



C-570-068

POR: 03/14/2018 – 12/31/2018

Public Document
E&C/VIII: JCM/KJ

March 10, 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 Results of the
2018 Countervailing Duty Administrative Review of Forged Steel
Fittings from the People's Republic of China

I. SUMMARY

On November 13, 2020, the Department of Commerce (Commerce) published the *Preliminary Results* in this administrative review of the countervailing duty (CVD) order on forged steel fittings from the People's Republic of China (China) covering the period of review (POR) March 14, 2018, through December 31, 2018.¹

Having analyzed the case and rebuttal briefs submitted by interested parties since the *Preliminary Results*, we have made no changes for the final results. We recommend that you approve the positions described in the "Analysis of Comments" section of this memorandum.

Below is a complete list of the issues in this review for which we received comments from parties:

Comment 1: Export Buyer's Credit (EBC) Program

Comment 2: Appropriate Adverse Facts Available Rate for the EBC Program

II. BACKGROUND

Following publication of the *Preliminary Results*, on November 20, 2020, the petitioners² submitted timely factual information in response to the placement on the record of certain

¹ See *Forged Steel Fittings from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, 2018*, 85 FR 72627 (November 13, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² The petitioners are Bonney Forge Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW).



information regarding merchant bar and special quality bar.³ On December 18, 2020, Both-Well (Taizhou) Steel Fittings, Co., Ltd. (Both-Well) submitted a case brief.⁴ On December 23, 2020, the petitioners submitted a rebuttal brief.⁵ We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

III. SCOPE OF THE ORDER

The merchandise covered by the order is carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections.

While these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182, the scope is not limited to fittings made to these specifications.

The term forged is an industry term used to describe a class of products included in applicable standards and does not reference an exclusive manufacturing process. Forged steel fittings are not manufactured from casting. Pursuant to the applicable specifications, subject fittings may also be machined from bar stock or machined from seamless pipe and tube.

All types of fittings are included in the scope regardless of nominal pipe size (which may or may not be expressed in inches of nominal pipe size), pressure rating (usually, but not necessarily expressed in pounds of pressure/PSI, e.g., 2,000 or 2M; 3,000 or 3M; 6,000 or 6M; 9,000 or 9M), wall thickness, and whether or not heat treated.

Excluded from this scope are all fittings entirely made of stainless steel. Also excluded are flanges, butt weld fittings, butt weld outlets, nipples, and all fittings that have a maximum pressure rating of 300 pounds of pressure/PSI or less.

Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182:

- American Petroleum Institute (API) API 5CT, API 5L, or API 11B
- Society of Automotive Engineering (SAE) SAE J476, SAE J514, SAE J516, SAE J517, SAE J518, SAE J1026, SAE J1231, SAE J1453, SAE J1926, J2044 or SAE AS 35411
- Underwriter's Laboratories (UL) certified electrical conduit fittings
- ASTM A153, A536, A576, or A865

³ See Memorandum, "Placing Information on the Record: Merchant Bar," dated November 5, 2020; and Petitioners Letter, "Forged Steel Fittings from China: Submission of Factual Information," dated November 20, 2020.

⁴ See Both-Well's Letter, "Forged Steel Fittings from China: Case Brief," dated December 18, 2020 (Both-Well's Case Brief).

⁵ See Petitioners' Letter, "Forged Steel Fittings from the People's Republic of China: Rebuttal Brief," dated December 23, 2020 (Petitioners' Rebuttal Brief).

- Casing Conductor Connectors 16-42 inches in diameter made to proprietary specifications
- Military Specification (MIL) MIL-C-4109F and MIL-F-3541
- International Organization for Standardization (ISO) ISO6150-B

To be excluded from the scope, products must have the appropriate standard or pressure markings and/or accompanied by documentation showing product compliance to the applicable standard or pressure, e.g., “API 5CT” mark and/or a mill certification report.

Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They also may be entered under HTSUS 7307.92.3010, 7307.92.3030, 7307.92.9000, and 7326.19.0010. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

IV. PERIOD OF REVIEW

The POR is March 14, 2018, through December 31, 2018.

V. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

Commerce made no changes to the allocation period and the allocation methodology used in the *Preliminary Results*. No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the allocation period or the allocation methodology for Both-Well. For a description of the allocation period and methodology used for these final results, *see* the *Preliminary Results* PDM at 5.

B. Attribution of Subsidies

Commerce made no changes to the methodologies used in the *Preliminary Results* for attributing subsidies. For a description of the methodologies used for these final results, *see* the *Preliminary Results* PDM at 6.

C. Benchmarks and Discount Rates

Commerce made no changes to the benchmarks or discount rates used in the *Preliminary Results*. No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the benchmarks or discount rate methodology for Both-Well. For a description of the benchmarks and discount rates used for these final results, *see* the *Preliminary Results* PDM at 7-12.

D. Denominators

Commerce made no changes to the denominators used in the *Preliminary Results*. No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the appropriate denominators. For a description of the denominators used for these final results, see the *Preliminary Results* PDM at 7.

VI. USE OF FACTS OTHERWISE AVAILABLE

A. Legal Standard

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

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the AFA rule to induce respondents to provide Commerce with complete and accurate information in a timely manner.”⁶ Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁷ At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the statute does not provide an express definition of the “failure to act to the best of its ability” standard, the ordinary meaning of “best” is “one’s maximum effort.”⁸ Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the “best of its ability” requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency’s inquiries would suffice to find that a respondent did not act

⁶ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994) at 870.

⁸ See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

to the best of its ability. While the Federal Circuit noted that the “best of its ability” standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁹ The “best of its ability” standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, “have familiarity with all of the records it maintains,” and “conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of” its ability to do so.¹⁰ Further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.¹¹

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”¹² It is Commerce’s practice to consider information to be corroborated if it has probative value.¹³ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.¹⁴ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.¹⁵ Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.¹⁶

Under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.¹⁷

B. Application of Facts Otherwise Available

Commerce relied on “facts otherwise available” for several findings in the *Preliminary Results*.¹⁸ For a description of these decisions, see *Preliminary Results* PDM at 14-20. Commerce

⁹ *Id.*, 337 F.3d at 1382.

¹⁰ *Id.*

¹¹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel*, 337 F.3d at 1382-83.

¹² See, e.g., SAA at 870.

¹³ *Id.* at 870.

¹⁴ *Id.* at 869.

¹⁵ *Id.* at 869-870.

¹⁶ See section 776(c)(2) of the Act.

¹⁷ See section 776(d)(3) of the Act.

¹⁸ See *Preliminary Results* PDM at 14.

continues to use facts available, in part, for these final results for Both-Well. Also, as described below in the “Analysis of Comments” section, Commerce continues to apply AFA to the EBC Program under sections 776(a) and (b) of the Act. We further explain these decisions in Comments 1 and 2.

VII. ANALYSIS OF PROGRAMS

A. Programs Determined to Be Countervailable

We made no changes to our *Preliminary Results* with respect to the methodologies used to calculate the subsidy rates for the programs listed below. For the descriptions, analyses, and calculation methodologies regarding these programs, see the *Preliminary Results*.¹⁹ Except where noted below, the parties did not raise any issues regarding these programs in their case briefs.

