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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-984)

Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce ("Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of drawn stainless steel sinks ("SS sinks") from the People's Republic of China ("PRC"). For information on the estimated subsidy rates, *see* the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Shane Subler or Hermes Pinilla, 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 or (202) 482-3477, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the notice of initiation in the *Federal Register*.[1]

[1] *See Drawn Stainless Steel Sinks from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 77 FR 18211 (March 27, 2012) ("*Initiation Notice*"), and the accompanying Initiation Checklist ("*SS Sinks Checklist*").

On April 20, 2012, 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 materially injured by reason of allegedly subsidized imports of SS sinks from the PRC.[2]

The Department released U.S. Customs and Border Protection ("CBP") entry data for U.S. imports of SS sinks from the PRC between January 1, 2011, and December 31, 2011, to be used as the basis for respondent selection.[3] The Department received comments on this CBP data from the petitioner, Elkay Manufacturing Company ("Petitioner"), Zhongshan Superte Kitchenware Co., Ltd. ("Superte"), Foshan Zhaoshun Trade Co., Ltd. ("Zhaoshun"), the Government of the PRC ("GOC"), Zoje Holding Group Co., Ltd., Jiangxi Zoje Kitchen & Bath Industry Co., Ltd., and Jiangxi Offidun Industry Co., Ltd. (collectively, "Zoje"), Guangdong Yingao Kitchen Utensils Co., Ltd. ("Yingao") and Guangdong Kitchenware Industrial Co., Ltd. The Department addressed these comments in its respondent selection memorandum, discussed below.

On May 9, 2012, the Department issued its respondent selection analysis.[4] Given available resources, the Department determined it could examine no more than two producers/exporters and selected Yingao and Superte. *Id.* These companies were the two largest producers/exporters of subject merchandise, based on aggregate volume, to the United States.

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[2] *See Drawn Stainless Steel Sinks From China*, 77 FR 23752 (April 20, 2012).

[3] *See* Memorandum from Hermes Pinilla, International Trade Compliance Analyst to the File, "Release of Customs and Border Protection Entry Data to Interested Parties for Comment," dated March 28, 2012.

[4] *See* Memorandum from Hermes Pinilla, International Trade Analyst, through Shane Subler, Senior International Trade Analyst, and Susan Kuhbach, Office Director, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Selection of Respondents for the Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China," dated May 9, 2012.

On March 22, 2012, prior to the *Initiation Notice*, we received a request from Zoje to be a voluntary respondent.[5] Zoje did not, however, submit a response to the Department's initial questionnaire issued to the GOC on May 10, 2012.

On May 10, 2012, the Department postponed the deadline for the preliminary determination in this investigation until July 30, 2012.[6]

Also on May 10, the Department issued the countervailing duty ("CVD") questionnaire to the GOC. We received initial questionnaire responses from the GOC, Yingao, and Superte on June 28, 2012. Supplemental questionnaires were sent to Yingao on July 10, and to the GOC and Superte on July 12, 2012. We received supplemental questionnaire responses ("SQR") from Yingao on July 19 and 24, 2012; from the GOC on July 20 and 26, 2012; and from Superte on July 23, 2012.

On June 6, 2012, Petitioner submitted new subsidy allegations requesting the Department to expand its CVD investigation to include an additional subsidy programs. The Department is currently reviewing these new subsidy allegations.

We received deficiency comments on the GOC's, Yingao's and Superte's responses from Petitioner on July 11, 2012. We received pre-preliminary comments from Petitioner on July 23 and 24, 2012.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation ("POI"), is January 1, 2011, through December 31, 2011.

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[5] *See* letter from Zoje to the Department dated March 22, 2012, "Request for Voluntary Respondent Treatment in the Antidumping and Countervailing Duty Investigations of Drawn Stainless Steel Sinks from People's Republic of China (A-570-983 and C-570-984)."

[6] *See Drawn Stainless Steel Sinks From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 77 FR 27437 (May 10, 2012).

Scope Comments

In accordance with the preamble to the Department's regulations,[7] in the *Initiation Notice,* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. On April 10, 2012, we received scope comments from Blanco America, Inc. ("Blanco"), an importer of subject merchandise. The Department is evaluating the comments submitted by Blanco and will issue its decision regarding the scope of the antidumping ("AD") and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on September 27, 2012. Scope decisions made in the AD investigation will be incorporated into the scope of the CVD investigation.

Scope of the Investigation

The products covered by the scope of this investigation are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel ("SS sinks"). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of this investigation if they are included within the sales price of the SS sinks.[8] For purposes of this scope definition, the term "drawn" refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. SS sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). SS sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered

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[7] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).
[8] Mounting clips, fasteners, seals, and sound deadening pads are not covered by the scope of this investigation if they are not included within the sales price of the SS sinks, regardless of whether they are shipped with or entered with SS sinks.

by the scope of the investigation. SS sinks are covered by the scope of the investigation whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the investigation are SS sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. SS sinks with fabricated bowls may sometimes be referred to as “zero radius” or “near zero radius” sinks.

The products covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting number 7324.10.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the products under investigation is dispositive of its inclusion as subject merchandise.

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) (“*Coated Paper from the PRC*”), and the accompanying Issues and Decision Memorandum (“Coated Paper Decision Memorandum”). In *Coated Paper 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 the PRC. *See* Coated Paper Decision Memorandum at Comment 6. The Department has affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.[9] Furthermore, on March 13, 2012, HR 4105 was enacted which makes clear that the Department has the authority to apply the CVD law to non-market economies ("NMEs") such as the PRC. The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.[10] 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 World Trade Organization ("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, *inter alia*, 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. Section 776(b) of the Act also authorizes the Department to use as adverse facts available ("AFA"), information

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[9] *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.

[10] *See* HR 4105, 112th Cong. § 1(b) (2012) (enacted).

derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

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 AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[11] 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."[12]

Application of AFA:

GOC – Government Authorities Under Provision of Stainless Steel Coil ("SSC") for Less Than Adequate Remuneration ("LTAR")

As discussed below under the section "Programs Preliminarily Determined To Be Countervailable," the Department is investigating the provision of SSC for LTAR by the GOC. We requested information from the GOC regarding the specific companies that produced the SSC that the mandatory respondents purchased during the POI. Specifically, we sought information from the GOC that would allow us to determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act.

For each producer that the GOC claimed was privately owned by individuals or companies during the POI, we requested the following.

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[11] *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).
[12] *See* Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong. 2d Session, at 870 (1994).

- Translated copies of source documents that demonstrate the producer'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 producers who were also government or Chinese Communist Party ("CCP") officials or representatives during the POI.
- A statement regarding whether the producer had ever been a state-owned enterprise ("SOE"), and, if so, whether any of the current owners, directors, or senior managers had been involved in the operations of the company prior to its privatization.
- A discussion of whether and how operational or strategic decisions made by the management or board of directors are subject to government review or approval.

For producers owned by other corporations (whether in whole or in part) or with less-than-majority state ownership during the POI, we requested information tracing the ownership of the producer back to the ultimate individual or state owners. Specifically, we requested the following information.

- The identification of any state ownership of the producer's shares; the names of all government entities that own shares, either directly or indirectly, in the producer; the identification of all owners considered SOEs by the GOC; and the amount of shares held by each government owner.
- For each level of ownership, identification of the owners, directors, or senior managers of the producer who were also government or CCP officials during the POI.

