did not use this program during the POI.²⁶⁵ Under Article 30.1 of the Enterprise Income Tax Law, which became effective January 1, 2008, companies may deduct research and development (R&D) expenses incurred in the development of new technologies, products, or processes from their taxable income.²⁶⁶ Article 95 of the *Implementing Regulations of the Enterprise Income Tax Law of China* (Decree 512 of the State Council, 2007) provides that, if eligible research expenditures do not "form part of the intangible assets value," an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.²⁶⁷ Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets' costs.²⁶⁸

We preliminarily determine that this program constitutes a countervailable subsidy. This income tax deduction is a financial contribution in the form of revenue foregone by the government, and it provides a benefit to the recipients in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also find that the income tax deduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.*, those with R&D

²⁶² Our finding in this regard is consistent with Commerce's findings in prior CVD proceedings involving China. *See, e.g., Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR at 33174 (June 10, 2014) (*Certain Solar Products from China Preliminary Determination*), and accompanying PDM at 34-35, unchanged in *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014), and accompanying IDM at Comment 11.

²⁶³ *See* Wuyi Xilinde Preliminary Determination Calculations Memorandum.

²⁶⁴ *See* Wuyi Xilinde IQR at 16 and Exhibit 13.

²⁶⁵ *See* Ningbo Eagle IQR at 11 – 12; *see also* Sinoblue IQR at 11.

²⁶⁶ *See* GOC IQR at Exhibit II.C.2.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

in eligible high-technology sectors and, thus, is specific under section 771(5A)(D)(i) of the Act.²⁶⁹

To calculate the benefit from this program, we treated the tax deduction as a recurring benefit, consistent with 19 CFR 351.524(c)(1).²⁷⁰ To compute the amount of the tax savings, we calculated the amount of tax the respondents would have paid absent the tax deductions at the standard tax rate of 25 percent (*i.e.*, 25 percent of the tax credit) as provided under section 771(5)(E)(ii) of the Act and 19 CFR 351.509(a)(1). In accordance with 19 CFR 351.509(b)(1), we based our benefit calculation on the tax return that Wuyi Xilinde filed during the POI. We then divided the tax savings by Wuyi Xilinde's total sales for the POI. On this basis, we calculated a net subsidy rate of 0.21 percent *ad valorem* for Wuyi Xilinde.²⁷¹

Consistent with Commerce's AFA rate selection methodology, we are assigning a countervailable subsidy rate of 0.21 percent *ad valorem* to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

8. Export Assistance Grants

Commerce initiated an investigation on the Export Assistance Grants program and included questions concerning the program in the Initial Questionnaire.²⁷² Wuyi Xilinde reported receiving export assistance grants under this program.²⁷³ The GOC acknowledged Wuyi Xilinde's receipt of grants under the program.²⁷⁴ However, rather than respond to the relevant questions contained in the Initial Questionnaire, the GOC referred Commerce to Wuyi Xilinde's initial questionnaire response regarding Wuyi Xilinde's use of the program.²⁷⁵

As indicated in section "G. Application of AFA: Other Subsidies" of this memorandum, Commerce relies on information from the foreign government in question to determine whether a given program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. The GOC failed to provide the necessary information requested from Commerce. Thus, for the reasons provided in section "G. Application of AFA: Other Subsidies" of this memorandum and pursuant to sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act and section 776(b) of the Act, we preliminarily determine that this program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. As further explained in section "G. Application of AFA: Other Subsidies" of this memorandum, where the subsidy in question appears to be contingent upon export performance, Commerce finds the subsidy to be specific within the meaning of section 771(5A)(A) and (B) of the Act. Based on information in the petition and Commerce's prior

²⁶⁹ Our finding in this regard is consistent with Commerce's findings in prior CVD proceedings involving China. *See, e.g., Certain Solar Products from China Final Determination* IDM at Comment 12.

²⁷⁰ Our approach in this regard is consistent with Commerce's practice. *See, e.g., Certain Solar Products from China Preliminary Determination* PDM at 34-35; unchanged in *Certain Solar Products from China Final Determination* IDM at 26.

²⁷¹ *See* Wuyi Xilinde Preliminary Determination Calculations Memorandum.

²⁷² *See* Initiation Checklist at 27; *see also* Initial Questionnaire at II-4 and III-8.

²⁷³ *See* Wuyi Xilinde IQR at Exhibit 8.

²⁷⁴ *See* GOC IQR at 12.

