



C-570-125
Investigation
Public Document
E&C/OII: Team

March 5, 2021

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

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

SUBJECT: Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to the producers and exporters of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from the People's Republic of China (China), as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The mandatory respondents in this investigation are Chongqing Kohler Engines Ltd. (Chongqing Kohler) and Chongqing Zongshen General Power Machine Co. Ltd. (Chongqing Zongshen). After analyzing comments from parties following the *Preliminary Determination*,¹ we made certain changes to the subsidy rate calculations. Below is the complete list of issues in this investigation for which we received comments from interested parties:

- Comment 1: Income Tax Deduction for Research and Development (R&D) Expenses Under the Enterprise Income Tax Law
- Comment 2: Export Buyer's Credit Program
- Comment 3: Whether the Electricity for Less-Than-Adequate-Remuneration (LTAR) Program is Specific
- Comment 4: Whether Commerce Should Revise its Critical Circumstances Analysis

¹ See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 52086 (August 24, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).



- Comment 5: Whether Commerce Should Find Critical Circumstances for Chongqing Kohler and Companies Covered by the All-Others Rate
- Comment 6: Whether Commerce Should Countervail Certain of Chongqing Kohler's Bank Acceptance Notes
- Comment 7: Whether Chongqing Zongshen's Input Suppliers are Government Authorities
- Comment 8: Whether Commerce Should Rely on Consolidated Sales Data in Attributing Subsidies Received by Zongshen Group or Zongshen Power
- Comment 9: Whether Commerce Should Adjust Chongqing Zongshen's Policy Loans Calculations
- Comment 10: Whether Commerce Should Adjust Chongqing Zongshen's Land-Use Rights for LTAR Calculation
- Comment 11: Whether Commerce Should Reverse Its Uncreditworthiness Determination for Chongqing Zongshen

II. BACKGROUND

Case History

On August 24, 2020, we published the *Preliminary Determination* and aligned this final countervailing duty (CVD) determination with the final antidumping duty (AD) determination, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4).² Also on August 24, 2020, Chongqing Zongshen timely alleged that Commerce made certain significant ministerial errors in the *Preliminary Determination*.³ On September 18, 2020, we issued a memorandum finding that we made no significant ministerial errors, within the meaning of 19 CFR 351.224, in the *Preliminary Determination*.⁴

On September 24, 2020, the petitioner⁵ filed a critical circumstances allegation.⁶ On September 25, 2020, we requested monthly shipment data from the mandatory respondents.⁷ On October 2, 2020, the mandatory respondents submitted the requested shipment data.⁸

² *Id.*

³ See Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Significant Ministerial Error Comments," dated August 24, 2020.

⁴ See Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, From the People's Republic of China: Allegation of Ministerial Errors in the Preliminary Determination," dated September 18, 2020.

⁵ The petitioner in this investigation is Briggs & Stratton Corporation.

⁶ See Petitioner's Letter, "Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, From the People's Republic of China: Critical Circumstances Allegation," dated September 24, 2020 (Critical Circumstances Allegation).

⁷ See Commerce's Letters to Chongqing Kohler and Chongqing Zongshen, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China," both dated September 25, 2020.

⁸ See Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof from the People's Republic of China: Chongqing Kohler's Monthly Quantity and Value Data," dated October 2, 2020; and Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Monthly Q&V Data," dated October 2, 2020.

On October 13, 2020, the petitioner filed an uncreditworthiness allegation regarding Zong Shen Industrial Group (Zongshen Group), a cross-owned affiliate of Chongqing Zongshen.⁹ On October 19, 2020, we initiated an uncreditworthiness investigation of Zongshen Group and issued an uncreditworthiness questionnaire to Chongqing Zongshen.¹⁰ On October 30, 2020, we issued our preliminary determination of critical circumstances, finding critical circumstances exist for Chongqing Zongshen, but not for Chongqing Kohler or the companies covered by the all-others rate.¹¹

On November 2, 2020, we received Chongqing Zongshen's response to the uncreditworthiness questionnaire.¹² On November 9, 2020, we extended the deadline for the final determination of this investigation until March 5, 2021.¹³

Commerce was unable to conduct on-site verification in this investigation for reasons beyond its control. However, Commerce took additional steps in lieu of on-site verification and, on November 17, 2020, we issued post-preliminary determination questionnaires to Chongqing Kohler and Chongqing Zongshen to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.¹⁴ On November 19, 2020, we issued a post-preliminary analysis memorandum regarding the uncreditworthiness allegation.¹⁵

⁹ See Petitioner's Letter, "Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof, from China: Removal of Bracketing in Petitioner's Uncreditworthiness Allegation," dated October 13, 2020.

¹⁰ See Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Initiation of Uncreditworthy Investigation," dated October 19, 2020; and Commerce's Letter, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China," dated October 19, 2020.

¹¹ See *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof From the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation*, 85 FR 68851 (October 30, 2020) (*Preliminary Critical Circumstances Determination*).

¹² See Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Creditworthiness Response," dated November 2, 2020.

¹³ See *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof, from the People's Republic of China: Postponement of Final Determination of Sales at Less Than Fair Value Investigation*, 85 FR 71319 (November 9, 2020).

¹⁴ See Commerce's Letter to Chongqing Zongshen, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China," dated November 17, 2020; Commerce's Letter to Chongqing Kohler, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China" dated November 17, 2020. Commerce also subsequently revised one question in Chongqing Zongshen's questionnaire on November 19, 2020. See Memorandum, "Clarification Regarding in Lieu of Verification Questionnaire Issued to Chongqing Zongshen General Power Machine Co., Ltd.," dated November 19, 2020.

¹⁵ See Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof from the People's Republic of China," dated November 19, 2020.

On November 25, 2020, we received responses from Chongqing Kohler and Chongqing Zongshen to our post-preliminary determination inquiries.¹⁶ On December 8, 2020, we received timely-filed case briefs from Chongqing Kohler, Chongqing Zongshen, the Government of China (GOC), MTD Products, Inc. (MTD), and the petitioner.¹⁷ On December 17, 2020, we also received timely filed rebuttal briefs from Chongqing Zongshen, the petitioner, and Toro.¹⁸

We are conducting this investigation in accordance with section 705(a) of the Act.

Period of Investigation

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

III. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

On October 26, 2020, we preliminarily determined that critical circumstances exist with regard to exports of small vertical engines from Chongqing Zongshen.¹⁹ We continue to find that critical circumstances exist with respect to Chongqing Zongshen for the final determination.

IV. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

Commerce made no changes to, and interested parties raised no issues in their case briefs regarding, the allocation period or the allocation methodology used in the *Preliminary*

¹⁶ See Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Response of Chongqing Kohler Engines Ltd. and Kohler (China) Investment Co. Ltd. to in Lieu of Verification Questionnaire," dated November 25, 2020 (Chongqing Kohler's ILOV QR); and Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Zongshen Verification Questionnaire Response," dated November 25, 2020 (Chongqing Zongshen's ILOV QR).

¹⁷ See Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof from the People's Republic of China: Letter in Lieu of Case Brief," dated December 8, 2020 (Chongqing Kohler's Case Brief); Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Case Brief," dated December 8, 2020 (Chongqing Zongshen's Case Brief); GOC's Letter, "GOC Administrative Case Brief -- Countervailing Duty Investigation on Certain Vertical Shaft Engines Between 99CC and Up To 225CC, and Parts Thereof From the People's Republic of China (C-570-125)," dated December 8, 2020 (GOC's Case Brief); MTD's Letter, "Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof From the People's Republic of China: Letter in Lieu of Case Brief," dated December 8, 2020 (MTD's Case Brief); and Petitioner's Letter, "Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof from China / Case Brief of Briggs & Stratton, LLC," dated December 8, 2020 (Petitioner's Case Brief).

¹⁸ See Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Rebuttal Brief," dated December 17, 2020 (Chongqing Zongshen's Rebuttal Brief); Petitioner's Letter, "Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof from China / Rebuttal Brief of Briggs & Stratton, LLC," dated December 17, 2020 (Petitioner's Rebuttal Brief); and Toro's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc from China: Letter in Lieu of Rebuttal Brief," dated December 17, 2020 (Toro's Rebuttal Brief).

¹⁹ See *Preliminary Critical Circumstances Determination*, 85 FR at 68851.

Determination. For a description of the allocation period and the methodology used for this final determination, *see the Preliminary Determination*.²⁰

B. Attribution of Subsidies

Commerce made no changes to, and interested parties raised no issues in their case briefs regarding, the attribution of subsidies in the *Preliminary Determination*. For a description of the methodologies used for this final determination, *see the Preliminary Determination*.²¹

C. Denominators

Other than changes we made to the denominators used in calculating the *ad valorem* subsidy rate for Chongqing Zongshen,²² discussed below in Comment 8, Commerce made no additional changes to, and interested parties raised no further issues in their case briefs regarding, the denominators used in the *Preliminary Determination*.²³

As in the *Preliminary Determination*, we are using export sales as the denominators for programs which are contingent upon exports. These include the Export Sellers Credit Program, Export Credit Insurance Assistance Program,²⁴ and International Market Development Assistance Program.²⁵

D. Benchmarks

Based on our determination that Chongqing Zongshen's affiliate Zongshen Group was uncreditworthy during the years 2017 through 2019, we revised the benchmark interest rates to reflect uncreditworthy premiums for the relevant years for this company.²⁶ Commerce made no additional changes to, and interested parties raised no further issues regarding, the benchmarks used in the *Preliminary Determination*.²⁷

²⁰ See *Preliminary Determination* PDM at 15-16.

²¹ *Id.* at 16-18.

²² See Memorandum, "Countervailing Duty Investigation of Fabricated Structural Steel from the People's Republic of China: Final Determination Calculation Memorandum for Chongqing Zongshen General Power Machine Co. Ltd.," dated concurrently with this final determination (Chongqing Zongshen Final Calculation Memorandum) at 1-2.

²³ See *Preliminary Determination* PDM at 18-19.

²⁴ We also relied on exports as the denominator for this program in *Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 79 FR 56560 (September 22, 2014), and accompanying Issues and Decision Memorandum (IDM) at 12-13.

²⁵ We also relied on exports as the denominator for this program in *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 10653 (February 25, 2020).

²⁶ See Chongqing Zongshen Final Calculation Memorandum at 2.

²⁷ See *Preliminary Determination* PDM at 19-25.

V. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Commerce relied on “facts otherwise available,” including adverse facts available (AFA), for several findings in the *Preliminary Determination*.²⁸ Commerce is no longer applying AFA to Chongqing Kohler regarding the Export Buyer’s Credit Program (EBCP). Commerce did not make any other changes to its determinations to rely on facts otherwise available and AFA, as applied in the *Preliminary Determination*. For further discussion, see Comments 2, 3, and 7, below.

VI. ANALYSIS OF PROGRAMS

A. Programs Determined to Be Countervailable

Except where noted,²⁹ Commerce made no changes to the methodology used to calculate the subsidy rates for the following programs in its *Preliminary Determination*. Additionally, except as discussed under the “Analysis of Comments” section, no issues were raised by interested parties in case briefs regarding these programs. The final program rates calculated are as follows:

1. *Income Tax Deduction for R&D Expenses Under Enterprise Income Tax Law*

0.07 percent *ad valorem* for Chongqing Kohler
0.31 percent *ad valorem* for Chongqing Zongshen

2. *Provision of Unwrought Aluminum for LTAR*

0.61 percent *ad valorem* for Chongqing Zongshen

3. *Provision of Electricity for LTAR*

0.12 percent *ad valorem* for Chongqing Kohler
0.04 percent *ad valorem* for Chongqing Zongshen

4. *Provision of Land-Use Rights for LTAR to Small Vertical Engine Producers*

0.39 percent *ad valorem* for Chongqing Kohler
0.13 percent *ad valorem* for Chongqing Zongshen

5. *Policy Loans to the Small Vertical Engines Industry*

0.01 percent *ad valorem* for Chongqing Kohler

²⁸ *Id.* at 6-15.

²⁹ See Memorandum, “Countervailing Duty Investigation of Fabricated Structural Steel from the People’s Republic of China: Final Determination Calculation Memorandum for Chongqing Kohler Engines Ltd.,” dated concurrently with this final determination (Chongqing Kohler Final Calculation Memorandum) at 1-2; and Chongqing Zongshen Final Calculation Memorandum at 1-2.

3.09 percent *ad valorem* for Chongqing Zongshen

6. *Export Seller's Credit Program*

1.63 percent *ad valorem* for Chongqing Zongshen

7. *Export Buyers Credit Program*

10.54 percent *ad valorem* for Chongqing Zongshen

8. *Interest Payment Subsidies*

0.05 percent *ad valorem* for Chongqing Zongshen

9. *Other Subsidies*

2.25 percent *ad valorem* for Chongqing Kohler

1.88 percent *ad valorem* for Chongqing Zongshen³⁰

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

The respondents reported receiving benefits under various programs, some of which were specifically alleged and others of which were self-reported. Based on the record evidence, we determine that the benefits from certain programs: (1) were fully expensed prior to the POI; or (2) are less than 0.005 percent *ad valorem* when attributed to the respondent's applicable sales in the POI as discussed in the "Attribution of Subsidies" section in the *Preliminary Determination*.³¹ Consistent with Commerce's practice,³² we have not included the programs which provided no measurable benefit in our final subsidy rate calculations. Moreover, we determine that it is unnecessary for Commerce to make a determination as to the countervailability of these programs.

³⁰ The other subsidy rate for Chongqing Zongshen is comprised of rates of 0.34 percent for the Export Credit Insurance Assistance Program and 0.02 percent for the International Market Development Assistance Program, among other subsidy programs.

³¹ See *Preliminary Determination* PDM at 34-37.