- A discussion of whether and how operational or strategic decisions made by the management or board of directors are subject to government review or approval.
- A statement regarding whether any of the shares held by government entities have any special rights, priorities, or privileges with regard to voting rights or other management or decision-making powers of the company; a statement regarding whether there are restrictions on conducting, or acting through, extraordinary meetings of shareholders; a statement regarding whether there are any restrictions on the shares held by private shareholders; and a discussion of the nature of the private shareholders' interests in the company (*e.g.*, operational, strategic, or investment-related).

In its June 28, 2012 questionnaire response and its July 20, 2012 SQR, the GOC provided no ownership information for most of the companies that produced SSC purchased by Superte, Yingao and Foshan Magang Kitchen Utensils Co., Ltd. ("Magang"). Instead, the GOC stated that it was unable to respond to the Department's request and characterized the request as "unreasonable."[13] The GOC did not explain what efforts it had made, if any, to seek this information.[14] For one supplier of SSC which it claimed was "privately owned" by individuals, the GOC provided the business registration, but no information regarding the identification of owners, directors, or senior managers who were also GOC or CCP officials or representatives. In addition, the GOC declined to answer questions about the CCP's structure and functions that are relevant to our determination of whether the producers of SSC are "authorities" within the meaning of section 771(5)(B) of the Act. In its initial questionnaire response, the GOC asserted that SSC producers are not "authorities" within the meaning of applicable U.S. law or "public

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[13] *See* GOC's July 20 SQR ("GSQR") at 7.
[14] *Id*.

bodies" with the meaning of the WTO Agreement on Subsidies and Countervailing Measures. Additionally, the GOC stated that it does not "play a role in the ordinary business operations, including pricing and marketing decisions, of the domestic Chinese SSC industry, including those in which the state holds an ownership interest."[15] The GOC argues that Chinese law prohibits GOC officials from taking positions in private companies.[16]

We have explained our understanding of the CCP's involvement in the PRC's economic and political structure in a past proceeding.[17] Public information suggests that the CCP exerts significant control over activities in the PRC.[18] This conclusion is supported by, among other documents, a publicly available background report from the U.S. Department of State.[19] With regard to the GOC's claim that Chinese law prohibits GOC officials from taking positions in private companies, we have previously found that this particular law does not pertain to CCP officials.[20]

Thus, the Department finds, as it has in past investigations, that the information requested regarding the role of CCP officials in the management and operations of this SSC producer is necessary to our determination of whether this producer is an "authority" within the meaning of section 771(5)(B) of the Act. In addition, the GOC did not promptly notify the Department, in accordance with section 782(c) of the Act, that it was not able to submit the required information

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[15] *See* GSQR at 70.
[16] *Id*. at 73.
[17] *See* Memorandum to the File from Jennifer Meek, International Trade Analyst, AD/CVD Operations, Office 1, regarding "Additional Documents for Preliminary Determination," dated July 30, 2012 ("Additional Documents Memorandum") at Attachments II and III (which include the post-preliminary analysis memorandum from certain seamless carbon and alloy steel standard, line, and pressure pipe and a State Department report, both recognizing the significant role the CCP has in the GOC).
[18] *Id*. at Attachment III.
[19] *Id*.; *see also Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010), and accompanying Issues and Decision Memorandum ("Seamless Pipe Decision Memorandum") at Comment 7.
[20] *See* Seamless Pipe Decision Memorandum at 16.

in the requested form and manner, nor did it suggest any alternative forms for submitting this information. Further, the GOC did not provide any information regarding the attempts it undertook to obtain the requested information for this SSC supplier.

Therefore, we preliminarily determine that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on "facts otherwise available" in making our preliminary determination. *See* sections 776(a)(1) and 776(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, we determine that the GOC has withheld information and impeded the investigation, and that an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act. As AFA, we are finding that all of the producers of SSC for which the GOC failed to provide ownership information or failed to identify whether the owners were CCP officials are "authorities" within the meaning of section 771(5)(B) of the Act.

Superte – Government Authorities Under Provision of SSC for LTAR

In our initial questionnaire to Superte at III-16, we requested that Superte provide a spreadsheet showing, among other things, the producers of the SSC it purchased. We also requested that Superte coordinate with the GOC to ensure that the GOC had the information it needed to accurately respond to the Department's questions regarding the input suppliers. For certain purchases, Superte did not provide the names of the enterprises that produced the SSC.[21]

Because Superte failed to report this information, the GOC was unable able to fully respond to the Department's questions about input suppliers. As a result, necessary information is not on the record. Without this information, the Department is not able to analyze whether

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[21] *See* Superte's June 28, 2012 initial questionnaire response (Superte's IQR") at Ex-13 and Superte's July 23, 2012 SQR at 32.

these suppliers of SSC are "authorities." By failing to identify these suppliers, Superte has significantly impeded the proceeding, and we are resorting to "facts otherwise available" in making our preliminary determination. *See* sections 776(a)(1) and 776(a)(2)(C) of the Act.

Moreover, we preliminarily determine that Superte 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. As AFA, we are finding that the unidentified producers of SSC are "authorities" within the meaning of section 771(5)(B) of the Act.[22]

GOC – Provision of Electricity for LTAR

As discussed below under the section "Programs Preliminarily Determined To Be Countervailable," the Department is investigating the provision of electricity for LTAR by the GOC. The GOC, however, did not provide a complete response to the Department's requests for information regarding this program. In the Department's initial questionnaire, we requested that the GOC provide the provincial price proposals for each province in which a mandatory respondent and any reported cross-owned company is located for the applicable tariff schedules that were in effect during the POI, and to explain how those price proposals were created.[23] We also asked the GOC to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals, and how the cost element increases in the price proposals and the final price increases were allocated across the province and across tariff end-user categories.[24]

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[22] The Department treated a similar situation in this manner in *High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying Issues and Decision Memorandum at 13-14.
[23] *See* the Department's Initial Questionnaire to the GOC (May 10, 2012) at Electricity Appendix.
[24] *Id.*

The GOC responded that it was unable to provide the price proposals because they are working documents for the National Development and Reform Commission's ("NDRC") review.[25] Citing section 782(c)(1) of the Act and 19 CFR 351.301(c)(2)(iv), the GOC stated that it was "{notifying} the Department of difficulty in obtaining the original Provincial Price Proposals."[26] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response explained theoretically how price increases should be formulated and did not explain the actual process that led to the price increases.[27]

As such, the Department issued a supplemental questionnaire to the GOC reiterating its request for this information.[28] In its SQR to the Electricity Appendix questions, the GOC reiterated its initial response.[29]

After reviewing the GOC's responses to the Department's electricity questions, we preliminarily determine that the GOC's answers are inadequate and do not provide the necessary information required by the Department to analyze the provision of electricity in the PRC. The GOC did not provide the requested price proposal documents or explain how price increases were formulated. As a result, the Department must rely on the facts otherwise available in its analysis for this preliminary determination. *See* sections 776(a)(1) and 776(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 the Department's requests for information. Citing section 782(c)(1) of the Act and 19 CFR 351.301(c)(2)(iv), the GOC stated it could not provide the NDRC documents because they were "working documents." However, the GOC did not explain why it could not submit such documents on the record of this proceeding, particularly as the

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[25] *See* the GOC's June 28, 2012 initial questionnaire response ("GOC's IQR") at 58-59.
[26] *Id.*
[27] *Id.* at 59-62.
[28] *See* the Department's Supplemental Questionnaire to the GOC (July 12, 2012) at 5-6.
[29] *See* GSQR at 4-6.

