



C-570-130  
Investigation  
**Public Document**  
E&C/OVI: MYS, TW

October 23, 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 Determination of the  
Countervailing Duty Investigation of Certain Walk-Behind Lawn  
Mowers and Parts Thereof from the People's Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China), as provided in section 703 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 May 26, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of lawn mowers from China, filed on behalf of MTD Products, Inc. (the petitioner).<sup>1</sup> On June 15, 2020, we initiated a CVD investigation of lawn mowers from China.<sup>2</sup> In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.<sup>3</sup> No interested parties submitted timely comments on the scope of the investigation as it appeared in the *Initiation Notice*.<sup>4</sup>

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<sup>1</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam and Countervailing Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China," dated May 26, 2020 (Petition).

<sup>2</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 37426 (June 22, 2020) (*Initiation Notice*).

<sup>3</sup> See *Initiation Notice*.

<sup>4</sup> On September 23, 2020, Ningbo Daye untimely requested permission to file comments on the scope language in the *Initiation Notice*. On the same day, Commerce rejected the untimely request.



The Petition identified 46 companies in China that produce and/or export lawn mowers to the United States.<sup>5</sup> On June 11, 2020, we released the U.S. Customs and Border Protection (CBP) data for U.S. imports of lawn mowers under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings to all interested parties under an administrative protective order (APO).<sup>6</sup> In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on CBP data for U.S. imports of lawn mowers under the appropriate HTSUS subheadings and requested that interested parties comment on the data within three days of the publication of the *Initiation Notice*.<sup>7</sup>

On June 25, 2020, we received comments on the CBP data on behalf of Sumec Hardware & Tools Co., Ltd. (Sumec), a Chinese producer, and its related U.S. importer Merotec Inc. (collectively, the Sumec companies).<sup>8</sup> They requested that Commerce rely on quantity and value (Q&V) questionnaire data for respondent selection. However, the Sumec companies did not identify any specific errors in the CBP data, and our review of the CBP data did not reveal any reliability issues. Accordingly, we continued to rely on the CBP data and did not issue Q&V questionnaires for respondent selection purposes.

On July 6, 2020, Commerce selected Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye) and Zhejiang Amerisun Technology Co., Ltd. (Zhejiang Amerisun) as the mandatory respondents, based on the CBP data for the HTSUS subheading 8433.11.0050.<sup>9</sup> For a detailed explanation of Commerce's respondent selection analysis, *see* the Respondent Selection Memo.<sup>10</sup>

On September 14, 2020, the petitioner timely filed a new subsidy allegation (NSA) for two programs.<sup>11</sup> On September 24, 2020, the GOC submitted rebuttal comments with respect to the new subsidy allegation.<sup>12</sup> On September 25, 2020, Commerce requested additional information from the petitioner;<sup>13</sup> the petitioner timely responded.<sup>14</sup> We are still examining the NSA and will decide whether to initiate an investigation with respect to the newly alleged subsidy programs after this preliminary determination. Should we initiate, we will issue a new subsidy allegation questionnaire to the relevant parties. We also intend to issue a post-preliminary decision for any

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<sup>5</sup> See Petition at Volume I Exhibit I-5.

<sup>6</sup> See Memorandum, "Certain Walk-Behind Lawn Mowers, and Parts Thereof, from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated June 11, 2020.

<sup>7</sup> See *Initiation Notice*, 85 FR at 37428.

<sup>8</sup> See Sumec Companies' Letter, "Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Comments on CBP Data and Request to Issue Quantity and Value Questionnaires" dated June 25, 2020.

<sup>9</sup> See Memorandum, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Respondent Selection," dated July 6, 2020 (Respondent Selection Memo).

<sup>10</sup> *Id.*

<sup>11</sup> See Petitioner's Letter, "Countervailing Investigation on Certain Walk-Behind Lawn Mowers from the People's Republic of China: Petitioner's New Subsidy Allegations," dated September 14, 2020.

<sup>12</sup> See GOC's Letter, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: GOC Rebuttal Comments on NSA," dated September 24, 2020.

<sup>13</sup> See Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: New Subsidy Allegations Supplemental Questions," dated September 25, 2020.

<sup>14</sup> See Petitioner's Letter, "Countervailing Investigation on Certain Walk-Behind Lawn Mowers from the People's Republic of China: Petitioner's New Subsidy Allegation Supplemental Response," dated October 2, 2020.

programs on which we initiate.

On September 17, 2020, the petitioner also filed an uncreditworthiness allegation regarding the respondents in this investigation.<sup>15</sup> We also are continuing to evaluate the uncreditworthiness allegation and will decide whether to initiate an investigation with respect to this allegation after this preliminary determination. Should we initiate, we will issue an uncreditworthiness questionnaire to the relevant parties and issue a post-preliminary decision.

## B. Questionnaires and Responses

On July 7, 2020, Commerce issued the Initial Questionnaire to the Government of China (GOC).<sup>16</sup> On July 21 and 23, 2020, we received timely responses to the “affiliated companies” section of the questionnaire from Ningbo Daye and Zhejiang Amerisun.<sup>17</sup> In August 2020, Ningbo Daye, Zhejiang Amerisun, and the GOC timely filed their full Section III responses to Commerce’s Initial Questionnaire.<sup>18</sup>

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<sup>15</sup> See Petitioner’s Letter, “Countervailing Investigation on Certain Walk-Behind Lawn Mowers from the People’s Republic of China: Petitioner’s Uncreditworthy Allegation,” dated September 17, 2020.

<sup>16</sup> See Commerce’s Letter, “Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: Countervailing Duty Questionnaire,” dated July 7, 2020 (Initial Questionnaire).

<sup>17</sup> See Zhejiang Amerisun’s Letter, “Certain Walk Behind Lawn Mowers and Parts Thereof from the People’s Republic China: Submission Zhejiang Amerisun’s Affiliation Response,” dated July 21, 2020 (Zhejiang Amerisun AFQR); and Ningbo Daye’s Letter, “Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China, Case No. C-570-130: Ningbo Daye’s Affiliated Companies Questionnaire Response,” dated July 23, 2020.

<sup>18</sup> See GOC’s Letter, “Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: GOC Section II Questionnaire Response,” dated August 20, 2020 (GOC IQR); *see also* Ningbo Daye’s Letter, “Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China, Case No. C-570-130: Ningbo Daye’s Initial Questionnaire Response,” dated August 21, 2020 (Ningbo Daye IQR); Zhejiang Amerisun’s Letter, “Certain Walk Behind Lawn Mowers and Parts Thereof from the People’s Republic China: Submission Zhejiang Amerisun’s Section III Response,” dated August 21, 2020 (Zhejiang Amerisun IQR); and Zhejiang Dobest Power Tools Co., Ltd.’s (Zhejiang Dobest’s) Letter, “Zhejiang Amerisun’s Letter, “Certain Walk Behind Lawn Mowers and Parts Thereof from the People’s Republic China: Submission Zhejiang Dobest’s Section III Response,” dated August 21, 2020 (Zhejiang Dobest IQR).

Between July 24, 2020 and September 30, 2020, Commerce issued supplemental questionnaires to Ningbo Daye, Zhejiang Amerisun, and the GOC,<sup>19</sup> to which Ningbo Daye, Zhejiang Amerisun, and the GOC timely responded.<sup>20</sup>

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<sup>19</sup> See Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Request for Additional Information Regarding Zhejiang Amerisun Technology Co., Ltd.'s Response to 'Section III Identifying Affiliated Companies' Questions of Initial Questionnaire," dated July 24, 2020; *see also* Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: First Supplemental Questionnaire for Ningbo Daye Garden Machinery Co., Ltd.," dated August 5, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Request for Additional Information Regarding Zhejiang Amerisun Technology Co., Ltd.'s Response to 'Section III Identifying Affiliated Companies' Questions of Initial Questionnaire," dated August 6, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Third Request for Additional Information Regarding Zhejiang Amerisun Technology Co., Ltd.'s Responses to 'Section III Identifying Affiliated Companies' Questions of Initial Questionnaire," dated August 18, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Request for Additional Information Regarding the Government of the People's Republic of China's Response to the July 7, 2020 Initial Questionnaire," dated September 1, 2020 (GOC First Supplemental Questionnaire); Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Second Supplemental Questionnaire for Ningbo Daye Garden Machinery Co., Ltd.," dated September 1, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: First Request for Additional Information Regarding Zhejiang Amerisun Technology Co., Ltd.'s Section III Response," dated September 9, 2020 (Zhejiang Amerisun First Supplemental Questionnaire); Commerce's Letter, "Countervailing and Antidumping Duty Investigations of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Response to Fujian Spring Machinery Co., Ltd.'s Request for Voluntary Respondent Treatment," dated September 22, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Third Supplemental Questionnaire for Ningbo Daye Garden Machinery Co., Ltd.," dated September 25, 2020; Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Request for Additional Information Regarding the Government of the People's Republic of China's Responses to the July 7, 2020 Initial Questionnaire and the September 1, 2020 First Supplemental Questionnaire," dated September 28, 2020 (GOC Second Supplemental Questionnaire); and Commerce's Letter, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Second Request for Additional Information Regarding Zhejiang Amerisun Technology Co., Ltd.'s Section III Responses," dated September 30, 2020.

<sup>20</sup> See Zhejiang Amerisun's Letter, "Certain Walk Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Submission Zhejiang Amerisun's First Supplemental Response," dated July 29, 2020 (Zhejiang Amerisun 1SAFQR); *see also* Ningbo Daye's Letter, "Certain Walk-Behind Lawn Mowers And Parts Thereof From the People's Republic of China, Case No. C-570-130: Ningbo Daye's First Supplemental Questionnaire Response," dated August 14, 2020 (Ningbo Daye 1SQR); Zhejiang Amerisun's Letter, "Certain Walk Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Submission of Zhejiang Amerisun's Second Supplemental Response," dated August 17, 2020 (Zhejiang Amerisun 2SAFQR); Zhejiang Amerisun's Letter, "Certain Walk Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Submission of Zhejiang Amerisun's Third Supplemental Response," dated August 20, 2020; Ningbo Daye's Letter, "Certain Walk-Behind Lawn Mowers And Parts Thereof From the People's Republic of China, Case No. C-570-130: Ningbo Daye's Second Supplemental Questionnaire Response," dated September 10, 2020 (Ningbo Daye 2SQR); GOC's Letter, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: GOC Supplemental Questionnaire Response," dated September 15, 2020 (GOC 1SQR); Zhejiang Amerisun's Letter, "Certain Walk Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Submission Zhejiang Amerisun's First Supplemental Section III Response," dated September 22, 2020 (Zhejiang Amerisun 1SQR); Zhejiang Amerisun's Letter, "Certain Walk Behind Lawn Mowers and Parts Thereof from People's Republic {of} China: Submission Zhejiang Amerisun's Second Supplemental Section III Response," dated October 7, 2020; Ningbo Daye's Letter,

### C. Potential Benchmark Data

On August 21, 2020, Ningbo Daye submitted benchmark price information for certain cold-rolled steel (CRS) for use in evaluating the government provision of CRS for less than adequate remuneration (LTAR).<sup>21</sup> On September 23, 2020, the petitioner submitted benchmark price information for use in evaluating the government provision of CRS for LTAR and the government provision of electricity for LTAR.<sup>22</sup> Also on September 23, 2020, Zhejiang Amerisun submitted benchmark interest rate information data for Commerce to use in analyzing preferential lending.<sup>23</sup>

### D. Postponement of the Preliminary Determination

On July 22, 2020, the petitioner requested that Commerce postpone the preliminary determination of this investigation.<sup>24</sup> On August 3, 2020, we postponed the date of the preliminary determination until October 23, 2020, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>25</sup>

### E. Period of Investigation

The POI is January 1, 2019 through December 31, 2019.

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“Certain Walk-Behind Lawn Mowers And Parts Thereof From the People’s Republic of China, Case No. C-570-130: Ningbo Daye’s Third Supplemental Questionnaire Response,” dated October 7, 2020 (Ningbo Daye 3SQR); and GOC’s Letter, “Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: GOC Second Supplemental Questionnaire Response,” dated October 9, 2020 (GOC 2SQR).

<sup>21</sup> See Ningbo Daye IQR at Exhibit D-15.

<sup>22</sup> See Petitioner’s Letter, “Countervailing Investigation on Certain Walk-Behind Lawn Mowers from the People’s Republic of China: Petitioner’s Benchmark Submission,” dated September 23, 2020 (Petitioner Benchmark Submission).

<sup>23</sup> See Zhejiang Amerisun’s Letter, “Certain Walk Behind Lawn Mowers and Parts Thereof from the People’s Republic {of} China: Loan Benchmark Information,” dated September 23, 2020 (Zhejiang Amerisun Benchmark Submission).

<sup>24</sup> See Petitioner’s Letter, “Antidumping Investigations on Certain Walk-Behind Lawn Mowers from the People’s Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People’s Republic of China: Petitioner’s Request to Postpone the Preliminary Determination,” dated July 22, 2020.

<sup>25</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 46587 (August 3, 2020).

## F. Alignment

On October 15, 2020, the petitioner requested that Commerce align the date of the CVD final determination with that of the companion AD final determination.<sup>26</sup> Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request, we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of lawn mowers from China. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is scheduled to be issued no later than March 8, 2021, unless postponed.

## III. SCOPE OF THE INVESTIGATION

The products covered by this investigation are lawn mowers from China. In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.<sup>27</sup> As explained above, no interested parties submitted timely comments on the scope of the investigation as it appeared in the *Initiation Notice* and thus we are not changing the scope language as it appears in the *Initiation Notice* at the preliminary determination. For a full description of the scope of this investigation, see the *Federal Register* notice accompanying this memorandum at Appendix I.

At the time of the filing of the petition, there were ongoing antidumping (AD) and countervailing duty (CVD) investigations on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from China.<sup>28</sup> The scope of the small vertical engines from China investigations covers engines “whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-handheld outdoor power equipment, including but not limited to, pressure washers.” The small vertical engines scope also provides that “if a subject engine is imported mounted on such equipment, only the engine is covered by the scope. Subject merchandise includes certain small vertical shaft engines produced in the subject country whether mounted on outdoor power equipment in the subject country or in a third country.”<sup>29</sup> This creates an overlap between the scopes of these proceedings because the engine component cannot be subject to multiple proceedings and cannot be subject to cash deposits under both proceedings.

Therefore, for the purpose of CBP's administration, where the engine of a lawn mower is also covered by the scope of the small vertical engines from China CVD proceeding, parties are instructed to enter their merchandise under the CVD case number associated with the small

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<sup>26</sup> See Petitioner's Letter, “Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Walk-Behind Lawn Mowers from China: Request to Align Final Countervailing Duty Determination with the Companion Antidumping Duty Final Determination,” dated October 15, 2020.

<sup>27</sup> See *Initiation Notice*.

<sup>28</sup> See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 52086 (August 24, 2020); and *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 85 FR 66932 (October 21, 2020).

<sup>29</sup> *Id.*

vertical engines proceedings (C-570-125) and post CVDs in accordance with the cash deposit rates applicable in that case. Specifically, at this time, the CVDs will be applicable to the value of the small vertical engine, not the residual value of the mower. We are making no change to the scope of this proceeding at this time.

Commerce will be setting aside a separate period of time for parties to comment on the issue of the overlap in the scopes of the lawn mowers and small vertical engines AD and CVD proceedings.

#### **IV. INJURY TEST**

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On July 16, 2020, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of lawn mowers from China.<sup>30</sup>

#### **V. DIVERSIFICATION OF CHINA’S ECONOMY**

On July 7, 2020, Commerce placed on the record of this investigation, “The Extent of Diversification of Economic Activities in the People’s Republic of China (China) for the Purpose of Determining Specificity of a Domestic Subsidy for Countervailing Duty (CVD) Purposes,” dated September 13, 2018.<sup>31</sup> This information reflects a wide diversification of economic activities in China across 19 industry groups. The industrial sector in China alone is comprised of 37 listed industries and economic activities, indicating the diversification of China’s economy.

#### **VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

##### **A. Legal Standard**

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly 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. In *Nippon Steel*, the U.S. Court

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<sup>30</sup> See *Walk-Behind Lawn Mowers from China and Vietnam*, 85 FR 43257 (July 16, 2020).

<sup>31</sup> See Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: Placement of People’s Republic of China Economic Diversification Memorandum on the Record,” dated July 7, 2020.

of Appeals for the Federal Circuit held that, while the statutory mandate that a respondent act to the best of its ability is not a “perfection standard,” it does require that a respondent “do the maximum it is able to do.”<sup>32</sup> Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide {Commerce} with complete and accurate information in a timely manner.”<sup>33</sup> Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>34</sup>

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>35</sup> It is Commerce’s practice to consider information to be corroborated if it has probative value.<sup>36</sup> In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.<sup>37</sup> However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.<sup>38</sup>

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 the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non – cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>39</sup>

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

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<sup>32</sup> See *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (CAFC 2003) (*Nippon Steel*).

<sup>33</sup> See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011), and accompanying Issues and Decision Memorandum (IDM) at 7; and *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>34</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. I at 870 (1994).

<sup>35</sup> See, e.g., SAA at 870.

<sup>36</sup> *Id.* at 870.

<sup>37</sup> *Id.* at 869.

<sup>38</sup> *Id.* at 869-870.

