review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in Room 3065 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of March 2010. If the Department does not receive, by the last day of March 2010, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 22, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–4182 Filed 2–26–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–957]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain seamless carbon and alloy steel standard, line, and pressure pipe from the People's Republic of China. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice. The Department of Commerce further preliminarily determines that critical circumstances exist with respect to imports of the subject merchandise.

DATES: *Effective Date:* March 1, 2010.

FOR FURTHER INFORMATION CONTACT: Shane Subler, Yasmin Nair, Joseph Shuler, or Matthew Jordan, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189, (202) 482–3813, (202) 482–4162, (202) 482–1293, and (202) 482–1540, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's ("Department") notice of initiation in the **Federal Register.** *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 74 FR 52945 (October 15, 2009) ("*Initiation Notice*"), and the accompanying Initiation Checklist.

On November 4, 2009, the Department selected two Chinese producers/exporters of certain seamless carbon and alloy steel standard, line, and pressure pipe ("seamless pipe") as mandatory respondents: (1) Hengyang Steel Tube Group Int'l Trading Inc., Hengyang Valin Steel Tube Co., Ltd., Hengyang Valin MPM Tube Co., Ltd., and their affiliate, Xigang Seamless Steel Tube Co., Ltd. (collectively, "Hengyang"); and (2) Tianjin Pipe (Group) Corporation ("TPCO"). *See* Memorandum to Edward Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection Memo" (November 4, 2009). This memorandum is on file in the Department's Central Records Unit ("CRU") in Room 1117 of the main Department building.

On November 6, 2009, the U.S. International Trade Commission ("ITC") published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly subsidized imports of seamless pipe from the People's Republic of China ("PRC"). *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China,* 74 FR 57521 (November 6, 2009).

On November 9, 2009, we issued a questionnaire to the Government of the People's Republic of China ("GOC"), Hengyang, and TPCO. On December 3, 2009, the Department published a postponement of the deadline for the preliminary determination in this investigation until February 16, 2010. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 74 FR 63391 (December 3, 2009).

In December 2009 and January 2010, we received responses to our questionnaire from the GOC, Hengyang, and TPCO. *See* the GOC's Original Questionnaire Response (January 7, 2010) ("GQR"), Hengyang's Original Questionnaire Response (January 5, 2010) ("HQR"), and TPCO's Original Questionnaire Response (December 31, 2009) ("TQR"). We sent supplemental questionnaires to TPCO on January 27, 2010, and February 4, 2010. We received responses to these

supplemental questionnaires on February 3, 2010, and February 12, 2010. We sent supplemental questionnaires to Hengyang on January 28, 2010, and February 4, 2010. We received responses to these supplemental questionnaires on February 4, 2010, and February 12, 2010. We sent a supplemental questionnaire to the GOC on January 28, 2010, and received a response to this questionnaire on February 4, 2010 ("G1SR").

On January 7, 2010, United States Steel Corporation ("U.S. Steel"), V&M Star L.P., TMK IPSCO, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") filed an allegation of critical circumstances with regard to seamless pipe from the PRC. On January 22, 2010, we requested that Hengyang and TPCO submit shipment data related to this allegation. TPCO and Hengyang submitted these data on February 2, 2010.

On January 7 and January 13, 2010, Petitioners submitted new subsidy allegations requesting the Department to expand its countervailing duty ("CVD") investigation to include additional subsidy programs.[1] On February 17, 2010, the Department issued a memorandum initiating certain of these new subsidy allegations. *See* Memorandum from Yasmin Nair, International Trade Compliance Analyst, Office 1 to Susan H. Kuhbach, Director, Office 1, "New Subsidy Allegations" (February 17, 2010).

On January 11, 2010, we issued a letter requesting that the GOC update its original questionnaire response for the cross-owned affiliates for which the respondent companies filed questionnaire responses. The GOC filed its response on January 25, 2010.

On January 14, 2010, we issued a letter notifying the GOC that it did not provide responses to certain questions in the original questionnaire. In response to this letter, on January 25, 2010, the GOC filed a submission with information pertaining to the provision of steel rounds.

On February 12, 2010, Petitioners submitted comments for the preliminary determination.

The Department originally extended the deadline for this preliminary determination until February 16, 2010. As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary determination of this investigation is now February 22, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

[1] *See* Petitioners' new subsidy allegations dated January 7, 2010, and January 13, 2010.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice,* 74 FR at 52945. We did not receive comments concerning the scope of the antidumping duty ("AD") and CVD investigations of seamless pipe from the PRC.

Scope of the Investigation

The scope of this investigation consists of certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot-finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or "hollow profiles" suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials ("ASTM") or American Petroleum Institute ("API") specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, ASTM A–1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below.

Specifically excluded from the scope of the investigation are unattached couplings.

The merchandise covered by the investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Period of Investigation

The period for which we are measuring subsidies, *i.e.,* the period of investigation ("POI"), is January 1, 2008, through December 31, 2008.

Critical Circumstances

In their January 7, 2010, submission, Petitioners alleged that critical circumstances exist with respect to imports of seamless pipe from the PRC. Section 703(e)(1) of the Tariff Act of 1930, as amended ("the Act") states that if the petitioner alleges critical circumstances, the Department will determine, on the basis of information available to it at the time, if there is a reason to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the World Trade Organization ("WTO") Agreement on Subsidies and Countervailing Measures ("SCM Agreement"), and (B) there have been massive imports of the subject merchandise over a relatively short period.

In accordance with 19 CFR 351.206(c)(2)(i), because Petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. *See, e.g., Change in Policy Regarding Timing of Issuance of*

Critical Circumstances Determinations, 63 FR 55364 (October 15, 1998).

As discussed in the "Analysis of Programs" section below, the Department has preliminarily determined that TPCO and Hengyang received countervailable export subsidies during the POI. For "all other" exporters, we are basing our finding on the experience of TPCO and Hengyang and, therefore, we find that "all others" benefitted from export subsidies. Export subsidies are inconsistent with the SCM Agreement. Therefore, the criterion of section 703(e)(1)(A) of the Act has been satisfied. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada,* 66 FR 43186, 43189–90 (August 17, 2001); unchanged in *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada,* 67 FR 36070 (May 22, 2002).

In determining whether there are "massive imports" over a "relatively short period" pursuant to section 703(e)(1)(B) of the Act, the Department normally compares shipments of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.,* the "base period") with the three months following the filing of the petition (*i.e.,* the "comparison period"). In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Finally, 19 CFR 351.206(i) defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later.

In accordance with 19 CFR 351.206(i), we are using the three months preceding the filing of the petition (*i.e.,* July to September 2009) as the base period and the three months following the filing of the petition (*i.e.,* October to December 2009) as the comparison period. Because Petitioners filed their petition on September 16, 2009, which is the second half of the month, September is included in the base period.

Based upon the monthly shipment data submitted by TPCO, we preliminarily find that TPCO's shipments did not reach the minimum threshold necessary for finding that imports have been massive over a relatively short period. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of seamless pipe from TPCO. For further discussion, *see* the Memorandum to the File, "Critical Circumstances Analysis" (February 22, 2010) ("Critical Circumstances Analysis Memo"), on file in the Department's CRU.

Based upon the monthly shipment data submitted by Hengyang, we preliminarily find that Hengyang's seamless pipe imports increased more than 15 percent during the "relatively short period," as required by 19 CFR 351.206(h)(2). *See* Critical Circumstances Analysis Memo. Further, as explained above, we find that Hengyang received an export subsidy, *i.e.,* a subsidy inconsistent with the SCM Agreement. Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for Hengyang.

For "all other" exporters, we are basing our finding on data from USITC Dataweb.[2] We preliminarily determine that there were massive imports over a relatively short period for "all other" producers/exporters of seamless pipe from the PRC. For further discussion, *see* Critical Circumstances Analysis Memo. Further, as explained above, we find that "all other" producers and exporters received a subsidy inconsistent with the SCM Agreement. Therefore, we preliminarily determine that the requirements of section 703(e)(1)(B) of the Act have been satisfied, and that critical circumstances exist for "all others."

Application of the Countervailing Duty Law to Imports From the PRC

On October 25, 2007, the Department published *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 72 FR 60645 (October 25, 2007) ("*CFS from the PRC*"), and the accompanying Issues and Decision Memorandum ("CFS Decision Memorandum"). In *CFS from the PRC,* the Department found that

> given the substantial difference between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as (a) bar to proceeding with a CVD investigation involving products from China.

See CFS Decision Memorandum, at Comment 6. The Department has affirmed its decision to apply the CVD law to the PRC in subsequent final determinations. *See, e.g., Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances,* 73 FR 31966 (June 5, 2008), and accompanying Issues and Decision Memorandum ("CWP Decision Memorandum"), at Comment 1.

Additionally, for the reasons stated in the CWP Decision Memorandum, we are using the date of December 11, 2001, the date on which the PRC became a member of the WTO, as the date from which the Department will identify and measure subsidies in the PRC. *See* CWP Decision Memorandum, at Comment 2.

Use of Facts Otherwise Available and Adverse Inferences

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

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

GOC—Steel Rounds

The Department is investigating the alleged provision of steel rounds for less than adequate remuneration by the GOC. We requested information from the GOC about the PRC's steel rounds industry in general and the specific companies that produced the steel rounds purchased by the mandatory respondents. In both respects, the GOC has failed to provide the requested information within the established deadlines.

At pages 87–89 of the GQR, the GOC responded, "No such information is available," to the following questions on the steel rounds industry in the PRC. The GOC provided no further explanation on the following requested information:

- The number of producers of steel rounds (*e.g.,* billets, blooms);
- the total volume and value of domestic production of steel rounds that is accounted for by companies in which

[2] *http://dataweb.usitc.gov/*

the GOC maintains an ownership or management interest either directly or through other government entities; [3]

- the total volume and value of domestic *consumption* of steel rounds and the total volume and value of domestic *production* of steel rounds;
- the percentage of domestic consumption accounted for by domestic production; and
- the names and addresses of the top ten steel rounds companies—in terms of sales and quantity produced—in which the GOC maintains and ownership or management interest, and identification of whether any of these companies have affiliated trading companies that sell imported or domestically produced steel rounds.

On page 91 of the GQR, the GOC responded that it was still gathering information in response to the following question:

> Are there trade publications which specify the prices of the good/service within your country and on the world market? Provide a list of these publications, along with sample pages from these publications listing the prices of the good/service within your country and in world markets during the period of investigation.

With respect to the specific companies that produced the steel rounds purchased by the mandatory respondents, we asked the GOC to provide particular ownership information for these producers so that we could determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. Specifically, we stated in our questionnaire that the Department normally treats producers that are majority owned by the government or a government entity as "authorities." Thus, for any steel rounds producers that were majority government-owned, the GOC needed to provide the following ownership information if it wished to argue that those producers were not authorities:

- Translations of the most recent capital verification report predating the POI and, if applicable, any capital verification reports completed during the POI. Translation of the most recent articles of association, including amendments thereto.
- The names of the ten largest shareholders and the total number of shareholders, a statement of whether any of these shareholders have any government ownership (including the percentage of ownership), and an explanation of any other affiliation between these shareholders and the government.
- The total level (percentage) of state ownership, either direct or indirect, of the company's shares; the names of all government entities that own shares in the company; and the amount of shares held by each.
- Any relevant evidence to demonstrate that the company is not controlled by the government, *e.g.,* that the private, minority shareholder(s) controls of the company.

