



C-570-136
Investigation
POI: 1/1/2019 – 12/31/2019
Public Document
E&C/OI: WL/NC

December 28, 2020

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

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Countervailing Duty Investigation of Certain Chassis and
Subassemblies Thereof from the People’s Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to the producers and exporters of certain chassis and subassemblies thereof (chassis) 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 30, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of chassis from China, filed in proper form on behalf of the Coalition of American Chassis Manufacturers (the petitioner), the members of which are domestic producers of chassis.¹ Pursuant to section 702(b)(4)(A)(ii) of the Act, on July 30, 2020, Commerce invited the Government of China (GOC) for consultations with respect to the

¹ The members of the Coalition of American Chassis Manufacturers are: Cheetah Chassis Corporation; Hercules Enterprises, LLC; Pitts Enterprises, Inc.; Pratt Industries, Inc.; and Stoughton Trailers, LLC. See Petitioner’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,” dated July 30, 2020 (the Petition).



CVD Petition.² The GOC did not respond to Commerce’s invitation. On August 19, 2020, Commerce initiated a CVD investigation on chassis from China.³

As discussed in the “Respondent Selection” section of the *Initiation Notice*, the petitioner named two companies in China as producers/exporters of chassis subject to the scope of this investigation.⁴ Accordingly, and in the absence of any contradictory information, Commerce stated that it intended to examine all known producers/exporters of chassis from China.

On September 3, 2020, Commerce issued its initial questionnaire to the GOC with instructions to forward the questionnaire to Qingdao CIMC Special Vehicles Co., Ltd. (QCVV) and Dongguan CIMC Vehicle Co., Ltd. (DCVC) (collectively, with other crossed-owned companies, CIMC).⁵ On September 9, 2020, Commerce received a request for voluntary respondent treatment from Guangdong Fuwa Heavy Industries Co., Ltd. (Fuwa).⁶ CIMC and Fuwa filed timely responses to Section III, “Identifying Affiliates,” on September 17, 2020.⁷ On October 1, 2020, the petitioner provided comments regarding the affiliation responses of CIMC.⁸ On October 13, 2020, CIMC filed rebuttal comments regarding the petitioner’s affiliation comments.⁹ On October 27 and 30, 2020, Commerce received responses to the Initial Questionnaire from the GOC,¹⁰ CIMC,¹¹ and

² See Commerce’s Letter, “Countervailing Duty Petition on Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition,” dated July 30, 2020.

³ See Memorandum, “Countervailing Duty Investigation Initiation Checklist: Certain Chassis and Subassemblies Thereof from the People’s Republic of China,” dated August 19, 2020 (Initiation Checklist); see also *Certain Corrosion Inhibitors from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 52549 (August 26, 2020) (*Initiation Notice*).

⁴ In the petition, Chinese producers/exporters of subject merchandise were identified as “Qingdao CIMC Special Vehicles Co., Ltd.” and “Dongguan CIMC Vehicle.” In a letter from counsel for CIMC Vehicles Qingdao and CIMC Vehicles Dongguan, counsel clarifies that the correct name for CIMC Vehicles Dongguan is “Dongguan CIMC Vehicle Co., Ltd.” See Coalition of American Chassis Manufacturers’ Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,” dated July 30, 2020 (the Petition) at Exhibit I-10; see also CIMC’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Respondent Selection,” dated August 27, 2020.

⁵ See Commerce’s Letter, “Countervailing Duty Investigation of Certain Chassis and Subassemblies thereof from the People’s Republic of China: Countervailing Duty Questionnaire,” dated September 3, 2020 (Initial Questionnaire).

⁶ See Fuwa’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Request for Confirmation as Mandatory Status as a “Known” Producer/Exporter, or Alternatively, Request for Voluntary Respondent Treatment,” September 9, 2020.

⁷ See CIMC’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Response to Section III Identifying Affiliated Companies,” dated September 17, 2020 (CIMC Affiliation Response); see also Fuwa’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Affiliated Companies Response,” dated September 17, 2020.

⁸ See Petitioner’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Comments on CIMC’s Affiliate Questionnaire Response,” dated October 1, 2020.

⁹ See CIMC’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Rebuttal to Petitioner’s Comments to CV’s Affiliation Response,” dated October 13, 2020.

¹⁰ See GOC’s Letter, “GOC Initial Questionnaire Response in the Countervailing Duty Investigation on Certain Chassis and Subassemblies Thereof from the People’s Republic of China (C570-136),” dated October 27, 2020 (GOC IQR).

¹¹ See CIMC’s Letters, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Response to Section III of the Initial Questionnaire Response,” dated October 27, 2020 (CIMC IQR1) and “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Response to Remaining Questions from Section III of the Initial Questionnaire Response,” dated October 30, 2020 (CIMC IQR2).

Fuwa.¹² On October 30, 2020, Commerce issued supplemental questionnaires regarding affiliation to CIMC.¹³ On November 6, 13, and 20, 2020, CIMC responded to Commerce's affiliation supplemental questionnaire.¹⁴ On November 10, 2020, the petitioner provided comments on the initial questionnaire responses.¹⁵ On November 18, 2020, the petitioner timely submitted new subsidy allegations,¹⁶ and on November 30, 2020, CIMC filed rebuttal comments regarding these allegations.¹⁷ On November 19, 2020, CIMC filed rebuttal comments regarding the petitioner's initial questionnaire comments.¹⁸ On November 20, 2020 and December 4, 2020, Commerce issued supplemental questionnaires to CIMC and the GOC, respectively.¹⁹ On December 3, 2020, CIMC and the petitioner provided benchmark information.²⁰ On December 4, 2020, CIMC responded to Commerce's November 20, 2020, supplemental questionnaire.²¹ On December 14, 2020, CIMC and the petitioner submitted pre-preliminary comments.²² On December 15, 2020, at the request of the GOC, Commerce met with GOC officials about the new subsidy allegation.²³ The GOC responded to Commerce's December 4, 2020, supplemental

¹² See Fuwa's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Submission of Remainder of Section III Company Response," dated October 20, 2020.

¹³ See Commerce's Letter, "Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof: Supplemental Questionnaire Regarding Affiliation," dated October 30, 2020.

¹⁴ See CIMC's Letters, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Questions #4 and #5 to the Supplemental Questionnaire Regarding Affiliation," dated November 6, 2020 (CIMC SQRA1); "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Questions #1-3 and #6-7 to the Supplemental Questionnaire Regarding Affiliation," dated November 13, 2020 (SQRA2); and "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Remaining Questions #1-3 and #6-7 to the Supplemental Questionnaire Regarding Affiliation," dated November 20, 2020 (SQRA3).

¹⁵ See Petitioner's Letters, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Comments on Government of The People's Republic of China's Initial Questionnaire Response," dated November 10, 2020 (Petitioner IQR Comments); see also "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Comments on CIMC Vehicles' Section III Initial Questionnaire Response," dated November 10, 2020.

¹⁶ See Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: New Subsidy Allegation," dated November 18, 2020 (Petitioner's New Subsidy Allegations).

¹⁷ See CIMC's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Rebuttal to New Subsidy Allegations," dated November 20, 2020.

¹⁸ See CIMC's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: New Factual Information and Rebuttal to Petitioner's Comments to CV's Section III Initial Questionnaire Response," dated November 19, 2020.

¹⁹ See Commerce's Letter, "Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof: Supplemental Questionnaire Regarding CV's Initial Questionnaire Response," dated November 20, 2020; see also Commerce's Letter, "Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof: Supplemental Questionnaire Regarding GOC's Initial Questionnaire Response," dated December 4, 2020.

²⁰ See CIMC's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Benchmark Submission," dated December 3, 2020 (CIMC Benchmark); see also Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Submission of Benchmark Information," dated December 3, 2020 (Petitioner Benchmark).

²¹ See CIMC's Letter, "Certain Corrosion Inhibitors from the People's Republic of China: Section III Supplemental Questionnaire Response," dated December 4, 2020 (CIMC SQR).

²² See CIMC's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Pre-Preliminary Determination Comments," dated December 14, 2020; see also Petitioner's Letter, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Comments in Advance of the Department's Preliminary Determination," dated December 14, 2020 (Petitioner's Pre-Prelim Comments).

²³ See Memorandum, "Meeting with the Government of the People's Republic of China Regarding New Subsidy Allegations," dated December 15, 2020.

questionnaire on December 17 and 21, 2020.²⁴ On December 23, 2020, CIMC submitted rebuttal benchmark comments.²⁵

B. Postponement of Preliminary Determination

On October 7, 2020, based on a request from the petitioner,²⁶ Commerce postponed the deadline for the preliminary determination until December 28, 2020, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).²⁷

C. Period of Investigation

The period of investigation (POI) is January 1, 2019 through December 31, 2019.

D. Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry. On September 18, 2020, the ITC published a preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of chassis from China that are allegedly subsidized by the GOC.²⁸

E. 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.²⁹ 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

²⁴ See GOC’s Letter, “GOC Supplemental Questionnaire Response Part 1 in the Countervailing Duty Investigation on Certain Chassis and Subassemblies Thereof from the People’s Republic of China (C-570-136).” dated December 17, 2020 (GOC SQR1), and “GOC Supplemental Questionnaire Response Part 2 in the Countervailing Duty Investigation on Certain Chassis and Subassemblies Thereof from the People’s Republic of China (C-570-136)” dated December 21, 2020 (GOC SQR2).

²⁵ See CIMC’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Request to Reconsider and Resubmission of Rebuttal Benchmark Submission,” dated December 23, 2020. CIMC initially submitted rebuttal benchmark comments on December 14, 2020, but we rejected those comments because they contained untimely filed factual information. We gave CIMC the opportunity to resubmit the comments without the untimely factual information, on December 23, 2020.