<sup>39</sup> See section 776(d)(3) of the Act.

## B. Application of AFA: Provision of CRS for LTAR

### *GOC – Whether Certain Input Producers are “Authorities”*

As discussed below under “Programs Found to Be Countervailable,” Commerce examined whether the GOC provided CRS for LTAR to Ningbo Daye and Zhejiang Dobest.<sup>40</sup> We asked the GOC to provide information regarding the specific companies that produced CRS that Ningbo Daye and Zhejiang Dobest purchased during the POI. Specifically, we sought information from the GOC which would allow us to analyze whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>41</sup> Moreover, where a respondent purchases an input from a trading company or non-producing supplier, Commerce has determined in prior CVD proceedings that 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 the price paid by the respondent for the input represents LTAR.<sup>42</sup>

In Commerce’s Initial Questionnaire, we asked the GOC to respond to the Input Producer Appendix for each company that produced the CRS purchased by the respondents.<sup>43</sup> We instructed the GOC to coordinate with the respondents to obtain a complete list of the CRS producers, including the producers of inputs purchased by the respondents through a supplier.<sup>44</sup> With respect to the producers that the GOC identified as majority government-owned, Commerce requested that the GOC provide the articles of incorporation and capital verification reports.<sup>45</sup> In response to the Initial Questionnaire, the GOC provided partial information (*i.e.*, basic registration and shareholder structure) but did not provide information that would enable Commerce to determine whether any of the identified CRS producers had majority ownership by the GOC.<sup>46</sup>

We then requested that the GOC identify majority government-owned enterprises and to provide the articles of incorporation and capital verification reports for such enterprises.<sup>47</sup> The GOC did identify the majority government-owned enterprises; however, the GOC continued not to provide the requested articles of incorporation and capital verification reports of any of the majority government-owned enterprises.<sup>48</sup> In its response to our GOC First Supplemental Questionnaire, the GOC also did not provide information about all of the suppliers and producers that the respondents reported. Accordingly, we again requested a complete and accurate list of all of the

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<sup>40</sup> Zhejiang Dobest is the producer of the subject merchandise exported by the respondent, Zhejiang Amerisun. See Zhejiang Amerisun AFQR at 1-2; see also Zhejiang Amerisun 1SAFQR at 3; and Zhejiang Amerisun 2SAFQR at 1.

<sup>41</sup> See Initial Questionnaire at Section II (p. 14-15).

<sup>42</sup> See, e.g., *Circular Welded Carbon Quality Steel Pipe from the Peoples’ 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 9-12; and *Certain 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 14-16.

<sup>43</sup> See Initial Questionnaire at Section II (p. 12).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 30.

<sup>46</sup> See GOC IQR at Exhibits CRS-2 and CRS-3.

<sup>47</sup> See GOC First Supplemental Questionnaire at 13.

<sup>48</sup> See GOC 1SQR at 26-27 and Exhibit SQ-8.

CRS producers and suppliers, along with their ownership information.<sup>49</sup> We also requested that the GOC identify the majority government-owned enterprises and we asked the GOC to describe the nature of all outstanding shares of the companies identified, and to provide a breakdown of the different types of shares by owner.<sup>50</sup> Moreover, we requested that, if the GOC claims that it cannot provide any of the requested information contained in the GOC Second Supplemental Questionnaire, the GOC provide a detailed description of its efforts to obtain the requested information.<sup>51</sup> In response, the GOC provided only the ownership information of the CRS suppliers and producers, and identified the majority government-owned CRS producers and did not respond to the requests for other information.<sup>52</sup>

As explained in the Public Bodies Memorandum,<sup>53</sup> record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.<sup>54</sup> Record evidence demonstrates that the GOC exercises meaningful control over such 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.<sup>55</sup> Therefore, we preliminarily determine that these majority government-owned enterprises 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.

With respect to the producers that were reported as being non-majority government-owned enterprises, while the GOC provided ownership structure and basic registration information, it continued not to provide other relevant documentation requested by Commerce, including company by-laws, annual reports, tax registration documents, and articles of association.<sup>56</sup> The GOC stated that it “has provided ... sufficient information available.”<sup>57</sup>

Additionally, the GOC did not provide the information that Commerce requested regarding the Chinese Communist Party (CCP) for the CRS producers identified as non-government majority-owned.<sup>58</sup> Instead, the GOC asserted that the CCP is a political party, not a governmental authority, and that the CCP has no authority to interfere with the operations of private companies.<sup>59</sup> It also asserted 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 mentioned in the question provide the information as requested by {Commerce}, because they are not governmental agencies.”<sup>60</sup> The GOC further stated that “there is no government data system that can compile, keep, or upon request provide, data or information in regard to political

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<sup>49</sup> See GOC Second Supplemental Questionnaire at 6.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> See GOC 2SQR at 7 and Exhibit SQ2-2.

<sup>53</sup> See Memorandum, “Public Bodies Analysis Memo,” dated July 7, 2020 (Public Bodies Memorandum).

<sup>54</sup> *Id.* at 35-36 and sources cited therein.

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

<sup>56</sup> See GOC IQR at Exhibits CRS-2 and CRS-3; and GOC 1SQR at 27.

<sup>57</sup> See GOC IQR at 27.

<sup>58</sup> See GOC IQR at Exhibit CRS-1 (p. CRS-9 – CRS-18); and GOC 1SQR at 29-30.

<sup>59</sup> See GOC IQR at Exhibit CRS-1 (p. CRS-10 and CRS-13).

<sup>60</sup> See GOC 1SQR at 29.

attitude and/or party or organization affiliation of an individual businessman.”<sup>61</sup> Thus, the GOC stated that “it is beyond the capacity of the GOC to access the information requested by the Department in this regard.”<sup>62</sup>

As explained in the Public Bodies Memorandum, Commerce understands that the CCP exerts significant control over economic activities in China.<sup>63</sup> Consequently, Commerce finds, as it has in prior CVD proceedings,<sup>64</sup> that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the CRS 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 not 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 Ningbo Daye and Zhejiang Dobest, but also impeded this investigation.<sup>65</sup>

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 CRS because it did not provide the requested information.<sup>66</sup> Consequently, we find that an adverse inference is warranted in the application of facts available.<sup>67</sup>

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.<sup>68</sup> 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 CRS purchased by Ningbo Daye and Zhejiang Dobest 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 rates for the respondents, *see infra* at “Provision of CRS for LTAR” under “Analysis of Programs.”

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> See Public Bodies Memorandum; and Memorandum, “Placing Documents on the Record,” dated July 7, 2020.

<sup>64</sup> See, e.g., *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 78799 (December 31, 2014), and accompanying IDM at Comment 5.

<sup>65</sup> See sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

<sup>66</sup> See section 776(a) and (b) of the Act.

<sup>67</sup> See section 776(b) of the Act.

<sup>68</sup> See Public Bodies Memorandum.

## *GOC – Whether the Provision of CRS is Specific*

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

Provide a list of the industries in China that purchase CRS 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.<sup>69</sup>

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded simply that “{t}here are a vast number of users for CRS and the type of consumers that purchase CRS varies across numerous industries, including automobile manufacturing, electrical products, rolling stock, aviation, precision instruments, canned food, *etc.*”<sup>70</sup> The GOC provided no purchase data or supporting documentation.<sup>71</sup> We issued a supplemental questionnaire to the GOC again requesting the purchase information that is necessary for Commerce to analyze the number of industries, and the values and quantities of CRS supplied to various industries.<sup>72</sup> In its supplemental response, the GOC stated that it “does not compile the information as requested.”<sup>73</sup>

Consequently, consistent with past proceedings,<sup>74</sup> we preliminarily determine that necessary information is not available on the record and that the GOC has withheld information that was requested of it and significantly impeded this proceeding. Therefore, Commerce must rely on “facts available” in making our preliminary determination, in accordance with sections 776(a)(1) and 776(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) of the Act. In drawing an adverse inference, we preliminarily find that the GOC’s provision of CRS is specific within the meaning of section 771(5A)(D)(iii) of the Act.

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<sup>69</sup> See Initial Questionnaire at Section II (p. 14).

<sup>70</sup> See GOC IQR at 32-33.

<sup>71</sup> *Id.*

<sup>72</sup> See GOC First Supplemental Questionnaire at 17.

<sup>73</sup> See GOC 1SQR at 38.

<sup>74</sup> See *e.g.*, *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 Comment 13.

## *GOC – Whether the CRS Market is Distorted*

In order to determine the appropriate benchmark with which to measure the benefit from the provision of CRS for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and the structure of the CRS industry in China. Specifically, we requested the GOC provide the following information:

- a) The total number of CRS producers.
- b) The total volume and value of Chinese domestic consumption of CRS and the total volume and value of Chinese domestic production of CRS.
- c) The percentage of domestic consumption accounted for by domestic production.
- d) The total volume and value of imports of CRS.
- e) The percentage of total volume and (separately) value of domestic production that is accounted for by companies in which the Government maintains a majority ownership or a controlling management interest, either directly or through other Government entities. Please also provide a list of the companies that meet these criteria.<sup>75</sup>

Commerce requested such information to determine whether the GOC is the predominant provider of CRS in China and whether its significant presence in the market distorts all transaction prices, rendering those prices unusable as benchmarks under 19 CFR 351.511(a)(2)(i). The GOC claimed that the State Statistics Bureau (SSB) collects only information related to enterprises whose input value exceed 20 million RMB in sales and provided us with production data (by volume only) for CRS compiled by the SSB.<sup>76</sup> For the purposes of this preliminary determination, we used the SSB's production figures as a proxy for the CRS market. For import and export data for CRS, the GOC also provided data from the SSB.<sup>77</sup>

The information provided by the GOC regarding CRS indicates that, by volume, China's domestic production amounted to 102.97 percent of apparent domestic consumption in 2019, while imports accounted for only 5.50 percent.<sup>78</sup> The GOC did not initially provide the percentage of total domestic production that is accounted for by the majority government-owned enterprises for the POI and the prior two years, as requested, and it only provided the percentage (15.14 percent) without specifying which year it represents. The GOC also did not provide a list of the companies in which the government maintains a majority ownership or a controlling management interest, as requested. In our supplemental questionnaire, we again asked the GOC to provide the total value of Chinese domestic consumption, total value of domestic production, and total exportation value, total volume and value of domestic production accounted for by the majority government-owned enterprises, percentage of total volume and value of domestic production accounted for by the majority government-owned of CRS for the POI and the prior two years, as well as a list of majority government-owned enterprises.<sup>79</sup> In response, the GOC

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<sup>75</sup> See Initial Questionnaire at Section II (p. 12-13).

<sup>76</sup> See GOC IQR at 27-29; and GOC 1SQR at 30-31.

<sup>77</sup> See GOC 1SQR at 32.

<sup>78</sup> See GOC IQR at 28; and GOC 1SQR at 33.

<sup>79</sup> See GOC First Supplemental Questionnaire at 14-16.

provided the volume and percentage information for the requested three years, which shows that majority government-owned enterprises accounted for 14.44 percent of domestic production of CRS in 2019, and 14.12 percent and 16.54 percent in 2017 and 2018, respectively.<sup>80</sup> However, regarding the value information and the list of majority government-owned enterprises requested by Commerce, the GOC responded only that the SSB does not collect such information.<sup>81</sup>

Separately, to conduct a full analysis of how the GOC determined its market share percentage, we asked the GOC several questions regarding companies producing CRS in which the GOC claims it maintains less than a controlling ownership or management interest. Specifically, we requested information on the percentages of total volume and value of domestic production, separately, that is accounted for by these companies, a list of the names of these companies, and a detailed explanation of how it was determined that the GOC has less than a controlling ownership or management interest in these companies, including identification of the information sources relied upon to make this assessment.<sup>82</sup> In its original questionnaire response, the GOC responded only that it does not maintain the requested information by stating that the SSB only compiled data for production of majority government-owned enterprises, and the GOC proposed no alternative sources for providing the information.<sup>83</sup> Given the GOC's insufficient response, we issued a supplemental questionnaire to the GOC reiterating our request for such industry-specific information.<sup>84</sup> We also requested that the GOC provide a detailed explanation and supporting documentation if the GOC claims that it is unable to respond to such requests.<sup>85</sup> However, the GOC again failed to identify, and provide information regarding, the companies in the CRS industry for which the GOC claims to have less than a majority ownership or management interest, while merely stating that the SSB does not collect this information.<sup>86</sup> As a result, necessary information to demonstrate how the GOC determined its market share percentage is not on the record.

In a previous proceeding, Commerce was able to confirm at verification that the GOC maintains two databases at the State Administration of Industry and Commerce. One of these databases is the business registration database, showing the most up-to-date company information; a second system, "ARCHIVE," houses electronic copies of documents such as business licenses, annual reports, capital verification reports, *etc.*<sup>87</sup> Therefore, we preliminarily find that the GOC has an electronic system available to gather the industry-specific information Commerce requested, including the GOC's minority ownership interests in companies producing CRS.

Additionally, we requested certain information regarding laws, plans, policies, price controls, production, export restrictions, development capacity, *etc.*<sup>88</sup> In response, the GOC refused to

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<sup>80</sup> See GOC 1SQR at 34.

<sup>81</sup> *Id.* at 32-33.

<sup>82</sup> See Initial Questionnaire at Section II (p. 13).

<sup>83</sup> See GOC IQR at 29-30.

<sup>84</sup> See GOC First Supplemental Questionnaire at 16.

<sup>85</sup> *Id.*

<sup>86</sup> See GOC 1SQR at 37.

<sup>87</sup> See, e.g., *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 11177 (March 14, 2018), and accompanying IDM at 10-11.

<sup>88</sup> *Id.*

meaningfully respond to our request for information on laws, plans, and policies specific to pricing, production, cross-border trades, and development capacity of CRS.<sup>89</sup> Instead, it stated that no price control existed for CRS during the POI and there is no government program of supplying CRS to subject merchandise producers or to the relevant industry for LTAR, while pointing to the Price Law of China in which Articles 3 and 6 stipulate autonomous rights in pricing when relevant prices are not subject to government pricing or government guided prices.<sup>90</sup> The GOC provided the *Circular Economy Promotion Law of the People's Republic of China* issued in 2018 whose aim is to promote the clean production of steel industries.<sup>91</sup> However, this document does not address the pricing, production, cross-border trade, and development capacity.<sup>92</sup> In our supplemental questionnaire, we asked the GOC again for this information but it merely repeated its previous statements.<sup>93</sup> We requested this information to inform our analysis of the degree of the GOC's presence in the market and whether such presence results in the distortion of prices.

Moreover, to further analyze the degree of the GOC's presence in the market and the impact of such presence on the distortion of prices, we asked the GOC on two separate occasions to provide the rules or guidelines for a CRS association or an industry association that includes CRS producers under which such an association operates and a list of its members.<sup>94</sup> While identifying the relevant association, the GOC repeatedly did not provide the requested information, stating that the association is not a government agency, the GOC does not enact rules or guidelines, and the GOC does not keep a list of the association members.<sup>95</sup> Further, the GOC did not explain the steps it took to obtain or collect the information although specifically requested by Commerce to do so.<sup>96</sup>

Further, to conduct the full analysis for the degree of the GOC's involvement in the CRS market and the market distortion, in the GOC First Supplemental Questionnaire, we asked the GOC to explain whether any government entities have approved mergers, acquisitions, capacity additions or reductions for the CRS industry or enterprises.<sup>97</sup> We also requested that the GOC identify the government entities that approved such measures and provide a list of the enterprise subject to the decision.<sup>98</sup> In response, the GOC stated that while the State-owned Assets Supervision and Administration Commission (SASAC) has approved numerous mergers, acquisitions, capacity expansions and other investments as a shareholder in state-owned enterprises, the SASAC's function is limited to exercising the right of the GOC as a shareholder in state-owned entities and the SASAC does not have any regulatory authority.<sup>99</sup> It also added that regulatory authority is exercised by other government agencies such as the competition, land-use, environmental and

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<sup>89</sup> See GOC IQR at 30-31 and Exhibit GEN-4.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> See GOC First Supplemental Questionnaire at 17; and GOC 1SQR at 37. The GOC again stated that no price control existed for CRS during the POI and there is no government program of supplying CRS to the Chinese lawn mower industries for LTAR. The GOC again referred to Articles 3 and 6 of the Price Law.

<sup>94</sup> See Initial Questionnaire at Section II (p. 13); and GOC First Supplemental Questionnaire at 17.

<sup>95</sup> See GOC IQR at 31; and GOC 1SQR at 37.

<sup>96</sup> See GOC First Supplemental Questionnaire at 17; and GOC 1SQR at 37.

<sup>97</sup> See GOC First Supplemental Questionnaire at 18-19.