For any suppliers that the GOC claimed were directly, 100-percent owned by individual persons during the POI, we requested the following:

- Translated copies of source documents that demonstrate the supplier's ownership during the POI, such as capital verification reports, articles of association, share transfer agreements, or financial statements.
- Identification of the owners, members of the board of directors, or managers of the suppliers who were also government or Chinese Communist Party ("CCP") officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.

For input suppliers with some direct corporate ownership or less-than-majority state ownership during the POI, we explained that it was necessary to trace back the ownership to the ultimate individual or state owners. For these suppliers, we requested the following:

- The total level (percentage) of state ownership of the company's shares; the names of all government entities that own shares, either directly or indirectly, in the company; whether any of the owners are considered "state-owned enterprises" by the government; and the amount of shares held by each government owner.
- For each level of ownership, a translated copy of the section(s) of the articles of association showing the rights and responsibilities of the shareholders and, where appropriate, the board of directors, including all decision making (voting) rules for the operation of the company.
- For each level of ownership, identification of the owners, members of the board of directors, or managers of the suppliers who were also government or CCP officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.
- A statement of whether any of the shares held by government entities have any special rights, priorities, or privileges, *e.g.,* with regard to voting rights or other management or decision-making for the company; a statement of whether there are any restrictions on conducting, or acting through, extraordinary meetings of shareholders; whether there are any restrictions on the shares held by private shareholders; and the nature of the private shareholders' interest in the company, *e.g.,* operational, strategic, or investment-related, *etc.*

On page 92 of the GQR, the GOC stated that it had not obtained complete ownership information for the suppliers to the mandatory respondents. The GOC further stated that it expected to provide such information when the Department determined which cross-owned affiliates of the mandatory respondents would be required to file responses.

On January 11, 2010, we issued a letter requesting that the GOC update its initial questionnaire response to include the cross-owned affiliates for which the respondent companies filed questionnaire responses. After the GOC requested an extension to the deadline for filing this response, we set a final deadline of January 25, 2010.

On January 14, 2010, we issued a separate letter noting that the GOC had failed to provide the information requested in the original questionnaire regarding the ownership of the firms that produce the steel rounds/billets used by the mandatory respondents. We pointed out that the GOC had not requested, and the Department had not granted, an extension of the deadline for submitting this information. We stated that the requested information must be submitted by January 25, 2010.

On January 25, 2010, the GOC submitted a list of producers of the steel rounds that respondents purchased during the POI. The GOC identified the producers as state-owned enterprises ("SOEs"), foreign-invested enterprises ("FIEs"), privately-held, or "to be updated." The GOC also submitted certain documentation on the ownership of many of the producers designated as FIEs or privately-held. However, for producers that the GOC claimed to be privately-owned, the GOC did not answer the question on whether owners, members of the board of directors, or managers of the suppliers were also government or CCP officials during the POI. The GOC also did not discuss whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval. For producers with some

[3] Includes governments at all levels, including townships and villages, ministries, or agencies of those governments including state asset management bureaus, state-owned enterprises and labor unions.

direct corporate ownership or less-than-majority state ownership during the POI, the GOC did not respond to our requests for the following information:

- The total level (percentage) of state ownership of the company's shares; the names of all government entities that own shares, either directly or indirectly, in the company; whether any of the owners are considered "state-owned enterprises" by the government; and the amount of shares held by each government owner.
- For each level of ownership, identification of the owners, members of the board of directors, or managers of the suppliers who were also government or CCP officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.
- A statement of whether any of the shares held by government entities have any special rights, priorities, or privileges, *e.g.,* with regard to voting rights or other management or decision-making for the company; a statement of whether there are any restrictions on conducting, or acting through, extraordinary meetings of shareholders; whether there are any restrictions on the shares held by private shareholders; and the nature of the private shareholders' interest in the company, *e.g.,* operational, strategic, or investment-related, *etc.*

Based on the above, we preliminarily determine that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on "facts available" in making our preliminary determination. *See* sections 776(a)(1) and (a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act.

With respect to the GOC's failure to provide requested information about the production and consumption of steel rounds or billets generally, we are assuming adversely that the GOC's dominance of the market in the PRC for this input results in significant distortion of the prices and, hence, that use of an external benchmark is warranted. With respect to the GOC's failure to provide certain requested ownership information about the producers of the steel rounds purchased by the respondents, we are assuming adversely that all of the respondents' non-cross-owned suppliers of steel rounds are "authorities."

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See 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). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol. 1 at 870 (1994).

Section 776(c) of the Act provides that, when the Department 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." *See, e.g.,* SAA, at 870. The Department considers information to be corroborated if it has probative value. *See id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA, at 869.

To corroborate the Department's treatment of the companies that produced the steel rounds and billets purchased by the mandatory respondents as authorities and our finding that the GOC dominates the domestic market for this input, we are relying on *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 73 FR 70961 (November 24, 2008) ("*Line Pipe from the PRC*"). In that case, the Department determined that the GOC owned or controlled the entire hot-rolled steel industry in the PRC. *See Line Pipe from the PRC* and accompanying Issues and Decision Memorandum at Comment 1. Evidence on the record of this investigation shows that many steel producers in the PRC are integrated, producing both long products (rounds and billets) and flat products (hot-rolled steel). *See* Memorandum to the File, "Additional Information on Steel Rounds," dated February 22, 2010. Consequently, government ownership in the hot-rolled steel industry is a reasonable proxy for government ownership in the steel rounds and billets industry.

For details on the calculation of the subsidy rate for the respondents, *see* below at section I.C., "Provision of Steel Rounds for Less Than Adequate Remuneration."

GOC—Electricity

The GOC also did not provide a complete response to the Department's November 9, 2009 questionnaire regarding its alleged provision of electricity for less than adequate remuneration. Specifically, the Department requested that the GOC explain how electricity cost increases are reflected in retail price increases. The GOC responded that it was gathering this information, but it did not request an extension from the Department for submitting this information after the original questionnaire deadline date. On January 14, 2010, the Department reiterated its request for this information and notified the GOC that this information would be accepted if the GOC submitted it by January 25, 2010. However, the GOC's subsequent supplemental questionnaire responses did not address the missing information. Consequently, we preliminarily determine that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on "facts available" in making our preliminary determination. *See* section 776(a)(1), section 776(a)(2)(A), and section 776(a)(2)(B) of the Act. Moreover, we preliminarily determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information as it did not respond by the deadline dates, nor did it explain why it was unable to provide the requested information, with the result that an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act. In drawing an adverse inverse inference, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. We have also relied on an adverse inference in selecting the

benchmark for determining the existence and amount of the benefit. *See* section 776(b)(2) of the Act and section 776(b)(4) of the Act. The benchmark rates we have selected are derived from information submitted by the GOC in the countervailing duty investigation of "Certain Kitchen Appliance Shelving and Racks from the People's Republic of China" and information from the record of the instant review. *See* Memorandum to File from Yasmin Nair, International Trade Compliance Analyst, Office 1, "Electricity Rate Data" (February 22, 2010).

For details on the calculation of the subsidy rate for the respondents, *see* below at section I.D., "Provision of Electricity for Less Than Adequate Remuneration."

GOC—TPCO's Other Subsidies

At pages 143–144 of TPCO Group's 2008 Audit Report in Exhibit 6 of the TQR and at page 14 of its February 16, 2010 supplemental questionnaire response, TPCO reported receipt of countervailable grants. In our January 26, 2010, supplemental questionnaire to TPCO, we instructed TPCO to provide information regarding other subsidies identified in its 2008 financial statements and to provide the GOC with the names of the programs under which these subsidies were given.

The Department requested that the GOC provide information about these grants in the initial questionnaire and the January 27, 2010 supplemental questionnaire. In the GOC's February 4, 2010, supplemental response, at page 10, the GOC did not provide the requested information, asserting that it needed additional time to gather the data. Although the GOC responded that it was gathering this information, it did not request an extension from the Department for submitting this information after the supplemental questionnaire deadline date.

Because the GOC did not provide the requested information concerning these grants, we preliminarily determine that necessary information is not on the record and that the GOC did not provide requested information by the submission deadline. Accordingly, the use of facts otherwise available is appropriate. *See* sections 776(a)(1) and (2)(B) of the Act. Also, we preliminarily determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information as it did not respond by the deadline dates, nor did it explain why it is unable to provide the requested information, with the result that an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act.

For details on the calculation of the subsidy rate for TPCO, *see* below at section I.G., "Other Subsidies Received by TPCO."

Subsidies Valuation Information

Allocation Period

The average useful life ("AUL") period in this proceeding, as described in 19 CFR 351.524(d)(2), is 15 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property,* at Table B–2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(iv) direct the Department to attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, or produce an input that is primarily dedicated to the production of the downstream product. In the case of a transfer of a subsidy between cross-owned companies, 19 CFR 351.525(b)(6)(v) directs the Department to attribute the subsidy to the sales of the company that receives the transferred subsidy.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade ("CIT") has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi v. United States,* 166 F. Supp. 2d 593, 600–604 (CIT 2001).

TPCO

TPCO responded to the Department's original and supplemental questionnaires on behalf of itself, Tianjin Pipe Iron Manufacturing Co., Ltd. ("TPCO Iron"); Tianguan Yuantong Pipe Product Co., Ltd. ("Yuantong"); Tianjin Pipe International Economic and Trading Co., Ltd. ("TPCO International"); and TPCO Charging Development Co., Ltd. ("Charging"). These companies are cross-owned within the meaning 19 CFR 351.525(b)(6)(vi) because of TPCO's substantial ownership position in each of them. *See* the TQR at page 2 and Exhibits 1–3.

TPCO stated that TPCO Iron provides "pig iron and direct reduced iron" to TPCO and that Yuantong provides "threading and other finishing processes to {TPCO's} seamless pipe production."[4] Because TPCO Iron produced an input that is primarily dedicated to the production of the downstream product, we are preliminarily attributing subsidies received by TPCO Iron to TPCO, in accordance with 19 CFR 351.525(b)(6)(iv). Yuantong had direct involvement in the production of subject merchandise during the POI. Thus, we are preliminarily attributing subsidies received by Yuantong to TPCO, in accordance with 19 CFR 351.525(b)(6)(ii).[5]

Regarding TPCO International, TPCO stated, "{TPCO International} is the trading company through which {TPCO} exports all subject merchandise." Because TPCO International exported subject merchandise during the POI, we are preliminarily cumulating the benefit from subsidies received by TPCO International with subsidies provided to TPCO, in accordance with 19 CFR 351.525(c). We are preliminarily using TPCO's consolidated sales as the denominator for subsidies to TPCO International. On page 12 of the TQR, TPCO stated that TPCO consolidates directly-owned subsidiaries in which it holds an equity share of more than 50 percent. On page 9 of the TQR, TPCO stated that the consolidated sales totals in its financial statements are net of

[4] *See* TQR at 5.