Department permits parties to submit information under protective order for limited disclosure if it is business proprietary. *See*, *e.g.*, 19 CFR 351.306. Nor did the GOC provide any other documents that would have answered the Department's questions. Therefore, an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act. Drawing an adverse inference, we preliminarily determine 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 are also relying on an adverse inference by selecting the highest electricity rates that were in effect during the POI as our benchmarks for determining the existence and amount of any benefit under this program. *See* section 776(b)(4) of the Act. Specifically, the GOC provided the provincial rates schedules that were effect during the POI,[30] and we have used those schedules to identify the highest provincial electricity rates in effect during POI. For details on the preliminary calculated subsidy rates for the respondents, *see* below at "Provision of Electricity for LTAR."

GOC - "Two New" Product Special Funds of Guangdong Province and Grant for Loan Interest (Zhongshan City)

The Department will investigate potential subsidies it discovers during the course of an investigation, even if those subsidies were not alleged in the CVD petition. *See* section 775 of the Act.

Yingao indicated that it received a grant under an unknown program during the POI.[31] Also, Superte reported that it received a grant under the "Grant for Loan Interest" program

[30] *See* the GOC's IQR at Exhibits E3-APP6-3 and E3-APP6-4.
[31] *See* Yingao's June 29, 2012, initial questionnaire response ("Yingao's IQR") at 43-44.

during the POI.[32] The Department requested that the GOC provide information about "other subsidies" in the initial questionnaire. In the GOC's IQR, the GOC did not provide the requested information. Instead, the GOC asserted that, "… In the absence of sufficient allegations and evidence respecting other programs, consistent with Article 11.2 and other relevant articles of the WTO Agreement on Subsidies and Countervailing Measures, no reply to this question is warranted or required."[33]

In the July 11, 2012, supplemental questionnaire issued to the GOC, we again asked the GOC to provide information concerning Yingao's unknown subsidy and Superte's subsidy, referring to information provided in Yingao's and Superte's questionnaire responses. Although the GOC provided the names of these two programs and amounts disbursed, it did not provide a response to any of the required appendices (*i.e.*, Standard Questions Appendix, Allocation Appendix, and Grant Appendix) and, as such, did not provide any information on the specificity of the programs.[34]

The Department normally relies on information from the government to assess program specificity.[35] Because the GOC did not provide the information that would allow us to determine the specificity of these programs, we preliminarily determine that necessary information is not on the record. Accordingly, the use of facts otherwise available is appropriate. *See* sections 776(a)(1) and (2)(A),(B), and (C) of the Act.

Further, the GOC has not cooperated to the best of its ability in responding to the Department's requests for information. Consequently, an adverse inference is warranted in the

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[32] *See* Superte's IQR at 34.
[33] *See* the GOC's IQR at 78-79.
[34] *See* GSQR at 1; *see also* the GOC's July 26, 2012, supplemental questionnaire response ("GOC SQR2") at 4.
[35] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011), and accompanying Issues and Decision Memorandum at Comment 8.

applicable of facts available. *See* section 776(b) of the Act. As a result, we find the programs to be specific under section 771(5A) of the Act.

Subsidies Valuation Information

Allocation Period

The average useful life ("AUL") period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[36] 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) through (v) directs that the Department will 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, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

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

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[36] *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods.

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.[37]

Superte

Superte responded to the Department's original and supplemental questionnaires on behalf of itself, a producer and exporter of the subject merchandise during the POI.[38] Superte reported that it had no affiliated companies during the POI.[39] Therefore, we are preliminarily attributing subsidies received by Superte to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

The Department also received a questionnaire response from Zhaoshun, a trading company not affiliated with Superte, but which exported subject merchandise produced by Superte during the POI.[40] Zhaoshun reported that it had no affiliated companies during the POI.[41] Therefore, we are preliminarily attributing subsidies received by Zhaoshun to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Because Zhaoshun exported subject merchandise produced by Superte during the POI, we are preliminarily cumulating the benefit from Zhaoshun's subsidies with the benefit from Superte's subsidies, in accordance with 19 CFR 351.525(c).

Yingao

Yingao responded to the Department's original and supplemental questionnaires on behalf of itself, a producer and exporter of the subject merchandise during the POI.[42] Yingao

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[37] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[38] *See* Superte's IQR at 2 and 6.
[39] *Id.* at 3.
[40] *See* Zhaoshun's June 28, 2012, initial questionnaire response ("Zhaoshun's IQR") at 2.
[41] *Id.* at 3.
[42] *See* Yingao's IQR at 5-6.

also responded on behalf of Magang, a producer of subject merchandise during the POI and holding company of Yingao during the POI.[43]

We preliminarily determine Yingao and Magang are "cross-owned" within the meaning of 19 CFR 351.525(b)(6)(vi) because of Magang's ownership position in Yingao.[44] Because Yingao and Magang are producers of subject merchandise and are "cross-owned," we are preliminarily attributing subsidies received by Yingao to the combined sales of Yingao and Magang (exclusive of intercompany sales), in accordance with 19 CFR 351.525(b)(6)(ii). Additionally, because Magang is a holding company of Yingao, we are preliminarily attributing subsidies received by Magang to Magang's consolidated sales, in accordance with 19 CFR 351.525(b)(6)(iii).[45]

Yingao reported that it is affiliated with other companies.[46] Yingao did not submit questionnaire responses on behalf of these companies. In our supplemental questionnaire to Yingao, we asked Yingao to explain why it did not submit responses on behalf of these affiliated companies.[47] Yingao responded to these questions in its July 24, 2012, supplemental questionnaire response. We intend to examine the relationship between Yingao and these various affiliated companies during the course of this investigation.

Benchmarks and Discount Rates

The Department is investigating loans received by the respondents from Chinese policy banks and state-owned commercial banks ("SOCBs"), as well as non-recurring, allocable

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[43] *See* Magang's June 29, 2012, initial questionnaire response at 4; *see also* Yingao's IQR at 4.
[44] Information on Magang's ownership of Yingao is business proprietary. *See* Yingao's IQR at 4 for Magang's ownership share of Yingao.
[45] *See* Seamless Pipe Decision Memorandum at Comment 29(b) (discussion of attribution of subsidies to a company that is both a producer of subject merchandise and a holding company).
[46] *See* Yingao's IQR at 2-3.
[47] *See* the Department's July 12, 2012, supplemental questionnaire to Yingao at 4-5.

subsidies (*see* 19 CFR 351.524(b)(1)). The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

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.[48] 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."[49]

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *Coated Paper from the PRC*,[50] 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 the respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). For the same reasons, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, 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*

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48 *See* 19 CFR 351.505(a)(3)(i).
49 *See* 19 CFR 351.505(a)(3)(ii).
50 *See* Coated Paper Decision Memorandum at Comment 10; *see also* Memorandum to the File from Jennifer Meek, Trade Analyst, AD/CVD Operations, Office 1, regarding "Placement of Banking Memoranda on Record of the Instant Investigation," dated July 30, 2012 ("Banking Memoranda").

Lumber from Canada, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.[51]

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *Coated Paper from the PRC*[52] and more recently updated in *Thermal Paper from the PRC*.[53] Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *Coated Paper from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2001 through 2009, the PRC fell in the lower-middle income category.[54] Beginning in 2010, however, the PRC is in the upper-middle income category.[55] Accordingly, as explained further below, we are using the interest rates of upper-middle income countries to construct the benchmark. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.[56]

After the Department identifies the appropriate interest rates, the next step in constructing the benchmark has been to incorporate an important factor in interest rate formation, the strength

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[51] *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 ("Softwood Lumber Decision Memorandum") at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

[52] *See* Coated Paper Decision Memorandum at Comment 10.