The final program rates are as follows:

1. *Import Tariff and Value-Added Tax (VAT) Exemptions on Imported Equipment for Encouraged Industries*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 0.77 percent *ad valorem*.

2. *VAT Refunds for Foreign Invested Enterprises (FIEs) on Purchases of Chinese – Made Equipment*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 0.14 percent *ad valorem*.

3. *Provision of Steel Bar for Less Than Adequate Remuneration (LTAR)*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 10.00 percent *ad valorem*.

4. *Provision of Electricity for LTAR*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 0.69 percent *ad valorem*.

5. *Provision of Land and/or Land-Use Rights for LTAR in Jiangsu Province and the Western Region of China*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 3.63 percent *ad valorem*.

¹⁹ See *Preliminary Results* PDM at 26-32.

6. *Policy Loans to the Forged Steel Fittings Industry*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 0.01 percent *ad valorem*.

7. *Research and Development (R&D) Reward from Financial Bureau of Jiangyan City*

Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 0.12 percent *ad valorem*.

8. *Export Buyer's Credit*

As discussed in Comments 1 and 2, below, Commerce made no changes to the *Preliminary Results* regarding this program. The final subsidy rate for this program remains 10.54 percent *ad valorem*.

B. Programs Determined Not Used or Not to Have Conferred a Measurable Benefit

We determine that Both-Well did not apply for, or receive, benefits during the POR under the programs listed below:

1. Export Loans
2. Treasury Bond Loans
3. Preferential Lending to Forged Steel Fittings Producers and Exporters Classified as “Honorable Enterprises”
4. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
5. Preferential Income Tax Reductions for High and New Technology Enterprises
6. Preferential Deduction of R&D Expenses for High and New Technology Enterprises
7. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
8. Preferential Income Tax Policy for Enterprises in the Northeast Region
9. Reductions in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
10. Income Tax Benefits for Domestically Owned Enterprises Engaging in R&D
11. VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund
12. VAT Refunds for FIEs on Purchases of Chinese – Made Equipment
13. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
14. Import Tariff and VAT Exemptions on Imported Equipment for Encouraged Industries
15. The State Key Technology Fund
16. Foreign Trade Development Fund Grants
17. Export Assistance Grants
18. Export Interest Subsidies
19. Grants for Energy Conservation and Emission Reduction

20. Grants for the Retirement of Capacity
21. Grants for Relocating Production Facilities
22. Technology Innovation Reward from Financial Bureau of Jiangyan
23. High-Technology Reward from Government
24. Technology Reward from Jiangyan Economic Development Zone²⁰
25. Reward from Financial Bureau of Jiangyan City²¹

VIII. ANALYSIS OF COMMENTS

Comment 1: Export Buyer’s Credit (EBC) Program

*Both-Well’s Case Brief*²²

- In the *Preliminary Results*, Commerce found that the Government of China (GOC) failed to cooperate in this administrative review by not responding to questions concerning the China Export-Import Bank’s (China Ex-Im Bank’s) EBC Program. Commerce assigned Both-Well a subsidy rate of 10.54 percent for this program, based on AFA, even though it fully cooperated in the review and reported that it did not use this program.
- Specifically, Commerce preliminarily determined that the GOC’s failure to provide a list of partner banks as well as the 2013 revisions to the administrative measures requires application of AFA for the EBC Program. In every case where this Commerce decision has been challenged in court, the Court of International Trade (CIT) has rejected it.²³
- The CIT has held repeatedly that the 2013 internal revisions and identities of partner/correspondent banks do not consist of “necessary information” to verify usage.²⁴ This case is no different. Such information is irrelevant as to whether Commerce could have established usage during a China Ex-Im Bank verification.²⁵
- Furthermore, Commerce fails to make a rational connection between the information requested (a list of third-party banks) and the conclusion made that without this information, Commerce cannot determine or verify use. A request that China Ex-Im Bank identify every partner or correspondent bank/third party in the entire world is an overly broad question and the identification of partner banks in other countries is

²⁰ This program did not confer a measurable benefit during the POR. See Memorandum, “Both-Well Calculations for the Preliminary Results,” dated November 5, 2020 (Both-Well Preliminary Calculation Memorandum).

²¹ This program did not confer a measurable benefit during the POR. See Both-Well Preliminary Calculation Memorandum.

²² See Both-Well’s Case Brief at 2-11.

²³ *Id.* at 3 (citing *Clearon Corp. v. United States*, 474 F. Supp. 3d 1339 (CIT 2020)).

²⁴ *Id.* at 6 (citing, e.g., *Clearon Corp. v. United States*, 359 F. Supp. 3d 1344 (CIT 2019) (*Clearon Corp. I*); *Yama Ribbons & Bows Co. v. United States*, 419 F. Supp. 3d 1341 (CIT 2019); *Jiangsu Zhongji Lamination Materials Co. v. United States*, 405 F. Supp. 3d 1317 (CIT 2019); *Jiangsu Zhongji Lamination Materials Co. v. United States*, Slip Op. 2020-39 (CIT March 24, 2020) at 5).

²⁵ *Id.* at 4 (citing *Guizhou Tyre II*, 399 F. Supp. 3d 1346, 1349 (CIT 2019) (*Guizhou Tyre II*) (finding that Commerce “failed to demonstrate why information about EBCP and the 2013 rule change is relevant to verifying demonstrative claims of non-use,” citing *Clearon Corp. I* at 1349 (“At no point, including in the Post-Preliminary Memorandum, did Commerce say why it needed this information or connect its request with respondents, respondents’ products, or their customers”))).

irrelevant as to whether companies in the United States are using this program. It is unreasonable to request onerous and irrelevant information from the GOC.²⁶

- There are no GOC actions or failures that in any way call into question the substantial evidence proffered by Both-Well, its U.S. customers, and the GOC that, in this case, Both-Well did not use this program.
- Section 782(d) of the Act requires Commerce to identify the deficiencies in a respondent's questionnaire response and provide the respondent an opportunity to correct the deficiencies prior to imposing AFA on the respondent. Commerce did not issue any supplemental questionnaires to Both-Well with respect to this program, thus indicating that it was satisfied with Both-Well's questionnaire responses.
- Not only is Commerce's preliminary finding that Both-Well benefitted from, and used, the EBC Program unsupported by the record of this review, it is also in violation of the CVD statute and case law precedent that prohibit the application of AFA against cooperating respondents when no necessary information is missing from the record. For any use of facts otherwise available, Commerce must find that the gap in the record was caused by a respondent's failure to cooperate to the best of its ability.²⁷
- There is no missing information with respect to whether Both-Well used the EBC Program. Both-Well, its U.S. customers, and the GOC all placed information on the record that conclusively establishes that Both-Well's U.S. customers did not use the China Ex-Im Bank's EBC Program. In this case, usage could be determined by a review of (1) Both-Well's statement of non-use in its response after confirmation from its U.S. customers; (2) Both-Well's customer declarations of non-use; (3) statements of non-use in the GOC's questionnaire response; and (4) screenshots from China Ex-Im Bank's database showing non-use.
- In every recent decision at the CIT with respect to this issue, the Court has found that such evidence is sufficient to demonstrate non-use and that Commerce's use of AFA in this situation is unlawful. Even if information was needed to understand the operation of the program, such information is not relevant for establishing usage of this program or verification thereof.²⁸
- The law embodied in the judicial precedents addressed by Both-Well requires Commerce to consider and accept these non-use statements. The rationale behind the cited court opinions is the same, *i.e.*, Commerce has failed to explain the need for thoroughly understanding every single detail of the program's operations, nor does it explain beyond a conclusory sentence as to why such understanding is necessary for verification. Commerce could have attempted to verify claims of non-use at Both-Well's U.S. customer's offices but chose not to do so.
- In the first administrative review of *Foil from China*, Commerce correctly found that the EBC Program is not used by the two mandatory respondents.²⁹ This case is no different.