[5] *See Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination,* 74 FR 47210, 47215 (September 15, 2009) (unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination,* 74 FR 64045 (December 7, 2009) ("*OCTG from the PRC*")).

inter-company sales. Thus, TPCO's consolidated sales already include TPCO International's sales (net of inter-company sales). By using TPCO's consolidated sales as the denominator for subsidies to TPCO International, we do not double-count TPCO International's sales in the calculation of the subsidy rate.

With regard to Charging, TPCO stated on pages 4–5 of the TQR that Charging acts as a trading company that purchased and provided steel rounds to TPCO during the POI. If the GOC provided steel rounds to Charging for less than adequate remuneration during the POI, the supplier relationship between Charging and TPCO may fall under 19 CFR 351.525(b)(6)(iv) (subsidies to cross-owned input suppliers) or 19 CFR 351.525(b)(6)(v) (transfer of subsidies). As we stated in the previous paragraph, however, TPCO consolidates the sales of directly-owned subsidiaries in which it holds an equity share of more than 50 percent (net of inter-company sales). Because TPCO consolidates Charging's sales into its own sales, the attribution of the subsidy for TPCO's purchases through Charging is identical under 19 CFR 351.525(b)(6)(iv) or 19 CFR 351.525(b)(6)(v). Under both sections of the regulations, the attribution of the subsidy is to TPCO's consolidated sales. Thus, we are preliminarily attributing any subsidies under the provision of steel rounds to Charging for less than adequate remuneration to TPCO's consolidated sales, which includes Charging's sales.

On page 3 of our January 26, 2010, supplemental questionnaire to TPCO, we asked TPCO to explain why it did not provide a response on behalf of Tianjin TEDA Investment Holding Co., Ltd. ("TEDA"), Tianjin Pipe Investment Holding Co., Ltd. ("TPCO Holding"), and China Cinda Asset Management Corporation ("Cinda"), which have held majority interests in TPCO since December 11, 2001. Under 19 CFR 351.525(b)(6)(iii), we would normally attribute to TPCO any subsidies that these owners received while each was cross-owned with TPCO. In its response dated February 16, 2010, TPCO responded that TEDA, a government agency, is primarily involved in the operation and management of assets and public infrastructure, and TPCO Holding was originally established by the Tianjin SASAC ("State-owned Assets Supervision and Administration Commission of the State Council") for the sole purpose of holding the assets of TPCO. In TPCO's explanation of why it did not file a response for Cinda, it refers to the Department's finding in *OCTG from the PRC,* in which the Department found that TEDA and TPCO Holding were government agencies.[6] TPCO states "for the same reasons," TPCO did not file a response for Cinda, which was specifically established to restructure debt and non-performing assets. Based on TPCO's response, we preliminarily determine that these entities were government agencies since December 11, 2001. Thus, we are preliminarily countervailing subsidies that these entities provided to TPCO, rather than any subsidies that these entities may have received. Moreover, as agencies of the government, we preliminarily determine these entities to be "government authorities."

In the January 26, 2010, supplemental questionnaire, we also asked TPCO questions about certain affiliates that may have met the cross-ownership standard under 19 CFR 351.525(b)(6)(vi) and one or more of the attribution standards under 19 CFR 351.525(b)(6)(ii)–(v). TPCO provided responses to these questions in its February 12, 2010, response at pages 5–6. Based on TPCO's responses, we preliminarily determine that none of these affiliates met both the cross-ownership standard of 19 CFR 351.525(b)(6)(vi) and one or more of the attribution standards under 19 CFR 351.525(b)(6)(ii)–(v). Thus, we have not included any subsidies to these companies in the subsidy calculation.

For other affiliated companies that TPCO identified in Exhibits 1 and 2 of the TQR, TPCO either held a small ownership share during the POI or identified the companies as having no involvement with subject merchandise. Thus, we have not included any subsidies to these companies in the subsidy calculation.

Regarding the sales denominator for calculating TPCO's subsidy rate, we note that the Department will attribute subsidies bestowed on a parent or holding company to the consolidated sales of the parent or holding company and its subsidiaries under 19 CFR 351.525(b)(6)(iii). TPCO was a parent company to other companies during the POI. On page 12 of the TQR, TPCO stated, "{TPCO} consolidated those directly owned subsidiaries in which it holds more than 50% equity shares, as well as those indirectly owned subsidiaries in which its wholly-owned subsidiaries hold more than 50% equity shares." In accordance with 19 CFR 351.525(b)(6)(iii), we are preliminarily attributing subsidies to TPCO to the consolidated sales of TPCO and its subsidiaries.

Therefore, based on information currently on the record, we preliminarily determine that cross-ownership within the meaning of 19 CFR 351.525(b)(6)(vi) exists between TPCO, TPCO Iron, Yuantong, TPCO International, and Charging. Moreover, pursuant to 19 CFR 351.525(b)(6)(iii), we are preliminarily attributing subsidies received by TPCO to the consolidated sales of TPCO and its subsidiaries (net of inter-company sales). TPCO Iron, Yuantong, and Charging are consolidated into TPCO's sales; thus, we are preliminarily attributing subsidies received by TPCO Iron, Yuantong, and Charging to TPCO's consolidated sales (net of inter-company sales). For TPCO International, we preliminarily have cumulated TPCO International's subsidy benefits with TPCO's subsidy benefits. *See* 19 CFR 351.525(c). We have preliminarily used TPCO's consolidated sales net of inter-company sales as the denominator for subsidies to TPCO International.

Hengyang

As of this preliminary determination, Hengyang has responded to the Department's original and supplemental questionnaires on behalf of Hengyang Steel Tube Group International Trading, Inc. ("Hengyang Trading"), Hengyang Valin Steel Tube Co., Ltd. ("Hengyang Valin"), and Hengyang Valin MPM Tube Co., Ltd. ("Hengyang MPM"), and their affiliated parties Xigang Seamless Steel Tube Co., Ltd. ("Xigang Seamless"), Wuxi Seamless Special Pipe Co., Ltd. ("Special Pipe"), Wuxi Resources Steel Making Co., Ltd. ("Resources Steel"), and Jiangsu Xigang Group Co., Ltd. ("Xigang Group"). These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of common ownership.[7]

Hengyang reports the following roles for each of the seven companies:[8]

- *Hengyang Valin:* a parent company to Hengyang MPM and Hengyang Trading, and a producer of subject merchandise;
- *Hengyang MPM:* a producer of subject merchandise, as well as a producer and supplier of an input to Hengyang Valin for production of subject merchandise;
- *Hengyang Trading:* an exporter of subject merchandise on behalf of Hengyang Valin and Hengyang MPM;
- *Xigang Seamless:* a producer and exporter of subject merchandise;

[6] *See OCTG from the PRC,* and accompanying Issues and Decision Memorandum at 9 and Comment 40.

[7] *See* HQR at 2.

[8] *See* HQR at 2 and HQR at Vol. 5 p. 1–2.

• *Special Pipe:* a producer of subject merchandise;

• *Resources Steel:* a producer and supplier of an input to Xigang Seamless and Special Pipe for production of subject merchandise; and

• *Xigang Group:* a holding company, and the parent of Xigang Seamless, Special Pipe, and Resources Steel.

Because Hengyang Valin, Hengyang MPM, Xigang Seamless, and Special Pipe are producers of subject merchandise, we are preliminarily attributing subsidies received by any of these companies to the sales of all four (excluding sales between the companies), in accordance with 19 CFR 351.525(b)(6)(ii).

During the POI, Hengyang Trading exported subject merchandise produced by Hengyang Valin and Hengyang MPM. Thus, we are preliminarily cumulating the benefit from subsidies received by Hengyang Trading with the benefit from subsidies provided to Hengyang Valin and MPM, in accordance with 19 CFR 351.525(c).

Hengyang identified Resources Steel as a producer and supplier of steel billet to Xigang Seamless and Special Pipe. Because steel billet is primarily dedicated to the production of the downstream product, we are preliminarily attributing subsidies received by Resources Steel to Resources Steel, Xigang Seamless, and Special Pipe, in accordance with 19 CFR 351.525(b)(6)(iv).

Xigang Group was the parent of Xigang Seamless, Special Pipe, and Resources Steel during the POI. Thus, we are preliminarily attributing subsidies received by Xigang Group to the consolidated sales of Xigang Group and its subsidiaries, in accordance with 19 CFR 351.525(b)(6)(iii).

In a supplemental questionnaire dated January 28, 2010, we asked Hengyang to provide responses on behalf of certain affiliates that met the cross-ownership standard under 19 CFR 351.525(b)(6)(vi) and one or more of the attribution standards under 19 CFR 351.525(b)(6)(ii)–(v). Hengyang is scheduled to provide this response on February 22, 2010. We intend to address this response in a post-preliminary determination.

At Volume 1, page 7 of the HQR, Hengyang stated that Hengyang Trading also exports subject merchandise produced by an unaffiliated producer, although Hengyang stated that Hengyang Trading did not export this merchandise to the United States during the POI. At Volume 5, pages 7–8 of the HQR, Hengyang stated that Xigang Seamless purchased and exported subject merchandise produced by unaffiliated companies during the POI. Although any subsidies to the unaffiliated producers would normally be cumulated with subsidies provided to these trading companies pursuant to 19 CFR 351.525(c), the Department has, in some instances, limited the number of producers it examines where their merchandise was not exported to the United States during the POI or accounted for a very small share of respondent's exports to the United States. In this investigation, we have not sent CVD questionnaires to the unaffiliated suppliers because their merchandise was not exported to the United States during the POI or accounted for a minor share of Hengyang's exports to the United States.[9] See, *e.g., Pasta From Italy,* in which one of the mandatory respondents was a trading company that exported pasta produced by multiple pasta manufacturers, but the Department limited its analysis to the two major pasta manufacturers that supplied the trading company during the period of review. *See Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review,* 66 FR 64214 (December 12, 2001) ("*Pasta from Italy*"), and accompanying Issues and Decision Memorandum at "Attribution."

Benchmarks and Discount Rates

Benchmarks for Short-Term RMB Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark.[10] If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."[11]

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons explained in *CFS from the PRC,*[12] loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber from Canada,* the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.[13]

We are calculating the external benchmark using the regression-based methodology first developed in *CFS from the PRC*[14] and more recently updated in *LWTP from the PRC.*[15] This benchmark interest rate is based on the inflation-adjusted interest rates of countries with per capita gross national incomes ("GNIs") similar to the PRC, and takes into account a key factor involved in interest rate formation, that of the quality of a country's institutions, that is not directly tied to the state-imposed distortions in the banking sector discussed above.

Following the methodology developed in *CFS from the PRC,* we first determined which countries are similar to the PRC in terms of GNI, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. The PRC falls in the lower-middle income category, a group that includes 55 countries.[16] As explained in *CFS from the PRC,* this pool of countries

[9] Hengyang Trading did not export subject merchandise produced by unaffiliated producers to the United States during the POI. *See* the HQR at Volume 1, page 7. The percentage of Xigang Seamless's exports of subject merchandise to the United States from unaffiliated producers is business proprietary information. *See* the HQR at Volume 5, page 8.