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

[54] *See* World Bank Country Classification, http://econ.worldbank.org/. *See also* Memorandum to the File from Austin Redington, International Trade Analyst, AD/CVD Operations, Office 1, regarding "Interest Rate Benchmarks," dated July 30, 2012 ("Interest Rate Benchmarks Memorandum").

[55] *Id*.

[56] *See e.g.*, *Utility Scale Wind Towers From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 33422, 33435-33436 (June 6, 2012) ("*Wind Towers from the PRC*").

of governance as reflected in the quality of the countries' institutions.[57] The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators. In each of the years from 2001-2009, the results of the regression analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.[58] For 2010, however, the regression does not yield that outcome for the PRC's income group.[59]

This contrary result for a single year in ten does not lead us to reject the strength of governance as a determinant of interest rates. As confirmed by the Federal Reserve, "there is a significant negative correlation between institutional quality and the real interest rate, such that higher quality institutions are associated with lower real interest rates."[60] However, for 2010, incorporating the governance indicators in our analysis does not make for a better benchmark. Therefore, while we have continued to rely on the regression-based analysis used since *Coated Paper from the PRC* to compute the benchmarks for loans taken out prior to the POI, for the 2010 benchmark we are using an average of the interest rates of the upper-middle income countries. Based on our experience for the 2001-2009 period, in which the average interest rate of the lower-middle income group did not differ significantly from the benchmark rate resulting from the regression for that group, use of the average interest rate for 2010 does not introduce a distortion into our calculations.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are

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[57] The World Bank has not yet published World Governance Indicators for 2011. Therefore, for purposes of this preliminary determination, where the use of a short-term benchmark rate for 2011 is required, we have applied the 2010 short-term benchmark rate. The Department notes that the short-term benchmark may be updated, pending the release of all the necessary 2011 data, by the final determination.
[58] *See* Additional Documents Memorandum.
[59] *See* Interest Rate Benchmarks Memorandum.
[60] *Id.*

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 "upper middle income" by the World Bank for 2010 and "lower middle income" for 2001-2009. First, we did not include those economies that the Department considered to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. 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.[61]

Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.[62]

Long-Term RMB-Denominated 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

[61] *See* Interest Rate Benchmarks Memorandum.
[62] *Id.*

adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.[63]

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.[64] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[65]

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 provided non-recurring subsidies.[66] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the respondents' preliminary calculations memoranda.[67]

Analysis of Programs

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

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[63] *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 at 8.
[64] *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 at Comment 14.
[65] *See* Interest Rate Benchmarks Memorandum.
[66] *Id.*.
[67] *See* Memorandum to the File from Shane Subler, International Trade Compliance Analyst, "Preliminary Determination Calculation for Yingao," dated July 30, 2012 ("Yingao Preliminary Calculation Memo") and Memorandum to the File from Shane Subler, International Trade Compliance Analyst, "Preliminary Determination Calculation for Superte," dated July 30, 2012 ("Superte Preliminary Calculation Memo").

I. Programs Preliminarily Determined To Be Countervailable

A. Two Free, Three Half Program for Foreign Investment Enterprises ("FIEs")

Under Article 8 of the "Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises" ("FIE Tax Law"), an FIE that is "productive" and scheduled to operate more than ten years in exempt from income tax in the first two years of profitability and pays income taxes at half the standard rate for the next three to five years.[68] According to the GOC, the program was terminated effective January 1, 2008, by the "Enterprise Income Tax Law," but companies already enjoying the preference were permitted to continue paying taxes at reduced rates.[69] Yingao benefited from tax savings provided under this program during the POI.[70]

The Department has previously found the "Two Free, Three Half" program to confer a countervailable subsidy.[71] Consistent with the earlier cases, we preliminarily determine that the "Two Free, Three Half" income tax exemption/reduction 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 determine that the exemption/reduction afforded by the 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, we treated the income tax savings received by Yingao as a recurring benefit, consistent with 19 CFR 351.524(c)(1). We compared the income tax rate that the company should have paid (25 percent) with the reduced income tax rate of (12.5 percent),

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[68] S*ee* the GOC's IQR at 37.
[69] *Id*. at 37.
[70] *Id*. at 38; *see also* Yingao's IQR at 28.
[71] *See* Coated Paper Decision Memorandum at 11-12; *see also* Seamless Pipe Decision Memorandum at 25; *see also* *Wind Towers from the PRC*.

which Yingao paid during the POI, to calculate the tax savings. To calculate the net subsidy rate, we divided the benefit by Yingao's total POI sales, as described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.29 *ad valorem* for Yingao.

B. Provision of Electricity for LTAR

For the reasons explained in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are basing our preliminary determination regarding the GOC's provision of electricity for LTAR in part on AFA. Therefore, we preliminarily determine that the GOC's provision of electricity confers a financial contribution as a provision of a good under section 771(5)(D)(iii) of the Act, and is specific under section 771(5A)(D)(iii) of the Act.

For determining the existence and amount of any benefit under this program, we selected the highest non-seasonal provincial rates in the PRC, as provided by the GOC for each electricity category (*e.g.*, "large industry," "general industry and commerce") and "base charge" (either maximum demand or transformer capacity) used by the respondents. Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a category.

Consistent with our approach in *Wind Towers from the PRC*, we first calculated the respondents' variable electricity costs by multiplying the monthly kilowatts (kWh) consumed at each price category (*e.g.*, peak, normal, and valley, where appropriate) by the corresponding electricity rates paid by respondents during each month of the POI.[72] Next, we calculated the benchmark variable electricity costs by multiplying the monthly kWh consumed at each price category by the highest electricity rate charged at each price category. To calculate the benefit

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[72] *See Wind Towers from the PRC*, 77 FR at 33436.

for each month, we subtracted the variable electricity costs paid by each respondent during the POI from the monthly benchmark variable electricity costs.

To measure whether the respondents received a benefit with regard to their base rate (*i.e.*, either maximum demand or transformer capacity charge), we first multiplied the monthly base rate charged to the companies by the corresponding consumption quantity. Next, we calculated the benchmark base rate cost by multiplying the companies' consumption quantities by the highest maximum demand or transformer capacity rate. To calculate the benefit, we subtracted the maximum demand or transformer capacity costs paid by the companies during the POI from the benchmark base rate costs. We then calculated the total benefit received during the POI under this program by summing the benefits stemming from the respondents' variable electricity payments and base rate payments.[73]

To calculate the net subsidy rates attributable to Superte, Zhaoshun, and Yingao, we divided the benefit by each company's respective sales as described in the "Subsidies Valuation Information" section above. On this basis, we preliminarily determine countervailable subsidy rates of 0.58 percent *ad valorem* for Superte and 1.19 percent *ad valorem* for Yingao. We preliminarily calculated no benefit for Zhaoshun's purchases of electricity. Therefore, Zhaoshun's rate for this program is the rate calculated for Superte.

C. Stainless Steel Coils for LTAR

The Department is investigating whether GOC authorities provided SSC to producers of SS sinks for LTAR. Except as noted above under "*Superte – Government Authorities Under Provision of SSC for LTAR*," the respondent companies identified the suppliers and producers

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[73] For more information on the respondents' electricity usage categories and the benchmark rates we have used in the benefit calculations, *see* Memorandum to the File from Shane Subler, AD/CVD Operations, Office 1, regarding "PRC Electricity Benchmark Rates" (July 30, 2012). For the calculations, *see* Yingao Preliminary Calculation Memo and Superte Preliminary Calculation Memo.

from whom they purchased SSC during the POI. In addition, they reported the date of payment, quantity, unit of measure, and purchase price for the SSC purchased during the POI.