²⁶ *Id.* at 4-5 (citing *Guizhou Tyre II* at 1352).

²⁷ *Id.* at 3 (citing section 776(b) of the Act and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003)).

²⁸ *Id.* at 4 (citing *Guizhou Tyre II* at 1350; *see also Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d 1261, 1271 (CIT 2018) (*Guizhou Tyre I*); and *Clearon Corp. I* at 1360).

²⁹ *Id.* at 11 (citing *Certain Aluminum Foil from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Rescission of Review, in Part, 2017-2018*, 85 FR 38861 (June 29, 2020) (*Foil from China*), and accompanying PDM at 45).

Accordingly, Commerce should follow its decision in *Foil from China* and determine that Both-Well did not benefit from the EBC Program.

- Moreover, Both-Well reported that it did not use 25 other subsidy programs, yet Commerce declined to apply AFA, even though the GOC did not respond to the questionnaire with respect to these programs. Commerce provides no explanation as to why it treated Both-Well's reported non-use of the EBC Program differently.
- In each of the cases cited by Both-Well, Commerce reverses its decision under protest and does not appeal the decision to the Federal Circuit, yet continues to apply AFA in other cases with a similar fact pattern. The reversed decisions should be followed as Commerce precedent. Otherwise, Commerce is unlawfully inconsistent in its decision making.
- For the final results, Commerce should find that Both-Well did not use the EBC Program.

*Petitioners' Rebuttal Brief*³⁰

- Commerce should continue to apply AFA to the EBC Program.
- Both-Well argues that the GOC's failure to cooperate and provide requested information in this review should have no consequences. Commerce has already explained why the application of AFA is appropriate in this review and Both-Well presents no new arguments that have not already been considered and rejected by Commerce.
- Both-Well cites a series of decisions by the CIT in which the Court found that the application of AFA due to the GOC's failure to cooperate was not justified. However, Commerce has regularly rejected arguments that these Court decisions require it to find the program is not countervailable in separate proceedings with distinct factual records.³¹
- Both-Well argues that perhaps the *Foil from China* decision represents a change in Commerce practice with respect to the EBC Program. However, this argument ignores the fact that the preliminary results in this case were issued in November 2020, subsequent to the preliminary results in *Foil from China*, therefore indicating that there has been no change in practice with respect to this program.
- Finally, Both-Well does not cite to any record evidence in support of its claim that the declarations and GOC questionnaire response in the *Foil from China* case were the same as those on the record of this proceeding.

Commerce Position:

Consistent with the *Preliminary Results* and Commerce's practice, we continue to find that the record of the instant review does not support a finding of non-use of the EBC Program for Both-Well.³² We next describe the evolution of Commerce's treatment of this program.

³⁰ See Petitioners' Rebuttal Brief at 1-2.

³¹ *Id.* at 1 (citing *Forged Steel Fluid End Blocks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 80020 (December 11, 2020), and accompanying Issues and Decision Memorandum (IDM) at Comment 1).

³² See *Preliminary Results PDM* at 17-20; see also *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) (*Certain Solar Products from China*), and accompanying IDM at Comment 16;

Solar Cells from China Initial Investigation of the EBC Program

Commerce first investigated and countervailed the EBC Program in the 2012 investigation of *Solar Cells from China*.³³ Our initiation was based on, among other information, the China 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."³⁴ Commerce initially asked the GOC to complete the "standard questions appendix" for the EBC Program. 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.³⁵

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."³⁶ In response to a request from Commerce for information concerning the operation of the EBC Program 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: "{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."³⁷ 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.³⁸ 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.³⁹

Based on the GOC's responses, Commerce's understanding was that, under this program, loans were provided directly from the China 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

and *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination*, 83 FR 9274 (March 5, 2018), and accompanying IDM at Comment 6.

³³ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules; from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from China*), and accompanying IDM at 9 and Comment 18. While Commerce's determination with respect to the EBC Program was initially challenged, the case was dismissed.

³⁴ See *Solar Cells from China* IDM at 59.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 60.

³⁸ *Id.* at 60-61.

³⁹ *Id.* at 61.

the program was through the GOC and not the respondent companies.⁴⁰ 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.⁴¹

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.⁴² 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

⁴⁰ *Id.*

⁴¹ *Id.* at 61-62.

⁴² Commerce provided a similar explanation in the 2014 investigation of solar products from China. See *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) (*Certain Solar Products from China*), and accompanying IDM at 93. This was affirmed by the Court *Changzhou Trina Solar Energy Co. v. United States*, 195 F. Supp. 3d at 1350 (*Trina Solar 2016*). In *Trina Solar 2017*, the Court noted that the explanation from *Solar Products from China* constituted “detailed reasoning for why documentation from the GOC was necessary” to verify non-use. See *Changzhou Trina Solar Energy Co. v. United States*, 255 F. Supp. 3d 1312, 1318 (CIT 2017) (*Trina Solar 2017*). However, the Court found that the 2014 review of solar cells from China at issue in *Changzhou Trina Solar Energy Co. v. United States*, 352 F. Supp. 3d 1316 (*Trina Solar 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 *Trina Solar 2018*; *Certain Solar Products from China* 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 I* reached a similar conclusion concerning the 2014 review of tires from China. See *Guizhou Tyre I* at 1261; 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.

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.⁴³

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.

In the *Solar Cells from China* investigation, however, despite Commerce’s repeated requests for information, the GOC failed to offer any guidance as to how Commerce could search for EBC Program 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 China Ex-Im Bank itself because it “possessed the supporting records needed to verify the accuracy of the reported non-use of the EBC program {and} would have complete records of all recipients of export buyer’s credits.”⁴⁴ 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 {China} Ex-Im Bank’s financial statements.”⁴⁵ However, the GOC refused to allow Commerce to query the databases and records of the China Ex-Im Bank.⁴⁶ Furthermore, there was no information on the record of *Solar Cells from China* from the respondent exporters’ customers.

⁴³ 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, 1201-02 (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.