[10] *See* 19 CFR 351.505(a)(3)(i).

[11] *See* 19 CFR 351.505(a)(3)(ii).

[12] *See* CFS Decision Memorandum at Comment 10.

[13] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada,* 67 FR 15545 (April 2, 2002) ("*Softwood Lumber from Canada*") and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

[14] *See* CFS Decision Memorandum at Comment 10.

[15] See *Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 73 FR 57323 (October 2, 2008) ("*LWTP from the PRC*") and accompanying Issues and Decision Memorandum ("LWTP Decision Memorandum") at 8–10.

[16] *See* The World Bank Country Classification, *http://econ.worldbank.org/.*

captures the broad inverse relationship between income and interest rates.

Many of these countries reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics ("IFS"). With the exceptions noted below, we have used the interest and inflation rates reported in the IFS for the countries identified as "low middle income" by the World Bank. First, we did not include those economies that the Department considered to be non-market economies for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. For example, Jordan reported a deposit rate, not a lending rate, and the rates reported by Ecuador and Timor L'Este are dollar-denominated rates; therefore, the rates for these three countries have been excluded. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we have also excluded any countries with aberrational or negative real interest rates for the year in question.

The resulting inflation-adjusted benchmark lending rates are provided in the respondents' preliminary calculation memoranda. *See* Memorandum to File, "Preliminary Determination Calculation Memorandum for (TPCO)," (February 22, 2010) ("TPCO Calculation Memo"); *see also* Memorandum to File, "Preliminary Determination Calculation Memorandum for (Hengyang)," (February 22, 2010) ("Hengyang Calculation Memo"). Because these are inflation-adjusted benchmarks, it is necessary to adjust the respondents' interest payments for inflation. This was done using the PRC inflation figure as reported in the IFS. *See* TPCO Calculation Memo and Hengyang Calculation Memo.

Benchmarks for Long-Term Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates. *See, e.g., Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination,* 73 FR 35642 (June 24, 2008) and accompanying Issues and Decision Memorandum ("LWRP Decision Memo") at 8. In *Citric Acid from the PRC,* this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where n equals or approximates the number of years of the term of the loan in question. *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 74 FR 16836 (April 13, 2009) ("*Citric Acid from the PRC*") and accompanying Issues and Decision Memorandum ("Citric Acid Decision Memorandum") at Comment 14. Finally, because these long-term rates are net of inflation as noted above, we adjusted the PRC respondents' payments to remove inflation.

Benchmarks for Foreign Currency-Denominated Loans

For foreign currency-denominated short-term loans, the Department used as a benchmark the one-year dollar interest rates for the London Interbank Offering Rate ("LIBOR"), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. *See* LWTP Decision Memo at 10. For long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where n equals or approximates the number of years of the term of the loan in question.

Discount Rates

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

Analysis of Programs

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

I. Programs Preliminarily Determined To Be Countervailable

A. Policy Loans to the Seamless Pipe Industry

The Department is examining whether seamless pipe producers receive preferential lending through state-owned commercial or policy banks. According to the allegation, preferential lending to the seamless pipe industry is supported by the GOC through the issuance of national and provincial five-year plans; industrial plans for the steel sector; catalogues of encouraged industries, and other government laws and regulations. Based on our review of the information and responses of the GOC, we preliminarily determine that loans received by the seamless pipe industry from state-owned commercial banks ("SOCBs") were made pursuant to government directives.

Record evidence demonstrates that the GOC, through its directives, has highlighted and advocated the development of the seamless pipe industry. At the national level, the GOC has placed an emphasis on the development of high-end, value-added steel products through foreign investment as well as through technological research, development, and innovation. In laying out this strategy, the GOC has identified the specific products it has in mind. For example, an "objective" of *The 10th Five-Year Plan for the Metallurgical Industry (*"*Plan*") was to develop key steel types that were mainly imported; high strength, anticrushing and corrosion resistant petroleum pipe was among the listed products. Moreover, among the "Policy Measures" set out in the *Plan* for achieving its objectives was the encouragement of enterprises to cooperate with foreign enterprises, particularly in the production and development of high value-added products and high-tech products. *See* Memorandum to File from Yasmin Nair, Analyst regarding "Additional Documents Placed on the Record" (February 22, 2010) ("Additional Documents Memo").

Similarly, in the *Development Policies for the Iron and Steel Industry* (July 2005) at Article 16, the GOC states that it will "* * * enhance the R&D, design, and manufacture level in relation to the key technology, equipment and facilities for the Chinese steel industry." To accomplish this, the GOC states it will provide support to key steel projects relying on domestically produced and newly developed equipment and facilities, through tax and interest assistance, and scientific research expenditures. *See* Petition at Exhibit III–

10. Later in 2005, the GOC implemented the *Decision of the State Council on Promulgating the* "*Interim Provisions on Promoting Industrial Structure Adjustment*" *for Implementation* (No. 40 (2005)) ("*Decision 40*") in order to achieve the objectives of the Eleventh Five-Year Plan. *See* Additional Documents Memo. *Decision 40* references the *Directory Catalogue on Readjustment of Industrial Structure (*"*Industrial Catalogue*"*),* which outlines the projects which the GOC deems "encouraged," "restricted," and "eliminated," and describes how these projects will be considered under government policies. Steel tube for oil well pipe, high-pressure boiler pipe, and long-distance transmission pipe was named in the *Industrial Catalogue* as an "encouraged project." *See* Petition at Exhibit III–44. For the "encouraged" projects, Decision 40 outlines several support options available to the government, including financing.

Turning to the provincial and municipal plans, the Department has described the inter-relatedness of national level plans and directives with those at the sub-national level. *See* LWTP Decision Memo at Comment 6. Based on our review of the sub-national plans submitted by the GOC in this investigation, we find that they mirror the national government's objective of supporting and promoting the production of innovative and high-value added products, including seamless pipe. Examples from the five-year plans of the provinces and/or municipalities where each of the respondents is located follow:

Outline of the 10th Five-Year Plan for the National Economic and Social Development of Tianjin Municipality: "For metallurgical industry, we attach importance to the development of high quality and efficiency steel products and high grade metal products, such as seamless steel tube and cold rolled sheet, and carry out the oil steel pipe extension and east-movement project of steel." *See* GQR at Exhibit GOC–12.

Outline of the 11th Five-Year Program of Social and Economic Development of Tianjin Municipality: "Build a pipe production base, mainly producing seamless pipes * * * Develop a production capacity of 2600 seamless pipes, 10 million plates, and 1 million first class metal products by 2010." *See* GQR at Exhibit GOC–13.

10th Five-Year Plan for Industrial Development in Tianjin: "Surrounding the object of establishing a national manufacturing base for seamless steel tube and metallic products, metallurgy industries will actively optimize structure, properly adjust layout, and develop advantageous products. We shall let the backward techniques and facilities give way to latest applicable technologies to treat pollution properly, promote development of quality steel and metallic products with high added value and huge domestic demand represented by seamless steel tube and cold rolled sheet * * *" *See* GQR at Exhibit GOC–16.

Outline of the 11th Five-Year Program for the Development of the Industrial Economy of Tianjin: "Development objective: * * * Production capacities of major products: * * * production of rolled steel exceeds 30 million tons, including 2.6 million tons of seamless steel tubes * * * One of the world largest technical equipment leading seamless steel tube production base and important domestic high grade sheet and metal products production base shall be established here * * * Key projects and investment: There shall be a total investment of 32.5 billion Yuan during the period of the 11th Five-Year Program, mainly including the project of seamless steel tube, stainless steel tube and heavy caliber welding steel tubes with a total investment of 3.6 billion Yuan contributed by TPCO, Shuangjie Steel Tubes and other companies * * *" *See* GQR at Exhibit GOC–17.

Outline of the 10th Five-Year Plan for National Economy and Social Development of Tianjin Binhai New Area: "Complete the eastward movement of Tianjin Steel Factory relying on the current conditions of Steel Pipe Company and No.3 Gas Factory, establish the manufacturing base and metallurgical casting base for steel of quality and efficiency and its hot-processed products." *See* G1SR at Exhibit 1.

Notice of Tianjin Municipal People's Government Concerning the Printing and Distribution of the Outline for the 11th Five-Year Program for the National Economic and social Development in Tianjin Binhai New Area: "4. Constructing deep processing base of petroleum steel pipe and high quality steel material—We shall quicken technology innovation and structural adjustment, extend industrial link, enhance the concentration effort, strive the commanding point of the industry, consolidate and develop the leading position of deep processing of petroleum steel pipe and high quality steel material." *See* G1SR at Exhibit 2.

Outlines of the 10th and 11th Five-Year Program for Industrial Structural Adjustment and Development in Jiangsu: "Emphasize on the development of high-quality steel products with high added value and high technological content such as motor plates, shipbuilding steel plates, * * * pinion steel, oil well billet, special pipes and sticks, and highly qualified high-carbon hard wires." *See* GQR at Exhibit GOC–14 and 15.

Outline of the 11th Five-Year Plan of Social and Economic Development of Jiangsu Province: "We shall lay emphasis upon the development of competitive industries * * * By setting up industrial bases of integrated circuit, photoelectric display, petrochemical industry, metallurgy, shipbuilding, and paper making, we shall increase shares of competitive industries in the manufacturing industry. Focus shall be put on developing special metallurgy, petrochemical, new building material and other basic industries. We shall actively speed up development of special steel, * * *" *See* GQR at Exhibit GOC–9.

Outline of the 10th Five-Year Plan of Social and Economic Development of Wuxi Municipality: "We should insist on the guidance of market, support the consumer products with big market share, fill the blanket area in domestic market, replace the exported products, high class facility class, upgrade and update products with competitive and high added value, new products with good industrialization base and comparative relativeness and dragging force, endeavor to construct 10 distinctive product group of electronic devices, * * * steel & iron and metal products and form a batch of international renowned brand and brands famous in China and Jiangsu." *See* GQR at Exhibit GOC–10.

Outline of the 11th Five-Year Plan of Social and Economic Development of Wuxi Municipality: "We will take such industries as metallurgy, chemical industry and so on as the foundation, prioritize products of several domains such as new composition material and high polymer material, new ceramic material, special steel and product, * * *" *See* GQR at Exhibit GOC–11.

Outline of the 10th Five-Year Plan of Social and Economic Development of Hunan Province: "We shall optimize the structure, form the characteristics and enlarge the production of high quality plate and strip material, seamless tube, rigid line, manganese and other deep processing and special alloy products." *See* GQR at Exhibit GOC–4.

Outline of the 11th Five-Year Program of Social and Economic Development of Hunan Province: "We shall vigorously import advanced technological equipment and production techniques * * *; concentrate on development of high-quality excellent steel materials such as plates, tubes and bars etc * * *" *See* GQR at Exhibit GOC–5.