As discussed above under "Use of Facts Otherwise Available and Adverse Inferences," we are finding, as AFA, that certain producers of SSC purchased by the respondents during the POI are "authorities" within the meaning of section 771(5)(B) of the Act. Also as discussed under "Use of Facts Otherwise Available and Adverse Inferences," we are finding, as AFA, that Superte's unidentified SSC producers are "authorities" within the meaning of section 771(5)(B) of the Act. Therefore, we preliminarily determine that the SSC supplied by these enterprises is a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act and that the respondents received a benefit to the extent that the price they paid for SSC produced by these suppliers was for LTAR. *See* sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

Of the remaining SSC producers, the GOC reported that one was an SOE but did not provide the further information the Department requested in order to determine whether this SOE was an "authority." Therefore, consistent with our practice of finding SOEs to be authorities,[74] we preliminarily determine that the SSC supplied by this SOE is a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act and that the respondents received a benefit to the extent that the price they paid for SSC produced by this suppliers was for LTAR. *See* sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

Finally, the GOC identified four SSC producers located in the PRC but entirely or substantially owned and controlled by foreign companies that are not owned or controlled by the

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[74] *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 accompanying Issues and Decision Memorandum ("Tires Decision Memorandum") at 10.

GOC. This is supported by record information, for example, these companies' ownership structure, articles of association, and the membership and operation of their boards of directors and their senior management.[75] Therefore, we preliminarily determine that these SSC producers, in this instance, are not "authorities" and the SSC purchased from them does not give rise to a countervailable subsidy.

Regarding the specificity of SSC provided for LTAR, the GOC has stated that it does "not impose any limitations on the consumption of stainless steel coil by law or by policy" and that "there is a vast number of uses for stainless steel coil, and that the type of consumers that may purchase stainless steel coil is highly varied within the economy."[76] In support, the GOC provided a list of industries that invited bids to supply stainless steel products.[77] According to the GOC's classification, these potential users of stainless steel products fall into 20 or 32 different industry classifications using ISIC and Chinese national economy industry classifications, respectively. On this basis, we preliminarily determine that the GOC is providing SSC to a limited number of industries or enterprises and, hence, that the subsidy is specific pursuant to section 771(5A)(D)(iii).[78]

Finally, regarding benefit, the Department identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services at 19 CFR 351.511(a)(2). These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two);

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[75] *See* the GOC's IQR at Exhibits E4-APP-1; E4-APP-2; E4-APP-26; and E4-APP-27.
[76] *See* the GOC's IQR at 67.
[77] *See* the GOC's IQR at Exhibit E4-14.
[78] *See* section 771(5A)(D)(iii)(I) of the Act.

or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation.[79] This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving Chinese buyers and sellers that can be used to determine whether the GOC authorities sold SSC to the respondents for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority, or a substantial portion of, the market for a good or service, prices for such goods and services in the country will be considered significantly distorted and will not be an appropriate basis of comparison for determining whether there is a benefit.[80]

In its initial questionnaire response, the GOC stated that its State Statistics Bureau ("SSB") does not maintain official statistics on stainless steel cold-rolled sheet or strip including production volume by ownership type or import volumes; that, instead, it maintains data on cold-rolled sheet or strip that incorporates stainless and non-stainless products.[81] In our supplemental questionnaire, we requested that the GOC provide the data for the larger category, cold-rolled steel, and asked whether in the GOC's view such data was representative of stainless steel production.[82] The GOC responded that the cold-rolled steel data collected by the SSB includes four types of cold-rolled products in terms of chemical composition: non-alloy, low-alloy, alloy,

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[79] *See also* Softwood Lumber Decision Memorandum at "Market-Based Benchmark."
[80] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65377 (November 25, 1998).
[81] *See* the GOC's IQR at 63.
[82] *See* the Department's July 12, 2012 Supplemental Questionnaire to the GOC at 7.

and stainless steel.[83] Moreover, the GOC claimed that stainless and non-stainless steel are substantially different products, so that relying on information about cold-rolled steel for stainless steel could result in inaccurate and seriously distorted results.[84] The GOC did not submit the SSB data for cold-rolled steel.

Accepting the GOC's claim that the cold-rolled steel information is not representative of stainless steel production for this preliminary determination, the Department has relied instead on record information which shows that SOE producers of stainless steel account for at least 46 percent of Chinese production during the POI.[85] Consequently, because of the government's significant involvement in the stainless steel market, the use of private producer prices in the PRC would not be an appropriate benchmark (*i.e.*, such a benchmark would reflect the distortions of the government presence).[86] As we explained in *Softwood Lumber from Canada*:

> Where the market for a particular good or service is so dominated by the presence of the government, the remaining private prices in the country in question cannot be considered to be independent of the government price. It is impossible to test the government price using another price that is entirely, or almost entirely, dependent upon it. The analysis would become circular because the benchmark price would reflect the very market distortion which the comparison is designed to detect.[87]

For these reasons, prices stemming from private transactions within the PRC cannot give rise to a price that is sufficiently free from the effects of the GOC's actions and, therefore, cannot be considered to meet the statutory and regulatory requirement for the use of market-determined prices to measure the adequacy of remuneration.

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[83] *See* GSQR at 6.
[84] *Id*. at 7.
[85] *See* Letter from Petitioner, "Petitions For The Imposition Of Antidumping And Countervailing Duties Against Drawn Stainless Steel Sinks From The People's Republic of China," dated March 1, 2012 ("Petition"), Volume III at 49 and Exhibit III-57. *See also* Yingao Preliminary Calculation Memo and Superte Preliminary Calculation Memo.
[86] *See* Softwood Lumber Decision Memorandum at "There are no market-based internal Canadian benchmarks" section.
[87] *Id*. at 38-39.

Given that we have preliminarily determined that no tier one benchmark prices are available, we next evaluated information on the record to determine whether there is a tier two world market price available to producers of subject merchandise in the PRC. Petitioner and Yingao both submitted prices that they suggest are appropriate.[88] Petitioner proposes using Management Engineering & Production Services ("MEPs") world market price data, while Yingao has submitted prices for imports of SSC into various Asian countries (not including the PRC). Consistent with our practice, we have not relied on the import prices put forward by Yingao because there is no evidence that such prices are available to SS sinks producers in the PRC.[89] Instead, we are preliminarily relying on the MEPs world market prices.

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 added to the monthly benchmark prices ocean freight and inland freight charges that would be incurred to deliver SSC from the port to the companies' facilities. We have also added the applicable value added tax ("VAT") and import duties, at the rates reported by the GOC.[90] Our benchmark calculations are fully described in Yingao Preliminary Calculation Memo and Superte Preliminary Calculation Memo.

We then compared the monthly benchmark prices to Superte's and Yingao's actual purchase prices for SSC, including taxes and delivery charges, as appropriate. In instances in which the benchmark unit price was greater than the price paid to GOC authorities, we

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[88] *See* Yingao's IQR at Exhibit 21 and July 16, 2012 Factual Information Submission from Petitioner at Exhibit 2.
[89] *See*, *e.g.*, *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010) and accompanying Issues and Decision Memorandum at Comment 9A.
[90] *See* GOC's IQR at 66.

multiplied the difference by the quantity of SSC purchased from the GOC authorities to arrive at the benefit.[91]

Because the benchmark prices exceeded the prices paid by Superte and Yingao for SSC, we preliminarily find that the GOC's provision of SSC for LTAR to be a domestic subsidy as described under 19 CFR 351.525(b)(3). To calculate the net subsidy rates attributable to Superte and Yingao, we divided the benefit by each company's respective sales as described in the "Subsidies Valuation Information" section above.

