



C-570-134
Investigation
POI: 01/01/2019 – 12/31/2019
Public Document
E&C/OIII: CD/AC

December 7, 2020

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

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination in the Countervailing Duty Investigation of Certain
Metal Lockers and Parts Thereof from the People’s Republic of
China

I. SUMMARY

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

II. BACKGROUND

A. Initiation and Case History

On July 9, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of metal lockers from China, filed in proper form on behalf of List Industries, Inc., Lyon LLC, Penco Products, Inc, and Tensco LLC (collectively, the petitioners).¹ Pursuant to section 702(b)(4)(A)(ii) of the Act, we invited representatives of the Government of China (GOC) for consultations with respect to the Petition.² On July 27, 2020, a

¹ See Petitioners’ Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties Against Imports of Certain Metal Lockers and Parts Thereof from the People’s Republic of China,” dated July 9, 2020 (Petition).

² See Commerce’s Letter, “Countervailing Duty Petition on Certain Metal Lockers and Parts Thereof from the People’s Republic of China,” dated July 14, 2020.



representative of the GOC submitted comments via email, which were placed on the record of this investigation.³

On August 5, 2020, Commerce published the notice of initiation of this CVD investigation of metal lockers from China.⁴

As discussed in the “Respondent Selection” section of the *Initiation Notice*, Commerce stated that it normally selects mandatory respondents in a CVD investigation using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope of the investigation.⁵ However, for this investigation, the HTSUS number under which the subject merchandise enters (*i.e.*, 9403.20.0078) is a basket category under which non-subject merchandise may enter.⁶ Therefore, we stated that we could not rely solely on CBP entry data in selecting respondents; however, since there were 76 producers and exporters identified in the Petition, we determined to limit the number of quantity and value (Q&V) questionnaires sent out to potential respondents identified in the Petition.⁷ On August 3, 2020, we released CBP data on imports of metal lockers from China and invited parties to comment on the data.⁸

On August 4, 2020, Commerce issued Q&V questionnaires via Federal Express (FedEx) and ACCESS to certain exporters and producers of the subject merchandise for which the petitioners provided complete contact information, based on the CBP data.⁹ Additionally, Commerce posted the Q&V questionnaire, along with filing instructions, on the Enforcement and Compliance website.¹⁰ On August 19, 2020, Commerce confirmed that, as of August 18, 2020, 10 exporters and producers of the subject merchandise received the Q&V questionnaires, while one exporter or producer did not.¹¹ Commerce received timely filed Q&V questionnaire responses from three exporters and producers to whom we sent Q&V questionnaires, as well as from six additional companies.¹² Commerce did not receive a response from the remaining eight

³ See Memorandum, “Countervailing Duty Petition of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Consultation Comments from the Government of the People’s Republic of China,” dated July 28, 2020.

⁴ See *Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 47353 (August 5, 2020) (*Initiation Notice*), and accompanying Initiation Checklist.

⁵ See *Initiation Notice*, 85 FR at 47355-56.

⁶ *Id.*

⁷ *Id.*; see also Petition at Volume I, Exhibit GEN-6.

⁸ See Memorandum, “Countervailing Duty Petition of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Release of Customs Data from U.S. Customs and Border Protection,” dated August 3, 2020.

⁹ See Commerce’s Letter, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Issuance of Quantity and Value Questionnaire,” dated August 4, 2020 (Q&V Questionnaires).

¹⁰ See <https://www.trade.gov/ec-adcvd-case-announcements>.

¹¹ See Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Quantity and Value Questionnaire Delivery Tracking,” dated August 19, 2020 (Q&V Tracking Memo).

¹² See Luoyang Steelart Office Furniture Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof from China; C-570-134; Q&V Questionnaire Response,” dated August 12, 2020; see also Pinghu Chenda Storage Office Co., Ltd.’s Letter, “Chenda Quantity and Value Response: Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China (C-570-134),” dated August 12, 2020; Hangzhou Evernew

companies that received Q&V questionnaires.¹³ For information on Commerce’s treatment of these non-responsive companies, *see* “Application of AFA: Non-Responsive Companies,” *infra*.

On August 26, 2020, pursuant to section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2), Commerce selected Zhejiang Xingyi Metal Products Co., Ltd. (Zhejiang Xingyi) as the sole mandatory respondent.¹⁴ Zhejiang Xingyi is the largest exporter and producer of the subject merchandise by value based on the Q&V questionnaire responses.

On August 26, 2020, we also issued the initial CVD questionnaire to the GOC with instructions to forward the questionnaire to Zhejiang Xingyi.¹⁵ On September 14, 2020, we received Zhejiang Xingyi’s company affiliation response,¹⁶ and on October 13, 2020, we received initial questionnaire responses from the GOC and Zhejiang Xingyi.¹⁷

On August 28, 2020, the U.S. International Trade Commission (ITC) published in the *Federal Register* a notice of its affirmative determinations in the preliminary phase of the AD and CVD investigations concerning imports of metal lockers from China,¹⁸ and notified Commerce

Machinery & Equipment Company Limited’s Letter, “Certain Metal Lockers and Parts Thereof From the People’s Republic of China: Quantity & Value Questionnaire Response,” dated August 18, 2020; Luoyang Hynow Import and Export Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Quantity & Value Questionnaire Response,” dated August 18, 2020; Hangzhou Xline Machinery & Equipment Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof From the People’s Republic of China: Quantity & Value Questionnaire Response,” dated August 18, 2020; Xingyi Metalworking Technology (Zhejiang) Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: XMT’s Quantity and Value Questionnaire Response,” dated August 18, 2020; Hangzhou Zhuoxu Trading Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: HZT’s Quantity and Value Questionnaire Response,” dated August 18, 2020; Zhongshan Geelong Manufacturing Company Limited and Geelong Sales (Macao Commercial Offshore) Limited’s Letter, “Countervailing Duty Investigation on Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Quantity and Value Questionnaire Response,” dated August 18, 2020; and Zhejiang Xingyi Metal Products Co., Ltd.’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: ZXM’s Quantity and Value Questionnaire Response,” dated August 18, 2020.

¹³ On September 10, 2020, pursuant to 19 CFR 351.302(d)(1), we rejected an untimely-filed Q&V response from Luoyang Shidiu Import and Export Co., Ltd. (Luoyang Shidiu). *See* Commerce’s Letter, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Luoyang Shidiu Import and Export Co., Ltd. Quantity and Value Rejection,” dated September 10, 2020. Additionally, we did not receive responses from Changshu Taron Machinery Equipment Manufacturing Co., Ltd.; Guangdong Yuhua Building Materials Co., Ltd.; Jiangsu Tongrun Tool Cabinet Co., Ltd.; Luoyang Mas Younger Office Furniture Co. / Louyang Mas Younger Export and Import Co.; Suzhou Yuanda Commercial Products Co. Ltd.; Winnsen Industry Co., Ltd.; and Xiamen Headleader Technology.

¹⁴ *See* Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Respondent Selection,” dated August 26, 2020.

¹⁵ *See* Commerce’s Letter, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Countervailing Duty Questionnaire,” dated August 26, 2020 (Initial Questionnaire).

¹⁶ *See* Zhejiang Xingyi’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: ZXM’s Affiliated Companies Response,” dated September 14, 2020 (Zhejiang Xingyi’s AFFR).

¹⁷ *See* GOC’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: GOC’s Initial Questionnaire Response,” dated October 13, 2020 (GOC’s IQR); *see also* Zhejiang Xingyi’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: ZXM’s Initial Questionnaire Response,” dated October 13, 2020 (Zhejiang Xingyi’s IQR).

¹⁸ *See Certain Metal Lockers and Parts Thereof from China: Determinations*, 85 FR 53399 (August 28, 2020) (*ITC Preliminary Determination*); *see also* ITC Publication 5113 (August 2020), entitled *Metal Lockers from China: Investigation Nos. 701-TA-656 and 731-TA-1533 (Preliminary)*.

accordingly on August 31, 2020.¹⁹

Between October 9 and November 17, 2020, we issued supplemental questionnaires to the GOC,²⁰ and Zhejiang Xingyi,²¹ respectively, and between October 26 and November 27, 2020, we received timely responses from the GOC²² and Zhejiang Xingyi,²³ respectively.

On October 15, 2020, the petitioners notified Commerce that Lyon LLC was withdrawing as a petitioner in this investigation, stating that “List Industries, Inc., Penco Products, Inc., and Tensco LLC will continue as the {p}etitioners in {this case}.”²⁴ On November 6, 2020, DeBourgh Manufacturing Co. was listed with List Industries, Inc., Penco Products, Inc., and Tensco LLC as petitioners in this investigation.

We received timely submitted factual information from the petitioners on September 28, October 27, and November 27, 2020.²⁵ On December 1, 2020, we received pre-preliminary comments from the petitioners.²⁶ On December 2, 2020, we received rebuttal factual information from Zhejiang Xingyi.²⁷

¹⁹ See ITC’s Letter, “Notification of ITC Affirmative Preliminary Determinations,” dated August 31, 2020.

²⁰ See Commerce’s Letter, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Government of China Initial Questionnaire Supplemental,” dated November 17, 2020 (GOC First Supplemental).

²¹ See Commerce’s Letters, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Zhejiang Xingyi Metal Products Co., Ltd. Affiliated Companies Response Supplemental Questionnaire,” dated October 9, 2020; and “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Zhejiang Xingyi Metal Products Co., Ltd. Initial Questionnaire Response Supplemental Questionnaire,” dated November 17, 2020.

²² See GOC’s Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China Case No. C-570-134: GOC’s First Supplemental Questionnaire Response,” dated November 27, 2020 (GOC’s First SQR).

²³ See Zhejiang Xingyi’s Letters, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: ZXM’s Supplemental Affiliated Companies Questionnaire Response,” dated October 26, 2020 (Zhejiang Xingyi’s SAFFR); and “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: ZXM’s Second Supplemental Questionnaire Response,” dated November 27, 2020 (Zhejiang Xingyi’s SQR).

²⁴ See Petitioners’ Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Withdrawal of Lyon LLC,” dated October 15, 2020.

²⁵ See Petitioners’ Letters, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Comments on Zhejiang Xingyi Metal Products Co., Ltd.’s Affiliation Response,” dated September 28, 2020; “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Comments on Zhejiang Xingyi Metal Products Co., Ltd.’s Initial Questionnaire Response,” dated October 27, 2020; “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Comments on the Government of China’s Initial Questionnaire Response,” dated October 27, 2020; and “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Submission of Factual Information to Measure Adequacy of Remuneration,” dated November 27, 2020 (Petitioners’ Benchmark Comments).

²⁶ See Petitioners’ Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Pre-Preliminary Comments,” dated December 1, 2020.

²⁷ See Zhejiang Xingyi’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: Rebuttal to Petitioners’ Benchmark Submission,” dated December 2, 2020.

B. Period of Investigation

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

C. Postponement of Preliminary Determination

On September 21, 2020, Commerce postponed the deadline for this preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from the petitioners.²⁸ Accordingly, we postponed the preliminary determination until December 7, 2020, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(e).

D. Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), and based on the petitioners' request,²⁹ we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of metal lockers from China. Consequently, the final CVD determination will be signed on the same date as the final AD determination, which is currently scheduled for no later than April 20, 2021,³⁰ unless postponed.

E. Injury Test

Because China is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On August 28, 2020, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of metal lockers from China that are alleged to be sold at less than fair value and subsidized by the GOC.³¹

III. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,³² we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage.³³ Numerous parties submitted comments and rebuttal comments concerning the scope of the AD and CVD

²⁸ See *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 59287 (September 21, 2020); see also Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Request to Postpone Preliminary Determination," dated September 4, 2020.

²⁹ See Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Request to Align Final Determinations," dated November 30, 2020.

³⁰ See *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Less Than Fair Value Investigation*, 85 FR 77157 (December 1, 2020) (*AD Postponement Notice*).

³¹ See *ITC Preliminary Determination*; see also ITC Publication 5113.

³² See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³³ See *Initiation Notice*, 85 FR at 47354.

investigations of metal lockers from China.³⁴ We are currently evaluating the scope comments filed. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, the deadline for which is February 4, 2021.³⁵ We will incorporate the scope decision from the AD investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The scope of this investigation covers certain metal lockers, with or without doors, and parts thereof (certain metal lockers). For a full description of the scope of this investigation, *see* the *Federal Register* notice accompanying this memorandum at Appendix I.

V. DIVERSIFICATION OF CHINA'S ECONOMY

We placed on the record of this investigation a memorandum in which we determined that the Chinese economy is diverse on a national and regional basis for purposes of any potential *de facto* specificity analysis of the programs under examination.³⁶ This information reflects a wide diversification of economic activities in China across 19 industry groups. We provided an opportunity for the GOC to contest the information provided in the memorandum and did not

³⁴ See Home Depot USA Inc.'s Letter, "Certain Metal Lockers from China: Scope Comments," dated August 25, 2020; *see also* Whirlpool Corporation's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Scope Comments," dated August 25, 2020; Harbor Freight Tools' Letter, "Certain Metal Lockers from the People's Republic of China, Case Nos. A-570-133 and C-570-134: Scope Comments," dated August 25, 2020; NewAge Products Inc.'s Letter, "Metal Lockers from the People's Republic of China: NewAge Product Inc.'s Scope Comments," dated August 25, 2020; Ameziel, Inc.'s Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Scope Comments," dated August 25, 2020; George O'Days, Inc.'s Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Submission of Scope Comments," dated August 25, 2020; WEC Manufacturing, LLC's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Comments on Scope," dated August 25, 2020; Trinity International Industries LLC's Letter, "Trinity International LLC – Rebuttal Scope Comments on the Proposed Scope of Antidumping and Countervailing Duty Investigations on Certain Metal Cabinets and Parts Thereof from the People's Republic of China," dated September 4, 2020; Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Rebuttal Scope Comments," dated September 11, 2020; Harbor Freight's Letters, "Certain Metal Lockers and Parts Thereof from the People's Republic of China, Case Nos. A-570-133 and C-570-134: Rebuttal Scope Comments," dated September 11, 2020; and "Certain Metal Lockers and Parts Thereof from the People's Republic of China, Case Nos. A-570-133 and C-570-134: Additional Rebuttal Scope Comments," dated September 24, 2020; WEC Manufacturing, LLC's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Additional Rebuttal Scope Comments," dated September 24, 2020; NewAge Products Inc.'s Letter, "Metal Lockers from the People's Republic of China: NewAge Product Inc.'s Rebuttal Scope Comments," dated September 24, 2020; Trinity International Industries LLC's Letter, "Trinity International Industries LLC – Scope Comments on the Proposed Scope of Antidumping and Countervailing Duty Investigations on Certain Metal Cabinets and Parts Thereof from the People's Republic of China," dated September 25, 2020; and Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Rebuttal Scope Comments," dated October 2, 2020.

³⁵ See *AD Postponement Notice*.

³⁶ See Memorandum, "Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Transmitting Economic Diversification Memorandum to the Record," dated August 27, 2020.

receive a response.³⁷ Thus, we will continue to find China has a wide diversification of economic activities.