Outline of the 10th Five-Year Plan of Social and Economic Development of Hengyang Municipality: "Focus shall be put on singling out these six pillar industries for support such as metallurgy, machinery, * * * We shall attach great importance to ten key enterprises and ten knock-out products. The ten key enterprises include: * * * Hengyang Steel Tube Group Corporation * * *" *See* GQR at Exhibit GOC–6.

Outline of the 11th Five-Year Program of Social and Economic Development of Hengyang Municipality: "We shall stress the development of such major industries such as iron and steel smelting and tube processing, * * * we shall introduce international strategic investment, promote tube processing and manufacturing * * * Up to 2010, the smelting of steel and iron and the output for affiliated industrial clusters of tube processing shall reach 14 billion." *See* GQR at Exhibit GOC–7.

As noted in *Citric Acid from the PRC:*[17]

In general, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support those objectives or goals. Where

[17] *See Citric Acid from the PRC,* and Citric Acid Decision Memo, at Comment 5.

such plans or policy directives exist, then we will find a policy lending program that is specific to the named industry (or producers that fall under that industry).[18] Once that finding is made, the Department relies upon the analysis undertaken in *CFS from the PRC*[19] to further conclude that national and local government control over the SOCBs results in the loans being a financial contribution by the GOC.[20]

Therefore, on the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development of production of seamless pipe through policy lending. The loans to seamless pipe producers from Policy Banks and SOCBs in the PRC constitute a direct financial contribution from the government, pursuant to section 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans (*see* section 771(5)(E)(2) of the Act). Finally, we determine that the loans are *de jure* specific within the meaning of section 771 of the Act because of the GOC's policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the seamless pipe industry.

To calculate the benefit under the policy lending program, we used the benchmarks described under "Subsidies Valuation—Benchmarks and Discount Rates" above. *See also* 19 CFR 351.505(c). On this basis, we preliminarily determine that Hengyang received a countervailable subsidy of 1.44 percent *ad valorem* and TPCO received a countervailable subsidy of 0.88 percent *ad valorem.*

B. Export Loans From the Export-Import Bank of China

TPCO

On page 20 of the GQR, the GOC reported that the Export-Import Bank of China ("EIBC") provided TPCO with three loans that were outstanding during the POI. The GOC claimed that none of the loans related to exportation of subject merchandise.

Based on the proprietary description of these loans at page 21 of the GOC's response, however, we preliminarily find that one of the loans is a countervailable export loan from the EIBC.[21] As a loan from a government policy bank, this loan constitutes a direct financial contribution from the government, pursuant to section 771(5)(D)(i) of the Act. We further determine that the export loan is specific under section 771(5A)(B) of the Act because receipt of the financing is contingent upon export. Also, we determine that the export loan confers a benefit within the meaning of section 771(5)(E)(ii) of the Act.

To calculate the benefit under this program, we compared the amount of interest paid against the export loan to the amount of interest that would have been paid on a comparable commercial loan. As our benchmark, we used the short-term interest rates discussed above in the "Benchmarks and Discount Rates" section. To calculate the net countervailable subsidy rate, we divided the benefit by TPCO's export sales value for the POI. On this basis, we preliminarily determine the net countervailable subsidy rate to be 0.08 percent *ad valorem.*

Hengyang

On page 14 of the HQR, Hengyang reported two loans made to Hengyang Valin that are "contingent on the loans being used for anticipated activities that generate exports of high-tech products."[22] On page 15 of the HQR, Hengyang stated that all of Hengyang Valin's exports benefit from these loans.

On page 28 of the GQR, the GOC stated, "Hengyang Valin received {proprietary amount of} export contingent loans from {the EIBC}."

We preliminarily find that Hengyang's loans from the EIBC that were outstanding during the POI are countervailable export loans. As a loan from a government policy bank, these loans constitute a direct financial contribution from the government, pursuant to section 771(5)(D)(i) of the Act. We further determine that the export loans are specific under section 771(5A)(B) of the Act because receipt of the financing is contingent upon export. Also, we determine that the export loans confer a benefit within the meaning of section 771(5)(E)(ii) of the Act.

To calculate the benefit under this program, we compared the amount of interest paid against the export loans to the amount of interest that would have been paid on a comparable commercial loan. As our benchmark, we used the short-term interest rates discussed above in the "Benchmarks and Discount Rates" section. To calculate the net countervailable subsidy rate, we divided the benefit by Hengyang's export sales value for the POI. On this basis, we preliminarily determine the net countervailable subsidy rate to be 1.03 percent *ad valorem.*

C. Provision of Steel Rounds for Less Than Adequate Remuneration

As discussed under "Use of Facts Otherwise Available and Adverse Inferences," above, we are preliminarily relying on "adverse facts available" ("AFA") for our analysis regarding the GOC's provision of steel rounds and billets to seamless pipe producers. First, as a result of the GOC's failure to provide requested ownership information for the companies that produced the steel rounds and billets purchased by the mandatory respondents in this investigation, we are treating all unaffiliated producers of steel rounds and billets as "authorities" within the meaning of section 771(5)(B) of the Act. Therefore, we preliminarily determine that seamless pipe producers have received a financial contribution from the government in the form of the provision of a good. *See* section 771(5)(D)(iii) of the Act.

To determine whether this financial contribution results in a subsidy to the seamless pipe producers, we followed 19 CFR 351.511(a)(2) for identifying an appropriate market-based benchmark for measuring the adequacy of the remuneration for the steel rounds and billets. The potential benchmarks listed in this regulation, in order of preference are: (1) Market prices from actual transactions within the country under investigation for the government-provided good (*e.g.,* actual sales, actual imports, or competitively run government auctions) ("tier one" benchmarks); (2) world market prices that would be available to purchasers in the country under investigation ("tier two" benchmarks); or (3) prices consistent with market principles based on an assessment by the Department of the government-set price ("tier three" benchmarks). As we explained in *Softwood Lumber from Canada,* the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation. *See Softwood Lumber from Canada* and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage

[18] *See* CFS Decision Memorandum, at 49; and LWTP Decision Memorandum, at 98.

[19] *See* CFS Decision Memorandum, at Comment 8.

[20] *See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 40485 (July 15, 2008) ("*OTR Tires from the PRC*"), and the accompanying Issues and Decision Memorandum ("OTR Tires Decision Memo") at 15; and LWTP Decision Memorandum, at 11.

[21] We have addressed the proprietary details of this loan in the TPCO Calculation Memo.

[22] *See* HQR at 14.

Programs Determined to Confer Subsidies, Benefit."

Beginning with tier one, we must determine whether the prices from actual sales transactions involving Chinese buyers and sellers are significantly distorted. As explained in the CVD Preamble: "Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative {tier two} in the hierarchy." *See Countervailing Duties; Final Rule,* 63 FR 65348, 65377 (November 25, 1998) ("CVD Preamble"). The CVD Preamble further recognizes that distortion can occur when the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market.

As explained under "Use of Facts Otherwise Available and Adverse Inferences," above, we are preliminarily relying on AFA to determine that GOC authorities play a predominant role in the PRC market for steel rounds and billets. Because of the predominant role played by GOC authorities in the production of steel rounds and billets, we preliminarily determine that the prices actually paid in the PRC for steel rounds and billets during the POI are not appropriate tier one benchmarks under our regulations.

Turning to tier two benchmarks, *i.e.,* world market prices available to purchasers in the PRC, we have placed on the record the benchmark price information that we used in the final determination of *OCTG from the PRC. See OCTG from the PRC,* and accompanying Issues and Decision Memorandum at Comment 13a; *see also* Memorandum to the File dated February 22, 2010, "Steel Rounds Benchmark Prices." The benchmark price that we used in *OCTG from the PRC* is a compilation of the following prices: Export prices from *Steel Business Briefing* ("*SBB*") for billet from Latin America, Turkey, the Black Sea/Baltic region; SBB East Asia import prices; and two series of London Metal Exchange prices.

The benchmark price from *OCTG from the PRC* represents an average of commercially-available world market prices for steel rounds and billets that would be available to purchasers in the PRC. We note that, in addition to *OCTG from the PRC,* the Department has relied on pricing data from industry publications such as *SBB* in other recent CVD proceedings involving the PRC. *See, e.g.,* CWP Decision Memorandum at 11 and LWRP Decision Memo at 9. Also, 19 CFR 351.511(a)(2)(ii) states that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, we have averaged the prices to calculate an overall benchmark.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Regarding delivery charges, we have included the freight charges that would be incurred to deliver steel rounds to the respondents' plants. We have also added import duties, as reported by the GOC, and the value-added tax ("VAT") applicable to imports of steel rounds and billet into the PRC. We have compared these prices to the respondents' actual purchase prices, including any taxes and delivery charges incurred to deliver the product to the respondents' plants.

Comparing the adjusted benchmark prices to the prices paid by the respondents for their steel rounds and billet, we preliminarily determine that the GOC provided steel rounds and billet for less than adequate remuneration, and that a benefit exists in the amount of the difference between the benchmark and what the respondents paid. *See* 19 CFR 351.511(a).

Finally, with respect to specificity, the GOC at page 91 of the GQR stated, "Steel rounds (billets in round shape that can be used to produce seamless pipe) are {used} by the seamless pipe industry." Therefore, we preliminarily determine that this subsidy is specific because the recipients are limited in number. *See* section 771(5A)(D)(iii)(I) of the Act.

Based on the above, we preliminarily determine that the GOC conferred a countervailable subsidy on TPCO and Hengyang through the provision of steel rounds for less than adequate remuneration. To calculate the subsidy, we took the difference between the delivered world market price and what each respondent paid for steel rounds, including delivery charges, during the POI. On this basis, we preliminarily calculated a net countervailable *ad valorem* subsidy rate of 4.98 percent for TPCO and 2.82 percent for Hengyang.

D. Provision of Electricity for Less Than Adequate Remuneration

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Facts Available" section above, we are basing our determination regarding the government's provision of electricity in part on AFA.

In a CVD case, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, typically finds that a financial contribution exists under the alleged program and that the program is specific. However, where possible, the Department will normally rely on the responsive producer's or exporter's records to determine the existence and amount of the benefit to the extent that those records are useable and verifiable.

Consistent with this practice, the Department finds that the GOC's provision of electricity confers a financial contribution, under section 771(5)(D)(iii) of the Act, and is specific, under section 771(5A) of the Act. To determine the existence and amount of any benefit from this program, we relied on the companies' reported information on the amounts of electricity they purchased and the amounts they paid for electricity during the POI. We compared the rates paid by TPCO and Hengyang for their electricity to the highest rates that they would have paid in the PRC during the POI. Specifically, we have selected the highest rates for "large industrial users" for the peak, valley and normal ranges. The valley and normal ranges were selected from the GQR at Exhibit 85, Electricity Sale Rate Schedule of Zhejiang Grid. The peak rate is the electricity rate for Dongguan City as reported in the GOC's March 12, 2009 supplemental questionnaire response at Exhibit S2–4 in the CVD investigation of "Certain Kitchen Appliance Shelving and Racks from the People's Republic of China." *See* Memorandum to File from Yasmin Nair, International Trade Compliance Analyst, Office 1, "Electricity Rate Data" (February 22, 2010). This benchmark reflects the adverse inference we have drawn as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation.