On this basis, we preliminarily determine countervailable subsidy rates of 12.23 percent *ad valorem* for Superte and 0.49 percent *ad valorem* for Yingao. Because Zhaoshun did not purchase SSC, we are not calculating a rate for this company under this program.

D. Land for LTAR to Companies Located in Industrial or Other Special Economic Zones

The Department is investigating whether GOC authorities provided land to producers of SS sinks for LTAR. As instructed in the Department's questionnaires, the respondent companies identified the land-use rights they purchased or their leasing arrangements, as appropriate. Superte is located in the Food Industry Park in Zhongshan.[92] Its land-use rights were originally purchased by one of Superte's owners in 2004 and 2009.[93] In 2010, Superte purchased the land-use rights from the owner.[94] Zhaoshun leases office space in Foshan from an individual.[95] Yingao is also located in Foshan, in the Xintan Industrial Estate:[96] it purchased its land-use rights in 2006.[97] Magang leases the site for its factory, also in Foshan.[98]

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[91] *See* Yingao Preliminary Calculation Memo and Superte Preliminary Calculation Memo.
[92] *See* Superte's IQR at 27.
[93] *Id*. at 28.
[94] *Id*.
[95] *See* Zhaoshun's IQR at 23.
[96] *See* Yingao's IQR at 5.
[97] *See* Yingao's IQR at 38.
[98] *See* Magang's Section of Yingao's IQR at 24.

The cities of Foshan and Zhongshan are covered by the *Pearl River Delta Industrial Layout Integration Plan* ("*Pearl River Delta Plan*").[99] This plan was the basis for Petitioner's allegation and the Department's decision to investigate the GOC's provision of land-use rights in zones within the cities of Foshan and Zhongshan, which are covered by the plan.[100] According to the GOC, the *Pearl River Delta Plan* was enacted in July 2010.[101] Also according to the GOC, none of the responding companies was located in an industrial or other special economic zone when its land was acquired.[102]

Based on the GOC's response, we preliminarily determine that the "Provision of Land and/or Land Use Rights for LTAR in Industrial and Other Special Economic Zones" program was not used. As explained above, Superte's and Yingao's land-use rights were purchased prior to implementation of the *Pearl River Delta Plan*, and there is no indication that Magang or Zhaoshun is located in an industrial or other special economic zone. Nonetheless, based on our authority to investigate practices discovered in the course of an investigation which appear to be subsidies pursuant to section 775 of the Act, we have requested further information from the GOC about the provision of land-use rights in the Zhongshan Food Industry Park to Superte and in the Xintan Industrial Estate to Yingao.[103] We intend to address this information in a post-preliminary analysis.

Also based on section 775 of the Act, we preliminarily determine that the GOC conferred a countervailable subsidy on Superte when it issued Superte's land-use certificates in 2010, which effectively extended Superte's land use rights by additional years without additional

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[99] *See SS Sinks Checklist* at 22.
[100] *Id*.
[101] *See* the GOC's IQR at 57.
[102] *Id*.
[103] *See* the Department's July 12, 2012 Supplemental Questionnaire to the GOC at 5

consideration.[104] While the details are proprietary and addressed separately,[105] we preliminarily determine that Superte received a financial contribution in the form of revenue forgone by the GOC and a benefit in the amount of forgone revenue. *See* section 771(5)(d)(ii) of the Act. We further preliminarily determine that the subsidy was specific to Superte under section 771(5A)(D)(iii)(I) of the Act.

To calculate the benefit, we considered the subsidy to be exceptional within the meaning of 19 CFR 351.524(c)(2)(i) and, hence, have treated it as non-recurring. Thus, we divided the benefit by Superte's total sales in 2010 (the year of approval) pursuant to 19 CFR 351.524(b)(2). Because the result was greater than 0.5 percent, we allocated the benefit over the 12-year AUL, using the discount rate described in the "*Benchmarks and Discount Rates*" section above, and divided the allocated amount by Superte's total sales during the POI. *See* Superte Preliminary Calculation Memo.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.19 percent *ad valorem* for Superte. Because Zhaoshun did not receive this benefit, its rate for this program is the rate calculated for Superte.

E. Policy Lending to the SS Sinks Industry

The Department is investigating whether the GOC subsidizes SS sinks producers through the provision of policy loans. According to Petitioner, the GOC provides preferential policy lending to SS sinks producers through central level plans that are implemented through local government programs and measures, including industry plans and the five-year plans for Guangdong province, Foshan City, and Zhongshan City.

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[104] *See* Superte's IQR at 28.
[105] *See* Superte Preliminary Calculation Memo.

As explained below, we preliminarily determine that a local policy lending program exists for SS sinks in Zhongshan City. We also preliminarily determine that the respondents located elsewhere have not received policy loans.

Upon review of the various planning documents on the record, we have found that stainless steel is consistently identified as an industry or product for development or encouragement. For example, the "Iron and Steel Industry 12th Five-Year Plan ("*Iron and Steel Plan*"), a national planning document that provides direction for iron and steel industries, mentions the GOC's intent to support specialty steel enterprises, especially those that manufacture high-grade stainless steel products.[106] In efforts to implement many goals and objectives of the *Iron and Steel Plan*, the GOC specifically directs coordination between "finance polic{y} …and the iron and steel policy.[107] While this national plan discusses providing support to the stainless steel industry and stainless steel products, as noted above, Petitioner has alleged that the GOC has in place a national policy lending program that is implemented at the local level. Thus, in order to make a determination of whether this type of policy lending exists, we must turn to the relevant regional, provincial, and city level plans on the record.

First, the *Pearl River Delta Plan*, which covers the Pearl River Delta region in which both respondents are located, states the GOC's intention to give priority to the development of "post processing stainless steel plates" and to build an agglomeration or cluster development layout in several cities in the region, including those in which the respondents are located, in order to focus on the manufacturing of certain products, including stainless steel products.[108]

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[106] *See* Petition at Exhibit III-9.
[107] *Id.*
[108] *See* Petition at Exhibit III-15.

The "Guidelines of Foshan City on Industrial Structure Adjustment ("*Foshan Industrial Plan*"), which covers the city in which Yingao is located, states Foshan City's intent to develop "3+9" special industry bases and 15 key industries.[109] Among these industry bases and key industries are "metal material processing and products." Further, in efforts to center on these industry bases and key industries, the *Foshan Industrial Plan* states that priorities should be given to the construction of 12 industrial key areas, including "new metal materials (new aluminum extrusions, stainless steel, cold rolled steel plates and their deeply processed products)." Finally, this plan demands coordination among the government, banks, and enterprises, in order to encourage and guide financial institutes to actively provide financing services for enterprises in the industry bases outlined in the plan. While this plan makes clear the city's intention to financially support certain industries, the areas targeted for growth are broad and overarching. For example, "metal material processing and products" could include an infinite number of products.

In reviewing the provincial and city five-year planning documents on the record, we again found references to stainless steel. For example, Guangdong province's 12th five-year plan mentions the potential need to "scale up" the steel industry and to "actively promote" enterprises.[110] The development of special types of stainless steel is also mentioned in Foshan City's 12th five-year plan.[111] The Foshan City 11th five-year plan discusses optimizing, uplifting, and developing the stainless steel market as a "Major Mission."[112] However, we find that without further information, each of these references to steel or stainless steel is not specific to the SS sinks industry or SS sinks producers. Furthermore, the references in the Foshan City

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[109] *See* Petition at Exhibit III-18; for supplementary translation, *see* the GOC's SQR at Exhibit D.
[110] *See* the GOC's IQR at Exhibit B-2-1.
[111] *See* the GOC's IQR at Exhibit B-2-2.
[112] *Id.*

12th five-year plan to "scale up" and "actively promote" are vague and only pertain to the steel industry as a whole.