²⁷⁵ *Id.*

findings regarding this program, we preliminarily determine that benefits under this program are contingent upon exports and, thus, are limited to exporters as described under sections 771(5A)(A) and (B) of the Act.²⁷⁶

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Wuyi Xilinde as non-recurring. To measure the benefit of the grants that are allocable to the POI, we first conducted the “0.5 percent test.” We divided the total amount approved by Wuyi Xilinde’s total export sales for the year of approval. Where the year of approval was not provided, we divided the total grant amount by Wuyi Xilinde’s total export sales in the year of receipt. Grants that were less than 0.05 percent of Wuyi Xilinde’s export sales were expensed to the year of receipt. Grants that were greater than 0.5 percent of Wuyi Xilinde’s export sales were allocated over the AUL using Commerce’s grant allocation methodology as provided under 19 CFR 351.524(d)(1). To calculate the countervailable subsidy rate, we summed the benefits attributed to the POI, and then divided the benefits by Wuyi Xilinde’s total export sales for the POI. On this basis, we calculated a net subsidy rate of 1.01 percent *ad valorem* for the Wuyi Xilinde.

Consistent with Commerce’s AFA rate selection methodology, we are assigning a countervailable subsidy rate of 1.01 percent *ad valorem* to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

9. “Other Assistance” – Grants Self-Reported by Wuyi Xilinde

Wuyi Xilinde self-reported the following grants in its initial questionnaire response:²⁷⁷

- Land Use Performance Award from Finance Bureau of Wuyi County
- Big and Strong Enterprise Award from Finance Bureau of Wuyi County
- Jinhua Industrial Design Competition Award from Finance Bureau of Wuyi County
- Award to Municipal Industrial Design Center from Finance Bureau of Wuyi County
- Award to Enterprise that Paid Much Taxes from Finance Bureau of Wuyi County
- Award to High and New Technology Enterprise from Science and Technology Bureau of Wuyi County
- Subsidy to Loan Interests for Shanghai Cooperative Enterprise from Finance Bureau of Wuyi County
- Subsidy to Unemployment Insurance Payment from Human Resources and Social Security Bureau of Wuyi County
- Subsidy for Participating in Guangzhou Hardware Trade Fair Exhibition from Finance Bureau of Wuyi County
- Subsidy for Technology Reform from Finance Bureau of Wuyi County
- Research and Development Expenses Award from Science and Technology Bureau of Wuyi County

²⁷⁶ See Petition at 62 and 63; see also *Drawn Stainless Steel Sinks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013), and accompanying IDM at 25-26.

²⁷⁷ See Wuyi Xilinde IQR at Exhibit 20.

As discussed above in the “Use of Facts Otherwise Available and Adverse Inferences” section, the GOC did not provide the required information for these programs. Absent information from the GOC, in accordance with sections 776(a) and (b) and the Act, as AFA, we preliminarily find that grants under these programs constitute financial contributions under section 771(5)(D)(i) of the Act, and are specific under section 771(5A) of the Act. We further preliminarily determine that the benefits received under these programs are equal to the amount of the grants provided in accordance with 19 CFR 351.504(a).

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Wuyi Xilinde as non-recurring. To measure the benefit of the grants that are allocable to the POI, we first conducted the “0.5 percent test.” We divided the total amount approved by the relevant sales for the year of approval. Where the year of approval was not provided, we divided the total grant amount by the relevant sales for the year of receipt. Grants that were less than 0.05 percent of Wuyi Xilinde’s relevant sales were expensed to the year of receipt. Grants that were greater than 0.5 percent of Wuyi Xilinde’s relevant sales were allocated over the AUL using Commerce’s grant allocation methodology, as provided under 19 CFR 351.524(d)(1). When then divided the portion of the benefit allocated to the POI by Wuyi Xilinde’s relevant POI sales.

Therefore, we preliminarily determine the following net countervailable subsidy rates for Wuyi Xilinde:

- Land Use Performance Award from Finance Bureau of Wuyi County – 0.17 percent *ad valorem*
- Big and Strong Enterprise Award from Finance Bureau of Wuyi County – 0.09 percent *ad valorem*
- Jinhua Industrial Design Competition Award from Finance Bureau of Wuyi County – 0.01 percent *ad valorem*
- Award to Municipal Industrial Design Center from Finance Bureau of Wuyi County – 0.01 percent *ad valorem*
- Award to Enterprise that Paid Much Taxes from Finance Bureau of Wuyi County – 0.06 percent *ad valorem*
- Award to High and New Technology Enterprise from Science and Technology Bureau of Wuyi County – 0.04 percent *ad valorem*
- Subsidy to Loan Interests for Shanghai Cooperative Enterprise from Finance Bureau of Wuyi County – 0.11 percent *ad valorem*
- Subsidy to Unemployment Insurance Payment from Human Resources and Social Security Bureau of Wuyi County – 0.01 percent *ad valorem*
- Subsidy for Participating in Guangzhou Hardware Trade Fair Exhibition from Finance Bureau of Wuyi County – 0.01 percent *ad valorem*
- Subsidy for Technology Reform from Finance Bureau of Wuyi County – 0.14 percent *ad valorem*
- Research and Development Expenses Award from Science and Technology Bureau of Wuyi County – 0.08 percent *ad valorem*

Consistent with Commerce’s AFA rate selection methodology, we are assigning the rates for the aforementioned programs to the non-responsive companies, which are the highest rates

calculated for identical programs in this investigation.