On this basis, we preliminarily determine the countervailable subsidy to be 1.53 percent *ad valorem* for TPCO and 3.91 percent *ad valorem* for Hengyang.

E. The State Key Technology Project Fund

TPCO reported that it received funds from the State Key Technology Renovation Fund in 2003. In Exhibit V–

1 of the GQR, the GOC provided the notice for implementation of the fund. The notice states that the purpose of the program is to "support the technological renovation of key industries, key enterprises and key products * * *" The notice also states, "The enterprises shall be mainly selected from large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises of the industries."

The Department has previously found this program to be countervailable. *See, e.g., Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances,* 73 FR 40480 (July 15, 2008), and the accompanying Issues and Decision Memorandum at page 23 and Comment G.7.

We preliminarily determine that TPCO received a countervailable subsidy under the State Key Technology Renovation Fund. We find that this grant is a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. *See* 19 CFR 351.504(a). Further, we preliminarily determine that the grant provided under this program is limited as a matter of law to certain enterprises; *i.e.,* large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises. Hence, we preliminarily find that the subsidy is specific under section 771(5A)(D)(i) of the Act.

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. *See* 19 CFR 351.524(b). Because the grant exceeded 0.5 percent of TPCO's sales in the year the grant was approved (*i.e.,* 2003), we have allocated the benefit over the 15-year AUL using the discount rate described under the "*Benchmarks and Discount Rates*" section above. On this basis, we preliminarily determine the countervailable subsidy to be 0.01 percent *ad valorem* for TPCO.

F. Subsidies Provided in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area

TPCO reported that it used two programs for companies in the Tianjin Binhai New Area ("TBNA"): the Science and Technology Fund Program and the Accelerated Depreciation Program. TPCO received a grant under the Science and Technology Fund Program and paid reduced income taxes under the Accelerated Depreciation Program. TPCO also reported that it purchased land-use rights and rented land-use rights for different plots of land within the TBNA during the POI and prior to the POI.

Science and Technology Fund

The GOC's measures for the Science and Technology Fund, which the GOC provided at 134 of the GQR, describe the fund's purpose as follows: (1) Promote the construction of the science-technology infrastructure in TBNA; (2) enhance science-technology renovation and service abilities; (3) improve the business environment of renovation entrepreneurship; and 4) construct a new science-technology renovation system. On page 138 of the GQR, the GOC stated that eligibility for the program is limited to enterprises within the TBNA Administrative Committee's jurisdiction.

We preliminarily determine that TPCO received a countervailable subsidy during the POI under the TBNA Science and Technology Fund Program. We find that this grant is a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. *See* 19 CFR 351.504(a). We further determine preliminarily that grants under this program are limited to enterprises located in a designated geographic region (*i.e.,* the TBNA). Hence, the grants are specific under section 771(5A)(D)(iv) of the Act.

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. *See* 19 CFR 351.524(b). Because the benefit was less than 0.5 percent of TPCO's consolidated sales during the POI, we have preliminarily expensed the entire amount to the POI. *See* 19 CFR 351.524(b)(2). On this basis, we preliminarily determine the countervailable subsidy to be 0.03 percent *ad valorem* for TPCO.

Accelerated Depreciation Program

Regarding the Accelerated Depreciation program, the GOC circular for the program (Exhibit 109 of the GQR) stipulates that enterprises in the TBNA may shorten the depreciation period of certain fixed assets by a maximum of 40 percent of the present depreciation period. On page 147 of the GQR, the GOC stated that eligibility for the program is limited to enterprises within the TBNA.

We preliminarily determine that TPCO received a countervailable subsidy during the POI under the Accelerated Depreciation program. The Accelerated Depreciation program constitutes a financial contribution in the form of revenue forgone that is otherwise due within the meaning of section 771(5)(D)(ii) of the Act, with the benefit equaling the income tax savings (*see* 19 CFR 351.509(a)). The program affected TPCO's income taxes for the 2007 tax year. Thus, under the normal standard in 19 CFR 351.509(b), TPCO received a benefit from this program in 2008, when it filed its 2007 annual tax return. Further, we determine preliminarily that the reduction afforded by this program is limited to enterprises located in designated geographic regions and, hence, is specific under section 771(5A)(D)(iv) of the Act.

To calculate the benefit, we divided the reduction in TPCO's income taxes resulting from the program by TPCO's consolidated sales, in accordance with 19 CFR 351.524(c)(1) and 19 CFR 351.525(b)(6)(iii). On this basis, we preliminarily determine the countervailable subsidy to be 0.58 percent *ad valorem* for TPCO.

Land

Regarding land, TPCO and its reporting cross-owned affiliates are all located in the TBNA, and TPCO, TPCO Iron, and Yuantong have purchased "granted" land-use rights within the TBNA. At page 86 of the GQR, the GOC reported that TPCO obtained its land-use rights in accordance with Article 11 of Decree 21 of the Ministry of Land and Resources. Article 11, at Exhibit 73 of the GQR, establishes provisions for the "agreement-based assignment of the right to use state-owned land." Article 11 states that the "agreement-based assignment of the right to use state-owned land" refers to the land user's right to use state-owned land for a certain period, and to the land user's payment of a fee to the state for the land-use right. TPCO and TPCO Iron purchased their land-use rights from the Dongli District Land and Resource Administration Bureau, and Yuantong purchased its land-use rights from the Tianjin Port Bonded Zone Land and Resource Administration Bureau.

The Department determined in *LWS* that the provision of land-use rights constitutes the provision of a good within the meaning of section 771(5)(D)(iii) of the Act.[23] The Department also found that when the land is in an industrial park located

[23] *See Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances,* 73 FR 35639 (June 24, 2008) ("*LWS*"), and the accompanying Issues and Decision Memorandum at Comment 8.

within the seller's (*e.g.,* county's or municipality's) jurisdiction, the provision of the land-use rights is regionally specific (*see* section 771(5A)(D)(iv) of the Act).[24] In the instant investigation, the TBNA is a designated area within the jurisdictions that provided land-use rights to TPCO and its cross-owned affiliates since December 11, 2001. Therefore, consistent with *LWS,* we preliminarily find that TPCO's purchases of granted land-use rights give rise to countervailable subsidies to the extent that the purchases conferred a benefit. We will continue to evaluate for the final determination the circumstances under which TPCO received land for LTAR pursuant to its location in this zone.

To determine whether TPCO received a benefit, we have analyzed potential benchmarks in accordance with 19 CFR 351.511(a). First, we look to whether there are market-determined prices within the country. *See* 19 CFR 351.511(a)(2)(i). In *LWS,* the Department determined that "Chinese land prices are distorted by the significant government role in the market" and, hence, that usable tier one benchmarks do not exist.[25] The Department also found that tier two benchmarks (world market prices that would be available to purchasers in the PRC) are not appropriate.[26] *See* 19 CFR 351.511(a)(2)(ii). Therefore, the Department determined the adequacy of remuneration by reference to tier 3 and found that the sale of land-use rights in the PRC was not consistent with market principles because of the overwhelming presence of the government in the land-use rights market and the widespread and documented deviation from the authorized methods of pricing and allocating land.[27] *See* 19 CFR 351.511(a)(2)(iii). There is insufficient new information on the record of this investigation to warrant a change from the findings in *LWS.*

For these reasons, we are not able to use Chinese or world market prices as a benchmark. Therefore, we are preliminarily comparing the price that TPCO paid for its granted land-use rights with comparable market-based prices for land purchases in a country at a comparable level of economic development that is reasonably proximate to, but outside of, the PRC. Specifically, we are preliminarily comparing the price TPCO paid to sales of certain industrial land in industrial estates, parks, and zones in Thailand, consistent with *LWS.*

To calculate the benefit, we computed the amount that TPCO would have paid for its granted land-use rights and subtracted the amount TPCO actually paid for each purchase. For purchases in which the subsidy amount exceeded 0.5 percent of TPCO's sales in the year of purchase, we have used the discount rate described under the *Benchmarks and Discount Rates* section above to allocate the benefit over the life of the land-use rights contract. For these purchases, we divided the amount allocated to the POI by TPCO's consolidated sales during the POI. For purchases in which the benefit was less than 0.5 percent of TPCO's consolidated sales in the year of the purchase, we have preliminarily expensed the entire amount to the year in which TPCO purchased the land-use rights. *See* 19 CFR 351.524(b)(2). On this basis, we preliminarily determine the total countervailable subsidy for all of TPCO's land-use rights purchases to be 0.11 percent *ad valorem* during the POI.

TPCO also reported that it rented certain land parcels within the TBNA from TPCO Holding during the POI. Specifically, on pages 45–46 of the TQR, TPCO reported that it operates on the largest of these three parcels under a lease agreement that it signed with TPCO Holding in 2005. TPCO also stated that it will compensate TPCO Holding for the lease of two other parcels under terms that TPCO and TPCO Holding will memorialize in 2009. Finally, TPCO explained that it rented office space in the TBNA from another party during the POI.[28]

As we explained above in the "Attribution of Subsidies" section, we preliminarily determine that TPCO Holding was an authority within the meaning of section 771(5)(B) of the Act at the time of the lease agreement and throughout the POI. Moreover, we preliminarily determine that this subsidy is *de facto* specific because it is limited to TPCO (section 771(5A)(D)(iii)(I) of the Act). Therefore, consistent with *OTR Tires from the PRC,* we preliminarily find that TPCO's lease of land under the 2005 lease gives rise to a countervailable subsidy to the extent that the lease conferred a benefit.[29]

To determine whether TPCO received a benefit, we are following the same steps outlined above for the purchase of land-use rights. Specifically, we are preliminarily comparing the rent TPCO paid to industrial rental rates for factory space in Thailand during the POI. We are preliminarily attributing the subsidy to TPCO's consolidated sales, in accordance with 19 CFR 351.525(b)(6)(iii).

On this basis, we preliminarily determine the countervailable subsidy to be 2.55 percent *ad valorem* for TPCO.

G. Other Subsidies Received by TPCO

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Facts Available" section above, we are basing our determination regarding the government's provision of other subsidies received by TPCO in part on AFA.

The information submitted by TPCO in its February 16, 2010, response regarding these subsidies is business proprietary. Consequently, we have addressed these subsidies in the TPCO Calculation Memo.

We preliminarily determine that TPCO received countervailable subsidies. We find that these subsidies are a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. See 19 CFR 351.504(a). We determine, in the absence of a response from the GOC, that the subsidies received under this program are limited to TPCO. Hence, we find that these subsidies are specific under section 771(5A)(D)(i) of the Act.

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. *See* 19 CFR 351.524(b). Because the benefit was less than 0.5 percent of TPCO's consolidated sales during the POI, we have preliminarily expensed the entire amount to the POI. *See* 19 CFR 351.524(b)(2). On this basis, we preliminarily determine the countervailable subsidy to be 0.03 percent *ad valorem* for TPCO.