In reviewing Zhongshan City's 12th five year plan, however, we noted that the home appliance industry, which includes SS sinks,[113] is specifically targeted for growth.[114] The plan states the city's goal to "{m}ake the 100 billion level industrial clusters for the lighting and home appliance industries, and 10 billion level industrial clusters for the furniture, hardware, textile and apparel industries." Moreover, in conjunction with the growth targets identified in Zhongshan City's 12th five-year plan, we also found certain information provided by the GOC that indicates Superte received its loans pursuant to GOC policies.[115] While this information is not necessary in determining whether policy lending exists, in this instance, the information contained in the documents support a preliminary determination that the GOC has a policy in place to encourage the development and production of SS sinks through policy lending in Zhongshan City.

Therefore, given the evidence demonstrating the Zhongshan City's objective of developing the home appliance industry through loans and other financial incentives, and the specific references found in the loan documents on the record, we preliminarily determine there is a program of preferential policy lending specific to SS sinks producers in Zhongshan City, within the meaning of section 771(5A)(D)(i) of the Act. However, based on the remaining planning documents on the record, we preliminarily determine that the producers outside of Zhongshan did not have policy loans outstanding during the POI.

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[113] The names of the respondents, and other Chinese producers of SS sinks, include the words "hardware," "kitchen," "kitchenware," "appliance," or "utensil." Moreover, information in the respondents' business licenses indicates that SS sinks are included in the home appliance industry. *See* Yingao's IQR at Exhibit 7; Superte's IQR at Exhibit 5; Magang's IQR at Exhibit 7; and Zhaoshun's IQR at Exhibit 3.

[114] *See* GSQR at Exhibit C.

[115] *See* the GOC's IQR at Exhibit B-8-1 through B-8-6; *see also* Memorandum from Austin Redington, International Trade Compliance Analyst to the File, "BPI Memorandum," dated July 30, 2012.

We also preliminarily determine that loans from SOCBs under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, because SOCBs are "authorities."[116] The loans to Superte 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)(ii) of the Act (our benchmarks are discussed above under the "Subsidy Valuation Information" section). To calculate the net subsidy rate attributable to Superte, we divided the benefit by the company's total sales in the POI.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.75 percent *ad valorem* for Superte. Because Zhaoshun is not located in Zhongshan and did not receive this benefit, its rate for this program is the rate calculated for Superte.[117]

F. Export Assistance Grants

Superte reported that it received a grant under this program during the POI.[118] Yingao reported that it received grants under this program in 2010 and during the POI.[119] The GOC identified the grants that Superte and Yingao received under this program as export-related.[120]

We preliminarily determine that the grants received by Superte and Yingao under this program constitute a financial contribution and provide a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Moreover, based on record information cited in the previous

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[116] *See*, *e.g.*, Tires Decision Memorandum at Comment E2, where the Department discusses that a complete analysis of the facts and circumstances of the Chinese banking system that have led us to find that Chinese policy banks and SOCBs constitute a government authority as outlined in Coated Paper Decision Memorandum at Comment 8. *See also* Banking Memoranda. Parties in the instant case have not demonstrated that conditions within the Chinese banking sector have changed significantly since that previous decision such that a reconsideration of that decision is warranted.
[117] *See* Zhaoshun's IQR at 4.
[118] *See* Superte's IQR at 13-14.
[119] *See* Yingao's IQR at 13.
[120] *See* the GOC's IQR at 6.

paragraph from the GOC's response, we preliminarily determine that this program is contingent upon export and, therefore, specific within the meaning of section 771(5A)(B) of the Act.

The grants that Superte and Yingao received during the POI were less than 0.5 percent of their respective POI export sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POI.

On this basis, we preliminarily determine that Superte received a countervailable subsidy of 0.04 percent *ad valorem*, and that Yingao received a countervailable subsidy of 0.04 percent *ad valorem*. Because Zhaoshun did not receive this benefit, its rate for this program is the rate calculated for Superte.

The grant to Yingao in 2010 under this program was less than 0.5 percent of Yingao's export sales in the year of receipt. Therefore, because any potential subsidy would expense prior to the POI in accordance with 19 CFR 351.524(b)(2), we preliminarily have not included this grant in the subsidy rate for Yingao.

G. Special Funds of Guangdong Province for International Market Expansion

Yingao reported that it received a grant under an unknown program during POI.[121] The GOC identified this grant under the program listed above.[122] The GOC stated that this grant program supports small- and medium-sized enterprises in Guangdong Province to expand international markets.[123]

We preliminarily determine that the grant received by Yingao under this program constitutes a financial contribution and provides a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Moreover, based on record information cited in the previous

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[121] *See* Yingao's IQR at 43-44.
[122] *See* GSQR at 1.
[123] *See id.*

paragraph from the GOC's response, we preliminarily determine that this program is contingent upon export and, therefore, specific within the meaning of section 771(5A)(B) of the Act.

The grant that Yingao received during the POI was less than 0.5 percent of Yingao's POI export sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POI. On this basis, we preliminarily determine that Yingao received a countervailable subsidy of 0.04 percent *ad valorem*.

H. "Two New" Product Special Funds of Guangdong Province

Yingao reported that it received a grant under another unknown program during POI.[124] The GOC identified this grant under the program listed above, but did not respond to any of the questions from the Department's initial questionnaire.[125]

We preliminarily determine that the grant received by Yingao under this program constitutes a financial contribution and provides a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Moreover, as discussed under "Use of Facts Otherwise Available and Adverse Inferences," above, the Department is relying on AFA to preliminarily determine that the grant program is specific.

The grant that Yingao received during the POI was less than 0.5 percent of Yingao's POI sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POI. On this basis, we preliminarily determine that Yingao received a countervailable subsidy of 0.07 percent *ad valorem*.

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[124] *See* Yingao's IQR at 43-44.
[125] *See* GSQR at 1.

I. Grant for Loan Interest (Zhongshan City)

Superte reported that it received a grant under this program during POI.[126] The GOC provided a brief description of the program, but did not respond to any of the questions from the Department's initial questionnaire.[127]

We preliminarily determine that the grant received by Superte under this program constitutes a financial contribution and provides a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Moreover, as discussed under "Use of Facts Otherwise Available and Adverse Inferences," above, the Department is relying on AFA to preliminarily determine that the grant program is specific.

The grant that Superte received during the POI was less than 0.5 percent of Superte's POI sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POI. On this basis, we preliminarily determine that Superte received a countervailable subsidy of 0.09 percent *ad valorem*. Because Zhaoshun did not receive this benefit, its rate for this program is the rate calculated for Superte.

J. Grant of Zhongshan City for Enterprises' Participation in Overseas Professional Exhibition

Superte reported that it received a grant under this program during the POI.[128] The GOC stated that the purpose of this program is to encourage enterprises in Zhongshan City to explore international markets.[129]

We preliminarily determine that the grant received by Superte under this program constitutes a financial contribution and provides a benefit under sections 771(5)(D)(i) and

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[126] *See* Superte's IQR at 34.
[127] *See* GOC SQR2 at 4.
[128] *See* Superte's IQR at 36-37; *see also* GOC SQR2 at 4.
[129] *See* GOC SQR2 at 4.