³² See, e.g., *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007), and accompanying IDM at 15-16 ("Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE"); *Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012), and accompanying IDM at 36 ("Income Tax Reductions for Firms Located in the Shanghai Pudong New District"); *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at 45-48 ("Programs Used by the Alnan Companies"); and *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at 31-32 ("Tax Deduction for Research and Development (R&D) Expenses").

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

VII. ANALYSIS OF COMMENTS

Comment 1: Income Tax Deduction for R&D Expenses Under the Enterprise Income Tax Law

GOC's Case Brief

- In the *Preliminary Determination*, Commerce found the Income Tax Deduction for R&D Expenses program *de facto* specific because it is limited to enterprises with R&D in eligible high-technology sectors.³³ However, because this program is a widely available tax deduction that is not specific to certain industries or sectors, it is not countervailable.³⁴
- According to the Agreement on Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization (WTO),³⁵ generally applicable tax rates cannot be deemed specific. Here, because the central tax authority establishes a generally available tax deduction for all enterprises in China so long as they incur R&D expenses, this deduction is not *de facto* specific under the SCM Agreement.³⁶

Petitioner's Rebuttal Comments

- As noted in the GOC's case brief, only certain R&D expenses qualify for a deduction under this program. Therefore, this program is *de jure* specific because it is limited to investments made in new technologies, products, or manufacturing methods.³⁷
- The GOC failed to analyze this program within the context of U.S. law, focusing its argument on its interpretations of the obligations under the SCM Agreement. Commerce's role is to analyze and apply U.S. law, not international agreements.³⁸
- In the *Preliminary Determination*, Commerce recognized that the program is specific because it is limited to certain enterprises. Should Commerce no longer find this program to be *de jure* specific, Commerce should find it *de facto* specific, because the GOC failed to provide Commerce with information that would allow Commerce to determine whether the actual recipients of the subsidy limited in number.³⁹
- Commerce has repeatedly found this program to be countervailable and should continue to do so in the final determination.⁴⁰

³³ See GOC's Case Brief at 7-8 (citing Preliminary Determination at 29-30).

³⁴ *Id.*

³⁵ *Id.* (citing Agreement Establishing the World Trade Organization, April 15, 1994, 1869 U.N.T.S. 14, Annex 1A, (SCM Agreement) at Article 2.1(b)).

³⁶ *Id.* (citing GOC's Letter, "Government of China Initial Questionnaire Response in the Countervailing Duty Investigation on Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof From the People's Republic of China (C-570-125)," dated June 18, 2020 (GOC's IQR), at Exhibit II.C.1.)

³⁷ See Petitioner's Rebuttal Brief at 22-25 (citing GOC's Case Brief at 9; GOC's IQR at 44).

³⁸ *Id.* at 23.

³⁹ *Id.* at 24.

⁴⁰ *Id.* at 14 (citing *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 29163 (December 9, 2020), and accompanying IDM at Comment 5).

Commerce Position: In the *Preliminary Determination*, we found this program to be specific under section 771(5A)(D)(i) of the Act because it is limited as a matter of law to certain enterprises.⁴¹ Commerce has countervailed this program in previous investigations,⁴² finding that the criteria and conditions for eligibility are not “objective” because they favor “new technology, new products and new crafts.”⁴³

We disagree with the GOC that our specificity finding for this program contravenes the SCM Agreement. We are conducting this investigation pursuant to U.S. CVD law, specifically the Act and Commerce’s regulations. Thus, to the extent that the GOC is raising arguments concerning certain provisions of the SCM Agreement in this investigation, the U.S. CVD law fully implements the United States’ obligations under the SCM Agreement. As we explained in *Flanges from India*, Commerce conducts its investigations in accordance with the Act and Commerce’s regulations, and U.S. law is fully compliant with our WTO obligations:⁴⁴

{O}ur CVD laws are consistent with our WTO obligations. Moreover, it is the Act and {Commerce’s} regulations that have direct legal effect under U.S. law, and not the WTO Agreements or WTO reports. In this regard, WTO reports “do not have any power to change U.S. law or to order such a change.”

Therefore, because our obligations are consistent with the Act and our regulations, they are also consistent with our obligations under the SCM Agreement. Consequently, for purposes of this final determination, we continue to find this program to be *de jure* specific, pursuant to section 771(5A)(D)(i) of the Act.

Comment 2: Export Buyer’s Credit Program

GOC’s Case Brief

- Commerce’s application of AFA to the EBCP is unlawful and unsupported by substantial evidence.⁴⁵

⁴¹ See *Preliminary Determination PDM* at 29-30.

⁴² See *Certain Collated Steel Staples from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 61021 (November 12, 2019) (*Steel Staples Prelim*), and accompanying PDM at 30, unchanged in *Certain Collated Steel Staples from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 85 FR 33626 (June 2, 2020) (*Steel Staples Final*); and *Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014), and accompanying PDM at 34-35, unchanged in *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014) (*Solar Products*).

⁴³ See GOC’s IQR at Exhibits II.C1.1 (article 30) and II.C.2 (article 95).

⁴⁴ See *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at Comment 1 (internal citations omitted).

⁴⁵ See GOC’s Case Brief at 9.

- Commerce should follow U.S. Court of International Trade (CIT) precedent and find that the EBCP was not used in this investigation based on the non-use declarations submitted by the respondents' customers.⁴⁶
- It is not Commerce's practice to assign an AFA rate to a respondent in CVD proceedings based solely on the fact that the foreign government failed to participate to the best of its ability. If the record indicates that the respondent did not use the program, Commerce will find the program was not used, regardless of whether the foreign government participated to the best of its ability.⁴⁷
- The courts have also embraced this legal principle. For example, in *Fine Furniture*, the CIT held that Commerce should avoid applying an adverse inference to a cooperative respondent, where other facts are available, because of the government's failure to respond.⁴⁸
- None of the information Commerce deems as missing actually creates a material gap in the record concerning usage. The information that was not provided goes to the countervailability of the EBCP; it neither impacts the evaluation of the program nor the determination of usage of the program.⁴⁹
- Record evidence demonstrates that the EBCP was not used by the mandatory respondents' customers. The GOC stated that the respondents' customers did not use the program and provided screen shots of the GOC's database search; the respondents provided statements of non-use in their initial responses after confirmation with their U.S. customers and submitted customer declarations.⁵⁰
- If there was a gap in the record, it is Commerce's failure to review the reported non-use statements provided by the GOC and the respondents and to ask the appropriate questions. Commerce could have attempted to verify claims of non-use at the respondents' U.S. customers' offices, but chose not to.⁵¹

⁴⁶ *Id.* (citing *Changzhou Trina Solar Energy Co., Ltd. v. United States*, No. 17-00246, 2019 WL 6124908, at *4 (CIT 2019); *Changzhou Trina Solar Energy Co. v. United States*, No. 17-00198, 2019 WL 5856438, at *2 (CIT 2019); *Jiangsu Zhongji Lamination Materials Co. v. United States*, 405 F. Supp.3d 1317, 1331 (CIT 2019); *Guizhou Tyre Co. Ltd. v. United States*, 348 F. Supp. 3d 1270 (CIT 2019) (*Guizhou Tyre II*); *Guizhou Tyre Co., Ltd. v. United States*, Slip Op. 19-59 (CIT 2019); and *Clearon Corp. v. United States*, 359 F. Supp. 3d 1344 (CIT 2019)).

⁴⁷ *Id.* at 11-12 (citing *Certain In-Shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty New Shipper Review*, 73 FR 9993 (February 25, 2008); and *Certain Hot-Rolled Carbon Steel Flat Products from India: Final results of Countervailing Duty Administrative Review*, 73 FR 40295 (July 14, 2008), and accompanying IDM at Comment 6); and *Guizhou Tyre Co., Ltd., v. United States*, Consol Ct. No. 17-00101, Slip Op. 19-114 (CIT 2019).

⁴⁸ *Id.* at 13 (citing *Fine Furniture (Shanghai) Ltd. v. United States*, 865 F. Supp. 2d 1254 (CIT 2012) (*Fine Furniture*)); see also *Archer Daniels Midland Co. v. United States*, 917 F. Supp. 2d 1331 (CIT 2013); and *Guizhou Tyre II*, 348 F. Supp. 3d 1270).

⁴⁹ *Id.* at 15-18.

⁵⁰ *Id.* at 18 (citing Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Response of Chongqing Kohler Engines Ltd. and Kohler (China) Investment Co. Ltd. to Section III Questionnaire," dated June 18, 2020 (Chongqing Kohler's IQR), at Ex. EBC-4; and Chongqing Zongshen's Case Brief at 13-14 (citing Chongqing Zongshen's June 22, 2020 Initial Questionnaire Response (Chongqing Zongshen IQR) at Exhibit VII-16)).

⁵¹ *Id.* at 18-20.

Chongqing Zongshen's Case Brief

- Record evidence conclusively demonstrates Chongqing Zongshen's and Chongqing Dajiang Power Equipment Co., Ltd.'s (Dajiang's) non-use of the EBCP. Chongqing Zongshen and Dajiang submitted sworn certifications from their U.S. customers confirming that they did not use this program, and this is confirmed by evidence the GOC submitted.⁵² Commerce cited no evidence in the *Preliminary Determination* that contradicts this record evidence.
- Commerce has previously found non-use of the EBCP based on a certification from the respondent company's U.S. customer. Because Commerce did not verify the information on the record, Commerce must assume that the information submitted is accurate.⁵³
- There is no gap in the record that warrants the application of AFA for this program.⁵⁴ The purportedly missing information is irrelevant, and the evidence provided by Chongqing Zongshen and Dajiang is sufficient to demonstrate non-use.⁵⁵
- The CIT has repeatedly held that: (1) similar records in other CVD proceedings do not support the use of AFA;⁵⁶ and (2) Commerce may not apply adverse inferences if doing so would adversely impact a cooperating party and relevant evidence existed elsewhere on the record.⁵⁷
- If Commerce continues to find the EBCP to be used, it should use either the Export Seller's Credit program rate or the Preferential Lending Program rate calculated in this investigation as the AFA rate.⁵⁸

Chongqing Kohler's Case Brief

- Chongqing Kohler provided extensive accounting and financial records from its sole U.S. customer demonstrating non-use which go beyond simple declarations. Therefore, Commerce should not apply AFA to Chongqing Kohler for this program.⁵⁹
- There is no "unreasonably onerous burden for Commerce," as Chongqing Kohler reconciled its financing and provided the purposes of each financing instrument within

⁵² See Chongqing Zongshen IQR at Volume I at 27-28 and Exhibit I-18 and Volume VII at 25-26 and Exhibit VII-16; and GOC's IQR at 37, 40, and Exhibit II.B.10).

⁵³ *Id.* at 15-16 (citing *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 46904 (July 19, 2016); *Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 79 FR 56560 (September 22, 2014), and accompanying IDM at 15; *Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 51775 and accompanying IDM at Comment X; and *China Kingdom Import & Export Co., Ltd. v. United States*, 507 F. Supp. 2d 1337, 1341 (CIT 2007)).

⁵⁴ *Id.* at 17.

⁵⁵ *Id.* at 19.

⁵⁶ *Id.* (citing *Guizhou Tyre II* 348 F. Supp. 3d 1261, 1271 (CIT 2018); *Changzhou Trina Solar Energy Co. v. United States*, 352 F. Supp. 3d 1316 (CIT 2018) (*Trina Solar Energy 2018*); *Changzhou Trina Solar Energy Co. v. United States*, No. 17-00198, 2019 WL 5856438 (CIT 2019); *Guizhou Tyre II*, 399 F. Supp. 3d 1346 (CIT 2019); *Guizhou Tyre Co. v. United States*, 415 F. Supp. 3d 1335, 1402 (CIT 2019); *Guizhou Tyre Co. v. United States*, 389 F. Supp. 3d 1315).

⁵⁷ *Id.* at 24 (citing *Archer Daniels Midland Co. v. United States*, 917 F. Supp. 2d 1331, 1342 (CIT 2015); and *Changzhou Trina Solar Energy Co., Ltd. v. United States*, 255 F. Supp. 3d 1312, 1318 (CIT 2017) (*Trina Solar Energy 2017*)).

⁵⁸ *Id.* at 20-28.

⁵⁹ See Chongqing Kohler's Case Brief at 3.

the reconciliation. None of them shows a plausible connection to China, let along the Export-Import Bank of China (Ex-Im Bank).⁶⁰

- Because Chongqing Kohler provided this information on the record, Commerce does not need to search the subledgers of Chongqing Kohler’s sole U.S. customer, Kohler Co.
- The petitioner misconstrued Chongqing Kohler’s submissions regarding the EBCP and Kohler Co. could not have benefitted from this program.⁶¹

Petitioner’s Rebuttal Brief

- The GOC repeatedly refused to provide information related to the countervailability of this program.⁶²
- Commerce has regularly applied AFA to the EBCP due to the GOC’s refusal to cooperate regarding this program, finding that the GOC’s failure to provide information inhibits Commerce’s ability to verify the respondent company’s claims of non-use.⁶³
- In the *Preliminary Determination*, Commerce clearly explained why the missing information is necessary as a prerequisite to the verification of non-use.⁶⁴ The CIT has stated that this explanation is reasonable.⁶⁵
- The GOC’s refusal to provide information met all four of the statutory factors to apply AFA because it: (1) withheld information; (2) failed to provide information in a timely manner; (3) significantly impeded the proceeding; and (4) provided uncorroborated information.⁶⁶
- Contrary to the respondent’s arguments, the GOC’s failure to cooperate left an information gap in the record making Commerce unable to verify claims of non-use.⁶⁷
- The respondents have not demonstrated non-use of the EBCP. Commerce has repeatedly found that declarations of non-use are insufficient because their accuracy cannot be verified.⁶⁸
- Chongqing Kohler’s argument that it is in a unique situation to demonstrate non-use does not change the fact that, without corroborating information from the GOC, Commerce cannot determine that Chongqing Kohler did not benefit from this program.⁶⁹

⁶⁰ *Id.*

⁶¹ *Id.* at 8-13 (citing Petitioner’s Letter, “Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof, from China: Petitioner’s Pre-Preliminary Determination Comments,” dated August 10, 2020, at 13-14; and Chongqing Kohler’s IQR at 15-18 and Exhibits EBC-4 – EBC-6d).