⁴⁴ *See Solar Cells from China* IDM at 62.

⁴⁵ *Id.*

⁴⁶ *Id.*

Chlorinated Isos Investigation of the EBC Program

Two years later, in the investigation of *Chlorinated Isos*,⁴⁷ respondents submitted certified statements from all customers claiming that they had not used the EBC Program. 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 EBC Program provided medium – and long-term loans and that those loans were provided directly from the China 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 China 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 Ex-Im,... {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.”⁴⁸

2013 Amendments to the EBC Program

Our understanding of the operation of the EBC Program 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 timeline; 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.⁴⁹ In subsequent proceedings, Commerce continued to investigate and evaluate this program.

For example, in the *Silica Fabric Investigation* conducted in 2016-2017, based on what we had learned in *Citric Acid 2012*, we asked the GOC about certain changes to the EBC Program, including changes in 2013 that eliminated the USD 2 million minimum business contract requirement.⁵⁰ In response, the GOC stated that there were three relevant documents pertaining to the EBC Program: (1) “Implementing Rules for the Export Buyer’s Credit of the {China Ex-Im Bank}” which were issued by the China Ex-Im Bank on September 11, 1995 (referred to as “1995 Implementation Rules”); (2) “Rules Governing Export Buyer’s Credit of the {China Ex-Im Bank}” which were issued by the China Ex-Im Bank on November 20, 2000 (referred to as

⁴⁷ 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 at 15.

⁴⁸ *Id.*

⁴⁹ See *Citric Acid 2012* 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 {Commerce} from verifying the non-use claims made by the RZBC Companies and the GOC.”).

⁵⁰ 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.

“2000 Rules Governing Export Buyer’s Credit” or “Administrative Measures”); and (3) 2013 internal guidelines of the China Ex-Im Bank.⁵¹ According to the GOC, “{t}he {China Ex-Im Bank} has confirmed to the GOC that... its 2013 guidelines are internal to the bank, non-public, and not available for release.”⁵² The GOC further stated that “those internal guidelines do not formally repeal or replace the provisions of the {Administrative Measures} which remain in effect.”⁵³

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.

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 China 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 China Ex-Im Bank to the importer’s account, which could be at the China 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 China Ex-Im Bank, impeded {Commerce’s} ability to conduct its investigation of this program.⁵⁴

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.”⁵⁵

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 12.

⁵⁵ *Id.* at 62.

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 ACIT’s declarations as submitted.”⁵⁶

The Instant Review

As stated in the *Preliminary Results*, we requested a list of all partner/correspondent banks involved in the disbursement of funds under the EBC Program.⁵⁷ Instead of providing the requested information, the GOC stated that our question was overly broad and unnecessary.⁵⁸ We also asked the GOC to submit the *Administrative Measures* that were revised in 2013, but the GOC refused.⁵⁹ Though the GOC provided some information, it was unresponsive to a majority of our requests, preventing Commerce from analyzing the function of the program, as discussed below.

In our NSA Questionnaire, we requested that the GOC provide the information requested in the Standard Questions Appendix “with regard to all types of financing provided by the China Ex-Im Bank under the Buyer Credit Facility.”⁶⁰ The Standard Questions Appendix requested various information that Commerce requires in order to analyze the specificity and financial contribution of this program, including the following: translated copies of the laws and regulations pertaining to the program; a description of the agencies and types of records maintained for administration of the program; a description of the program and the application process; program eligibility criteria; and program usage data.⁶¹ In the GOC NSAQR, rather than respond to the questions in the Standard Questions Appendix, the GOC stated it had confirmed that “none of the respondents’ customers applied for, used, or benefited from the alleged program during the POI and that “a response to the Standard Questions Appendix is not necessary.”⁶²

In the GOC NSAQR, the GOC provided the 2000 *Administrative Measures*, which confirmed that the China Ex-Im Bank strictly limits the provision of export buyer’s credits to business contracts exceeding USD 2 million.⁶³ Also, the GOC provided a copy of a supplemental response submitted in the *Silica Fabric Investigation*.⁶⁴ Information in that document indicates

⁵⁶ *Id.*

⁵⁷ See *Preliminary Results* PDM at 18.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See Commerce’s Letter, “2018 Administrative Review of the Countervailing Duty Order on Forged Steel Fittings from the People’s Republic of China: New Subsidy Allegations Questionnaire,” dated April 8, 2020 (NSA Questionnaire) at 3.

⁶¹ See Commerce’s Letter, “Countervailing Duty Questionnaire,” dated February 10, 2020 (Initial Questionnaire) at Standard Questions Appendix.

⁶² See GOC’s Letter, “GOC New Subsidy Allegation Questionnaire Response: First Administrative Review of the Countervailing Duty Investigation on Forged Steel Fittings from the People’s Republic of China (C-570-068),” dated April 21, 2020 (GOC NSAQR) at 1.

⁶³ *Id.* at Exhibits 2.

⁶⁴ See GOC NSAQR at Exhibit 1, “7th Supplemental Response in the Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People’s Republic of China” (Silica Fabric Export Buyer’s Credit Supplemental Questionnaire Response); see also *Silica Fabric Investigation* IDM at Comment 17.

that the GOC revised this program in 2013 to eliminate this minimum requirement.⁶⁵ Thus, we requested in our NSA Questionnaire that the GOC also provide original and translated copies of any laws, regulations or other governing documents cited by the GOC in the Silica Fabric Export Buyer's Credit Supplemental Questionnaire Response.⁶⁶ This request included the 2013 *Administrative Measures* revisions to the EBC Program. The GOC failed to provide this document.⁶⁷ We, therefore, again requested that the GOC provide the 2013 Revisions.⁶⁸ In response, the GOC stated that the 2013 guidelines are internal to the China Ex-Im Bank, non-public, and not available for release; the GOC further claimed to have no authority to force the China Ex-Im Bank to provide a copy of the 2013 guidelines, and indicated that they would therefore not be provided.⁶⁹ Through its response to Commerce's initial NSA and supplemental questionnaires, the GOC twice refused to provide the requested information concerning the 2013 program revisions, which is necessary for Commerce to analyze how the program functions.

We continue to find that the GOC's responses with respect to the EBC Program are deficient in two key respects. First, as we found in the *Silica Fabric Investigation*,⁷⁰ where we asked the GOC about the amendments to the EBC Program,⁷¹ we continue to find that the GOC has refused to provide the requested information concerning the 2013 program revisions, which is necessary for Commerce to analyze how the program functions. We requested information regarding the 2013 revisions to the *Administrative Measures*, and information on the partner/correspondent banks that are involved in the disbursement of funds under this program, because our prior knowledge of this program demonstrates that the 2013 revisions effected important program changes. Specifically, the 2013 revisions (which the GOC refers to as "internal guidelines") appear to be significant and have impacted a major condition in the provision of loans under the program, *i.e.*, by eliminating the \$2 million minimum business contract requirement identified in the 2000 *Administrative Measures*.⁷²

This information is necessary and critical to our understanding of the program and for any determination of whether the "manufacture, production, or export" of the respondents' merchandise has been subsidized. For instance, if the program continues to be limited to \$2 million contracts between a mandatory respondent and its customer, this is an important limitation to the universe of potential loans under the program and can assist us in targeting our verification of non-use. However, if the program is no longer limited to \$2 million contracts, this increases the difficulty of verifying loans without any such parameters, as discussed further

⁶⁵ See GOC NSAQR at Exhibit 1.