771(5)(E) of the Act, respectively. Moreover, based on record information cited in the previous paragraph from the GOC's response, we preliminarily determine that this program is contingent upon export and, therefore, specific within the meaning of section 771(5A)(B) of the Act.

The grant that Superte received during the POI was less than 0.5 percent of Superte's POI export sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POI. On this basis, we preliminarily determine that Superte received a countervailable subsidy of 0.05 percent *ad valorem*. Because Zhaoshun did not receive this benefit, its rate for this program is the rate calculated for Superte.

K. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises

The GOC reported that Yingao received a grant under this program during POI.[130] The GOC stated that the program supports adoption of e-commerce by foreign trade enterprises in Guangdong Province.[131] Superte also reported that it received a grant under this program during the POI.[132]

We preliminarily determine that the grants received by Yingao and Superte under this program constitute a financial contribution and provide a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Moreover, based on record information cited in the previous paragraph from the GOC's response, we preliminarily determine that this program is contingent upon export and, therefore, specific within the meaning of section 771(5A)(B) of the Act.

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[130] *See id.*
[131] *See id.*
[132] *See* Superte's July 23, 2012 SQR at 17.

The grant that Superte received during the POI was less than 0.5 percent of Superte's POI export sales, as described above in the "Attribution of Subsidies" section. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POI. On this basis, we preliminarily determine that Superte received a countervailable subsidy of 0.01 percent *ad valorem*. Because Zhaoshun did not receive this benefit, its rate for this program is the rate calculated for Superte.

The grant that Yingao received during the POI was less than 0.005 percent of Yingao's POI export sales. Therefore, consistent with our past practice, we did not include this program in our net countervailing duty rate.[133]

II. Programs for Which More Information Is Necessary

A. Preferential Export Financing

Superte and Yingao reported that they did not receive preferential export financing during the POI.[134] Based on information in the respondents' questionnaire responses, however, we intend to request additional information about loans to these companies. We intend to address this information in a post-preliminary analysis.

III. Programs Preliminarily Determined To Have Been Not Used By Respondents or To Not Provide Benefits During the POI

We preliminarily determine that the respondents did not apply for or receive measurable benefits during the POI under the following programs.

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[133] *See*, *e.g.*, *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007), and accompanying Issues and Decision Memorandum at 15.
[134] *See* Superte's IQR at 20; *see also* Yingao's IQR at 25.

A. Export Subsidies 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."[135]

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. The GOC reported that the VAT levied on SS sinks sales in the domestic market (17 percent) exceeded the amount of VAT exempted upon the export of SS sinks (nine percent).[136]

Thus, consistent with past cases, we preliminarily determine that the VAT exempted upon the export of SS sinks does not confer a countervailable benefit.[137]

B. Grant Programs Identified in Responses

The GOC, Superte, Zhongshun, and Yingao reported that respondents received various grants in 2005, 2008, 2009, and 2010.[138] We preliminarily find that the grants represent less than 0.5 percent of Yingao's, Superte's and Zhongshun's respective export or total sales, as applicable, for the years of approval. Therefore, we have expensed these grants to the year of receipt, in accordance with 19 CFR 351.524(b)(2), and have not allocated the benefits from these grants to the POI. These programs are as follows:

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[135] *See* 19 CFR 351.517(a); *see also* 19 CFR 351.102 (for a definition of "indirect tax").
[136] *See* the GOC's IQR at 51.
[137] *See*, *e.g.*, *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), and accompanying Issues and Decision Memorandum at 25.
[138] *See* the GOC's July 20, 2012, supplemental questionnaire response at 2; *see also* Superte's July 23, 2012, supplemental questionnaire response at pages 10-17.

1. Special Funds for Development of Foreign Trade (Foshan City)
2. Special Funds of Guangdong Province for Development of Foreign Trade
3. Support Funds of Guangdong Province of Export Rebate for Mechanic, Electronic and High-tech Products
4. Special Funds of Shunde District for International Market Expansion
5. Subsidy to Attend Domestic Fair in Shanghai
6. Subsidy to Attend Overseas Fair
7. Interest Discount for Export Goods
8. Technology and Trade Specific Fund of Guangdong Province
9. International Market Development Fund for Export Companies

We also preliminarily determine the following programs to have been not used by the respondents:

1. The State Key Technology Renovation Fund
2. "Famous Brands" Awards
3. Grants to Cover Legal Fees in Trade Remedy Cases
4. Special Fund for Energy Saving Technology Reform
5. The Clean Production Technology Fund
6. Grants for Listing Shares
7. Guangdong Province Science and Technology Bureau Project Fund (aka Guangdong Industry, Research, University Cooperating Fund)
8. Export Rebate for Mechanic, Electronic, and High-tech Products
9. Funds for Outward Expansion of Industries in Guangdong Province
10. Fund for Small and Medium Enterprises ("SME") Bank-enterprise Cooperation Projects
11. Special Fund for Fostering Stable Growth of Foreign Trade
12. Local Government Deposits Into Bank Accounts
13. Treasury Bond Loans or Grants
14. Preferential Loans for State-owned Enterprises ("SOEs")
15. Provincial Tax Exemptions and Reductions for "Productive" Foreign Invested Enterprises ("FIEs")
16. Tax Reductions for FIEs Purchasing Chinese-made Equipment
17. Tax Reductions for FIEs in Designated Geographic Locations
18. Tax Reductions for Technology- or Knowledge-intensive FIEs
19. Tax Reductions for FIEs that are also High or New Technology Enterprises ("HNTEs")
20. Tax Reductions for HNTEs Involved in Designated Projects
21. Tax Offsets for Research and Development at FIEs
22. Tax Credits for Domestically Owned Companies Purchasing Chinese-made Equipment
23. Tax Reductions for Export-oriented FIEs
24. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
25. Tax Reduction for High-tech Industries in Guangdong Province
26. Import Tariff and Value Added Tax ("VAT") Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
27. VAT Rebates on FIE Purchases of Domestically Produced Equipment
28. City Tax and Surcharge Exemptions for FIEs

29. Exemptions from Administrative Charges for Companies in Industrial Zones
30. VAT and Import Duty Exemptions on Imported Material
31. VAT Rebates on Domestically Produced Equipment
32. Provision of Land to SOEs at LTAR
33. Exemptions from Land Development Fees
34. Land Purchase Grants
35. Grants to Hire Post-doctoral Workers
36. Financial Subsidies: Interest Subsidies, Preferential Loans, and Lowered Interest Rates
37. Tax Reductions or Exemptions

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 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual countervailable subsidy rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an all others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all others" rate by weight averaging the rates of Yingao and Superte, because doing so risks disclosure of proprietary information. Therefore, for the all others rate, we have calculated a simple average of the two responding firms' rates.

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

Producer/Exporter	**Net Subsidy Rate**
Guangdong Yingao Kitchen Utensils Co., Ltd., and Foshan Magang Kitchen Utensils Co., Ltd.	2.12 percent
Zhongshan Superte Kitchenware Co., Ltd.	13.94 percent
Foshan Zhaoshun Trade Co., Ltd.	13.94 percent
All Others	8.03 percent

Zhaoshun's cash deposit rate is a "combination rate" pursuant to 19 CFR 351.107(b). It applies only to subject merchandise exported by Zhaoshun and produced by Superte.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of SS sinks 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 for such entries of merchandise in the amounts indicated above.

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 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, N.W., 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 electronically submit a written request to the Assistant Secretary for Import Administration using IA ACCESS, 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. *Id*.

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

Paul Piquado
Assistant Secretary
for Import Administration

Dated: July 30, 2012

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