²⁶ See Petitioner’s Letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Request for Postponement of Preliminary Determination,” dated September 17, 2020.

²⁷ See *Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 63251 (October 7, 2020).

²⁸ See *Chassis and Subassemblies from China; Determinations*, 85 FR 58386 (September 18, 2020).

²⁹ See Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Transmitting Economic Diversification Memorandum to the Record,” dated December 28, 2020.

receive a response.³⁰ Thus, we will continue to find China has a wide diversification of economic activities.

F. Voluntary Respondent Treatment

Section 782(a)(1) of the Act directs Commerce to establish an individual countervailable subsidy rate for any exporter or producer not initially selected for individual examination who voluntarily provides the information requested of the mandatory respondents, if: (1) the information is submitted by the due date specified for exporters or producers initially selected for examination; and (2) the number of exporters or producers subject to the investigation is not so large that any additional individual examination of such exporters or producers that have voluntarily provided information would be unduly burdensome and inhibit the timely completion of the investigation.

As noted above, Commerce received requests for treatment as a voluntary respondent from Fuwa. In determining whether to examine voluntary respondents, pursuant to section 782(a) of the Act, Commerce considers whether examination of the voluntary respondents would be unduly burdensome and inhibit the timely completion of the investigation. Because this is an investigation involving: (1) a product with which Commerce has no familiarity; (2) the companies that have never been subject to Commerce's examinations, and (3) the mandatory respondents have eleven other cross-owned companies, Commerce is not selecting a voluntary respondent. Doing so would be unduly burdensome and would inhibit the timely completion of this investigation, pursuant to 782(a) of the Act.³¹

III. SCOPE COMMENTS

In accordance with the preamble to Commerce's regulations,³² we set aside a period of time in the *Initiation Notice* for parties to raise issues regarding product coverage, *i.e.*, scope.³³ Numerous parties submitted comments and rebuttal comments concerning the scope of the AD and CVD investigations of chassis from China. We are currently evaluating the scope comments filed by the interested parties. Because this investigation is not currently aligned with the companion AD investigation, Commerce intends to issue its preliminary decision regarding comments concerning the scope of the AD and CVD investigations no later than 30 days after the publication of this preliminary determination in the *Federal Register*.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain chassis and subassemblies thereof from China. For a complete description of the scope of this investigation, *see* the *Federal Register* notice accompanying this memorandum at Appendix I.

³⁰ See Initial Questionnaire at Section II, Standard Questions Appendix (Question N); *see also* GOC's IQR.

³¹ See Memorandum, "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Whether to Select Voluntary Respondents," dated concurrently with this memorandum.

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

³³ See *Initiation Notice*, 85 FR at 12503.

V. 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.³⁴ Pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System,³⁵ the AUL in this proceeding is six years. No party in this proceeding submitted comments challenging the proposed AUL period. Therefore, we preliminarily determine that a six-year period is appropriate for purposes of allocating non-recurring subsidies.

Furthermore, 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 a subsidy approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidy is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL. 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 the additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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

³⁴ See 19 CFR 351.524(b).

³⁵ See U.S. Internal Revenue Service Pub 946 (2017), "Appendix B – Table of Class Lives and Recovery Periods" (IRS Pub. 946).

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 ways 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.³⁶

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 ways it could use its own subsidy benefits.³⁷

As discussed above, Commerce selected QCVC and DCVC as mandatory respondents. QCVC and DCVC, producers of subject merchandise, identified and provided responses for its cross-owned affiliates: CIMC Vehicles (Group) Co., Ltd. (CV); China International Marine Containers (Group) Ltd. (CIMC Group); Shenzhen CIMC Vehicle Co., Ltd. (SCVC); Zhumadian CIMC Huajun Casting Co., Ltd. (Huajun Casting); Yangzhou CIMC Tonghua Special Vehicles Co., Ltd.(Tonghua); Zhumadian CIMC Huajun Vehicle Co., Ltd. (HJV); Gansu CIMC Huajun Vehicles Co., Ltd. (GSHJ); CIMC Vehicles (Liaoning) Co., Ltd. (Liaoning); Zhumadian CIMC Wanjia Axle Co., Ltd. (Wanjia); Liangshan CIMC Dongyue Vehicles Co., Ltd. (Dongyue); and Shandong Wanshida Special Vehicle Manufacturing Co., Ltd. (Wanshida), which are cross-owned within the definition of 19 CFR 351.525(b)(6)(vi).³⁸ The specific nature of the relationship of QCVC, DCVC, and their cross-owned affiliates is business proprietary information, and we have provided a full analysis in the CIMC Preliminary Calculation Memorandum.³⁹ SCVC’s, Tonghua’s, HJV’s, GSHJ’s, Liaoning’s, Dongyue’s, and Wanshida’s subsidies are attributable to DCVC and QCVC under 19 CFR 351.525(b)(6)(ii) as corporations producing the subject merchandise. Therefore, pursuant to 19 CFR 351.525(b)(6)(ii), subsidies to QCVC, DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, and Wanshida are attributed to the combined sales of the nine companies, net of intercompany sales.

QCVC and DCVC reported that cross-ownership exists between them and CV and CIMC Group. Based on information on the record, we preliminarily determine that cross-ownership exists, in accordance with 19 CFR 351.525(b)(6)(iii) and (vi), between QCVC and DCVC and CV and CIMC Group, through CV and CIMC Group’s ultimate ownership of QCVC and DCVC.⁴⁰

³⁶ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

³⁷ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d. 593, 600-604 (CIT 2001).

³⁸ See CIMC Affiliation Response; see also Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from China; Preliminary Determination Calculations for CIMC,” dated December 28, 2020 (CIMC Preliminary Calculation Memorandum).

³⁹ *Id.*

⁴⁰ See CIMC Affiliation Response.

Because CV and CIMC Group can use QCVC's and DCVC's assets in the same way they uses their own,⁴¹ in accordance with 19 CFR 351.525(b)(6)(iii) and (vi), we are attributing subsidies received by CV and CIMC Group to QCVC and DCVC.

Huajun Casting and Wanjia produced and sold inputs which are primarily dedicated to the production of the downstream subject merchandise.⁴² The specific inputs provided are business proprietary information; therefore, *see* CIMC Preliminary Calculation Memorandum.⁴³ Pursuant to 19 CFR 351.525(b)(6)(iv), for subsidies received by an input supplier whose production of inputs is primarily dedicated to the production of the downstream merchandise by a cross-owned producer, Commerce attributes the benefit to the combined sales of the input and downstream products produced by both corporations, excluding the sales between the two corporations. Accordingly, pursuant to 19 CFR 351.525(b)(6)(iv), we attributed subsidies received by Huajun Casting and Wanjia to their respective total sales plus the sales of nine producers of subject merchandise, net of inter-company sales.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. We identified the denominator we used to calculate the countervailable subsidy rate for each program, as discussed in the "Programs Preliminarily Determined to Be Countervailable" section, below. Where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in the net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* the CIMC Preliminary Calculation Memorandum.⁴⁴

VI. NEW SUBSIDY ALLEGATIONS

On November 18, 2020, the petitioner timely filed new subsidy allegations alleging that countervailable subsidies are being provided to Chinese producers of chassis under four additional programs: currency undervaluation, equity infusions, provision of ferrous scrap for less than adequate remuneration (LTAR), provision of pig iron for LTAR.⁴⁵ The petitioner also alleged that CIMC was uncreditworthy in certain years. We intend to address these allegations and determine whether to initiate an investigation after the Preliminary Determination. Should we initiate on these allegations, we intend to solicit the necessary information from the GOC and CIMC, and issue a post-preliminary analysis, if time permits.

⁴¹ Commerce's regulations at 19 CFR 351.525(b)(6)(vi) state that cross-ownership exists when one corporation can use or direct the assets of another corporation in essentially the same way it can use its own. Normally, however, "this standard will be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations."

⁴² *See* CIMC Affiliation Response; *see also* CIMC Preliminary Calculation Memorandum.

⁴³ *See* CIMC Preliminary Calculation Memorandum.

⁴⁴ *Id.*

⁴⁵ *See* Petitioner's New Subsidy Allegations.

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” 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.”⁴⁶ 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.”⁴⁷ 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.”⁴⁸ 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.⁴⁹ 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

⁴⁶ 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).

⁴⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994) at 870.

⁴⁸ See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

⁴⁹ *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.⁵⁰ Moreover, affirmative evidence of bad faith on the part of a respondent is not required before Commerce makes an adverse inference.⁵¹

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.”⁵² It is Commerce’s practice to consider information to be corroborated if it has probative value.⁵³ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.⁵⁴ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁵⁵ Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.⁵⁶

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.⁵⁷

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

⁵⁰ *Id.*

⁵¹ *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); *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel*, 337 F.3d at 1382-83.

⁵² *See, e.g., SAA* at 870.

⁵³ *Id.*

⁵⁴ *Id.* at 869.

⁵⁵ *Id.* at 869-70.

⁵⁶ *See* section 776(c)(2) of the Act.

⁵⁷ *See* section 776(d)(3) of the Act.

B. Application of Facts Available: CIMC and CIMC Group are State-Owned Enterprises (SOE)

The petitioner argues that CIMC is an SOE on the basis that its parent company, CIMC Group, is majority-owned by SOEs.⁵⁸ CIMC has stated that neither it nor CIMC Group are SOEs. For the reasons discussed below, we preliminarily find that CIMC Group is an SOE, and therefore, we find that CIMC is also an SOE.