VI. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.³⁸ The U.S. Internal Revenue Service (IRS) has assigned an AUL of 12 years to productive assets employed in the manufacture of fabricated metal products, a classification that includes the subject merchandise.³⁹ Therefore, Commerce finds the AUL in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2) and the IRS' "How to Depreciate Property" (Publication 946). Commerce notified the respondents of the 12-year AUL in the initial questionnaire and requested data accordingly.⁴⁰ No party to this proceeding disputed this allocation period.

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

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to Commerce's regulations further clarifies Commerce's

³⁷ See Initial Questionnaire at Section II, Standard Questions Appendix (Question N); *see also* GOC's IQR.

³⁸ See 19 CFR 351.524(b).

³⁹ See Petition, Volume III, page 23-24 and Exhibit CVD-27.

⁴⁰ See Initial Questionnaire.

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 large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁴¹

Thus, Commerce’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁴²

As noted above, Commerce selected Zhejiang Xingyi as a mandatory respondent. Zhejiang Xingyi is a producer and exporter of subject merchandise.⁴³ During the POI, Zhejiang Xingyi “did not export any subject merchandise to the {United States} produced by other companies.”⁴⁴ Furthermore, Zhejiang Xingyi “did not sell subject merchandise to an export trading company, which then exported it to the United States.”⁴⁵ Zhejiang Xingyi identified its parent company as Hong Kong-based Hong Kong Rui Ding, which is strictly a holding company with no productive operations during the AUL, including the POI.⁴⁶ Zhejiang Xingyi asserts that Hong Kong is an independent customs territory, to which the Chinese government cannot provide any subsidy, and otherwise confirmed that a review of Hong Kong Rui Ding’s records confirms that Hong Kong Rui Ding never received any subsidy consistent with the programs under investigation from any level of the Government of China during the POI or AUL period.⁴⁷ Zhejiang Xingyi also identified Xingxinling Trading Co. Ltd. (Xingxinling Trading) as an affiliated company within the meaning of section 771(33) of the Act, which is a sister company to parent Hong Kong Rui Ding by virtue of common ownership. Xingxinling Trading existed for only a short time in the POI, was shut down before ever operating as a trading company, and did not produce subject merchandise nor inputs to subject merchandise, and never conducted business with Zhejiang Xingyi during the POI.⁴⁸ Additionally, Zhejiang Xingyi identified another company, Hangzhou Xingyi Metal Products Co., Ltd. (Hangzhou Xingyi), which it does not believe to be affiliated within the meaning of section 771(33) of the Act, as any potential affiliation was through its co-owner’s former marital relationship with Hong Kong Rui Ding’s owner, but the

⁴¹ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

⁴² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁴³ See Zhejiang Xingyi’s AFFR at 3.

⁴⁴ *Id.* at 2.

⁴⁵ *Id.* at 3.

⁴⁶ *Id.* at 4-5, 7.

⁴⁷ See Zhejiang Xingyi’s SAFFR at 12.

⁴⁸ See Zhejiang Xingyi’s AFFR at 4-5 and Exhibit 1.

parties divorced in 2015. Zhejiang Xingyi notes that Hangzhou Xingyi is not a parent or holding company, did not produce subject merchandise during the POI or AUL period, and neither received a subsidy from the GOC nor transferred any subsidy to the respondent.⁴⁹ Zhejiang Xingyi identified a further company affiliated through common ownership, Xingyi Metalworking Technology (Zhejiang) Co., Ltd., but reported that this firm was not founded until after the POI.⁵⁰ Finally, Zhejiang Xingyi confirmed that a U.S.-based distributor of brake pads formerly affiliated through familial relationship, Sun Metals Group, LLC (USA), “has never produced subject merchandise, is not a holding or parent company of {Zhejiang Xingyi}, does not and has not provided inputs to {Zhejiang Xingyi} for the production of the downstream product, and has not received and transferred any subsidy to {Zhejiang Xingyi}.”⁵¹

Based on the record information, we find that Zhejiang Xingyi is cross-owned with parent company Hong Kong Rui Ding and with the latter’s sister company, Xingxinling Trading, within the meaning of 19 CFR 351.525(b)(6)(vi), but not cross-owned with the other entities identified above. While Hong Kong Rui Ding meets the parent company attribution rule under 19 CFR 351.525(b)(6)(iii), we preliminarily find no record evidence that the company received any subsidies from the GOC for which we would attribute benefits to respondent. With regard to Xingxinling Trading, we preliminarily find no record evidence that the attribution rules under 19 CFR 351.525(b)(6)(ii)-(v) and (c) would apply nor, in any case, that the company received any relevant subsidies. Consequently, for the preliminary determination, we are measuring subsidy benefits by attributing subsidies received by Zhejiang Xingyi solely to Zhejiang Xingyi’s sales, making no other attributions from any of the other entities identified above.⁵²

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent’s receipt of benefits under each program.⁵³ As discussed in further detail below in the “Programs Preliminarily Determined to Be Countervailable” section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient’s total sales (or the total combined sales of the cross-owned affiliates less inter-company sales) as the denominator. Where the program has been found to be contingent upon export activities, we used the recipient’s total export sales as the denominator. All sales used in our net subsidy rate calculations are net of inter-company sales. For a detailed explanation of the denominators used, *see* Zhejiang Xingyi’s Preliminary Determination Calculations Memorandum.⁵⁴

⁴⁹ *See* Zhejiang Xingyi’s AFFR at 5; *see also* Zhejiang Xingyi’s SQR at 3.

⁵⁰ *See* Zhejiang Xingyi’s AFFR at 3.

⁵¹ *See* Zhejiang Xingyi’s SQR at 5.

⁵² We note that we intend to issue a supplemental questionnaire to Zhejiang Xingyi in the post-preliminary stage of this investigation requesting further documentation to confirm that Hangzhou Xingyi Metal Products Co., Ltd. did not operate as a trading company for ZXM at any point during the AUL by exporting the subject merchandise.

⁵³ *See* 19 CFR 351.525(b)(1)-(5).

⁵⁴ *See* Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Preliminary Determination Calculations for Zhejiang Xingyi Metal Products Co., Ltd.,” dated concurrently with this memorandum (Zhejiang Xingyi’s Preliminary Determination Calculations Memorandum).

VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply “facts otherwise available” (FA) if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide {Commerce} with complete and accurate information in a timely manner.”⁵⁵ 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.”⁵⁶ At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the statute does not provide an express definition of the “failure to act to the best of its ability” standard, the ordinary meaning of “best” is “one’s maximum effort.”⁵⁷ Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the “best of its ability” requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency’s inquiries would suffice to find that a respondent did not act to the best of its ability. While the Federal Circuit noted that the “best of its ability” standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁵⁸ The “best of its ability” standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, “have familiarity with all of the records it maintains,” and “conduct prompt, careful, and comprehensive investigations of all relevant

⁵⁵ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁵⁶ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.

⁵⁷ See *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

⁵⁸ *Id.*, 337 F. 3d at 1382.

records that refer or relate to the imports in question to the full extent of” its ability to do so.⁵⁹ Further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.⁶⁰

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.”⁶¹ It is Commerce’s practice to consider information to be corroborated if it has probative value.⁶² In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.⁶³ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁶⁴ Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.⁶⁵

Finally, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁶

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

B. Application of AFA: Non-Responsive Companies

As noted *supra*, Commerce issued Q&V questionnaires to the 11 companies identified in the Petition via FedEx and ACCESS.⁶⁷ Of those companies, eight did not respond to the Q&V questionnaire.⁶⁸

⁵⁹ *Id.*

⁶⁰ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); see also *Preamble*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel*, 337 F. 3d at 1382-83.

⁶¹ See, e.g., SAA at 870.

⁶² See SAA at 870.

⁶³ See, e.g., SAA at 869.

⁶⁴ See SAA at 869-870.

⁶⁵ See section 776(c)(2) of the Act.

⁶⁶ See section 776(d)(3) of the Act.

⁶⁷ See Q&V Tracking Memo.

⁶⁸ As noted above, Commerce received, but rejected, an untimely-filed Q&V response from Luoyang Shidiu.

Consequently, the following eight companies, in alphabetical order, will be treated as non-responsive companies: (1) Changshu Taron Machinery Equipment Manufacturing Co., Ltd.; (2) Guangdong Yuhua Building Materials Co., Ltd.; (3) Jiangsu Tongrun Tool Cabinet Co., Ltd.; (4) Luoyang Mas Younger Office Furniture Co. / Louyang Mas Younger Export and Import Co.; (5) Luoyang Shidiu; (6) Suzhou Yuanda Commercial Products Co. Ltd.; (7) Winnesen Industry Co., Ltd.; and (8) Xiamen Headleader Technology.

We preliminarily determine that the non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding. Thus, Commerce will rely on facts otherwise available in making its preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act.⁶⁹ Moreover, we preliminarily determine that an adverse inference is warranted in selecting from the facts available, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, each of these companies did not cooperate to the best of its ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

As AFA, we find the non-responsive companies used and benefitted from all programs at issue in this proceeding, including those that we initiated upon and those that were self-reported by Zhejiang Xingyi.⁷⁰ We selected an AFA rate for each program based on the statutory hierarchy provided in section 776(d) of the Act and in accordance with Commerce's practice, and we summed the rates to determine the total AFA rate applied to the non-responsive companies. Commerce has previously countervailed the programs under investigation or similar subsidy programs. For a description of the selection of the AFA rate and our corroboration of this rate, *see* the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections *infra*.

Selection of the AFA Rate

It is our practice in CVD proceedings to determine an AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country. When selecting AFA rates, section 776(d) of the Act provides that we may use a countervailable subsidy rate determined for the same or a similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates.⁷¹ Accordingly, when selecting AFA rates, if we have cooperating respondents, as there are in this investigation, we first determine if there is an identical program in the instant investigation and use the highest calculated rate for the identical

⁶⁹ For the derivation of the preliminary AFA subsidy rate assigned to the non-responsive companies, *see* Appendix.

⁷⁰ *See* Appendix.

⁷¹ *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*), and accompanying Issues and Decision Memorandum (IDM) at 13; *see also Essar Steel Ltd. v. United States*, 753 F. 3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

program. If there is no identical program for which we calculated a subsidy rate above zero for a cooperating respondent in the investigation, we then determine whether an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).⁷² If no such rate exists, we then determine whether there is a similar/comparable program (based on the treatment of the benefit) in any CVD proceeding involving the same country, and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.⁷³

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

Section 776(d)(2) of the Act authorizes Commerce to rely on the highest prior rate under certain circumstances. In deriving an AFA rate under section 776(d)(1)(A) of the Act described above, the provision states that we "may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available."⁷⁴ No legislative history accompanied this particular provision. Accordingly, we are left to interpret this "evaluation by the administering authority of the situation" language in light of existing agency practice, and the structure and provisions of section 776(d) of the Act itself.

The Act anticipates a two-step process for determining an appropriate AFA rate in CVD cases: (1) Commerce may apply its hierarchy methodology, and (2) Commerce may apply the highest rate derived from this hierarchy to a respondent, should it choose to apply that hierarchy in the first place, unless, after an evaluation of the situation that resulted in the use of AFA, Commerce determines that the situation warrants a rate different from the rate derived from the hierarchy be applied.⁷⁵

⁷² For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

⁷³ See *Shrimp from China* IDM at 13-14.

⁷⁴ See section 776(d)(2) of the Act.

⁷⁵ This differs from antidumping proceedings, for which no hierarchy applies, under section 776(d)(1)(B) of the Act. Under that provision, "any dumping margin from any segment of the proceeding under the applicable antidumping order" may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

In applying the AFA rate provision, it is well established that when selecting the rate from among possible sources, we seek to use a rate that is sufficiently adverse to effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in a timely manner. This ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁷⁶ Further, “in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin.”⁷⁷ It is pursuant to this knowledge and experience that we have implemented our AFA hierarchy in CVD cases to select an appropriate AFA rate.⁷⁸

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

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

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

⁷⁶ See SAA at 870; see also *Essar Steel Ltd. v. United States*, 678 F. 3d 1268, 1276 (Fed. Cir. 2012) (citing *F. Lii De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F. 3d 1027, 1032 (Fed. Cir. 2000) (finding that “{t}he purpose of the adverse facts statute is ‘to provide respondents with an incentive to cooperate’ with Commerce’s investigation, not to impose punitive damages.”) (*De Cecco*)).

⁷⁷ See *De Cecco*, 216 F. 3d at 1032.

⁷⁸ We have adopted a practice of applying this hierarchy in CVD cases. See, e.g., *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at 28-31 (applying the AFA hierarchical methodology within the context of CVD investigation); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying IDM at 11-15 (applying the AFA hierarchical methodology within the context of CVD administrative review). However, depending on the type of program, we may not always apply the AFA hierarchy. See, e.g., *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM 7-8 (applying, outside of the AFA hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

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

However, if there is no identical program match within the investigation, or if the rate is zero, then we will shift to the second step of its investigation hierarchy, and either apply the highest non-*de minimis* rate calculated for a cooperating company in another CVD proceeding involving the same country for the identical program, or if the identical program is not available, for a similar program. This step focuses on the amount of subsidies that the government has provided in the past under the investigated program. The assumption under this step is that the non-cooperating respondent under investigation uses the identical program at the highest above *de minimis* rate of any other company using the identical program. Finally, if no such rate exists, under the third step of Commerce's investigation hierarchy, we apply the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.⁷⁹

In all three steps of Commerce's AFA investigation hierarchy, if we were to choose low AFA rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the "reward" for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce's investigation AFA hierarchy (which is different from selecting the highest possible rate in the "pool" of all available rates), we strike a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.⁸⁰ Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an AFA rate under section 776(d)(1) of the Act; that is, after "an evaluation of the situation that resulted in the application of an adverse inference," we may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

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

⁷⁹ In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

⁸⁰ It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying IDM at 2 ("As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and Policy lending programs of the other producer/producer in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did not receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed..."). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as AFA under its hierarchy.

preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.

In applying AFA to determine a net subsidy rate for the non-cooperating companies, we applied the methodology detailed above. We began by selecting, as AFA, the highest calculated program-specific above-zero rates determined for Zhejiang Xingyi in the instant investigation. Accordingly, for the following programs, we are applying to the non-responsive companies the highest subsidy rate calculated for Zhejiang Xingyi in this investigation:

1. Provision of Cold-Rolled Steel for Less Than Adequate Remuneration (LTAR)
2. Provision of Hot-Rolled Steel for LTAR
3. Provision of Galvanized Steel for LTAR
4. Provision of Stainless Steel Coil for LTAR
5. Provision of Electricity for LTAR
6. Policy Loans to the Metal Lockers Industry

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

1. Social Insurance Premium Refund for Difficult Enterprise from Haining Employment Management Service Office
2. Enterprise Development Support Fund from the People's Government of Chang'an Town, Haining

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

1. Income Tax Reduction for High or New Technology Enterprises
2. Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law
3. Preferential Income Tax Policy for Enterprises in the Northeast Region
4. Provincial Government of Guangdong Tax Offset for Research and Development

The standard income tax rate for corporations in China in effect during the POI was 25 percent.⁸¹ Thus, the highest possible benefit for income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, that the four programs, combined, provide a 25 percent benefit). Consistent with Commerce's practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and value added tax (VAT) exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.⁸²

⁸¹ See Petition at 43 and Exhibit CVD-43.