⁶⁶ See NSA Questionnaire at 4.

⁶⁷ See GOC NSAQR at 3.

⁶⁸ See Commerce's Letter, "Administrative Review of the Countervailing Duty Order of Forged Steel Fittings from the People's Republic of China: GOC Supplemental Questionnaire," dated July 16, 2020.

⁶⁹ See the GOC's Letter, "GOC New Subsidy Allegation Supplemental Questionnaire Response: First Administrative Review of the Countervailing Duty Investigation on Forged Steel Fittings from the People's Republic of China (C-570-068)," dated July 23, 2020 (GOC NSASQR) at 2.

⁷⁰ See *Silica Fabric Investigation* IDM at Comment 17.

⁷¹ See GOC NSASQR at Exhibit 1 (containing the GOC's September 6, 2016 7th SQR in the *Silica Fabric Investigation*).

⁷² See *Silica Fabric Investigation* IDM at 12 and 61.

below.⁷³ Therefore, by refusing to provide the requested information, and instead providing unverifiable assurances that other rules regarding the program remained in effect, the GOC significantly impeded Commerce's ability to understand how this program operates and how it can be verified. Further, as to the GOC's concerns regarding the non-public nature of the 2013 revisions, Commerce has well-established rules governing the handling of business proprietary information in its proceedings.

Second, Commerce's understanding of the EBC Program changed after Commerce began questioning the GOC's earlier indication that loans provided pursuant to the EBC Program were between the GOC and the borrower *only*, essentially a *direct* deposit from the China Ex-Im Bank to the foreign buyer. In particular, in the *Silica Fabric Investigation*, Commerce identified that the rules implementing the EBC Program appeared to indicate that the China Ex-Im Bank's payment was instead disbursed to U.S. customers via an intermediary Chinese bank, thereby contradicting the GOC's response to the contrary.⁷⁴ Thus, Commerce asked the GOC to provide the same information it provided in the *Silica Fabric Investigation* regarding the rules implementing the EBC Program, as well as any other governing documents (discussed above). Commerce also asked a series of questions regarding the method of transferring funds from the China Ex-Im Bank to Chinese exporters on behalf of U.S. customers via the credits at issue:

- Regardless of whether the respondent companies have reported usage of the Export Buyer's Credit program, respond to the Standard Questions Appendix with regard to this program.⁷⁵
- Provide a list of all partner/correspondent banks involved in disbursement of funds under the Export Buyer's Credit Program.⁷⁶

Although the GOC provided certain documents,⁷⁷ the GOC provided non-responsive answers to Commerce's specific questions, stating in response to our request for the 2013 revised *Administrative Measures* that "{Commerce} has been provided with sufficient and verifiable information which permits {Commerce} to reach a finding that the program was not used by the respondent during the POI. Therefore, this question is not material in this case."⁷⁸

With regard to our request for a list of partner/correspondent banks that are involved in the disbursement of funds through the program, the GOC stated that "the GOC confirms that none of the respondents' customers applied for, used, or benefited from the alleged program during the POI" and that a "list of all partner/correspondent banks in the entire world that are involved in the disbursement of funds under this program is both an overly broad question and an unnecessary one."⁷⁹

⁷³ The GOC is the only party which could provide the identities of the correspondent banks that the China Ex-Im Bank utilizes to disburse funds under the EBC Program. There is no indication on the record that other parties had access to information regarding the correspondent banks utilized by the China Ex-Im Bank.

⁷⁴ See *Silica Fabric Investigation* IDM at 12.

⁷⁵ See GOC SQ at 3.

⁷⁶ *Id.*

⁷⁷ See GOC NSAQR at Exhibits 2-4.

⁷⁸ See GOC NSASQR at 2.

⁷⁹ *Id.* at 1.

Thus, the GOC failed to provide the requested information and instead concluded that such information was not applicable to our examination of this program. However, it is for Commerce, not the GOC, to determine whether the information provided is sufficient for Commerce to make its determinations.⁸⁰

Accordingly, we continue to find the GOC's responses deficient and unresponsive to our request for necessary information with respect to the operation of the EBC Program. This information is necessary to our understanding of the program and for any determination of whether the "manufacture, production, or export" of the company respondent's merchandise has been subsidized. As noted above, based on the information obtained in the *Silica Fabric Investigation*, Commerce's understanding of how the EBC Program operated (*i.e.*, how funds were disbursed under the program) has changed.⁸¹ Specifically, the record indicates that the loans associated with this program are not limited to direct disbursements through the China Ex-Im Bank.⁸²

For instance, it appears that: (1) customers can open loan accounts for disbursements through this program with other banks; (2) the funds are first sent from the China Ex-Im Bank to the importer's account, which could be at the China Ex-Im Bank or other banks; and (3) these funds are then sent to the exporter's bank account.⁸³ Given the complicated structure of loan disbursements which can involve various banks for this program, Commerce's complete understanding of how this program is administrated is necessary to verify claims of non-use.⁸⁴ Thus, the GOC's refusal to provide the 2013 revisions, which provide internal guidelines for how this program is administered by the China Ex-Im Bank, as well as other requested information, such as key information and documentation pertaining to the application and approval process, and partner/correspondent banks, impeded Commerce's ability to conduct its investigation of this program and to verify the claims of non-use by the company respondent's customers.⁸⁵

This missing information was especially significant because the available record evidence indicates that, under the EBC Program, credits are not direct transactions from the China Ex-Im Bank to the U.S. customers of the respondent exporters; rather, there can be intermediary banks involved,⁸⁶ the identities of which the GOC has refused to provide to Commerce. In *Chlorinated Isos from China*, based on our understanding of the program at that time, verification of non-use appeared to be possible through examining the financial statements and books and records of U.S. customers for evidence of loans provided directly from the China Ex-Im Bank to the U.S.

⁸⁰ See *ABB Inc. v. United States*, 355 F. Supp. 3d 1206, 1222 (CIT 2018) (*ABB*) ("Commerce prepares its questionnaires to elicit information that it deems necessary to conduct a review, and the respondent bears the burden to respond with all of the requested information and create an adequate record.").

⁸¹ See GOC NSAQR at Exhibit 1 (containing the GOC's September 6, 2016 7th SQR in the *Silica Fabric Investigation*).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ We note that Commerce cannot verify non-use of the EBC Program without a complete set of administrative measures on the record that would provide necessary guidance to Commerce in querying the records and electronic databases of the China Ex-Im Bank.