Record evidence indicates that more than 50 percent of CIMC Group is state-owned. Specifically, the CIMC Group's owners include China Merchants Group Limited (CMG), China COSCO Shipping Corporation Limited (COSCO), and Hony Group Management Limited (Hony Management), who own 24.56 percent,⁵⁹ 22.70 percent⁶⁰ and 11.99 percent,⁶¹ respectively, of CIMC Group.

CMG and COSCO are fully owned by the State-Owned Assets Supervision and Administration Commission (SASAC).⁶² With respect to Hony Management, the petitioner argues that record information indicates that Hony Group is an SOE.⁶³ Further, the petitioner contends that Hony Group is the successor in interest to Hony Capital Management Limited (Hony Capital).⁶⁴ In *53-Foot Containers from China*, Commerce determined Hony Capital to be an SOE that held CIMC Group.⁶⁵

To clarify the nature of Hony Management's ownership, Commerce requested a list of Hony Management's shareholders, with an indication as to whether any of them were SOEs.⁶⁶ In response, CIMC provided an organizational chart illustrating the major shareholders of Hony Management.⁶⁷ However, this chart does not account for 86 percent of Hony Management's shareholders.⁶⁸ Further, CIMC did not clarify the nature of the relationship between Hony Management and Hony Capital.⁶⁹ Thus, we find that CIMC has failed to fully respond to Commerce's request for information.

Therefore, for the preliminary determination, we are relying on "facts otherwise available," pursuant to sections 776(a)(1) and (a)(2)(A) and (C) of the Act to preliminarily find CIMC and

⁵⁸ See, e.g., Petitioner's Pre-Prelim Comments at 29.

⁵⁹ See Petitioner IQR Comments at Exhibit 6 at 115.

⁶⁰ *Id.* at 111.

⁶¹ *Id.* at 191.

⁶² *Id.* at 193.

⁶³ See Petitioner's Pre-Prelim Comments at 36.

⁶⁴ *Id.* at 35.

⁶⁵ See *53-Foot Domestic Dry Containers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 21209 (April 17, 2015), and accompanying IDM at Comment 2 ("Due to SASAC's ultimate ownership in both major shareholders, and due to the apparent control by these shareholders over Hony Capital, we find that Hony Capital is also ultimately controlled by SASAC, and its ownership shares should continue to be included in our state ownership analysis for this final determination.").

⁶⁶ See Commerce's Letter, "Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof: Supplemental Questionnaire Regarding CV's Initial Questionnaire Response," dated November 20, 2020.

⁶⁷ See CIMC SQR at Exhibit SQ-1.

⁶⁸ *Id.*

⁶⁹ *Id.* at 2.

CIMC Group to be SOEs. Commerce will request additional information regarding Hony Capital and Hony Management in a post-preliminary determination questionnaire.

C. Application of Adverse Facts Available: Provision of Electricity for LTAR

The GOC did not provide complete responses to Commerce's questions regarding the alleged provision of electricity for LTAR. These questions solicited 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 and 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.⁷⁰ Commerce requested this information in order to determine the process by which electricity prices and price adjustments are derived, to identify entities that manage and impact price adjustment processes, and to examine cost elements included in the derivation of electricity prices in effect throughout China during the POI.

In the GOC IQR, the GOC stated that, since January 1, 2016, "all of the provincial governments have been given authority to prepare and publish electricity tariff rates for their own jurisdictions."⁷¹ Therefore, according to the GOC, Provincial Price Proposals no longer exist and did not exist during the POI.⁷² Consequently, according to the GOC, the "NDRC's role in regulating provincial electricity pricing is at the macro level; however, the NDRC no longer determines the specific electricity *sale prices*."⁷³

Commerce preliminarily determines that the record indicates that the NDRC continues to play a significant and determinative role in setting electricity prices, 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

⁷⁰ See Initial Questionnaire at Electricity Appendix.

⁷¹ See GOC IQR at 43.

⁷² *Id.* at 45-46.

⁷³ *Id.* at 43.

cooperate fully, Commerce lacks information that would allow it to determine whether the varying provincial prices established under the NDRC-administered program are the result of market considerations or the result of a design to subsidize certain regions or industries.

In particular, Notice 3105 is based upon consultations between the NDRC and the “National Energy Administration” or “State Energy Bureau” (depending on translation)⁷⁴ 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.⁷⁵ Consequently, Notice 3015 explicitly direct provinces to reduce prices and to report the enactment of such changes to the NDRC. Further, Notice 3105 does not stipulate that relevant provincial pricing authorities determine and issue electricity prices within their own jurisdictions, as the GOC claims.⁷⁶ 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, direct provinces to reduce prices by amounts specific to provinces. It does not explicitly eliminate Provincial Price Proposals nor define distinctions in price-setting roles between national and provincial pricing authorities. The GOC failed to explain fully the roles of each level of government and the nature of the cooperation between the NDRC and the provinces in deriving electricity price adjustments. The information provided by the GOC indicates that despite its claim that the responsibility for setting prices within each province has moved from the NDRC to the provincial governments, the NDRC continues to play a major role in setting and adjusting prices. Furthermore, the GOC failed to explain both the derivation of price reductions required of the provinces by the NDRC and the derivation of the provincial prices themselves.

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

Consequently, we preliminarily determine that the GOC withheld information that was requested of it for the analysis of financial contribution and specificity and, thus, Commerce must rely on “facts available” in making the preliminary determination.⁷⁷ 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.⁷⁸ 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

⁷⁴ *Id.* at Exhibit II.E10.2

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *See* section 776(a)(2)(A) of the Act.

⁷⁸ *See* section 776(b) of the Act.

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.⁷⁹ The benchmark rates were selected from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. We have relied upon electricity usage and rates paid by the companies under investigation to calculate POI benefits attributable to the mandatory respondents. For details regarding the remainder of the analysis, see “Provision of Electricity for LTAR” section below.

D. Application of Adverse Facts Available: Input/Service Producers are “Authorities”

As discussed below, under “Programs Preliminarily Determined to be Countervailable,” we are investigating the provision of hot-rolled steel sheet and plate, galvanized steel, wire rod, steel bars, steel beams, steel channels, steel angles, hollow structural shapes and international ocean shipping services for LTAR. To determine whether the provision of these inputs/services constitutes a financial contribution within the meaning of section 771(5)(D) of the Act, we requested that the GOC provide information necessary to determine whether the specific companies that provided these inputs/services was purchased by the respondents during the POI are “authorities” within the meaning of section 771(5)(B) of the Act.⁸⁰

In its IQR, the GOC provided details regarding the ownership of multiple producers/suppliers, including state-owned corporations, publicly listed corporations, and corporations owned by private individuals.⁸¹ The GOC reported that some providers of the inputs/services purchased by the CIMC companies 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.⁸² 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, which the GOC reported to be majority-owned by the government, constitute “authorities” within the meaning of section 771(5)(B) of the Act and that CIMC 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 from such entities.⁸³

However, in the initial questionnaire, we also asked the GOC to provide information regarding the role of CCP officials in the companies that provided inputs/services to the respondent, including those for which the GOC did not report that the entities were majority-owned by the

⁷⁹ See section 776(b)(4) of the Act.

⁸⁰ See Initial Questionnaire at 8 to 39.

⁸¹ See, e.g., GOC IQR at Exhibit II.E1.2.

⁸² See “Update of the 2012 Public Bodies Analysis of State-Invested Enterprises in China for Countervailing Duty Purposes” (Public Bodies Memorandum), contained within Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People’s Republic of China RE: Placing Documents on the Record,” dated September 21, 2020 at Attachment 1.

⁸³ 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.

government. The GOC did not provide information on the Chinese Communist Party (CCP) membership of key individuals, arguing that this requested information was “irrelevant”.⁸⁴

The information we requested regarding the role of CCP officials in the management and operations of the respondents’ providers is necessary for the determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP or that it consulted any other sources. The GOC’s responses in prior CVD proceedings involving China demonstrate that it is, in fact, able to access information similar to what was requested in this investigation.⁸⁵ Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any of the requested information, it should have promptly explained to Commerce what attempts it undertook to obtain this information and proposed alternative forms of providing the information.⁸⁶ As we explained in the Public Bodies Memorandum,⁸⁷ the CCP exerts significant control over economic activities in China. Thus, we find that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the respondents’ suppliers is necessary to the determination of whether these companies are “authorities” within the meaning of section 771(5)(B) of the Act.

Because Commerce did not receive information regarding the role of CCP officials in the management and operations of these providers, there is incomplete information on the record to determine whether these producers are “authorities.” Therefore, for the preliminary determination, we must rely on “facts otherwise available,” pursuant to 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 when it failed to respond to our questions despite having provided such information in prior investigations. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1) of the Act to determine that these producers/providers are “authorities”. Therefore, for purposes of this preliminary determination, we find that all domestic producers/providers, regardless of whether the GOC has reported them to be state-owned, are “authorities”.

⁸⁴ See GOC IQR at 58, 88, 122, 152, 181, 211, 240 and 268. The GOC stated that none of the respondent companies purchased wire rod for the production of subject merchandise during the POI, and thus, did not provide responses for this program. *Id.* at 107. However, wire rod purchases were reported by some companies during the POI. See SQRA2 at 20. However, they have not indicated whether the wire rod was used in the production of subject merchandise. Regardless, the benefits received for these purchases (using a tier-2 benchmark) are below 0.005 percent, and thus, we are preliminarily finding the provision of wire rod for LTAR to be non-measurable. See CIMC Preliminary Calculation Memorandum.

⁸⁵ See *High Pressure Steel Cylinders from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying IDM at 13.