⁸² See, *e.g.*, *Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

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

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

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

1. Trademark Subsidy from Haining Industry and Commerce Bureau Chang'an Office
2. 2012 Domestic and Overseas Exhibition Awards from Haining Finance Bureau
3. Reward for Reach the Standard of Safety Production Standardization from the People's Government of Chang'an Town, Haining
4. 2015 Haining Municipal Financial Incentive Fund – High-Tech Product from Haining Finance Bureau
5. The First Batch Patent Award from the People's Government of Chang'an Town, Haining
6. 2016 Machine Substitution Award from the People's Government of Chang'an Town, Haining
7. 2016 Roof Resource Enterprise Subsidy from the People's Government of Chang'an Town, Haining
8. 2017 Enterprise Cloud Project Financial Subsidy from the People's Government of Chang'an Town, Haining
9. Service Charge Refund for Individual Income Tax from Haining Tax Bureau
10. Smart Electricity Development Support Fund from the People's Government of Chang'an Town, Haining

Based on the methodology described above, we preliminarily determine the AFA net countervailable subsidy rate for the non-responsive companies to be 144.01 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.⁸³

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁸⁴ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.⁸⁵

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.⁸⁶ Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁸⁷

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.⁸⁸

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

⁸³ For the specific case proceedings from which the AFA rates were sourced, *see* Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Preliminary AFA Rate,” dated concurrently with this memorandum.

⁸⁴ *See* SAA at 870.

⁸⁵ *Id.*

⁸⁶ *Id.* at 869-870.

⁸⁷ *See* section 776(d) of the Act.

⁸⁸ *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

selected to use as AFA to the extent practicable pursuant to section 776(c)(1) of the Act for this preliminary determination.

C. Application of AFA: GOC

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

For the non-used programs upon which we initiated, the GOC did not respond to the Initial Questionnaire for those programs.⁸⁹ In the Initial Questionnaire, we requested that the GOC provide complete responses for all programs “regardless of whether the companies under investigation or their ‘cross-owned’ companies, as defined in Section III, applied for, used, or benefited from that program during the POI.”⁹⁰ In its response, the GOC directed Commerce to refer to the respondent’s questionnaire responses or declined to answer some or all of the questions because, in the GOC’s “understanding,” the questions and relevant appendices were not applicable because the mandatory respondent did not use the program.⁹¹

For programs self-reported by Zhejiang Xingyi, as discussed *infra* at “Application of AFA: Other Subsidies,” the GOC refused to provide a response for those programs in its initial questionnaire responses. The GOC stated that Commerce’s request for disclosure of all “other” subsidies is contrary to U.S. law and the WTO Agreement on Subsidies and Countervailing Measures and referred Commerce to the responses of the responding company for information about any other subsidies.⁹²

Commerce requires information about all programs in the event that the application of facts available is deemed appropriate in determining subsidy usage for uncooperative companies, including companies to which Commerce issued Q&V Questionnaires, but which did not respond to the questionnaires. Consequently, we preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to perform our analyses of financial contribution and specificity for the non-used and self-reported programs is not available on the record, the GOC has withheld information that was clearly requested of it, that the GOC significantly impeded the investigation, and, as a result, we must rely on “facts available” in making our preliminary determination. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information when it failed to respond to our questionnaires. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the

⁸⁹ See GOC’s IQR at 4-6, 16-22, 59-62, 76-77, and 80.

⁹⁰ See Initial Questionnaire at Section II (p. 2).

⁹¹ See GOC’s IQR at 4-6, 16-22, 59-62, 76-77, and 80.

⁹² *Id.* at 80-81.

Act. In applying AFA, we find that the non-used and self-reported programs constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act.

D. Application of AFA: Export Buyer's Credits

Commerce preliminarily determines that the use of AFA is warranted in determining the countervailability of the Export Buyer's Credit program, because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program.

In the Initial Questionnaire, we requested that the GOC provide a copy of its "7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China" (Silica Fabric EBC SQR),⁹³ which the GOC provided. Additionally, we requested in our Initial Questionnaire that the GOC also provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the Silica Fabric EBC SQR.⁹⁴ In response to this request for information, the GOC stated that "As the export buyer's credit is one of various standard bank products, there is no law or regulation specifically relating to the export seller's {sic} credit."⁹⁵ Commerce requested this information because, in other CVD proceedings, the GOC has indicated that the GOC revised the Export Buyer's Credit Program in 2013 to eliminate the two million U.S. dollar (USD) contract minimum associated with this lending program.⁹⁶ Thus, we requested in our Initial Questionnaire that the GOC provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the Export Buyer's Credit Supplemental Questionnaire Response. In its response, the GOC failed to provide any of the requested information, save the Silica Fabric EBC SQR, including the 2013 Revisions.⁹⁷ Additionally, we requested that the GOC complete the standard questions appendix for this program.⁹⁸ The GOC responded that because none of Zhejiang Xingyi's U.S. customers used the program during the POI, the "a response to the Standard Questions Appendix is not required."⁹⁹ Furthermore, in our supplemental questionnaire to the GOC, we requested that it coordinate with Zhejiang Xingyi to provide documentation regarding documentation of its largest outstanding loan during the POI.¹⁰⁰ The GOC reported that such proprietary information could not be shared without authorization from relevant parties and that Commerce should direct its request to Zhejiang Xingyi.¹⁰¹

⁹³ See Initial Questionnaire at 7; see also *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017) (*Silica Fabric Final*).

⁹⁴ See Initial Questionnaire at 7.

⁹⁵ See GOC's IQR at 18.

⁹⁶ See *Silica Fabric Final*; see also *Certain Quartz Surface Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23760 (May 23, 2019), and accompanying IDM at Section V. Use of Adverse Facts Available, C. Application of AFA: Export Buyer's Credits.

⁹⁷ See GOC's IQR at 9-10.

⁹⁸ *Id.* at 6.

⁹⁹ *Id.* at 17.

¹⁰⁰ See GOC First Supplemental at 2.

¹⁰¹ See GOC's First SQR at 2-3.

In response to our request that it provide a list of all partner/correspondent banks involved in the disbursement of funds under the program, the GOC stated that “the GOC confirms that it collected the U.S. customer list from the respondent and that none of the U.S. customers of the respondent have used the alleged program during the POI. Therefore, this question is not applicable.”¹⁰² Commerce cannot verify claims of non-usage, whether originating with the respondent or its 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. By refusing to provide the requested information and instead asking Commerce to rely upon unverifiable assurances, the GOC impeded Commerce’s ability to properly verify use of this program.

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 uses facts otherwise available. We find that the use of facts otherwise available is appropriate in light of the GOC’s refusal to provide the documents cited in the Silica Fabric EBC SQR, a list of partner/correspondent banks involved in program, and response to the requested appendix of questions in the Initial Questionnaire.

Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding of information and significantly impeding this proceeding, failed to cooperate by not acting to the best of its ability. Accordingly, the application of AFA is warranted. Specifically, the GOC has not provided complete information concerning the administration and operation of the program, including how loans are disbursed, such as through intermediate or correspondent banks, the identities of which the GOC has withheld from Commerce. This information is necessary to understand fully how the Export Buyer’s Credit 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.”¹⁰³

In its responses, as noted above, the GOC has indicated its refusal to provide information about the internal administration of the program. 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 respondent company’s 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. As explained above, without understanding how this program operates, we cannot ascertain what a proper database search entails. For example, we do not know whether the

¹⁰² See GOC’s IQR at 19.

¹⁰³ See *Nippon Steel Corp v. United States*, 337 F. 3d 1373, 1382 (Fed. Cir. 2003).

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. Similar to the obstacles we would face in attempting to verify usage by the exporter or U.S. customer, Commerce would 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 would not even know what books and records the China ExIm Bank maintains in the ordinary courses of its operations). Essentially, Commerce is unable to verify the little information on the record indicating non-usage (*e.g.*, the claims of the GOC and emails and certifications of U.S. customers), with the exporters, U.S. customers or at the China ExIm Bank itself given the refusal of the GOC to provide relevant documentation concerning the program's administration and a complete list of correspondent/partner/intermediate banks. Therefore, we determine that the GOC has not cooperated to the best of its ability and, as AFA, find that the respondent 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 program is specific because it is contingent on exports 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, we note that the GOC's description of the program and supporting materials (albeit 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.¹⁰⁴ In addition, the program was alleged by the petitioner as a possible export subsidy.¹⁰⁵ Finally, Commerce has found this program to be an export subsidy in the past.¹⁰⁶ Thus, taking all such information into consideration indicates the provision of export buyer's credits is contingent on exports within the meaning of section 771(5A)(A) and (B) of the Act.

Under section 776(d) of the Act, Commerce may use, as AFA, a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.¹⁰⁷

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

¹⁰⁴ See GOC IQR at 17-19, and Exhibit Export-1.

¹⁰⁵ See Initiation Checklist at 10-11.

¹⁰⁶ 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.

¹⁰⁷ See section 776(d)(3) of the Act.

Coated Paper from China Investigation Amended Final proceeding, as the rate applicable to Zhejiang Xingyi and the non-cooperative companies.¹⁰⁸ Additionally, based on the methodology also described above for corroborating secondary information, we have corroborated the selected rate to the extent possible and find that the rate is reliable and relevant for use as an AFA rate for the Export Buyer's Credits program.

E. Application of AFA: Provision of Electricity for LTAR

The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR.¹⁰⁹ These questions requested information needed to determine whether the provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provides a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision is specific within the meaning of section 771(5A) of the Act.

In order for Commerce to analyze the financial contribution and specificity of this program, we requested that the GOC provide information regarding the roles of provinces, the National Development and Reform Commission (NDRC), and cooperation between the provinces and the NDRC in electricity price adjustments. Specifically, Commerce requested, *inter alia*, Provincial Price Proposals for each province in which mandatory respondents or any company "cross-owned" with those respondents is located for applicable tariff schedules that were in effect during the POI; all original NDRC Electricity Price Adjustment Notice(s) that were in effect during the POI; the procedure for adjusting retail electricity tariffs and the role of the NDRC and the provincial governments in this process; the price adjustment conferences that took place between the NDRC and the provinces, grids and power companies with respect to the creation of all tariff schedules that were applicable to the POI; the cost elements and adjustments that were discussed between the provinces and the NDRC in the price adjustment conferences; and how the NDRC determines that the provincial level price bureaus have accurately reported all relevant cost elements in their price proposals with respect to generation, transmission and distribution.¹¹⁰ Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, to identify entities that manage and affect price adjustment processes, and to examine cost elements supposedly accounted for in the derivation of electricity prices in effect throughout China during the POI.

In its initial questionnaire response, the GOC stated that, since January 1, 2016, "all of the provincial governments, including Zhejiang {Province}," where the mandatory respondent is located, "have been given authority to prepare and publish electricity tariff rates for their own jurisdictions."¹¹¹ Therefore, according to the GOC, Provincial Price Proposals were eliminated.¹¹² Consequently, according to the GOC, the NDRC's role in regulating provincial

¹⁰⁸ 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).

¹⁰⁹ See GOC's IQR at Electricity Appendix; see also GOC's SQR at 5-8.

¹¹⁰ See Initial Questionnaire at Electricity Appendix.

¹¹¹ See GOC's IQR at Exhibit ELEC-1 (Electricity Appendix) (p. 1).

¹¹² *Id.*

electricity pricing is at the macro level, and the NDRC no longer determines the specific electricity sales prices.¹¹³

Commerce preliminarily determines that the record indicates the NDRC continues to play a significant and determinative role in setting electricity prices,¹¹⁴ and that the GOC's failure to provide detailed information concerning the establishment of varying prices across provinces by the NDRC and the provinces constitutes a lack of cooperation. Because of this failure to cooperate fully, Commerce lacks information that would allow it to determine whether the varying provincial prices established under the NDRC-administered program are the result of market considerations or the result of a design to subsidize certain regions or industries. In particular, NDRC Notice 3105, is based upon consultations between the NDRC and the National Energy Administration, and directs additional price reductions, and stipulates at Article II that local price authorities shall implement the price reductions included in its appendix and report the resulting prices to the NDRC.¹¹⁵ Consequently, Notice 3015 explicitly directs provinces to reduce prices and to report the enactment of such changes to the NDRC. Notice 3105 does not stipulate that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC claims.¹¹⁶ Instead, it indicates that the NDRC continues to play a seminal role in setting and adjusting electricity prices by mandating price adjustment targets.

Notice 3105, issued by the NDRC, directs provinces to reduce prices by amounts specific to provinces. This notice neither explicitly eliminates Provincial Price Proposals nor defines distinctions in price-setting roles between national and provincial pricing authorities. The GOC failed to explain fully the roles of each level of government and the nature of the cooperation between the NDRC and the provinces in deriving electricity price adjustments. The information provided by the GOC indicates that despite its claim that the responsibility for setting prices within each province has moved from the NDRC to the provincial governments, the NDRC continues to play a major role in setting and adjusting prices. Furthermore, the GOC failed to explain both the derivation of price reductions required of the provinces by the NDRC and the derivation of the provincial prices themselves.

In a supplemental questionnaire, we requested that the GOC submit a revised response to the Electricity Appendix fully explaining the roles of the NDRC and the provinces in determining adjustments to electricity prices.¹¹⁷ We also asked the GOC to explain how the change in the price of coal for generation leads to an adjustment of the benchmark issued by the NDRC and to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into electricity price adjustments.¹¹⁸ In its supplemental response, the GOC did not submit a revised response to the Electricity Appendix.¹¹⁹ Instead, the GOC stated that the NDRC

¹¹³ *Id.* at 2-3.

¹¹⁴ *Id.* at 1-10.

¹¹⁵ *Id.* at Exhibit ELEC-4.

¹¹⁶ *Id.*

¹¹⁷ *See* GOC First SQR at 5-6.

¹¹⁸ *Id.* at 5.

¹¹⁹ *Id.*

is responsible for establishing general guidelines in setting and adjusting electricity prices, and the provincial pricing authority calculates the electricity price changes.¹²⁰

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

Additionally, Zhejiang Xingyi reported purchasing a certain amount of electricity from a third-party wholesaler during the POI.¹²¹ In its initial questionnaire response, the GOC did not mention Zhejiang Xingyi's wholesale purchases of electricity, despite being instructed to coordinate its response with Zhejiang Xingyi.¹²²

In a supplemental questionnaire, we asked the GOC to explain its relation to wholesale electricity producers and suppliers.¹²³ The GOC responded that "there are no published, special regulations regarding 'wholesalers' providing electricity for the metal lockers industry," and "the information already provided {by the GOC} is sufficient for {Commerce} to calculate any benefit received by {Zhejiang Xingyi}."¹²⁴

We find that the GOC's responses concerning the electricity wholesaler do not constitute a full explanation regarding the nature of electricity wholesalers, and the GOC's relationship with them. We note that the GOC did not submit any documentation identifying the electricity wholesaler that sold electricity to Zhejiang Xingyi, including information as to whether the GOC owned the wholesaler, and in what amount.

Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity and, thus, Commerce must rely on "facts available" in making our preliminary determination.¹²⁵ Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Thus, an adverse inference is warranted in the application of facts available.¹²⁶ In drawing an adverse inference, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and the provincial governments. Therefore, we are also drawing an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.¹²⁷ The benchmark rates were selected from the record of this investigation and are the highest

¹²⁰ *Id.*

¹²¹ *See* Zhejiang Xingyi's IQR at 29-30.

¹²² *See, e.g.,* GOC IQR at 22-23.

¹²³ *See* GOC First SQR at 8.

¹²⁴ *Id.*

¹²⁵ *See* section 776(a)(2)(A) of the Act.

¹²⁶ *See* section 776(b) of the Act.

¹²⁷ *See* section 776(b)(4) of the Act.

electricity rates on the record for the applicable rate and user categories. We have relied upon electricity usage and rates paid by the company under investigation to calculate POI benefits attributable to the mandatory respondent. Additionally, we have used the same benchmark rates to calculate the POI benefits of Zhejiang Xingyi's wholesale purchases of electricity.

For details regarding the remainder of our analysis, *see* "Provision of Electricity for LTAR" section *infra*.

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

As discussed below, under the section "Programs Preliminarily Found to Be Countervailable," Commerce is investigating whether the GOC provided cold-rolled steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing cold-rolled steel to Zhejiang Xingyi are "authorities" within the meaning of section 771(5)(B) of the Act. In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.¹²⁸

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of cold-rolled steel and to respond to the Input Producer Appendix for each producer which produced the cold-rolled steel purchased by the respondent.¹²⁹ We instructed the GOC to coordinate with the respondent to obtain a complete list of the cold-rolled steel producers, including the producers of inputs purchased through a supplier.¹³⁰ In response to the Initial Questionnaire, Zhejiang Xingyi identified the companies that produced and supplied the cold-rolled steel which they purchased during the POI.¹³¹ The GOC confirmed the producers in its questionnaire response.¹³²

While the GOC provided the ownership of the producers of cold-rolled steel,¹³³ it did not provide all the information requested of it in the initial and supplemental questionnaires.¹³⁴ Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.¹³⁵

Regarding those enterprises producing cold-rolled steel that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and

¹²⁸ *See, e.g., Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*Welded Pipe from China*), and accompanying IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; *see also Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Kitchen Racks from China*), and accompanying IDM at "Provision of Wire Rod for Less than Adequate Remuneration."

¹²⁹ *See* Initial Questionnaire at Section II (p. 11 – 14).

¹³⁰ *Id.* at Section II (p. 8).

¹³¹ *See* Zhejiang Xingyi's IQR at Exhibit E-4.

¹³² *See* GOC's IQR at Exhibit CRS-1.

¹³³ *Id.* at Exhibit CRS-3.

¹³⁴ *See* Initial Questionnaire at Section II (p. 11 – 14); *see also* GOC First SQR at 3 – 5.

¹³⁵ *See* Initial Questionnaire at Section II (p. 11 – 14); *see also* GOC First SQR at 3 – 5.

capital verification reports of all majority government-owned enterprises.¹³⁶ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.¹³⁷ The GOC however did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that “the information obtained from {the Market Entity Credit Information Publicity System (MECIPS)} is authoritative evidence of the ownership structure of enterprises in China.”¹³⁸

As explained in the Public Bodies Memorandum,¹³⁹ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.¹⁴⁰ Record evidence demonstrates that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.¹⁴¹ Therefore, we preliminarily determine that the majority government-owned enterprises from which Zhejiang Xingyi purchased cold-rolled steel are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act was provided.

With respect to those entities producing cold-rolled steel that the GOC reported as being non-majority government-owned enterprises, the GOC provided ownership structure and basic registration information, but did not provide other relevant documentation requested by Commerce, including articles of incorporation, capital verification reports, company by-laws, annual reports, and articles of association.¹⁴² The GOC again stated that “the information obtained from MECIPS is authoritative evidence for the ownership structure of enterprises {in China}.”¹⁴³

Additionally, the GOC did not provide the information that Commerce requested regarding the Chinese Communist Party (CCP) for the cold-rolled steel producers identified as non-majority government-owned.¹⁴⁴ Instead, the GOC asserted that “the CCP is not a government authority . . . the CCP is a political party.”¹⁴⁵ The GOC further stated that “there is no central governmental database to search for the requested information on whether any individual owner, member of the board of directors, or senior manager is a Government or CCP official.”¹⁴⁶ Thus, the GOC stated that it “cannot obtain the information requested by {Commerce}.”¹⁴⁷

¹³⁶ See Initial Questionnaire at Section II (Input Producer Appendix).

¹³⁷ See GOC’s IQR at Exhibit CRS-3.

¹³⁸ *Id.* at Exhibit CRS-1 (p. 1).

¹³⁹ See Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Public Bodies Analysis Memo,” dated August 26, 2020 (Public Bodies Memorandum).

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² See GOC’s IQR at Exhibit CRS-1 (p. 1 – 2).

¹⁴³ *Id.* at Exhibit CRS-1 (p. 2).

¹⁴⁴ *Id.* at Exhibit CRS-1 (p. 8 – 20).

¹⁴⁵ *Id.* at Exhibit CRS-1 (p. 9).

¹⁴⁶ *Id.* at Exhibit CRS-1 (p. 18).

¹⁴⁷ *Id.*

As explained in the Public Bodies Memorandum, Commerce understands the CCP to exert significant control over economic activities in China.¹⁴⁸ Consequently, Commerce finds, as it has in prior CVD proceedings,¹⁴⁹ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the cold-rolled steel producers non-majority owned by the government is necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act.

Because the GOC did not submit the requested information, we lack the data necessary to reach a determination of whether the input producers that are non-majority government-owned are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the GOC not only withheld information that was requested of it with regard to the input purchases by Zhejiang Xingyi, but also impeded this investigation.¹⁵⁰

Accordingly, Commerce must rely on “facts otherwise available” in reaching a determination in this respect. Based on the record, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with the requests for information regarding the non-majority government-owned producers of cold-rolled steel because it did not provide the requested information.¹⁵¹ Consequently, we find that an adverse inference is warranted in the application of facts available.¹⁵²

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.¹⁵³ Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminarily determine that the non-majority government-owned domestic producers of the cold-rolled steel purchased by Zhejiang Xingyi are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act, was provided.

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

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

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

¹⁴⁸ See Public Bodies Memorandum; *see also* Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Placing Public Documentation on the Record,” dated June 8, 2020 (Public Info Memorandum).

¹⁴⁹ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) (*Citric Acid 2012*), and accompanying IDM at Comment 5.

¹⁵⁰ See sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

¹⁵¹ See sections 776(a) and (b) of the Act.

¹⁵² See section 776(b) of the Act.

¹⁵³ See Public Bodies Memorandum.

Provide a list of the industries in the China that purchase {cold-rolled steel} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.¹⁵⁴

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “cold-rolled steel is widely used in various industries.”¹⁵⁵ The GOC provided no purchase data or supporting documentation.¹⁵⁶ We issued a supplemental questionnaire to the GOC requesting again this purchase information that is necessary for Commerce to analyze the number of users, industries, and quantities of cold-rolled steel supplied to various industries.¹⁵⁷ In its supplemental response, the GOC merely pointed to its inadequate response in its initial questionnaire response.¹⁵⁸

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

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

In order to determine the appropriate benchmark with which to measure the benefit from the provision of cold-rolled steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the cold-rolled steel industry in China. Specifically, we requested the GOC to provide information on the total number of cold-rolled steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.¹⁵⁹ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC

¹⁵⁴ See Initial Questionnaire at Section II (p. 12).

¹⁵⁵ See GOC’s IQR at 41.

¹⁵⁶ *Id.*

¹⁵⁷ See GOC First SQ at 4.

¹⁵⁸ See GOC’s First SQR at 5.

¹⁵⁹ See Initial Questionnaire at Section II (p. 11 – 12).

maintains some, but less than a majority, ownership interest.¹⁶⁰ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.¹⁶¹

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.¹⁶² However, we require additional data, as described above, to assess the GOC's involvement in the cold-rolled steel market. In response to our request for other information, the GOC stated that it does not have the number of cold-rolled steel producers and could only provide the volume data of cold-rolled steel production, not the value data of cold-rolled steel production, nor the volume or value data of cold-rolled steel consumption.¹⁶³ In response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that "{t}here has been no such data collected or compiled by the authorities in general or on an industry-specific basis."¹⁶⁴

We note that the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.¹⁶⁵ Specifically, Commerce has verified the operation of the GOC's "Enterprise Credit Information Publicity System," which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.¹⁶⁶ Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.¹⁶⁷ Therefore, information related to the operation and ownership of companies within the cold-rolled steel industry is in fact available to the GOC.

The requested information on the cold-rolled steel industry is necessary for Commerce to conduct a full analysis of the GOC's involvement in the market and thus determine if the domestic prices are distorted (*i.e.*, unusable as a "tier one" benchmark). We preliminarily determine that the necessary information on the cold-rolled steel market is not available on the record. Because the GOC withheld information that was requested of it and significantly

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² See GOC's IQR at Exhibit CRS-3.

¹⁶³ *Id.* at 36-37.

¹⁶⁴ *Id.* at 38.

¹⁶⁵ See, e.g., *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review: 2013*, 80 FR 77318 (December 14, 2015) (*Citric Acid 2013*), and accompanying IDM at Comment 2.

¹⁶⁶ See *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 46643 (July 18, 2016) (*SSSS from China Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 21-22, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017) (*SSSS from China Final*), and accompanying IDM.

¹⁶⁷ *Id.*

impeded this proceeding, Commerce must rely on “facts available” in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. Accordingly, as AFA, we preliminarily determine that the GOC’s involvement in the cold-rolled steel market in China results in the significant distortion of the prices of cold-rolled steel, such that they cannot be used as a tier-one benchmark under 19 CFR 351.511(a)(2)(i), and hence, the use of external benchmarks, as described under 19 CFR 351.511(a)(2)(ii), is warranted to calculate the benefit for the provision of cold-rolled steel for LTAR.

I. Application of AFA: Hot-Rolled Steel Producers Are “Authorities”

As discussed below, under the section “Programs Preliminarily Found to Be Countervailable,” Commerce is investigating whether the GOC provided hot-rolled steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing hot-rolled steel to the responding companies are “authorities” within the meaning of section 771(5)(B) of the Act. In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an “authority” within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.¹⁶⁸

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of hot-rolled steel and to respond to the Input Producer Appendix for each producer which produced the hot-rolled steel purchased by the respondent.¹⁶⁹ We instructed the GOC to coordinate with the respondent to obtain a complete list of the hot-rolled steel producers, including the producers of inputs purchased through a supplier.¹⁷⁰ In response to the Initial Questionnaire, Zhejiang Xingyi identified the companies that produced and supplied the hot-rolled steel which they purchased during the POI.¹⁷¹ The GOC confirmed the producers in its questionnaire response.¹⁷²

While the GOC provided the ownership of the producers of hot-rolled steel,¹⁷³ it did not provide all the information requested of it in the initial and supplemental questionnaires.¹⁷⁴ Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.¹⁷⁵

¹⁶⁸ See, e.g., *Welded Pipe from China* IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Racks from China* IDM at “Provision of Wire Rod for Less than Adequate Remuneration.”

¹⁶⁹ See Initial Questionnaire at Section II (p. 9 – 12).

¹⁷⁰ *Id.* at Section II (p. 9).

¹⁷¹ See Zhejiang Xingyi’s IQR at Exhibit E-4.

¹⁷² See GOC’s IQR at Exhibit HRS-2.

¹⁷³ *Id.*

¹⁷⁴ See Initial Questionnaire at Section II (p. 11 – 14); see also GOC First SQR at 3-5.

¹⁷⁵ See Initial Questionnaire at Section II (p. 11 – 14); see also GOC First SQR at 3-5.

Regarding those enterprises producing hot-rolled steel that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.¹⁷⁶ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.¹⁷⁷ The GOC however did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that “the information obtained from {the Market Entity Credit Information Publicity System (MECIPS)} is authoritative evidence of the ownership structure of enterprises in China.”¹⁷⁸

As explained in the Public Bodies Memorandum,¹⁷⁹ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.¹⁸⁰ Record evidence demonstrates that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.¹⁸¹ Therefore, we preliminarily determine that the majority government-owned enterprises from which Zhejiang Xingyi purchased hot-rolled steel are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act was provided.

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

J. Application of AFA: Hot-Rolled Steel Is Specific

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

Provide a list of the industries in the China that purchase {hot-rolled steel} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.¹⁸²

¹⁷⁶ See Initial Questionnaire at Section II (Input Producer Appendix).

¹⁷⁷ See GOC’s IQR at Exhibit HRS-2.

¹⁷⁸ *Id.* at Exhibit HRS-1 (p. 1).

¹⁷⁹ See Public Bodies Memorandum.

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² See Initial Questionnaire at Section II (p. 11).

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “hot-rolled steel is widely used in various industries.”¹⁸³ The GOC provided no purchase data or supporting documentation.¹⁸⁴

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

K. Application of AFA: Hot-Rolled Steel Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of hot-rolled steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the hot-rolled steel industry in China. Specifically, we requested the GOC to provide information on the total number of hot-rolled steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.¹⁸⁵ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.¹⁸⁶ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.¹⁸⁷

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.¹⁸⁸ However, we require additional data, as described above, to assess the GOC’s involvement in the hot-rolled steel market. In response to our request for other information, the GOC stated that it does not have the number of hot-rolled steel producers, and that “no such data has been collected or compiled by the authorities with regard to the domestic consumption and production of hot-rolled steel.”¹⁸⁹ In response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that “{t}here has been no such data collected or compiled by the authorities in general or on an industry-specific basis.”¹⁹⁰

¹⁸³ See GOC’s IQR at 29.

¹⁸⁴ *Id.*

¹⁸⁵ See Initial Questionnaire at Section II (p. 9-10).

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ See GOC’s IQR at Exhibit HRS-1.

¹⁸⁹ *Id.* at 26.

¹⁹⁰ *Id.*

We note that the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.¹⁹¹ Specifically, Commerce has verified the operation of the GOC’s “Enterprise Credit Information Publicity System,” which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.¹⁹² Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.¹⁹³ Therefore, information related to the operation and ownership of companies within the hot-rolled steel industry is in fact available to the GOC.