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

<sup>99</sup> See GOC 1SQR at 41.

investment authorities.<sup>100</sup> Based on the GOC’s response, in the GOC Second Supplemental Questionnaire, we requested that the GOC explain whether government entities have approved mergers, acquisitions, capacity additions or reductions for the CRS or steel industry.<sup>101</sup> We also asked the GOC to identify the government entities that approved the aforementioned measures and provide a complete list of the enterprises subject to the decisions by coordinating with other government agencies.<sup>102</sup> However, the GOC merely stated that it does not maintain such information without providing further information or detailing its efforts to obtain the requested information through other government agencies.<sup>103</sup>

Accordingly, taken together, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information necessary for our analysis of that input market in China. Consequently, we preliminarily determine, in accordance with section 776(a)(2)(A) of the Act, that the GOC withheld necessary information that was requested of it, and, thus, that Commerce must rely on facts available in this preliminary determination. Moreover, in accordance with section 776(b) of the Act, 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. Accordingly, an adverse inference is warranted in the application of facts available.<sup>104</sup>

Moreover, as discussed in more detail below under “F. Application of AFA: Policy Loans to the Walk-Behind Lawn Mower Industry,” we preliminarily find that there is record evidence indicative of government involvement in the industries pertinent to the subject merchandise sector at a level that would be distortive of prices in the relevant markets, including for goods such as steel inputs. Specifically, as explained in that section and based in part on AFA, we find that these industries enjoy various forms of government support under plans and policies to encourage their development.

As AFA, we preliminarily find that the GOC’s involvement in the CRS industry, through enterprises in which it owns an interest, is significant such that prices from actual transactions are distorted and unreliable for use as “tier one” benchmarks.<sup>105</sup> Therefore, we preliminarily find that the use of external benchmark (*i.e.*, “tier two” (world market) prices as described under 19 CFR 351.511(a)(2)(ii)) is warranted for calculating the benefit for the provision of CRS for LTAR. For details regarding the remaining elements of our analysis, *see infra* at “Provision of CRS for LTAR.” under “Analysis of Programs.”

### C. Application of Facts Available: Provision of CRS for LTAR

#### *Zhejiang Amerisun – Benchmark Inland freight Expense for CRS*

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<sup>100</sup> *Id.*

<sup>101</sup> *See* GOC Second Supplemental Questionnaire at 7.

<sup>102</sup> *Id.*

<sup>103</sup> *See* GOC 2SQR at 8.

<sup>104</sup> *See* section 776(b) of the Act.

<sup>105</sup> *See Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65377 (November 25, 1998) (*CVD Preamble*).

In our Initial Questionnaire, to construct the CRS benchmarks during the POI, we requested that the respondents provide their per-metric ton freight expenses for transporting the input from the nearest seaport to their factory complexes for each month of the POI.<sup>106</sup> We further requested that the respondents provide the same information for shipping a closely-related input product or finished product to or from the nearest seaport during the POI if they did not actually incur the expenses for transporting their inputs from the nearest seaport to their factory complexes.<sup>107</sup> Zhejiang Amerisun provided the requested information only for two months of the POI regarding Zhejiang Dobest.<sup>108</sup> In the supplemental questionnaire, we again asked Zhejiang Amerisun to provide: (1) the per-metric ton freight expenses for each month of the POI; and (2) the per-metric ton freight expenses for each of its purchases during the POI if the unit freight expense varies per sale.<sup>109</sup> However, Zhejiang Amerisun did not provide the requested information and instead stated that the freight calculation and supporting documentation have already been provided in the IQR.<sup>110</sup>

Consequently, we preliminarily determine, in accordance with section 776(a)(2)(A) of the Act, that Zhejiang Amerisun withheld necessary information that was requested of it, and, thus, that Commerce must rely on facts available (FA) in this preliminary determination. As FA, in constructing Zhejiang Dobest's CRS benchmarks, we used record evidence to establish: (1) the per-metric ton inland freight expense for transporting the input from the port of Shanghai to Zhejiang Dobest's factory; and (2) the per-metric ton inland freight expense for transporting the input from the port of Tianjin to Zhejiang Dobest's factory as Zhejiang Dobest's per-metric inland freight expenses.<sup>111</sup> We relied on the petitioner's inland freight information for the aforementioned expenses and averaged these expenses to establish Zhejiang Dobest's inland freight expense.<sup>112</sup> Although the petitioner provided the per-metric ton inland freight expense from the port of Tianjin port and the port of Shanghai to Ningbo Daye's factory,<sup>113</sup> we did not rely on this information as FA because this information relates to Ningbo Daye only.<sup>114</sup>

#### D. Application of AFA: Provision of Electricity for LTAR

As discussed below in section "Programs Preliminarily Determined to be Countervailable," Commerce is investigating whether the GOC provided electricity for LTAR. As explained in detail below, the GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether it provided a benefit within the meaning of

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<sup>106</sup> See Initial Questionnaire at Section III (p. 14).

<sup>107</sup> *Id.*

<sup>108</sup> See Zhejiang Dobest IQR at Exhibits 14-15.

<sup>109</sup> See Zhejiang Amerisun First Supplemental Questionnaire at 10.

<sup>110</sup> See Zhejiang Amerisun 1SQR at 23.

<sup>111</sup> See Petitioner Benchmark Submission at Attachments 5 and 6; and Memorandum, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Preliminary Determination Calculation Memorandum for Zhejiang Amerisun" (Zhejiang Amerisun Preliminary Calculation Memorandum) dated concurrently with this memorandum.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

section 771(5)(E) of the Act, and whether it the provision was 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 Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC with respect to electricity price adjustments. Specifically, Commerce requested all NDRC Electricity Price Adjustment Notices that were in effect during the POR, provincial price proposals for applicable tariff schedules that were in effect during the POI for each province in which mandatory respondents (or any company “cross-owned” with those respondents) are located; information related to the procedure for adjusting retail electricity tariffs (and the role of the NDRC and the provincial governments in this process); information related to the price adjustment conferences between the NDRC and the provinces, grids, and power companies that were applicable to the POI; the cost elements and adjustments during the price adjustment conferences; and an explanation as to how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals.<sup>115</sup> 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 impact price adjustment processes, and to examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

The GOC provided the *Notice of National Development and Reform Commission on Lowering Coal-fired Electricity On-grid Price and General Industrial and Commercial Electricity Price*, (NDRC Notice 3501),<sup>116</sup> and as reflected in *Notice concerning The Reduction of General Industrial and Commercial Electricity Prices by Measures such as Expanding the Trading scale of Electricity across Provinces and Regions* (NDRC Notice 1053),<sup>117</sup> *Notice of the NDRC on Completing Price Linkage Mechanism between Coal and Electricity* (NDRC Notice 3169), and *Notice of the National Development and Reform Commission on Matters Related to Reducing the Electricity Price of General Industrial and Commercial Catalogues* (NDRC Notice 1191).<sup>118</sup> We subsequently specifically requested and later received the *Notice of National Development and Reform Commission on Adjusting Schedule of Coal-fired Power Generation Grid Purchase Price and Sale Price of Industrial and Commercial Electricity of Each Province (District or City)*, (NDRC Notice 748), which the GOC had specifically referenced in prior proceedings.<sup>119</sup>

In GOC IQR, the GOC stated that “the electricity price in China is based on market dynamics and reflects the equilibrium between supply and demand, and as a consequence, {Commerce} should not continue relying on an outdated view of the Chinese electricity market and the

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<sup>115</sup> See Initial Questionnaire at Section II: Electricity Appendix.

<sup>116</sup> See GOC 1SQR at 13 and GOC IQR at Exhibit ELEC-8 (NDRC Notice 3105).

<sup>117</sup> See GOC IQR at Exhibit ELEC (p. ELEC-2 and ELEC-8) and Exhibit ELEC-2 (NDRC Notice 1053).

<sup>118</sup> See GOC IQR at Exhibit ELEC-6.

<sup>119</sup> See GOC 1SQR at Exhibit SQ-6 (NDRC Notice 748); see also, e.g., *Ceramic Tile from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 48125 (September 12, 2019), and accompanying IDM at 36-37; and *Ceramic Tile from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, and Final Negative Critical Circumstances Determination*, 85 FR 19440 (April 7, 2020).

electricity pricing system.”<sup>120</sup> Specifically, the GOC explained that as of the issuance of the *NDRC Notice 748*,<sup>121</sup> *NDRC Notice 3501*,<sup>122</sup> and as reflected in the Central Pricing Catalogue<sup>123</sup> and the *NDRC Notice 1053*,<sup>124</sup> the NDRC no longer reviews electricity pricing proposals submitted to it by the provinces.<sup>125</sup> Rather, the GOC explained that “upon receipt of NDRC’s notices, provincial pricing authorities provide estimated price adjustment values in their jurisdictions based on such principles, and then only inform the NDRC of the established electricity price in the respective provinces.”<sup>126</sup> Therefore, according to the GOC, provincial price proposals have been eliminated, including during the POI.<sup>127</sup> Consequently, according to the GOC, the NDRC no longer “determines the specific electricity sale prices.”<sup>128</sup> Also, according to the GOC, the central pricing catalogues of the central government establish that the “the State Council is in charge of setting guidelines for electricity pricing, while it is for the provincial pricing authority to implement those guidelines.”<sup>129</sup> In addition, the GOC explained that with the implementation of *Notice of the NDRC on Completing Price Linkage Mechanism between Coal and Electricity (NDRC Notice 3169)*, the GOC specifically introduced the coal-electricity price linkage mechanism into the determining of the electricity rate.<sup>130</sup> According to the GOC, provincial pricing authorities merely develop prices pursuant to the formula provided by the NDRC.<sup>131</sup> Specifically, the NDRC requires provincial authorities to use a set formula based on given variables.<sup>132</sup>

However, both Notice 748 and Notice 3105 explicitly direct provinces to reduce prices and to report the enactment of those changes to the NDRC. Specifically, Article 1 of Notice 748 stipulates a lowering of the on-grid sales price of coal-fired electricity by an average amount per kilowatt hour.<sup>133</sup> Article 6 of Notice 748 stipulates that the province price departments develop and issue specific adjustment plans for electricity and sales prices in accordance with the average price adjustment standards of Annex 1, and reported to the NDRC.<sup>134</sup> Annex 1 of Notice 748 indicates that this average price adjustment applies to all provinces and at varying amounts.<sup>135</sup> Article 10 directs that “{ } local price departments shall organize and arrange carefully to put in place the electricity price adjustment measures.”<sup>136</sup> Additionally, Notice 3105 directs additional price reductions, and stipulates that local price authorities shall implement, in time, the price reductions included in its Appendix and report resulting prices to the NDRC.<sup>137</sup> *NDRC Notice*

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<sup>120</sup> See GOC IQR at 17.

<sup>121</sup> See GOC 1SQR at Exhibit SQ-6 (*NDRC Notice 748*).

<sup>122</sup> *Id.* at 13; and GOC IQR at Exhibit ELEC-8 (*NDRC Notice 3105*).

<sup>123</sup> See GOC IQR at Exhibit ELEC-1 (Central Pricing Catalogue).

<sup>124</sup> *Id.* at Exhibit ELEC, ELEC-2, (*NDRC Notice 3105*) and Exhibit ELEC-8 (*NDRC Notice 1053*); and GOC 1SQR at Exhibit SQ-6 (*NDRC Notice 748*).

<sup>125</sup> See GOC IQR at 18, Exhibit ELEC at page ELEC-2 and Exhibit ELEC-1 (*Central Pricing Catalogue*).

<sup>126</sup> See GOC 1SQR at 12.

<sup>127</sup> See GOC IQR at Exhibit ELEC (p. ELEC-4 and ELEC-4).

<sup>128</sup> *Id.* at 18 and Exhibit ELEC at (p. ELEC-2 to ELEC-7); and GOC 1SQR at 12-13.

<sup>129</sup> See GOC 1SQR at 17-18.

<sup>130</sup> See GOC 1SQR at 14; and GOC IQR at Exhibit ELEC-3 (*NDRC Notice 3169*).

<sup>131</sup> See GOC 1SQR at 22-23; and GOC IQR at Exhibit ELEC-3 (*NDRC Notice 3169*).

<sup>132</sup> See GOC 1SQR at 22-23; and GOC IQR at Exhibit ELEC-3 (*NDRC Notice 3169*).

<sup>133</sup> See GOC 1SQR at Exhibit SQ-6 (*NDRC Notice 748*).

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

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> See GOC IQR at Exhibit ELEC-2 at Articles II and X.

748 and *NDRC Notice 3105* direct provinces to reduce prices by province-specific amounts. These notices do not explicitly eliminate provincial price proposals. Rather, both NDRC Notice 748 and NDRC Notice 3105 indicate that the NDRC continues to play a seminal role in setting and adjusting electricity prices by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.<sup>138</sup> Moreover, NDRC Notice 3169 explicitly states that “The NDRC shall determine the electricity sales price, adjustment principle, and the price adjustment level of each province (price region), in a unified manner.”<sup>139</sup>

Furthermore, other notices from the NDRC direct provinces to reduce prices by implementing certain measures deployed by the NDRC. For example, the “Notice of National Development and Reform Commission on Reducing General Industrial and Commercial Electricity Prices)” (*NDRC Notice 500*) states that its goal is to “implement the requirements of the Central Economic Work Conference on reducing the energy cost of enterprises and the government work report on reducing the general industrial and commercial electricity prices {to} implement the target requirement of an average industrial and commercial electricity price drop of 10 {percent} on average.”<sup>140</sup> *NDRC Notice 500* describes the methods the NDRC will use to further standardize and reduce grid charges, and to temporarily reduce transmission and distribution prices.<sup>141</sup> Moreover, the *Notice of the National Development and Reform Commission on Matters Related to Reducing the Electricity Price of General Industrial and Commercial Catalogues* (*NDRC Notice 1191*) outlines additional measures that provinces and municipalities can take to reduce industrial and commercial electricity prices.<sup>142</sup>

We asked several supplemental questions regarding the GOC’s responses. We asked the GOC to explain whether local departments/authorities have any discretion not to implement the introduction of the coal-electricity price linkage mechanism implemented in NDRC Notice 3169 and to describe the actions the NDRC takes to monitor and enforce the mechanism. In response, the GOC stated that “Notice 3169 specifically introduced the coal-electricity price linkage mechanism into the determining of the electricity rate. The Notice itself does not set the provincial electricity rate, in fact, it provides a method of calculating the electricity rate for each province, autonomous regions, and municipalities. Such calculation results are filed with the NDRC to ensure that each price adjustment follows the established principles.”<sup>143</sup> The GOC did not explain, as requested, whether local authorities have discretion not to implement the introduction of the coal-electricity price linkage mechanism or what actions the NDRC takes to enforce NDRC Notice 3169.<sup>144</sup> Accordingly, we again asked the GOC whether local authorities have discretion not to implement the introduction of the coal-electricity price linkage mechanism or what actions the NDRC takes to enforce NDRC Notice 3169. The GOC responded by stating that “{a}s a general guidance, a provincial pricing authority must follow the general principles identified in NDRC 3169” and that “{t}he NDRC reviews the provincial calculations of the

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<sup>138</sup> See GOC 1SQR at Exhibit SQ-6 (*NDRC Notice 748*) at Article 10; and GOC IQR at Exhibit ELEC-2 at Articles II and X.

<sup>139</sup> See GOC 1SQR at 14; and GOC IQR at Exhibit ELEC-3.

<sup>140</sup> See GOC IQR at Exhibit ELEC-6.

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

<sup>142</sup> *Id.*

<sup>143</sup> See GOC 1SQR at 14.

<sup>144</sup> *Id.*

electricity price when it is submitted to NDRC for its records to ensure it is in compliance with these principles.”<sup>145</sup>

We asked the GOC to explain the NDRC’s role and involvement in formulating the price adjustment principles and the particular price adjustment levels for all provinces. In response, the GOC stated that “{t}he NDRC is responsible for establishing general guidelines in setting and adjusting electricity prices. The provincial pricing authority calculates the electricity price changes based on the formula and the specific data relative to its respective province.”<sup>146</sup> The GOC did not explain the NDRC’s role in formulating the price adjustment principles as requested.<sup>147</sup> Accordingly, we again asked the GOC to explain the NDRC’s role in formulating the price adjustment principles. The GOC responded by stating that “{t}he NDRC is responsible for establishing general guidelines in setting and adjusting electricity prices. The provincial pricing authority calculates the electricity price changes based on the formula and lists specific prices applicable to its respective province.”<sup>148</sup>

We asked the GOC how the NDRC monitors the pricing behavior of local price authorities and all actions that the NDRC takes when local price authority behavior is not in accord with NDRC directives. In response, the GOC stated “the GOC is unaware of any circumstances that the provincial pricing authority chose not to implement the guidelines set by the pricing department of the State Council.”<sup>149</sup> However, the GOC did not explain, as requested, how the NDRC monitors the pricing behavior of local price authorities and all actions that the NDRC takes when local price authority behavior is not in accord with NDRC directives.<sup>150</sup> Accordingly, we again asked the GOC to explain what action the NDRC would take in the event a province does not comply with the indicated pricing values. The GOC responded by stating that “{t}he GOC is unaware of any circumstances that the provincial pricing authority chose not to implement the guidelines set by the pricing department of the State Council.”<sup>151</sup>

We also asked the GOC to explain whether the provincial pricing authorities can choose not to implement those guidelines and the consequences of not implementing/complying with guidelines set by the pricing department of the State Council and what actions the NDRC takes when local price authority behavior is not in accord with NDRC directives. In response, the GOC stated that “{t}he GOC is unaware of any circumstances that the provincial pricing authority chose not to implement the guidelines set by the pricing department of the State Council.”<sup>152</sup> The GOC did not explain what actions the NDRC takes when local price authority behavior is not in accord with NDRC directives as requested.<sup>153</sup> Accordingly, we again asked the GOC to explain whether the provincial pricing authority can choose not to implement those guidelines and the consequences of not implementing/complying with such guidelines set by the pricing department of the State Council, to explain what happens if a provincial authority does

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<sup>145</sup> See GOC 2SQR at 5.