⁸⁶ Section 782(c)(1) of the Act states, “{i}f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.”

⁸⁷ See Public Bodies Memorandum.

E. Application of Facts Available: Inputs are Specific

For purposes of Commerce's *de facto* specificity analysis, we asked the GOC to provide a list of industries that purchase hot-rolled steel sheet and plate, galvanized steel, steel bars, steel beams, steel channels, steel angles, hollow structural shapes and international ocean shipping services in China.⁸⁸ Commerce also requested that the GOC “{p}rovide 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.”⁸⁹ The GOC did not provide information regarding the types of industries in China that purchased these inputs. Instead, the GOC stated it did not maintain the requested data.⁹⁰ The requested information is necessary for Commerce to analyze the data for the number of users, industries, and quantities of inputs supplied to various industries is necessary to determine specificity.

Consequently, consistent with past proceedings,⁹¹ we preliminarily determine that necessary information is not available on the record. Therefore, for the preliminary determination, we are relying on “facts otherwise available,” pursuant to sections 776(a)(1) and (a)(2)(A) and (C) of the Act. As discussed below, CIMC reported making purchases of these inputs/services during the POI. On this basis, we find the provision of hot-rolled steel sheet and plate, galvanized steel, steel bars, steel beams, steel channels, steel angles, hollow structural shapes and international ocean shipping services to be specific pursuant to section 771(5A)(D)(iii)(I) of the Act. Commerce will request additional information regarding industry usage from the GOC in a post-preliminary determination questionnaire.

F. Application of Facts Available: Whether Certain Input Markets are Distorted

For the purposes of determining the level of government involvement in the hot-rolled steel sheet and plate, galvanized steel, steel bars, steel beams, steel channels, steel angles, hollow structural shapes and international ocean shipping services industries and, thus, whether domestic prices in China in these respective markets are distorted, we asked the GOC numerous questions about these industries.⁹² These questions included, but were not limited to, information regarding the total number of 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.⁹³ Further, if the percentage of production accounted for by those companies is less than 50 percent, we requested that the GOC provide the percentage of volume and value of production accounted for by companies in which the GOC maintains some,

⁸⁸ See Initial Questionnaire at 8 to 39.

⁸⁹ *Id.*

⁹⁰ See GOC IQR at 72, 102, 136, 195, 225, 254 and 281.

⁹¹ See, e.g., *Utility Scale Wind Towers from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422 (June 6, 2012), unchanged in *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*).

⁹² See Initial Questionnaire at 8 to 39.

⁹³ *Id.*

but less than a majority, ownership interest.⁹⁴ Finally, we requested certain information regarding laws, plans, policies, price controls, export restrictions, etc.⁹⁵

The GOC provided some, but not all of the information requested. For example, the GOC provided import statistics for some inputs.⁹⁶ However, for the majority of these distortion questions, including questions related to government ownership of production, the GOC stated that it did not maintain the requested data.⁹⁷

Thus, while the GOC has provided some information, we require additional information to conduct a full analysis of the GOC's involvement in these respective markets and, thus, determine if the domestic prices in these markets are distorted such that they are unusable as "Tier 1" benchmarks. We preliminarily determine that necessary information is not available on the record. Therefore, for the preliminary determination, we must rely on "facts otherwise available," pursuant to sections 776(a)(1) and (a)(2)(A) and (C) of the Act, to determine whether the markets for hot-rolled steel sheet and plate, galvanized steel, steel bars, steel beams, steel channels, steel angles, hollow structural shapes and international ocean shipping services are distorted by GOC involvement.

G. Application of Adverse Facts Available: Other Subsidies

CIMC and its cross-owned affiliates reported in their IQRs that they received certain "Other Subsidies" during the POI.⁹⁸ The questionnaire specifically requests that the GOC "provide full and complete responses to all programs referenced in the questionnaire, including any other subsidies that may be reported."⁹⁹ However, the GOC did not provide complete responses to Commerce's questions regarding these programs, stating that they were not required to provide responses for these programs.¹⁰⁰ 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 the analysis of financial contribution and specificity is not available on the record.

Therefore, for the preliminary determination, we must rely on "facts otherwise available," pursuant to 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 when it failed to provide responses for these programs. Further, an adverse inference is warranted in the application of facts available, pursuant to section 776(b)(1)

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *See, e.g.*, GOC IQR at 99.

⁹⁷ *Id.* at 69, 99, 133, 192, 222, 251 and 278.

⁹⁸ *See* CIMC IQR at Exhibit DCVD-OTH-1; *see also* CIMC SQR at Exhibits DCVC-OTH-2, SCVC-OTH-2, CV-OTH-2, CIMC-OTH-2, and HJC-OTH-2.

⁹⁹ *See* Initial Questionnaire at 41.

¹⁰⁰ *See* GOC IQR at 301 ("Article 11.2 of the WTO Agreement on Subsidies and Countervailing Measures dictates that investigations may not be initiated on the basis of "simple assertion, unsubstantiated by relevant evidence." Sufficient evidence with regard to the existence, amount, and nature of a subsidy must be presented for the Department to initiate the investigation of another program, consistent with Article 11.2 (iii). Therefore, in the absence of allegations and sufficient evidence in respect of "other" subsidies, consistent with Article 11.2 and other relevant articles of the WTO Agreement on Subsidies and Countervailing Measures no reply to this question is warranted or required.").

of the Act. Consequently, we preliminarily determine that the “other subsidies” reported by CIMC and its cross-owned affiliates, 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.

H. Application of Adverse Facts Available: Export Buyer’s Credits

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

In the initial questionnaire, we requested that the GOC provide the information requested in the Standard Questions Appendix “with regard to all types of financing provided by the China ExIm under the Buyer Credit Facility.”¹⁰¹ The Standard Questions Appendix requested various information that Commerce requires in order to analyze the specificity and financial contribution of this program, including the following: translated copies of the laws and regulations pertaining to the program, identification of the agencies and types of records maintained for administration of the program, a description of the program, and the program application process, program eligibility criteria, and the program use data.

Further, in the initial questionnaire, we requested the GOC to 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 (7th SQR).¹⁰² However, the GOC refused to provide this questionnaire response in its IQR.¹⁰³ In previous proceedings we have found this information to be relevant for our analysis.¹⁰⁴ For example, we have found that this supplemental response indicates that the loans associated with this program are not limited to direct disbursements through the Ex-Im Bank.¹⁰⁵ Specifically, this record information indicates that customers can open loan accounts for disbursements through this program with other banks.¹⁰⁶ The funds are first sent from the Ex-Im Bank to the importer’s account, which could be at the Ex-Im Bank or other banks, and then these funds are sent to the exporter’s bank account.¹⁰⁷ Given the complicated structure of loan disbursements for this program, Commerce’s complete understanding of how this program is administered is necessary. Thus, the GOC’s refusal to fully respond to Commerce’s request for information significantly impeded Commerce’s ability to conduct its investigation of this program.

Further, in response to our request that it provide a list of all partner/correspondent banks involved in disbursement of funds under the program, the GOC stated this program was not used

¹⁰¹ See Initial Questionnaire at 4.

¹⁰² *Id.*

¹⁰³ See GOC IQR at 21 (“The GOC does not believe that this old questionnaire response is relevant to this proceeding since it was specific the time period and factual circumstances in that proceeding.”).

¹⁰⁴ See, e.g., *Certain Fabricated Structural Steel from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 5384 (January 30, 2020), and accompanying IDM at Comment 2.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

by the respondents, and therefore the relevant appendix was is not applicable.”¹⁰⁸ To support its claim that none of the respondents’ customers applied for, used, or benefitted from this program during the POI, the GOC stated that it obtained from the respondents their customer lists and provided these lists to Ex-Im Bank who searched its records to confirm that the customers provided in the lists did not receive any Export Buyer’s Credits from the Ex-Im Bank during the POI.¹⁰⁹ The GOC also stated that “whether a foreign buyer received a loan pursuant to the Export Buyer’s Credits program can be confirmed by the Chinese exporter. Normally, if Export Buyer’s Credits are provided by the China Ex-Im Bank, the Chinese exporter is aware of the buyer’s receipt of the loans and is involved in the loan evaluation proceeding and, in particular, in the post-lending loan management conducted by the China Ex-Im Bank. Therefore, the Chinese exporter is in a position to verify and confirm the existence, if any, of sales contracts that were supported by Buyer’s Export Credits of the China Ex-Im Bank.”¹¹⁰

Commerce cannot verify claims of non-usage, whether originating with the respondents or their U.S. customers, if it does not know the names of the intermediary banks that might appear in the books and records of the recipient of the credit (*i.e.*, loan) or the cash disbursement made pursuant to the credit. There will not necessarily be an account in the name “China ExIm Bank” or “Ex-Im Bank” in the books and records (*e.g.*, subledger, tax return, bank statements) of either the exporter or the U.S. customer.

Pursuant to section 776(a)(1) of the Act, we find that necessary information is missing from the record for Commerce to have a clear understanding of how this program operates and to be able to verify purported claims of non-use of this program. Furthermore, pursuant to sections 776(a)(2)(A) and (2)(C) of the Act, when an interested party withholds information requested by Commerce or 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 provision of non-verifiable claims and refusal to provide requested information, which are necessary information for Commerce to make a determination regarding this program. Further, pursuant to section 776(b) of the Act, we find that the GOC, by virtue of not providing this information to Commerce, failed to cooperate by not acting to the best of its ability. Accordingly, we find that the application of AFA is warranted.