⁶² See GOC’s IQR at 38-39; and GOC’s SQR at 2-3.

⁶³ *Id.* at 9 (citing *Certain Collated Steel Staples From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 61021 (Nov. 4, 2019), and accompanying IDM at 17-21, unchanged in *Certain Collated Steel Staples From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 85 FR 33626 (June 2, 2020), and accompanying IDM (*Collated Steel Staples*); *Certain Glass Containers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 31141 (May 22, 2020), and accompanying IDM at 26).

⁶⁴ *Id.* at 10 (citing *Preliminary Determination PDM* at 13-14).

⁶⁵ *Id.* at 11 (citing *Changzhou Trina Solar Energy Co. v. United States*, 195 F. Supp. 3d 1334, 1355 (CIT 2016) (*Trina Solar Energy 2016*)).

⁶⁶ *Id.* at 12.

⁶⁷ *Id.* at 12-14 (citing GOC’s Case Brief at 16-20; and Chongqing Zongshen’s Case Brief at 18-23).

⁶⁸ *Id.* at 14 (citing GOC’s Case Brief at 9-20; Chongqing Zongshen’s Case Brief at 23; and Chongqing Kohler’s Case Brief at 3-4).

⁶⁹ *Id.*

- Chongqing Kohler’s argument that only importers can benefit from this program ignores evidence from the petition demonstrating that the EBCP is also open to foreign financial institutions, institutions authorized by the government of the importing country, and foreign companies, among other entities.⁷⁰
- Commerce should ignore Chongqing Zongshen’s request that Commerce apply a revised AFA rate to this program. Commerce has previously rejected argument that using this rate is either punitive or not contemporaneous and should do the same here.⁷¹

Commerce’s Position: We continue to find that the record evidence of the instant investigation does not support a finding of non-use of the EBCP by Chongqing Zongshen. For the reasons set forth below, we also find that Chongqing Kohler did not use the EBCP based on facts available. We next describe the evolution of Commerce’s treatment of the program.

Solar Cells from China Initial Investigation of the EBCP

Commerce first investigated and countervailed the EBCP in the 2012 investigation of *Solar Cells*.⁷² Our initiation was based on, among other information, the Ex-Im Bank’s 2010 annual report, demonstrating that the credits provided under this program are “medium – and long-term loans, and have preferential, low interest rates. Included among the projects that are eligible for such preferential financing are energy projects.”⁷³ Commerce initially asked the GOC to complete the “standard questions appendix” for the EBCP. The appendix requests, among other information, a description of the program and its purpose, a description of the types of relevant records the government maintains, the identification of the relevant laws and regulations, and a description of the application process (along with sample application documents). The standard questions appendix is intended to help Commerce understand the structure, operation, and usage of the program.⁷⁴

The GOC provided none of the information requested by Commerce in the ensuing investigation, despite being given multiple opportunities to do so, and instead simply stated that “{n}one of the respondents or their reported cross-owned companies applied for, used, or benefited from the alleged programs during the POI.”⁷⁵ In response to a request from Commerce for information concerning the operation of the EBCP and how we might verify usage of the program, the GOC stated that none of the respondents’ customers had used the program either. The GOC added:

⁷⁰ *Id.* at 15 (citing Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof from the People’s Republic of China,” dated March 18, 2020 (the Petition), at Volume III at Exhibit III-81).

⁷¹ *Id.* at 19 (citing *Collated Steel Staples Final* IDM, at 18-28; *Wooden Cabinets and Vanities and Components Thereof From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 11962 (February 28, 2020) (*Cabinets and Vanities*), and accompanying IDM at Comment 3; and *RZBC Group Shareholding Co., Ltd v. United States*, 222 F. Supp. 3d 1196, 1208 (CIT 2017)).

⁷² 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*), and accompanying IDM at 9 and Comment 18. While Commerce’s determination with respect to the EBCP was initially challenged, the case was dismissed.

⁷³ *Id.* at 59.

⁷⁴ *Id.*

⁷⁵ *Id.*

“{t}he GOC understands that this program, including the buyer’s credit, cannot be implemented without knowledge of the exporters because the program has a substantial impact on the exporter’s financial and foreign exchange business matters.”⁷⁶ Although asked, the GOC provided no additional information concerning exactly how an exporter’s financial and foreign exchange matters would be affected. Commerce then gave the GOC another opportunity to provide the information requested.⁷⁷ The GOC again refused to provide sample application documents, regulations, or manuals governing the approval process, and instead provided only a short description of the application process which gave no indication of how an exporter might be involved in the provision of export buyer’s credits, how it might have knowledge of such credits, or how such credits might be reflected in a company’s books and records.⁷⁸

Based on the GOC’s responses, Commerce’s understanding was that, under this program, loans were provided directly from the Ex-Im Bank to the borrowers (*i.e.*, a respondent’s customers), with no involvement of third parties, such as exporters, or third-party banks. Accordingly, Commerce made clear its understanding that the only way to establish non-use of the program was through the GOC and not the respondent companies.⁷⁹ Additionally, Commerce concluded that, even if the respondent company might have some knowledge of loans provided to its customers through its involvement in the application process, such information is not the type Commerce would examine to verify that the claim of non-use at issue was complete and accurate:

{E}ven if the {respondent exporter} might have been involved in, or might have received some notification of, its customer’s application for receiving such export credits, such information is not the type of information that {Commerce} needs to examine in order to verify that the information is complete and accurate. For verification purposes, {Commerce} must be able to test books and records in order to assess whether the questionnaire responses are complete and accurate, which means that we need to tie information to audited financial statements, as well as to review supporting documentation for individual loans, grants, rebates, *etc.* If all a company received was a notification that its buyers received the export credits, or if it received copies of completed forms and approval letters, we have no way of establishing the completeness of the record because the information cannot be tied to the financial statements. Likewise, if an exporter informs {Commerce} that it has no binder (because its customers have never applied for export buyer’s credits), there is no way of confirming that statement unless the facts are reflected in the books and records of the respondent exporter.⁸⁰

⁷⁶ *Id.* at 60.

⁷⁷ *Id.* at 60-61.

⁷⁸ *Id.* at 61.

⁷⁹ *Id.*

⁸⁰ *Id.* at 61-62.

On this basis, Commerce concluded that usage of the program could not be confirmed at the respondent exporters in a manner consistent with its long-standing verification methods.⁸¹ These methods are comparable to those of an auditor, attempting to confirm usage or claimed non-usage by examining books and records which can be traced to audited financial statements, or other credible official company documents, such as tax returns, that provide a credible and complete picture of a company's financial activity for the period under examination. A review of ancillary documents, such as applications, correspondence, emails, *etc.*, provides no assurance to Commerce that it has seen all relevant information.⁸²

This “completeness” test is an essential element of Commerce’s verification methodology. If Commerce were attempting to confirm whether and to what extent a respondent exporter had received loans from a state-owned bank, for example, its first step would be to examine the company’s balance sheets to derive the exact amount of lending outstanding during the period of examination. Second, once that figure was confirmed, Commerce would examine subledgers or bank statements containing the details of all individual loans. Because Commerce could tie or trace the subledgers or bank statements to the total amount of outstanding lending derived from the balance sheets, it could be assured that the subledgers were complete and that it therefore had the entire universe of loan information available for further scrutiny. After examining the subledgers for references to the state-owned banks (for example, “Account 201-02: Short-term lending, Industrial and Commercial Bank of China”), Commerce’s third step would be to select specific entries from the subledger and request to see underlying documentation, such as applications and loan agreements, in order to confirm the accuracy of the subledger details. Thus, confirmation that a complete picture of relevant information is in front of the verification team, by tying relevant books and records to audited financial statements or tax returns, is critical.

⁸¹ Commerce provided a similar explanation in the 2014 investigation of solar products from China. *See Solar Products* IDM at 93. This was affirmed by the Court in *Trina Solar Energy 2016*, 195 F. Supp. 3d 1334. In *Trina Solar Energy 2018*, the Court noted that the explanation from *Solar Products* constituted “detailed reasoning for why documentation from the GOC was necessary” to verify non-use. *See Trina Solar Energy 2018*, 352 F. Supp. 3d at 1326. However, the Court found that the 2014 review of solar cells from China at issue in *Changzhou Trina 2018* was distinguishable because the respondents submitted customer certifications of non-use, and Commerce had “failed to show why a full understanding” of the program was necessary to verify non-use. *See Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d 1261, 1270 (CIT 2018) (*Changzhou Trina 2018*); and *Solar Products* IDM at 10 (citing *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 32678 (July 17, 2017) (amended by *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2014*, 82 FR 46760 (October 6, 2017), and accompanying IDM)). The Court in *Guizhou Tyre 2018* reached a similar conclusion concerning the 2014 review of tires from China. *See Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d 1261 (CIT 2018) (*Guizhou Tyre 2018*); *see also Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2014*, 82 FR 18285 (April 18, 2017), and accompanying IDM.

⁸² The Court agreed with Commerce in *RZBC 2017*, following a remand, finding that Commerce could not verify non-use of the program by examining the respondent-exporter’s audited financial statements or other books and records because record evidence demonstrated that the program terms were ambiguous. *See RZBC Group Shareholding Co. v. United States*, 222 F. Supp. 3d 1196, 1200-02 (CIT 2017) (*RZBC 2017*); *see also Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) (*Citric Acid 2012*), and accompanying IDM at Comment 6).

In *Solar Cells*, however, despite Commerce’s repeated requests for information, the GOC failed to offer any guidance as to how Commerce could search for EBCP lending in the respondent exporters’ books and records that could be tied to financial statements, tax returns, or other relevant company documents. Therefore, Commerce concluded in that investigation that it could not verify usage of the program at the respondent exporters and instead attempted verification of usage of the program at the Ex-Im Bank itself because it “possessed the supporting records needed to verify the accuracy of the reported non-use of the {EBCP and} would have complete records of all recipients of export buyer’s credits.”⁸³ We noted our belief that “{s}uch records could be tested by {Commerce} to check whether the U.S. customers of the company respondents had received export buyer’s credits, and such records could then be tied to the Ex-Im Bank’s financial statements.”⁸⁴ However, the GOC refused to allow Commerce to query the databases and records of the Ex-Im Bank.⁸⁵ Furthermore, there was no information on the record of *Solar Cells* from the respondent exporters’ customers.

Chlorinated Isos Investigation of the EBCP

Two years later, in *Chlorinated Isos*,⁸⁶ the respondents submitted certified statements from all customers claiming that they had not used the EBCP. This was the first instance of respondents submitting such customer certifications. At that point in time, as explained in detail above, based on the limited information provided by the GOC in earlier investigations, it was Commerce’s understanding that the EBCP provided medium- and long-term loans and that those loans were provided directly from the Ex-Im Bank to the borrowers (*i.e.*, the respondent exporters’ customers) only. Because the respondents’ customers were participating in the proceeding, verification of non-use appeared to be possible through examining the financial statements and books and records of the U.S. customers for evidence of loans provided directly from the Ex-Im Bank to the U.S. customers pursuant to verification steps similar to the ones described above. Based on the GOC’s explanation of the program, we had expected to be able to verify non-use of this program through review of the participating U.S. customers’ subledgers themselves. Therefore, despite being “unable to conduct a complete verification of non-use of this program at China ExIm ... {w}e conducted verification ... in the United States of the customers of {the respondents}, and confirmed through an examination of each selected customer’s accounting and financial records that no loans were received under this program.”⁸⁷

2013 Amendments to the EBCP

Our understanding of the operation of the EBCP began to change after *Chlorinated Isos* was completed in September 2014. In *Citric Acid 2012*, Commerce began to gain a better understanding of how the Ex-Im Bank disbursed funds under the program and the corresponding

⁸³ See *Solar Cells* IDM at 62.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See *Chlorinated Isocyanurates from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2012*, 79 FR 56560 (September 22, 2014) (*Chlorinated Isos*), and accompanying IDM.

⁸⁷ *Id.* at 15.

timeline;⁸⁸ however, Commerce’s attempts to verify the program’s details, and to obtain accurate statements concerning the operation and use of the program, were thwarted by the GOC. In subsequent proceedings, Commerce continued to investigate and evaluate this program.

For example, in *Silica Fabric* conducted in 2016-2017, based on what we had learned in *Citric Acid 2012*, we asked the GOC about certain changes to the EBCP, including changes in 2013 that eliminated the USD 2 million minimum business contract requirement.⁸⁹ In response, the GOC stated that there were three relevant documents pertaining to the EBCP: (1) “Implementing Rules for the Export Buyer’s Credit of the {Ex-Im Bank}” which were issued by the Ex-Im Bank on September 11, 1995 (referred to as “1995 Implementation Rules”); (2) “Rules Governing Export Buyer’s Credit of the {Ex-Im Bank}” which were issued by the Ex-Im Bank on November 20, 2000 (referred to as “2000 Rules Governing Export Buyer’s Credit” or “Administrative Measures”); and (3) 2013 internal guidelines of the Ex-Im Bank.⁹⁰ According to the GOC, “{t}he {Ex-Im Bank} has confirmed to the GOC that ... ‘its 2013 guidelines are internal to the bank, non-public, and not available for release.’”⁹¹ The GOC further stated that “those internal guidelines do not formally repeal or replace the provisions of the {Administrative Measures} which remain in effect.”⁹²

However, we found the GOC’s responses incomplete and unverifiable, explaining:

Through its response to {Commerce’s} supplemental questionnaire, the GOC has refused to provide the requested information or any information concerning the 2013 program revision, which is necessary for {Commerce} to analyze how the program functions.