<sup>146</sup> See GOC 1SQR at 14.

<sup>147</sup> *Id.*

<sup>148</sup> See GOC 2SQR at 5.

<sup>149</sup> See GOC 1SQR at 18.

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

<sup>151</sup> See GOC 2SQR at 5.

<sup>152</sup> See GOC 1SQR at 19.

<sup>153</sup> *Id.*

not follow the established guidelines and what actions can be taken by the GOC to address when or if the provincial authority does not follow such guidelines. The GOC responded by stating that “generally speaking, the provincial pricing authority is required by the central pricing catalogue to follow the guidelines set by the NDRC or pricing department of State Council” and that “the GOC is unaware of any circumstance that the provincial pricing authority chose not to implement the guidelines set by the pricing department of the State Council.”<sup>154</sup>

We asked the GOC whether pricing values under the coal-fired electricity benchmark were mandatory for each province and sub-central jurisdiction.<sup>155</sup> The GOC did not explain whether pricing values under the coal-fired electricity benchmark were mandatory for each province and sub-central jurisdiction as requested.<sup>156</sup> Accordingly, we again asked the GOC whether pricing values under the coal-fired electricity benchmark were mandatory for each province and sub-central jurisdiction. The GOC responded by stating that “the pricing values as included by the mechanism is a general principle which need to be followed by the provincial pricing departments” and that “the provincial authorities will then make specific calculations of price changes using the specific data of their own provinces based on the variable factors provided in the formula.”<sup>157</sup>

We asked the GOC what action the NDRC would take in the event a province does not comply with the indicated pricing values.<sup>158</sup> However, the GOC did not explain, as requested, what actions the NDRC takes when local price authority behavior is not in accord with NDRC directives.<sup>159</sup> Accordingly, we again asked the GOC to explain what actions the NDRC would take in the event a province does not comply with the indicated pricing values. The GOC responded by stating that “the GOC is unaware of any circumstance that the provincial pricing authority chose not to implement the guidelines set by the pricing department of the State Council.”<sup>160</sup>

As explained above, we asked the GOC for provincial price proposals and for all NDRC Electricity Price Adjustment Notices that were in effect during the POR.<sup>161</sup> In response the GOC provided *NDRC Notice 500*, *NDRC Notice 748*, *NDRC Notice 3501*, *NDRC Notice 1053*, However, the GOC claimed that as of the issuance of *NDRC Notice 748*, *NDRC Notice 3501*, and *NDRC Notice 1053*, the GOC has abolished the process by which the GOC reviews provincial price proposals, and replaced that process with a process by which upon receipt of NDRC’s notices, provincial pricing authorities provide estimated price adjustment values in their jurisdictions based on such principles, and then only inform the NDRC of the established electricity prices.<sup>162</sup> However, neither *NDRC Notice 748* nor *NDRC Notice 3105* explicitly eliminates provincial price proposals. Rather, *NDRC Notice 748*, *NDRC Notice 500*, *NDRC*

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<sup>154</sup> See GOC 2SQR at 6.

<sup>155</sup> See GOC 1SQR at 22.

<sup>156</sup> *Id.*

<sup>157</sup> See GOC 2SQR at 6.

<sup>158</sup> See GOC 1SQR at 22.

<sup>159</sup> *Id.*

<sup>160</sup> See GOC 2SQR at 6.

<sup>161</sup> See Initial Questionnaire at Section II: Electricity Appendix.

<sup>162</sup> See GOC IQR at 18 at Exhibit ELEC (p. ELEC-2 to ELEC-7), and Exhibit ELEC-1 (*Central Pricing Catalogue*), ELEC-3 (*NDRC Notice 3169*); and GOC 1SQR at 12-14, 17-8, and 22-23.

*Notice 1191*, and *NDRC Notice 3105*, indicate that the NDRC continues to play a seminal and authoritative role in setting and adjusting electricity prices by mandating average price adjustment targets with which the provinces are obligated to comply in setting their own specific prices.<sup>163</sup> Accordingly, the GOC has repeatedly failed to explain or provide any specific law or regulation which eliminated price proposals, or changed the process by which the NDRC reviews and approves provincial electricity price schedules.

As also discussed above, the GOC explained that in accordance with *NDRC Notice 3169*, the NDRC is responsible for establishing the coal-electricity price linkage mechanism formula in setting and adjusting electricity prices (which the GOC described as “general guidelines”).<sup>164</sup> The GOC explained that the pricing values included in the mechanism are a “general principle” which needs to be followed by the provincial pricing departments.<sup>165</sup> The GOC explained that the provincial pricing authority merely calculates the electricity price changes based on the formula and given variables such as the general coal price and those technical factors specific to the electrical grid in each province and lists specific prices applicable to its respective province.<sup>166</sup> GOC further explained that local authorities have no discretion not to implement the coal-electricity price linkage mechanism directed by the NDRC and that the provincial pricing authority is required by the central pricing catalogue to follow the guidelines set by the NDRC or pricing department of State Council. However, as explained above, the GOC failed on multiple occasions to explain the actions the NDRC takes to enforce the coal-electricity price linkage mechanism directed by the NDRC, the consequences of not implementing/complying with guidelines set by the pricing department of the State Council, what actions the NDRC takes when local price authority behavior is not in accord with NDRC directives, or what action the NDRC would take in the event a province does not comply with the indicated pricing values.

As explained in detail above, the GOC has repeatedly failed either to provide the price proposals or to point to any law, regulation, or policy which eliminated the price proposals. The GOC also repeatedly failed to answer other important questions which speak directly to whether the GOC controls electricity prices. Consequently, and consistent with past proceedings,<sup>167</sup> we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to our analysis of financial contribution and specificity is not available on the record, that the GOC withheld information requested by us, and that the GOC significantly impeded this proceeding with respect to the GOC’s failures to provide the price proposals, to demonstrate that the price proposals were eliminated, and to explain whether the GOC controls electricity prices. Thus, we must rely on “facts available” in making our

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<sup>163</sup> See GOC 1SQR at Exhibit SQ-6 (*NDRC Notice 748*) at Article 10; and GOC IQR at Exhibit ELEC-2 at Articles II and X.

<sup>164</sup> See GOC 2SQR at 5.

<sup>165</sup> *Id.* at 6.

<sup>166</sup> See GOC IQR at Exhibit ELEC-3 (*NDRC Notice 3169*); see also GOC 1SQR at 12-14, 22-23; and GOC 2SQR at 5-6

<sup>167</sup> See, e.g., *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44562 (September 25, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 22-24, unchanged in *Countervailing Duty Investigation of Cold Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 58175 (December 11, 2017).

preliminary determination.<sup>168</sup> Moreover, we preliminarily determine, in accordance with section 776(b) of the Act, that the GOC failed to cooperate by not acting to the best of its ability to comply with our repeated requests for information regarding the pricing issues explained above. As a result, an adverse inference is warranted in the application of facts available.<sup>169</sup> In applying AFA, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide requested information regarding the nature of the NDRC's enforcement mechanism over the price setting practices of the provincial governments. Therefore, we are also drawing an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.<sup>170</sup> The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories.<sup>171</sup> For details regarding the remainder of our analysis, *see* the "Provision of Electricity for LTAR" section.

#### E. Application of AFA: Export Buyer's Credit Program

As discussed under the section "Programs Preliminarily Determined to be Countervailable," Commerce is investigating the Export Buyer's Credit program. Commerce preliminarily determines that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program.

In our Initial Questionnaire, we requested that the GOC "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 Bank) under the Buyer Credit Facility."<sup>172</sup> The Standard Questions Appendix requested various information that Commerce requires in order to analyze the specificity and financial contribution of this program, including the following: the date the program was established, the name and address of government agencies and authorities administering the program, translated copies of the laws and regulations pertaining to the program, copies of the laws and regulations relating to the program, copies of reports pertaining to the program, identifying the types of records regarding the program which are maintained by the government, a description of the program and the program application process, program eligibility criteria, and program use data. Rather than responding to these questions in the Appendix, the GOC stated that it had "confirmed that none of the U.S. customers of the respondents has been provided with loans under this program, thus, GOC believes the answer to a Standard Questions Appendix is not required."<sup>173</sup> We again asked the GOC to provide complete responses to the Standard Appendix regarding the program in GOC First Supplemental Questionnaire.<sup>174</sup> We explained that we required the GOC's Standard Questions Appendix

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<sup>168</sup> *See* section 776(a) of the Act.

<sup>169</sup> *See* section 776(b) of the Act.

<sup>170</sup> *See* section 776(b)(4) of the Act.

<sup>171</sup> *See* Ningbo Daye Preliminary Calculation Memorandum and Zhejiang Amerisun Preliminary Calculation Memorandum; *see also* GOC IQR at ELEC-13 and GOS 1SQR at 21-26.

<sup>172</sup> *See* Initial Questionnaire, Section II, Part A Question 4.a at 4-5.

<sup>173</sup> *See* GOC IQR at 12.

<sup>174</sup> *See* GOC First Supplemental Questionnaire at 7.

response “regardless of the program’s use by the mandatory respondents.”<sup>175</sup> However the GOC refused to answer these questions, stating “{s}ince none of the responding companies’ U.S. customers applied for, used, or benefited from this program during the POI, this question is not applicable. The GOC understands 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.”<sup>176</sup>

Furthermore, in its initial questionnaire response, the GOC provided the Administrative Measures of Export Buyers’ Credit of the Export-Import Bank of China (*Administrative Measures*). In the GOC’s 7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China, the GOC confirmed that *Administrative Measures* included a USD two million minimum business contract threshold. At our request, the GOC provided a copy of its 7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China.<sup>177</sup> Information in that document indicates that the GOC revised this program in 2013 to eliminate this minimum requirement.<sup>178</sup> We also requested, in the Initial Questionnaire, that the GOC provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the 2016 Export Buyer’s Credit Supplemental Questionnaire Response.<sup>179</sup> This request implicitly included the “2013 *Administrative Measures* (2013 Revisions) to the Export Buyer’s Credit Program” or “2013 Guidelines” (2013 Revisions), which the GOC discussed in Export Buyer’s Credit Supplemental Questionnaire Response.<sup>180</sup> In its response, the GOC failed to provide the 2013 Revisions.<sup>181</sup> We, therefore, again requested that the GOC provide the 2013 Revisions.<sup>182</sup> In response, the GOC stated that the “{t}o the best of GOC’s knowledge, none of the responding companies’ U.S. customers applied for, used, or benefited from this program during the POI, therefore, this question is not applicable.”<sup>183</sup> Accordingly, Commerce again explicitly asked the GOC to provide the 2013 Revisions.<sup>184</sup> The GOC again refused to provide the requested information.<sup>185</sup> Through its responses to Commerce’s initial and supplemental questionnaires, the GOC has refused on three occasions to provide the requested information concerning the 2013 Revisions.<sup>186</sup>

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<sup>175</sup> *Id.*

<sup>176</sup> See GOC 1SQR at 9.

<sup>177</sup> See Initial Questionnaire at 6; see also GOC IQR at 12 and Exhibit Export-1 (2016 Export Buyer’s Credit Supplemental Questionnaire Response) at 2-3; and *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017).

<sup>178</sup> *Id.*; and Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawnmowers and Parts Thereof from the People’s Republic of China: Placing Information on the Record,” dated concurrently with the memorandum at Attachment 1 (Citric Acid Verification Report) at 2.

<sup>179</sup> See Initial Questionnaire at 6.

<sup>180</sup> See GOC IQR at Exhibit Export-1 at 2-3.

<sup>181</sup> *Id.* at 12.

<sup>182</sup> See GOC First Supplemental Questionnaire at 8.

<sup>183</sup> See GOC 1SQR at 10.

<sup>184</sup> See GOC Second Supplemental Questionnaire at 4-5.

<sup>185</sup> See GOC 2SQR at 4.

<sup>186</sup> See Initial Questionnaire at 6; see also GOC IQR at 12 and Exhibit Export-1 at 2-3; GOC First Supplemental Questionnaire at 8; GOC First SQR at 10; GOC Second Supplemental Questionnaire at 4-5; and GOC 2SQR at 4.

We requested the 2013 Revisions because information on the record of this proceeding indicated that the 2013 Revisions affected important program changes. For example, the 2013 Revisions may have eliminated the USD two million contract minimum associated with this lending program.<sup>187</sup> Furthermore, other information in the GOC's initial questionnaire response also indicated that the loans associated with this program are not limited to direct disbursements through the China ExIm Bank.<sup>188</sup> Specifically, this record information indicates that customers can open loan accounts for disbursements through this program with other banks.<sup>189</sup> The funds are first sent from the China ExIm Bank to the importer's account, which could be at the China ExIm Bank or another bank, and that these funds are then sent to the exporter's bank account.<sup>190</sup> Given the complicated structure of loan disbursements for this program, Commerce's complete understanding of how this program is administered is necessary. By refusing to provide the requested information, the GOC hindered Commerce's understanding of how this program operates and how it can be properly verified and, thus, impeded Commerce's ability to conduct its investigation of this program.

We also asked the GOC for an explanation of the interest rate(s) under the program, and for a list of all partner/correspondent banks involved in disbursement of funds under the program.<sup>191</sup> The GOC did not respond to these questions either. Instead, the GOC stated that “{b}ased on information available to the GOC at this stage, the GOC confirms that it collected the U.S. customer list from the respondents, that none of the U.S. customers of the respondents used the alleged program during the POI. Therefore, this question is not applicable.”<sup>192</sup> In GOC First Supplemental Questionnaire, we again asked the GOC to explain the interest rate(s) established during the POI, and to provide a list of all partner/correspondent banks.<sup>193</sup> We explicitly clarified that the scope of both the original and supplemental questions pertained to the interest rates and all partner/correspondent banks under the program generally, rather than only to the specific interest rates and banks for buyers' credits provided to Ningbo Daye's or Zhejiang Amerisun's customers.<sup>194</sup> However, the GOC again refused, stating “{s}ince none of the responding companies' U.S. customers applied for, used, or benefited from this program during the POI, this question is not applicable.”<sup>195</sup> Finally, in another supplemental questionnaire, we again made the same request regarding interest rates and partner/correspondent banks under the program,<sup>196</sup> in response to which the GOC again refused to provide the requested information.<sup>197</sup> These questions are necessary for Commerce to analyze how the program functions and to verify the questionnaire responses.

The GOC explained that the Chinese exporter is in a position to verify and confirm the existence, if any, of sales contracts that were supported by the Export Buyer's Program, since the exporters

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<sup>187</sup> See Citric Acid Verification Report.

<sup>188</sup> See GOC IQR at Exhibit Export-1 (p. 4-5).

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> See Initial Questionnaire at 4-5.

<sup>192</sup> See GOC IQR at 12.

<sup>193</sup> See GOC First Supplemental Questionnaire at 7-8.

<sup>194</sup> *Id.*

<sup>195</sup> See GOC 1SQR at 9-10.

<sup>196</sup> See GOC Second Supplemental Questionnaire at 5.

<sup>197</sup> See GOC 2SQR at 4-5.

“normally” are heavily involved in the application process and subsequent “supervision and inspection” of loan use.<sup>198</sup> As part of the GOC’s explanation, the GOC stated that the China ExIm Bank investigates the performance capability of the Chinese exporters, that buyers are required to provide commercial contracts and other relevant material regarding the buyer, and that China ExIm Bank may do necessary supervision and inspection of loan usage.<sup>199</sup> The GOC nevertheless explained the steps it took to determine that Ningbo Daye’s and Zhejiang Amerisun’s customers did not use the program.<sup>200</sup> The GOC explained that “the GOC determined that none of the customers of the respondents used this program through a process in which the respondents provided their U.S. customer lists to the GOC. The China ExIm Bank then searched its records to confirm that these customers did not receive credits under the Export Buyer’s Credit program.”<sup>201</sup> However, 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.

Pursuant to section 776(a)(1) of the Act, we find that necessary information is missing from the record for Commerce to have a clear understanding of how this program operates and to be able to verify purported claims of non-use of this program. Furthermore, pursuant to sections 776(a)(2)(A) and (2)(C) of the Act, when an interested party withholds information requested by Commerce and significantly impedes a proceeding, Commerce relies on the facts otherwise available on the record. We find that the use of facts otherwise available is appropriate in light of the GOC’s refusal to provide the 2013 Revisions and a list of partner/correspondent banks, information necessary for Commerce to make a determination regarding this program.<sup>202</sup>

Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding of information, as detailed above, and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Specifically, the GOC has not provided complete information concerning the administration and operation of the program, including how loans are disbursed (*e.g.*, the 2013 Revisions), such as through intermediate or correspondent banks, the identities of which the GOC has withheld from Commerce, the interest rates under the program during the POI, or whether the China ExIm Bank employs threshold criteria, such as minimum 2 million USD contract value. This information is necessary to understand fully how the Export Buyer’s Credits program operates, and is, therefore critical to Commerce’s ability to verify the program operation and the accuracy of the GOC’s claims, including with respect to the respondent’s claimed non-use of this program. By not providing us with this critical information, we find that the GOC failed “to do the maximum it is able to do.”<sup>203</sup> Accordingly, the application of AFA is warranted.