Regarding specificity, although the record regarding this program suffers from significant deficiencies, we note that the GOC’s description of the program and supporting materials (albeit found to be deficient) demonstrate that through this program, state-owned banks, such as the Ex-Im Bank, provide loans at preferential rates for the purchase of exported goods from China.¹¹¹ In addition, the program was alleged by the petitioner as a possible export subsidy.¹¹² Finally, Commerce has found this program to be an export subsidy in the past.¹¹³

¹⁰⁸ See GOC IQR at 22.

¹⁰⁹ *Id.* at Exhibit II.B.11.

¹¹⁰ *Id.* at 22.

¹¹¹ *Id.* at Exhibits II.B.9, II.B.10 and II.B.11.

¹¹² See Initiation Checklist at 32.

¹¹³ 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.

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 is contingent on exports within the meaning of sections 771(5A)(A) and (B) of the Act.

Based on the AFA rate selection hierarchy described above, for this program we are using an AFA rate of 10.54 percent *ad valorem*, the highest rate determined for a similar program in the *Coated Paper from China Amended Final* proceeding.¹¹⁴

VIII. BENCHMARKS AND DISCOUNT RATES

We are investigating loans from Chinese policy banks and non-recurring, allocable subsidies received by the mandatory respondents. The derivation of the loan benchmark and discount rates used to value these subsidies is discussed below.¹¹⁵

A. Short-Term and Long-Term 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, we use comparable commercial loans reported by the company as a benchmark.¹¹⁶ 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.”¹¹⁷

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.¹¹⁸ On July 21, 2017, Commerce conducted a reassessment of China’s financial system for CVD benchmarking purposes.¹¹⁹ Based on this re-assessment, Commerce concluded that, despite reforms to date, GOC’s role in the system continues to fundamentally distort lending practices in China in terms of risk pricing and resource allocation, precluding the use of interest rates in China for CVD benchmarking or discount rate purposes. Consequently, we preliminarily find that any loans received by the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, Commerce is

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

¹¹⁵ See 19 CFR 351.524(b)(1).

¹¹⁶ See 19 CFR 351.505(a)(3)(i).

¹¹⁷ See 19 CFR 351.505(a)(3)(ii).

¹¹⁸ See *CFS from China* IDM at Comment 10.

¹¹⁹ See Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Analysis of China’s Financial System,” dated September 21, 2020.

selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with Commerce's practice.¹²⁰

In past proceedings involving imports from China, we calculated the external benchmark using the methodology first developed in *CFS from China* and more recently updated in *Thermal Paper from China*.¹²¹ 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.¹²² Beginning in 2010, however, China fell within the upper-middle income category and remained there from 2011 to 2017.¹²³ 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 2010-2017. This is consistent with Commerce's calculation of interest rates for recent CVD proceedings involving Chinese merchandise.¹²⁴

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 2011-2017, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.¹²⁵ For 2010, however, the regression does not yield that outcome for China's income group.¹²⁶ 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 2011-2017. For the

¹²⁰ 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 Preliminary Decision Memorandum (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).

¹²¹ 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.

¹²² See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups>; see also Memorandum, "Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Loan Interest Rate Benchmarks," dated concurrently with this memorandum (Interest Rate Benchmark Memorandum).

¹²³ *Id.*

¹²⁴ 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).

¹²⁵ See Interest Rate Benchmark Memorandum.

¹²⁶ *Id.*

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 IMF, and they are included in that agency's International Financial Statistics (IFS). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010-2017 and "lower middle income" for 2001-2009.¹²⁷ First, we did not include those economies that Commerce considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year Commerce calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.¹²⁸ Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.¹²⁹

B. Long-Term RMB-Dominated Loans

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.¹³⁰

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.¹³¹ Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.¹³² The resulting inflation-adjusted benchmark lending rates are provided in the CIMC Preliminary Calculation Memorandum.

C. 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

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *See, e.g., Thermal Paper from China* IDM at 10.

¹³¹ *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.

¹³² *See* Interest Rate Benchmark Memorandum.

provided non-recurring subsidies. The interest rate benchmarks, and discount rates used in the preliminary calculations are provided in the CIMC Preliminary Calculation Memorandum.¹³³

D. Input Benchmarks

We selected benchmarks for determining the benefit from the provision of hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, hollow structural shapes, international ocean shipping, electricity, and land for LTAR in accordance with 19 CFR 351.511. Section 351.511(a)(2) of Commerce’s regulations 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).¹³⁴

Hot-Rolled Steel Sheet and Plate, Galvanized Steel, Steel Bar, Steel Beams, Steel Channels, Steel Angles, and Hollow Structural Shapes Benchmarks

CIMC reported purchases of hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shape during the POI for the production of subject merchandise.

As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic input producers of hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shape are “authorities” and that the hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shape markets are distorted. Therefore, domestic prices in China for hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shapes cannot be used as a tier-one benchmark. Thus, to measure the adequacy of remuneration for the provision of these inputs, we are relying on world market prices as the tier-two benchmark pursuant to 19 CFR 351.511(a)(2)(ii).

For purposes of this preliminary determination, Commerce is relying upon world export prices from the United Nations Commodity Trade Statistics Database (UN Comtrade) for hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shapes.¹³⁵ We removed exports to China from the data, as well as any shipments for which no volume was reported. The UN Comtrade data are provided on a monthly basis, allowing us to derive monthly benchmarks, our preferred practice, and includes export prices from all countries. These export prices represent an average of commercially available world market prices for the inputs that would be available to purchasers in China.

¹³³ See Preliminary Calculation Memorandum.

¹³⁴ See 19 CFR 351.511(a)(2).

¹³⁵ See Petitioner’s Benchmark Submission.

In addition to its revised UN Comtrade data for hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shape, CIMC provided benchmark information for hot-rolled steel sheet and plate, galvanized steel, steel bar, steel beams, steel channels, steel angles, and hollow structural shape using data from a paid subscription service.¹³⁶ However, the data provided by CIMC includes only a limited number of countries, and does not allow exports to China to be removed.¹³⁷ Consequently, for purposes of the preliminary determination, we find that the UN Comtrade data are the more appropriate benchmarks.

Pursuant to 19 CFR 351.511(a)(2)(iv), Commerce must adjust the benchmark prices to include import duties and delivery charges. Accordingly, we added international freight charges, VAT, import duties, and inland freight charges on applicable purchases, to calculate the price that a respondent would have paid on the world market for these inputs.¹³⁸

Land Benchmark

As explained in detail in previous investigations, we cannot rely on the use of tier one and tier two benchmarks to assess the benefits from the provision of land for LTAR in China. Specifically, in *Sacks from China*, we determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable tier one benchmarks exist.¹³⁹ Furthermore, we found that tier two benchmarks (world market prices that would be available to purchasers in China) are not appropriate.¹⁴⁰

On October 2, 2018, Commerce completed a memorandum analyzing developments in China’s land market since 2007.¹⁴¹ The Land Benchmark Analysis was prepared to assess the continued application of Commerce’s land for LTAR benchmark methodology, as established in 2007 in *Sacks from China*.¹⁴² As discussed in the Land Benchmark Analysis, although reforms in China’s land markets have improved the use-rights of some landholders, such improvements have not been comprehensive, and reforms have been implemented on an *ad hoc* basis.¹⁴³ The reforms to date have not addressed the fundamental institutional factors that underlie the Chinese government’s monopoly control over land-use, which precludes landholders from putting their land to its best use and realizing the market value of their landholdings.¹⁴⁴ The GOC still owns

¹³⁶ See CIMC Benchmark Submission at Exhibit 1.

¹³⁷ *Id.*; see also CIMC Preliminary Calculation Memorandum.

¹³⁸ See Petitioner’s Benchmark Submission.

¹³⁹ See, e.g., *Laminated Woven Sacks from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (*Sacks from China*).

¹⁴⁰ *Id.*

¹⁴¹ See Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Land Analysis Memo,” dated September 21, 2020 (Land Analysis Memo) (containing a memorandum titled “Benchmark Analysis of the Government Provision of Land-Use Rights in China for Countervailing Duty Purposes,” dated October 2, 2018) (Land Benchmark Analysis).

¹⁴² *Id.* at 2.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

all land in China, and exercises direct control over the sale of land-use rights and land pricing in the primary market and indirect control in the secondary market.¹⁴⁵

As a result, and consistent with our methodology established in *Sacks from China*, we determine that we cannot use domestic Chinese land prices for benchmarking purposes. We also determine that because land is generally not simultaneously available to an in-country purchaser while located and sold out-of-country on the world market, we cannot use tier two world prices as a benchmark for land-use rights, pursuant to 19 CFR 351.511(a)(2)(ii). Finally, under a tier three analysis, we examined whether government land is provided in a manner that is consistent with market principles pursuant to 19 CFR 551.51(a)(2)(iii). Because land prices in China reflect the government's control and allocation of land-use on an administrative basis, we preliminarily determine that such prices are not consistent with market principles. Therefore, we will continue to use land-use prices outside of China, consistent with our practice, as a tier three benchmark for purposes of calculating a benefit for this program.

We placed benchmark information on the record to value land from “Asian Marketview Reports” by CB Richard Ellis (CBRE) for Thailand for 2010.¹⁴⁶ We used this benchmark in the CVD investigations of *Solar Cells from China* and *IMTDCs from China*.¹⁴⁷ We initially selected this information in the *Sacks from China* investigation after considering a number of factors, including national income levels, population density, and producers' perceptions that Thailand is a reasonable alternative to China as a location for Asian production.¹⁴⁸ We find that the benchmark continues to be suitable for this preliminary determination, and we relied on it for the calculation of benefits to CIMC from their land purchases. We will continue to examine benchmark prices on a case-by-case basis and will consider the extent to which proposed benchmarks represent prices in a comparable setting (*e.g.*, a country proximate to China; the country's level of economic development, etc.).