B. Programs Preliminarily Determined Not to Confer Measurable Benefits During the POI

Based on the record evidence, we determine that the benefits from the following programs were fully expensed prior to the POI or are less than 0.005 percent *ad valorem* when attributed to the respondent's applicable sales as discussed above in the "Attribution of Subsidies" section above.²⁷⁸ Consistent with Commerce's practice,²⁷⁹ we have not included the following programs in our final subsidy rate calculations for the mandatory respondents.

1. Wuyi Xilinde's Not Measurable Programs

- Award for Provincial Industrial New Products from Finance Bureau of Wuyi County
- Award to "Hidden Champion" Enterprise from Finance Bureau of Wuyi County
- Energy Saving Special Fund from Finance Bureau of Wuyi County
- Enterprise Brand Building Award from Finance Bureau of Wuyi County
- Enterprise Innovation Award for Replacing People by Robots for 2014 from Finance Bureau of Wuyi County
- Municipal High-Technology Research and Development Award from Finance Bureau of Wuyi County
- Municipal Patent Demonstration Enterprise from Finance Bureau of Wuyi County
- Patent Award from Finance Bureau of Wuyi County
- Reduction of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County
- Refund of House Property Tax from Local Taxation Bureau of Wuyi County
- Refund of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County
- Scientific and Technological Innovation Award from Management Committee of Wuyi Economic Development Zone of Zhejiang Province
- Small and Medium-Sized Enterprise Development Award from Finance Bureau of Wuyi County
- Social Contribution Award from Finance Bureau of Wuyi County
- Subsidy for Declaring Individual Income Tax from Local Taxation Bureau of Wuyi County
- Subsidy for Enterprise Meeting the Safety Production Standard from Finance Bureau of Wuyi County
- Subsidy for Export-Oriented Economy Development in Under-Developed Area from Finance Bureau of Wuyi County

²⁷⁸ See Ningbo Eagle Preliminary Determination Calculations Memorandum; *see also* Wuyi Xilinde Preliminary Determination Calculations Memorandum.

²⁷⁹ See, e.g., *Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) at Income Tax Reductions for Firms Located in the Shanghai Pudong New District.

- Subsidy from Science and Technology Bureau from Science and Technology Bureau of Wuyi County
- Subsidy to Eliminate Heavy-Polluting Vehicles from Finance Bureau of Wuyi County
- Subsidy under WZB (09) No. 59 Policy from Finance Bureau of Wuyi County
- Technical Innovation Award from Finance Bureau of Wuyi County

2. Sinoblue's Not Measurable Programs²⁸⁰

- Grant for Technical Reform
- Refund for Water Conservancy Construction Fund

C. Programs Preliminarily Determined to Be Not Used by the Mandatory Respondents

1. GOC and Sub-Central Grants, Loans, and Other Incentives for Development of Famous Brands and China Top Brands
2. Special Fund for Energy Savings Technology Reform
3. SME International Market Exploration/Development Fund
4. SME Technology Innovation Fund
5. Export Loans from Chinese State-Owned Banks
6. Export Seller's Credit
7. Export Credit Guarantees
8. Income Tax Exemption for Research and Development Expenses in Shenjia Economic Development Zone
9. Preferential Income Tax Policy for Enterprises in the Northeast Region
10. Import Tariff and VAT Exemptions for FIE and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
11. VAT Refunds for FIEs Purchasing Domestically Produced Equipment
12. Provision of Hot-Rolled Steel for LTAR
13. Provision of Land for LTAR in Shenjia Economic Development Zone
14. Provision of Land and/or Land Use Rights to State-Owned Enterprises for LTAR

X. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5) of the Act state that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the all-others rate by weight-averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. We therefore calculated the all-others rate using the mandatory

²⁸⁰ See Ningbo Eagle Preliminary Determination Calculations Memorandum.

respondents' publicly ranged U.S. export sales value for the subject merchandise.²⁸¹ On that basis, we are assigning 24.11 percent as the *ad valorem* all-others rate.²⁸²