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<sup>198</sup> See GOC IQR at 13-14; and GOC 1SQR at 7-8.

<sup>199</sup> See GOC IQR at 13-14.

<sup>200</sup> See GOC IQR at 13-15; and GOC 1SQR at 7-8.

<sup>201</sup> *Id.*

<sup>202</sup> See Initial Questionnaire at Section II at 4-6; see also GOC IQR at 12; GOC First Supplemental Questionnaire at 7-8; GOC 1SQR at 9-10; GOC Second Supplemental Questionnaire at 4-5; and GOC 2SQR at 4-5.

<sup>203</sup> See *Nippon Steel* at 1382.

The GOC is the only party that can answer questions about the internal administration of this program, and, thus, its failure to provide the requested information further undermines Commerce's ability to verify the GOC's and the respondent companies' claims of non-use of this program. Commerce cannot verify non-use at the China ExIm Bank without a complete set of administrative measures on the record that would provide guidance to Commerce in querying the records and electronic databases of the China ExIm Bank. Without understanding how this program operates, we cannot ascertain what a proper database search entails. For example, we do not know whether the searches should have been performed using the U.S. customers' names or on other entities (for example, the partner/correspondent banks that worked with the U.S. customers rather than the U.S. customers themselves). Nor do we know whether there are different electronic systems for different types of credits and, as a result, we cannot ascertain that the screen shots are for searches of the proper system. Similar to the obstacles we would face in attempting to verify usage at the exporter or U.S. customer, Commerce does not know what indicia to look for in searching for usage or even what records or databases we need to examine in conducting the verification (*i.e.*, without a complete set of laws, regulations, administrative measures, Commerce cannot know what books and records the China ExIm Bank maintains in the ordinary courses of its operations). Essentially, given the refusal of the GOC to provide the 2013 Revisions and a complete list of correspondent/partner/intermediate banks, Commerce is unable to verify the scant information on the record indicating non-usage (*e.g.*, the claims of the GOC), with the exporters, U.S. customers or at the China ExIm Bank itself in a manner that would satisfactorily establish the non-use of this program, as reported by the GOC., . Therefore, we determine that the GOC has not cooperated to the best of its ability and, as AFA, find that the respondents used and benefited from this program.

For these reasons, we 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 that this benefit is contingent on exports and therefore it is specific within the meaning of sections 771(5A)(A) and (B) of the Act. Regarding specificity, although the record regarding this program suffers from significant deficiencies, warranting a finding of export contingency and specificity based on AFA, we also note that the GOC's description of the program and supporting materials (although found to be deficient) demonstrates that through this program, state-owned banks, such as the China ExIm Bank, provide loans at preferential rates for the purchase of exported goods from China.<sup>204</sup> In addition, the program was alleged by the petitioner as a possible export subsidy.<sup>205</sup> Finally, Commerce has found this program to be an export subsidy in the past.<sup>206</sup>

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in the *Coated Paper from China Investigation Amended Final* proceeding, as the rate for these

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<sup>204</sup> See GOC IQR at Exhibit-2 and Exhibit-3.

<sup>205</sup> See CVD Initiation Checklist, titled "Certain Walked-Behind Lawn Mowers and Parts Thereof from the People's Republic of China," dated June 15, 2020 at 24-25; and Volume IV of the Petition at 25.

<sup>206</sup> 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.

companies.<sup>207</sup> 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 Credit program.

#### F. Application of AFA: Policy Loans to the Walk-Behind Lawn Mower Industry

In the Initial Questionnaire, we asked the GOC to “provide all relevant portions of each {provincial and municipal} 5-year plan pertaining to walk-behind lawn mowers with *complete* translations.”<sup>208</sup> We also asked the GOC to “provide a complete copy of each national industrial plan/policy that includes the walk- – behind lawn mower industry.”<sup>209</sup> In addition, we asked the GOC to “provide a complete copy of the walk-behind lawn mower industrial plan/policy for each of the provinces and municipalities in which the respondent companies and their cross-owned companies are registered.”<sup>210</sup> Further, we asked the GOC to “indicate the exact portion(s)... relevant to walk-behind lawn mowers ...” in the GOC’s *Catalogue of Major Industries, Products and Technologies Encouraged for Development in China*,<sup>211</sup> the *State Council Decision on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment for Implementation* (No. 40 (2005)) (*Decision 40*),<sup>212</sup> and the Directory Catalogue on Readjustment of Industrial Structure (*Industrial Catalogue*) relevant to walk-behind lawn mowers—or the industry walk behind lawn mowers are part of.”<sup>213</sup>

The GOC stated in GOC IQR that “the walk-behind lawn mower manufacturing industry is categorized as special equipment manufacturing industry {, }... based on the National standard on ‘Industrial Classification in National Economy’ (general categories of industries in China’s national economy), which reflects all the economic activities in China.”<sup>214</sup> The GOC subsequently explained that the walk-behind lawn mower manufacturing industry is included in the “{m}achinery manufacturing of special equipment for agriculture, forestry, animal husbandry and fishery” sub-classification under the special equipment manufacturing industry.<sup>215</sup> However, the GOC stated there are no plans or policies which are “specific to the lawn mower products industry from 2010 through the POI” and that “{t}he GOC and the local government authority of the provinces and municipalities where the respondent companies and their cross-owned companies are registered, have not released any governmental planning documents specific to the lawn mower products industry.”<sup>216</sup> The GOC’s response did not address whether there are any policy plans related to the industry or industries which include the walk-behind lawn mowers industry.

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<sup>207</sup> See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201 (November 17, 2010) (*Coated Paper from China Investigation Amended Final*) (revised rate for “Preferential Lending to the Coated Paper Industry” program).

<sup>208</sup> See Initial Questionnaire at Section II, Part II, Part A (“Preferential Lending”) Question 1b.

<sup>209</sup> *Id.* at Question 1d.

<sup>210</sup> *Id.* at Question 1e.

<sup>211</sup> *Id.* at Question 1f.

<sup>212</sup> *Id.* at Question 1g.

<sup>213</sup> *Id.* at Question 1h.

<sup>214</sup> See GOC IQR at 8.

<sup>215</sup> See GOC 1SQR at 3.

<sup>216</sup> See GOC IQR at 7-8.

For these reasons, we required further information to determine whether there is a policy lending program directed at the walk-behind lawn mowers industry or the industries or other categories to which the mandatory respondents belong. Therefore, in supplemental questionnaires, we asked the GOC to: (1) provide a complete copy of each national and each industrial plan/policy that pertains specifically to, or encompasses, the special equipment manufacturing industry; (2) to identify the exact portions of the *Guidance Catalogue for the Structural Adjustment of Industry (Guidance Catalogue)* and all amendments and revisions which specifically pertain to, or encompass, the lawn mower industry or the special equipment manufacturing industry; (3) to provide all portions of each national 5-year plan which cover the lawn mower industry, the special equipment manufacturing industry, or the mandatory respondents; (4) to provide the summary and index of the industrial and all other subject-specific plans which relate to the high-tech industry, the special equipment manufacturing industry, the new materials industry, the lawn mower industry, and the industry which included mandatory respondents; (5) to explain whether the lawn mower industry, the special equipment manufacturing industry, or the mandatory respondents are classified “encouraged,” “permitted,” “restricted,” “limited,” “eliminated,” or “prohibited” by the Ministry of Commerce or other GOC agencies, the *Guidance Catalogue, Decision 40*, the *Guiding Catalogue of the Industrial Restructuring (2005)*, the *Industrial Catalogue Guiding Foreign Investment*, the *Catalogue of Chinese High Tech Product for Export (2006)*, or any of the 5-year plans, industrial plans, interim provisions or other regulations; (6) to identify and provide copies of the original and translations of the portions of *Decision 40* which relate specifically to the lawn mower or special equipment manufacturing industry, or the mandatory respondents; (7) whether the walk-behind lawn mowers producing industry is included in any of the industries promoted under the submitted policy plans regarding the special equipment manufacturing, agricultural equipment manufacturing, or equipment manufacturing; and (8) to identify the portions of *Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue)* that relate specifically to the lawn mower or special equipment manufacturing industry, or the mandatory respondents.<sup>217</sup> Commerce requires this information to determine whether there is a policy lending program benefitting the walk-behind lawn mowers industry which renders bank lending to the walk-behind lawn mowers industry a financial contribution by the GOC that is specific.

In addition, we reviewed the national and provincial policy plans submitted by the GOC in its questionnaire responses to determine whether preferential lending was provided to walk-behind lawn mowers producers during the average useful life (AUL) period.<sup>218</sup> We noted that many of the plans included language regarding the encouragement of industries that could have included walk-behind lawn mowers producers. As explained in the *Tenth Five-Year Plan*, the GOC committed to “research and formulate the policies and measures on rejuvenating the equipment manufacturing industry {and} by relying on significant projects, to redouble our efforts to rejuvenate the equipment manufacturing industry, improve the design, manufacturing and comprehensive level of the advanced technological equipments {sic.} and enhance our capabilities.”<sup>219</sup> The *Tenth Five-Year Plan* also specifically identifies a focus on the

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<sup>217</sup> See GOC First Supplemental Questionnaire.

<sup>218</sup> See “SUBSIDIES VALUATION,” at subpart “Allocation of Non-recurring Subsidies,” below.

<sup>219</sup> See GOC IQR at Exhibit Loan-6-1 (*Tenth Five-Year Plan*) at 11-12.

development of agricultural machinery, of which the GOC indicated that lawnmowers are a subcategory.<sup>220</sup>

The respondents are recognized as “advanced and new technology enterprises supported by the state” (high and new technology enterprises or HNTes).<sup>221</sup> In the subsequent *Eleventh Five-Year Plan*, the GOC committed to “accelerate and promote the expansion of high-tech industry.”<sup>222</sup> The *Eleventh Five-Year Plan* also calls for strengthened support for industrial policy, especially for high tech industries, stating that the GOC will “{s}trengthen the support for the weak links of high-tech industries and equipment manufacturing industry.”<sup>223</sup>

In the *Twelfth Five-Year Plan*, the GOC outlined several measures aimed at transforming and upgrading manufacturing industry, including committing to “develop the advanced equipment manufacturing industry” and “promote the enlargement and enhancement of manufacturing industry.”<sup>224</sup> In the *Thirteenth Five-Year Plan*, the latest such plan, the GOC committed to “accelerate work on developing agricultural machinery and equipment” and to “develop advanced agricultural machinery.”<sup>225</sup> The *Thirteenth Five-Year Plan* also states that the GOC will “strengthening the innovative capacity and basic capabilities of manufacturing,” “fostering a new and competitive edge in manufacturing,” and “develop{ing} China into a manufacturing powerhouse.”<sup>226</sup> The *Thirteenth Five-Year Plan* also states that the GOC “will move faster to make our export-intensive industries more international{ly} competitive in terms of their technology, standards, name brands, quality and services, and encourage the export of high-end equipment; and increase the use of high technology and the value-added of our exports.”<sup>227</sup>

Further, record evidence also indicates that financial support is directed specifically toward certain encouraged industries listed in the GOC’s Guidance Catalogue. Aluminum engines are an import component of walk-behind lawn mowers. In the ongoing investigation of *Vertical Shaft Engines Between 99cc and up to 225cc from China*, Commerce preliminarily determined that the policy loans program provides a countervailable subsidy (constituted a financial contribution, provided a benefit, and is *de jure* specific), based in part on small vertical engines being largely the product of aluminum components and the GOC identifying the aluminum industry as encouraged in the GOC’s *Guidance Catalogue*.<sup>228</sup> As explained in *Vertical Shaft Engines Between 99cc and up to 225cc from China*, vertical shaft engines are themselves an

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<sup>220</sup> *Id.* at 12; see also GOC ISQR at 3; and GOC IQR at Exhibit Loan-9 (*Industrial Classification in National Economy*) at Category 35 and Subcategory 357.

<sup>221</sup> See Ningbo Daye IQR at 1; Zhejiang Dobest IQR at Exhibit 9; GOC IQR at Exhibit Tax-3 (Corporate Income Tax Law of China) at Article 28.

<sup>222</sup> See GOC IQR at Exhibit Loan-6-1 at 12.

<sup>223</sup> *Id.* at Exhibit Loan-6-2 at Article 47.

<sup>224</sup> *Id.* at Exhibit Loan-6-2 at Chapter 9.

<sup>225</sup> See GOC ISQR at Exhibit SQ-1 at Chapter 22, Section 1 and Chapter 22 Section 6.

<sup>226</sup> See Petition Exhibit IV-16 at Chapter 22.

<sup>227</sup> *Id.* at Exhibit IV-16, Chapter 10 at Section 3.

<sup>228</sup> See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 52086 (August 24, 2020) (*Vertical Shaft Engines between 99cc and 225 cc from China*)

important component of walk-behind lawn mowers.<sup>229</sup> Also, Ningbo Daye confirms that it used aluminum and steel engine components, including CRS components, as primary material inputs used in the manufacture of subject walk-behind lawn mowers,<sup>230</sup> and both companies reported using CRS inputs.<sup>231</sup>

The *Tenth Five-Year Plan* indicates that accelerated industrial restructuring and reorganization would be undertaken to further the development of industrial products, including the raw materials industry, and more specifically, alumina.<sup>232</sup> The *Eleventh Five-Year Plan* calls for the development of aluminum processing and enhancement of the “{c}omprehensive utilization level of aluminum industrial resources.”<sup>233</sup> The *Twelfth Five-Year Plan* indicates the restructuring of key industries should include new progress in R&D, integrated resources utilization, energy conservation, and emission reduction by the smelting and building material industries.<sup>234</sup> The *Thirteenth Five-Year Plan*, the latest such plan, states that the GOC “will encourage more of China’s equipment, technology, standards, and services to go global by engaging in international cooperation on production capacity and equipment manufacturing through overseas investment, project contracting, technology cooperation, equipment exporting, and other means, with a focus on industries such as steel, nonferrous metals, building materials, railways, electric power, chemical engineering, textiles, automobiles, communications, engineering machinery, aviation and aerospace, shipbuilding, and ocean engineering.”<sup>235</sup>

The GOC has also identified the aluminum industry for priority development in the *Guidance Catalogue*, and the development of production technology within it, as encouraged.<sup>236</sup> Moreover, the *Notice of Guidelines on Accelerating the Adjustment of the Aluminum Industry Structure* states that the GOC’s aim is to “increase the proportion of high value added processed products” made of aluminum.<sup>237</sup>

*Decision 40* identifies the *Guidance Catalogue* as “the important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc.”<sup>238</sup> *Decision 40* further indicates that projects in “encouraged” industries shall be provided credit support in compliance with credit principles.<sup>239</sup>

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<sup>229</sup> See, e.g., *Vertical Shaft Engines between 99cc and 225 cc from China* at “Appendix—Scope of the Investigation” (“The merchandise covered by this investigation consists of spark-ignited, nonroad, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, whether mounted or unmounted, primarily for walk-behind lawn mowers.”); and Petition, Volume I at 6-7, 10-12, 14, and 19.

<sup>230</sup> See, e.g., Ningbo Daye IQR at 24-26 and Exhibit D-5.

<sup>231</sup> See, e.g., Ningbo Daye 3SQR at 10; and Zhejiang Amerisun IQR at Exhibit 13.

<sup>232</sup> See GOC IQR at Exhibit Loan-6-1, Chapter 4 at Section 1.

<sup>233</sup> *Id.* at Exhibit Loan-6-2, Chapter 13 at Section 1.

<sup>234</sup> *Id.* at Exhibit Loan-6-3, Chapter 9 at Section 1.

<sup>235</sup> See GOC 1SQR at Exhibit SQ-1, Chapter 49 Section 2.

<sup>236</sup> See GOC IQR at Exhibit Loan-8 (*Industrial Catalogue (2011)*, Article IX of the “encouraged” category (Non-Ferrous Metal)).

<sup>237</sup> See Petition, Volume III at 4.

<sup>238</sup> See GOC IQR at Exhibit GEN-10 at Chapter III Article 12.

<sup>239</sup> *Id.* at Exhibit GEN-10 at Chapter III Articles 13, 14, and 17.

Similarly, Commerce has found downstream steel consumer products producers to have received policy loans on the basis that various plans, policies, and government documents that indicate a *de jure* program of preferential lending to steel manufacturing and the consumer goods industries.<sup>240</sup> Moreover, Commerce has found, partly on an AFA basis, that downstream steel products have been the focus of countervailable policy loan programs.<sup>241</sup> Because walk-behind lawnmowers are consumer goods with essential CRS components, there is reason to believe that the subject merchandise sector benefits under such GOC programs.