H. Import Tariff and VAT Exemptions for FIEs Using Imported Equipment in Encouraged Industries

Enacted in 1997, the *Circular of the State Council on Adjusting Tax Policies on Imported Equipment* (GUOFA No. 37) (Circular No. 37) exempts both FIEs and certain domestic enterprises from the VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed lists of non-eligible items. The National Development and Reform Commission or its provincial branch provides a certificate to enterprises that receive the exemption. The objective of

[24] *Id.* at Comment 9.

[25] *Id.* at Comment 10.

[26] *Id.* at section IV.A.1, "Analysis of Programs—Government Provision of Land for Less Than Adequate Remuneration."

[27] *Id.* at Comment 10.

[28] The information on this party is business proprietary. Thus, we have addressed this information in the TPCO Calculation Memo.

[29] *See* OTR Tires Decision Memo at Comment F.12.

the program is to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.

TPCO Group, through TPCO International, received VAT and tariff exemptions under this program. TPCO received these exemptions due to its status as a qualified domestic enterprise that received a Certificate for State-Encouraged Projects, according to the GQR at page 70. Hengyang Valin and Hengyang MPM also reported using this program during the POI.

We preliminarily determine that VAT and tariff exemptions on imported equipment confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue forgone by the GOC and they provide a benefit to the recipient in the amount of the VAT and tariff savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1).

As described above, FIEs and certain domestic enterprises are eligible to receive VAT and tariff exemptions under this program. In *CFS from the PRC,* the Department found the beneficiaries of this program to be specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. *See* CFS Decision Memorandum at Comment 16 (discussing and affirming the preliminary determination that this program is specific under section 771(5A)(D)(iii)(I) of the Act despite the fact that the "pool of companies eligible for benefits is larger than FIEs"). No information has been provided in this investigation to demonstrate that the beneficiary companies are a non-specific group. Therefore, consistent with the determination in *CFS from the PRC,* we preliminarily find that the VAT and tariff exemptions extended under this program are provided to a group of industries and that the subsidy is specific.

Normally, we treat exemptions from indirect taxes and import charges, such as the VAT and tariff exemptions, as recurring benefits, consistent with 19 CFR 351.524(c)(1) and allocate the benefits to the year in which they were received. However, when an indirect tax or import charge exemption is provided for, or tied to, the capital structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit to the firm over the AUL. *See* 19 CFR 351.524(c)(2)(iii) and 19 CFR 351.524(d)(2).

In the instant investigation, TPCO and Hengyang have provided a list of VAT and tariff exemptions that they received for imported capital equipment during the 15-year AUL period. In light of our preliminary determination to find subsidies only after December 11, 2001, we have not examined VAT and tariff exemptions prior to this date. To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. *See* 19 CFR 351.524(b). For certain years prior to the POI, TPCO and Hengyang reported VAT and tariff exemptions that were more than 0.5% of their sales. Based on TPCO's and Hengyang's information, we preliminarily determine that the VAT and tariff exemptions were for capital equipment. We have allocated the benefit over the 15-year AUL using the discount rate described under the "*Benchmarks and Discount Rates*" section above.

For TPCO and Hengyang, the total amount of VAT and tariff exemptions received during the POI did not exceed 0.5% of their POI sales. Based on TPCO's and Hengyang's information, we preliminarily determine that the VAT and tariff exemptions were for capital equipment. Thus, we have preliminarily expensed the entire amount to the POI. *See* 19 CFR 351.524(b)(2).

To calculate the countervailable subsidy, we used our standard methodology for non-recurring grants. *See* 19 CFR 351.524(b). Specifically, we used the discount rate described above in the "Benchmarks and Discount Rates" section to calculate the amount of the benefit for the POI. On this basis, we preliminarily determine that a countervailable benefit of 0.18 percent *ad valorem* exists for TPCO, and that a countervailable benefit of 0.44 percent *ad valorem* exists for Hengyang.

I. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment

According to the *Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation* {*Projects*} (CAI SHU ZI {1999} No. 290), a domestically invested company may claim tax credits on the purchase of domestic equipment if the project is compatible with the industrial policies of the GOC. Specifically, a tax credit up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year.[30] The Department has previously found this program countervailable. *See, e.g., Line Pipe from the PRC* and accompanying Issues and Decision Memorandum at 25–26.

Hengyang reported that Hengyang MPM received this benefit during the POI. *See* HQR at 24.

We preliminarily determine that income tax credits for the purchase of domestically produced equipment are countervailable subsidies. The tax credits are a financial contribution in the form of revenue forgone by the government and provide a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further preliminarily determine that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(C) of the Act.

To calculate the benefit, we treated the income tax savings enjoyed by Hengyang MPM as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the company's tax savings by the combined total sales of Hengyang Valin, Hengyang MPM, Xigang Seamless, and Special Pipe, minus inter-company sales, during the POI. On this basis, we preliminarily determine that a countervailable subsidy of 0.34 percent *ad valorem* exists for Hengyang under this program.

J. "Two Free, Three Half" Program

Under Article 8 of the *FIE Tax Law,* an FIE that is "productive" and is scheduled to operate for more than ten years may be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years. *See* GOC's January 25, 2010, cross-owned companies submission at Exhibit P–1. The Department has previously found this program countervailable. *See, e.g.,* CFS Decision Memorandum at 10–11.

Hengyang reported that Special Pipe and Resources Steel used this program during the POI.[31]

We preliminarily determine that the exemption or reduction of the income tax paid by productive FIEs under this program confers a countervailable subsidy. The exemption/reduction is a financial contribution in the form of revenue forgone by the GOC, and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption/reduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.,* "productive" FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act. *See* CFS Decision Memorandum at Comment 14.

[30] *See* GQR at 51.

[31] *See* HQR at Volume 5, page 37.

To calculate the benefit, we treated the income tax savings enjoyed by Special Pipe and Resources Steel as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax rate the above companies would have paid in the absence of the program with the income tax rate the company actually paid. We divided Special Pipe's tax savings during the POI by the combined sales of Special Pipe, Xigang Seamless, Hengyang Valin, and Hengyang MPM (exclusive of inter-company sales). We divided Resources Steel's tax savings during the POI by the combined sales of Resources Steel, Special Pipe, and Xigang Seamless (exclusive of inter-company sales). On this basis, we preliminarily determine that Hengyang received a countervailable subsidy of 0.27 percent *ad valorem* under this program.

K. Local Income Tax Exemption and Reduction Programs for "Productive" FIEs

Under Article 9 of the *FIE Tax Law,* the provincial governments have the authority to exempt FIEs from the local income tax of three percent. *See* the GOC's January 25, 2010, cross-owned companies submission at Exhibit P–1.

The Department has previously found this program to be countervailable. *See, e.g.,* CFS Decision Memorandum at pages 12–13; *see also* Citric Acid Decision Memorandum at page 21.

Hengyang reported that Seamless Pipe and Resources Steel used this program during the POI.[32]

We preliminarily determine that the exemption from or reduction in the local income tax received by "productive" FIEs under this program confers a countervailable subsidy. The exemption or reduction is a financial contribution in the form of revenue forgone that is otherwise due by the government, and it provides a benefit to the recipient in the amount of the tax savings, per section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption or reduction afforded by this program is limited as a matter of law to certain enterprises, *i.e.,* "productive" FIEs, and, hence, is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit for Special Pipe and Resources Steel, we treated the income tax savings enjoyed by the companies as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the local income tax rate that the companies would have paid in the absence of the program (*i.e.,* three percent) with the income tax rate the companies actually paid (*i.e.,* zero percent).

For Special Pipe, we divided the company's tax savings received during the POI by the combined POI sales of Special Pipe, Xigang Seamless, Hengyang Valin, and Hengyang MPM, minus inter-company sales. For Resources Steel, we divided the company's tax savings received during the POI by the combined sales of Resources Steel, Special Pipe, and Xigang Seamless. On this basis, we preliminarily determine that Hengyang received a countervailable subsidy of 0.07 percent *ad valorem.*

L. Government Debt Forgiveness

TPCO

On pages 26–27 of the TQR, TPCO reported that in 2006 and 2008 it settled claims related to loans that continued to be outstanding after a debt-to-equity transaction occurring in 2001. TPCO settled debt held by China Orient Asset Management Corporation and Cinda. *See* TPCO Calculation Memo.

We preliminarily determine that through this settlement the GOC forgave debt owed by TPCO and, thus, provided a financial contribution to TPCO in the form of a direct transfer of funds (section 771(5)(D)(i) of the Act). The benefit to TPCO is the amount of the debt forgiven (section 771(5)(D)(i) of the Act and 19 CFR 351.508(a)). Additionally, we preliminarily determine that this subsidy is *de facto* specific because it is limited to TPCO (section 771(5A)(D)(iii)(I) of the Act).

Forgiveness of part of the debt occurred in 2006, and approval for forgiveness of the remainder of the debt occurred in 2008. To calculate the countervailable subsidy for the debt forgiveness approved in each year, we used our standard methodology for non-recurring benefits. *See* 19 CFR 351.524(b). Because the amount of the 2006 portion of the debt forgiveness exceeded 0.5 percent of TPCO's sales in 2006, we have allocated the benefit over the 15-year AUL using the discount rate described under the *Benchmarks and Discount Rates* section above. We attributed the subsidy amount for the POI to TPCO's consolidated sales. On this basis, we preliminarily determine the countervailable subsidy to be 0.04 percent *ad valorem* for TPCO.

For the debt forgiveness approved in 2008, the benefit was less than 0.5 percent of TPCO's consolidated sales during the POI. Thus, we have preliminarily expensed the entire amount to the POI. *See* 19 CFR 351.524(b)(2). On this basis, we preliminarily determine the countervailable subsidy to be 0.11 percent *ad valorem* for TPCO. The Department may seek further information following this preliminary determination regarding the extent of forgiveness.

Hengyang

In the HQR at Volume 5, pages 24–27, Hengyang reported that Xigang Group and Resources Steel underwent loan restructurings since December 11, 2001, through the POI. The information on these loan restructurings is business proprietary. Thus, we have addressed the information in the Hengyang Calculation Memo.

We preliminarily determine that through this settlement the GOC forgave debt owed by Xigang Group and Resources Steel and, thus, provided a financial contribution to Xigang Group and Resources Steel in the form of a direct transfer of funds (section 771(5)(D)(i) of the Act). The benefit to Xigang Group and Resources Steel is the amount of the debt forgiven (19 CFR 351.508(a)). Additionally, we preliminarily determine that this subsidy is *de facto* specific as it is limited to Xigang Group and Resources Steel (section 771(5A)(D)(iii)(I) of the Act).

Approval for forgiveness of debt occurred in 2005, 2006, 2007, and 2008. To calculate the countervailable subsidy for the debt forgiveness approved in each year, we used our standard methodology for non-recurring benefits. *See* 19 CFR 351.524(b). Because the amount of the 2005 and 2007 portions of the debt forgiveness exceeded 0.5 percent of Xigang Group's sales in 2005 and 2007, respectively, we have allocated the benefit for each year over the 15-year AUL using the discount rate described under the *Benchmarks and Discount Rates* section above. We attributed the subsidy amount for the POI to Xigang Group's consolidated sales.