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

L. Application of AFA: Galvanized Steel Producers Are “Authorities”

As discussed below, under the section “Programs Preliminarily Found to Be Countervailable,” Commerce is investigating whether the GOC provided galvanized steel for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing galvanized steel to the responding companies are “authorities” within the meaning of section 771(5)(B) of the Act. In prior CVD proceedings involving China, Commerce has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an “authority” within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.¹⁹⁴

¹⁹¹ See, e.g., *Citric Acid 2013* IDM at Comment 2.

¹⁹² See *SSSS from China Prelim* PDM at 21-22, unchanged in *SSSS from China Final*.

¹⁹³ *Id.*

¹⁹⁴ See, e.g., *Welded Pipe from China* IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Racks from China* IDM at “Provision of Wire Rod for Less than Adequate Remuneration.”

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of galvanized steel and to respond to the Input Producer Appendix for each producer which produced the galvanized steel purchased by the respondent.¹⁹⁵ We instructed the GOC to coordinate with the respondents to obtain a complete list of the galvanized steel producers, including the producers of inputs purchased through a supplier.¹⁹⁶ In response to the Initial Questionnaire, Zhejiang Xingyi identified the companies that produced and supplied the galvanized steel which they purchased during the POI.¹⁹⁷ The GOC confirmed the producers in its questionnaire response.¹⁹⁸

While the GOC provided the ownership of the producers of galvanized steel,¹⁹⁹ it did not provide all the information requested of it in the initial and supplemental questionnaires.²⁰⁰ Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.²⁰¹

With respect to those entities producing galvanized steel that the GOC reported as being non-majority government-owned enterprises, the GOC provided ownership structure and basic registration information, but did not provide other relevant documentation requested by Commerce, including articles of incorporation, capital verification reports, company by-laws, annual reports, and articles of association.²⁰² The GOC again stated that “the information obtained from MECIPS is authoritative evidence for the ownership structure of enterprises {in China}.”²⁰³

Additionally, the GOC did not provide the information that Commerce requested regarding the CCP for the galvanized steel producers identified as non-majority government-owned.²⁰⁴ Instead, the GOC asserted that “{t}he CCP is not a government authority... the CCP is a political party,”²⁰⁵ and “the CCP cannot project direct authority over the operation of the company.”²⁰⁶ The GOC further stated that “there is no central governmental database to search for the requested information on whether any individual owner, member of the board of directors, or senior manager is a Government or CCP official.”²⁰⁷ Thus, the GOC stated that it “cannot obtain the information requested by {Commerce}.”²⁰⁸

As explained in the Public Bodies Memorandum, Commerce understands the CCP to exert significant control over economic activities in China.²⁰⁹ Consequently, Commerce finds, as it

¹⁹⁵ See Initial Questionnaire at Section II (p. 15 – 18).

¹⁹⁶ *Id.* at Section II (p. 9).

¹⁹⁷ See Zhejiang Xingyi’s IQR at Exhibit E-6.

¹⁹⁸ See GOC’s IQR at Exhibit GS-2.

¹⁹⁹ *Id.*

²⁰⁰ See Initial Questionnaire at Section II (p. 15 – 18); see also GOC First SQ at 2.

²⁰¹ See Initial Questionnaire at Section II (p. 15 – 18); see also GOC First SQ at 2.

²⁰² See GOC’s IQR at Exhibit GS-1 (p. 1 – 2).

²⁰³ *Id.* at Exhibit GS-1 (p. 2).

²⁰⁴ *Id.* at Exhibit GS-1 (p. 8 – 20).

²⁰⁵ *Id.* at Exhibit GS-1 (p.9).

²⁰⁶ *Id.* at Exhibit GS-1 (p. 11).

²⁰⁷ *Id.* at Exhibit GS-1 (p. 18)

²⁰⁸ *Id.*

²⁰⁹ See Public Bodies Memorandum; see also Public Info Memorandum.

has in prior CVD proceedings,²¹⁰ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the galvanized steel producers non-majority owned by the government is necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act.

Because the GOC did not submit the requested information, we lack the data necessary to reach a determination of whether the input producers that are non-majority government-owned are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the GOC not only withheld information that was requested of it with regard to the input purchases by Zhejiang Xingyi, but also impeded this investigation.²¹¹

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 galvanized steel because it did not provide the requested information.²¹² Consequently, we find that an adverse inference is warranted in the application of facts available.²¹³

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.²¹⁴ Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminarily determine that the non-majority government-owned domestic producers of the galvanized steel purchased by Zhejiang Xingyi are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act, was provided.

For details on the calculation of the subsidy rate for Zhejiang Xingyi, *see infra* at “Provision of Galvanized Steel for LTAR.”

M. Application of AFA: Galvanized Steel Is Specific

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

Provide a list of the industries in the China that purchase galvanized steel directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to

²¹⁰ See *Citric Acid 2012* IDM at Comment 5.

²¹¹ See sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

²¹² See sections 776(a) and (b) of the Act.

²¹³ See section 776(b) of the Act.

²¹⁴ See Public Bodies Memorandum.

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.²¹⁵

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “galvanized steel is widely used in various industries.”²¹⁶ The GOC provided no purchase data or supporting documentation.²¹⁷

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

N. Application of AFA: Galvanized Steel Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of galvanized steel for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the galvanized steel industry in China. Specifically, we requested the GOC to provide information on the total number of galvanized steel producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.²¹⁸ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.²¹⁹ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.²²⁰

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.²²¹ However, we require additional data, as described above, to assess the GOC’s involvement in the galvanized steel market. In response to our request for other information, the GOC stated that it does not have the number of galvanized steel producers and could not provide the volume or value data of galvanized steel production or consumption.²²² In

²¹⁵ See Initial Questionnaire at Section II (p. 16).

²¹⁶ See GOC’s IQR at 52.

²¹⁷ *Id.* at 52-53.

²¹⁸ See Initial Questionnaire at Section II (p. 15 – 16).

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ See GOC’s IQR at 48-50 and Exhibits cited therein.

²²² *Id.* at 48-50.

response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that “{t}here has been no such data collected or compiled by the authorities in general or on an industry-specific basis.”²²³

We note that the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.²²⁴ Specifically, Commerce has verified the operation of the GOC’s “Enterprise Credit Information Publicity System,” which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to bring clarity to companies registered in China.²²⁵ Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.²²⁶ Therefore, information related to the operation and ownership of companies within the galvanized steel industry is in fact available to the GOC.

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

O. Application of AFA: Stainless Steel Coil Producers Are “Authorities”

As discussed below, under the section “Programs Preliminarily Found to Be Countervailable,” Commerce is investigating whether the GOC provided stainless steel coil for LTAR. As part of its analysis, Commerce sought information that would allow it to analyze whether the producers providing stainless steel coil to the responding companies are “authorities” within the meaning of section 771(5)(B) of the Act. In prior CVD proceedings involving China, Commerce has

²²³ *Id.* at 49.

²²⁴ *See, e.g., Citric Acid 2013 IDM* at Comment 2.

²²⁵ *See SSSS from China Prelim PDM* at 21-22, unchanged in *SSSS from China Final*.

²²⁶ *Id.*

determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an “authority” within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was for LTAR.²²⁷

In the Initial Questionnaire, we asked the GOC to answer specific questions regarding the producers of stainless steel coil and to respond to the Input Producer Appendix for each producer which produced the stainless steel coil purchased by the respondents.²²⁸ We instructed the GOC to coordinate with the respondents to obtain a complete list of the stainless steel coil producers, including the producers of inputs purchased through a supplier.²²⁹ In response to the Initial Questionnaire, Zhejiang Xingyi identified the companies that produced and supplied the stainless steel coil which they purchased during the POI.²³⁰ The GOC confirmed the producers in its questionnaire response.²³¹

While the GOC provided the ownership of the producers of stainless steel coil,²³² it did not provide all the information requested of it in the initial and supplemental questionnaires.²³³ Commerce requested certain information be provided with respect to both the majority government-owned and non-majority government-owned enterprises.²³⁴

Regarding those enterprises producing stainless steel coil that the GOC identified as majority government-owned, Commerce requested the GOC to provide the articles of incorporation and capital verification reports of all majority government-owned enterprises.²³⁵ The GOC provided partial information (*i.e.*, basic registration and shareholder structure) with respect to the government-owned enterprises.²³⁶ The GOC however did not provide the articles of incorporation and capital verification reports for any of the majority government-owned enterprises stating that “the information obtained from {the Market Entity Credit Information Publicity System (MECIPS)} is authoritative evidence of the ownership structure of enterprises in China.”²³⁷

As explained in the Public Bodies Memorandum,²³⁸ record evidence demonstrates that producers in China that are majority-owned by the government possess, exercise, or are vested with, governmental authority.²³⁹ Record evidence demonstrates that the GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market

²²⁷ See, e.g., *Welded Pipe from China* IDM at Hot-Rolled Steel for Less Than Adequate Remuneration; see also *Kitchen Racks from China* IDM at “Provision of Wire Rod for Less than Adequate Remuneration.”

²²⁸ See Initial Questionnaire at Section II (p. 21 – 23).

²²⁹ *Id.* at Section II (p. 9).

²³⁰ See Zhejiang Xingyi’s IQR at Exhibit E-8.

²³¹ See GOC’s IQR at Exhibit SSC-2.

²³² *Id.*

²³³ See Initial Questionnaire at Section II (p. 21 – 23); see also GOC’s First SQR at 4 – 5.

²³⁴ See Initial Questionnaire at Section II (p. 21 – 23); see also GOC’s First SQR at 4 – 5.

²³⁵ See Initial Questionnaire at Section II (Input Producer Appendix).

²³⁶ See GOC’s IQR at Exhibit SSC-2.

²³⁷ *Id.* at Exhibit SSC-1 (p. 1).

²³⁸ See Public Bodies Memorandum.

²³⁹ *Id.*

economy, allocating resources, and maintaining the predominant role of the state sector.²⁴⁰ Therefore, we preliminarily determine that the majority government-owned enterprises from which Zhejiang Xingyi purchased stainless steel coil 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 those entities producing stainless steel coil that the GOC reported as being non-majority government-owned enterprises, the GOC provided ownership structure and basic registration information, but did not provide other relevant documentation requested by Commerce, including articles of incorporation, capital verification reports, company by-laws, annual reports, and articles of association.²⁴¹ The GOC again stated that “the information obtained from MECIPS is authoritative evidence for the ownership structure of enterprises {in China}.”²⁴²

Additionally, the GOC did not provide the information that Commerce requested regarding the CCP for the stainless steel coil producers identified as non-majority government-owned.²⁴³ Instead, the GOC asserted that “{t}he CCP is not a government authority... the CCP is a political party,”²⁴⁴ and “the CCP cannot project direct authority over the operation of the company.”²⁴⁵ The GOC further stated that “there is no central governmental database to search for the requested information on whether any individual owner, member of the board of directors, or senior manager is a Government or CCP official.”²⁴⁶ Thus, the GOC stated that it “cannot obtain the information requested by {Commerce}.”²⁴⁷

As explained in the Public Bodies Memorandum, Commerce understands the CCP to exert significant control over economic activities in China.²⁴⁸ Consequently, Commerce finds, as it has in prior CVD proceedings,²⁴⁹ that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the stainless steel coil producers non-majority owned by the government is necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act.

Because the GOC did not submit the requested information, we lack the data necessary to reach a determination of whether the input producers that are non-majority government-owned are authorities within the meaning of section 771(5)(B) of the Act. Therefore, we determine that necessary information is not available on the record, and that the GOC not only withheld information that was requested of it with regard to the input purchases by Zhejiang Xingyi, but also impeded this investigation.²⁵⁰

²⁴⁰ *Id.*

²⁴¹ *See* GOC’s IQR at Exhibit SSC-1 (p. 1 – 2).

²⁴² *Id.* at Exhibit SSC-1 (p. 2).

²⁴³ *Id.* at Exhibit SSC-1 (p. 8 – 20).

²⁴⁴ *Id.* at Exhibit SSC-1 (p.9).

²⁴⁵ *Id.* at Exhibit SSC-1 (p. 11).

²⁴⁶ *Id.* at Exhibit SSC-1 (p. 18)

²⁴⁷ *Id.*

²⁴⁸ *See* Public Bodies Memorandum; *see also* Public Info Memorandum.

²⁴⁹ *See Citric Acid 2012* IDM at Comment 5.

²⁵⁰ *See* sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act.

Accordingly, Commerce must rely on “facts otherwise available” in reaching a determination in this respect. Based on the record, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with the requests for information regarding the non-majority government-owned producers of stainless steel coil because it did not provide the requested information.²⁵¹ Consequently, we find that an adverse inference is warranted in the application of facts available.²⁵²

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.²⁵³ Thus, in selecting from among the facts otherwise available with an adverse inference, we preliminarily determine that the non-majority government-owned domestic producers of the stainless steel coil purchased by Zhejiang Xingyi are “authorities” within the meaning of section 771(5)(B) of the Act, and that a financial contribution from them in the form of a provision of a good, pursuant to section 771(5)(D)(iii) of the Act, was provided.

For details on the calculation of the subsidy rate for Zhejiang Xingyi, *see infra* at “Provision of Stainless Steel Coil for LTAR.”

P. Application of AFA: Stainless Steel Coil Is Specific

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

Provide a list of the industries in China that purchase stainless steel coil 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.²⁵⁴

Commerce requests such information for purposes of its *de facto* specificity analysis. The GOC responded stating that “stainless steel coils are widely used in various industries.”²⁵⁵ The GOC provided no purchase data or supporting documentation.²⁵⁶ We issued a supplemental questionnaire to the GOC requesting again this purchase information that is necessary for Commerce to analyze the number of users, industries, and quantities of stainless steel coil supplied to various industries.²⁵⁷

²⁵¹ See sections 776(a) and (b) of the Act.

²⁵² See section 776(b) of the Act.

²⁵³ See Public Bodies Memorandum.

²⁵⁴ See Initial Questionnaire at Section II (p. 22).

²⁵⁵ See GOC’s IQR at 66.

²⁵⁶ *Id.*

²⁵⁷ See GOC First SQ at 4.

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

Q. Application of AFA: Stainless Steel Coil Market Is Distorted

In order to determine the appropriate benchmark with which to measure the benefit from the provision of stainless steel coil for LTAR under 19 CFR 351.511, Commerce asked the GOC several questions regarding the level of government involvement in and structure of the stainless steel coil industry in China. Specifically, we requested the GOC to provide information on the total number of stainless steel coil producers, the total volume and value of domestic production and domestic consumption, the total volume and value of imports, and the percentage of volume and value of production accounted for by companies in which the GOC maintains a majority ownership or controlling management interest.²⁵⁸ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested the GOC to provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some, but less than a majority, ownership interest.²⁵⁹ We also requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.²⁶⁰

The GOC provided some information regarding government ownership for the purposes of a distortion analysis.²⁶¹ However, we require additional data, as described above, to assess the GOC’s involvement in the stainless steel coil market. In response to our request for other information, the GOC stated that it does not have the number of stainless steel coil producers and could not provide the volume or value data of stainless steel coil production or consumption.²⁶² In response to the question regarding the total volume and value of domestic production accounted for by companies in which the Government maintains ownership, the GOC stated that “{t}here has been no such data collected or compiled by the authorities in general or on an industry-specific basis.”²⁶³

We note that the GOC has previously provided, and Commerce has verified, information from other GOC-maintained databases concerning the value and volume of production by enterprises producing input products.²⁶⁴ Specifically, Commerce has verified the operation of the GOC’s “Enterprise Credit Information Publicity System,” which requires that the administrative authorities release detailed information of enterprises and other entities and which is intended to

²⁵⁸ See Initial Questionnaire at Section II (p. 21 – 22).