The GOC has also identified the steel industry for priority development as an encouraged industry in the *Guidance Catalogue*,<sup>242</sup> which, as noted earlier, *Decision 40* identifies as “the important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export, *etc.*”<sup>243</sup> The *Thirteenth Five-Year Plan* covering the POI stipulates that “we will ... move more quickly to address overcapacity in industries such as steel ... through mergers, reorganizations, debt restructurings, bankruptcy liquidations, and better asset utilization ...”<sup>244</sup> The *Twelfth Five-Year Plan* includes the steel industry at a key field of development of manufacturing.<sup>245</sup> The GOC also has plans in place specifically for the steel industry, which outline the GOC’s control over the industry through various interventions such as reducing production capacity, accelerating merger and reorganization, and improving taxation and financial policies related to the steel industry.<sup>246</sup> Further, according to Article 22 of the NDRC’s Steel Development Policy, “{t}he State shall exercise necessary management over the investment in domestic iron and steel industry ...”<sup>247</sup> Article 25 of the NDRC’s Steel Development Policy also states that loans from financial institutions to steel-making and steel-rolling projects should conform to the development policies for the iron and steel industry.<sup>248</sup>

Therefore, in a further supplemental questionnaire, we asked that the GOC explain whether the walk-behind lawn mower industry, the special equipment manufacturing industry, or any

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<sup>240</sup> See, e.g., *Refillable Stainless Steel Kegs from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 84 FR 57010 (October 24, 2019) and the accompanying IDM at Comment 10.

<sup>241</sup> See *Certain Fabricated Structural Steel from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 33224 (June 19, 2019) and the accompanying PDM at 31-33, and *Certain Fabricated Structural Steel from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 5384 (January 30, 2019) and the accompanying IDM at Comment 15.

<sup>242</sup> *Id.* at Exhibit Loan-8 (2011 Version with 2013 Amendment of Catalogue for Industrial Structure Adjustment at Article VIII of the “encouraged” category (Iron and Steel)); and GOC 3SQR at Exhibit SQ2-1 (2005 Edition of Directory Catalogue on Readjustment of Industrial Structure at Article VII of the “encouraged project” category (Steel)).

<sup>243</sup> See GOC IQR at Exhibit Loan-11 (Chapter III).

<sup>244</sup> See GOC 1SQR at Exhibit SQ-1 (Chapter 22 at Section 5).

<sup>245</sup> See GOC IQR at Exhibit Loan-6-3 (Chapter 9 at Section 5).

<sup>246</sup> See GOC 3SQR at Exhibit SQ2-3 (*Twelfth Five-Year Plan for Development of Iron and Steel Industry (2011-2015)* and *Thirteenth Five-Year Plan for Adjustment and Upgrading Plan for Iron and Steel Industry (2016-2020)*(*Thirteenth Steel Industry Five-Year Plan*). The *Thirteenth Steel Industry Five-Year Plan* specifically states that “{i}t is strictly forbidden to increase steel production capacity” and “the proposed and under construction iron and steel projects ... should also be reduced.”

<sup>247</sup> *Id.* at Exhibit SQ2-4 (*the NDRC’s Development Policy for Steel Industry* (NDRC’s Steel Development Policy)).

<sup>248</sup> *Id.*

industry of which the respondents are a part, is covered by the “equipment manufacturing industry” mentioned in the *Tenth Five-Year Plan*,<sup>249</sup> the “high tech industry” mentioned in the *Eleventh Five-Year Plan*,<sup>250</sup> the agricultural equipment industry mentioned in the *Thirteenth Five-Year Plan*,<sup>251</sup> the outdoor power equipment industry mentioned in the *Thirteenth Five-Year Plan*.<sup>252</sup> The GOC responded by stating that “{t}he GOC understands that the lawnmowers industry and the special equipment manufacturing industry were not particularly mentioned in the documents identified.”<sup>253</sup> However, we note that agricultural machinery and equipment were singled out for development in the *Tenth Five-Year Plan*, and *Thirteenth Five-Year Plan*, and that the GOC previously confirmed that the walk-behind lawnmowers manufacturing industry was a part of the “{m}achinery manufacturing of special equipment for agriculture, forestry, animal husbandry and fishery” sub-classification under the special equipment manufacturing industry.<sup>254</sup> We also asked the GOC to point to and provide a complete copy and English translation of the exact portions of the *Guidance Catalogue*, and all amendments and revisions, which specifically pertain to or encompass the “equipment manufacturing industry” mentioned in the *Tenth Five-Year Plan*, the “high tech industry” mentioned in the *Eleventh Five-Year Plan*, “advanced and new technology enterprises supported by the state” (high and new technology enterprises or HNTEs),<sup>255</sup> the agricultural equipment industry, the outdoor power equipment industry, the aluminum industry, or the steel industry.<sup>256</sup> The GOC sidestepped the question, stating that “the lawn mower industries were not particularly mentioned in the documents identified in the question.”<sup>257</sup> We also asked the GOC to point to the exact portions of the *Directory Catalogue on Readjustment of Industrial Structure*, and all amendments and revisions, which specifically pertain to, or encompass, the lawn mower industry or the special equipment manufacturing industry, and any other industry of which the lawn mower industry is a part.<sup>258</sup> The GOC responded by stating that “the specified industries were not particularly mentioned in the documents identified.”<sup>259</sup> We also asked the GOC to provide complete copies of the original and translation of the summary, index, and all portions of each national, industrial, or subject-specific five-year plans that were operative at any time during the period of December 11, 2001 through the end of the POI, which mention or cover the equipment manufacturing industry mentioned in the *Tenth Five-Year Plan*, the “high tech industry” mentioned in the *Eleventh Five-Year Plan*, HNTEs, the agricultural equipment industry, the outdoor power equipment industry, the aluminum industry, the steel industry, or the steel industry.<sup>260</sup> The GOC responded by stating that “there is no other industrial plan/policy or other subject-specific plans for these industries.”<sup>261</sup> We also asked the GOC to explain whether the “equipment manufacturing

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<sup>249</sup> See GOC IQR at Exhibit Loan 6-1 (*Tenth 5-Year Plan*) at 11-12.

<sup>250</sup> See GOC IQR at Exhibit Loan 6-2 (*Eleventh 5-Year Plan*) at 12.

<sup>251</sup> See GOC 1SQR at Exhibit SQ-1(*Thirteenth 5-Year Plan*) at Chapter 20, Section 1 and Chapter 21, Section 3, and Chapter 22, Section 6.

<sup>252</sup> *Id.*; and GOC Second Supplemental Questionnaire at Question 1.

<sup>253</sup> See GOC 2SQR at 1-2.

<sup>254</sup> See GOC IQR at Exhibit Loan-6-1 (*Tenth Five-Year Plan*) at 11-12; and GOC 1SQR at Exhibit SQ-1 at Chapter 22, Section 1 and Chapter 22 Section 6.

<sup>255</sup> See GOC IQR at Exhibit Tax-3 (Corporate Income Tax Law of China) at Article 28.

<sup>256</sup> See GOC Second Supplemental Questionnaire at Question 2.

<sup>257</sup> See GOC 2SQR at 2.

<sup>258</sup> See GOC Second Supplemental Questionnaire at Question 3.

<sup>259</sup> See GOC 2SQR at 2.

<sup>260</sup> See GOC Second Supplemental Questionnaire at Question 4 and Question 5.

<sup>261</sup> See GOC 2SQR at 2-3.

industry” mentioned in the *Tenth Five-Year Plan*, the “high tech industry” mentioned in the *Eleventh Five-Year Plan*, HNTEs, the agricultural equipment industry, the outdoor power equipment industry, the aluminum industry, or the steel industry is classified as “encouraged,” “permitted,” “restricted,” “limited,” “eliminated,” or “prohibited” by the *Directory Catalogue on Readjustment of Industrial Structure* (including all amendments and revisions), *Decision 40*, or any of the Five-Year Plans, industrial plans, interim provisions or other regulations, and to point to such passages.<sup>262</sup> The GOC responded by stating that “there is no other industrial plan/policy or other subject-specific plans for these industries.”<sup>263</sup> Finally, we asked the GOC to point to the exact portions of *Decision 40* which mention or cover the “equipment manufacturing industry” mentioned in the *Tenth Five-Year Plan*, the “high tech industry” mentioned in the *Eleventh Five-Year Plan*, HNTEs, the agricultural equipment industry, the outdoor power equipment industry, the aluminum industry, or the steel industry.<sup>264</sup> The GOC provided only a partial response, stating that “Article 6 of *Decision 40* mentioned the advanced equipment manufacturing industries.”<sup>265</sup> Complete information in response to these requests is required by Commerce to determine whether the subject merchandise sector benefits from any policy lending program which constitutes a financial contribution by the GOC and is specific.

We gave the GOC multiple opportunities to identify and provide the relevant passages of the policy plans covering the industry of which the walk-behind lawnmowers manufacturing industry is a part. We asked the GOC in the Initial Questionnaire to provide and to identify the relevant parts of the policy plans related to the walk-behind lawn mower industry. We repeated our questions and asked various more specific questions along the same lines after the GOC identified the walk-behind lawn mowers industry with the small equipment manufacturing industry, and later with the “{m}achinery manufacturing of special equipment for agriculture, forestry, animal husbandry and fishery” sub-classification of the special equipment manufacturing industry, and after we determined that many of the plans included language regarding the encouragement of industries that could have included walk-behind lawn mowers producers, including the agricultural equipment manufacturing industry.<sup>266</sup> While the GOC claims that there are no plans or policies “specific to the lawn mower products industry from 2010 through the POI” and that “{t}he GOC and the local government authority of the provinces and municipalities where the respondent companies and their cross-owned companies are registered, have not released any governmental planning documents specific to the lawn mower products industry,”<sup>267</sup> the GOC has not explained or demonstrated that the particular information we have requested is not reasonably available to the GOC.

Therefore, we preliminarily determine that necessary information is not available on the record and that the GOC has withheld information that was requested of it, and, thus, that Commerce must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for

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<sup>262</sup> See GOC Second Supplemental Questionnaire at Question 6.

<sup>263</sup> See GOC 2SQR at 3.

<sup>264</sup> See GOC Second Supplemental Questionnaire at Question 7.

<sup>265</sup> See GOC 2SQR at 3.

<sup>266</sup> See GOC IQR at Exhibit Loan-6-1 (*Tenth Five-Year Plan*) at 11-12; and GOC 1SQR at Exhibit SQ-1 (*Thirteenth Five-Year Plan*) at Chapter 20, Section 1 and Chapter 21, Section 3, and Chapter 22, Section 6.

<sup>267</sup> See GOC IQR at 7-8.

information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the policy loans to the walk behind lawn mowers industry program constitute a financial contribution within the meaning of section 771(5)(D) of the Act, and are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

#### G. Application of AFA: Provision of “Other Subsidies”

Zhejiang Dobest and Ningbo Daye reported in their initial questionnaire responses that they received certain “Other Subsidies” during the POI.<sup>268</sup> The GOC did not provide information regarding these “Other Subsidies” in its initial questionnaire responses, stating that “sufficient evidence with regard to the existence, amount, and nature of a subsidy must be presented for {Commerce} to initiate the investigation of another program ...” and that it “believes, therefore, that an answer to this question would not be appropriate.”<sup>269</sup> Therefore, we issued a supplemental questionnaire requesting that the GOC provide full questionnaire responses regarding the “Other Subsidies” reported by the respondents for which we could estimate a measurable benefit based on the companies’ reporting.<sup>270</sup> However, the GOC again did not provide the requested information and simply reiterated its position from its initial questionnaire response.<sup>271</sup>

Thus, we preliminarily determine that necessary information is not available on the record and the GOC has withheld information that was requested of it. As a result, we must rely on “facts available” in making our preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, 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 each of the “Other Subsidies” reported by Zhejiang Dobest and Ningbo Daye 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. To determine the benefit for each of these “Other Subsidies,” we relied on the data reported by the respondents. We divided the reported amount of any measurable grant applicable to the POI by the appropriate sales denominator. For details regarding the remainder of our analysis, *see infra* at “Other Subsidies” under “Analysis of Programs.”

## VII. SUBSIDIES VALUATION

### A. Allocation of Non-recurring Subsidies

Commerce normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.<sup>272</sup> Commerce finds the

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<sup>268</sup> See Zhejiang Dobest IQR at Exhibit 16; *see also* Zhejiang Amerisun 1SQR at Exhibit S-26; and Ningbo Daye IQR at 27-28 and Exhibit F-1.

<sup>269</sup> See GOC IQR at 43.

<sup>270</sup> See GOC First Supplemental Questionnaire at 3.

<sup>271</sup> See GOC 1SQR at 2-3.

<sup>272</sup> See 19 CFR 351.524(b).

AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Depreciation Range System, as revised.<sup>273</sup> Commerce notified the respondents of the 10-year AUL period in the Initial Questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of a subsidy 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 subsidy is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL period.

## B. Attribution of Subsidies

### *Cross-Ownership*

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned 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 voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble*<sup>274</sup> 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 common ownership of two (or more) corporations. In certain circumstances, a

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<sup>273</sup> See U.S. Internal Revenue Service Publication 946 (2016), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

<sup>274</sup> See *CVD Preamble*, 63 FR 65348.

large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.<sup>275</sup>

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) has upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>276</sup>

### 1. Ningbo Daye

Ningbo Daye responded to Commerce’s questionnaire on behalf of itself and its parent company Zhejiang Jindaye Holdings Limited (Zhejiang Jindaye).<sup>277</sup>

Ningbo Daye identified itself as the producer and exporter of subject merchandise during the POI.<sup>278</sup> Subsidies to Ningbo Daye are attributable to the products it produces, pursuant to 19 CFR 351.525(b)(6)(i). We preliminarily determine that, pursuant to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between Ningbo Daye and Zhejiang Jindaye. For further information regarding Zhejiang Jindaye’s affiliation and cross-ownership with Ningbo Daye, the details of which are proprietary, *see* Ningbo Daye Preliminary Calculation Memorandum.<sup>279</sup> However, the record shows no evidence that Zhejiang Jindaye received any subsidies,<sup>280</sup> and thus no benefits attributable under 19 CFR 351.525(b)(6)(iii).

### 2. Zhejiang Amerisun

As noted above, Commerce selected Zhejiang Amerisun as a mandatory respondent. Zhejiang Amerisun is a trading company that exports, but does not produce, the subject merchandise.<sup>281</sup> During the POI, all subject merchandise that Zhejiang Amerisun exported to the United States was produced by Zhejiang Dobest, and all subject merchandise produced by Zhejiang Dobest during the POI was exported to the United States through Zhejiang Amerisun.<sup>282</sup> Based on the record information, we preliminarily find that there is no cross-ownership between the two companies, and that the relationship between them is limited to that of a producer (Zhejiang Dobest) and a trading company (Zhejiang Amerisun) that exports the producer’s goods.

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<sup>275</sup> *Id.* at 65401.

<sup>276</sup> *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>277</sup> *See, e.g.*, Ningbo Daye IQR at 1. Notwithstanding Ningbo Daye’s suggestion to the contrary, we are treating Zhejiang Jindaye as a parent/holding company, based on its equity share in Ningbo Daye and in light of other factors related to the overall corporate structure in which both companies are a part.

<sup>278</sup> *Id.*

<sup>279</sup> Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: Preliminary Determination Calculation Memorandum for Ningbo Daye,” dated concurrently with this memorandum (Ningbo Daye Preliminary Calculation Memorandum).

<sup>280</sup> *See, e.g.*, Ningbo Daye IQR at 10, 12, 15, and 17-28, Ningbo Daye 1SQR at 1 and 4, and Ningbo Daye 2SQR at 14.

<sup>281</sup> *See* Zhejiang Amerisun AFQR at 1.

<sup>282</sup> *Id.* at 1-2; *see also* Zhejiang Amerisun 1SAFQR at 3; and Zhejiang Amerisun 2SAFQR at 1.

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. Because Zhejiang Amerisun exported only the subject merchandise produced by Zhejiang Dobest to the United States and all subject merchandise produced by Zhejiang Dobest was exported to the United States via Zhejiang Amerisun, we have cumulated benefits from subsidies provided to Zhejiang Amerisun with benefits from subsidies provided to Zhejiang Dobest. Additionally, for Zhejiang Dobest, we are preliminarily attributing subsidies received by Zhejiang Dobest to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Further, Zhejiang Dobest identified other companies with which it was affiliated during the POI.<sup>283</sup> However, Zhejiang Dobest stated that these affiliates were not involved in either the production or the sale of subject merchandise during the AUL period.<sup>284</sup> Therefore, we preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(iv) for the attribution to Zhejiang Dobest of subsidies received by these other companies. As a result, we have not included them in our subsidy analysis.

### C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total combined sales, less intercompany sales, as the denominator, as described above. Where the program has been found to be contingent upon export activities, we used the recipient's total combined export sales as the denominator. All sales used in our net subsidy rate calculations are net of inter-company sales. For a further discussion of the denominators used, *see* Zhejiang Amerisun Preliminary Calculation Memorandum and Ningbo Daye Preliminary Calculation Memorandum.

## 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.<sup>285</sup> 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

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,

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<sup>283</sup> *See* Zhejiang Amerisun AFQR at Exhibit 1.

<sup>284</sup> *Id.* at 3; and Zhejiang Amerisun 1SAFQR at 4.

<sup>285</sup> *See* 19 CFR 351.524(b)(1).

Commerce uses comparable commercial loans reported by the company as a benchmark.<sup>286</sup> 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.”<sup>287</sup>

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.<sup>288</sup> In an analysis memorandum dated July 21, 2017, Commerce conducted a reassessment of the lending system in China.<sup>289</sup> Based on this reassessment, 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.<sup>290</sup>

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*.<sup>291</sup> 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.<sup>292</sup> Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2019.<sup>293</sup> 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,

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<sup>286</sup> See 19 CFR 351.505(a)(3)(i).

<sup>287</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>288</sup> See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying IDM at Comment 10.

<sup>289</sup> See Memorandum, “Analysis of China’s Financial System,” dated June 30, 2020.

<sup>290</sup> 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).

<sup>291</sup> See *CFS from China* IDM at Comment 10; and *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.

<sup>292</sup> See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>; see also Memorandum, “Loan Interest Rate Benchmarks,” dated July 7, 2020 (Interest Rate Benchmark Memorandum); and Memorandum, “2019 Loan Interest Rate Benchmarks,” dated concurrently with this memorandum (2019 Loan Interest Rate Benchmark Memorandum).

<sup>293</sup> See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>.

and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2019. This is consistent with Commerce’s calculation of interest rates for recent CVD proceedings involving Chinese merchandise.<sup>294</sup>

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 2011-2019, 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.<sup>295</sup> For 2010, however, the regression does not yield that outcome for China’s income group.<sup>296</sup> 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 2011-2019. 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 2010-2019 and “lower middle income” for 2001-2009.<sup>297</sup> First, we did not include those economies that Commerce considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.<sup>298</sup> Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.<sup>299</sup>

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

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<sup>294</sup> 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 13-16, unchanged in *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013).

<sup>295</sup> See Interest Rate Benchmark Memorandum; and 2019 Loan Interest Rate Benchmark Memorandum.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

the short – and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.<sup>300</sup>

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.<sup>301</sup> Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.<sup>302</sup>

Finally, Zhejiang Amerisun submitted loan benchmark information.<sup>303</sup> Certain data (*e.g.*, IFS lending rates and London Interbank Offered Rate (LIBOR) rates) are already represented in the dataset collected by Commerce and, thus, redundant. We are excluding the other data provided by Zhejiang Amerisun (*e.g.*, country specific interest rates’ select indicator data), as it is not clear how they may be factored into the methodology described above and whether they are duplicative of the IFS data collected by Commerce.

## **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.<sup>304</sup> The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Ningbo Daye Preliminary Calculation Memorandum and Zhejiang Amerisun Preliminary Calculation Memorandum.<sup>305</sup>

## **C. Benchmarks for Government Provision of CRS for LTAR**

Ningbo Daye and Zhejiang Dobest reported purchases of CRS during the POI for the production of subject merchandise.<sup>306</sup>

We selected benchmarks for determining the benefit from the provision of CRS at LTAR in accordance with 19 CFR 351.511. The basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR is set forth under 19 CFR 351.511(a)(2). 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

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<sup>300</sup> See, *e.g.*, *Thermal Paper from China* IDM at 10.

<sup>301</sup> 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.

<sup>302</sup> See Interest Rate Benchmark Memorandum; and 2019 Loan Interest Rate Benchmark Memorandum.

<sup>303</sup> See Zhejiang Amerisun Benchmark Submission.

<sup>304</sup> See Ningbo Daye Preliminary Calculation Memorandum; *see also* Zhejiang Amerisun Preliminary Calculation Memorandum; and Interest Rate Benchmark Memorandum.

<sup>305</sup> See Ningbo Daye Preliminary Calculation Memorandum; and Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>306</sup> See Ningbo Daye IQR at Exhibit A-1; and Zhejiang Dobest IQR at Exhibit 13.

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).<sup>307</sup>

As discussed above in the “Use of Facts Otherwise Available and Adverse Inferences” section, under “B. Application of AFA: Provision of CRS for LTAR,” subsection “GOC – Whether the CRS Market is Distorted,” we are preliminarily finding that the CRS market in China is distorted by pervasive government involvement and, thus, we are relying on “tier two” (world market) prices as benchmarks for this program, pursuant to 19 CFR 351.511(a)(2)(ii).

The petitioner submitted the monthly CRS world export data from the Trade Data Monitor and the U.N. Comtrade for HTSUS subheading 7209.16 as a potential benchmark for CRS inputs.<sup>308</sup> Ningbo Daye also submitted CRS benchmark prices for shipments from Russia and Brazil from the Steel Business Briefing/Platts and Domestic Chinese Steel prices.<sup>309</sup> However, as explained above, we are using a tier two benchmark, and have thus excluded the Chinese domestic steel prices from consideration. Further, as SSB/Platts export price data listed only the exporting countries, we are not able to determine whether such data contain exports to China and subsequently exclude the exports to China from SSB/Platts data because exports to China are considered tier-one prices.<sup>310</sup> Thus, we find that SSB/Platts data provided by Ningbo Daye are not usable as benchmarks.

Accordingly, the only usable sources for purposes of CRS benchmark prices are the U.N. Comtrade and Trade Data Monitor data provided by the petitioner. 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).<sup>311</sup> Therefore, in this investigation, we have sought to include as many comparable data sources as practicable. Accordingly, for this preliminary determination, we used the average of the two sets of prices provided. In addition, for purposes of this preliminary determination, we have removed exports to China from both data as exports to China are considered tier-one prices. In particular, concerning the U.N. Comtrade data, we summed the exports to the world and then deducted the exports to China to establish the CRS benchmarks. Although the petitioner argued that Commerce should exclude certain countries’ exports because they are known to subsidize exports, we included them in the data as they are part of tier-two world market prices that would be available to purchasers in the country under investigation. Moreover, we removed any shipments for which there was either: (1) no or zero volume; or (2) no value reported. For the U.N. Comtrade data, we also removed exports from “EU-28” to avoid double-counting. Further, we removed exports from countries that are unspecified in the U.N. Comtrade data because such exports could be “EU-28” exports or they might be otherwise included in the shipments from other exporting countries within the data.

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<sup>307</sup> See 19 CFR 351.511(a)(2).

<sup>308</sup> See Petitioner Benchmark Submission at Attachments 1 and 3.

<sup>309</sup> See Ningbo Daye IQR at Exhibit D-5.

<sup>310</sup> *Id.*

<sup>311</sup> 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 CRS. The petitioner placed ocean freight rates from Maersk on the record. Specifically, the petitioner provided the average freight cost for CRS from Long Beach, CA; Newark, NJ; and Savannah, GA to the port of Shanghai, China, which consists of: (1) basic ocean freight; (2) bunker adjustment factor; (3) low sulfur surcharge; (4) terminal handling service – destination; and (5) documentation fee – destination.<sup>312</sup> The petitioner also provided the costs to import to Shanghai and Beijing, which include border compliance fees (*i.e.*, clearance and inspection, and port or border handling) and documentary compliance fees for Shanghai and Tianjin as reported in the World Bank’s *Doing Business in China: 2020* (Doing Business in China).<sup>313</sup> For this preliminary determination, we used only the petitioner’s ocean freight estimates from Maersk to avoid double-counting as some of the border compliance fees and documentary compliance fees reported in Doing Business in China appear to overlap with the ocean freight cost in the Maersk data. The petitioner also did not articulate: (1) whether the aforementioned fees from the Doing Business in China are distinct from the fees reported from the Maersk data; and (2) why the fees from the Doing Business need to be added to the monthly CRS benchmark separately from the ocean freight cost in the Maersk data.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly, weighted-average benchmark prices for CRS.<sup>314</sup> the applicable import duty and VAT for imports of CRS, as provided by the GOC.

Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added inland freight expenses to the monthly, weighted-average CRS benchmark prices for Ningbo Daye and Zhejiang Amerisun. The petitioner provided inland freight information for shipments from Shanghai and Tianjin to Zhejiang province from Doing Business in China.<sup>315</sup> Additionally, Ningbo Daye provided an “estimated {inland} freight rate from one of its customers.”<sup>316</sup> However, we are unable to rely on Ningbo Daye’s customer’s estimate because it does not represent Ningbo’s Daye own expenses or any actual expenses, and because Ningbo Daye did not explain how the estimate was calculated. Thus, for this preliminary determination, we used a simple average of the petitioner’s inland freight estimates for Ningbo Daye based on shipments from the port of Shanghai and from Tianjin. For Zhejiang Dobest, as explained above at “Application of Facts Available: Provision of CRS for LTAR,” we have preliminarily based the calculation of Zhejiang Dobest’s benchmark inland freight expenses on FA, and we relied on the information from Doing Business in China for purposes of Zhejiang Dobest’s inland freight expense calculation. For Zhejiang Dobest’s inland freight expense discussion, *see supra* at “Application of Facts Available: Provision of CRS for LTAR.” For further information concerning the derivation of the monthly, weighted-

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<sup>312</sup> See Petitioner’s Benchmark Submission at Attachment 4.

<sup>313</sup> *Id.* at Attachment 5.

<sup>314</sup> See GOC IQR at 32.

<sup>315</sup> See Petitioner’s Benchmark Submission at Attachments 5 and 6.

<sup>316</sup> See Ningbo Daye 2SQR at 16, and Exhibits D-7, D-8, and D-9.

average benchmark prices for CRS during the POI, *see* Ningbo Daye Preliminary Calculation Memorandum and Zhejiang Amerisun Preliminary Calculation Memorandum.<sup>317</sup>

## **IX. ANALYSIS OF PROGRAMS**

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

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

#### **1. Loans and Credit**

##### *Policy Loans to the Walk-Behind Lawn Mower Industry*

As explained above under “Use of Facts Otherwise Available and Adverse Inferences,” we determine, as AFA, that loans under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act and that this program is specific to lawn mower producers. We also preliminarily determine that policy loans to the walk-behind lawn mowers industry 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.<sup>318</sup>

Ningbo Daye reported outstanding loans from SOCBs during the POI. To calculate the benefit to respondents under the policy loans program, we used the benchmarks described under the “Loan Benchmarks” section above. For the loans to Ningbo Daye, we divided the interest savings during the POI by the total sales of Ningbo Daye during the POI, pursuant to 19 CFR 351.525(b)(6)(i). On this basis, we preliminarily determine a subsidy rate of 1.19 percent *ad valorem* for Ningbo Daye under this program.

Zhejiang Amerisun and Zhejiang Dobest reported loans for which they made interest payments during the POI.<sup>319</sup> The net countervailable subsidy rate for Zhejiang Amerisun is the cumulation of the net countervailable subsidy rates for Zhejiang Amerisun and Zhejiang Dobest that we calculated for this program according to the methodology described above in the “Subsidies Valuation” section.

First, for Zhejiang Amerisun and Zhejiang Dobest, 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.<sup>320</sup> To calculate the benefit for this program, we used the benchmarks discussed above under the “Subsidies Valuation” section. To calculate a net countervailable subsidy rate under this program, we divided the benefit by the appropriate sales denominator, as described in the “Subsidies Valuation” section. In accordance with 19 CFR 351.525(c), we cumulated the benefits to Zhejiang Amerisun and Zhejiang Dobest to determine a

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<sup>317</sup> *See* Ningbo Daye Preliminary Calculation Memorandum; and Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>318</sup> *See* section 771(5)(E)(ii) of the Act.

<sup>319</sup> *See* Zhejiang Amerisun IQR at Exhibit 7; and Zhejiang Dobest IQR at Exhibit 8.

<sup>320</sup> *See* section 771(5)(E)(ii) of the Act; and 19 CFR 351.505(a).

net countervailable subsidy rate for Zhejiang Amerisun. Accordingly, we preliminarily determine a net countervailable subsidy rate of 2.91 percent *ad valorem*.<sup>321</sup>

### *Export Buyer's Credit Program*

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, our preliminary determination regarding the GOC’s provision of Export Buyer’s Credit is based on AFA. Accordingly, we determine that the GOC’s provision of Export Buyer’s Credit confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Further, we determine on the basis of AFA that Ningbo Daye and Zhejiang Amerisun benefited from this program during the POI within the meaning of section 771(5)(E) of the Act. On this basis, consistent with Commerce’s AFA rate selection methodology, we determine a countervailable subsidy rate of 10.54 percent *ad valorem* for Ningbo Daye and Zhejiang Amerisun, the highest (non-facts available) rate calculated for a similar program in another CVD proceeding involving imports from China.<sup>322</sup>

## **2. Tax Programs**

### *Income Tax Reduction for High and New Technology Enterprises*

Ningbo Daye and Zhejiang Dobest reported using this program during the POI.<sup>323</sup> Under Article 28.2 of the *Corporate Income Tax Law of the People’s Republic of China* and Article 93 of the *Implementation Regulations for the Corporate Income Tax Law of the People’s Republic of China*, a company’s income tax is reduced from the standard rate if it is recognized as an HNTE.<sup>324</sup> Commerce previously found this program to be countervailable.<sup>325</sup>

Based upon the information submitted by Ningbo Daye and Zhejiang Amerisun on their tax returns filed during the POI under this program, each respondent paid a reduced income tax rate of 15 percent, instead of the standard 25 percent corporate income tax rate.<sup>326</sup>

Consistent with Commerce’s determinations in other CVD proceedings on imports from China, we preliminarily determine that this tax incentive constitutes a financial contribution in the form of revenue forgone by the GOC and confers a benefit in the amount of the tax savings, as provided under sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We further

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<sup>321</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>322</sup> See *Coated Paper from China Investigation Amended Final*, and accompanying Ministerial Error Memorandum at “Revised Net Subsidy Rate for the Gold Companies” (discussing revised subsidy rate for “Preferential Lending to the Coated Paper Industry”). This document is proprietary in nature. However, the public version, which has been placed on the record of this investigation, identifies the revised subsidy rate on which we are relying.

<sup>323</sup> See Ningbo Daye IQR at 17 at Exhibit 16, Exhibit 17, Exhibit B-1, and Exhibit B-2; see also Zhejiang Dobest IQR at 14-15 and Exhibits 4 and 9; and Zhejiang Amerisun 1SQR at 15-16.

<sup>324</sup> See Government of China June 12, 2017 IQR at Exhibit Tax-3 and Exhibit Tax-4; and Ningbo Daye IQR at Exhibit B-4 and Exhibit B-5.

<sup>325</sup> See, e.g., *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 5031 (August 19, 2013) (*Warmwater Shrimp*), and accompanying IDM at 25-26 and Comment 20.

<sup>326</sup> See Ningbo Daye IQR at 17, Exhibit 16, Exhibit 17, Exhibit B-1, and Exhibit B-2; see also Zhejiang Dobest IQR at 14-15 and Exhibits 4 and 9; and Zhejiang Amerisun 1SQR at 15-16.

determine that the income tax reduction under this program is limited as a matter of law to certain enterprises whose products are designated as being in “high-tech fields with state support,” and, hence, is *de jure* specific, under section 771(5A)(D)(i) of the Act.

We calculated the benefit as the difference between the taxes that Ningbo Daye and Zhejiang Dobest would have paid under the standard 25 percent tax rate and they actually paid under the preferential 15 percent tax rate, as reflected on their tax returns filed during the POI, as provided for under 19 CFR 351.509(a)(1) and (b)(1). We treated the tax savings as a recurring benefit consistent with 19 CFR 351.524(c)(1). With regard to Ningbo Daye, we divided the benefit by Ningbo Daye’s total FOB sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.56 percent *ad valorem* for the Ningbo Daye.

Zhejiang Amerisun benefited from this program to the extent that its supplier of subject merchandise, Zhejiang Dobest, claimed the tax reduction during the POI. The net countervailable subsidy rate for Zhejiang Amerisun is the net countervailable subsidy rate for Zhejiang Dobest 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 0.14 percent *ad valorem* for Zhejiang Amerisun.<sup>327</sup>

#### *Income Tax Deduction for Research and Development under the Enterprise Income Tax Law*

Ningbo Daye and Zhejiang Dobest reported using this program during the POI.<sup>328</sup> Under Article 30.1 of the *Enterprise Income Tax Law (EITL)*, which became effective January 1, 2008, companies may deduct R&D expenses incurred in the development of new technologies, products, or processes from their taxable income.<sup>329</sup> Article 95 of the *Regulations on the Implementation of Enterprise Income Tax Law* (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.<sup>330</sup> Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the value of the intangible assets.<sup>331</sup>

Moreover, Article 4 of the “Circular of the State Administration of Taxation on Printing and Issuing the Administrative Measures for the Pre-tax Deduction of Enterprises’ Expenditures for Research and Development (for Trial Implementation)” (Circular 116) states that enterprises engaged in hi-tech R&D, including aluminum producers, may deduct certain expenditures, as listed in the “Hi-tech Sectors with Primary Support of the State Support and the Guideline of the Latest Key Priority Developmental Areas in the High Technology Industry (2007).”<sup>332</sup>

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<sup>327</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>328</sup> See Ningbo Daye IQR at 18, Exhibit 16, Exhibit 17 and Exhibit B-3; see also Zhejiang Dobest IQR at 15 and Exhibits 4 and 10; and Zhejiang Amerisun 1SQR at 16.

<sup>329</sup> See GOC IQR at Exhibit Tax-2 at 1, Exhibit Tax-3 at 6.

<sup>330</sup> See GOC IQR at Exhibit Tax-2 at 1, Exhibit Tax-4 at 17.

<sup>331</sup> *Id.*

<sup>332</sup> See Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawnmowers and Parts Thereof from the People’s Republic of China: Placing Information on the Record,” dated April 16, 2018 at Document 2, Exhibit S2-4 to S2-6.