For the debt forgiveness approved in 2006, the benefit was less than 0.5 percent of Xigang Group's consolidated sales. Thus, we have preliminarily expensed the entire amount to 2006. *See* 19 CFR 351.524(b)(2).

For the debt forgiveness approved during the POI, the benefit was less than 0.5 percent of Xigang Group's and Resources Steel's consolidated sales during the POI. Thus, we have preliminarily expensed the entire amount to the POI. *See* 19 CFR 351.524(b)(2).

On this basis, we preliminarily determine the countervailable subsidy

[32] *See* HQR at Volume 5, page 39.

to be 2.66 percent *ad valorem* for Hengyang. The Department may seek further information following this preliminary determination regarding the extent of forgiveness.

II. Program Preliminarily Determined Not Countervailable

A. Export Restrictions on Coke

Petitioners alleged that the GOC imposed export restrictions on coke in the form of export quotas, related export licensing and export duties. Petitioners maintain that such export restraints had a direct and discernible effect on the Chinese domestic prices of coke, thereby, artificially lowering them compared to world market prices. Accordingly, petitioners asserted that the GOC's export restraints on coke provided a countervailable subsidy to Chinese seamless pipe producers during the POI.

The Department has countervailed export restraint allegations in only a limited number of cases. In *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Leather From Argentina,* 55 FR 40212 (October 2, 1990), we found an embargo on hide exports to provide a countervailable subsidy to Argentine leather producers based on a long-term historical price comparison that demonstrated a clear link between the imposition of the embargo and the divergence of prices. In *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination,* 72 FR 60642 (October 25, 2007), and accompanying Issues and Decision Memorandum at Comment 24, we found that a log embargo provided a countervailable benefit to paper producers, in part, based upon independent studies that stated that the log embargo provided a subsidy to downstream producers.

At Exhibit 31 of their February 12, 2010, pre-preliminary determination comments, Petitioners submitted an economic study from the Brattle Group on the economic effects of export restraints on the price of coke in the PRC. Given the relatively recent submission date, the Department has not had sufficient time to fully consider the information presented in this study. However, based on an initial analysis of this study as well as the other record evidence, we preliminarily find that the record does not support a finding that this program is countervailable. The study provides an economic model that explains, in theory, how export restraints might have an impact on quantities and prices. The economic model and the other limited data on the record do not demonstrate that the GOC is entrusting or directing private entities to provide coke to the respondents and, therefore, the record does not support a finding of a government financial contribution. Moreover, the record evidence does not sufficiently demonstrate a link between the particular export restraints pertaining to coke and the historic trends in domestic and world coke supply and prices, and does not address other possible contributing factors behind the trends in those quantities and prices. In particular, the study provides data for the period January 2006 through May 2009 for Chinese domestic coke prices and Chinese export coke prices. Although the data show that domestic Chinese prices have been lower than export prices from the PRC, the data do not show a connection between the export restraints and this price difference. Therefore, consistent with our findings in *OCTG from the PRC,*[33] we preliminarily continue to find the program to be not countervailable.

B. Export Incentive Payments Characterized as "VAT Rebates"

The Department's regulations state that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted "exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption." *See* 19 CFR 351.517(a); *see also* 19 CFR 351.102 (for a definition of "indirect tax").

To determine whether the GOC provided a benefit under this program, we compared the VAT exemption upon export to the VAT levied with respect to the production and distribution of like products when sold for domestic consumption. On page 39 of the GQR, the GOC reported that the VAT levied on seamless pipe sales in the domestic market (17 percent) exceeded the amount of VAT exempted upon the export of seamless pipe (13 percent). There is, therefore, no excess VAT exemption. Thus, we preliminarily determine that the VAT exempted on the export of seamless pipe is not countervailable.

III. Program for Which More Information Is Required

Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

In Hengyang's February 16, 2010, supplemental questionnaire response at page 14, Hengyang reported that Hengyang Valin received a one-time benefit from this program. Because Hengyang did not report this potential subsidy until its February 16, 2010, submission, we did not have enough time to request further information from the GOC regarding this program. Further, to determine whether any potential benefit from this program exceeded 0.5 percent of Hengyang's sales in the year of approval, we requested Hengyang's 2003 sales figures.[34] We granted Hengyang an extension until February 22, 2010, to submit this information.[35] Because we lack necessary information from the GOC and Hengyang, we intend to address the countervailability of this program in a post-preliminary determination.

IV. Programs Preliminarily Determined To Be Not Used by Respondents or To Not Provide Benefits During the POI

A. Sub-central Government Programs To Promote Famous Export Brands and China World Top Brands

TPCO reported that it received a grant under this program in 2007. On page 50 of the TQR, TPCO stated that the program relates to TPCO's trademark and does not relate to any specific merchandise.

We preliminarily determine that the total amount of the grant was less than 0.5 percent of TPCO's consolidated and unconsolidated sales in 2007. Thus, without prejudice to whether this is a countervailable subsidy, we preliminarily have allocated the benefit exclusively to 2007 pursuant to 19 CFR 351.524(b)(2). As a result, we preliminarily determine that TPCO received no benefit from this program during the POI.

B. Exemptions for SOEs From Distributing Dividends to the State

In the HQR at Vol. 5, page 23, Hengyang reported a potential exemption under this program. All of the details of this potential exemption, including the Hengyang company that received the benefit, are business proprietary. Thus, we have addressed the information in the Hengyang Calculation Memo.

We preliminarily determine that the benefit from this potential exemption was less than 0.5 percent of the appropriate sales denominator in the year of approval, which was prior to the

[33] *See OCTG from the PRC,* and accompanying Issues and Decision Memorandum at Comment 32.

[34] *See* the Department's February 16, 2010, letter to Hengyang, "Third Supplemental Questionnaire."

[35] *See* the Department's February 17, 2010, letter to Hengyang, "Request for Extension of Time to File a Response to the Department's Supplemental Questionnaire."

POI. Thus, without prejudice to whether this is a countervailable subsidy, we preliminarily have allocated any benefit exclusively to the year of approval pursuant to 19 CFR 351.524(b)(2). As a result, we preliminarily determine that Hengyang received no benefit from this program during the POI.

C. Other Programs

Based upon responses by the GOC, TPCO, and Hengyang, we preliminarily determine that TPCO and Hengyang did not apply for or receive benefits during the POI under the programs listed below.

1. *Preferential Loan Programs*
   a. *Treasury Bond Loans to Northeast*
   b. *Preferential Loans for State-Owned Enterprises*
   c. *Preferential Loans for Key Projects and Technologies*
   d. *Preferential Lending to Seamless Pipe Producers and Exporters Classified as* "*Honorable Enterprises*"
   e. *Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program*
2. *Equity Programs*
   a. *Debt-to-Equity Swap for TPCO*
   b. *Equity Infusion in TPCO*
   c. *Exemptions for SOEs From Distributing Dividends to the State*
   d. Loan and Interest Forgiveness for SOEs [36]
3. *Tax Benefit Programs*
   a. *Preferential Income Tax Policy for Enterprises in the Northeast Region*
   b. *Forgiveness of Tax Arrears For Enterprises in the Old Industrial Bases of Northeast China*
   c. *Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax*
   d. *Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises*
   e. *Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises*
4. *Tariff and Indirect Tax Programs*
   a. *Stamp Exemption on Share Transfers Under Non-Tradable Share Reform*
   b. *Export Incentive Payments Characterized as* "*VAT Rebates*"
5. *Land Grants and Discounts*
   a. *Provision of Land to SOEs for Less Than Adequate Remuneration*
6. *Provision of Inputs for Less than Adequate Remuneration*
   a. *Provision of Electricity and Water at Less than Adequate Remuneration to Seamless Pipe Producers Located in Jiangsu Province*
   b. *Provision of Coking Coal for Less than Adequate Remuneration*
7. *Grant Programs*
   a. *Foreign Trade Development Fund (Northeast Revitalization Program)*
   b. *Export Assistance Grants in Zhejiang Province*
   c. *Program to Rebate Antidumping Fees in Zhejiang Province Subsidies for Development of Famous Export Brands and China World Top Brands*
   d. *Grants to Loss-Making SOEs*
   e. *Export Interest Subsidies in Liaoning Province*
8. *Other Regional Programs*
   a. *High-Tech Industrial Development Zones*

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated a rate for each individually investigated producer/exporter of the subject merchandise. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an "all others" rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Notwithstanding the language of section 705(c)(1)(B)(i)(I) of the Act, we have not calculated the "all others" rate by weight averaging the rates of TPCO and Hengyang, because doing so risks disclosure of proprietary information. Therefore, we have calculated a simple average of the two responding firms' rates. Since both TPCO and Hengyang received countervailable export subsidies and the "all others" rate is a simple average based on the individually investigated exporters and producers, the "all others" rate includes export subsidies.

We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/manufacturer	Net subsidy rate
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd.	11.06
Hengyang Steel Tube Group Int'l Trading, Inc., Hengyang Valin Steel Tube Co., Ltd., Hengyang Valin MPM Tube Co., Ltd., Xigang Seamless Steel Tube Co., Ltd., Wuxi Seamless Special Pipe Co., Ltd., Wuxi Resources Steel Making Co., Ltd., and Jiangsu Xigang Group Co., Ltd.	12.97
All Others	12.02

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of seamless pipe from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register,** and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above. Moreover, in accordance with section 703(e)(2)(A) of the Act, for Hengyang and "all other" Chinese exporters of seamless pipe, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption, on or after the date 90 days prior to the date of publication of this notice in the **Federal Register.**

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either

[36] We have found company-specific debt forgiveness for TPCO and Hengyang under the *Government Debt Forgiveness* program, as described above.

publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Due to the anticipated timing of verification and issuance of verification reports, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c)(i) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. *See* 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Acting Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: February 22, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–4192 Filed 2–26–10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Secretarial China Clean Energy Business Development Mission; Application Deadline Extended

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The Commerce Department's Office of Business Liaison and the International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

Recruitment for this mission will begin immediately upon approval. Applications can be completed on-line at the Clean Energy Business Development Missions' Web site at *http://www.trade.gov/CleanEnergyMission* or can be obtained by contacting the U.S. Department of Commerce Office of Business Liaison (202–482–1360 or *CleanEnergyMission@doc.gov).* The application deadline has been extended to Friday, March 12, 2010. Completed applications should be submitted to the Office of Business Liaison. Applications received after Friday, March 12, 2010 will be considered only if space and scheduling constraints permit.

Contacts

The Office of Business Liaison, 1401 Constitution Avenue, NW., Room 5062, Washington, DC 20230, Tel: 202–482–1360, Fax: 202–482–4054, E-mail: *CleanEnergyMission@doc.gov.*

Sean Timmins,

Global Trade Programs, Commercial Service Trade Missions Program.

[FR Doc. 2010–4104 Filed 2–26–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Secretarial Indonesia Clean Energy Business Development Mission: Application Deadline Extended

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The Commerce Department's Office of Business Liaison and the International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

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