Ocean Freight Benchmark

CIMC reported purchases of international ocean shipping services during the POI. As discussed above under “Use of Facts Otherwise Available and Adverse Inferences,” we preliminarily determine that the domestic providers of international ocean shipping services are “authorities” and that the market for international ocean shipping services to be distorted. Therefore, domestic prices in China for international ocean shipping services cannot be used as a tier-one benchmark.

¹⁴⁵ *Id.*

¹⁴⁶ See Memorandum, “Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China: Asian Marketview Report” dated September 21, 2020 (containing “Asian Marketview Report” pricing data).

¹⁴⁷ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from China*), and accompanying IDM at 6 and Comment 11; see also *Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 21316 (April 11, 2016) (*IMTDCs from China*), and accompanying PDM at 13.

¹⁴⁸ The complete history of our reliance on this benchmark is discussed in the *Solar Cells from China* IDM. In that discussion, we reviewed our analysis from the *Sacks from China* investigation and concluded the CBRE data remained a valid land benchmark.

When tier-one benchmarks are unavailable, Commerce will use, a tier-two benchmark, a world market price that would be available to purchasers in the country in question. within the meaning of 19 CFR 351.511(a)(2)(ii). The petitioner and CIMC placed shipping benchmark data on the record of this investigation.¹⁴⁹ The petitioner provided monthly shipping rates quotes, that were in effect during the POI, from an international freight company.¹⁵⁰ CIMC provided the average freight rates of unaffiliated freight carriers by route for four responding companies during the POI. However, CIMC did not provide the names or any supporting details regarding these freight companies. Further, these shipping rates originate in China, which, as discussed above, Commerce has found to be distorted. Therefore, we preliminarily find that the international ocean shipping prices placed on the record by the petitioner are suitable world market shipping prices for measuring whether CIMC received a benefit under this program during the POI.

Electricity Benchmark

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.¹⁵¹ The selected electricity benchmarks are provided in the CIMC Preliminary Calculation Memorandum.

IX. ANALYSIS OF PROGRAMS

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 Export-Import Bank of China. For the reasons explained in the “Application of AFA: Export Buyer’s Credits” section, the 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 Credit program is specific because the credits are contingent upon export performance under sections 771(5A)(A) and (B) of the Act. As AFA, we preliminarily determine that this program confers a benefit to the mandatory respondents, pursuant to section 771(5)(E) of the Act. Furthermore, for the reasons explained in the “Application of AFA: Non-Responsive Companies” section, we determine on the basis of AFA that the non-responsive companies benefitted from this program during the POI within the meaning of section 771(5)(E)(ii) of the Act. For CIMC, we preliminarily determine a

¹⁴⁹ See CIMC Benchmark at Exhibit 3; see also Petitioner Benchmark at Exhibit 5.

¹⁵⁰ The name of the shipping company is proprietary.

¹⁵¹ See GOC IQR at Exhibit II.E10.8.

countervailable subsidy rate of 10.54 percent *ad valorem*, a rate calculated for a similar program in another CVD proceeding involving imports from China.¹⁵²

2. Export Seller's Credits

The China Ex-Im Bank provides support to exporters through a variety of means, including the export seller's credit.¹⁵³ The Export Seller's Credit program provides loans to Chinese companies to finance their export of manufactured vessels, equipment, general mechanical and electronic products, and high and new-technology as well as agricultural products.¹⁵⁴

CIMC Group reported having outstanding loans from the China Ex-Im Bank during the POI which were provided under this program. We find that the loans provided by the China Ex-Im Bank under this program constitute financial contributions under sections 771(5)(B)(i) and 771(5)(D)(i) of the Act. The loans also confer a benefit under section 771(5)(E)(ii) of the Act in the amount of the difference between the amounts the recipient paid and would have paid on comparable commercial loans. Finally, the receipt of loans under this program is tied to actual or anticipated exportation or export earnings, and, therefore, this program is specific under sections 771(5A)(A)-(B) of the Act.

To calculate the benefit under this program, we compared the amount of interest CIMC Group 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 Discount Rates" section, above. We divided the benefits received by CIMC Group by the appropriate sales denominator, as described in the "Subsidies Valuation" section. On this basis, we preliminarily determine a countervailable subsidy rate of 0.45 percent *ad valorem* for CIMC.

3. Policy Loans to the Chassis Industry

Commerce is examining whether the GOC has encouraged the development of the chassis industry through financial support from Chinese Stated-Owned Banks (SOCBs) and government policy banks, such as the China Development Bank. Commerce has countervailed policy lending programs in previous investigations.

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 calls 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 PRC to

¹⁵² See *Coated Paper from China Amended Final*.

¹⁵³ See GOC IQR at 9.

¹⁵⁴ *Id.*

further conclude that national and local government control over the SOCBs render the loans a government financial contribution.

DCVC, SCVC, CIMC Group, Tonghua, HJV, GSHJ, QCVC, Dongyue, Huajun Casting and Liaoning reported having loans from China SOCBs that were outstanding during the POI. Commerce preliminarily finds that these loans provide countervailable subsidies under a policy lending program directed at the chassis industry. Record information indicates that the logistics industry is a priority industry at both the national level and local level (Shenzhen) and that chassis are an important part of the industry. Specifically, the logistics industry is considered one of four the pillar industries in Shenzhen. Further, the 10th, 11th and 12th Five-Year Plans for the Guangdong Province call for the development and improvement of transportation modes within the Province. At the national level, the 12th Five-Year Outline of the Guidelines for National Economics and Social Development of the People's Republic of China (2011-15) calls for the logistics industry to be "vigorously" developed.

Additional record evidence indicates financial support directed specifically toward certain encouraged industries, including the logistics industry. For example, the Decision of the State Council on Promulgating the Interim Provisions Promoting Industrial Structure Adjustment for Implementation (Guo Fa {2005} No. 40) (Decision 40) declares the need for the GOC "to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc." based on the directives established in industrial guidance catalogues. Decision 40 indicates that the Catalogue for the Guidance of Industrial Structure Adjustment (2005) and the Catalogue for the Guidance of Foreign Investment Industries is an important basis for investment guidance and government administration of policies such as public finance, taxation, and credit." Decision 40 further indicates that financial institutions "shall provide credit support in compliance with credit principles" to projects in "encouraged" industries. The 2011 Version (with 2013 Amendments) of Catalogue for the Guidance of Foreign Investment Industries specifically includes the "Construction of modern logistic facilities" industry, as well as the "Development and manufacture of urban low-chassis bus" as a priority. Finally, in its financial statements CIMC has indicated that it has received policy loans at preferential rates.

Thus, given the evidence demonstrating the GOC's objective of developing the logistics sector, and more specifically the chassis industry, through preferential loans, we preliminarily determine there is a program of preferential policy lending specific to producers of chassis within the meaning of section 771(5A)(D)(i) of the Act. We also preliminarily find that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are "authorities," and the preferential loans constitute a direct transfer of funds.

For DCVC, SCVC, CIMC Group, Tonghua, HJV, GSHJ, QCVC, Dongyue, Huajun Casting and Liaoning, 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. To calculate the benefit from this program, we used the benchmarks discussed above under the "Benchmark and Discount Rates" section. To calculate the net countervailable subsidy rate under this program we divided the benefit by the appropriate sales denominator, as described in the

“Subsidies Valuation” section. On this basis, we preliminarily determine a subsidy rate of 1.99 percent *ad valorem* for CIMC.

4. Provision of Land to SOEs by the GOC for Less than Adequate Remuneration

The petitioner alleged that producers of chassis benefited from the provision of land to SOEs for LTAR. As Commerce has found in prior investigations, SOEs in China can receive “allocated” land-use rights, which are transferred from the government to an SOE for a small, one-time charge. These land-use do not expire (in contrast to other types of land-use rights in China such as granted land use-rights which may require the payment of additional fees from the land user to the government).¹⁵⁵ DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, and Huajun Casting reported their land-use rights purchases and leases over the AUL.

Consistent with the findings described in the “Use of Facts Otherwise Available And Adverse Inferences” section, above, we preliminarily determine that CIMC is an SOE, that received allocated land-use rights for LTAR, constituting a financial contribution under section 771(5)(D)(iii) of the Act. This subsidy is specific under section 771(5A)(D)(i) of the Act because the enterprises receiving allocated land use rights are limited to a single group – SOEs.

To determine whether a benefit is conferred pursuant to section 771(5)(E)(iv) of the Act, we first multiplied the Thailand industrial land benchmarks discussed above under the “Benchmarks and Discount Rates” section, by the total area of CIMC’s allocated land. We then subtracted the net price actually paid for the land to derive the total benefit. We next conducted the “0.5 percent test” under 19 CFR 351.524(b)(2) for the years of relevant land-use rights agreements by dividing the total unallocated benefit of land-use rights conferred during that year by the appropriate sales denominator. As a result, we found that in certain years the benefits were greater than 0.5 percent of relevant sales and allocated the benefit from CIMC’s land purchases during those years. Consistent with Commerce practice, we allocated the total benefit amounts across 50 years, unless specified differently in the terms of the land-use agreement, using the standard allocation formula of 19 CFR 351.524(d), and determined the amount attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section. On this basis, we preliminarily determine a subsidy rate of 2.08 percent *ad valorem* for CIMC.

5. Provision of International Ocean Shipping Services for Less than Adequate Remuneration

¹⁵⁵ See *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360, 71368 (December 17, 2007), unchanged in *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), and accompanying IDM at 20-21; see also *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*, 83 FR 46643 (July 18, 2016), and accompanying PDM at 41-42, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017), and accompanying IDM at 13.