We preliminarily determine that the income tax deduction under this program provides a financial contribution in the form of revenue forgone by the government within the meaning of section 771(5)(D)(ii) of the Act, and provides a benefit to the recipients in the amount of the tax savings within the meaning of 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 in eligible high-technology sectors and, thus, is *de jure* specific under section 771(5A)(D)(i) of the Act. Commerce has previously found this program to be countervailable.<sup>333</sup>

To calculate the benefit from this program, we treated the tax deductions as recurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we calculated the amount of tax that Ningbo Daye and Zhejiang Dobest would have paid absent the tax deductions at the standard tax rate of 25 percent (*i.e.*, 25 percent of the tax deduction),<sup>334</sup> and we subtracted the amount of tax that Ningbo Daye actually paid. We divided the resulting benefit by Ningbo Daye's total FOB sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.60 percent *ad valorem* for the Ningbo Daye.

Zhejiang Amerisun benefited from this program to the extent that its supplier of subject merchandise, Zhejiang Dobest, claimed the tax deduction during the POI. The net countervailable subsidy rate for Zhejiang Amerisun is the net countervailable subsidy rate for Zhejiang Dobest 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 0.55 percent *ad valorem* for Zhejiang Amerisun.<sup>335</sup>

### **3. Less Than Adequate Remuneration**

#### *Provision of CRS for LTAR*

Commerce is examining whether the GOC or other "authorities" within China provided CRS for LTAR to respondents. Ningbo Daye and Zhejiang Dobest reported that they purchased CRS during the POI.<sup>336</sup>

The GOC reported that certain producers of CRS purchased by respondents are majority-owned by the government. As explained in the Public Bodies Memorandum, majority state-owned enterprises in China possess, exercise, or are vested with governmental authority.<sup>337</sup> 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 their

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<sup>333</sup> See, e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012), and accompanying IDM at 17.

<sup>334</sup> See Ningbo Daye IQR at Exhibit B-3; and Zhejiang Dobest IQR at Exhibit 10.

<sup>335</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>336</sup> See Ningbo Daye IQR at 24-26 and Exhibit D-4; and Zhejiang Dobest IQR at Exhibit 13.

<sup>337</sup> See Public Bodies Memorandum.

provision of CRS constituted a financial contribution to respondents in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.<sup>338</sup>

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, above, for other producers of CRS that are not majority government-owned, we preliminarily determine, based on AFA, that these entities are “authorities” within the meaning of section 771(5)(B) of the Act and that their provision of CRS also constituted a financial contribution to respondents in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.<sup>339</sup>

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

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under “tier two,” Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices, we included ocean freight and inland freight that would be incurred to deliver inputs to the respondents’ production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of CRS into China, as provided by the GOC.<sup>340</sup> Additionally, we added the appropriate VAT rate, reported by the GOC, to the benchmark prices.<sup>341</sup>

We compared these monthly benchmark prices to the prices paid by Ningbo Daye and Zhejiang Dobest for individual domestic transactions, including VAT and delivery charges. The benefit is the difference between the benchmark prices and the prices paid by the respondents. To determine the net countervailable subsidy rate for Ningbo Daye, 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 1.09 percent *ad valorem* for Ningbo Daye.

Zhejiang Amerisun benefited from this program to the extent that its supplier of subject merchandise, Zhejiang Dobest, purchased CRS during the POI. The net countervailable subsidy rate for Zhejiang Amerisun is the net countervailable subsidy rate for Zhejiang Dobest that we

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<sup>338</sup> *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.

<sup>339</sup> *Id.*

<sup>340</sup> *See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014), and accompanying IDM at 90. Consistent with *Citric Acid from China 2011 Review*, we have utilized the Most Favored Nation import duty rate because it reflects the general tariff rate applicable to world trade; *see* GOC IQR at 32.

<sup>341</sup> *Id.*

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 7.85 percent *ad valorem* for Zhejiang Amerisun.<sup>342</sup>

### *Provision of Electricity for LTAR*

For the reasons explained in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are basing our preliminary determination regarding the GOC’s provision of electricity for LTAR on facts otherwise available. Therefore, 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 as the benchmark the highest non-seasonal provincial rate in China for the electricity category and “base charge” (either maximum demand or transformer capacity) used by the respondent.

Consistent with our approach in *Wind Towers from China*, we first calculated the respondents’ variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at the price category by the corresponding electricity rate paid by the respondent during each month of the POI, where applicable.<sup>343</sup> Next, we calculated the benchmark electricity cost by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at the price category. Regarding residential electricity prices, which are not divided by category, we calculated the benchmark electricity cost by multiplying the monthly kWh consumed by the simple average of the highest benchmark rates for each of the three benchmark categories. To calculate the benefit for each month, we subtracted the variable electricity cost paid by the respondent during the POI from the monthly benchmark electricity cost, where applicable.

Zhejiang Amerisun stated that it is located in the office building of Zhejiang Dobest and that it does not have a separate electricity meter reading and is not responsible for paying electricity fees.<sup>344</sup> Zhejiang Amerisun further stated that all electricity consumed by Zhejiang Dobest and Zhejiang Amerisun is purchased and paid for by Zhejiang Dobest. All relevant information was reported in Zhejiang Dobest’s IQR.<sup>345</sup> For the purpose of measuring the benefit, we are relying on the electricity usage and payment information submitted by Zhejiang Dobest.<sup>346</sup>

In light of the record evidence, to measure whether Ningbo Daye and Zhejiang Dobest received a benefit with regard to its electricity rate, we first multiplied the monthly rates charged to Ningbo Daye and Zhejiang Dobest by the corresponding consumption quantities. Next, we calculated the benchmark base rate cost by multiplying Ningbo Daye’s and Zhejiang Dobest’s consumption quantities by the highest maximum demand rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the companies during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under

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<sup>342</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>343</sup> See *Wind Towers from China* IDM at 21-22.

<sup>344</sup> See Zhejiang Amerisun ISQR at 17-18.

<sup>345</sup> *Id.*

<sup>346</sup> See Zhejiang Dobest IQR at Exhibit 11.

this program by summing the benefits stemming from Ningbo Daye’s and Zhejiang Dobest’s variable electricity payments and base rate payments.

To calculate the net subsidy rates attributable to Ningbo Daye, we divided the benefit by the appropriate sales denominator, as described in the “Subsidies Valuation” section above. On this basis, we preliminarily determine a subsidy rate of 0.06 percent for Ningbo Daye, *ad valorem*, under this program.<sup>347</sup>

Zhejiang Amerisun benefited from this program to the extent that its supplier of subject merchandise, Zhejiang Dobest, purchased electricity during the POI. The net countervailable subsidy rate for Zhejiang Amerisun is the net countervailable subsidy rate for Zhejiang Dobest 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 0.14 percent *ad valorem* for Zhejiang Amerisun.<sup>348</sup>

#### **4. Other Subsidies**

Zhejiang Dobest self-reported receiving various non-recurring grants and recurring subsidies from the GOC during the AUL period.<sup>349</sup> These programs are as follows:

- 1) Small and Medium-Sized Enterprise Development Award
- 2) Subsidies for Loss Caused by Typhoon in October 2013
- 3) Subsidies for Factory Building
- 4) Patent Award for Self-locking Stepless Control Handle
- 5) Subsidy for Enterprise Meeting the Safety Production Standard
- 6) Revenue from Foreign-related Development
- 7) Award for Products Updating
- 8) Land Use Performance Award
- 9) New Technology Application and Promotion
- 10) Assistance for Establishing Cross-border E-commerce Platform
- 11) First-round Rewards for Passing Cleaner Production Audits
- 12) New Materials Patents Subsidy
- 13) Financial Incentive Funds for Technological Transformation Projects of Industrial Enterprises
- 14) Rewards to Foreign Trade Enterprise
- 15) Reimbursement to Expenditure Spent on Training of International Manpower
- 16) Rewards for Continuous High Exchange Earnings
- 17) Subsidy for Foreign Trade Import and Export Business Qualification Enterprises for 2016
- 18) 2016 CITIC Insurance Subsidy
- 19) Subsidy to Exhibition Fees in 2016
- 20) Rewards for Overbase Export in Year 2016

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<sup>347</sup> See Preliminary Calculation Memorandum.

<sup>348</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>349</sup> See Zhejiang Dobest IQR at 24 and Exhibit 16; and Zhejiang Amerisun 1SQR at Exhibit S-26.

- 21) Tax Rebate per Mu in 2016
- 22) Science and Technology Patents Subsidy
- 23) Subsidies for Tax Payment per Mu
- 24) Innovation-driven Awards
- 25) Subsidy for High-tech Enterprise
- 26) Subsidy for Enterprise of Quality and Integrity
- 27) Rewards for Overbase Export in Year 2017
- 28) 2017 CITIC Insurance Subsidy
- 29) Subsidy for Foreign Trade Import and Export Business Qualification Enterprises for 2017
- 30) Rewards for R&D Expense
- 31) Subsidy for Foreign Trade Import and Export Business Qualification Enterprises in 2018
- 32) Rewards for Businesses in Chengxi New Zone

As discussed above in the section “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the self-reported grants constitute a financial contribution under section 771(5)(D)(i) of the Act and are specific under section 771(5A) of the Act. Further, we preliminarily determine that each of these grants confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a).

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Zhejiang Dobest 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 0.5 percent of Zhejiang Dobest’s sales in the relevant year were expensed in the year of receipt. Grants that were greater than 0.5 percent of Zhejiang Dobest’s sales in the relevant year were allocated over the AUL period using Commerce’s grant methodology, as provided under 19 CFR 351.524(d)(1). We then divided the portion of the benefit allocated to the POI by Zhejiang Dobest’s relevant POI sales.

Zhejiang Amerisun reported receiving no “other subsidies.” In accordance with the methodology described in the “Subsidies Valuation” section, we preliminarily determine a benefit to Zhejiang Amerisun based on the grants reported by Zhejiang Dobest. Thus, the net countervailable subsidy rate for Zhejiang Amerisun is the net countervailable subsidy rate we calculated for the various grants self-reported by Zhejiang Dobest, as described above.

In accordance with 19 CFR 351.525(c) and based on the methodology outlined above, we preliminarily determine a countervailable subsidy rate of 0.61 percent *ad valorem* for Zhejiang Amerisun for these grants.<sup>350</sup>

Ningbo Daye also reported receiving various non-recurring grants from the GOC during the POI and throughout the AUL period.<sup>351</sup> Ningbo Daye has requested business proprietary treatment of

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<sup>350</sup> See Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>351</sup> See Ningbo Daye IQR at 27-28 and Exhibit F-1; and Ningbo Daye 2SQR at 17-18 and Exhibit F-2.

the details of these grants. Accordingly, *see* Ningbo Daye Preliminary Calculation Memorandum for more information about these grants. As discussed above in the section “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that these self-reported grants constitute a financial contribution under section 771(5)(D)(i) of the Act and are specific under section 771(5A) of the Act. Further, we preliminarily determine that each of these grants confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504(a). Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Ningbo Daye 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 0.5 percent of Ningbo Daye’s sales in the relevant year were expensed in the year of receipt. Grants that were greater than 0.5 percent of Ningbo Daye’s sales in the relevant year were allocated over the AUL period using Commerce’s grant methodology, as provided under 19 CFR 351.524(d)(1). We then divided the portion of the benefit allocated to the POI by Ningbo Daye’s relevant POI sales. Based on the methodology outlined above, we preliminarily determine a cumulative countervailable subsidy rate of 0.64 percent *ad valorem* for Ningbo Daye for these programs.<sup>352</sup>

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

The respondents reported receiving benefits under various programs, some of which were specifically alleged, while others were self-reported. Based on the record evidence, we preliminarily determine that the benefits from certain programs were either: (1) fully expensed prior to the POI; or (2) amounted to 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. Consistent with Commerce’s practice,<sup>353</sup> we are treating the benefits from these programs as non-measurable and have not included them in our preliminary subsidy rate calculations. Accordingly, it is unnecessary for Commerce to make a preliminary determination as to the countervailability of these programs.

For a list of the subsidy programs that do not provide a benefit and programs that were not used for each respondent, *see* the Appendix attached to this memorandum.

### **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

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<sup>352</sup> *See* Zhejiang Amerisun Preliminary Calculation Memorandum.

<sup>353</sup> *See, e.g., CFS from China* IDM at 15-16 (“Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE”); *see also 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), and accompanying IDM at 36 (“Income Tax Reductions for Firms Located in the Shanghai Pudong New District”); and *Aluminum Extrusions from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at 45-48 (“Programs Used by the Alnan Companies”).

those companies individually examined, excluding any zero and *de minimis* rates and any rates based on 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 respondents' publicly ranged U.S. export sales values for the subject merchandise<sup>354</sup> to weight-average their estimated subsidy rates. On that basis, we have calculated a rate of 17.19 percent *ad valorem* as the all-others rate.<sup>355</sup>

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<sup>354</sup> With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2020).

<sup>355</sup> *See* Memorandum, "All-Others Rate Calculation," dated concurrently with this memorandum.

**XI. RECOMMENDATION**

We recommend that you approve the preliminary findings described above.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

10/23/2020

X



Signed by: JEFFREY KESSLER

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

## APPENDIX

### NOT-USED OR NOT-MEASURABLE PROGRAMS, BY COMPANY

#### Zhejiang Amerisun (including Zhejiang Dobest)

*Programs Preliminarily Determined Not to Provide Measurable Benefits During the POI*

Count	Title
1	Small and Medium-Sized Enterprise Development Award
2	Subsidies for Loss Caused by Typhoon in October 2013
3	Patent Award for Self-locking Stepless Control Handle
4	Subsidy for Enterprise Meeting the Safety Production Standard
5	Revenue from Foreign-related Development
6	Award for Products Updating
7	Land Use Performance Award
8	New Technology Application and Promotion
9	Assistance for Establishing Cross-border E-commerce Platform
10	First-round Rewards for Passing Cleaner Production Audits
11	New Materials Patents Subsidy
12	Financial Incentive Funds for Technological Transformation Projects of Industrial Enterprises
13	Rewards to Foreign Trade Enterprise
14	Reimbursement to Expenditure Spent on Training of International Manpower
15	Rewards for Continuous High Exchange Earnings
16	Subsidy for Foreign Trade Import and Export Business Qualification Enterprises for 2016
17	2016 CITIC Insurance Subsidy
18	Subsidy to Exhibition Fees in 2016
19	Rewards for Overbase Export in Year 2016
20	Tax Rebate per Mu in 2016
21	Science and Technology Patents Subsidy
22	Subsidies for Tax Payment per Mu
23	Innovation-driven Awards
24	Subsidy for High-tech Enterprise
25	Subsidy for Enterprise of Quality and Integrity
26	Rewards for Overbase Export in Year 2017
27	2017 CITIC Insurance Subsidy
28	Subsidy for Foreign Trade Import and Export Business Qualification Enterprises for 2017
29	Rewards for Businesses in Chengxi New Zone

*Programs Preliminarily Determined to Be Not Used During the POI*

Count	Title
1	Export Loans from Chinese State-Owned Banks
2	Export Seller's Credits from China Export-Import Bank
3	Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization
4	Income Tax Deduction/Credits for Purchase of Special Equipment
5	Import Tariff and VAT Exemptions on Imported Equipment in Encouraged Industries
6	Provision of Land and/or Land Use Rights for LTAR (Nanjing Economic and Technology Development Zone; and Chongqing High-Tech Development Zone)
7	Provision of Hot-Rolled Steel for LTAR
8	Provision of Unwrought Aluminum for LTAR
9	The State Key Technology Project Grants
10	Grants for Energy Conservation and Emission Reduction
11	SME Technology Innovation Fund

**Ningbo Daye**

*Programs Preliminarily Determined Not to Provide Measurable Benefits During the POI*

Count	Title
1	Import Tariff and VAT Exemptions on Imported Equipment in Encouraged Industries
2	Various Subsidies Self-Reported by Ningbo Daye <sup>356</sup>

*Programs Preliminarily Determined to Be Not Used During the POI*

Count	Title
1	Export Loans from Chinese State-Owned Banks
2	Export Seller's Credits from China Export-Import Bank
3	Income Tax Concessions for Enterprises Engaged in Comprehensive Resource Utilization
4	Income Tax Deductions/Credits for Purchase of Special Equipment
5	Provision of Land and/or Land Use Rights for LTAR
6	Provision of Land and/or Land Use Rights for LTAR (Nanjing Economic and Technology Development Zone; and Chongqing High-Tech Development Zone)
7	Provision of Hot-Rolled Steel for LTAR

<sup>356</sup> As discussed above in the "other Subsidies" section above, Ningbo Daye reported receiving various non-recurring "other subsidies" from the GOC during the POI and throughout the AUL period. Ningbo Daye requested business proprietary treatment for the details of these "other subsidies." We treated these "other subsidies" as non-recurring grants. Certain of these grants either provided benefits during the POI which were not measurable or provided benefits during the AUL period which were expensed prior to the POI according to our allocation methodology (*see* "Subsidies Valuation" section above and 19 CFR 351.524).

8	Provision of Unwrought Aluminum for LTAR
9	The State Key Technology Project Grants
10	Grants for Energy Conservation and Emission Reduction
11	SME Technology Innovation Fund