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ See GOC’s IQR at 62-65.

²⁶² *Id.* at 63.

²⁶³ *Id.* at 64.

²⁶⁴ See, e.g., *Citric Acid 2013 IDM* at Comment 2.

bring clarity to companies registered in China.²⁶⁵ Based on this experience, we are aware that this system is a national-level internal portal that holds certain information regarding any China-registered company. Among other information, each company must upload its annual report, make public whether it is still operating, and update any changes in ownership. The GOC has stated that all companies operating within China maintain a profile in the system, regardless of whether they are private or a state-owned enterprise.²⁶⁶ Therefore, information related to the operation and ownership of companies within the stainless steel coil industry is in fact available to the GOC.

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

R. Application of AFA: Policy Loans to the Metal Lockers Industry

Commerce preliminarily determines that the use of AFA is warranted in determining the countervailability of the Policy Loans to the Metal Lockers Industry program because the GOC did not provide the requested information needed to allow Commerce to fully analyze this program.

In the Initial Questionnaire, we requested that the GOC provide an index and summary for each provincial and municipal 5-year plan issued from December 11, 2001, through the POI, for localities housing Zhejiang Xingyi facilities,²⁶⁷ which the GOC provided. We subsequently requested that the GOC provide copies of the original provincial plans summarized by its first response.²⁶⁸ The GOC did not provide these plans in its response, stating "there is no content specific to the metal lockers industry in these Five-Year Plans. Therefore, the GOC understands that these documents are not relevant to the Department's investigation."²⁶⁹

²⁶⁵ See *SSSS from China Prelim PDM* at 21-22, unchanged in *SSSS from China Final*.

²⁶⁶ *Id.*

²⁶⁷ See Initial Questionnaire at 4.

²⁶⁸ See GOC First SQ at 2.

²⁶⁹ See GOC's First SQR at 2.

The GOC does not determine which documents Commerce may or may not find relevant to any given proceeding. Provincial-level plans, like those specifically requested by Commerce, have been used to establish the specificity of assistance provided by this program to the subject merchandise's industry.²⁷⁰ We find that the use of facts otherwise available is appropriate in light of the GOC's refusal to provide the original texts of the provincial plans requested in our supplemental questionnaire.

Consequently, we preliminarily determine that necessary information is not available on the record and that the GOC withheld information that was requested of it and significantly impeded this proceeding. Therefore, Commerce must rely on "facts available" in making its preliminary determination, in accordance with sections 776(a)(1) and (a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b)(1) of the Act. In drawing an adverse inference, we preliminarily find that the program of preferential policy lending constitutes a financial contribution within the meaning of section 771(5)(D) and is specific to the metal lockers industry, within the meaning of section 771(5A)(D)(iii) of the Act.

S. Application of AFA: Other Subsidies

Zhejiang Xingyi²⁷¹ reported in its initial questionnaire responses that it received certain "Other Subsidies" during the POI and over the AUL. The Initial Questionnaire requested the GOC to coordinate with Zhejiang Xingyi regarding any other assistance under any other subsidy programs that the company may have received and was reporting to Commerce.²⁷² Therefore, the GOC was directed to provide full and complete responses regarding "other subsidies" programs self-reported by Zhejiang Xingyi.

In its initial questionnaire response, the GOC stated that Commerce's request for disclosure of all "other subsidies" is contrary to U.S. law and the WTO Agreement on Subsidies and Countervailing Measures, and referred Commerce to the responses of the responding companies for information about any other subsidies used by the respondents.²⁷³ As the GOC expressly refused to provide the requested information, we did not ask for the information in a supplemental questionnaire.

We preliminarily determine, in accordance with sections 776(a)(1), (a)(2)(A), and (a)(2)(C) of the Act, that information necessary to perform our analyses of financial contribution and specificity for the "other subsidies" programs is not available on the record, the GOC has withheld information that was clearly requested of it, and that the GOC significantly impeded the investigation, and, as a result, we must rely on "facts available" in making our preliminary determination. Moreover, we preliminarily determine that the GOC failed to cooperate by not

²⁷⁰ See, e.g., *Refillable Stainless Steel Kegs from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, in Part, 84 FR 57005 (October 24, 2019), and accompanying IDM at Comment 10.

²⁷¹ See Zhejiang Xingyi IQR at Exhibit F-1.

²⁷² See Initial Questionnaire at Other Subsidies.

²⁷³ See GOC's IQR at 80-81.

acting to the best of its ability to comply with our request for information when it failed to respond to our questionnaires. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the Act. In applying AFA, we find that the “other subsidies” programs self-reported by Zhejiang Xingyi constitute a financial contribution, pursuant to section 771(5)(D) of the Act, and are specific, within the meaning of section 771(5A) of the Act. Where such subsidies appear to be contingent upon export performance, we have found these subsidies to be specific within the meaning of section 771(5A)(B) of the Act.

VIII. BENCHMARKS AND INTEREST RATES

Commerce is investigating loans provided by Chinese policy banks and state-owned commercial banks (SOCBs) and non-recurring, allocable subsidies received by Zhejiang Xingyi.²⁷⁴ 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, Commerce uses comparable commercial loans reported by the company as a benchmark.²⁷⁵ 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.”²⁷⁶

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.²⁷⁷ In an analysis memorandum dated July 21, 2017, Commerce conducted a re-assessment of the lending system in China.²⁷⁸ Based on this re-assessment, Commerce concluded that, despite reforms to date, the GOC’s role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by Zhejiang Xingyi 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

²⁷⁴ See 19 CFR 351.524(b)(1).

²⁷⁵ See 19 CFR 351.505(a)(3)(i).

²⁷⁶ See 19 CFR 351.505(a)(3)(ii).

²⁷⁷ 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.

²⁷⁸ See Memorandum, “Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Analysis of China’s Financial System,” dated August 26, 2020.

market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.²⁷⁹

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and updated in *Thermal Paper from China*.²⁸⁰ 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.²⁸¹ Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2018.²⁸² Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2018. This is consistent with Commerce's calculation of interest rates for other CVD proceedings involving Chinese merchandise.²⁸³

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

In each of the years from 2003-2009 and 2011-2018, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.²⁸⁴ For 2010, however, the regression does not yield that outcome for China's income group.²⁸⁵ This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from China* to compute the benchmarks for the years from 2001-2009 and 2011-2018. For the

²⁷⁹ 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).

²⁸⁰ See *CFS from China* IDM at Comment 10; see also *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from China*), and accompanying IDM at 8-10.

²⁸¹ See World Bank Country Classification, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519s>; see also Memorandum, "Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Loan Interest Rate Benchmarks," dated August 26, 2020 (Interest Rate Benchmark Memo).

²⁸² See World Bank Country Classification, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519s>; see also Interest Rate Benchmark Memo.

²⁸³ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying PDM at "Benchmarks and Discount Rates," unchanged in *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013).

²⁸⁴ See Interest Rate Benchmark Memo; see also Preliminary Determination Calculations Memorandum.

²⁸⁵ See Interest Rate Benchmark Memo; see also Preliminary Determination Calculations Memorandum.

2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency's International Financial Statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2018 and "lower middle income" for 2001-2009.²⁸⁶ 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.²⁸⁷ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.²⁸⁸

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, Commerce developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.²⁸⁹

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.²⁹⁰ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.²⁹¹

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

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC

²⁸⁶ See Interest Rate Benchmark Memo; see also Preliminary Determination Calculations Memorandum.

²⁸⁷ See Interest Rate Benchmark Memo; see also Preliminary Determination Calculations Memorandum.

²⁸⁸ See Interest Rate Benchmark Memo; see also Preliminary Determination Calculations Memorandum.

²⁸⁹ See, e.g., *Thermal Paper from China* IDM at 10.

²⁹⁰ 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.

²⁹¹ See Interest Rate Benchmark Memo.

provided non-recurring subsidies.²⁹² The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Preliminary Determination Calculations Memorandum.

C. Benchmarks for the Government Provision of Inputs at LTAR

1. Cold-Rolled Steel

Zhejiang Xingyi reported purchases of cold-rolled steel during the POI for the production of subject merchandise.²⁹³

Under 19 CFR 351.511(a)(2) Commerce sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).²⁹⁴ As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic input producers of cold-rolled steel are “authorities” and that the cold-rolled steel market is distorted. Therefore, domestic prices in China for cold-rolled steel cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of cold-rolled steel, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

Interested parties provided a variety of cold-rolled steel prices as well as data on ocean freight, import duties, VAT, and inland freight. Concerning cold-rolled prices, the petitioners provided monthly, quantity and value data for exports of cold-rolled steel during the POI from 14 countries (none of which are China), as published by United Nations Comtrade (UN Comtrade) for HTSUS subheadings 7209.16, 7209.17, 7209.26, and 7209.27 as a potential benchmark for cold-rolled steel inputs.²⁹⁵ Zhejiang Xingyi submitted monthly, unit prices of what it states are export prices from the Black Sea (Russia) of cold-rolled steel during the POI, published by SBB/Platts.²⁹⁶ However, as the SBB/Platts export price data only include exports from one country (Russia) and do not list the importing country, we preliminarily find the data to be unreliable for use as tier-two “world price” benchmarks.²⁹⁷ Further, as SBB/Platts export price data listed only the exporting country, we are not able to determine whether such data contains exports to China and subsequently exclude the exports to China from the SBB/Platts data because exports to China, *i.e.*, *imports* into the country in question, are considered tier-one prices.²⁹⁸ Thus, we are not using the SBB/Platts data submitted by Zhejiang Xingyi as benchmarks for this preliminary determination.

²⁹² See Preliminary Determination Calculations Memorandum.; *see also* Interest Rate Benchmark Memo.

²⁹³ See Zhejiang Xingyi’s IQR at 23.

²⁹⁴ See 19 CFR 351.511(a)(2).

²⁹⁵ See Petitioners’ Benchmark Comments at 5 and Attachment 1.

²⁹⁶ See Zhejiang Xingyi’s IQR at 24 and Exhibit E-5.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

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).²⁹⁹ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the UN Comtrade data submitted by the petitioners into our cold-rolled steel benchmark calculations because they reflect world market prices and they do not include export prices of cold-rolled steel into China, which we preliminarily determine is a distorted market.

Under 19 CFR 351.511(a)(2)(iv), when calculating a tier-two world market price, “Commerce will adjust the comparison price to reflect the price that a firm actually paid or would pay if it imported the product. This adjustment will include delivery charges and import duties.” Thus, we have added ocean freight to the monthly, weighted-average benchmark prices for cold-rolled steel. The petitioners submitted monthly ocean freight rates for the POI, sourced from Drewry Maritime Research, for freight shipped from various starting points around the world to Shanghai, China.³⁰⁰ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for cold-rolled steel.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly cold-rolled steel benchmark the applicable import duty and VAT for imports of cold-rolled steel, as provided by the GOC.³⁰¹ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly cold-rolled steel benchmark based on company-specific inland freight information submitted by Zhejiang Xingyi.³⁰² For further information concerning the derivation of the monthly, weighted-average benchmark prices for cold-rolled steel during the POI, *see* Zhejiang Xingyi’s Preliminary Determination Calculation Memorandum.

2. Hot-Rolled Steel

Zhejiang Xingyi reported purchases of hot-rolled steel during the POI for the production of subject merchandise.³⁰³

Under 19 CFR 351.511(a)(2) Commerce sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).³⁰⁴ As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic input producers of hot-rolled steel are “authorities” and that the hot-

²⁹⁹ *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) (Steel Cylinders from China), and accompanying IDM at Comment 1.*

³⁰⁰ *See* Petitioners’ Benchmark Comments at Attachment 3.

³⁰¹ *See* GOC’s IQR at 40.

³⁰² *See* Zhejiang Xingyi’s SQR at Exhibit E-14.

³⁰³ *See* Zhejiang Xingyi’s IQR at 21.

³⁰⁴ *See* 19 CFR 351.511(a)(2).

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

Interested parties provided a variety of hot-rolled steel prices as well as data on ocean freight, import duties, VAT, and inland freight. Concerning hot-rolled prices, the petitioners provided monthly, quantity and value data for exports of hot-rolled steel during the POI from 14 countries (none of which are China), as published by UN Comtrade for HTSUS subheading 7225.40 as a potential benchmark for hot-rolled steel inputs.³⁰⁵ Zhejiang Xingyi submitted monthly, unit prices of what it states are export prices from the Black Sea (Russia) and Turkey of hot-rolled steel during the POI, published by SBB/Platts.³⁰⁶ However, as the SBB/Platts export price data only include exports from two countries (Russia and Turkey) and do not list the importing country, we preliminarily find the data to be unreliable for use as tier-two “world price” benchmarks.³⁰⁷ Further, as SBB/Platts export price data listed only the exporting countries, we are not able to determine whether such data contains exports to China and subsequently exclude the exports to China from the SBB/Platts data because exports to China, *i.e.*, *imports* into the country in question, are considered tier-one prices.³⁰⁸ Thus, we are not using the SBB/Platts data submitted by Zhejiang Xingyi as benchmarks for this preliminary determination.

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).³⁰⁹ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the UN Comtrade data submitted by the petitioners into our hot-rolled steel benchmark calculations because they reflect world market prices and they exclude or allow us to exclude export prices of hot-rolled steel into China, which we preliminarily determine is a distorted market.

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 hot-rolled steel. The petitioners submitted monthly ocean freight rates for the POI, sourced from Drewry Maritime Research, for freight shipped from various starting points around the world to Shanghai, China.³¹⁰ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for hot-rolled steel. Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly hot-rolled steel benchmark the applicable import duty and VAT for imports of hot-rolled steel, as provided by the GOC.³¹¹ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly hot-rolled steel benchmark based on company-specific inland freight information

³⁰⁵ See Petitioners’ Benchmark Comments at 5 and Attachment 1.

³⁰⁶ See Zhejiang Xingyi’s IQR at 22 and Exhibit E-2.

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ See, e.g., *Steel Cylinders from China* IDM at Comment 1.

³¹⁰ See Petitioners’ Benchmark Comments at Attachment 3.

³¹¹ See GOC’s IQR at 28.

submitted by Zhejiang Xingyi.³¹² For further information concerning the derivation of the monthly, weighted-average benchmark prices for hot-rolled steel during the POI, *see* Zhejiang Xingyi's Preliminary Determination Calculation Memorandum.