We requested the 2013 Administrative Measures revisions (2013 Revisions) because information on the record of this proceeding indicated that the 2013 Revisions affected important program changes. For example, the 2013 Revisions may have eliminated the USD 2 million contract minimum associated with this lending program. By refusing to provide the requested information, and instead asking {Commerce} to rely upon unverifiable assurances that the 2000 Rules Governing Export Buyer’s Credit remained in effect, the GOC impeded {Commerce}’s understanding of how this program operates and how it can be verified.

⁸⁸ See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) (*Citric Acid 2012*), and accompanying IDM at Comment 6 (“{N}otwithstanding the non-use claims of the RZBC Companies and the GOC, we find that the GOC’s refusal to allow the verifiers to examine the EXIM Bank database containing the list of foreign buyers that were provided assistance under the program during the POR precluded the Department from verifying the non-use claims made by the RZBC Companies and the GOC.”).

⁸⁹ See *Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China: Final Affirmative Determination*, 82 FR 8405 (January 25, 2017) (*Silica Fabric Investigation*), and accompanying IDM at Comment 17.

⁹⁰ *Id.*; see also Memorandum, “Placing Documents on the Record,” dated March 5, 2021 (Additional Documents Memorandum).

⁹¹ See *Silica Fabric Investigation* IDM at Comment 17.

⁹² *Id.*

Additional information in the GOC's supplemental questionnaire response also indicated that the loans associated with this program are not limited to direct disbursements through the EX-IM Bank. Specifically, the GOC stated that customers can open loan accounts for disbursements through this program with other banks. 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 that these funds are then sent to the exporter's bank account. Given the complicated structure of loan disbursements for this program {Commerce's} complete understanding of how this program is administrated is necessary. Thus, the GOC's refusal to provide the most current 2013 Revisions, which provide internal guidelines for how this program is administrated by the EX-IM Bank, impeded {Commerce's} ability to conduct its investigation of this program.⁹³

Further, we determined that we could not rely on declarations from customers claiming non-use of the program because "we are unable to verify the accuracy of these documents as the primary entity that possesses such supporting records is the Export Import Bank of China."⁹⁴

Additionally, we explained that "we now have information on the record that demonstrates the GOC updated certain measures of the program, but the GOC refused to provide the updated measures" and, "{b}ecause the GOC withheld critical information regarding this program, we are unable to determine how the program now operates, and, thus, we cannot verify {the respondent's} declarations as submitted."⁹⁵

The Instant Investigation

As explained in the *Preliminary Determination*, information on the record indicates that the GOC issued revised administrative measures in 2013 for the EBCP.⁹⁶ In response to our request that it provide the documents pertaining to the 2013 program revisions (2013 Revisions), the GOC refused to provide them, stating that "{b}ased on the information available to the GOC at this stage, the GOC confirms that none of the Respondents' customers applied for, used, or benefited from the alleged program during the POI. Thus, this question is not a necessary one."⁹⁷ As a result, the GOC refused to provide the requested information, which is necessary for Commerce to analyze how the program functions.

Moreover, record information also indicates that the credits and funds associated with the program are not limited to direct disbursements from the Ex-Im Bank.⁹⁸ Specifically, the record information indicates that customers can open loan accounts for disbursements through other

⁹³ *Id.* at 12.

⁹⁴ *Id.* at 62.

⁹⁵ *Id.*

⁹⁶ See *Preliminary Determination* PDM at 13-14; see also *Certain Fabricated Structural Steel From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 5384 (January 30, 2020) (*FSS from China*), and accompanying IDM at Comment 2; see also Additional Documents Memorandum.

⁹⁷ See GOC's SQR at 2.

⁹⁸ See *FSS from China* IDM at Comment 2; see also Additional Documents Memorandum.

banks.⁹⁹ The funds are first sent from the Ex-Im Bank to the importer's account, which could be at the Ex-Im Bank or a partner bank and then sent to the exporter's bank account.¹⁰⁰ Given this complicated structure of loan disbursements under the program, a complete understanding of how it operates is necessary. Thus, the GOC's refusal to provide the 2013 Revisions, which provide internal guidelines for how the program is administered, impeded Commerce's ability to conduct its investigation of the program.

Importantly, the GOC also refused to provide a list of all partner/correspondent banks involved in the disbursement of credits and funds under the program, informing Commerce, “{b}ased on the information available to the GOC at this stage, the GOC confirms that none of the Respondents' customers applied for, used, or benefited from the alleged program during the POI. Thus, a list of all partner/correspondent banks around the world that are involved in the disbursement of funds under this program is both an overly broad question and an unnecessary one.”¹⁰¹ Commerce continues to believe that it cannot fully verify claims of non-usage, in terms of any lending to either 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.*, the loan) or the cash disbursement made pursuant to the credit. Given the participation of partner/correspondent banks in the EBCP, for which the GOC refused to provide identifying information, even where there is no account in the name “Ex-Im Bank” in the books and records (*e.g.*, subledger, tax return, bank statements) of either the exporter or the U.S. customer, Commerce could not confirm that no loans were provided under the program.

Chongqing Zongshen

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 in reaching the applicable determination. We find that the use of facts otherwise available is appropriate in light of the GOC's refusal to provide the 2013 Revisions. Further, section 776(b) of the Act provides that Commerce may use an adverse inference in applying 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. Pursuant to section 776(b) of the Act, we find that the GOC, by virtue of its withholding of information and significantly impeding this proceeding, failed to cooperate and act to the best of its ability. Accordingly, the application of AFA is warranted with respect to Chongqing Zongshen.

Specifically, we asked Chongqing Zongshen and its affiliates to list their U.S. customers to which they exported during the POI and detail the role they played in assisting their customers in obtaining buyer's credits, to provide complete copies of documentation provided to China ExIm, and to explain in detail the steps they took to determine that no customer used the Buyer Credit Facility.¹⁰² Chongqing Zongshen claimed to be unaware that any U.S. customer applied for or

⁹⁹ See *Silica Fabric Investigation* IDM at Comment 17; see also Additional Documents Memorandum.

¹⁰⁰ See *Silica Fabric Investigation* IDM at Comment 17; see also Additional Documents Memorandum.

¹⁰¹ See GOC's IQR at 39.

¹⁰² See Commerce's Letter, “Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Countervailing Duty Questionnaire,” dated April 28, 2020 (Initial Questionnaire), at Section III, pages 6-7 and 10-11.

received buyer's credits during the POI and provided customer declarations claiming non-use of the program.¹⁰³ Despite Chongqing Zongshen's claims of non-use, we find that the GOC has not provided complete information concerning the administration and operation of the program, such as how exactly loans are disbursed under the program (*e.g.*, the 2013 Revisions), possibly through intermediate or correspondent banks, the identities of which the GOC has withheld from Commerce, or whether the Ex-Im Bank employs threshold criteria, such as a minimum USD 2 million contract value.¹⁰⁴ Such information is critical to understanding how the EBCP operates, and thereby is also critical to Commerce's ability to consider Chongqing Zongshen's claims of non-use.

We disagree with the GOC and Chongqing Zongshen that Commerce has not identified any gap in the record resulting from missing information.¹⁰⁵ As an initial matter, we cannot simply rely on the GOC's assurances that it has checked its records. We have no way of verifying such statements without the GOC providing us with the requested documents which would allow us to then properly examine its claims of non-use. Further, given the constraints on Commerce resulting from the GOC's failure to provide all of the necessary information to fully understand the program's operation, Commerce cannot simply rely on the statements of non-use by Chongqing Zongshen and its customers.

The GOC is the only party that can answer questions about the internal administration of this program, and, thus, its failure to provide the requested information undermines Commerce's ability to verify claims of non-use. Commerce cannot verify non-use at the Ex-Im Bank without a complete set of administrative measures on the record that would provide guidance to Commerce in querying the records and electronic databases of the Ex-Im Bank.¹⁰⁶ Without such evidence or any further evidence from Chongqing Zongshen beyond its claims of non-use, Commerce would not know what *indicia* to look for in searching for usage or even what records or databases we need to examine in conducting the verification (*i.e.*, without a complete set of laws, regulations, and administrative measures, Commerce would not even know what books and records the Ex-Im Bank maintains in the ordinary course of its operations). Essentially, Commerce is unable to verify in a meaningful manner the little information on the record indicating non-usage (*e.g.*, the claims of the GOC and emails and certifications from U.S. customers), with the exporter, U.S. customers, or at the Ex-Im Bank itself given the refusal of the GOC to provide the 2013 Revisions and a complete list of correspondent/partner/intermediate banks. Therefore, Commerce is continuing to rely on facts available with an adverse inference to find that Chongqing Zongshen's customers used the EBCP.

Therefore, for the reasons explained above, we continue to find that necessary information is missing from the record, the GOC withheld information that was requested, and significantly impeded this proceeding, pursuant to sections 776(a)(1) and (2) of the Act, and that the GOC has failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act. Thus, Commerce's use of an adverse inference when selecting from among the facts otherwise

¹⁰³ See Chongqing Zongshen IQR at Volume I at 28, Volume VII at 26, Exhibit I-18, and Exhibit VII-16.

¹⁰⁴ *Id.*

¹⁰⁵ See GOC's Case Brief at 11; and Zongshen Case Brief at 20.

¹⁰⁶ We also note that the GOC has a history of refusing to provide Commerce with adequate information relevant to understanding this program. See, *e.g.*, *Solar Products* IDM at Comment 16.

available, with respect to Chongqing Zongshen, is reasonable and supported by substantial evidence on the record.

Finally, we disagree with Chongqing Zongshen that we should rely on a calculated rate from this investigation as the AFA rate for the EBCP, instead of the 10.54 percent rate used as the AFA rate for this program in all of Commerce's investigations. Commerce has previously elaborated at length on its choice of the 10.54 percent rate as the AFA rate for this program in investigations, explaining that due to the GOC's refusal to provide information about this program, there is no evidence on the record that indicates that this is not similar to a general lending program.¹⁰⁷ Specifically, in *Cabinets and Vanities*, we stated the following:¹⁰⁸

As explained in the section "Use of Facts Otherwise Available And Adverse Inferences" in the *Preliminary Determination*, in selecting an AFA rate, Commerce applies the highest calculated rate for the identical program in the investigation if a respondent company used the identical program, and the rate is not zero. If there is no identical program match within the investigation, or if the rate is zero, Commerce uses the highest non-*de minimis* rate calculated for the identical program in another CVD proceeding involving the same country. If no such rate is available, Commerce will use the highest non-*de minimis* rate for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country. Absent an above-*de minimis* subsidy rate calculated for a similar program, Commerce applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating companies.

In this investigation, there is no identical program for which we calculated a subsidy rate. Ancientree's suggestion that we use a policy lending rate from the instant investigation as the AFA rate for the EBC program does not follow the AFA hierarchy for an investigation, because the policy lending program, while similar in terms of the treatment of the subsidy (*i.e.*, related to loans), is not identical to the EBC program. Thus, we have examined other Chinese CVD proceedings and selected the 10.54 percent *ad valorem* rate calculated in *Coated Paper from China* for "Government Policy Lending," a program that provides assistance in the form of a preferential interest rate on various types of loans sourced from Chinese-owned financial institutions. Consistent with Commerce's practice and AFA hierarchy, this is the highest non-*de minimis* rate for a similar program in a Chinese CVD proceeding.

We have also explained that the statute does not require contemporaneity when selecting AFA rates and that Commerce has the discretion to select the highest calculated rate.¹⁰⁹ Our explanations have been upheld in full by the CIT.¹¹⁰ As a result, we continued to use an AFA

¹⁰⁷ See, e.g., *Cabinets and Vanities* IDM at Comment 3.

¹⁰⁸ *Id.* (internal citations omitted).

¹⁰⁹ *Id.*

¹¹⁰ See, e.g., *SolarWorld Americas, Inc. v. United States*, 229 F. Supp. 3d 1362 (2017).

rate of 10.54 percent *ad valorem* for this program for Chongqing Zongshen in the final determination.

Chongqing Kohler

While Commerce continues to believe that information from the GOC, particularly a list of intermediary banks and information about the 2013 Revisions, is necessary to understand the mechanics of the EBCP, we are relying on facts available to determine that Chongqing Kohler and its sole U.S. customer and parent company, Kohler Co., did not use the EBCP. Pursuant to sections 776(a)(1) and (2)(D) of the Act, where necessary information is not available on the record or information is provided, but such information cannot be verified, pursuant to section 782(i) of the Act, Commerce shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching its determination.

In the initial questionnaire, Commerce stated “{i}f you claim that none of your customers used export buyer credits during the {period of investigation}, please explain in detail the steps you took to determine that no customer used the Buyer Credit Facility.”¹¹¹ Chongqing Kohler explained that it had only one U.S. customer, its parent company Kohler Co. In addition, Chongqing Kohler claimed that it could provide “the limits of {Kohler Co.’s} financing” through a “reconciliation” which would prove “the purposes of each of the financing instruments” held by Kohler Co. “within the reconciliation.”¹¹² Chongqing Kohler also provided “Kohler Co.’s 2019 Consolidated Balance Sheet” identifying the “outstanding balances of short-term debt, long-term debt, and current maturities of long term debt as of the beginning and end of the {period of investigation}.”¹¹³ Finally, Chongqing Kohler provided the lending agreements that allegedly “show the purpose of each of {the} debt instruments and the parties involved in the financing” of loans for Kohler Co.¹¹⁴

In the *Preliminary Determination*, Commerce relied on facts available with an adverse inference and determined that Chongqing Kohler benefitted from the EBCP.¹¹⁵ As explained above, Commerce reaffirms that it requires information from the GOC in order to fully understand the mechanics of the EBCP, which would provide Commerce with a reliable framework for verifying company information. However, after carefully considering arguments from the parties, we have determined that, due to its exceptional relationship with its sole U.S. customer (its parent company), Chongqing Kohler was able to provide unique evidence, which pertains to “loan instruments” and reconcilable documentation indicative of the scope of Kohler Co.’s financing during the POI, and which appears to indicate that the finance instruments have specific purposes not related to the export of goods from China.¹¹⁶ Thus, after consideration of the arguments and after further evaluation of the record, we find that the information Chongqing

¹¹¹ See Initial Questionnaire at Section III, page 11.