⁸⁶ See GOC NSAQR at Exhibit 1 (containing the GOC's September 6, 2016 7th SQR in the *Silica Fabric Investigation*).

customer.⁸⁷ However, based on our more recent understanding of the program in the *Silica Fabric Investigation* discussed above, performing the verification steps to make a determination of whether the “manufacture, production, or export” of the company respondents’ merchandise has been subsidized would therefore require knowing the names of the intermediary banks; it would be their names, not the name “China Ex-Im Bank,” that would appear in the subledgers of the U.S. customers if they received the credits. Commerce recently addressed this issue in *Aluminum Sheet from China*,⁸⁸ stating:

Record evidence indicates that the loans associated with this program are not limited to direct disbursements through the China Ex-Im Bank. Specifically, the record information indicates that customers can open loan accounts for disbursements through this program with other banks, whereby the funds are first sent to... the importer’s account, which could be at the China Ex-Im Bank or other banks, and that these funds are then sent to the exporter’s bank account.⁸⁹

In other words, there will not necessarily be an account in the name “China Ex-Im Bank” in the books and records (*e.g.*, subledger, tax return, bank statements) of the U.S. customer. Thus, if we cannot verify claims of non-use at the GOC,⁹⁰ having a list of the correspondent banks is critical for us to perform verification at the U.S. customers.

Without such information, it would be unreasonably onerous for Commerce to comb through the business activities of the company respondent’s customers without any guidance as to how to simplify the process or any guidance as to which loans or banks should be subject to scrutiny as part of a verification for each company. A careful verification of the company respondent’s customers’ non-use of this program without understanding the identity of these correspondent banks would be extremely difficult, if not impossible. Because Commerce does not know the identities of these banks, Commerce’s second step of its typical non-use verification procedures (*i.e.*, examining the company’s subledgers for references to the party making the financial contribution) could not by itself demonstrate that the U.S. customers did not use the program (*i.e.*, by examining whether there were any correspondent banks in the subledger). Nor could the second step be used to narrow down the company’s lending to a subset of loans likely to be the export buyer’s credits (*i.e.*, loans from the correspondent banks). Thus, verifying non-use of the program without knowledge of the correspondent banks would require Commerce to view the underlying documentation for *all* entries from the subledger *to attempt* to confirm the origin of each loan—*i.e.*, whether the loan was provided from the China Ex-Im Bank via an intermediary bank. This would be an extremely onerous undertaking for any company that received more than a small number of loans.

⁸⁷ See *Chlorinated Isos* IDM at 15.

⁸⁸ See *Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People’s Republic of China: Final Affirmative Determination*, 83 FR 57427 (November 15, 2018) (*Aluminum Sheet from China*), and accompanying IDM.

⁸⁹ See *Aluminum Sheet from China* IDM at 30.

⁹⁰ *Id.* at Comment 2 (noting that Commerce no longer attempts to verify usage with the GOC given the inadequate information provided in its questionnaire responses such as, in particular, the GOC’s refusal to provide the 2013 revisions to the administrative rules).

Furthermore, Commerce’s typical non-use verification procedures (*i.e.*, selecting *specific* entries from the subledger and requesting to see underlying documentation, such as applications and loan agreements) would be of no value. This step might serve merely to confirm whether banks were correctly identified in the subledger—not necessarily whether those banks were correspondent banks participating in the EBC Program. This is especially true given the GOC’s failure to provide other requested information, such as the 2013 revisions, a sample application, and other documents making up the “paper trail” of a direct or indirect export credit from the China Ex-Im Bank, discussed above. Commerce would simply not know what to look for behind each loan in attempting to identify a loan provided by the China Ex-Im Bank via a correspondent bank.

This same sample “paper trail” would be necessary even if the GOC provided the list of correspondent banks. For instance, assuming that one of the correspondent banks is HSBC, Commerce would need to know how to differentiate ordinary HSBC loans from loans originating from, facilitated by, or guaranteed by the China Ex-Im Bank. In order to do this, Commerce would need to know what underlying documentation to look for in order to determine whether particular subledger entries for HSBC might actually be China Ex-Im Bank financing: specific applications; correspondence; abbreviations; account numbers; or other indicia of China Ex-Im Bank involvement. As explained above, the GOC failed to provide Commerce with any of this information. Thus, even if Commerce were to attempt to verify respondent’s non-use of the EBC Program, notwithstanding its lack of knowledge of which banks are intermediary/correspondent banks, by examining *each* loan received by *each* of the respondent’s U.S. customers, Commerce still would not be able to verify which loans were normal loans versus EBC Program loans due to its lack of understanding of what underlying documentation to expect to review, and whether/how that documentation would indicate China Ex-Im Bank involvement. In effect, companies could provide Commerce with incomplete loan documentation without Commerce understanding that the loan documentation was incomplete.

Even if such documentation were complete, and identified China Ex-Im Bank involvement, without a thorough understanding of the program, Commerce might not recognize indicia of such involvement. That is why Commerce requires disclosure of the 2013 *Administrative Measures*, as well as other information concerning the operation of the EBC Program, in order to verify usage. Understanding the operation of the program is not, therefore, solely a matter of determining whether there is a financial contribution or whether a subsidy is specific. A complete understanding of the program provides a “roadmap” for the verifiers by which they can conduct an effective verification of usage.⁹¹ Thus, Commerce could not *accurately and effectively* verify usage at the company respondent’s customers, even were it to attempt the unreasonably onerous examination of each of the customers’ loans. To conduct verification of the customers without the information requested from the GOC would amount to looking for a needle in a haystack with the added uncertainty that Commerce might not even be able to identify the needle when it was found.

⁹¹ By analogy, consider attempting to verify whether a company has received a tax exemption without having an adequate understanding of how the underlying tax returns should be completed or where use of the tax exemption might be recorded.

Based on the GOC's responses, Commerce understood that under this program loans are provided either directly from the China Ex-Im Bank to the borrowers (*i.e.*, a respondent's customers), or through an intermediary third-party bank, and that a respondent might have knowledge of loans provided to its customers through its involvement in the application process. Commerce gave the GOC an opportunity to provide the 2013 revisions regarding the *Administrative Measures*, which the GOC refused to provide.⁹²

According to the GOC, none of the respondent company's U.S. customers used the export buyer's credits from the China Ex-Im Bank during the POI.⁹³ The GOC explained that to make this determination, it: (1) obtained the list of U.S. customers from the respondent; and (2) the China Ex-Im Bank searched its records and confirmed that none of the respondents used the export buyer's credits during the POI.⁹⁴ The GOC's response indicated that exporters would know whether there was an interaction between the China Ex-Im Bank and the borrowers (*i.e.*, the respondent's U.S. customers, who are not participating in this proceeding), but neither the GOC, nor the respondent company, provided enough information for Commerce to understand this interaction or how this information would be reflected in the respondent company's (or its U.S. customers') books and records. As a result, the GOC failed to respond to Commerce's request, and instead claimed that the company respondent's U.S. customers did not use this program based on selectively provided, incomplete information.⁹⁵ As determined in the *Preliminary Results*, we continue to find that Commerce could not verify non-use of export buyer's credits by the customers of the respondents. Furthermore, the lack of information concerning the operation of the EBC Program prevents an accurate assessment of usage at verification:

In prior proceedings in which we have examined this program, before the 2013 amendments, we have found that the China Ex-Im, as the lender, is the primary entity that possesses the supporting information and documentation that are necessary for Commerce to fully understand the operation of the program which is prerequisite to Commerce's ability to verify the accuracy of the {respondents' claimed non-use of the} program. Because the program changed in 2013 and the GOC has not provided details about these changes, Commerce has outstanding questions about how this program currently functions, *e.g.*, whether the China Ex-Im Bank limits the provision of Export Buyer's Credits to business contracts exceeding USD 2 million, and whether it uses third-party banks to disburse/settle Export Buyer's Credits. Such information is critical to understanding how Export Buyer's Credits flow to and from foreign buyers and the China Ex-Im Bank and forms the basis of determining countervailability. Absent the requested information, the GOC's claims that the respondent companies did not use this program are not verifiable. Moreover, without a full understanding of the

⁹² See GOC NSAQR at 3; and GOC NSASQR at 2.