The petitioner alleges that the CIMC companies benefited from GOC policies aimed at developing the Chinese shipping industry, resulting in international ocean shipping services provided at LTAR. Specifically, the petitioner alleges that, through SOE shipping companies, the GOC provides exporters, including exporters of chassis, a subsidy in the form of ocean borne international freight shipping for LTAR. The record information indicates the GOC has a broad policy goal of promoting international trade.¹⁵⁶

QCVC, DCVC, Huajan Casting, SCVC, Tonghua and HJV reported that they purchased international ocean shipping services during the POI.¹⁵⁷

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic providers of international ocean shipping services to CIMC to be “authorities” within the meaning of section 771(5)(B) of the Act.¹⁵⁸ On this basis, we preliminarily determine that CIMC received a financial contribution in the form of the provision of a service, pursuant to section 771(5)(D)(iii) of the Act.

Pursuant to our findings described in the “Use of Facts Otherwise Available and Adverse Inferences” section, as facts available, we also preliminarily determine that the provision of international ocean shipping services is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁵⁹ Further, we preliminarily determine, as facts available, that the domestic market for international ocean shipping services is distorted by government involvement in the domestic market for ocean shipping services.¹⁶⁰ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of international ocean shipping services under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices for international shipping services consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 5.32 percent *ad valorem* for CIMC.

¹⁵⁶ See, e.g., Petition at 54 (“The Center for Strategic and International Studies (“CSIS”) recently estimated that the GOC has provided approximately \$132 billion in subsidies to firms such as COSCO and CMG as part of its strategy of building China into a maritime power”) and Exhibit III-53 (“The consolidation of COSCO and China Shipping is a significant achievement of China’s SOE reform, a major initiative for implementing China’s Belt and Road Initiative, a further strategy of building a maritime power, and an inevitable choice to cope with international competition and to improve quality and effectiveness.”).

¹⁵⁷ See CIMC IQR1 at Exhibits DCVC-OCEAN-1 and SCVC-OCEAN-1; see also SQRA2 at Exhibits Tonghua-OCEAN-1, HJV-OCEAN-1, Liaoning-OCEAN-1 and GSHJ-OCEAN-1; see also CIMC SQRA3 at Exhibits QCVC-OCEAN-1, Dongyue-OCEAN-1 and Wanshida-OCEAN-1.

¹⁵⁸ See “Use of Facts Available and Adverse Inferences” section.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

6. Provision of Electricity for LTAR

For the reasons explained above in the section “Use of Facts Otherwise Available and Adverse Inferences,” we based the 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) 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,” “general industry and commerce”) and “base charge” (either maximum demand or transformer capacity) used by each company. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.

Consistent with our approach in *Wind Towers*, we first calculated each company’s variable electricity costs by multiplying the monthly kilowatt hours (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid during each month of the POI.¹⁶¹ Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit for each month, we subtracted the variable electricity costs paid by the respective company during the POI from the monthly benchmark variable electricity costs.

To measure whether a company received a benefit with regard to its base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the company by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the company’s consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the company during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from each companies’ variable electricity payments and base rate payments. To calculate the net subsidy rate attributable to the company, we divided the benefit by the appropriate total sales denominator, as discussed in the “Subsidies Valuation” section.

QCVC, DCVC, SCVC, CIMC Group, Tonghua, HJV, GSHJ, Liaoning, Dongyue, Wanshida, and Huajun Casting reported benefiting from this program. We divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. We then added these rates together, to preliminarily determine a countervailable subsidy rate of 0.63 percent *ad valorem* for CIMC.

¹⁶¹ See *Wind Towers from China* IDM at 21-22.

7. Provision of Hot-Rolled Steel Sheet and Plate for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided hot-rolled steel sheet and plate for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, and Wanshida reported that they purchased hot-rolled steel sheet and plate during the POI.¹⁶²

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided hot-rolled steel and plate to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁶³ and, therefore, CIMC received a financial contribution in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As facts available, we also preliminarily determine that the provision of hot-rolled steel sheet and plate is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁶⁴ Further, we preliminarily determine, as facts available, that the domestic market for hot-rolled steel sheet and plate is distorted by government involvement in the market.¹⁶⁵ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of hot-rolled steel sheet and plate under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices to determine the benefit under this program consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 11.34 percent *ad valorem* for CIMC.

8. Provision of Galvanized Steel for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided galvanized steel for LTAR. QCVC, DCVC, SCVC, HJV, and Dongyue reported that they purchased galvanized steel during the POI.¹⁶⁶

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided galvanized steel to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁶⁷ and, therefore, CIMC

¹⁶² See CIMC IQR1 at Exhibits DCVC-HRSSP-1 and SCVC-HRSSP-1; see also SQRA2 at Exhibits Tonghua-HRSSP-1, HJV-HRSSP-1, Liaoning-HRSSP-1 and GSHJ-HRSSP-1; see also CIMC SQRA3 at Exhibits QCVC-HRSSP-1, Dongyue-HRSSP-1 and Wanshida-HRSSP-1.

¹⁶³ See “Use of Facts Available and Adverse Inferences” section above.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ See CIMC IQR1 at Exhibits DCVC-GSTEEL-1 and SCVC-GSTEEL-1; see also SQRA2 at Exhibits Tonghua-GSTEEL -1 and HJV- GSTEEL -1; CIMC SQRA3 at Exhibits QCVC- GSTEEL-1; and Dongyue- GSTEEL-1.

¹⁶⁷ See “Use of Facts Available and Adverse Inferences” section above.

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

As facts available, we also preliminarily determine that the provision of galvanized steel is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁶⁸ Further, we preliminarily determine, as facts available, that the domestic market for galvanized steel is distorted by government involvement in the market.¹⁶⁹ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of galvanized steel under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.09 percent *ad valorem* for CIMC.

9. Provision of Steel Bar for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided steel bar for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, and Dongyue reported that they purchased steel bar during the POI.¹⁷⁰

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided steel bar to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁷¹ and, therefore, CIMC received a financial contribution in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As facts available, we also preliminarily determine that the provision of steel bar is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁷² Further, we preliminarily determine, as facts available, that the domestic market for steel bar is distorted by government involvement in the market.¹⁷³ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of steel bar under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ See CIMC IQR1 at Exhibits DCVC-SBAR-1 and SCVC-SBAR-1; see also SQRA2 at Exhibits Tonghua-SBAR-1 and HJV-SBAR-1; see also CIMC SQRA3 at Exhibits QCVC-SBAR-1 and Dongyue-SBAR-1.

¹⁷¹ See “Use of Facts Available and Adverse Inferences” section above.

¹⁷² *Id.*

¹⁷³ *Id.*

benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.35 percent *ad valorem* for CIMC.

10. Provision of Steel Beams for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided steel beams for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, Liaoning, and Dongyue reported that they purchased steel beams during the POI.¹⁷⁴

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided steel beams to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁷⁵ and, therefore, CIMC 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.

As facts available, 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.¹⁷⁶ Further, we preliminarily determine, as facts available, that the domestic market for steel beams is distorted by government involvement in the market.¹⁷⁷ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of steel beams under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 1.25 percent *ad valorem* for CIMC.

¹⁷⁴ See CIMC IQR1 at Exhibits DCVC-SBEAM-1 and SCVC-SBEAM-1 *see also* SQRA2 at Exhibits Tonghua-SBEAM-1, HJV-SBEAM-1 and Liaoning-SBEAM; *see also* CIMC SQRA3 at Exhibits QCVC-SBEAM-1 and Dongyue-SBEAM.

¹⁷⁵ See “Use of Facts Available and Adverse Inferences” section.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

11. Provision of Steel Channels for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided steel channels for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, and Wanshida reported that they purchased steel channels during the POI.¹⁷⁸

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided steel channels to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁷⁹ and, therefore, CIMC received a financial contribution in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As facts available, we also preliminarily determine that the provision of steel channels is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁸⁰ Further, we preliminarily determine, as facts available, that the domestic market for steel channels is distorted by government involvement in the market.¹⁸¹ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of steel channels under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.40 percent *ad valorem* for CIMC.

12. Provision of Steel Angles for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided steel angles for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, Dongyue, and Wanshida reported that they purchased steel angles during the POI.¹⁸²

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided steel angles to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁸³ and, therefore, CIMC received a financial contribution in the form of the provision of a good, pursuant to section

¹⁷⁸ See CIMC IQR1 at Exhibits DCVC-SCHANNELS-1 and SCVC-SCHANNELS-1; see also SQRA2 at Exhibits Tonghua-SCHANNELS-1, HJV-SCHANNELS-1, Liaoning-SCHANNELS-1 and GSHJ-SCHANNELS-1; and CIMC SQRA3 at Exhibits QCVC-SCHANNELS-1, Dongyue-SCHANNELS-1 and Wanshida-SCHANNELS-1.

¹⁷⁹ See “Use of Facts Available and Adverse Inferences” section.

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² See CIMC IQR1 at Exhibits DCVC-SANGLES-1 and SCVC-SANGLES-1; see also SQRA2 at Exhibits Tonghua-SANGLES-1 and HJV-SANGLES-1; and CIMC SQRA3 at Exhibits QCVC-SANGLES-1, Dongyue-SANGLES-1 and Wanshida-SANGLES-1.

¹⁸³ See “Use of Facts Available and Adverse Inferences” section.

771(5)(D)(iii) of the Act.

As facts available, we also preliminarily determine that the provision of steel angles is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁸⁴ Further, we preliminarily determine, as facts available, that the domestic market for steel angles is distorted by government involvement in the market.¹⁸⁵ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of steel angles under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.06 percent *ad valorem* for CIMC.

13. Provision of Hollow Structural Shapes for Less than Adequate Remuneration

We are examining whether the GOC or other “authorities” within China provided hollow structural shapes for LTAR. QCVC, DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, and Wanshida reported that they purchased hollow structural shapes during the POI.¹⁸⁶

As explained in the “Use of Facts Otherwise Available and Adverse Inferences” section, we preliminarily determine that all domestic producers that provided hollow structural shapes to CIMC are “authorities” within the meaning of section 771(5)(B) of the Act¹⁸⁷ and, therefore, CIMC received a financial contribution in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As facts available, we also preliminarily determine that the provision of hollow structural shapes is specific within the meaning of section 771(5A)(D)(iii) of the Act.¹⁸⁸ Further, we preliminarily determine, as facts available, that the domestic market for hollow structural shapes is distorted by government involvement in the market.¹⁸⁹ Consequently, as discussed in the “Input Benchmarks” section, to determine the benefit from the provision of hollow structural shapes under section 771(5)(E)(iv) of the Act, we are relying on world market benchmark prices consistent with 19 CFR 351.511(a)(2)(ii).

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ See CIMC IQR1 at Exhibits DCVC-HSS-1 and SCVC-HSS-1; see also SQRA2 at Exhibits Tonghua-HSS-1, HJV-HSS-1, Liaoning-HSS-1 and GSHJ-HSS-1; and CIMC SQRA3 at Exhibits QCVC-HSS-1, Dongyue-HSS-1 and Wanshida-HSS-1.

¹⁸⁷ See “Use of Facts Available and Adverse Inferences” section.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

We compared the monthly benchmark prices to the purchase prices paid by each of CIMC companies for individual domestic transactions, including delivery charges and VAT. The benefit is the difference between the benchmark prices and the prices reported by the CIMC companies. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. On this basis, we preliminarily determine a net countervailable subsidy rate of 1.84 percent *ad valorem* for CIMC.

14. Income Tax Reductions for High and New Technology Enterprises

This program is established according to Article 28 of *Enterprise Income Tax Law of the People’s Republic of China* and Article 93 of the *Implementation Regulations for the Enterprise Income Tax Law of the People’s Republic of China*, effective on January 1, 2008, to support and encourage development of high and new technology enterprise.¹⁹⁰ The State Administration of Taxation (SAT) and its local branches are responsible for the administration of this program.¹⁹¹ Article 28 states that high-tech enterprises to which the State gives key support are given the reduced enterprise income tax rate of 15 percent.¹⁹²

Thus, the amount of the assistance provided is determined solely by the established criteria found in the Enterprise Income Tax Law of China and the Implementing Regulations of the Enterprise Income Tax Law of the China.¹⁹³ The benefit is a reduction in the tax rate of 10 percent; *i.e.*, the preferential income tax rate under this program is 15 percent, whereas the normal income tax rate for enterprises in China is 25 percent.¹⁹⁴

DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, and Huajun Casting reported using this program. We preliminarily determine that this program provides a financial contribution in the form of revenue forgone by the Chinese government, pursuant to section 771(5)(D)(ii) of the Act. We also preliminarily determine that this program confers a benefit in the amount of the tax savings, pursuant to 19 CFR 351.509(a)(1). Finally, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act because the recipients are limited by law to certain enterprises (*i.e.*, firms designated as high- and new-technology enterprises). To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. We then added these rates together to preliminarily determine a net countervailable subsidy rate of 0.90 percent *ad valorem* for CIMC.

¹⁹⁰ See GOC IQR at 25.

¹⁹¹ *Id.* at 26.

¹⁹² *Id.* at Exhibit II.C.1.

¹⁹³ *Id.* at 31.

¹⁹⁴ *Id.* at 34. We previously found this program countervailable in *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) (*Steel Wheels from China Final*). In the *Steel Wheels from China Final*, this program was found countervailable under the name “Income Tax Reductions under Article 28 of the Enterprise Income Tax Law”.

15. Tax Offsets for Research and Development under the Enterprise Income Tax Law

This program was established to encourage enterprises to make more efforts in research and development activities.¹⁹⁵ According to the Article 30 of the *Enterprise Income Tax Law of the People's Republic of China*, and the Article 95 of the *Implementing Regulations of the Enterprise Income Tax Law of the People's Republic of China*, the expenses born by the enterprise incurred in the work of researching and developing new technologies, products or techniques can be accounted for at 150 percent of the actual accrued amount of total expenses, thereby reducing the enterprise's actual income tax payable.¹⁹⁶ The only criterion governing the eligibility for this program is the expenses born and to be accounted on 150 percent basis by the enterprise should be incurred in the work of R&D.¹⁹⁷

QCVC, DCVC, SCVC, Tonghua, HJV, GSHJ, Liaoning, Dongyue, Wanshida, CIMC, and Huajun Casting reported using this program. This program constitutes a financial contribution in the form of revenue forgone, pursuant to section 771(5)(D)(ii) of the Act. This program confers a benefit in the amount of the tax savings, pursuant to 19 CFR 351.509(a)(1). This program is specific under section 771(5A)(D)(i) of the Act because the recipients are limited by law to certain enterprises (*i.e.*, firms conducting research and development in eligible high-technology sectors). To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the "Subsidies Valuation" section. We then added these rates together to preliminarily determine a net countervailable subsidy rate of 0.24 percent *ad valorem* for CIMC.

16. Interest Payment Subsidies

The eligibility for this program is contingent on certain criteria.¹⁹⁸ Companies apply for benefits, and Dongguan Municipal Science and Technology Bureau reviews the applications.¹⁹⁹ Companies need to file a separate application to receive the assistance (loan interest subsidies) under this program each time and each application needs to be separately approved by the competent government agency.²⁰⁰ The program is in accordance with the relevant regulations of the *Measures for Promoting the Development of Science, Technology and Finance of Dongguan City* (DFB (2015) No, 25) in order to promote the effective combination of technology and finance.²⁰¹²⁰²

¹⁹⁵ See GOC IQR at 35-36.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* We previously found this program countervailable in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012); see also *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012).

¹⁹⁸ See CIMC IQR1 at Exhibit DCVC-IPS-1.

¹⁹⁹ *Id.*

²⁰⁰ *Id.* at Exhibit DCVC-IPS-2.

²⁰¹ *Id.* at Exhibit DCVC-IPS-3.

DCVC reported using this program. We preliminarily determine that this program constitutes a financial contribution within the meaning of section 771(5)(D)(i) of the Act as a direct transfer of funds. We also preliminarily determine that this program confers a benefit within the meaning of section 771(5)(E) of the Act, in the amount of the funds, which is the equivalent of a grant. Finally, we preliminarily find this program is specific under section 771(5A)(D)(i) of the Act because the recipients are limited by law to certain enterprises. To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by the appropriate sales denominator, as described in the “Subsidies Valuation” section. We preliminarily determine a net countervailable subsidy rate of 0.01 percent *ad valorem* for CIMC.

17. “Other Subsidies”

The respondents self-reported their receipt of numerous other subsidies from the GOC during the POI and AUL.

As discussed above in the section “Use of Facts Available and Adverse Inferences,” we preliminarily determine that these subsidies constitute a financial contribution under section 771(5)(D)(i) of the Act and are specific under section 771(5A) of the Act. To calculate the benefit received under these “other subsidies,” we followed the methodology described in 19 CFR 351.524.

To determine the net countervailable subsidy rate for CIMC, we divided the benefits received by each company by the appropriate sales denominator, as described in the “Subsidies Valuation” section. We then added these rates together, to preliminarily determine a net countervailable subsidy rate of 1.03 percent *ad valorem* for CIMC.²⁰³

B. Programs Preliminarily Determined to be Not Measurable

1. Provision of Wire Rod for Less than Adequate Remuneration
2. Subsidies for Development of Famous Brands and Chinese World Top Brands
3. Other Subsidies

The CIMC companies self-reported receiving benefits under various programs that did not confer a measurable benefit.²⁰⁴ Based on the record evidence, we preliminarily determine that the benefits from certain programs were either fully expensed prior to the POI or result in a rate that

²⁰³ See CIMC Preliminary Calculation Memorandum.

²⁰⁴ See Botao IQR at 21 and at Exhibit 14; see also Connect at Exhibit 11; Jinling IQR at Exhibit 14; Yutu IQR at Exhibit 12; and Kanghua IQR at Exhibit 20.

is less than 0.005 percent *ad valorem* when attributed to the applicable sales denominator, and, therefore, provide no measurable benefit in the POI.

C. Programs Preliminarily Determined to be Not Used

1. Provision of Land for Less than Adequate Remuneration in Industrial and Other Special Economic Zones
2. Provision of Land for Less than Adequate Remuneration to the Certain Chassis Industry
3. Government Directed Debt Restructuring in the Chinese Chassis Industry
4. Capital Injections and Other Payments from the State Capital Operating Budget
5. Foreign Trade Development Fund Grants
6. Export Assistance Grants
7. State Key Technology Fund Grants
8. Grants for Retiring Outdated Capacity/Industrial Restructuring
9. Grants for Energy Conservation and Emissions Reduction
10. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Procured Equipment
11. Import Tariff and Value-Added Tax Exemptions on Imported Equipment in Encouraged Industries
12. Export Loans from Chinese State-Owned Banks

X. RECOMMENDATION

We recommend that you approve the preliminary findings described above. If this recommendation is accepted, we will publish the preliminary determination in the *Federal Register*.

Agree

Disagree

12/28/2020

X



Signed by: JEFFREY KESSLER