¹¹² See Chongqing Kohler’s Case Brief at 4.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ See *Preliminary Determination* PDM at 13-14, 29.

¹¹⁶ See Chongqing Kohler’s IQR at 17, Exhibit 5, and Exhibits EBC-6a- EBC-6d (The details of the documentation provided by Chongqing Kohler are BPI).

Kohler provided constitutes available information which can be used, for purposes of facts available, in determining whether Kohler Co. used the EBCP.¹¹⁷

We further recognize that, because of the gaps on the record, the information Chongqing Kohler provided does not allow for Commerce to determine that Kohler Co. did not use the EBCP, without the use of facts available. For example, where a party like Chongqing Kohler provides information related to “loan instruments” and reconcilable documentation of its U.S. customers, we believe that further information pertaining to that party’s cash flow intake, in addition to loan instruments, and more detailed financial information beyond that which Chongqing Kohler provided, would be necessary in evaluating alleged non-use of the EBCP. Additionally, we reiterate that the GOC’s lack of cooperation with regard to numerous requests for information pertaining to the EBCP continues to leave Commerce with an incomplete understanding of the program, wherein Commerce cannot discern the entire universe of ways a party may receive financing. Indeed, the GOC is reticent to share any official information about its export credit programs. In numerous CVD proceedings before Commerce, the GOC has refused to provide adequate information relevant to understanding the EBCP,¹¹⁸ demonstrating a purposeful and coordinated effort to withhold information in an attempt to prevent Commerce from ever fully comprehending the true details of the program. This treatment of the EBCP as a “black box” continues to inhibit Commerce’s ability to evaluate claims of non-use and any attempts to verify company information.

Notwithstanding these valid concerns, we also recognize that the court has directed Commerce in numerous decisions to consider whether any available information provided by respondents may be sufficient to fill the gap of missing record information in considering claims of non-use for the EBCP.¹¹⁹ Here, we find that the unique circumstances in this case allow Commerce to rely on the facts available to find that Chongqing Kohler did not use the EBCP. As explained above, Chongqing Kohler had only one customer during the POI, its parent company, for which it was able to provide extensive documentation of a kind that can fill some of the gaps of the record necessary to Commerce’s inquiry. Although this information was not subject to verification, leaving potentially relevant questions unanswered, we find that the information is sufficient in this particular instance to find non-use with regard to Chongqing Kohler.

Comment 3: Whether the Electricity for LTAR Program is Specific

GOC’s Case Brief

- Commerce wrongly relied on AFA based on the GOC’s alleged refusal to provide information related to the National Development and Reform Commission’s (NDRC’s) price-setting role. The record demonstrates that the NDRC no longer possesses the authority to direct price changes.¹²⁰

¹¹⁷ See *Clearon Corp. v. United States*, 474 F. Supp. 3d 1339, 1345-46, 1349 (CIT 2020) (*Clearon*).

¹¹⁸ See, e.g., *Solar Products IDM* at Comment 16 (“At verification, the GOC repeatedly denied {Commerce} officials the opportunity to examine the basis for the GOC’s contention that none of the company respondents in this investigation, or their customers, used this program during the POI... Despite repeated requests to verify the basis of statements made on the record of this investigation, the GOC refused to allow {Commerce} to query the databases and records of the Ex-Im Bank to establish the accuracy of its non-use claim.”).

¹¹⁹ See, e.g., *Clearon*, 474 F. Supp. 3d at 1354.

¹²⁰ See GOC’s Case Brief at 23.

- Before applying AFA, Commerce must find that information is missing on the record as the result of a party's noncooperation.¹²¹ The AFA statute does not allow Commerce to skip important elements of an analysis because of an adverse inference.¹²²
- Commerce failed to sufficiently justify how the electricity program constitutes a specific subsidy within the meaning of section 771(5A)(D) of the Act. Even if Commerce wrongly continues to find that the NDRC continues to play a role in price setting, it cannot find that the electricity program is regionally specific because no region benefitted from preferential electricity rates.¹²³
- The facts in this investigation are distinguishable from previous proceedings where the CIT upheld Commerce's use of AFA to find that the electricity for LTAR program was specific.¹²⁴
- Therefore, in the final determination, Commerce must find that the electricity for LTAR program is not countervailable.¹²⁵

Petitioner's Rebuttal Brief

- The GOC failed to provide information Commerce requested to determine the process by which electricity prices and price adjustments are derived, the entities that manage the price adjustment process, and the cost elements included in the derivation of electricity prices in China during the POI.¹²⁶
- Commerce recently noted that there is support for the conclusion that the NDRC is still the price-setting authority.¹²⁷
- Notices 748 and 3105, issued by the NDRC, do not explicitly eliminate Provincial Price Proposals, nor do they define distinctions in the price setting roles between the national and provincial authorities.¹²⁸
- Because the GOC failed to fully explain the roles of each level of government and the nature of the interaction between the provinces and the NDRC, Commerce cannot accept at face value the GOC's assertion that the provinces have full control over their own rate setting. Record evidence points to a continued significant role for the NDRC in the rate setting process.
- Therefore, Commerce should continue to find that the GOC withheld information that was requested of it for the analysis of specificity and continue to rely on AFA in the final determination.¹²⁹

Commerce's Position: We continue to find that the GOC did not act to the best of its ability to provide requested information. As explained in the *Preliminary Determination*, the GOC did not provide complete responses to Commerce's questions regarding the alleged provision of

¹²¹ *Id.* at 21 (citing sections 776(a) and 776(b)(1) of the Act).

¹²² *Id.* at 22 (citing *Trina Solar Energy 2018*; and *Trina Solar Energy 2016*).

¹²³ *Id.* at 26-27.

¹²⁴ *Id.* at 21 (citing *Changzhou Trina Solar Energy Co. v. United States*, 466 F. Supp. 3d 1287, 1301 (CIT 2020); and *Canadian Solar Inc., v. United States*, Slip Op. 20-149, at 10-12 (CIT 2020)).

¹²⁵ *Id.* at 21.

¹²⁶ See Petitioner's Rebuttal Brief at 26-27.

¹²⁷ *Id.* (citing *Solar Cells IDM* at Comment 4).

¹²⁸ *Id.* at 27.

¹²⁹ *Id.*

electricity for LTAR.¹³⁰ In the original questionnaire, Commerce requested information from the GOC that was needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act and whether such a provision was specific within the meaning of section 771(5A) of the Act. The GOC did not provide this information. Consequently, in the *Preliminary Determination*, we relied on facts available pursuant to sections 776(a)(1) and (2)(A) and (C) of the Act because necessary information was missing from the record and because the GOC withheld information that was requested of it for our analysis and significantly impeded the proceeding. Furthermore, we applied AFA pursuant to section 776(b) of the Act because the GOC failed to cooperate by not acting to the best of its ability to comply with our requests for information.¹³¹ Consistent with the Act and our practice, Commerce is continuing to apply AFA with respect to the provision of electricity for this final determination.

Commerce requested information regarding the derivation of electricity prices at the provincial level, the procedure for adjusting retail electricity tariffs, and the role of the NDRC and the provincial governments in this process.¹³² Specifically, we asked how increases in cost elements led to retail price increases, the derivations of those cost increases, how cost increases were calculated, and how cost increases impacted final prices.¹³³ Additionally, we requested that the GOC explain, for each province in which a respondent or cross-owned company is located, how increases in labor costs, capital expenses, and transmission and distribution costs are factored into Provincial Price Proposals, and how cost element increases and final price increases were allocated across both the province and tariff end-user categories.¹³⁴

As explained in detail in the *Preliminary Determination*, the GOC failed to fully explain the roles and nature of the cooperation between the NDRC and the provincial governments in deriving electricity price adjustments. As a result of the GOC's refusal to provide the requested information and unwillingness to cooperate, Commerce was unable to evaluate whether the electricity rates included in the electricity schedules submitted by the GOC were calculated based on market principles. Accordingly, Commerce applied facts available with an adverse inference to the determination of the appropriate benchmark.¹³⁵ Specifically, because the GOC provided the provincial electricity tariff schedules, Commerce relied on this information for the application of facts available and, in making an adverse inference, Commerce identified the highest rates among these schedules for each reported electricity category and used those rates as the benchmarks in the benefits calculations.¹³⁶

While the GOC argues that its electricity tariffs are not specific because no region within China benefitted from preferential electricity rates, Commerce's analysis and its specificity determination are not based on the conclusion that different regions benefit from preferential rates. Rather, given the GOC's failure to cooperate fully, Commerce must rely on the facts

¹³⁰ See *Preliminary Determination* PDM at 11.

¹³¹ *Id.* at 11-13.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.* at 13.

¹³⁶ *Id.*

available on the record, with appropriate adverse inferences, in making both our specificity and benchmark determinations. As we explained in the *Preliminary Determination*, we attempted to obtain information on how Chinese provincial electricity rate schedules are calculated and why they differ, information which could have contributed to Commerce’s analysis of an appropriate benchmark for the benefit calculation for this program.¹³⁷ The GOC’s failure to provide complete responses to our questions regarding this program is the reason Commerce is applying AFA in this case with respect to the selection of an electricity benchmark. The GOC’s refusal to answer Commerce’s questions completely with respect to the roles and nature of cooperation between the NDRC and the provinces in deriving electricity price adjustments and failure to explain both the derivation of the price reductions directed to the provinces by the NDRC and the derivation of prices by the provinces themselves, leaves Commerce unable to carry out a specificity analysis. The GOC has failed to explain the reason for these differences in this and previous cases,¹³⁸ claiming without support that the provincial governments set the rates for each province in accordance with market principles.

Thus, for the reasons stated above and consistent with the *Preliminary Determination*, we continue to find this program countervailable and to determine that the GOC’s provision of electricity confers a financial contribution and is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. The GOC failed to provide certain requested information regarding the relationship (if any) between provincial tariff schedules and cost, as well as requested information regarding cooperation (if any) in price setting practices between the NDRC and provincial governments. Therefore, for the final determination, we continue to apply facts available with an adverse inference with regard to this program, including in our selection of the benchmark for determining the existence and amount of the benefit.¹³⁹

Comment 4: Whether Commerce Should Revise its Critical Circumstances Analysis

MTD’s Case Brief

- Commerce should revise its critical circumstances analysis to account for seasonal trends in Chongqing Zongshen’s exporting patterns, the COVID-19 pandemic, and the industry’s practice of entering long-term contracts.¹⁴⁰
- Commerce’s *Preliminary Critical Circumstances Determination* did not reference the regulatory requirements of 19 CFR 351.206(h)(ii) to assess seasonal trends in determining critical circumstances.¹⁴¹
- In *CTVs from China*, Commerce applied a two-step analysis to assess the impact of seasonality on imports. Specifically, Commerce first examined import volume trends and determined that imports follow a seasonal pattern; next, Commerce evaluated whether seasonality accounted for the increase in post-petition shipments from the respondents.¹⁴²

¹³⁷ *Id.*

¹³⁸ See, e.g., *Twist Ties from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 10542 (February 22, 2021), and accompanying IDM at Comment 3.

¹³⁹ See sections 776(a) and (b) of the Act.

¹⁴⁰ See MTD’s Case Brief at 3.

¹⁴¹ *Id.* at 4 (citing *Preliminary Critical Circumstances Determination*, 85 FR at 68851).

¹⁴² *Id.* at 5 (citing *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (April 16, 2004) (*CTVs from China*), and accompanying IDM at Comment 3).

- In *CTVs from China*, Commerce also accounted for the SARS epidemic, making an adjustment to account for exports that were backlogged due to SARS-related delays.¹⁴³
- In the Petition, the petitioner acknowledged seasonal trends in the industry, noting that the majority of subject merchandise is sold in the spring and summer months, when most lawn care and gardening activity is performed. Commerce’s analysis failed to account for these trends.¹⁴⁴
- Commerce should follow the precedent established in *CTVs from China* during the SARS epidemic and account for disruptions in exporting patterns due to COVID-19.¹⁴⁵ Record evidence indicates that COVID-19 affected Chongqing Zongshen’s inventory levels, demonstrating that the 2020 selling season was different from previous years.¹⁴⁶
- The imports at issue here were not timed to circumvent the imposition of antidumping duties, but were made pursuant to long-term contracts entered into prior to the Petition.¹⁴⁷

Petitioner’s Rebuttal Brief

- Commerce correctly found critical circumstances with respect to Chongqing Zongshen in the *Preliminary Determination*.¹⁴⁸
- MTD’s proposed framework is inconsistent with Commerce’s massive imports analysis, relying on anomalies in data instead of seasonal trends.¹⁴⁹
- MTD’s argument that Chongqing Zongshen’s massive imports were due to COVID-19 is unsupported by the record. MTD does not cite any documentation demonstrating that COVID-19 affected Chongqing Zongshen’s sales volumes.¹⁵⁰
- In *CTVs from China*, Commerce reclassified shipments due to SARS for one respondent because there was “well-documented” evidence that SARS delayed these shipments. Additionally, Commerce rejected making such a reclassification for other respondents that did not place such documentation on the record.¹⁵¹ Chongqing Zongshen has not placed any documentation on the record to support that COVID-19 affected its shipments.
- Commerce has a long-held policy of not excluding long-term contracts because such contracts provide exporters with “flexibility to increase shipments prior to the suspension of liquidation.”¹⁵² MTD has not provided any reason to depart from this policy.
- While MTD argues that Commerce must consider the effects of COVID-19 on the small vertical engines industry, Commerce found that neither Chongqing Kohler nor the companies covered by the “all others” rate had massive imports. Thus, MTD is incorrect in its claim that this was an industry-wide phenomenon.¹⁵³

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 7 (citing Volume I of the Petition at 16-17).

¹⁴⁵ *Id.* at 7-9 (citing *CTVs from China* IDM at Comment 3).

¹⁴⁶ *Id.* at 8 (citing Chongqing Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Creditworthiness Response,” dated November 2, 2020, at Exhibit S3-1.)

¹⁴⁷ *Id.* at 9.

¹⁴⁸ See Petitioner’s Rebuttal Brief at 39 (citing *Preliminary Critical Circumstances Determination*, 85 FR at 68852).

¹⁴⁹ *Id.* (citing MTD’s Case Brief at 9-10).

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 40-41 (citing *CTVs from China* IDM at Comment 3).

¹⁵² *Id.* at 41 (citing *CTVs from China* IDM at Comment 3).

¹⁵³ *Id.* at 41-42 (citing *Preliminary Critical Circumstances Determination*, 85 FR at 68851).

Commerce’s Position: We continue to find that critical circumstances exist with respect to Chongqing Zongshen in the final determination. In order to conduct a seasonality analysis, Commerce normally relies on a minimum of three years of import data.¹⁵⁴ In this case, notwithstanding MTD’s claims regarding the seasonal nature of the small vertical engines industry, no evidence exists on the record to permit Commerce to assess seasonality. Furthermore, Commerce has found in prior cases that the burden of demonstrating seasonality is on the respondents:¹⁵⁵

When a party has argued that seasonal trends accounted for the increase in its shipments, {Commerce} has required the party to explain why this trend was seasonal, in accordance with 19 CFR 351.206(h). *See Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People’s Republic of China*, 66 FR 50608 (October 4, 2001), accompanying Issues and Decision Memorandum at Comment 2, which articulated that, without evidence from the respondent, {Commerce} will not make a finding of seasonal trends.

Here, the respondents neither argued nor placed data on the record demonstrating that trade in small vertical engines is seasonal. Rather, MTD raised the issue of seasonality for the first time in its case brief without pointing to data on the record to support its claim. Thus, we have not examined the seasonality of the small vertical engines industry in the final determination.

Moreover, we disagree with MTD that we should account for COVID-19’s effect on the timing of shipments here, consistent with *CTVs from China*. In *CTVs from China*, Commerce did not make a blanket adjustment to the import data due to the effect of the SARS epidemic. Instead, Commerce adjusted the import data for the single respondent which placed information on the record demonstrating that the timing of its shipments was effected by SARS.¹⁵⁶ In the instant case, MTD does not point to any data demonstrating that COVID-19 caused the delays in Chongqing Zongshen’s shipments, but instead bases its argument on conjecture and inference.¹⁵⁷ Therefore, we find no basis to adjust Chongqing Zongshen’s data for the effects of COVID-19.

¹⁵⁴ *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico*, 76 FR 67688, 67702 (November 2, 2011) (analyzing 3 years of data to find a consistent pattern of seasonality), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico*, 77 FR 17422 (March 26, 2012); and *Certain Quartz Surface Products From the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23767 (May 23, 2019), and accompanying IDM at Comment 2 (finding that data covering two years is insufficient for purposes of a critical circumstances analysis based on seasonality).

¹⁵⁵ *See Notice of Final Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People’s Republic of China*, 68 FR 55589 (September 26, 2003), and accompanying IDM at Comment 2; *see also Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015), and accompanying IDM at Comment 23.

¹⁵⁶ *See CTVs from China* IDM at Comment 3.

¹⁵⁷ *See MTD’s Case Brief* at 8.

Finally, we disagree with MTD that critical circumstances do not exist for Chongqing Zongshen because its imports were made pursuant to long-term contracts. Commerce’s longstanding practice is to include shipments made pursuant to long-term contracts as part of its critical circumstances determinations “because under the terms of many long-term contracts...respondents have the flexibility to increase shipments prior to the suspension of liquidation, thereby circumventing the imposition of ... duties.”¹⁵⁸ In the instant case, MTD points to no evidence demonstrating that the shipment dates for Chongqing Zongshen’s sales made pursuant to long term contracts were fixed. Thus, we find no basis to exclude any of Chongqing Zongshen’s shipments made pursuant to long-term contracts from our critical circumstances analysis for the final determination. As a result, we continue to find that critical circumstances exist for Chongqing Zongshen in the final determination.

Comment 5: Whether Commerce Should Find Critical Circumstances for Chongqing Kohler and Companies Covered by the All-Others Rate

Chongqing Kohler’s Case Brief

- Information provided to Commerce demonstrates that Chongqing Kohler’s imports were not massive. Therefore, Commerce should continue to find that critical circumstances do not exist for Chongqing Kohler.¹⁵⁹

Toro’s Rebuttal Brief

- Commerce should affirm its negative findings of critical circumstances for Chongqing Kohler and companies covered by the “all others” rate because there is no evidence of massive imports on the record.¹⁶⁰

The petitioner did not comment on this issue.

Commerce’s Position: Consistent with the *Preliminary Critical Circumstances Determination*,¹⁶¹ for the final determination we continue to find that critical circumstances do not exist for Chongqing Kohler or the companies covered by the all-others rate.

Comment 6: Whether Commerce Should Countervail Certain of Chongqing Kohler’s Bank Acceptance Notes

Chongqing Kohler’s Case Brief

- Commerce should not include in its calculations certain bank acceptance notes Chongqing Kohler mistakenly reported in its initial questionnaire response. Chongqing Kohler provided documentation which demonstrates that these bank acceptance notes

¹⁵⁸ See *CTVs from China* IDM at Comment 3; see also *Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Socialist Republic of Romania*, 52 FR 17433, 17438 (May 8, 1987); and *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003), and accompanying IDM at Comment 7.

¹⁵⁹ See Chongqing Kohler’s Case Brief at 2-3.

¹⁶⁰ See Toro’s Rebuttal Brief at 1-5.

¹⁶¹ See *Preliminary Critical Circumstances Determination*, 85 FR at 68852.

were not discounted by its cross-owned affiliate, Kohler (China) Investment Co. Ltd., (KCI), and cannot be considered countervailable.¹⁶²

Petitioner's Rebuttal Brief

- Commerce should continue to include these bank acceptance notes in its calculations because: (1) Commerce included them in its benefit calculation in the *Preliminary Determination*; (2) Commerce requested information on one of these items in its in-lieu of verification questionnaire, indicating that it still thought it was countervailable; and (3) Kohler's statement that these notes were not discounted is incorrect.¹⁶³

Commerce's Position: We agree with Chongqing Kohler that certain of its reported bank acceptance notes should not be included in our calculations for the final determination. We disagree with the petitioner that our request for information regarding one of these notes in the in-lieu of verification questionnaire is determinative of their countervailability. Moreover, we find that information on the record demonstrates that these particular bank acceptance notes were not discounted by KCI.¹⁶⁴ As a result, we have excluded the bank acceptance notes at issue from our calculations for the final determination.

Comment 7: Whether Chongqing Zongshen's Input Suppliers are Government Authorities

GOC Comments

- In the *Preliminary Determination*, based on AFA, Commerce found that Chongqing Zongshen's input suppliers were government authorities. This finding is neither based on substantial evidence nor in accordance with the law.¹⁶⁵
- Commerce found Chongqing Zongshen's primary aluminum suppliers to be "government authorities" despite the fact that many are wholly-owned by individuals.¹⁶⁶
- Commerce determined that AFA was warranted because the GOC did not sufficiently answer questions regarding the Chinese Communist Party (CCP) and the "nine entities." However, record evidence demonstrates that even if one of the owners or managers of these individually-owned companies were part of the nine entities or if they had primary party organizations, this would not convert the companies into government authorities.¹⁶⁷
- The logic, analysis, and conclusion in Commerce's Public Bodies Memorandum, which forms the basis of its *Preliminary Determination*, is incorrect. The CCP is not a

¹⁶² See Chongqing Kohler's Case Brief at 14 (citing *Steel Propane Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 84 FR 29159 (June 21, 2019), and accompanying IDM at Comment 2).

¹⁶³ See Petitioner's Rebuttal Brief at 34-35 (citing Chongqing Kohler's IQR at 11 and Exhibit Loan-APP; Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Response of Chongqing Kohler Engines Ltd. and Kohler (China) Investment Co. Ltd. to Supplemental Questionnaire," dated September 4, 2020, at SS-4-SS-6; *Preliminary Determination* PDM at 28; and Chongqing Kohler's ILOV at SEV-4).

¹⁶⁴ The details of Chongqing Kohler's reported bank acceptance notes are business proprietary information. Therefore, for further discussion, see Chongqing Kohler Final Calculation Memorandum at 1-2.

¹⁶⁵ See GOC's Case Brief at 2.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 3.

government authority. Political parties in China are independent entities unrelated to any government functions.¹⁶⁸

- There is no record evidence indicating that the CCP participates in any way with the private suppliers involved in this case to support the conclusion that they are authorities.¹⁶⁹

Petitioner's Rebuttal Comments

- Commerce did not find that the GOC only failed to provide information on the role of the CCP. The GOC also failed to provide documents Commerce requested that are necessary to determine corporate structure and ownership. Without this information, the appropriate conclusion is that the relevant entities are government authorities.¹⁷⁰
- In previous cases, Commerce has rejected the GOC's contention that questions regarding the CCP are irrelevant.¹⁷¹
- The GOC has not provided any justification for Commerce to modify its well-established policy and practice in this investigation; therefore, Commerce should continue to find as AFA that input producers are government authorities.¹⁷²

Commerce's Position: In the *Preliminary Determination*, we found, based on drawing an adverse inference in selecting from among the facts otherwise available, that the producers of unwrought aluminum purchased by Chongqing Zongshen are "authorities" within the meaning of section 771(5)(B) of the Act.¹⁷³ We made this decision by drawing an adverse inference in selecting among limited record evidence, consistent with section 776(a) and 776(b) of the Act, in light of the GOC's failure to provide complete information in response to our questions. Therefore, we disagree with the GOC that Commerce wrongly applied AFA on this issue in the *Preliminary Determination*. For the reasons detailed below, for the final determination, we continue to find that the producers of unwrought aluminum purchased by Chongqing Zongshen are "authorities" within the meaning of section 771(5)(B) of the Act and, thus, that such producers provided a financial contribution in supplying these inputs to Chongqing Zongshen within the meaning of section 771(5)(D)(i) of the Act. Further, due to the GOC's failure to respond to our requests for information, we also continue to find that an adverse inference is warranted in selecting from among the facts otherwise available in reaching our determination on this issue.

As discussed in the *Preliminary Determination* under "Application of AFA: Provision of Unwrought Aluminum for LTAR," in order for Commerce to analyze whether producers of unwrought aluminum are "authorities" within the meaning of section 771(5)(B) of the Act, we

¹⁶⁸ *Id.* at 3-4 (citing Memorandum, "Public Bodies Analysis Memo," dated June 30, 2020 (Public Bodies Memorandum)).

¹⁶⁹ *Id.* at 7.

¹⁷⁰ See Petitioner's Rebuttal Brief at 20-21.

¹⁷¹ *Id.* at 22 (citing *Cast Iron Soil Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination* 84 FR 6770 (February 28, 2019), and accompanying IDM at Comment 5; *Refillable Stainless Steel Kegs Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part*, 84 FR 57005 (October 24, 2019), and accompanying IDM at Comment 1; and *Cabinets and Vanities* IDM at Comment 6).

¹⁷² *Id.* at 21-22.

¹⁷³ See *Preliminary Determination* PDM at 6-7.

asked the GOC to provide information regarding the specific companies that produced unwrought aluminum which Chongqing Zongshen purchased during the POI.¹⁷⁴ Commerce has explained its understanding of the CCP's involvement in China's economic and political structure in the current and past China CVD proceedings,¹⁷⁵ including why it considers the information regarding the CCP's involvement in China's economic and political structure to be relevant.

The GOC's response to our requests for information, or lack thereof, is fully described in the *Preliminary Determination*. Regarding the input producers identified by Chongqing Zongshen, the GOC did not provide a complete response to Commerce's questions regarding these producers. With respect to the producers that were reported as being non-majority government-owned, as explained in the *Preliminary Determination*, while the GOC provided basic ownership structure information, the GOC did not provide other relevant documentation requested by Commerce, including company by-laws, annual reports, tax registration documents, and articles of association.¹⁷⁶ Moreover, in response to Commerce's request for information concerning the involvement of the CCP in the management and operation of the producers, the GOC stated that it could not obtain the requested information.¹⁷⁷

In prior CVD proceedings, we found that the GOC was able to obtain the requested information independently regarding the companies involved; thus, we found that statements from company respondents, rather than from the GOC, were insufficient.¹⁷⁸ However, in the instant case, we received responses regarding CCP involvement in Chongqing Zongshen's input suppliers only from Chongqing Zongshen,¹⁷⁹ not from the GOC.

Therefore, we determine that necessary information is not available on the record, and that the GOC withheld information that was requested of it with regarding the producers of unwrought aluminum purchased by Chongqing Zongshen. Accordingly, in accordance with section 776(a)(1) and (a)(2)(A) of the Act, Commerce must rely on "facts otherwise available" in reaching a determination. Furthermore, we find that the GOC failed to cooperate by not acting to the best of its ability to comply with requests for information regarding the ownership and CCP and government involvement in the management of producers from whom Chongqing Zongshen purchased unwrought aluminum during the POI. Consequently, in accordance with section 776(b) of the Act, we find that an adverse inference is warranted in selecting from the facts available. As AFA, and in light of our prior findings¹⁸⁰ and the GOC's failure to provide rebuttal information to the contrary, we continue to determine that any non-majority government-owned input producers that supplied Chongqing Zongshen are "authorities" within the meaning of section 771(5)(B) of the Act for purposes of the final determination.

¹⁷⁴ See Initial Questionnaire at 11-12.

¹⁷⁵ See *Citric Acid 2012* IDM at Comment 5.

¹⁷⁶ See *Preliminary Determination* PDM at 6-8 (citing GOC's IQR at 68 and Exhibits II.E1.1 and II.E1.2).

¹⁷⁷ *Id.* (citing GOC's IQR at 79-81).

¹⁷⁸ See *Citric Acid 2012* IDM at Comment 5.

¹⁷⁹ See Chongqing Zongshen IQR at 31-32.

¹⁸⁰ See, e.g., *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 86 FR 1993 (January 11, 2021), and accompanying IDM at Comment 4.

Comment 8: Whether Commerce Should Rely on Consolidated Sales Data in Attributing Subsidies Received by Zongshen Group or Zongshen Power

Chongqing Zongshen's Case Brief

- In the *Preliminary Determination*, Commerce used incorrect sales denominators in the calculations for benefits received by Zongshen Group and Chongqing Zongshen Power Machinery Co., Ltd. (Zongshen Power).¹⁸¹
- Commerce should use the consolidated sales data Chongqing Zongshen reported to attribute the subsidies received by Zongshen Group and Zongshen Power.¹⁸²
- The *CVD Preamble* provides that Commerce should attribute subsidies to the consolidated sales of the parent/holding company combined with the sales of all affiliates. Nowhere do Commerce's regulations or the *CVD Preamble* limit the consolidated sales to only those subsidiaries involved in the production or sales of subject merchandise, *i.e.*, the responding cross-owned affiliates.¹⁸³
- Commerce has applied this standard in many prior cases, and demonstrated its intent in the *Preliminary Determination* to allocate subsidies received by Zongshen Group and Zongshen Power over the consolidated sales of the holding companies.¹⁸⁴

Petitioner's Case Brief

- In the *Preliminary Determination*, Commerce used the estimated consolidated sales of Zongshen Group as the denominator for the benefit of the Export Sellers Credit Program.¹⁸⁵
- Because the Export Sellers Credit Program is an export subsidy, Commerce should have used Zongshen Group's consolidated export sales as the denominator for this program, pursuant to 19 CFR 351.525(b)(2) and 19 CFR 351.525(b)(6)(iii).¹⁸⁶

Chongqing Zongshen's Rebuttal Brief

- While Chongqing Zongshen agrees that export sales should be used to attribute the benefits under the Export Seller's Credit Program, Commerce should reject the petitioner's proposed export sales denominator in the final determination.

¹⁸¹ See Chongqing Zongshen's Case Brief at 7.

¹⁸² *Id.* at 3.

¹⁸³ *Id.* at 4 (citing *Countervailing Duties, Final Rule*, 63 FR 65348, 65401-2 (November 25, 1998) (*CVD Preamble*)).

¹⁸⁴ *Id.* at 5-6 (citing *Preliminary Determination PDM* at 18; *Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber From the People's Republic of China: Final Affirmative Determination*, 83 FR 3120 (January 23, 2018), and accompanying IDM at Comment 10; *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010), and accompanying IDM at Comment 29; and Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, From the People's Republic of China: Allegation of Ministerial Errors in the Preliminary Determination," dated September 18, 2020, at 3).

¹⁸⁵ See Petitioner's Case Brief at 2 (citing Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof from the People's Republic of China: Calculation Memorandum for Chongqing Zongshen General Power Machine Co., Ltd. (Chongqing Zongshen)," dated August 17, 2020).

¹⁸⁶ *Id.* at 2-3.

- Instead, Commerce should use Zongshen Group’s consolidated export sales data, which includes the sales of all its subsidiaries, in the calculation of the benefit for subsidies Zongshen Group received, pursuant to 19 CFR 351.525(b)(6)(iii).¹⁸⁷

Petitioner’s Rebuttal Brief

- Commerce should continue to use the denominators it used in the *Preliminary Determination* to calculate the benefit for subsidies received by Zongshen Group and Zongshen Power.¹⁸⁸
- In *Containers from China*, Commerce received and rejected the same argument, explaining that it verified an export sales figure that represented the group’s export sales for the POI, which was the more appropriate figure to use as the denominator.¹⁸⁹
- For an export subsidy such as Export Seller’s Credit Program, Commerce should use export sales as the denominator in the benefit calculation. Even if Commerce uses the consolidated sales of all of Zongshen Group’s and Zongshen Power’s subsidiaries as the denominator in relevant subsidy programs, Commerce must use the consolidated export sales as the denominator for export subsidies.¹⁹⁰

Commerce’s Position: We agree with Chongqing Zongshen that we erred in the *Preliminary Determination* by not using the consolidated sales denominators reported in Chongqing Zongshen’s questionnaire response for Zongshen Group and Zongshen Power when attributing benefits from subsidies received by the latter companies.¹⁹¹ Therefore, in the final determination, we are using the consolidated sales denominators reported for Zongshen Group and Zongshen Power in our benefit calculations for subsidies provided to these entities.¹⁹²

We revised our calculations for the final determination to use Zongshen Group’s and Zongshen Power’s consolidated export sales as the denominator for the Export Sellers Credit Program, pursuant to 19 CFR 351.525(b)(2) and 19 CFR 351.525(b)(6)(iii).¹⁹³

Comment 9: Whether Commerce Should Adjust Chongqing Zongshen’s Policy Loans Calculations

Chongqing Zongshen’s Case Brief

- Commerce should correct the overstated benefit for policy loans received by Chongqing Zongshen, Zongshen Power, and Dajiang.¹⁹⁴

¹⁸⁷ See Chongqing Zongshen’s Rebuttal Brief at 3-5.

¹⁸⁸ See Petitioner’s Rebuttal Brief at 32.

¹⁸⁹ *Id.* at 32-33 (citing *53-Foot Domestic Dry Containers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 80 FR 21209 (April 17, 2015) (*Containers from China*), and accompanying IDM at Comment 1).

¹⁹⁰ *Id.* at 33.

¹⁹¹ See Chongqing Zongshen’s Letter, “Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Section III and 3rd Affiliation Supplemental Response,” dated August 3, 2020, at Exhibits S3-1.II and S3-1.III.

¹⁹² See 19 CFR 351.525(b)(6)(iii).

¹⁹³ See Chongqing Zongshen Final Calculation Memorandum at 1-2.

¹⁹⁴ See Chongqing Zongshen’s Case Brief at 9.

- The total policy loans benefit Chongqing Zongshen received should exclude the erroneous benefit figures Commerce calculated where it erroneously interpreted that Chongqing Zongshen paid no interest on certain loans.¹⁹⁵
- In addition, Commerce countervailed several internal borrowings in the calculation of benefits received under the policy lending program for Chongqing Zongshen, Dajiang, and Zongshen Power. Commerce should remove these internal borrowings from its final determination calculations.¹⁹⁶

The petitioner did not comment on this issue.

Commerce’s Position: We agree with Chongqing Zongshen and corrected our policy loans calculations for the final determination to remove: (1) certain benefit figures tied to interest payments that were already accounted for elsewhere; (2) the internal borrowings of Chongqing Zongshen, Dajiang, and Zongshen Power from our subsidy rate calculations.¹⁹⁷

Comment 10: Whether Commerce Should Adjust Chongqing Zongshen’s Land-Use Rights for LTAR Calculation

Chongqing Zongshen’s Case Brief

- Commerce should not include Dajiang’s land-use rights in the calculation of benefits under this program because Dajiang acquired its land-use rights from an affiliate, not a government authority.¹⁹⁸
- Chongqing Zongshen placed on the record the ownership history of the land-use rights at issue, demonstrating that the price of Dajiang’s land-use rights purchases was based on the market value for the land.¹⁹⁹

Petitioner’s Rebuttal Brief

- Commerce should continue to include the land-use rights for Dajiang in its benefit calculation for this program.²⁰⁰
- The documentation Chongqing Zongshen provided does not adequately demonstrate that Dajiang’s land-use rights purchases were based on market value.²⁰¹
- Commerce does not have the information necessary to determine whether the subsidy stemming from the original purchase of the land-use rights currently held by Dajiang was extinguished as a result of a change in ownership.²⁰²

Commerce Position: We agree with Chongqing Zongshen and did not include Dajiang’s land-use rights in our calculations for the final determination. In the *Preliminary Determination*, we

¹⁹⁵ *Id.* at 9-10.

¹⁹⁶ *Id.* at 10.

¹⁹⁷ For further discussion *see* Chongqing Zongshen Final Calculation Memorandum at 2.

¹⁹⁸ *See* Chongqing Zongshen’s Case Brief at 11-12.

¹⁹⁹ *Id.*

²⁰⁰ *See* Petitioner’s Rebuttal Brief at 35.

²⁰¹ *Id.* at 36.

²⁰² *Id.* at 37.

included Dajiang’s land-use rights in our calculation without explanation.²⁰³ On further analysis of the information on the record, we find that there is insufficient evidence to support finding that Dajiang’s acquisition of these particular land-use rights involved an “authority” or a government financial contribution.²⁰⁴ Excluding these from the benefit calculation is consistent with past decisions.²⁰⁵ Accordingly, we are removing Dajiang’s land-rights use rights from the land-use rights for LTAR calculation for the final determination.

Comment 11: Whether Commerce Should Reverse Its Uncreditworthiness Determination for Chongqing Zongshen

Petitioner’s Case Brief

- Since Commerce’s finding of uncreditworthiness for Zongshen Group on November 19, 2020,²⁰⁶ no new evidence or information suggesting that Commerce should depart from its preliminary finding has been placed on the record.
- Therefore, Commerce should make a final uncreditworthiness finding under 19 CFR 351.505(a)(4)(i) and use uncreditworthy benchmarks for loans received by Zongshen Group during 2017-2019 in its calculations for the final determination.²⁰⁷

Chongqing Zongshen’s Case Brief

- Commerce should find that Zongshen Group is creditworthy. Commerce’s preliminary finding that Zongshen Group was uncreditworthy during the years 2017-2019 was unfounded and unsupported by the overwhelming evidence on the record.²⁰⁸
- Commerce’s narrow reliance on the current and quick ratios, without considering Zongshen Group’s holding company status and all other factors, is unsupported by the record and renders this determination unlawful.
- Commerce conducted no specific assessment of Zongshen Group’s financial health status as a parent and holding company.
- Commerce should follow its practice to examine Zongshen Group’s creditworthiness at the consolidated parent level.²⁰⁹ The record evidence shows that, at the consolidated parent level, Zongshen Group’s current and future financial status is healthy and does not warrant an affirmative finding of uncreditworthiness. The current and quick ratios of Zongshen Group at the consolidated level were not “significantly below” financial norms

²⁰³ See *Preliminary Determination* PDM at 34.

²⁰⁴ See Chongqing Zongshen IQR at Volume VII, page 40 and Exhibit VII-21.

²⁰⁵ See, e.g., *Post-Preliminary Analysis of Countervailing Duty Investigation: Forged Steel Fluid End Blocks from the People’s Republic of China*, dated September 18, 2020, at 8, “Qinghe Transfer of Land for LTAR”; see also *Countervailing Duty Investigation: Citric Acid and Certain Citrate Salts from the People’s Republic of China, Post-Preliminary Findings for the New Subsidy Allegations*, dated March 4, 2009, at 5 and 7, “Plot 4.”

²⁰⁶ See Memorandum, “Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof from the People’s Republic of China,” dated November 19, 2020 (Creditworthiness Analysis Memo).

²⁰⁷ See Petitioner’s Case Brief at 4.

²⁰⁸ See Chongqing Zongshen’s Case Brief at 34.

²⁰⁹ *Id.* at 35 (citing *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses Final Affirmative Countervailing Duty Determination*, 75 FR 59212 (September 27, 2010) (*Coated Paper from China*), and accompanying IDM at Comment 12).

during the years 2017-2019.²¹⁰ The consolidated data show positive retained cash flow for the years in question.

- Zongshen Group is assigned good ratings from major Chinese banks, and no record evidence establishes that these ratings are unreliable.²¹¹
- The record evidence indicates that Zongshen Group had no issues paying its debts and was not a default risk.
- Commerce should release its calculations for the loans received by Zongshen Group using uncreditworthy benchmarks in advance of the final determination and provide interested parties an opportunity to comment.
- If Commerce continues to find that Zongshen Group is uncreditworthy in the final determination, it should only apply uncreditworthy benchmark interest rates to Zongshen Group's long-term loans.²¹²

Petitioner's Rebuttal Brief

- Commerce's post-preliminary uncreditworthiness analysis followed the four regulatory factors pursuant to 19 CFR 351.505(a)(4), finding that Chongqing Zongshen was uncreditworthy during 2017-2019.²¹³
- The only long-term financing extended to Zongshen Group during this period came from the government-dominated banking sector in China, which Commerce does not consider to be dispositive of creditworthiness. Therefore, under the first regulatory factor, Zongshen Group did not receive comparable commercial long-term loans.
- For the second regulatory factor, Commerce examined multiple financial ratios for Zongshen Group and found declining financial health. Chongqing Zongshen provided no further evidence of Zongshen Group's future financial position.
- On the issue of Zongshen Group having received good ratings from major Chinese banks, Commerce found that these credit ratings were not dispositive of Zongshen Group's creditworthiness.²¹⁴
- Commerce has stated that it will consider creditworthiness on a consolidated or unconsolidated basis depending on the facts of each particular case, and it is not required to conduct this analysis on a consolidated parent/holding company level.²¹⁵
- Commerce uses uncreditworthy interest rate benchmarks under 19 CFR 351.505(a)(3)(iii) as the discount rates for allocating benefits from non-recurring subsidies over the average useful life (AUL) period. Thus, Commerce should use uncreditworthy interest rate benchmarks for both long-term loans and the discount rates used to allocate the benefit from non-recurring subsidies.²¹⁶

²¹⁰ *Id.* at 36 (citing Volume II of Chongqing Zongshen IQR at Exhibit III-12).

²¹¹ *Id.*

²¹² *Id.* at 37.

²¹³ See Petitioner's Rebuttal Brief at 28 (citing Creditworthiness Analysis Memo at 2).

²¹⁴ *Id.* at 30 (citing Creditworthiness Analysis Memo at 3).

²¹⁵ *Id.* (citing *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014), and accompanying IDM at Comment 8).

²¹⁶ *Id.* at 31.

Commerce’s Position: We made no changes to our determination reflected in the Creditworthiness Analysis Memo that Zongshen Group is uncreditworthy.²¹⁷ In the Creditworthiness Analysis Memo, we explained our examination of all the financial ratios and other information Chongqing Zongshen provided, and our conclusion that the low quick and current ratios, the declining pace of account receivables turnover, the increasing debt-to-equity ratios, and the negative cash flow, considered together, indicated that Zongshen Group was uncreditworthy in the relevant time period. While Chongqing Zongshen characterizes our reliance on these ratios as “unsupported by the record,” our analysis is based on reasonable and logical inferences drawn from each piece of information, consistent with normal accepted financial principles. Low quick and current ratios mean a company is not generating enough revenue to service short-term, operational debt.²¹⁸ Declining account receivables turnover means the company is having difficulty collecting payment from its customers.²¹⁹ Increasing debt-to-equity ratios can mean the company is having to rely on debt, rather than revenue, to cover expenses.²²⁰ Negative cash flow also means that while a company might have adequate recorded income, it is short on actual cash to cover expenses. Commerce’s analysis here is consistent with the reasoning in cases such as *Solar Cells*, that the financial information prescribed under 19 CFR 351.505(a)(4)(i)(B)-(C) are highly relevant indicators of a firm’s financial health and its ability to meet its costs and fixed financial obligations with cash flow.²²¹

Additionally, we note that there is no requirement that Commerce must determine that each and every piece of information weighs in favor of a finding of uncreditworthiness in order to find that a company was uncreditworthy during a specific period of time. Like many issues, Commerce must weigh the relevant information for and against such a finding. In this instance, while certain record facts may favor a different conclusion, we determined that the totality of the evidence supports the conclusion that Zongshen Group was uncreditworthy during 2017-2019.

We also explained in the Creditworthiness Analysis Memo why we did not rely on the reports of the Chinese credit rating agencies. Specifically, we stated that, in keeping with our overall determination that the banking sector in China does not operate according to market principles, assessments of participants in that sector are unlikely to be reliable indications of the respondents’ creditworthiness, due to the extensive involvement of the GOC in banking.²²² Ultimately, Commerce is interested in determining what interest rate Zongshen Group would pay if such rates were determined solely through commercial settings.

Regarding whether we should rely on information taken from Zongshen Group’s consolidated financial statements, rather than on individual statements, as proposed by Chongqing Zongshen, we note that, while there may be some information weighing in favor of Zongshen Group’s creditworthiness, our finding is based on the totality of circumstances and, as such, we have based our decision on the record information we find to be the most persuasive. Commerce’s

²¹⁷ See Creditworthiness Analysis Memo.

²¹⁸ See *Solar Cells* IDM at Comment 17.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² See Creditworthiness Analysis Memo at 2-3; and Memorandum, “Analysis of China’s Financial System,” dated June 30, 2020.

creditworthiness analysis is not required to be based on consolidated or unconsolidated finances and we have relied on both bases in past cases, depending on the case-specific circumstances. In *Solar Cells*, we made creditworthiness decisions using consolidated information, explaining why it made sense to do so in those particular circumstances.²²³ Specifically, in that investigation, we found that the affiliated companies were all involved in solar production and essentially worked together as one respondent.²²⁴ Further, in *Coated Paper from China*, we articulated the same basis for relying on consolidated financial statements—when there were cross-owned affiliates linked together for a common commercial purpose. Indeed, there we determined that “{a}ll the cross-owned enterprises are part of a larger group of companies that is involved to varying degrees in the pulp and paper industry” and also noted that the decision to rely on consolidated financial statements should be made on a case-by-case basis.²²⁵ In contrast, in the instant case, the record demonstrates that Chongqing Zongshen has numerous companies within its group, most of which have not been found cross-owned with Zongshen Group within the meaning of 19 CFR 351.525(b)(6)(vi), and whose operations vary considerably and are unrelated to subject merchandise.²²⁶ Therefore, there is no basis to conclude that financing would necessarily flow among all members of the group. Moreover, as indicated in *Solar Cells*, Commerce also considers whether a commercial bank would determine the assets and cash flow of the consolidated group to be available to serve the debt of the particular company applying for the loan.²²⁷ Chongqing Zongshen has not provided information indicating that this would be the case for Zongshen Group.

Finally, we disagree with Chongqing Zongshen that we should not rely on the uncreditworthy interest rate benchmarks for discount rate purposes. Commerce’s regulations at 19 CFR 351.524(d)(3)(ii) are clear that Commerce will use the uncreditworthy interest rate benchmark as the discount rate. Moreover, 19 CFR 351.524(d)(3)(i)(A) makes clear that the goal of selecting a discount rate is to select a rate reflecting what the company’s cost of capital would be absent the effects of subsidized lending; the goal is not to select a rate based on the company’s actual (and distorted) cost of capital. As a result, we relied on the uncreditworthy interest rate benchmarks for both long-term loans, including those obtained through the Export Sellers Credit Program, and the discount rates used to allocate the benefit from non-recurring subsidies in our calculations for the final determination.

VIII. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these positions are accepted, we will publish the final determination

²²³ See *Solar Cells* IDM at Comment 17.

²²⁴ *Id.*

²²⁵ See *Coated Paper from China* IDM at Comment 33.

²²⁶ See Chongqing Zongshen’s Letter, “Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Affiliation Response,” dated May 19, 2020, at Exhibit 1.

²²⁷ See *Solar Cells* IDM at Comment 17; see also *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 86 FR 1993 (January 11, 2021), and accompanying IDM at Comment 5.

in the *Federal Register* and notify the U.S. International Trade Commission of our determination.

Agree

Disagree

3/5/2021

X



Signed by: CHRISTIAN MARSH
Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

APPENDIX

NOT-USED AND NOT-MEASURABLE PROGRAMS, BY COMPANY

Chongqing Kohler

Programs Determined Not to Provide Measurable Benefits to Chongqing Kohler During the AUL Period

Count	Title
1	2018 Yubei District Patent Funding and Awards
2	Stable Growth Awards in 2017
3	National Tax Withholding Fee
4	The Second Batch of Stable Job Subsidy in 2018
5	Subsidy for Processing Trade Gradient Transfer Projects Undertaken by the Bureau of Commerce
6	Incentive Subsidy for Stable Growth of Key Companies and Growth Companies in 2016
7	Withholding Fee
8	Stable Job Subsidy in 2016
9	District Subsidy for Purchase
10	District Economic and Information Commission-Incentives and Subsidy for Stable Growth of Industrial Companies in 2015
11	Stable Job Subsidy
12	District Economic and Information Commission – 2016 New Industrialization Award Fund
13	Local Withholding Fee
14	Tax Control System Maintenance Fee in May
15	January-April 2015 Municipal Government Supporting Fund for Export Company's Technology Reform and R&D
16	Purchase Subsidy of Economic and Information Commission of Yubei District
17	District Commercial Bureau-Export Incremental Rewards from Foreign Trade Enterprises Division, January-September 2015
18	District Commerce Bureau-Export Company Technical Reform from May to September 2015
19	District Commerce Bureau-Municipal Government Export Enterprise R&D
20	Special Funds for Industrial Development from Chongqing Yubei District Economic and Information Commission Finance
21	Yubei District Foreign Trade Export Company Award
22	2012 Export Technical Reform Subsidy Award
23	2012 Loan Interest Subsidy from the District Foreign Trade and Economic Commission
24	2012 Loan Interest Subsidy from the District Economic and Information Commission in 2013
25	Employment Subsidy for Talent Services

26	Received the District Financial Bureau's Steady Growth Incentive Funds for the Fourth Quarter of 2012
27	Received the Export Technical Support R&D Grant in November 2011
28	October 2011 Technical Reform and R&D Funding for Export Company
29	Received the 2011 Subsidy for the Technical Reform of Export Companies by the District Finance Bureau
30	Technical Reform Funding of the 4th phase in 2010
31	Fifth Batch of Export Technical Research Funding in 2010
32	Clean Production Check Financial Subsidy Income from the Environmental Protection Bureau of Yubei District
33	Technological Research and Development Subsidy from Financial Bureau/Foreign Trade Economic Bureau in the first half of 2011
34	Technology Reform and Research Subsidy from Yubei Foreign Economic and Trade Bureau for July to September of 2011
35	2009 Industrial Company Marketing Proficient Bonus
36	Financial Grant/ Second Batch of Export Technical Reform Subsidy
37	Interest Subsidy for Products Imported in 2009
39	The Third Batch of Technical Reform Funds in 2010
40	The Fourth Batch of Export Company Technological Reform Funds in 2009
41	The Fifth Batch of Export Technical Reform Subsidy in 2009
42	The First Batch of Technical Reform Funds in 2010
43	Package Fee Returned by the Airport Industrial Park Management Committee

Programs Determined Not to Be Used by Chongqing Kohler During the POI

Count	Title
1	Foreign Trade Development Fund Grants
2	Export Assistance Grants
3	Interest Payment Subsidies
4	GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
5	State Key Technology Fund Grants
6	Grants for Retiring Outdated Capacity/ Industrial Restructuring
7	Grants for Energy Conservation and Emission Reduction
8	Government Directed Debt Restructuring in the Small Vertical Engine Industry
9	Export Loans from Chinese State-Owned Banks
10	Export Credit Insurance
11	Export Seller's Credits
12	Income Tax Reductions for High and New Technology Enterprises (HNTEs)
13	Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
14	Income Tax Credits for Domestically Owned Companies Engaging in Research and Development
15	Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial

	Refund for Enterprise Income Taxes on Foreign-Invested Enterprise Profits Reinvested in an Export Oriented Enterprise
16	Import Tariff and VAT Exemptions for Imported Equipment in Encouraged Industries
17	Government Provision of Unwrought Aluminum for LTAR
18	Provision of Pig Iron for LTAR
19	Provision of Steam Coal for LTAR
20	Provision of Hot-Rolled Steel (HRS) for LTAR
21	Payments Under the State Capital Operating Budget
22	Export Buyer's Credit Program

Chongqing Zongshen

Programs Determined Not to Provide Measurable Benefits to Chongqing Zongshen During the AUL Period

Count	Title
1	Return of tax service fee of individual income tax
2	Assistance for technical transformation equipment (Lean Manufacturing Project)
3	Land use right tax refund assistance (purchase LUR from locomotive company)
4	Land use right tax refund assistance (purchase LUR from Zongshen Industrial Park)
5	Assistance for technical transformation equipment (machine replacement labor project)
6	Assistance for technical transformation equipment (Small displacement engine production line capacity expansion and technical transformation project)
7	Assistance for technical transformation equipment (A3, A4 production line)
8	Assistance for steady growth of foreign trade
9	Assistance for job stabilization (first patch)
10	Assistance for job stabilization (second patch)
11	Elite program talent introduction assistance
12	Assistance for job stabilization (fourth patch)
13	Assistance for technical transformation equipment(Auto parts production line)
14	Assistance for technical transformation equipment(Technical transformation of construction project of Technology Center)
15	Assistance for technical transformation equipment(Technology center construction project-private economy project)
16	Assistance for technical transformation equipment (small engine R&D)
17	Assistance for technical transformation equipment (pressure casting automatic upgrading project)
18	Assistance for technical transformation equipment (energy saving transformation for pressure casting)
19	Assistance for technical transformation equipment (Technical transformation of aluminum alloy parts production line)
20	Assistance for technical transformation equipment (National green manufacturing integration project)

21	Land use right tax refund assistance (pressure casting workshop)
22	Land use right tax refund assistance (Logistics Centre)
23	Land use right tax refund assistance (R&D Center)
24	Exhaust gas treatment assistance
25	Scientific and technological innovation assistance
26	Exhaust gas treatment assistance
27	Assistance for high-level talents
28	Reward and assistance for probation demonstration base
29	Subsidy for navigation project of enterprise technological innovation patent
30	Foreign trademark registered in China assistance
31	Patent assistance
32	Special assistance for infrastructure construction
33	Special assistance for Industry and informatization
34	Import Tariff and VAT Exemptions for Foreign Invested Enterprises and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Programs Determined Not to Be Used by Chongqing Zongshen During the POI

Count	Title
1	Foreign Trade Development Fund
2	Export Assistance Grants
3	GOC and Sub-Central Government Subsidies for the Development of Famous and China World Top Brands
4	State Key Technology Fund Grants
5	Grants for Retiring Outdated Capacity/Industrial Restructuring
6	Grants for Energy Conservation and Emission Reduction
7	Government Directed Debt Restructuring in the Chinese Small Vertical Engine Industry
8	Export Loans from Chinese State-Owned Banks
9	Income Tax Reduction for HNTEs
10	Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
11	Income Tax Credits for Domestically Owned Companies Engaging in Research and Development
12	Refund for Enterprise Income Taxes on FIE Profits Reinvested in an Export-Oriented Enterprise
13	Provision of Pig Iron for LTAR
14	Provision of Steam Coal for LTAR
15	Provision of HRS for LTAR
16	Payments Under the State Capital Operating Budget