3. Galvanized Steel

Zhejiang Xingyi reported purchases of galvanized steel during the POI for the production of subject merchandise.³¹³

Under 19 CFR 351.511(a)(2) Commerce sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).³¹⁴ As discussed above under "Use of Facts Otherwise Available and Adverse Inferences," we preliminarily determine that the domestic input producers of galvanized steel are "authorities" and that the galvanized steel market is distorted. Therefore, domestic prices in China for galvanized steel cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of galvanized steel, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

Interested parties provided a variety of galvanized steel prices as well as data on ocean freight, import duties, VAT, and inland freight. Concerning galvanized steel prices, the petitioners provided monthly, quantity and value data for exports of galvanized steel during the POI from 14 countries (none of which are China), as published by UN Comtrade for HTSUS subheading 7225.92 as a potential benchmark for galvanized steel inputs.³¹⁵ Zhejiang Xingyi submitted monthly, unit prices of what it states are Chinese domestic prices of galvanized steel during the POI, published by SBB/Platts.³¹⁶ As the data submitted by Zhejiang Xingyi for galvanized steel are Chinese domestic prices, they are considered tier-one prices, and therefore, not usable.³¹⁷

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).³¹⁸ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the UN Comtrade data submitted by the petitioners into our galvanized steel benchmark calculations because they reflect world market prices and they do not include export prices of galvanized steel into China, which we preliminarily determine is a distorted market.

³¹² *See* Zhejiang Xingyi's SQR at Exhibit E-15.

³¹³ *See* Zhejiang Xingyi's IQR at 25.

³¹⁴ *See* 19 CFR 351.511(a)(2).

³¹⁵ *See* Petitioners' Benchmark Comments at 6 and Attachment 1.

³¹⁶ *See* Zhejiang Xingyi's IQR at 22 and Exhibit E-2.

³¹⁷ *Id.*

³¹⁸ *See, e.g., Steel Cylinders from China* 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 galvanized steel. The petitioners submitted monthly ocean freight rates for the POI, sourced from Drewry Maritime Research for freight shipped from various starting points around the world to Shanghai, China.³¹⁹ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for galvanized steel.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly galvanized steel benchmark the applicable import duty and VAT for imports of galvanized steel, as provided by the GOC.³²⁰ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly galvanized steel benchmark based on company-specific inland freight information submitted by Zhejiang Xingyi.³²¹ For further information concerning the derivation of the monthly, weighted-average benchmark prices for galvanized steel during the POI, *see* Zhejiang Xingyi’s Preliminary Determination Calculation Memorandum.

4. Stainless Steel Coil

Zhejiang Xingyi reported purchases of stainless steel coil during the POI for the production of subject merchandise.³²²

Under 19 CFR 351.511(a)(2) Commerce sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).³²³ As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic input producers of stainless steel coil are “authorities” and that the stainless steel coil market is distorted. Therefore, domestic prices in China for stainless steel coil cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of stainless steel coil, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

Interested parties provided a variety of stainless steel coil prices as well as data on ocean freight, import duties, VAT, and inland freight. Concerning stainless steel coil prices, the petitioners provided monthly, unit prices for exports of stainless steel coil during the POI from 14 countries (none of which are China), as published by UN Comtrade for HTSUS subheadings 7219.34 and

³¹⁹ *See* Petitioners’ Benchmark Comments at Attachment 3.

³²⁰ *See* GOC’s IQR at 51.

³²¹ *See* Zhejiang Xingyi’s SQR at Exhibit E-15.

³²² *See* Zhejiang Xingyi’s IQR at 28.

³²³ *See* 19 CFR 351.511(a)(2).

7220 as potential benchmarks for stainless steel coil inputs.³²⁴ Zhejiang Xingyi provided SBB/Platts data of stainless steel coil within China.³²⁵ As the data submitted by Zhejiang Xingyi for stainless steel coil are Chinese domestic prices, they are considered tier-one prices, and therefore, not usable as benchmarks.³²⁶

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).³²⁷ Therefore, in this investigation, we have sought to include as many comparable, data sources as practicable. Accordingly, we have incorporated the six-digit HTSUS UN Comtrade data submitted by the petitioners into our stainless steel coil benchmark calculations because they reflect world market prices and they do not include export prices of stainless steel coil into China, which we preliminarily determine is a distorted market.

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 stainless steel coil. The petitioners submitted monthly ocean freight rates for the POI, sourced from Drewry Maritime Research, for freight shipped from various starting points around the world to Shanghai, China.³²⁸ Thus, for each month, we calculated the ocean freight rate and added these ocean freight rates to the monthly, weighted-average benchmark price for stainless steel coil.

Additionally, consistent with 19 CFR 351.511(a)(2)(iv), we added to the monthly stainless steel coil benchmark the applicable import duty and VAT for imports of stainless steel coil, as provided by the GOC.³²⁹ Lastly, consistent with 19 CFR 351.511(a)(2)(iv), we added an inland freight rate to the monthly stainless steel coil benchmark based on company-specific inland freight information submitted by Zhejiang Xingyi.³³⁰ For further information concerning the derivation of the monthly, weighted-average benchmark prices for stainless steel coil during the POI, see Zhejiang Xingyi’s Preliminary Determination Calculation Memorandum.

5. Electricity

As discussed in the section, “Use of Facts Otherwise Available and Adverse Inferences,” we are relying on AFA to select the highest electricity rates as the benchmark for measuring the adequacy of remuneration for electricity. The GOC submitted on the record a copy of all provincial electricity tariff schedules that were in effect during the POI.³³¹ The selected electricity benchmarks are provided in the Preliminary Determination Calculations Memorandum.

³²⁴ See Petitioners’ Benchmark Comments at Attachment 1.

³²⁵ See Zhejiang Xingyi’s IQR at 28 and Exhibit E-9.

³²⁶ *Id.*

³²⁷ See, e.g., *Steel Cylinders from China* IDM at Comment 1.

³²⁸ See Petitioners’ Benchmark Comments at Attachment 3.

³²⁹ See GOC’s IQR at 66.

³³⁰ See Zhejiang Xingyi’s SQR at Exhibit E-16.

³³¹ See GOC’s IQR at Exhibit ELEC-11.

IX. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Export Buyer's Credits

Commerce is examining whether the GOC provides preferential financing to exporters by offering local and foreign currency loans to overseas borrowers through the China ExIm. For the reasons explained in the “Application of AFA: Export Buyer’s Credits” section, our preliminary determination regarding whether the GOC’s provision of export buyer’s credits constitutes a financial contribution, is specific, and confers a benefit is based on AFA, pursuant to sections 776(a) and (b) of the Act. As AFA, we preliminarily determine that the GOC’s provision of export buyer’s credits confers a financial contribution within the meaning of section 771(5)(D) of the Act. As AFA, we preliminarily determine that the Export Buyer’s Credits program is specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act. As AFA, we preliminarily determine that this program confers a benefit to the mandatory respondent, pursuant to section 771(5)(E) of the Act. Furthermore, for the reasons explained in the “Application of AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. For Zhejiang Xingyi, and the non-responsive companies, we are preliminarily applying an AFA rate of 10.54 percent *ad valorem*, which is a rate calculated for a similar program in another CVD proceeding involving imports from China.³³²

2. Provision of Electricity for LTAR

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

Consistent with our approach in *Wind Towers from China*, we first calculated Zhejiang Xingyi’s variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, high peak, peak, normal, and valley, where appropriate) by the

³³² See *Coated Paper from China Investigation Amended Final*.

corresponding electricity rates paid during each month of the POI.³³³ Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by the respective company during the POI from the monthly benchmark variable electricity costs.

To measure whether a company received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the company by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company's consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the company during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from Zhejiang Xingyi's variable electricity payments and base rate payments. To calculate the net subsidy rate attributable to Zhejiang Xingyi, we divided the benefit amount by the appropriate total sales denominator, as discussed in the "Subsidies Valuation" section. On this basis we preliminarily determine a net countervailable subsidy rate of 0.19 percent *ad valorem* for Zhejiang Xingyi.

Consistent with Commerce's AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent in this investigation, *i.e.*, 0.19 percent *ad valorem*, to the non-responsive companies.³³⁴

3. Provision of Cold-Rolled Steel for LTAR

We are examining whether the GOC or other "authorities" within China provided cold-rolled steel for LTAR. Zhejiang Xingyi reported that it purchased cold-rolled steel during the POI.³³⁵

The GOC reported that certain producers of the cold-rolled steel purchased by Zhejiang Xingyi are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.³³⁶ 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 Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³³⁷

³³³ See *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) (*Wind Towers from China*), and accompanying IDM at 21 – 22.

³³⁴ See Appendix.

³³⁵ See Zhejiang Xingyi's IQR at Exhibit E-4.

³³⁶ See Public Bodies Memorandum.

³³⁷ 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) (*OCTG from China*), and accompanying IDM at 6.

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of cold-rolled steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³³⁸

As AFA, we also preliminarily determine that the provision of cold-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.³³⁹ Further, we preliminarily determine, as AFA, that the domestic market for cold-rolled steel is distorted by government involvement in the market.³⁴⁰ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of cold-rolled steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Xingyi for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Xingyi. To determine the net countervailable subsidy rate for Zhejiang Xingyi, 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 7.04 percent *ad valorem* for Zhejiang Xingyi.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent in this investigation, *i.e.*, 7.04 percent *ad valorem*, to the non-responsive companies.³⁴¹

4. Provision of Hot-Rolled Steel for LTAR

We are examining whether the GOC or other “authorities” within China provided hot-rolled steel for LTAR. Zhejiang Xingyi reported that it purchased hot-rolled steel during the POI.³⁴²

The GOC reported that certain producers of the hot-rolled steel purchased by Zhejiang Xingyi are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.³⁴³ 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

³³⁸ *Id.*

³³⁹ *See* “Use of Facts Otherwise Available and Adverse Inferences” section above.

³⁴⁰ *Id.*

³⁴¹ *See* Appendix.

³⁴² *See* Zhejiang Xingyi’s IQR at Exhibit E-1.

³⁴³ *See* Public Bodies Memorandum.

771(5)(B) of the Act and that Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁴⁴

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of hot-rolled steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁴⁵

As AFA, we also preliminarily determine that the provision of hot-rolled steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.³⁴⁶ Further, we preliminarily determine, as AFA, that the domestic market for hot-rolled steel is distorted by government involvement in the market.³⁴⁷ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of cold-rolled steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Xingyi for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Xingyi. To determine the net countervailable subsidy rate for Zhejiang Xingyi, 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 12.02 percent *ad valorem* for Zhejiang Xingyi.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent, *i.e.*, 12.02 percent *ad valorem*, to the non-responsive companies.³⁴⁸

5. Provision of Galvanized Steel for LTAR

We are examining whether the GOC or other “authorities” within China provided galvanized steel for LTAR. Zhejiang Xingyi reported that it purchased galvanized steel during the POI.³⁴⁹

The GOC reported that certain producers of the galvanized steel purchased by Zhejiang Xingyi are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with governmental authority.³⁵⁰ 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,

³⁴⁴ See *OCTG from China* IDM at 6.

³⁴⁵ *Id.*

³⁴⁶ See “Use of Facts Available and Adverse Inferences” section above.

³⁴⁷ *Id.*

³⁴⁸ See Appendix.

³⁴⁹ See Zhejiang Xingyi’s IQR at Exhibit E-6.

³⁵⁰ See Public Bodies Memorandum.

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 Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁵¹

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of galvanized steel that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁵²

As AFA, we also preliminarily determine that the provision of galvanized steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.³⁵³ Further, we preliminarily determine, as AFA, that the domestic market for galvanized steel is distorted by government involvement in the market.³⁵⁴ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of galvanized steel under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Xingyi for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Xingyi. To determine the net countervailable subsidy rate for Zhejiang Xingyi, 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 0.90 percent *ad valorem* for Zhejiang Xingyi.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent, *i.e.*, 0.90 percent *ad valorem*, to the non-responsive companies.³⁵⁵

6. Provision of Stainless Steel Coil for LTAR

We are examining whether the GOC or other “authorities” within China provided stainless steel coil for LTAR. Zhejiang Xingyi reported that it purchased stainless steel coil during the POI.³⁵⁶

The GOC reported that certain producers of the stainless steel coil purchased by Zhejiang Xingyi are majority-owned by the government. As explained in the Public Bodies Memorandum, majority government-owned enterprises in China possess, exercise, or are vested with

³⁵¹ See *OCTG from China* IDM at 6.

³⁵² *Id.*

³⁵³ See “Use of Facts Available and Adverse Inferences” section above.

³⁵⁴ *Id.*

³⁵⁵ See Appendix.

³⁵⁶ See Zhejiang Xingyi’s IQR at Exhibit E-6.

governmental authority.³⁵⁷ 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 Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁵⁸

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, for the other producers of stainless steel coil that are non-majority government-owned, the GOC failed to provide all information requested concerning their ownership and control. Therefore, based on AFA, we preliminarily determine that these entities constitute “authorities” within the meaning of section 771(5)(B) of the Act and that Zhejiang Xingyi received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.³⁵⁹

As AFA, we also preliminarily determine that the provision of stainless steel coil is specific within the meaning of section 771(5A)(D)(iii) of the Act.³⁶⁰ Further, we preliminarily determine, as AFA, that the domestic market for stainless steel coil is distorted by government involvement in the market.³⁶¹ Consequently, as discussed in the “Benchmarks for the Government Provision of Inputs for LTAR” section, to determine the benefit from the provision of stainless steel coil under section 771(5)(E)(iv) of the Act, we are relying on an external benchmark price, *i.e.*, tier two or world market price, consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by Zhejiang Xingyi for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by Zhejiang Xingyi. To determine the net countervailable subsidy rate for Zhejiang Xingyi, we divided the benefits received by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis we preliminarily determine a net countervailable subsidy rate of 5.24 percent *ad valorem* for Zhejiang Xingyi.

Consistent with Commerce’s AFA rate selection methodology, we are assigning the highest rate calculated for the mandatory respondent, *i.e.*, 5.24 percent *ad valorem*, to the non-responsive companies.³⁶²

³⁵⁷ See Public Bodies Memorandum.

³⁵⁸ See *OCTG from China* IDM at 6.

³⁵⁹ *Id.*

³⁶⁰ See “Use of Facts Available and Adverse Inferences” section above.

³⁶¹ *Id.*

³⁶² See Appendix.