⁹³ See GOC NSAQR at 3; and GOC NSASQR at 3.

⁹⁴ *Id.*

⁹⁵ See GOC NSAQR at 3 and Exhibits 3 and 4; and GOC NSASQR at 1.

involvement of third-party banks, the respondent companies' (and their customers') claims are also not verifiable.⁹⁶

We continue to find that usage of the EBC Program could not be verified at the company respondent in a manner consistent with Commerce's verification methods because Commerce could not confirm usage or claimed non-use by examining books and records which can be reconciled to audited financial statements⁹⁷ or other documents, such as tax returns. Without the GOC providing bank disbursement information, Commerce could not tie any loan amounts to banks participating in this program in the company respondent's U.S. customers' books and records, and therefore could not verify the claims of non-use. A review of ancillary documents, such as applications, correspondence, emails, *etc.*, is insufficient for Commerce to verify any bank disbursement or loan amount pertaining to the company respondent, its customers, and/or the GOC's participation in the program.⁹⁸ Commerce needed to have a better understanding of the program before it could verify it because it did not know what documents to request to review at verification or what information in the books and records to tie to the company respondent's reported information from its questionnaire responses. Therefore, we found it necessary to have had this information prior to verification in order to ensure the information we would have received was complete and accurate to fully analyze and calculate the benefits the company respondent received under this program during the course of the POR.

In short, because the GOC failed to provide Commerce with information necessary to identify a paper trail of direct or indirect export credits from the China Ex-Im Bank, we would not know what to look for behind each loan in attempting to identify which loan was provided by the China Ex-Im Bank via a correspondent bank under the EBC Program. This necessary information is missing from the record because such disbursement information is only known by the originating bank, the China Ex-Im Bank, which is a government-controlled bank.⁹⁹ Without cooperation from the China Ex-Im Bank and/or the GOC, we cannot know the banks that could have disbursed export buyer's credits to Both-Well's customers. Therefore, there are gaps in the record because the GOC refused to provide the requisite disbursement information.

Additionally, despite company certifications of non-use, Commerce finds that it is not possible to determine whether export buyer's credits were received with respect to the export of subject merchandise because the potential recipients of export buyer's credits are not limited to the customers of the company respondent, as they may be received by third-party banks and institutions, as noted above. Again, Commerce would not know what indicia to look for in searching for usage or even what records, databases, or supporting documentation we would need to examine to effectively conduct the verifications (*i.e.*, without a complete set of laws, regulations, application and approval documents, and administrative measures, Commerce would

⁹⁶ See *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*; 2016, 83 FR 62841 (December 7, 2018), and accompanying PDM at 16-17, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*; 2016, 84 FR 37627 (August 1, 2019).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ See *Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 62594 (October 20, 2014), and accompanying IDM at 31 (confirming that the GOC solely owns the China Ex-Im Bank).

not even know what books and records the China Ex-Im Bank maintains in the ordinary course of its operations). Essentially, Commerce is unable to verify in a meaningful manner what little information there is on the record indicating non-use, pursuant to section 776(a)(2)(D) of the Act, with the exporter, U.S. customers, or at the China Ex-Im Bank itself, given the refusal of the GOC to provide the 2013 revisions and a complete list of correspondent/partner/intermediate banks.

Commerce finds that required missing information concerning the operation and administration of the EBC Program is necessary because it demonstrates why usage information provided by the GOC and the respondents cannot be verified and, thus, why there is a gap in the record concerning usage. Commerce has explained how the gap in the record (*i.e.*, missing information concerning the operation of the EBC Program) prevents complete and effective verification of the customers' certifications of non-use. A very similar rationale has been accepted by the CIT in a review of *Certain Solar Products from China*. Specifically, in *Trina Solar 2016*,¹⁰⁰ given similar facts, the CIT found Commerce reasonably concluded it could not verify usage of the EBC Program at the exporter's facilities absent an adequate explanation from the GOC of the program's operation (*i.e.*, "absent a well-documented understanding of how an exporter would be involved in the application of its customer for an export buyer credit and what records the exporter might retain, we would have no way of knowing whether the records we review at a company verification necessarily include any applications or compliance records that an exporter might have ...").¹⁰¹

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 examine its claims of non-use properly. 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 reasonably determined that it would be unable to examine each and every loan obligation of each of the company respondent's customers and that, even if such an undertaking were possible, it would be meaningless, as Commerce would have no idea as to what documents it should look for, or what other indicia there might be within a company's loan documentation, regarding the involvement of the China Ex-Im Bank.

At the very least, even when Commerce has no means of limiting the universe of transactions before it begins verification, Commerce knows what it is looking for when it begins selecting documents or transactions for review. When, because of the GOC's failure to provide complete information, there are no such parameters, or there is no guidance as to what indicia Commerce should look for, it is unreasonable to expect Commerce to hunt for a needle in a haystack – a very large haystack in some instances. As an illustrative example, in the context of a VAT and import duty exemption, Commerce has met with the GOC to discuss how that program works,

¹⁰⁰ See *Changzhou Trina Solar Energy Co. v. United States*, 195 F. Supp. 3d 1334, 1355 (CIT 2016) (*Changzhou Trina 2016*) (citing *Certain Solar Products from China* IDM at 91-94).

¹⁰¹ *Id.*

and in such instances the GOC has been fully cooperative.¹⁰² Therefore, Commerce knows what documents it should see when VAT and import duties are paid and when they are exempted. It knows, in other words, when it has a complete document trace. In this example, the GOC, in fact, provides sample documents to help Commerce understand the paper flow pursuant to the VAT program. Commerce can also simply ask to see a VAT invoice or a payment to the Chinese customs service to verify whether VAT and duties were charged and paid. By contrast, we simply do not know what to look for when we examine a loan to determine whether the China Ex-Im Bank was involved, or whether the given loan was provided under the EBC Program, for the reasons explained above.