XI. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

8/24/2020

X



Signed by: JEFFREY KESSLER

APPENDIX

AFA Rate Calculation

Program Name	AFA Rate
Preferential Lending	
Policy Loans to the Non-Refillable Steel Cylinders Industry	3.92%
Export Loans from Chinese State-Owned Banks	10.54%
Export Seller's Credits	4.25%
Export Buyer's Credits	10.54%
Export Credit Guarantees	10.54%
Income Tax and Direct Tax Programs	
Income Tax Reductions for High or New Technology Enterprises	25.00%
Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law	
Income Tax Exemption for Research and Development Expenses in Shenjia Economic Development Zone	
Preferential Income Tax Policy for Enterprises in the Northeast Region	
Indirect Tax Programs	
Import Tariff and VAT Exemptions for Foreign-Invested Enterprises (FIEs) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	1.07%
VAT Refunds for FIEs Purchasing Domestically Produced Equipment	0.51%
Government Provision of Goods and Services for LTAR	
Provision of Land and/or Land Use Rights to State-Owned Enterprises (SOEs) for LTAR	13.36%
Provision of Land for LTAR in Shenjia Economic Development Zone	13.36%
Provision of Hot-Rolled Steel for LTAR	44.91%
Provision of Cold-Rolled Steel for LTAR	14.53%
Provision of Electricity For LTAR	0.27%
Grants	
GOC and Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands	1.27%
Special Fund for Energy Saving and Technology Reform	1.27%
Small and Medium-Sized Enterprise (SME) International Market Exploration/Development Fund	1.27%
SME Technology Innovation Fund	1.27%
Export Assistance Grants	1.01%

Self-Reported Subsidies - Sinoblue	
Grant for Technical Reform	1.27%
Refund for Water Conservancy Construction Fund	1.27%
Social Insurance Refund for Distressed Industrial Enterprises	0.08%
Grants for Transformation and Upgrading of Small and Micro Enterprises to Enterprises Above Designated Size	0.49%
Self-Reported Subsidies – Wuyi Xilinde	
Award for Provincial Industrial New Products from Finance Bureau of Wuyi County	1.27%
Award to “Hidden Champion” Enterprise from Finance Bureau of Wuyi County	1.27%
Award to Enterprise that Paid Much Taxes from Finance Bureau of Wuyi County	0.06%
Award to High and New Technology Enterprise from Science and Technology Bureau of Wuyi County	0.04%
Award to Municipal Industrial Design Center from Finance Bureau of Wuyi County	0.01%
Big and Strong Enterprise Award from Finance Bureau of Wuyi County	0.09%
Energy Saving Special Fund from Finance Bureau of Wuyi County	1.27%
Enterprise Brand Building Award from Finance Bureau of Wuyi County	1.27%
Enterprise Famous Brand Building Award from Finance Bureau of Wuyi County	1.27%
Enterprise Innovation Award for Replacing People by Robots for 2014 from Finance Bureau of Wuyi County	1.27%
Jinhua Industrial Design Competition Award from Finance Bureau of Wuyi County	0.01%
Land Use Performance Award from Finance Bureau of Wuyi County	0.17%
Municipal High-Technology Research and Development Award from Finance Bureau of Wuyi County	1.27%
Municipal Patent Demonstration Enterprise from Finance Bureau of Wuyi County	1.27%

Patent Award from Finance Bureau of Wuyi County	1.27%
Reduction of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County	1.27%
Refund of House Property Tax from Local Taxation Bureau of Wuyi County	1.27%
Refund of Land Use Tax and House Property Tax from Local Taxation Bureau of Wuyi County	1.27%
Research and Development Expenses Award from Science and Technology Bureau of Wuyi County	0.08%
Scientific and Technological Innovation Award from Management Committee of Wuyi Economic Development Zone of Zhejiang Province	1.27%
Small and Medium-Sized Enterprise Development Award from Finance Bureau of Wuyi County	1.27%
Social Contribution Award from Finance Bureau of Wuyi County	1.27%
Subsidy for Declaring Individual Income Tax from Local Taxation Bureau of Wuyi County	1.27%
Subsidy for Enterprise Meeting the Safety Production Standard from Finance Bureau of Wuyi County	1.27%
Subsidy for Export-Oriented Economy Development in Under-Developed Area from Finance Bureau of Wuyi County	1.27%
Subsidy for Participating in Guangzhou Hardware Trade Fair Exhibition from Finance Bureau of Wuyi County	0.01%
Subsidy for Technology Reform from Finance Bureau of Wuyi County	0.14%
Subsidy from Science and Technology Bureau from Science and Technology Bureau of Wuyi County	1.27%
Subsidy to Eliminate Heavy-Polluting Vehicles from Finance Bureau of Wuyi County	1.27%

Subsidy to Loan Interests for Shanghai Cooperative Enterprise from Finance Bureau of Wuyi County	0.11%
Subsidy to Unemployment Insurance Payment from Human Resources and Social Security Bureau of Wuyi County	0.01%
Subsidy under WZB (09) No. 59 Policy from Finance Bureau of Wuyi County	1.27%
Technical Innovation Award from Finance Bureau of Wuyi County	1.27%