7. Policy Loans to the Metal Lockers Industry

The petitioners allege that the GOC provides policy loans to the metal lockers industry.³⁶³ Zhejiang Xingyi reported loans from banks for which it made interest payments during the POI.³⁶⁴

When examining a policy lending program, Commerce looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support such objectives or goals. Where such plans or policy directives exist, then it is our practice to find that a policy lending program exists that is *de jure* specific to the targeted industry (or producers that fall under that industry) within the meaning of section 771(5A)(D)(i) of the Act. Once that finding is made, we rely upon the analysis undertaken in *CFS from China* to further conclude that national and local government control over the banks render the loans a government financial contribution.³⁶⁵

Record information indicates the GOC placed great emphasis on targeting high value added, export, and steel industries, which include the metal lockers industry, for development throughout recent years. For example, the *National 11th Five-Year Plan for Economic and Social Development (2006-2010)* (11th Five-Year Plan) urges the development of high valued added exports and for Chinese companies to "...continue {to} develop processing trade, make efforts to enhance industrial level and processing depth, reinforce domestic ability to provide the auxiliary items and promote domestic industrial upgrading."³⁶⁶ The 11th Five-Year Plan sets forth the goal of promoting industrial restructuring and development in eastern China and, in particular, "{c}onstructing bases of advanced equipment {and} top quality steel."³⁶⁷ In order to achieve this goal, the 11th Five-Year Plan prioritizes the "development of advanced manufacturing... {and} develop{ing} intensive processing and top class products."³⁶⁸ In addition, the 11th Five-Year Plan states that the GOC intends to "strengthen the cooperation of the policies in credit, land, environmental protection, safety and science and technology with the industrial policy and use economic means to promote the development of industries."³⁶⁹

The GOC continued its support of the metal lockers industry through the *12th Five-Year Outline of the Guidelines for National Economics and Social Development of the People's Republic of China (2011-15)* (12th Five-Year Plan), which states that the industrial restructuring and reorganization should be undertaken with the objective of "transform{ing} and improv{ing} the consumer goods industry" and promoting "the enlargement and enhancement of manufacturing industries."³⁷⁰ In addition, the 12th Five-Year Plan promotes the growth of "a number of advanced manufacturing bases with international competitiveness," using a regionally-based design to "develop modern industrial clusters with distinctive characteristics, a prominent brand

³⁶³ See Initiation Checklist at 6-8.

³⁶⁴ See Zhejiang Xingyi's IQR 13-14 and Exhibit B-1.

³⁶⁵ See *CFS from China* IDM at Comment 8.

³⁶⁶ See GOC's IQR at Exhibit LOAN-5.

³⁶⁷ *Id.*

³⁶⁸ *Id.*

³⁶⁹ *Id.*

³⁷⁰ *Id.*

image, and a sound service platform.”³⁷¹ The 12th Five-Year Plan seeks to maintain “current advantage{s} in export markets” while “{supporting} new advantages based on technology, branding, quality and service” to “extend the value-added chain in China.”³⁷² Further, the 12th Five-Year Plan seeks to create a “favorable environment to activate the development of SMEs... {by} increase{ing} the size and percentage of lending to SMEs, and broaden{ing} channels of direct financing.”³⁷³

The current *National 13th Five-Year Plan of Economic and Social Development (2016-2020)* (13th Five-Year Plan) continues these objectives, and calls for a focus on the steel industry, among others, in order to “encourage more of China’s equipment {and} technology... to go global by engaging in international cooperation on production capacity and equipment manufacturing through overseas investments, project contracting, technology cooperation, equipment exporting, and other means, with a focus on industries such as steel... {and} engineering machinery.”³⁷⁴ The 13th Five-Year Plan further encourages the “transform{ation} and upgrade {of} major manufacturing technologies and improv{ing} policies to support enterprises... thereby helping key manufacturing sectors move into the medium-high end {and} improv{ing} the supply of consumer goods.”³⁷⁵ To achieve this goal, the 13th Five-Year Plan states support for the development of “specialized small and medium enterprises,” such as downstream processors.³⁷⁶ The 13th Five-Year Plan promotes the development of “a number of competitive, well-known brands” through improvements in both product quality and product supervision.³⁷⁷ Finally, the 13th Five Year-Year Plan calls for lowering business costs by reducing taxes and fees, “maintain{ing} proper liquidity and interest rates,” and extending credit by creating a “national financing guaranty fund.”³⁷⁸

A key tool in the GOC’s economic development plans is preferential lending. In the *10th Five-Year Plan for the National Economic and Social Development of the People’s Republic of China (2001-2005)* (10th Five-Year Plan), the GOC established a goal “to reduce financing cost {by} utiliz{ing} the international commercial loans such as banking group loans.”³⁷⁹ The GOC continued to use preferential lending to pursue economic development goals through the 13th Five-Year Plan, which sets a target of maintaining “proper liquidity and interest rates, creat{ing} new direct financing product suitable to the needs of enterprises, and establishing a national financing guaranty fund.”³⁸⁰

Thus, given the evidence demonstrating the GOC’s objective of developing advanced manufacturing and the steel industry, of which metal lockers is a part, through preferential loans, there is evidence to determine that there is a program of preferential policy lending to the metal lockers industry specific within the meaning of section 771(5A) of the Act. Still, as discussed

³⁷¹ *Id.*

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ *See* GOC’s IQR at Exhibit II.B.5.

supra, we have found this program to be specific based on facts available. We also preliminarily find that loans from banks under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because the banks are “authorities.”³⁸¹ 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.³⁸²

To determine whether Zhejiang Xingyi received a benefit from this program, we compared the amount of interest Zhejiang Xingyi paid on the outstanding loans to the amount of interest the company would have paid on comparable commercial loans. In conducting this comparison, we used the interest rates described in the “Benchmarks and Interest Rates” section above.³⁸³ To calculate the net countervailable subsidy rate under this program, we divided the benefit by Zhejiang Xingyi’s total POI sales. On this basis, we preliminarily determine a subsidy rate of 0.46 percent *ad valorem* for Zhejiang Xingyi.³⁸⁴

Consistent with Commerce’s AFA rate selection methodology, we are assigning a countervailable subsidy rate of 0.46 percent *ad valorem* to the non-responsive companies, which is the highest rate calculated for an identical program in this investigation.

8. “Other Subsidies” – Grants Self-Reported by Zhejiang Xingyi

Zhejiang Xingyi self-reported the following grants in its initial questionnaire response:³⁸⁵

- Trademark Subsidy from Haining Industry and Commerce Bureau Chang’an Office
- 2012 Domestic and Overseas Exhibition Awards from Haining Finance Bureau
- Reward for Reach the Standard of Safety Production Standardization from the People’s Government of Chang’an Town, Haining
- 2015 Haining Municipal Financial Incentive Fund – High-Tech Product from Haining Finance Bureau
- The First Batch Patent Award from the People’s Government of Chang’an Town, Haining
- 2016 Machine Substitution Award from the People’s Government of Chang’an Town, Haining
- 2016 Roof Resource Enterprise Subsidy from the People’s Government of Chang’an Town, Haining
- 2017 Enterprise Cloud Project Financial Subsidy from the People’s Government of Chang’an Town, Haining
- Social Insurance Premium Refund for Difficult Enterprise from Haining Employment Management Service Office
- Service Charge Refund for Individual Income Tax from Haining Tax Bureau
- Enterprise Development Support Fund from the People’s Government of Chang’an Town, Haining

³⁸¹ See, e.g., *CFS from China* IDM at Comment 1.

³⁸² See section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a).

³⁸³ See 19 CFR 351.505(c).

³⁸⁴ See Zhejiang Xingyi Preliminary Determination Calculation Memorandum.

³⁸⁵ See Zhejiang Xingyi’s IQR at Exhibit F-1; see also Zhejiang Xingyi’s Letter, “Certain Metal Lockers and Parts Thereof from China, Case No. C-570-134: Response to Request for Bracketing Rescission,” dated December 2, 2020 (making the names of these programs public).

- Smart Electricity Development Support Fund from the People’s Government of Chang’an Town, Haining

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

Consistent with 19 CFR 351.524(c)(1), we are treating the grants received by Zhejiang Xingyi 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. On this basis, we find that none of the grants received in pre-POI years were at least 0.5 percent of Zhejiang Xingyi’s relevant sales and, thus, the benefits were all expensed to the respective years of receipt, yielding no benefit in the POI from those grants.

For two grants that were received and expensed in the POI, we preliminarily determine the following net countervailable subsidy rates for Zhejiang Xingyi:

- Social Insurance Premium Refund for Difficult Enterprise from Haining Employment Management Service Office – 0.15% *ad valorem*.
- Enterprise Development Support Fund from the People’s Government of Chang’an Town, Haining – 0.29% *ad valorem*.

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

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

Based on the record evidence, we determine that the benefits from the following programs were fully expensed prior to the POI or are less than 0.005 percent *ad valorem* when attributed to the respondent’s applicable sales as discussed in the “Attribution of Subsidies” section above.³⁸⁶ Consistent with Commerce’s practice,³⁸⁷ we have not included the following programs in our preliminary subsidy rate calculations for the mandatory respondent. Accordingly, it is unnecessary for Commerce to make a preliminary determination as to the countervailability of these programs.

³⁸⁶ See Zhejiang Xingyi’s Preliminary Determination Calculations Memorandum.

³⁸⁷ See, e.g., *Certain Steel Wheels from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) at Income Tax Reductions for Firms Located in the Shanghai Pudong New District.

1. Zhejiang Xingyi's Not Measurable Programs

- Trademark Subsidy from Haining Industry and Commerce Bureau Chang'an Office –
- 2012 Domestic and Overseas Exhibition Awards from Haining Finance Bureau
- Reward for Reach the Standard of Safety Production Standardization from the People's Government of Chang'an Town, Haining
- 2015 Haining Municipal Financial Incentive Fund – High-Tech Product from Haining Finance Bureau
- The First Batch Patent Award from the People's Government of Chang'an Town, Haining
- 2016 Machine Substitution Award from the People's Government of Chang'an Town, Haining
- 2016 Roof Resource Enterprise Subsidy from the People's Government of Chang'an Town, Haining
- 2017 Enterprise Cloud Project Financial Subsidy from the People's Government of Chang'an Town, Haining
- Service Charge Refund for Individual Income Tax from Haining Tax Bureau
- Smart Electricity Development Support Fund from the People's Government of Chang'an Town, Haining

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

1. Export Loans from Chinese State-Owned Banks
2. Export Seller's Credit
3. Export Credit Guarantees
4. Income Tax Reduction for High or New Technology Enterprises
5. Income Tax Deduction for Research and Development Expenses Under the Enterprise Income Tax Law
6. Preferential Income Tax Policy for Enterprises in the Northeast Region
7. Provincial Government of Guangdong Tax Offset for Research and Development
8. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
9. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
10. The GOC's Provision of Land for LTAR for State-Owned Enterprises
11. Provision of Land for LTAR in Special Economic Zones
12. Provision of Zinc for LTAR
13. GOC and Sub-Central Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
14. Special Fund for Energy Savings Technology Reform
15. SME International Market Exploration/Development Fund
16. SME Technology Innovation Fund
17. Export Assistance Grants

X. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5) of the Act state that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Since we only have one individually examined respondent in this investigation, we are assigning the estimated subsidy rate for Zhejiang Xingyi to the companies not individually examined. On that basis, we are assigning 36.83 percent as the *ad valorem* all-others rate.

XI. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

12/7/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

Program Name	AFA Rate
Preferential Lending	
Policy Loans to the Metal Lockers Industry	0.46%
Export Loans from Chinese State-Owned Banks	10.54% ³⁸⁸
Export Programs	
Export Seller's Credits	4.25% ³⁸⁹
Export Buyer's Credits	10.54% ³⁹⁰
Export Credit Guarantees	10.54% ³⁹¹
Income Tax and Direct Tax Programs	
Income Tax Reductions for High or New Technology Enterprises	25.00%
Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law	
Preferential Income Tax Policy for Enterprises in the Northeast Region	
Provincial Government of Guangdong Tax Offset for Research and Development	
Indirect Tax Programs	
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries	1.07% ³⁹²
VAT Refunds for FIEs Purchasing Domestically-Produced Equipment	0.51% ³⁹³
Government Provision of Goods and Services for LTAR	
The GOC's Provision of Land for LTAR for State-Owned Enterprises	13.36% ³⁹⁴
Provision of Land for LTAR in Special Economic Development Zones	13.36% ³⁹⁵

³⁸⁸ See *Coated Paper from China Investigation Amended Final*, 75 FR at 70202.

³⁸⁹ See *Citric Acid from China* at 12.

³⁹⁰ See *Coated Paper from China Investigation Amended Final*, 75 FR at 70202.

³⁹¹ *Id.*

³⁹² See *Forged Steel Fittings from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 83 FR 50342 (October 5, 2018), and accompanying IDM at 5.

³⁹³ See *Magnesia Carbon Bricks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010), and accompanying IDM at 10.

³⁹⁴ See *Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008), and accompanying IDM at 18.

³⁹⁵ *Id.*

Provision of Hot-Rolled Steel for LTAR	12.02%
Provision of Cold-Rolled Steel for LTAR	7.11%
Provision of Galvanized Steel for LTAR	0.93%
Provision of Zinc for LTAR	9.17 ³⁹⁶
Provision of Stainless Steel Coil for LTAR	5.47%
Provision of Electricity For LTAR	0.19%
Grant Programs³⁹⁷	
GOC and Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands	1.27%
Special Fund for Energy Savings Technology Reform	1.27%
SME International Market Exploration/Development Fund	1.27%
SME Technology Innovation Fund	1.27%
Export Assistance Grants	1.27%
Self-Reported Subsidies – Zhejiang Xingyi	
Trademark Subsidy from Haining Industry and Commerce Bureau Chang’an Office	1.27% ³⁹⁸
2012 Domestic and Overseas Exhibition Awards from Haining Finance Bureau	1.27% ³⁹⁹
Reward for Reach the Standard of Safety Production Standardization from the People’s Government of Chang’an Town, Haining	1.27% ⁴⁰⁰
2015 Haining Municipal Financial Incentive Fund – High-Tech Product from Haining Finance Bureau	1.27% ⁴⁰¹
The First Batch Patent Award from the People’s Government of Chang’an Town, Haining	1.27% ⁴⁰²
2016 Machine Substitution Award from the People’s Government of Chang’an Town, Haining	1.27% ⁴⁰³
2016 Roof Resource Enterprise Subsidy from the People’s Government of Chang’an Town, Haining	1.27% ⁴⁰⁴

³⁹⁶ See *Carbon and Alloy Steel Treaded Rod from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 8833 (February 18, 2020).

³⁹⁷ See *Steel Cylinders China* IDM at Comment 6.

³⁹⁸ *Id.*

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² *Id.*

⁴⁰³ *Id.*

⁴⁰⁴ *Id.*

2017 Enterprise Cloud Project Financial Subsidy from the People's Government of Chang'an Town, Haining	1.27% ⁴⁰⁵
Service Charge Refund for Individual Income Tax from Haining Tax Bureau	1.27% ⁴⁰⁶
Smart Electricity Development Support Fund from the People's Government of Chang'an Town, Haining	1.27% ⁴⁰⁷
Social Insurance Premium Refund for Difficult Enterprise from Haining Employment Management Service Office	0.15%
Enterprise Development Support Fund from the People's Government of Chang'an Town, Haining	0.29%

⁴⁰⁵ *Id.*

⁴⁰⁶ *Id.*

⁴⁰⁷ *Id.*