We continue to find that the GOC withheld necessary information that was requested of it and significantly impeded this proceeding. Accordingly, Commerce must rely on facts otherwise available in issuing this final determination with respect to the EBC Program, pursuant to sections 776(a)(1), (2)(A) and (C) of the Act.¹⁰³ Specifically, necessary information is not on the record because the GOC withheld information that we requested that was reasonably available to it, which significantly impeded the proceeding. In addition, we find that an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act, because the GOC did not act to the best of its ability in providing the necessary information to Commerce. Additionally, we continue to find that under this program the GOC bestowed a financial contribution and provided a benefit to Both-Well within the meaning of sections 771(5)(D) and 771(5)(E) of the Act, respectively. Regarding specificity, although the record regarding this program suffers from significant deficiencies, we note that the GOC's description of the program and supporting materials (albeit found to be deficient) demonstrates that through this program, state-owned banks, such as the China Ex-Im Bank, provide loans at preferential rates for the purchase of exported goods from China.¹⁰⁴ Finally, Commerce has found this program to be an export subsidy in past CVD proceedings involving China.¹⁰⁵ Thus, we continue to find that, taking all such information into consideration, the provision of export buyer's credits is contingent on exports within the meaning of sections 771(5A)(A) and (B) of the Act.

For all 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

¹⁰² See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 24, 2008), unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009), and accompanying IDM at 10 ("At the verification of Princeway's questionnaire responses ... the GOC presented corrections regarding the reported exempted import duties for imported equipment.").

¹⁰³ We disagree with Both-Well that we should rely on *Foil from China* for purposes of these final results. Although we recognize that Commerce found the EBC Program not used in the final results of *Certain Aluminum Foil from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review; 2017-2018*, 86 FR 12171 (March 2, 2021), the fact remains that in this case the GOC withheld critical information with respect to this program, similar to many other cases in which we found the program to be used, relying on facts available and adverse inferences, as the above discussion demonstrates.

¹⁰⁴ See GOC NSAQR at Exhibit 2, Article 12.

¹⁰⁵ See, e.g., *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 17382 (April 25, 2019), and accompanying IDM at Comment 16.

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 available is reasonable and supported by substantial evidence on the record.

Comment 2: Appropriate AFA Rate for the EBC Program

*Both-Well’s Case Brief*¹⁰⁶

- If Commerce continues to apply AFA for the final results as discussed in Comment 1, above, it should apply to the EBC Program an AFA rate of 0.01 percent, the rate applied to the Policy Loans to the Forged Steel Fittings Industry program, which Commerce found to be similar to the EBC Program.
- Commerce’s claim in the *Preliminary Results* that the 0.01 percent subsidy rate could not be used as AFA because it is *de minimis* is unsupported by law or precedent. It is Commerce’s practice that, for a single program, only when a rate is less than 0.005 percent will it not be considered and thus not used as AFA.¹⁰⁷

*Petitioner’s Rebuttal Brief*¹⁰⁸

- Commerce has repeatedly explained that for purposes of selecting AFA program rates it normally treats rates less than 0.5 percent as *de minimis*.¹⁰⁹
- Both-Well’s argument should be rejected; the rate for the EBC Program in the final results should remain at 10.54 percent.

Commerce’s Position:

We agree with the petitioners. In its argument, Both-Well appears to confuse the threshold that Commerce uses for determining whether a subsidy benefit is “not measurable,” *i.e.*, 0.005 percent, with the *de minimis* threshold for the purposes of selecting AFA rates, which is 0.5 percent. In previous cases, we have repeatedly explained our hierarchy for selecting AFA rates.¹¹⁰ For administrative reviews, if there is no above-*de minimis* rate for the identical

¹⁰⁶ See Both-Well’s Case Brief at 12-13.

¹⁰⁷ *Id.* at 12 (citing, *e.g.*, *Certain Corrosion-Resistant Steel Products: Final Negative Countervailing Duty Determination*, 81 FR 35299 (June 2, 2016), and accompanying IDM at 16; and *Certain Softwood Lumber Products from Canada: Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews*, 69 FR 75917 (December 20, 2004), and accompanying IDM at 6).

¹⁰⁸ See Petitioners’ Rebuttal Brief at 3.

¹⁰⁹ *Id.* at 3 (citing *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 81 FR 47349 (July 21, 2016), and accompanying PDM at 6 (citing *Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Steel Wire Strand from China*), and accompanying IDM at 13.1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program” and “2. Grant Under the Elimination of Backward Production Capacity Award Fund”)).

¹¹⁰ See, *e.g.*, *Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Results of the Countervailing Duty Administrative Review; 2017*, 85 FR 2701 (January 16, 2020), and accompanying PDM at 5-6, unchanged in *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Countervailing*

program within any segment of the same proceeding, we then determine if there is an above-*de minimis* rate for a similar program within the same proceeding. If there is no above-*de minimis* rate for a similar program within the same proceeding, we then apply the highest non-*de minimis* rate for an identical or similar program in another CVD proceeding involving the same country. If there is no non-*de minimis* rate for an identical or similar program in another CVD proceeding involving the same country, Commerce applies the highest calculated rate for any program from the same country that the industry subject to the review could have used. Since *PC Steel Wire Strand from China*, Commerce has defined “*de minimis*” in the context of selecting AFA rates to mean rates that are less than 0.5 percent.¹¹¹ In recent investigations, we upheld that definition.¹¹²

As explained in the *Preliminary Results*, while the Policy Loans to the Forged Steel Fittings Industry is a similar program from which Both-Well received a measurable benefit in this review, its program subsidy rate of 0.01 percent *ad valorem* is *de minimis* for the purposes of selecting an AFA rate.¹¹³ In accordance with our hierarchy, we selected the highest calculated countervailable subsidy rate applied for an identical or similar program in a CVD proceeding involving the same country, in accordance with section 776(d) of the Act. Thus, we continue to find that the program rate of 10.54 percent *ad valorem*, as calculated in the *Coated Paper from China Amended Final* proceeding, is the highest rate determined for a similar program and is, therefore, the appropriate AFA rate for the EBC Program in this review.¹¹⁴

Duty Administrative Review; 2017, 85 FR 71312 (November 9, 2020); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017*, 85 FR 7727 (February 11, 2020), and accompanying PDM at 39, unchanged in *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 79163 (December 9, 2020); and *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission, in Part, 2017*, 84 FR 55913 (October 18, 2019), and accompanying PDM at 23, unchanged in *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 22718 (April 23, 2020).

¹¹¹ See *PC Steel Wire Strand from China* and accompanying IDM at 13.

¹¹² See, e.g., *Forged Steel Fluid End Blocks from the Federal Republic of Germany: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 31454 (May 26, 2020), and accompanying PDM at n.37, unchanged in *Forged Steel Fluid End Blocks from the Federal Republic of Germany: Final Affirmative Countervailing Duty Determination*, 85 FR 80011 (December 11, 2020).

¹¹³ See *Preliminary Results* PDM at 23 and 30.

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

IX. RECOMMENDATION

We recommend approving all of the above positions. If these positions are accepted, we will publish the final results in the *Federal Register*.

Agree

Disagree

3/10/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance