



C-570-031  
Investigation  
**Public Document**  
E&C/OIV: RG/BF

April 1, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: *for* Christian Marsh *R*  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative  
Determination: Countervailing Duty Investigation of Certain Iron  
Mechanical Transfer Drive Components from the People's  
Republic of China

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## I. SUMMARY

The Department of Commerce ("Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain iron mechanical transfer drive components ("ITDCs") from the People's Republic of China ("PRC"), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the "Act").

## II. BACKGROUND

### A. Initiation and Case History

On October 28, 2015, the Department received countervailing duty ("CVD") and antidumping duty ("AD") petitions concerning imports of ITDCs from the PRC, filed in proper form by TB Wood's Incorporated ("TB Wood's" or "Petitioner").<sup>1</sup> On November 17, 2015, the Department initiated the CVD investigation of ITDCs from the PRC.<sup>2</sup> The initial allegations and supplements to the Petition are described in the *CVD Initiation Checklist*.<sup>3</sup>

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<sup>1</sup> "Petition for the Imposition of Countervailing Duties on Imports of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China," dated October 28, 2015 ("*Petition*").

<sup>2</sup> See *Certain Iron Mechanical Transfer Drive Components From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 80 FR 73722 (November 25, 2015) ("*CVD Initiation*").

<sup>3</sup> See *Countervailing Duty Investigation Initiation Checklist: Certain Iron Mechanical Transfer Drive Components from the People's Republic of China ("CVD Initiation Checklist")*, dated November 17, 2015.

In the *CVD Initiation*, we stated that the Department intended to issue quantity and value (“Q&V”) questionnaires to each potential respondent with respect to the investigation of ITDCs from the PRC, and base respondent selection on the responses received.<sup>4</sup> On November 18, 2015, the Department issued the Q&V questionnaire to the 36 companies identified in the *Petition*.<sup>5</sup> The Department did not receive a timely response from 30 companies that received the Q&V questionnaire (collectively, the “non-responsive companies”). In the *CVD Initiation*, we invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by December 1, 2015, the Q&V questionnaire response deadline. We received 12 timely filed Q&V questionnaire responses from exporters/producers of ITDCs. As outlined in the Department’s respondent selection memorandum, and based upon the data contained in the Q&V responses, the Department selected Powermach Import & Export Co., Ltd. (Sichuan) (“Powermach I&E”) and NOK (Wuxi) Vibration Control China Co. Ltd. (“NOK Wuxi”) as mandatory respondents.<sup>6</sup> Consistent with section 777A(e)(2)(A)(ii) of the Act, Powermach I&E and NOK Wuxi accounted for the largest volume of exports of the merchandise under consideration during the period of investigation (“POI”).

On December 18, 2015, the Department issued a CVD questionnaire to the Government of the PRC (“GOC”).<sup>7</sup> On January 4, 2016, NOK Wuxi filed its affiliation questionnaire response,<sup>8</sup> and on January 11, 2016, Powermach I&E filed its affiliated questionnaire response.<sup>9</sup> On February 1, 2016, NOK Wuxi filed its response to the Department’s Primary Questionnaire,<sup>10</sup> and on February 5, 2016, Powermach I&E filed its response to the Department’s Primary Questionnaire.<sup>11</sup> The GOC filed its Primary Questionnaire response on February 5, 2016.<sup>12</sup> Respondents and the GOC filed responses to the Department’s supplemental questionnaires on March 4, March 7, March 8 and March 23, 2016.<sup>13</sup>

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<sup>4</sup> See *CVD Initiation*, 80 FR at 73725.

<sup>5</sup> See Memorandum to the File from Robert Galantucci, International Trade Analyst, through Robert Bolling, Program Manager, regarding “Quantity and Value Questionnaire: Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China,” dated November 19, 2015.

<sup>6</sup> See “Countervailing Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Respondent Selection,” dated December 16, 2015 (“Respondent Selection Memorandum”).

<sup>7</sup> See Countervailing Duty Questionnaire from the Department to Ms. Liu Fang, First Secretary, Embassy of the People’s Republic of China, Washington, D.C., dated December 18, 2015 (“Primary Questionnaire”).

<sup>8</sup> See Submission from NOK Wuxi, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Affiliated Companies Response,” dated January 4, 2016 (“NOK Wuxi ACQR”).

<sup>9</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Submission of the Response to the Affiliated Company Questionnaire,” dated January 11, 2016 (“Powermach I&E ACQR”).

<sup>10</sup> See Submission of NOK Wuxi, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Sections II and III response,” dated February 1, 2016 (“NOK Wuxi PQR”).

<sup>11</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Section III Questionnaire Response,” dated February 5, 2016 (“Powermach I&E PQR”).

<sup>12</sup> See Letter from the GOC to the Secretary of Commerce, “Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC Initial Response” dated February 5, 2016 (“GOC PQR”).

<sup>13</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Section III Supplemental Questionnaire Response,” dated March 4, 2016 (“Powermach I&E SQR”); Submission of NOK Wuxi, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Response to the Department’s Supplemental Questionnaire,” dated March 3, 2016, and March 7,

On March 2, 2016, Petitioner and Powermach I&E submitted proposed benchmark prices for use in calculating benefits under the alleged subsidy programs.<sup>14</sup> On March 11, 2016, Petitioner and Powermach I&E submitted pre-preliminary comments.<sup>15</sup> On March 14, 2016, Petitioner and Powermach I&E submitted benchmark rebuttal filings.<sup>16</sup> On March 24, 2016, Petitioner and Powermach I&E submitted additional benchmark responses, as requested by the Department.<sup>17</sup> On March 24, 2016, Petitioner filed a request that the Department align the final determination of this CVD investigation with the companion AD investigation of ITDCs from the PRC.<sup>18</sup> On March 30, 2016, Petitioner filed an amendment to the scope to exclude certain finished torsional vibration dampeners (“TVDs”), as defined in the amended scope.<sup>19</sup> Petitioner also noted that it is considering a potential additional exclusion to the scope to cover certain parts of TVDs.<sup>20</sup> Also, on March 30, 2016, NOK Wuxi notified the Department of its intent to withdraw from participation in this investigation, contingent on the Department’s acceptance and inclusion of Petitioner’s amendment to the scope.<sup>21</sup> Because Petitioner’s proposed scope amendment was filed two days before the due date for the preliminary determination, the Department does not have sufficient time before the fully extended scheduled signature due date of the CVD preliminary determination to consider this proposed amendment to the scope. However, the Department will evaluate the scope comments and intends to issue its preliminary decision

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2016 (“NOK Wuxi SQR”); Submission of GOC, “Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC First Supplemental Response,” dated March 8, 2016 (“GOC SQR”); and Submission of GOC, “Certain Iron Mechanical Transfer Drive Components from China; CVD Investigation; GOC Second Supplemental Response,” dated March 23, 2016 (“GOC Second SQR”).

<sup>14</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Benchmark Submission,” dated March 2, 2016 (“Powermach I&E Benchmark Submission”); Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Benchmark Submission,” dated March 2, 2016 (“Petitioner Benchmark Submission”).

<sup>15</sup> See Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Petitioner’s Pre-Preliminary Determination Comments,” dated March 11, 2016 (“Petitioner’s Pre-Prelim Comments”); and Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Prepreliminary Comments,” dated March 11, 2016 (“Powermach I&E Pre-Prelim Comments”).

<sup>16</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Benchmark Rebuttal Comments,” dated March 14, 2016 (“Powermach I&E Benchmark Rebuttal”); Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Petitioner’s Rebuttal Information to Powermach’s Benchmark Submission,” dated March 14, 2016 (“Petitioner Benchmark Rebuttal”).

<sup>17</sup> See Submission of Powermach I&E, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Response to Department’s March 22, 2016 Memorandum,” dated March 24, 2016; Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Petitioner’s Additional Benchmark Information,” dated March 24, 2016.

<sup>18</sup> See Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Petitioner’s Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination,” dated March 24, 2016 (“Petitioner’s Alignment Request”).

<sup>19</sup> See Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China: Petitioner’s Amendment to the Scope,” dated March 30, 2016.

<sup>20</sup> *Id.*

<sup>21</sup> See Submission of NOK Wuxi, “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Withdrawal from Investigation,” dated March 30, 2016.

regarding the scope of the AD and CVD investigations in the preliminary determination of the companion antidumping investigations, which are due for signature on May 31, 2016.

## **B. Postponement of Preliminary Determination**

On January 15, 2016, the Department postponed the deadline for the preliminary determination to the full 130 days permitted under sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).<sup>22</sup> In addition, the Department tolled this deadline by four business days as a result of government closure during Snowstorm “Jonas.”<sup>23</sup> Accordingly, the preliminary determination deadline is April 1, 2016.<sup>24</sup>

## **C. Period of Investigation**

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

## **III. ALIGNMENT**

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on Petitioner’s request,<sup>25</sup> we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of ITDCs from the PRC. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than August 14, 2016, unless postponed.<sup>26</sup>

## **IV. SCOPE COMMENTS**

In accordance with the preamble to the Department’s regulations,<sup>27</sup> we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.<sup>28</sup>

We received several comments concerning the scope of the AD and CVD investigations of ITDCs from the PRC and Canada. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD

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<sup>22</sup> Because the fully-extended preliminary determination date fell on Saturday, March 26, 2016, the Department set the preliminary determination deadline for Monday, March 28, 2016. See *Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 81 FR 2171 (January 15, 2016).

<sup>23</sup> See Memorandum from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated January 27, 2016.

<sup>24</sup> See *Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 81 FR 2171 (January 15, 2016),

<sup>25</sup> See Petitioner’s Alignment Request.

<sup>26</sup> We note that the current deadline for the final AD determination is August 14, 2016, which is a Sunday. Pursuant to Department practice, the signature date will be the next business day, which is Monday, August 15, 2016. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>27</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (“Preamble”).

<sup>28</sup> See *CVD Initiation*, 80 FR at 73722.

and CVD investigations in the preliminary determination of the companion AD investigations, which are due for signature on May 31, 2016. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

## **V. SCOPE OF THE INVESTIGATION**

The products covered by this investigation are iron mechanical transfer drive components, whether finished or unfinished (*i.e.*, blanks or castings). Subject iron mechanical transfer drive components are in the form of wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device and are often referred to as sheaves, pulleys, flywheels, flat pulleys, idlers, conveyer pulleys, synchronous sheaves, and timing pulleys. The products covered by this investigation also include bushings, which are iron mechanical transfer drive components in the form of a cylinder and which fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of elements such as teeth, bolts, or screws.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. These HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive. For a full description of the scope, *see* Appendix II of the Federal Register notice dated concurrently with this memorandum.

## **VI. INJURY TEST**

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (“ITC”) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On December 14, 2015, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of ITDCs from the PRC.<sup>29</sup>

## **VII. APPLICATION OF THE CVD LAW TO IMPORTS FROM THE PRC**

On October 25, 2007, the Department published its final determination in *CFS from the PRC*, where we found that:

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<sup>29</sup> *See Certain Iron Mechanical Transfer Drive Components from Canada and China: Investigation Nos. 701-TA-550 and 731-TA-1304-1305 (Preliminary)*, Publication 4587, December 2015; *see also Certain Iron Mechanical Transfer Drive Components From Canada and China*, 80 FR 79095 (December 18, 2015).

{G}iven the substantial differences between the Soviet-style economies and China's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style economies does not act as a bar to proceeding with a CVD investigation involving products from China.<sup>30</sup>

The Department affirmed its decision to apply the CVD law to the PRC in numerous subsequent determinations.<sup>31</sup> Furthermore, on March 13, 2012, Public Law 112-99 was enacted which makes clear that the Department has the authority to apply the CVD law to countries designated as non-market economies ("NMEs") under section 771(18) of the Act, such as the PRC.<sup>32</sup> The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.<sup>33</sup> Additionally, for the reasons stated in *CWP from the PRC*, 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 for purposes of this CVD investigation.<sup>34</sup>

## VIII. SUBSIDIES VALUATION

### A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life ("AUL") of renewable physical assets used in the production of subject merchandise.<sup>35</sup> The Department finds the AUL in this proceeding to be 14 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2013), "Appendix B - Table of Class Lives and Recovery Periods." ("IRS Pub. 946")<sup>36</sup> Specifically, the Department finds that the relevant asset class is "Manufacture of Foundry Products," which includes "assets used in the casting of iron and steel, including related operations such as molding and coremaking."<sup>37</sup> The Department notified the respondents of the 14-year AUL in the Primary Questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for

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<sup>30</sup> See *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) ("*CFS from the PRC*"), and accompanying Issues and Decision Memorandum ("*CFS IDM*") at Comment 6.

<sup>31</sup> 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) ("*CWP from the PRC*"), and accompanying Issues and Decision Memorandum ("*CWP IDM*") at Comment 1.

<sup>32</sup> Section 1(a) is the relevant provision of Public Law 112-99 and is codified at section 701(f) of the Act.

<sup>33</sup> See Public Law 112-99, 126 Stat. 265 §1(b).

<sup>34</sup> See, *e.g.*, *CWP IDM* at Comment 2.

<sup>35</sup> See 19 CFR 351.524(b).

<sup>36</sup> See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

<sup>37</sup> See IRS Pub. 946 at Table B-2.

the year in which the assistance was approved. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL.

## **B. Attribution of Subsidies**

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provide additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

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 section of the Department's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to the Department's regulations further clarifies the Department's cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.<sup>38</sup>

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade 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.<sup>39</sup>

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<sup>38</sup> See *CVD Preamble* at 65401.

<sup>39</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

## Powermach I&E

As discussed above, we selected Powermach I&E as a mandatory company respondent. In its initial affiliation response, Powermach I&E identified numerous affiliated companies.<sup>40</sup> Four companies – Sichuan Dawn Precision Technology Co., Ltd. (“Dawn Precision”), Sichuan Dawn Foundry Co. Ltd. (“Dawn Foundry”), Powermach Machinery Co. Ltd. (“Powermach Machinery”), and Zhejiang Cenfit Machinery Co., Ltd. (“Cenfit”) – satisfy the cross-ownership requirements under our attribution rules at 19 CFR 351.525(b). Powermach I&E provided full questionnaire responses on behalf of itself, as well as Dawn Precision, Dawn Foundry, and Powermach Machinery. Although Cenfit and Powermach I&E were cross-owned during the POI, following the POI, and prior to the filing of the Petition, Cenfit sold its interest in Dawn Precision (Powermach I&E’s parent company), and was therefore no longer affiliated with Powermach I&E or its cross-owned companies.<sup>41</sup> Powermach I&E was unable to provide a full response on behalf of Cenfit, citing an ongoing legal dispute between Cenfit and Dawn Precision.<sup>42</sup>

Powermach I&E is a non-producer trading company that exports subject merchandise. During the POI, Powermach I&E’s sales consisted entirely of merchandise produced by Dawn Precision, Dawn Foundry and Powermach Machinery.<sup>43</sup> Accordingly, we will cumulate any subsidies received by Powermach I&E with the subsidies received by the producers of the merchandise sold by Powermach I&E, in accordance with 19 CFR 351.525(c).

In addition to being a producer, Dawn Precision is a parent company that owns Powermach I&E, Dawn Foundry and Powermach Machinery in their entirety.<sup>44</sup> Attribution of benefits to Dawn Precision are governed by 19 CFR 351.525(b)(6)(iii), which states that, “[i]f the firm that received a subsidy is a holding company, including a parent company with its own operations, the Secretary will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries.” Thus, any subsidies received by Dawn Precision will be attributed to the consolidated sales of Dawn Precision and its subsidiaries (net of intercompany sales).

Similarly, as noted above, Cenfit is a producer and during the POI was a parent company to Dawn Precision. Accordingly, we also attribute subsidies received by Cenfit to the consolidated sales of Cenfit and its subsidiaries pursuant to 19 CFR 351.525(b)(6)(iii). However, as discussed further below, because certain information regarding Cenfit’s subsidies necessary to our calculation is not on the record of this proceeding, we have used facts available to calculate a subsidy rate for Cenfit.

As noted above, Dawn Foundry and Powermach Machinery are wholly-owned subsidiaries of Dawn Precision. Both Dawn Foundry and Powermach Machinery were directly involved in the production of subject merchandise, as they were engaged in casting and further processing of subject merchandise. Therefore, for any subsidies that went to Dawn Foundry or Powermach

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<sup>40</sup> See Powermach I&E ACQR, at Exhibit 2.

<sup>41</sup> See Powermach I&E PQR, Vol. II, at Exhibit 1.

<sup>42</sup> *Id.* at 4, and Exhibit 4.

<sup>43</sup> See Powermach I&E ACQR, at 2.

<sup>44</sup> *Id.* at Exhibit 2.

Machinery, we attributed the benefit to the combined sales of Dawn Foundry, Powermach Machinery and Dawn Precision, pursuant to the attribution rule at 19 CFR 351.525(b)(6)(ii).

Further below, where applicable, we refer to Powermach I&E, Dawn Precision, Dawn Foundry and Powermach Machinery collectively as the Powermach Companies.

### NOK Wuxi

As discussed above, we selected NOK Wuxi as a mandatory company respondent. NOK Wuxi is a producer that exports subject merchandise. In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by NOK Wuxi to its own sales.

In NOK Wuxi's January 4, 2016, affiliated companies response, NOK Wuxi identified numerous affiliated companies.<sup>45</sup> However, for the purposes of this preliminary determination, with the exception of Wuxi NOK – Freudenberg Oil Seal Co., Ltd. (“WNF”), we find that these companies do not satisfy the cross-ownership requirements under our attribution rules at 19 CFR 351.525.

NOK Wuxi reported WNF as a cross-owned affiliate which supplied an input to producer NOK Wuxi during the POI,<sup>46</sup> and provided a complete response for WNF.<sup>47</sup> The Department determines that there is cross-ownership between NOK Wuxi and WNF because NOK Corporation (the Japan-based parent company that wholly owns NOK Wuxi) and Freudenberg SE<sup>48</sup> (which owns the largest percentage of shares of NOK Corporation) together fully own NOK – Freudenberg Asia Holding Co., Pte. Ltd., which in turn wholly owns WNF.<sup>49</sup> Because there is cross-ownership between WNF and NOK Wuxi and production of the input product is primarily dedicated to the production of the downstream product (subject merchandise), pursuant to 19 CFR 351.525(b)(6)(iv), the Department is attributing the subsidies received by the input producer (WNF) to the combined sales of the input and downstream products produced by both companies (excluding the sales between the companies).

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's total exports or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in

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<sup>45</sup> See NOK Wuxi ACQR at 2-4.

<sup>46</sup> *Id.*

<sup>47</sup> See generally NOK Wuxi PQR.

<sup>48</sup> See NOK Wuxi ACQR at Exhibit 1 (which lists Freudenberg (Germany) but the actual name is Freudenberg SE, based in Germany); and NOK Wuxi SQR at 4-5.

<sup>49</sup> See NOK Wuxi ACQR at Exhibit 1 (which lists NOK – Freudenberg Asia Holding Co., Pte. Ltd. as NFAH (Singapore)); see also NOK Wux SQR at 4-5.

further detail in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum, prepared for this investigation.<sup>50</sup>

## IX. BENCHMARKS AND INTEREST RATES

The Department is investigating loans received by the Powermach Companies (specifically, Dawn Precision and Powermach Machinery) from Chinese policy banks and state-owned commercial banks (“SOCBs”), as well as non-recurring, allocable subsidies receive by both mandatory respondents.<sup>51</sup> The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

### A. Renminbi-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.<sup>52</sup> 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.”<sup>53</sup>

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. For the reasons first explained in *CFS from the PRC*, loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market.<sup>54</sup> 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 *Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.<sup>55</sup>

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<sup>50</sup> See Memorandum, “Countervailing Duty Investigation of Iron Mechanical Transfer Drive Components from the People’s Republic of China: Preliminary Determination Analysis for Powermach I&E,” dated concurrently with this memorandum (“Powermach I&E Preliminary Analysis Memorandum”); Memorandum, “Countervailing Duty Investigation of Iron Mechanical Transfer Drive Components from the People’s Republic of China: Preliminary Determination Analysis for NOK Wuxi,” dated concurrently with this memorandum (“NOK Wuxi Preliminary Analysis Memorandum”).

<sup>51</sup> See 19 CFR 351.524(b)(1).

<sup>52</sup> See 19 CFR 351.505(a)(3)(i).

<sup>53</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>54</sup> See CFS IDM at Comment 10.

<sup>55</sup> 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) (*Lumber from Canada*), and accompanying Issues and Decision Memorandum at “Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

In past proceedings involving imports from the PRC, we calculated the external benchmark using the methodology first developed in *CFS from the PRC* and later updated in *Thermal Paper from the PRC*.<sup>56</sup> 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 *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates. For 2003 through 2009, the PRC fell in the lower-middle income category.<sup>57</sup> Beginning in 2010, however, the PRC was classified in the upper-middle income category and remained there from 2011 to 2014.<sup>58</sup> Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2003-2009, and we used the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010-2014. This is consistent with the Department's calculation of interest rates for recent CVD proceedings involving PRC merchandise.<sup>59</sup>

After the Department identifies the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in interest rate formation, the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each of the years from 2003-2009 and 2011-2014, the results of the regression analysis reflected the expected, common-sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.<sup>60</sup> For 2010, however, the regression does not yield that outcome for the PRC's income group.<sup>61</sup> This contrary result for a single year does not lead us to reject the strength of governance as a determinant of interest rates. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009 and 2011-2014. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

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<sup>56</sup> See CFS IDM at Comment 10; see also *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying Issues and Decision Memorandum (Thermal Paper IDM) at 8-10.

<sup>57</sup> See World Bank Country Classification, <http://data.worldbank.org/about/country-and-lending-groups> ("World Bank Country Classification"); see also Powermach I&E Preliminary Analysis Memorandum; Memorandum, Countervailing Duty Investigation of Iron Mechanical Transfer Drive Components from the People's Republic of China: Interest Rate Benchmark Memorandum" dated concurrently with this memorandum ("Interest Rate Benchmark Memorandum").

<sup>58</sup> See World Bank Country Classification.

<sup>59</sup> See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Countervailing Duty Determination*, 78 FR 33346 (June 4, 2013), and accompanying Preliminary Decision Memorandum at "Benchmarks and Discount Rates" (unchanged in *Shrimp from the PRC*).

<sup>60</sup> See Additional Documents Memorandum at Attachment 4; see also Powermach I&E Preliminary Analysis Memorandum; Interest Rate Benchmark Memorandum.

<sup>61</sup> See Interest Rate Benchmark Memorandum.

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 (“IMF”), and they are included in that agency’s International Financial Statistics (“IFS”). With the exceptions noted below, we used the interest and inflation rates reported in the IFS for the countries identified as “upper middle income” by the World Bank for 2010-2014 and “lower middle income” for 2001-2009.<sup>62</sup> First, we did not include those economies that the Department considered to be NMEs for AD purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we remove any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments. Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.<sup>63</sup> Because the resulting rates are net of inflation, we adjusted the benchmark to include an inflation component.<sup>64</sup>

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 developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.<sup>65</sup>

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.<sup>66</sup> Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.<sup>67</sup>

The resulting inflation-adjusted benchmark lending rates are provided in the Powermach I&E Preliminary Analysis Memorandum.

## **B. Discount Rates**

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the GOC provided non-recurring subsidies.<sup>68</sup> The interest rate benchmarks and discount rates used in our

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> See, e.g., Thermal Paper IDM at 10.

<sup>66</sup> See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum (“*Citric Acid IDM*”) at Comment 14.

<sup>67</sup> See Interest Rate Benchmark Memorandum.

<sup>68</sup> See Powermach I&E Preliminary Analysis Memorandum; see also Interest Rate Benchmark Memorandum.

preliminary calculations are provided in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum.

### **C. Input Benchmarks**

We selected benchmarks for determining the benefit from the provision of pig iron and ferrous scrap in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for less than adequate remuneration (“LTAR”). These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).

As discussed in the sections titled “Application of AFA: Ferrous Scrap Industry Distortions” and “Provisions of Pig Iron for LTAR,” we are relying on “tier two” (world market) prices for calculating benchmarks for the pig iron and ferrous scrap programs.

### **D. Provision of Land-Use Rights for LTAR Benchmark**

As explained in detail in previous investigations, the Department cannot rely on the use of the so-called “tier one” and “tier two” benchmarks described above to assess the benefits from the provision of land for LTAR in the PRC. Specifically, in *Sacks from the PRC*, the Department determined that “Chinese land prices are distorted by the significant government role in the market,” and hence, no usable “tier one” benchmarks exist.<sup>69</sup> Furthermore, the Department also found that “tier two” benchmarks (world market prices that would be available to purchasers in the PRC) are not appropriate.<sup>70</sup> Accordingly, consistent with Department’s past practice, we are relying on the use of so called “tier three” benchmark for purposes of calculating a benefit for this program.

For this investigation, Petitioner submitted benchmark information to value land from “Asian Marketview Reports” by CB Richard Ellis (“CBRE”) for Thailand for 2010,<sup>71</sup> which was also relied upon in calculating land benchmarks in the CVD investigation of *Solar Cells from the PRC*.<sup>72</sup> We initially selected this information in the *Sacks from the PRC* investigation after considering a number of factors, including national income levels, population density, and

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<sup>69</sup> See, *e.g.*, *Laminated Woven Sacks From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 72 FR 67893, 67906-08 (December 3, 2007) (unchanged in “*Sacks from the PRC*”).

<sup>70</sup> *Id.*

<sup>71</sup> See Petitioner Benchmark Submission, at Exhibit 1.

<sup>72</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (“*Solar Cells from the PRC*”), and accompanying Issues and Decision Memorandum (“*Solar Cells IDM*”), at 6 and Comment 11.

producers' perceptions that Thailand is a reasonable alternative to the PRC as a location for Asian production.<sup>73</sup> We find that these benchmarks are suitable for this preliminary determination, adjusted accordingly for inflation, to account for any countervailable land received by NOK Wuxi and the Powermach Companies during the AUL of this investigation.<sup>74</sup>

## X. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by 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.<sup>75</sup>

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available ("AFA") rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."<sup>76</sup> 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."<sup>77</sup>

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at

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<sup>73</sup> The complete history of our reliance on this benchmark is discussed in the above-referenced Solar Cells IDM. In that discussion, we reviewed our analysis from the *Sacks from the PRC* investigation and concluded the CBRE data remained a valid land benchmark.

<sup>74</sup> See NOK Wuxi Preliminary Analysis Memorandum; Powermach I&E Preliminary Analysis Memorandum.

<sup>75</sup> On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). Therefore, the amendments apply to this investigation.

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

<sup>77</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 ("*SAA*") at 870.

its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>78</sup> It is the Department’s practice to consider information to be corroborated if it has probative value.<sup>79</sup> In analyzing whether information has probative value, it is the Department’s practice to examine the reliability and relevance of the information to be used.<sup>80</sup> However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.<sup>81</sup>

Finally, under the new section 776(d) of the Act, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>82</sup>

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

#### **A. Application of AFA: Non-Responsive Companies to the Q&V Questionnaire**

As noted in the “Initiation and Case History” section, the Department issued 36 Q&V questionnaires. We confirmed that 34 of the questionnaires were delivered.<sup>83</sup> Only four of the 34 questionnaire recipients timely and properly responded to our request for information. Accordingly, we preliminarily determine that the 30 non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established and significantly impeded this proceeding. Thus, the Department will rely on facts otherwise available in making our preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, each of these companies did not cooperate to the best of their ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that use of AFA is warranted to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

We have included all programs upon which the Department initiated in this investigation to determine the AFA rate. We are adversely inferring from the non-responsive companies’

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<sup>78</sup> See, e.g., SAA at 870.

<sup>79</sup> See SAA at 870.

<sup>80</sup> See, e.g., SAA at 869.

<sup>81</sup> See SAA at 869-870.

<sup>82</sup> See section 776(d)(3) of the Act.

<sup>83</sup> See Respondent Selection Memorandum.

decision not to participate in this investigation that they, in fact, used these programs during the POI.

It is the Department's practice in CVD proceedings to compute a total AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.<sup>84</sup> When selecting AFA rates, section 776(d) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.<sup>85</sup> Accordingly, when selecting AFA rates, if we have cooperating respondents, as we do in this investigation, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If there is no identical program that resulted in a subsidy rate above zero for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).<sup>86</sup> If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.<sup>87</sup>

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject

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<sup>84</sup> See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 24, 2008) (unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009) and accompanying Issues and Decision Memorandum at "Application of Facts Available, Including the Application of Adverse Inferences"); see also *Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011), and accompanying Issues and Decision Memorandum ("Aluminum Extrusions IDM") at "Application of Adverse Inferences: Non-Cooperative Companies."

<sup>85</sup> See, e.g., *Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) ("*Shrimp from the PRC*"), and accompanying Issues and Decision Memorandum ("*Shrimp IDM*") at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate").

<sup>86</sup> For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

<sup>87</sup> See *Shrimp IDM* at 13-14.

merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>88</sup> The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.<sup>89</sup>

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.<sup>90</sup> Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.<sup>91</sup>

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.<sup>92</sup>

In determining the AFA rate we will apply to each of the non-responsive companies, we are guided by the Department’s methodology detailed above. We begin by selecting, as AFA, the highest calculated program-specific above-zero rates determined for the cooperating respondents in the instant investigation. Accordingly, we are applying the highest applicable subsidy rate calculated for Powermach I&E or NOK Wuxi for the following programs:<sup>93</sup>

- Policy Loans to the ITDC Industry
- Provision of Pig Iron for LTAR
- Provision of Ferrous Scrap for LTAR
- Provision of Electricity for LTAR
- Provision of Land for LTAR
- VAT and Import Duty Exemptions for Use of Imported Equipment
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment

To calculate the program rate for the following income tax reduction programs on which the Department initiated an investigation, we applied an adverse inference that each of the non-

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<sup>88</sup> See SAA at 870.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 869-870.

<sup>91</sup> See section 776(d) of the Act.

<sup>92</sup> See, e.g., *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

<sup>93</sup> We note that respondents benefited from additional programs that were reported or discovered during the course of this proceeding. For the purposes of calculating the AFA rate, however, we are only referencing those programs on which we initiated this investigation.

responsive companies paid no income tax during the POI:

- Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
- Income Tax Benefits for FIEs Based on Geographic Location
- Income Tax Reductions for Export-Oriented FIEs
- Local Income Tax Exemption and Reduction Programs for “Productive” FIEs
- Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises

The standard income tax rate for corporations in the PRC in effect during the POI was 25 percent.<sup>94</sup> Thus, the highest possible benefit for these income tax programs is 25 percent. Accordingly, we are applying the 25 percent AFA rate on a combined basis (*i.e.*, the five programs, combined, provide a 25 percent benefit). Consistent with past practice, application of this AFA rate for preferential income tax programs does not apply to tax credit, tax rebate, or import tariff and VAT exemption programs, because such programs may provide a benefit in addition to a preferential tax rate.<sup>95</sup>

For all other programs not mentioned above, we are applying, where available, the highest above-*de minimis* subsidy rate calculated for the same or comparable programs in a PRC CVD investigation or administrative review. For this preliminary determination, we are able to match, based on program names, descriptions, and benefit treatments, the following programs to the same programs from other PRC CVD proceedings:

- Treasury Bond Loans<sup>96</sup>
- Preferential Loans for Key Projects and Technologies<sup>97</sup>
- Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program<sup>98</sup>
- Provision of Land to SOEs for LTAR<sup>99</sup>
- Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China<sup>100</sup>
- Tax Offsets for Research and Development under the EITL<sup>101</sup>
- Tax Offsets for Research and Development by FIEs<sup>102</sup>

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<sup>94</sup> See Powermach I&E PQR, Vol. III at 24, Vol. IV at 27-28, Vol. V, at 24-26.

<sup>95</sup> See, *e.g.*, Aluminum Extrusions IDM at “Application of Adverse Inferences: Non-Cooperative Companies.”

<sup>96</sup> See *Certain Coated Paper Suitable for High Quality Print Graphics Using Sheet Fed Presses from the People’s Republic of China: Amended Final Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 70201, 70202 (November 17, 2010), and accompanying Issues and Decision Memorandum (“Coated Paper IDM”) at 6.

<sup>97</sup> See Coated Paper IDM at 5; see also *Certain Magnesia Carbon Bricks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010), and accompanying Issues and Decision Memorandum (“Bricks IDM”) at “Directed and preferential loans to Magnesium Brick Industry.”

<sup>98</sup> See Coated Paper IDM at 5; see also Bricks IDM at “Directed and preferential loans to Magnesium Brick Industry.”

<sup>99</sup> See *Sacks from the PRC* at “2. Government Provision of Land for Less Than Adequate Remuneration.”

<sup>100</sup> See Bricks IDM at 10.

<sup>101</sup> See *New Pneumatic Off-the-Road Tires From the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 75 FR 64268, 64275 (October 19, 2010) (“OTR Tires Preliminary AR”) (“C. VAT and Import Duty Exemptions on Imported Material”), unchanged in *OTR Tires Final AR*, 76 FR at 23286.

<sup>102</sup> *Id.*

- Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises<sup>103</sup>
- Grants for Antidumping Investigations<sup>104</sup>
- Foreign Trade Development Grants<sup>105</sup>
- Export Assistance Grants<sup>106</sup>
- Subsidies for Development of Famous Export Brands and China World Top Brands<sup>107</sup>
- Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands<sup>108</sup>
- VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment<sup>109</sup>
- VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program<sup>110</sup>
- Export Interest Subsidies<sup>111</sup>
- State Special Fund for Promoting Key Industries and Innovation Technologies<sup>112</sup>
- Funds for Outward Expansion of Industries in Guangdong Province<sup>113</sup>
- Provincial Fund for Fiscal and Innovation Technologies<sup>114</sup>
- Waste Water Treatment Subsidies<sup>115</sup>
- Provision of Water for LTAR<sup>116</sup>
- Technology to Improve Trade Research and Development Fund<sup>117</sup>
- Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises<sup>118</sup>
- Shandong Province’s Environmental Protection Industry Research and Development Funds<sup>119</sup>
- Shandong Province’s Special Fund for the Establishment of Key Technology Centers<sup>120</sup>
- Shandong Province’s Award Fund for Industrialization of Key Energy-Saving Technology<sup>121</sup>

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<sup>103</sup> *Id.*

<sup>104</sup> See *Chlorinated Isocyanurates from the People’s Republic of China Final Affirmative Countervailing Duty Determination*, 79 FR 56560, (September 22, 2014), and accompanying Issues and Decision Memorandum (“Isos IDM”) at 13-14 (“Special Fund for Energy Saving Technology”).

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> See OTR Tires Preliminary AR, 75 FR at 64275 (“C. VAT and Import Duty Exemptions on Imported Material”), unchanged in OTR Tires Final AR, 76 FR at 23286.

<sup>110</sup> *Id.*

<sup>111</sup> See Isos IDM at “Analysis of Programs; Special Fund for Energy Saving Technology.”

<sup>112</sup> *Id.*

<sup>113</sup> See Thermal Paper IDM at “Funds for Outward Expansion of Industries in Guangdong Province.”

<sup>114</sup> See Isos IDM at “Analysis of Programs; Special Fund for Energy Saving Technology.”

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for each of the AFA Companies to be 166.77 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

## **B. Application of Facts Available: Cenfit**

As noted above, the Department did not receive a complete questionnaire response on behalf of Cenfit, which owned a majority share of Dawn Precision (the parent company of Powermach I&E) during the POI. In response to the Department's original questionnaire, the Powermach Companies explained that they were unable to obtain cooperation from Cenfit, as they are no longer affiliated with the company, and were only able to provide a very limited response on behalf of Cenfit.<sup>122</sup> In particular, the Powermach Companies explained that following the POI – but prior to Petitioner's filing of an antidumping petition, and prior to the initiation of this investigation – Cenfit sold its entire ownership interest in Dawn Precision.<sup>123</sup> To substantiate their effort to obtain Cenfit's cooperation, the Powermach Companies provided the Department with numerous emails sent to Cenfit that did not receive a response.<sup>124</sup> Additionally, the Powermach Companies provided documents indicating that Dawn Precision was in litigation with Cenfit, demonstrating the contentious nature of the relationship between the Powermach Companies and Cenfit.<sup>125</sup> The Department also did not receive information concerning Cenfit from the GOC.<sup>126</sup> As a result, the Department does not have sufficient information on the record to allow the proper analysis of any subsidies received by Cenfit. Accordingly, we have determined that the use of facts otherwise available is warranted under section 776(a)(1) of the Act because certain necessary information is not on the record.

Thus, the Department has calculated a rate for Cenfit based on facts otherwise available using the information on the record for both Powermach I&E and NOK Wuxi. After calculating a net countervailable rate of 20.70 percent for Powermach I&E,<sup>127</sup> we added to this rate, based on the facts available, a rate for Cenfit of 13.24 percent, for a total rate of 33.94 percent for Powermach I&E.<sup>128</sup>

The Department calculated Cenfit's portion of Powermach I&E's 33.94 percent rate as follows. First, for those programs which were determined to be used by both mandatory respondents (Powermach I&E and NOK Wuxi), we took a simple average of the rates assigned to the mandatory respondents, and applied these average rates to Cenfit. The programs used by both parties include: the provision of pig iron for LTAR, the provision of ferrous scrap for

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<sup>122</sup> See Powermach I&E PQR, Vol. II, at 4.

<sup>123</sup> *Id.* at 4 and Exhibit 1.

<sup>124</sup> *Id.* at Exhibit 3.

<sup>125</sup> *Id.* at Exhibit 4.

<sup>126</sup> See GOC SQR at 1.

<sup>127</sup> This rate is based on the responses received from Powermach I&E on behalf of itself, Dawn Precision, Dawn Foundry and Powermach Machinery. To measure the benefit to Powermach I&E from any subsidies that went to cross-owned affiliates rather than to Powermach I&E directly, we have applied the attribution rules under 19 CFR 351.525(b) where appropriate, as explained above under the "Attribution of Subsidies" section and in the Powermach I&E Preliminary Analysis Memorandum.

<sup>128</sup> See Powermach I&E Preliminary Analysis Memorandum.

LTAR, the provision of electricity for LTAR, and the provision of land-use rights for LTAR, and VAT and import duty exemptions for use of imported equipment. The sum of the average rates for these programs was 10.17 percent.<sup>129</sup>

Next, we added to this rate of 10.17 percent the rates for the three programs used only by the Powermach Companies. These programs include: policy loans to the ITDC industry, income tax credits for domestically-owned companies purchasing domestically-produced equipment, and the preferential tax rate for companies in the Western Region. The sum of the rates assigned to the Powermach Companies for these programs was 3.07 percent.<sup>130</sup> Accordingly, the total rate applied to Cenfit was 13.24 percent.

### **C. Application of AFA: Provision of Electricity for LTAR**

The GOC did not provide complete responses to the Department's questions regarding the alleged provision of electricity for LTAR. These questions requested information needed to determine whether the provision of electricity constituted a financial contribution within the meaning of section 771(5)(D) of the Act, whether such a provision provided a benefit within the meaning of section 771(5)(E) of the Act, and whether such a provision was specific within the meaning of section 771(5A) of the Act.

In order for the Department to analyze the financial contribution and specificity of this program, we request in our Primary Questionnaire that the GOC provide a detailed explanation of certain information for each province in which a respondent is located. In particular, we requested that the GOC explain: (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals for increases in electricity rates; and (3) 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. In its Primary Questionnaire response, the GOC did not adequately address these questions.<sup>131</sup> The GOC did not explain how cost elements in the price proposals led to retail price increases. The GOC did not provide any details on how much each of these factors weighed in its decision-making process. Additionally, the GOC reported that

{C}ost elements that are considered are not derived from any complicated calculation, but instead are obtained directly from the data provided by the power generating companies and grid companies. Importantly, the price for fuel and coal, which are the main inputs to power generation, is completely determined by the market (including international market forces). The interests of the power generation, transmission and distribution enterprises are adequately considered, and the capacity of users and residents is also taken into account. This makes the electricity rates fully reflective of the changes in the supply and demand of the

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<sup>129</sup> *Id.*; see also NOK Wuxi Preliminary Analysis Memorandum.

<sup>130</sup> See Powermach I&E Preliminary Analysis Memorandum.

<sup>131</sup> See GOC PQR at 84-90.

market, and further the international commitments and government policies made by the GOC for energy conservation and emission reduction.<sup>132</sup>

The GOC provided this general theoretical outline of the cost elements, but provided no practical examples of their application to the provincial rates during the POI. Further, the GOC did not explain how the cost elements in the price proposals led to retail price increases for electricity for the provinces where the mandatory respondents are located.<sup>133</sup> The GOC did not provide such information when given a second opportunity.<sup>134</sup>

Consequently, we preliminarily determine that the GOC withheld information that was requested of it for our analysis of financial contribution and specificity and, thus, the Department must rely on “facts available” in making our preliminary determination.<sup>135</sup> Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. The GOC did not adequately answer the questions, nor did the GOC ask for additional time to gather and provide such information. As such, an adverse inference is warranted in the application of facts available.<sup>136</sup> In drawing an adverse inference, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. Because the GOC refused to provide information concerning the relationship (if any) between provincial tariff schedules and cost, we also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit.<sup>137</sup> The benchmark rates we selected are derived from the record of this investigation and are the highest electricity rates on the record for the applicable rate and user categories. For details regarding the remainder of our analysis, *see* the “Provision of Electricity for LTAR” section.

#### **D. Application of AFA: Input Suppliers are “Authorities”**

As discussed below, under the section “Programs Preliminarily Found to be Countervailable,” the Department is investigating whether the GOC provided pig iron and ferrous scrap for LTAR. As part of its analysis, the Department sought information that would allow us to analyze whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act. Specifically, we asked the mandatory respondents to provide a complete list of the suppliers and producers from which they sourced pig iron and ferrous scrap during the POI. Then, the Department requested a variety of information from the GOC to assess the relationship between the identified producers of pig iron and ferrous scrap and the GOC.

In response to the Primary Questionnaire, Powermach I&E and NOK Wuxi provided a list of their suppliers of pig iron and ferrous scrap.<sup>138</sup> The GOC indicated that “all of respondents’ suppliers of pig iron and ferrous scraps involved in this case are either foreign invested or private

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<sup>132</sup> *Id.* at 88.

<sup>133</sup> *Id.* at 84-90

<sup>134</sup> *See* GOC SQR at 3.

<sup>135</sup> *See* section 776(a)(2)(A) of the Act.

<sup>136</sup> *See* section 776(b) of the Act.

<sup>137</sup> *See* section 776(b)(4) of the Act.

<sup>138</sup> *See* Powermach I&E SQR, at Vol. III, Exhibits 9-10; NOK Wuxi PQR at Exhibits N-9 and N-11.

companies.”<sup>139</sup> To support this assertion, the GOC provided summary data denoting the business registration information and basic shareholder for the producers listed. As such, the GOC concluded that the suppliers were not “authorities.”

As an initial matter, the respondents’ responses to our Primary Questionnaire often did not identify the producer of the input.<sup>140</sup> This is critical, as the Department’s analysis largely focuses on the “authority” status of the ultimate producers, rather than the status of intermediate supplier(s). This deficiency was partially addressed in a supplemental questionnaire response.<sup>141</sup> With respect to pig iron producers, Powermach I&E provided an updated list containing producer names.<sup>142</sup> With respect to ferrous scrap producers, Powermach I&E also revised its initial response to explain that in many cases, the supplier and producer were one and the same. For a number of ferrous scrap purchases, Powermach I&E was unable to identify the original source of the inputs.<sup>143</sup> NOK Wuxi similarly advised that it was unable to identify its ferrous scrap producers.<sup>144</sup> In the instances where the Department did not receive information on the identity of producers, we are unable to determine whether the producers are majority state-owned, and thus are “authorities.”

Additionally, even for the producers that the respondents did identify, the GOC did not provide a full response to the Department’s questions regarding these producers. The GOC provided summary data denoting the business registration information and basic shareholder information for a number of producers and suppliers, but did not provide the additional information (*e.g.*, company by-laws, articles of incorporation, licenses, etc.) that was specifically requested by the Department. Nor did the GOC elect to supplement its initial filing when presented with a second opportunity.<sup>145</sup> Instead, the GOC indicated that “The requested Articles of Incorporation and Capital Verification Reports of each of pig iron suppliers simply supplement the GOC’s initial response and the relevant documentation provided on the record.”<sup>146</sup> Again, this response undermined the Department’s ability to accurately determine whether the producers constitute “authorities.”

Furthermore, we requested information on 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. The GOC did not provide this requested information for any producer. Instead, the GOC argued that “even if an owner, a director, or a manager of a privately-owned supplier company is a member of ... {a CCP organization}, it would not make the management and business operations of the company in which he/she serves subject to any levels of intervention by the GOC.”<sup>147</sup> Because the GOC did not provide information we need for our analysis, we asked for this information a second time, in our supplemental questionnaire.

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<sup>139</sup> See GOC PQR at 7.

<sup>140</sup> See, *e.g.*, NOK Wuxi PQR at Exhibit N-11.

<sup>141</sup> See Powermach I&E SQR at 8.

<sup>142</sup> *Id.* The GOC, in its supplemental response, did not provide information on the newly-identified producers.

<sup>143</sup> See Powermach I&E SQR at 8.

<sup>144</sup> See NOK Wuxi SQR at Question 24.

<sup>145</sup> See GOC SQR at 7-10.

<sup>146</sup> *Id.* at 10.

<sup>147</sup> See GOC PQR at 38.

Instead of providing the requested information, the GOC referred back to its Primary Questionnaire response and stated that it could not provide additional information.<sup>148</sup>

The information we requested regarding the role of CCP officials in the management and operations of these producers is necessary to our determination of whether these producers are “authorities” within the meaning of section 771(5)(B) of the Act. The GOC did not indicate that it had attempted to contact the CCP, or that it consulted any other sources. The GOC’s responses in prior CVD proceedings involving the PRC demonstrate that it is, in fact, able to access information similar to what we requested.<sup>149</sup> Additionally, pursuant to section 782(c) of the Act, if the GOC could not provide any information, it should have promptly explained to the Department what attempts it undertook to obtain this information and proposed alternative forms of providing the information.<sup>150</sup>

We preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on “facts otherwise available” in issuing our preliminary determination, pursuant to section 776(a)(2)(A) of the Act. Moreover, we preliminarily find that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, we find that an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. As AFA, we are finding that certain producers of pig iron and ferrous scrap for which the GOC failed to identify whether the members of the board of directors, owners or senior managers were CCP officials, are “authorities” within the meaning of section 771(5)(B) of the Act.

For details on the calculation of the subsidy rate for the respondents, *see* below at “Provision of Pig Iron for LTAR” and “Provision of Ferrous Scrap for LTAR.”

#### **E. Application of AFA: Provision of Pig Iron and Ferrous Scrap is Specific**

The Department asked the GOC to provide a list of industries in the PRC that purchase pig iron and ferrous scrap directly, and to provide the amounts (volume and value) purchased by each of the industries, including the industry classification that includes ITDC producers.<sup>151</sup> The Department requests such information for purposes of its *de facto* specificity analysis. Specifically, our questionnaire asked the GOC to:

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<sup>148</sup> *Id.*

<sup>149</sup> *See, e.g., High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) (*HPSC from the PRC*), and accompanying Issues and Decision Memorandum (“HPSC IDM”) at 13.

<sup>150</sup> Section 782(c)(1) of the Act states, “[i]f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority of the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.”

<sup>151</sup> *See* Primary Questionnaire at II-10-11, 13-15.

Provide a list of the industries in the PRC that purchase {the input} directly, using a consistent level of industrial classification. Provide the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry. In identifying the industries, please use whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry. Please provide the relevant classification guidelines, and please ensure the list provided reflects consistent levels of industrial classification. Please clearly identify the industry in which the companies under investigation are classified.<sup>152</sup>

The GOC did not provide this information. Nor did it explain what efforts it made to compile this information. Instead, the GOC simply indicated that “Pig iron is the building block of the iron and steel industry. ... There are vast number{s} of uses for pig iron. The types of consumers that may purchase pig iron are highly varied in the world and Chinese markets.”<sup>153</sup> The GOC response contained similar language with respect to ferrous scrap. The GOC asserted that the scope of pig iron and ferrous scrap usage is too broad to be considered “specific” to the industry under consideration. This response is insufficient.

As an initial matter, the Department did not ask that the GOC provide pig iron usage data for each of the potentially numerous narrowly-drawn end user categories. Rather, the Department asked that the GOC provide information on purchases by industry, using “whatever resource or classification scheme the Government normally relies upon to define industries and to classify companies within an industry.”<sup>154</sup> For example, an International Standard Industrial Classification (“ISIC”) category at the 2-digit level would encompass the ITDC industry (*e.g.*, ISIC Category 28 “Manufacture of machinery and equipment n.e.c.”). A National Economy Industry Classification (“NEIC”) 2-digit category would appear to do so as well (*e.g.*, NEIC Category 33 “Industry of Metal Products”). A number of the more nuanced sector classifications, at the 3 or 4 digit level, would encompass the ITDC industry as well. The GOC did not provide usage data pursuant to *any* classification grouping. Accordingly, the Department was entirely unable to consider the relative consumption of pig iron by sector, as the GOC has provided no data.

With respect to ferrous scrap, the GOC similarly failed to provide information essential to the Department’s specificity analysis. Again, the GOC explained that there are too many ferrous scrap producers to meaningfully identify industry-by-industry consumption data. The GOC’s own response suggests otherwise. The GOC explained that the China Association of Metalscrap Utilization (“CAMU”) collects the ferrous scrap consumption data from numerous producers.<sup>155</sup> Given that the GOC admits that the identity of these producers are known to CAMU, and that these producers can be identified in the State Statistics Bureau database,<sup>156</sup> it is unclear why the

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<sup>152</sup> See Primary Questionnaire at II-11.

<sup>153</sup> See GOC PQR at 52.

<sup>154</sup> See Primary Questionnaire at II-11.

<sup>155</sup> See GOC SQR at 12.

<sup>156</sup> *Id.*

GOC could not take steps to identify the underlying industry(ies) to which all CAMU members belong.

The GOC's contention that the broad range of applications for pig iron and ferrous scrap undermines a finding of specificity must fail. The Department has previously considered, and rejected, the arguments now made by the GOC. For instance, in *Steel Sinks from the PRC*, the Department noted that simply because an input is consumed by multiple industries, that does not undermine a finding of specificity.<sup>157</sup> There, the Department explained that where "potential users of stainless steel products fall into 20 or 32 different industry classifications using ISIC and Chinese national economy industry classifications {NEIC}," the stainless steel input could still be considered specific to the industry in question.<sup>158</sup> Similarly, in *Citric Acid from the PRC*, the Department considered whether sulfuric acid, steam coal and calcium carbonate were specific to the industry under consideration.<sup>159</sup> As here, the GOC argued that these inputs "are sold to a broad spectrum of industries for a wide variety of uses," thus undermining a finding of specificity.<sup>160</sup> The Department rejected that argument in *Citric Acid from the PRC*, noting that a number of broad industry classifications were predominant users of such inputs. For example, with respect to sulfuric acid, the Department found that fertilizer producers and the "chemical industry" were predominant users of the input; accordingly, the Department found that sulfuric acid was specific to the industry in question.<sup>161</sup>

Consistent with the cases above, the larger industry grouping to which ITDC producers belong (e.g., casting operations; equipment and machinery manufacturing, etc.) is likely to be a substantial consumer of pig iron and ferrous scrap. In this case, however, the Department was unable to conduct such an analysis because the GOC did not provide data on the relative consumption of pig iron or ferrous scrap at *any* industry level.

Therefore, consistent with past proceedings,<sup>162</sup> we preliminarily determine that necessary information is not available on the record and that the GOC has withheld information that was requested of it, and, thus, that the Department must rely on "facts available" in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the GOC's provision of pig iron and ferrous scrap is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

## **F. Application of Facts Available: Ferrous Scrap Industry Distortions**

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<sup>157</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 77 FR 46717 (August 6, 2012) (*Steel Sinks from the PRC*).

<sup>158</sup> *Id.*

<sup>159</sup> See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2013*, 80 FR 77318 (December 14, 2015), and accompanying Issues and Decision Memorandum (Citric Acid IDM) at Comment 1.

<sup>160</sup> *Id.*

<sup>161</sup> See Citric Acid IDM at Comment 1.A.

<sup>162</sup> See, e.g., Wind Towers IDM at Comment 13.

In order to determine the appropriate benchmark with which to measure the benefit from the provision of inputs at LTAR under 19 CFR 351.511, the Department asked the GOC several questions concerning the structure of the industries for pig iron and ferrous scrap (the key inputs used by the mandatory respondents). Specifically, the Department requested that the GOC provide the following information for each input:

- 1) The total number of producers;
- 2) The total volume and value of Chinese domestic consumption of {input} and the total volume and value of Chinese domestic production of {input};
- 3) The percentage of domestic consumption accounted for by domestic production.
- 4) The total volume and value of imports of {input};
- 5) The total volume and value of domestic production that is accounted for by companies in which the Government maintains an ownership or management interest either directly or through other Government entities;
- 6) A discussion of what laws, plans or policies address the pricing of {input}, the levels of production of {input}, the importation or exportation of {input}, or the development of {input} capacity. Please state which, if any, central and subcentral level industrial policies pertain to the {input} industry.<sup>163</sup>

The Department requested such information to determine whether the GOC is the predominant provider of these inputs in the PRC and whether its presence in the market distorts all transaction prices.

In response, the GOC provided the applicable information relating to the pig iron industry. With respect to ferrous scrap, the GOC stated that it does not maintain records on the ferrous scrap industry. As a result, the GOC stated that it was unable to identify the producers in which the GOC maintains an ownership or management interest – either directly or through other government entities.<sup>164</sup> In particular, the GOC asserted that, because there are so many producers of ferrous scrap, it would be impossible to identify a full list of producers.

In a supplemental questionnaire, the Department explained that the GOC could, alternatively, provide information on the industries that are the *largest* generators/suppliers of ferrous scrap. As with our Primary Questionnaire, the GOC again reiterated that too many industries are involved, and that it was unable to provide information.<sup>165</sup> The GOC, however, did not provide an explanation as to how it attempted to gather the requested information. Given that the CAMU has aggregate consumption figures collected from particular companies, the Department cannot accept the conclusion that the GOC has no way of identifying the industries to which these companies belong.

In past proceedings, the GOC has demonstrated that it has the ability, through the State Statistical Bureau or other sources (*e.g.*, industry associations), to report data concerning the

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<sup>163</sup> See Primary Questionnaire at II-10, II-11.

<sup>164</sup> See GOC PQR at 75.

<sup>165</sup> See GOC SQR at 11.

production of a wide variety of inputs.<sup>166</sup> Therefore, we preliminarily determine that the GOC, having failed to provide such data, has withheld information that was requested of it, and that the use of facts available is warranted pursuant to section 776(a)(2)(A) of the Act. As AFA, the Department preliminarily determines that the industries that produce and sell ferrous scrap are distorted by GOC involvement.

Additionally, the record evidence indicates that the GOC levied a 40 percent tariff on ferrous scrap exports in the 2012-2014 period.<sup>167</sup> Export tariffs can increase the domestic quantity of ferrous scrap that is available in the PRC with the result that such measures will suppress domestic prices. Furthermore, statistics provided by the GOC demonstrate that imports of ferrous scrap accounted for less than 0.1 percent of domestic ferrous scrap consumption in the PRC during the POI.<sup>168</sup>

For these reasons, we preliminarily determine that domestic markets for ferrous scrap are distorted through the intervention of the GOC, and we are therefore relying on an external benchmark for determining the benefit from the provision of ferrous scrap at LTAR, in accordance with 19 CFR 351.511(a)(2)(ii).

#### **G. Application of AFA: Mandatory Respondents' Reported Grants**

Powermach I&E and NOK Wuxi reported that they (or their cross-owned affiliates) received certain grants that were not addressed elsewhere in the Primary Questionnaire. As part of the Primary Questionnaire, we requested that the GOC provide information regarding respondents' use of any other subsidies not otherwise covered in the Primary Questionnaire:

Does the GOC (or entities owned directly, in whole or in part, by the GOC or any provincial or local government) provide, directly or indirectly, any other forms of assistance to producers or exporters of ITDCs? Please coordinate with the respondent companies to determine if they are reporting usage of any subsidy program(s). For each such program, please describe such assistance in detail, including the amounts, date of receipt, purpose and terms, and answer all questions in the Standard Questions Appendix, as well as other appropriate appendices attached to this questionnaire.<sup>169</sup>

The GOC responded that it had cooperated with respect to the Department's request, and that in the "absence of allegations and sufficient evidence in respect of 'other' subsidies, consistent with Article 11.2 and other relevant articles of the WTO Agreement on Subsidies and Countervailing

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<sup>166</sup> See, e.g., *Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 79 FR 33174 (June 10, 2014), and accompanying Preliminary Decision Memorandum at 14-15 (unchanged in *Countervailing Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 76962 (December 23, 2014)).

<sup>167</sup> See GOC SQR at 77.

<sup>168</sup> *Id.* at 75 (showing the aggregate consumption value, as well as the value, of ferrous scrap imported on an annual basis).

<sup>169</sup> See Primary Questionnaire at II-18.

Measures, no reply to this question is warranted or required.”<sup>170</sup> The GOC further stated that “[i]n the event that a mandatory respondent clarifies the specific program under which a particular grant, if any, was received, the GOC will confirm the details of such grants with regard to the records of the particular program so identified, as applicable.”<sup>171</sup>

Despite the Department’s clear request for information, the GOC provided no information. In a supplemental questionnaire, the GOC continued to fail to provide information. It explained:

{D}ue to the complexity of programs and the number of local governments involved, the GOC was unable to collect the necessary information to provide a full response to the Standard Question Appendix in a limited time frame. The GOC notes that the mandatory respondents have reported their subsidies information, for the period of December 11, 2001, through the POI, in their questionnaire responses respectively. Accordingly, the GOC believes the information provided on the record is sufficient for the Department to make a determination in calculating subsidy rates.<sup>172</sup>

In short, despite being the party best positioned to provide the Department with critical information concerning the eligibility and application of grant programs, the GOC did not provide the requested information. Consequently, we preliminarily determine that the GOC withheld information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.<sup>173</sup> Moreover, we preliminarily determine that the GOC failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available.<sup>174</sup> In drawing an adverse inference, we preliminarily find that these grants to Powermach Companies and NOK Wuxi constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act, and we find that they are specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. Consistent with prior cases, we will use the grant amounts reported by respondents to determine if benefits exist for each grant.<sup>175</sup>

## **H. Application of AFA: Land-Use Rights in Jiangsu Province and Sichuan Province**

We requested that the GOC provide a complete copy of each national, provincial or municipal plan or policy that related to the ITDC industry, and covered jurisdictions in which the respondent companies and their cross-owned companies are registered, in place from December 11, 2001, through the POI.<sup>176</sup> In response, the GOC stated that the GOC and the relevant local

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<sup>170</sup> See GOC PQR at 95.

<sup>171</sup> *Id.* at 6-7.

<sup>172</sup> See GOC SQR at 2.

<sup>173</sup> See section 776(a)(2)(A) of the Act.

<sup>174</sup> See section 776(b) of the Act.

<sup>175</sup> See Solar Cells IDM, at Comment 23.

<sup>176</sup> See Primary Questionnaire at II-3.

government authorities have never released any governmental planning documents “specific to the ITDC industry” from December 11, 2001, through the POI.<sup>177</sup>

In a supplemental questionnaire, we emphasized that the Department was requesting plans *relating to, or encompassing*, the ITDC industry. We did not request plans that exclusively relate to ITDC production, which is clearly a very specific product category. Rather, the Department requested that the GOC “{p}lease provide copies of any plans that may *encompass, or substantially relate to*, the ITDC industry.”<sup>178</sup> We noted, “{f}or instance, please provide national plans covering the iron and steel industry (such as the Government Notice on the Issuance of the Jiangsu Province Iron and Steel Industry Adjustment and Revitalization Plan Outline), the foundry and casting industry, and/or the equipment and machinery manufacturing industries.”<sup>179</sup> In response, the GOC provided only the “Steel Industry Development Policy.”<sup>180</sup> As an initial matter, the “iron and steel industry” is not the only industry relating to ITDCs—in fact, the foundry and casting or equipment manufacturing sectors appear to be more representative of the ITDC industry.<sup>181</sup> However, even if we accept the GOC’s implicit characterization of the ITDC industry as falling within the “steel” sector, the GOC did not provide a comprehensive set of plans relating to the steel industry. Also, the iron and steel industry appears to have been targeted for favorable land policies in the past.<sup>182</sup>

The Department also requested non-industry specific development plans. In response to a Department request that the GOC provide translated copies of the provincial (Jiangsu/Sichuan) development plans, the GOC indicated that it only provided “partial translations.”<sup>183</sup> Specifically, in the GOC’s March 8, 2016 response, the GOC stated that it only provided the parts of the requested five year plans for Jiangsu and Sichuan province that referred to “steel policy.”<sup>184</sup> Since the GOC did not provide translations for the majority of the parts of the Jiangsu and Sichuan Provinces’ 10<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> five-year plans requested by the Department, the Department is unable to determine whether sectors that encompass the ITDC industry are specifically identified in these local government plans. The GOC also failed to provide a copy of the Chengdu municipal plan that was requested, explaining that “since the ITDC industry was

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<sup>177</sup> See GOC PQR at 5-6 (providing several broad economy-wide policy documents, such as the Industrial Restructuring Guidance Catalogue (2011)).

<sup>178</sup> See Letter to the GOC, “Iron Mechanical Transfer Drive Components from the People’s Republic of China: Countervailing Duty Questionnaire,” February 23, 2016 (“First GOC Supplemental Questionnaire”).

<sup>179</sup> *Id.*

<sup>180</sup> See GOC SQR at 15.

<sup>181</sup> See, e.g., Powermach I&E PQR at Vol. 3, Exhibit 18; see also Powermach I&E PQR, Vol. 4, at Exhibit 22; Powermach I&E PQR at Vol. 5, Exhibit 18.

<sup>182</sup> Recently, the Department observed that there is a plan which encourages the development of certain steel sectors through, *inter alia*, priority in land use. See, e.g., *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From the People’s Republic of China: Preliminary Affirmative Determination*, 80 FR 68843 (November 06, 2015) and accompanying Issues and Decision Memorandum at 23 (“CORE IDM”).

<sup>183</sup> See GOC SQR at 14.

<sup>184</sup> The Department requested translations of various parts of the 10<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> five-year plans for the Jiangsu and Sichuan provinces, not just parts which referred to the steel industry, because the ITDC industry could be classified in several business industries, such as the foundry and casting industry, and the equipment and machinery manufacturing industry, as well as the iron and steel industry.

not mentioned in the Regional Plan of Chengdu-Chongqing Economic Zone, the GOC believes that this document is irrelevant to this investigation.”<sup>185</sup>

The Department notes that the Western region, where one of the respondents here is located, was targeted in the GOC 10<sup>th</sup> five-year plan for favorable land policies. The plan stated that “{t}he nation will implement the policies and measures in order to pertinently support the Western Development, increase the financial transfer payment and construction fund investment in the Western region and adopt preferential opening-up, tax, land, resources and personnel policies.”<sup>186</sup> The GOC’s unwillingness to provide provincial and local development plans is particularly noteworthy in this context.

In short, the GOC failed, on numerous occasions, to provide documents that were requested of it, and put itself in the position of determining what documents were relevant to the Department’s investigation. Therefore, the Department determines that the GOC failed to act to the best of its ability and, as adverse facts available, that the Jiangsu and Sichuan Provinces do indeed have a plan covering the ITDC industry which provides preferential land-use rights at LTAR, and that such land provision is specific in accordance with 771(5A)(D)(i) of the Act because it is limited in number, *i.e.*, to the ITDC industry (or to an industry which would encompass the ITDC industry).

## **XI. ANALYSIS OF PROGRAMS**

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

### **A. Programs Preliminarily Determined To Be Countervailable**

#### **1. Policy Loans to the ITDC Industry**

Petitioner alleges that policy banks and SOCBs in the PRC make loans to ITDC producers at preferential terms as a matter of government policy.<sup>187</sup> The Department has countervailed this program in previous investigations.<sup>188</sup>

In response to our questionnaire, Powermach I&E identified several loans from state-owned banks to Dawn Precision and Powermach Machinery.<sup>189</sup> Based on our review of the record, we preliminarily determine that loans received by the ITDC industry from SOCBs were made

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<sup>185</sup> See GOC SQR at 15.

<sup>186</sup> See GOC PQR at Exhibit 4a (emphasis added).

<sup>187</sup> See CVD Initiation Checklist at 7.

<sup>188</sup> See, e.g., *Drawn Stainless Steel Sinks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum (“Steel Sinks IDM”) at 24-25.

<sup>189</sup> See Powermach I&E PQR, Vol. IV at Exhibit 10; Vol. 5 at Exhibit 9; see also Submission of Petitioner, “Certain Iron Mechanical Transfer Drive Components the People’s Republic of China: Petitioner’s Comments the Section II Questionnaire Response of the Government,” date February 18, 2016, at 3 & Exhibits 1-3 (“Petitioner’s GOC Deficiency Comments”).

pursuant to government directives. We determine that the GOC, through its directives, has policies in place encouraging the use of loans to encourage and support the growth of favored industries, including equipment manufacturing and foundry industries.

For instance, the Industrial Restructuring Guidance Catalogue (2011) indicates that the industry under consideration falls within the “Encouraged” category.<sup>190</sup> Under the general “machinery” heading, it enumerates numerous subgroupings related to machinery and equipment manufacturing, such as “Precise forging and casting, with high-and-low-temperature, corrosion and wear resistance,” as encouraged sectors.<sup>191</sup> ITDC production is clearly contemplated as falling within this encouraged category, and several others as well—in fact, the tax returns filed by Dawn Precision, Powermach Machinery and Dawn Foundry explicitly state that all three of the companies fall within at least one of the enumerated encouraged categories.<sup>192</sup>

The Decision of the State Council on Promulgating and Implementing the ‘Temporary Provisions on Promoting Industrial Structure Adjustment’ No. 40 (“Decision 40”) states in the preamble that “{a}ll relevant administrative departments shall speed up the formulation and amendment of policies on public finance, taxation, credit, land, import and export, etc., effectively intensify the coordination and cooperation with industrial policies, and further improve and promote the policy system on industrial structure adjustment” with respect to the listed industrial categories.<sup>193</sup> Decision 40 explicitly references the Industrial Restructuring Guidance Catalogue and describes how “encouraged” projects will be considered under government policies. For the “encouraged” projects, Decision 40 outlines several support options available to the government, including financing. In addition to establishing eligibility for certain benefits from the central government, the Guidance Catalogue also gives provincial and local authorities the discretion to implement their own policies to promote the development of favored industries.

Additionally, the 10<sup>th</sup> 5 year plan indicated that industrial development in the Western region (where Powermach I&E and some of its affiliates are located) would be especially favored in terms of lending. The plan explains that “{t}he nation will implement the policies and measures in order to pertinently support the Western Development, increase the financial transfer payment and construction fund investment in the Western region and adopt preferential opening-up, tax, land, resources and personnel policies.”<sup>194</sup>

On the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development and production of ITDCs through policy lending. The loans to ITDC producers from policy banks and SOCBs in the PRC constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the

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<sup>190</sup> See GOC PQR at Exhibit 6.

<sup>191</sup> *Id.*

<sup>192</sup> See, e.g., Powermach I&E PQR at Vol. 3, Exhibit 18; see also Powermach I&E PQR, Vol. 4, at Exhibit 22 (noting that Dawn Precision falls under two encouraged categories within the general “machinery” category); Powermach I&E PQR at Vol. 5, Exhibit 18 (same).

<sup>193</sup> See GOC PQR at Exhibit 8.

<sup>194</sup> See *id.* at Exhibit 4a.

recipients paid on their loans and the amount they would have paid on comparable commercial loans.<sup>195</sup> Finally, we determine that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC’s policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the ITDC industry.

To calculate the benefit from this program, we used the benchmarks discussed under the “Subsidy Valuation Information” section.<sup>196</sup> On this basis, we preliminarily determine a subsidy rate of 0.79 percent *ad valorem* for Powermach I&E.

## 2. Provision of Inputs for LTAR

### a. *Provision of pig iron for LTAR*

Petitioner alleges that the respondents received countervailable subsidies in the form of the provision of pig iron for LTAR.<sup>197</sup> We requested information from the GOC regarding the specific companies that produced the pig iron that respondents purchased during the POI in order to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>198</sup> The GOC provided information indicating the basic ownership structure of the producers, but did not provide the additional data requested by the Department in its Primary Questionnaire, and requested again in a supplemental questionnaire.<sup>199</sup>

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, the Department determines that the GOC failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we determine as AFA that the producers of pig iron purchased by respondents are “authorities” within the meaning of section 771(5)(B) of the Act and, as such, that the provision of pig iron constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Additionally, as discussed in the “Application of AFA: Inputs are Specific” section, the Department has determined as AFA that the inputs for LTAR programs are specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

Further, we have determined that the domestic market for pig iron is distorted through the intervention of the GOC, and are relying on an external benchmark for determining the benefit from the provision of this input at LTAR. With respect to pig iron, the GOC indicated that there are 453 producers of pig iron in the PRC, and that 38 are members of the China Foundry Association.<sup>200</sup> The GOC also provided data on the domestic production and consumption of pig iron.<sup>201</sup> Of key importance, the GOC indicates that majority-state-owned producers accounted for 52.53, 51.71 and 52.22 percent of domestic production during the 2012-2014 time periods,

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<sup>195</sup> See section 771(5)(E)(ii) of the Act.

<sup>196</sup> See 19 CFR 351.505(c).

<sup>197</sup> See CVD Initiation Checklist at 28-30, 32-33.

<sup>198</sup> See Initial Questionnaire at section II (pages 8-11).

<sup>199</sup> See GOC SQR at Exhibits 29-30.

<sup>200</sup> *Id.* at 49.

<sup>201</sup> *Id.* at 50.

respectively.<sup>202</sup> The GOC also indicated that pig iron is subject to a 25 percent export tariff. Additionally, based on data provided by the GOC, import penetration is extremely low, accounting for less than 0.1 percent of domestic consumption in each year during 2012-2014.<sup>203</sup> For these reasons, the Department finds that the GOC is heavily involved in the pig iron industry, and that this level of government involvement in the sector creates a distortion in the market. The Department is, accordingly, selecting external benchmark prices, *i.e.*, “tier two” or world market prices, for our LTAR analysis consistent with the *CVD Preamble*.<sup>204</sup> The external benchmarks are derived from Global Trade Atlas Data submitted by Petitioner.<sup>205</sup>

As explained in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and inland freight charges that would be incurred to deliver pig iron to respondents’ production facilities. We added import duties as reported by the GOC, and the VAT applicable to imports of pig iron into the PRC, also as reported by the GOC.<sup>206</sup> In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to respondents’ reported purchase prices for individual domestic transactions, including VAT and delivery charges.<sup>207</sup>

Based on this comparison, we preliminarily determine that pig iron was provided for LTAR and that a benefit exists for respondents in the amount of the difference between the benchmark prices and the prices respondents paid.<sup>208</sup> We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum.

On this basis, we preliminarily determine a subsidy rate for Powermach I&E of 1.09 percent *ad valorem*, and for NOK Wuxi we preliminarily determine a subsidy rate of 0.20 percent *ad valorem*.

*b. Provision of Ferrous Scrap for LTAR*

Petitioner alleges that the respondents received countervailable subsidies in the form of the provision of ferrous scrap for LTAR. We requested information from the GOC regarding the specific companies that produced the ferrous scrap that respondents purchased during the POI in order to determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act. In some cases, the respondents were only able to identify the suppliers,

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<sup>202</sup> See GOC PQR at 49-50.

<sup>203</sup> *Id.* at 50.

<sup>204</sup> See *CVD Preamble* at 65377.

<sup>205</sup> See Petitioner’s Benchmark Submission at Exhibit 1.

<sup>206</sup> See GOC PQR at 49; *see also* Powermach I&E Preliminary Analysis Memorandum and NOK Wuxi Preliminary Analysis Memorandum for a full explanation of how the benchmarks were adjusted.

<sup>207</sup> See Powermach I&E Preliminary Analysis Memorandum; NOK Wuxi Preliminary Analysis Memorandum.

<sup>208</sup> See 19 CFR 351.511(a).

and not the producers, of the ferrous scrap. The GOC provided information indicating the basic ownership structure for a number of the producers, but did not provide the additional data requested by the Department in its Primary Questionnaire and again in a supplemental questionnaire.<sup>209</sup>

As described in the “Use of Facts Otherwise Available and Adverse Inferences” section, the GOC failed to cooperate to the best of its ability in responding to our requests for information. Therefore, we determine as AFA that the producers of ferrous scrap purchased by respondents are “authorities” within the meaning of section 771(5)(B) of the Act and, as such, that the provision of ferrous scrap constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Additionally, as discussed in the “Application of AFA: Inputs are Specific” section, the Department has determined as AFA that the ferrous scrap for LTAR program is specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

Further, we have determined that the domestic markets for these inputs are distorted through the intervention of the GOC. As discussed under the “Application of AFA: Ferrous Scrap Industry Distortions” section, the Department is determining that the ferrous scrap industry is distorted, because the GOC did not provide essential data on the role of the government in the provision of ferrous scrap. Additionally, we noted that the GOC imposed export duties of 40 percent on ferrous scrap, which can increase the domestic quantity of goods subject to the tariffs that is available in the PRC, suppressing domestic prices. Moreover, based on data provided by the GOC, import penetration is very low, accounting for less than 0.01 percent of domestic consumption during 2012-2014.<sup>210</sup> For these reasons, the Department is selecting for ferrous scrap external benchmark prices, *i.e.*, “tier two” or world market prices, consistent with the *CVD Preamble*. The external benchmarks are derived from Global Trade Atlas data submitted by Petitioner.<sup>211</sup>

As explained in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum, the Department adjusted the benchmark price to include delivery charges, import duties, and VAT pursuant to 19 CFR 351.511(a)(2)(iv). Regarding delivery charges, we included ocean freight and inland freight charges that would be incurred to deliver ferrous scrap to respondents’ production facilities. We added import duties as reported by the GOC, and the VAT applicable to imports of ferrous scrap into the PRC, also as reported by the GOC.<sup>212</sup> In calculating VAT, we applied the applicable VAT rate to the benchmark after first adding in amounts for ocean freight and import duties. We compared these monthly benchmark prices to respondents’ reported purchase prices for individual domestic transactions, including VAT and delivery charges.

Based on this comparison, we preliminarily determine that ferrous scrap was provided for LTAR

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<sup>209</sup> See GOC PRQ at Exhibits 29-30.

<sup>210</sup> *Id.* at 75-76.

<sup>211</sup> See Petitioner’s Benchmark Submission at Exhibit 2.

<sup>212</sup> *Id.* at 74.

and that a benefit exists for respondents in the amount of the difference between the benchmark prices and the prices respondents paid.<sup>213</sup> We divided the total benefits by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section, and in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum.

On this basis, we preliminarily determine a subsidy rate for Powermach I&E of 8.52 percent *ad valorem*, and for NOK Wuxi we preliminarily determine a subsidy rate of 0.02 percent *ad valorem*.

*c. Provision of Electricity for LTAR*

Petitioner alleged that the GOC, via the National Development and Reform Commission (“NDRC”), uses preferential electricity rates as an industrial policy tool to support certain industries. Petitioner also notes that the Department has previously found this program to be countervailable in prior proceedings.<sup>214</sup>

Based on the GOC’s failure to provide information in its Primary Questionnaire response, and as explained in the section titled “Application of AFA: Provision of Electricity for LTAR,” we are basing our determination regarding the GOC’s provision of electricity, in part, on AFA. In a CVD proceeding, the Department requires information from both the government of the country whose merchandise is under investigation and the foreign producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, it is the Department’s practice to find, as AFA, that a financial contribution exists under the alleged program and that the program is specific.<sup>215</sup> However, where possible, the Department will rely on respondents’ reported information to determine the existence and the amount of the benefit to the extent that such information is useable and verifiable. Thus, in measuring the benefit under this program, we relied on the usage information reported by the respondents in each instance. Powermach I&E and NOK Wuxi provided data on electricity consumed and electricity rates paid during the POI.<sup>216</sup>

As described above in detail, the GOC did not provide certain information that was requested regarding its provision of electricity to the Powermach Companies and NOK Wuxi and, as a result, we determine, as AFA, that the GOC is providing a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. To determine the existence and the amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we relied on reported consumption volumes and rates paid by the

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<sup>213</sup> See 19 CFR 351.511(a).

<sup>214</sup> See *Petition* at IV-53 to IV-57.

<sup>215</sup> See, e.g., *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 79 FR 71093 (December 1, 2014), and accompanying Preliminary Decision Memorandum at 35 (unchanged in *Passenger Tires from the PRC*).

<sup>216</sup> See Powermach PQR at Vol. III Exhibit 11-12; Vol. IV Exhibit 13-14; Vol. V Exhibits 10-11; NOK Wuxi PQR at N-19-N-21, Exhibits N-13 and N-14, W-18-W-19, and Exhibits W-8 and W-9.

Powermach Companies and NOK Wuxi. We compared the rates paid by the respondents to the benchmark rates, which, as discussed above, are the highest rates charged in the PRC during the POI. We made separate comparisons by price category (*e.g.*, large industry peak, basic electricity, *etc.*) and voltage class (*e.g.*, 35kv).<sup>217</sup> We multiplied the difference between the benchmark and the price paid by the consumption amount reported for that month and price category. We then calculated the total benefit during the POI for the Powermach Companies and NOK Wuxi by identifying the difference between the benchmark prices and the prices paid by each respondent. This benchmark reflects an adverse inference, which we drew as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation.<sup>218</sup>

To calculate the subsidy rate, we divided the benefit amount by the appropriate total sales denominator, as discussed in the Powermach I&E Preliminary Analysis Memorandum and the NOK Wuxi Preliminary Analysis Memorandum. On this basis, we preliminarily determine a subsidy rate of 2.04 percent *ad valorem* for Powermach I&E and a subsidy rate of 0.69 percent *ad valorem* for NOK Wuxi.

*d. Provision of Land-Use Rights for LTAR in Jiangsu and Sichuan Provinces*

Petitioner alleges that producers of ITDCs benefited from the provision of land-use rights for LTAR. Petitioner explained that the GOC directs government agencies to provide such land-use rights to favored projects and producers, including the ITDC industry. As discussed above, we are finding, as adverse facts available, that a development policy/plan exists in Jiangsu and Sichuan, and that it provides for preferential land-use rights to the ITDC industry. NOK Wuxi reported certain land-use rights in Jiangsu Province, which it states it received from government authorities during the AUL.<sup>219</sup> Powermach I&E reported certain land-use rights held by some of the Powermach Companies in the Sichuan province, which it states were received from governmental authorities at various times during the AUL.<sup>220</sup>

For this preliminary determination, we find, as AFA, that the GOC has policies in place to provide land to producers in the ITDC industry for LTAR. We also find, as AFA, that the land was provided to NOK Wuxi and the Powermach Companies by the GOC, and constitutes a financial contribution.<sup>221</sup> NOK Wuxi and Powermach I&E received their land-use rights for LTAR, constituting a financial contribution under section 771(5)(D)(iii) of the Act. This subsidy is specific under sections 771(5A)(D)(i) and (iii)(I) of the Act because preferential land-use rights at LTAR are provided to a limited number of industries or enterprises.

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<sup>217</sup> In accordance with 19 CFR 351.511(a)(2), we selected the highest rates in the PRC for the user category of the respondents (*e.g.*, "large industrial users") for the non-seasonal general, peak, normal, and valley ranges, as provided in the electricity tariff schedules submitted by the GOC.

<sup>218</sup> See "Application of AFA: Provision of Electricity for LTAR" section.

<sup>219</sup> See NOK Wuxi PQR at N-23 (for NOK Wuxi), and W-21 (for WNF).

<sup>220</sup> See Powermach I&E PQR Vol. II, at 23; Vol. IV at 24 and Exhibits 17-19; Vol. V at 22 and Exhibits 14-16.

<sup>221</sup> This finding is also consistent with statements contained in the respondents' submissions. See NOK Wuxi PQR at N-23 (for NOK Wuxi), and W-21 (for WNF); Powermach I&E PQR Vol. II, at 23; Vol. IV at 24 and Exhibits 17-19; Vol. V at 22 and Exhibits 14-16.

To determine the benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we first multiplied the Thailand industrial land benchmarks discussed above under the “Benchmarks and Discount Rates” section, by the total land areas of the land-use rights held by of NOK Wuxi’s and the Powermach Companies. We then subtracted the net price actually paid for the land to derive the total unallocated benefit. We next conducted the “0.5 percent test” provided for under 19 CFR 351.524(b)(2) for the year(s) of the relevant land-rights agreement by dividing the total unallocated benefit by the appropriate sales denominator. As a result, we found that the benefits were greater than 0.5 percent of relevant sales, and therefore allocated the benefits to the POI. We allocated the total benefit amounts across the terms of the land-use agreements, using the standard allocation formula of 19 CFR 351.524(d), and determined the amounts attributable to the POI. We divided this amount by the appropriate total sales denominator, as discussed in the “Subsidies Valuation Information” section.<sup>222</sup>

On this basis, we preliminarily determine a subsidy rate of 4.26 percent *ad valorem* for Powermach I&E, and a subsidy rate of 0.71 percent *ad valorem* for NOK Wuxi.

3. Import Tariff and VAT Exemptions for Foreign-Invested Enterprises (“FIEs”) and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Circular of the State Council on Adjusting Tax Policies on Imported Equipment (GUOFA {1997} No. 37) exempts FIEs and certain domestic enterprises from VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed list of non-eligible items, in order to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.<sup>223</sup> As of January 1, 2009, the GOC discontinued VAT exemptions under this program, but companies can still receive import duty exemptions.<sup>224</sup> Over the AUL, Powermach I&E and NOK Wuxi reported receiving VAT and tariff exemptions under this program.<sup>225</sup> The Department has previously found VAT and tariff exemptions under this program to confer countervailable subsidies.<sup>226</sup>

Consistent with these earlier cases, we preliminarily determine that VAT and tariff exemptions on imported equipment confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue foregone by the GOC and they provide a benefit to the recipient in the amount of VAT and tariff savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the VAT and tariff exemptions afforded by the program are specific under section 771(5A)(D)(i) of the Act because the program is limited to certain enterprises, *i.e.*, FIEs and domestic enterprises involved in “encouraged” projects.

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<sup>222</sup> See NOK Wuxi Preliminary Analysis Memorandum and Powermach I&E Preliminary Analysis Memorandum. For Powermach I&E, we attributed the benefit from the various land-use rights held by its cross-owned affiliates to Powermach I&E in accordance with the applicable attribution regulations as discussed earlier.

<sup>223</sup> See GOC PQR at Exhibit 11.

<sup>224</sup> *Id.* at 18-19.

<sup>225</sup> See Powermach I&E SQR Exhibit SQ-14.1; NOK Wuxi PQR at Exhibits N-7 and W-7.

<sup>226</sup> See, *e.g.*, Wire Decking IDM at 25-27.

Since this indirect tax is provided for, or tied to, the capital structure or capital assets of a firm, as reported by Powermach I&E and NOK Wuxi, the Department treated this tax as a non-recurring benefit and applied our standard methodology for non-recurring grants to calculate the subsidy rate.<sup>227</sup> Specifically, where the benefits exceeded 0.5 percent of the relevant sales of that year, we allocated the amount of the VAT and/or tariff exemptions over the AUL.<sup>228</sup> In the years that the benefits received by each company under this program did not exceed 0.5 percent of relevant sales for that year, we expensed those benefits in the years that they were received, pursuant to 19 CFR 351.524(b)(2). We used the discount rates described in the section “Subsidies Valuation Information,” to calculate the amount of the benefit allocable to the POI. Those benefits expensed or allocated to the POI were then used as the basis for calculating the net subsidy rate by dividing the total POI benefit by the total sales denominator.

On this basis, we preliminarily determine a subsidy rate of 0.01 percent *ad valorem* for Powermach I&E, and 0.93 percent *ad valorem* for NOK Wuxi.

#### 4. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment

According to the Interim Regulation of Income Tax Credits on Purchasing Domestically-Produced Equipment for Technology Reform (CAI SHU ZI [290] No. 290), a domestically invested company may claim tax credits on the purchase of domestic equipment if the project is compatible with the industrial policies of the GOC.<sup>229</sup> Specifically, a tax credit up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year.<sup>230</sup> The Department has previously found this program countervailable.<sup>231</sup>

Among the Powermach Companies, Dawn Precision received benefits under this program.<sup>232</sup> We find these income tax credits for the purchase of domestically produced equipment are countervailable subsidies. The tax credits are a financial contribution in the form of revenue forgone by the government and provide a benefit to the recipients in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further determine that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(C) of the Act.

To calculate the benefit, we treated the income tax savings as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the company’s tax savings by the combined total sales during the POI. On this basis, and pursuant to the attribution regulations under 19 CFR 351.525(b)(iii), we preliminarily determine a subsidy rate of 0.13 percent *ad valorem* for Powermach I&E.

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<sup>227</sup> See 19 CFR 351.524(b).

<sup>228</sup> See 19 CFR 351.524(c)(2)(iii) and (d)(2).

<sup>229</sup> See Powermach I&E PQR at Exhibit 11.

<sup>230</sup> *Id.*

<sup>231</sup> See *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).

<sup>232</sup> See Powermach I&E, PQR at Exhibit SQ-16.

## 5. Preferential Tax Rate for Companies in the Western Development Area

Pursuant to the Notice of the Ministry of Finance, the General Administration of Customs and the State Administration of Taxation on Tax Policy Issues concerning Further Implementing the Western China Development Strategy (No. 58 [2011] of the Ministry of Finance) and Mei Qing Guo Shui Jian Mian [2012] No. 9 Notice of approval of tax reduction or exemption, selected companies in Western China are entitled to a tax reduction. Specifically, qualifying companies are entitled to a 10 percent reduction of their income tax rate, providing them with a 15 percent rate, instead of the normal national corporate tax rate of 25 percent.<sup>233</sup>

Powermach I&E's affiliates—Powermach Machinery, Dawn Precision and Dawn Foundry—reported that they received tax savings under this program on their 2013 income tax return filed during the POI.<sup>234</sup> We determine that the reduced income tax rate under this program provides a financial contribution in the form of revenue foregone by the GOC, and a benefit to the recipient in the amount of the tax savings, pursuant to section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also determine that the reduction afforded by this program is limited as a matter of law to certain companies located in the Western region of the PRC and, therefore, is specific under section 771(5A)(D)(iv) of the Act. This program is also limited to enterprises in encouraged industries, and is thus specific under section 771(5A)(D)(i) of the Act. The explicit regional limitation of this program supports a finding that the legislation expressly limits access to the program to a specific group of enterprises or industries.

To calculate the benefit, we compared the income tax rate that Powermach Machinery, Dawn Precision and Dawn Foundry would have paid in the absence of the program (25 percent) to the income tax rate that the companies actually paid (15 percent). We treated the income tax savings realized by these companies as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the companies' tax savings received during the POI by the total consolidated sales (excluding inter-company sales) for the POI, pursuant to 19 CFR 351.525(b)(6)(iii) and 19 CFR 351.525(c). On this basis, we determine that Powermach I&E received a countervailable subsidy of 2.15 percent *ad valorem*.

## 6. Reported Grants

Powermach I&E (through its affiliates) and NOK Wuxi reported that they received numerous grants that were not among the grant programs on which we had specifically initiated an investigation.<sup>235</sup> However, before addressing the issues of financial contribution and specificity for each grant, we first determined whether any benefits exist in the POI from any of these reported grants.

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<sup>233</sup> See, e.g., Powermach I&E, PQR Vol III at Exhibits 3-6, Vol. IV at Exhibits 3-6, Vol. V at Exhibits 3-6.

<sup>234</sup> *Id.*

<sup>235</sup> See Powermach I&E, PQR Vol III at Exhibit 17, Vol IV at Exhibit 20, Vol V at Exhibit 17; see NOK Wuxi PQR at N-25-N-26, and W-23-W-24.

We treated these reported grants as non-recurring subsidies, pursuant to 19 CFR 351.524(c), and applied the “0.5 percent test” to each one, individually, to determine whether each grant should be allocated to the POI. A number of the grants received prior to the POI passed the “0.5 percent test,” and therefore have been allocated to the POI. In addition, we allocated any grants received during the POI that conferred a subsidy of over 0.5 percent *ad valorem*. To calculate the POI benefit, we divided the entire amount of each grant by the appropriate sales denominator, as described in the “Attribution of Subsidies” section. If the rate calculated for any grant was less than 0.005 percent *ad valorem*, it was determined to have no impact on the overall subsidy rate, and was therefore disregarded in accordance with the Department’s practice.<sup>236</sup> Using this methodology, several grants exceeded the 0.005 percent *ad valorem* threshold, and have an impact on the overall subsidy rate.

The Powermach Companies benefited from eleven grants that we preliminarily determine provided a benefit during the POI:

- a) Rewards for industrial economy of year 2014
- b) Investment incentive funds
- c) Grants for technology renovation
- d) Funds for development and management of SMEs
- e) Industrial development funds
- f) Key technological transformation funds (the first batch) of Sichuan Province in year 2013
- g) Grants for talent team
- h) Funds for research projects regarding key technology and mass production process of high quality casting products
- i) Special funds for development of SMEs
- j) Compensation for land occupation
- k) Development funds for SMEs

NOK Wuxi, and its affiliated input supplier, WNF, received the following countervailable subsidies:

- a) Refund of personal income tax paid by foreign (Japanese) employees, 2012.
- b) Supporting fund for technology improvement and business development, 2012.
- c) Foreign trade transformation subsidy, 2014
- d) Financial subsidy, 2014

As noted above in the section titled “Application of AFA: Mandatory Respondents’ Reported Grants,” we determine, as AFA, that the grants received by Powermach I&E and NOK Wuxi constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act and are *de facto*

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<sup>236</sup> See, e.g., *Large Residential Washers From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 77 FR 33181 (June 5, 2012), and accompanying Decision Memorandum at 10 (unchanged in *Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975, (December 26, 2012)).

specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the grant are limited in number. The grants also provide a benefit under section 771(5)(D)(i) of the Act and 19 CFR 351.504.

On this basis, we preliminarily determine a subsidy rate for grants of 1.71 percent *ad valorem* for Powermach I&E, and 0.13 percent *ad valorem* for NOK Wuxi. These figures are combined rates, and cover all reported grants for each company.

**B. Programs Preliminarily Determined To Be Not Used by, or Not to Confer a Measurable Benefit to, Powermach I&E and NOK Wuxi during the POI**

1. Treasury Bond Loans or Grants
2. Preferential Loans for Key Projects and Technologies
3. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
4. Foreign Trade Development Fund Grants
5. Export Assistance Grants
6. Export Interest Subsidies
7. Subsidies for Development of “Famous Brands” and China World Top Brands
8. Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands
9. Funds for Outward Expansion of Industries in Guangdong Province
10. Provincial Fund for Fiscal and Innovation Technologies
11. State Special Fund for Promoting Key Industries and Innovation Technologies
12. Shandong Province’s Special Fund for the Establishment of Key Enterprise Technology Centers
13. Grants for Antidumping Investigations
14. Shandong Province’s Award Fund for Industrialization of Key Energy-Saving Technology
15. Shandong Province’s Environmental Protection Industry Research and Development Funds
16. Waste Water Treatment Subsidies
17. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
18. Technology to Improve Trade Research and Development Fund
19. Provision of Water for LTAR
20. Provision of Land to SOEs for LTAR
21. Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
22. Tax Offsets for Research and Development under the EITL
23. Income Tax Reductions for Export-Oriented FIEs
24. Income Tax Benefits for FIEs Based on Geographic Locations
25. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs
26. Tax Offsets for Research and Development by FIEs
27. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
28. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises

29. Preferential Income Tax Policy for Enterprises in the Northeast Region
30. Forgiveness of Tax Arrears For Enterprises Located in the Old Industrial Bases of Northeast China
31. VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment
32. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program

## **XII. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>237</sup> Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS") no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.<sup>238</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>239</sup> This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.<sup>240</sup> Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>241</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>242</sup> on the due dates established above.

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<sup>237</sup> See 19 CFR 351.224(b).

<sup>238</sup> See 19 CFR 351.309(c)(1)(i) and (d)(1).

<sup>239</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>240</sup> See 19 CFR 351.310(c).

<sup>241</sup> See 19 CFR 351.303(b)(2)(i).

<sup>242</sup> See 19 CFR 351.303(b)(1).

### XIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

✓ Agree                      \_\_\_\_\_ Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

1 APRIL 2016  
Date

## APPENDIX

### AFA Rate Calculation

Program Name	AFA Rate	Source
Policy Loans to the ITDC Industry	0.79%	Calculated -- Powermach I&E
Provision of Pig Iron for LTAR	1.09%	Calculated -- Powermach I&E
Provision of Ferrous Scrap for LTAR	8.52%	Calculated -- Powermach I&E
Provision of Electricity for LTAR	2.04%	Calculated -- Powermach I&E
Provision of Land for LTAR	4.26%	Calculated -- Powermach I&E
VAT and Import Duty Exemptions for Use of Imported Equipment	0.93%	Calculated -- NOK Wuxi
Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment	0.13%	Calculated -- Powermach I&E
Powermach I&E - Grant Programs	1.71%	Calculated -- Powermach I&E
Income Tax Reductions under Article 28 of the Enterprise Income Tax Law	25.00%	Highest Rate for Similar Program Based on Benefit Type
Income Tax Benefits for FIEs Based on Geographic Locations		Highest Rate for Similar Program Based on Benefit Type
Income Tax Reductions for Export-Oriented FIEs		Highest Rate for Similar Program Based on Benefit Type
Local Income Tax Exemption and Reduction Programs for “Productive” FIEs		Highest Rate for Similar Program Based on Benefit Type
Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises		Highest Rate for Similar Program Based on Benefit Type
Preferential Income Tax Policy for Enterprises in the Northeast Region		Highest Rate for Similar Program Based on Benefit Type
Preferential Income Tax Policy for Enterprises in the Western Region		Calculated -- Powermach I&E
Provision of Water for LTAR	20.06%	Highest Rate for Similar Program Based on Benefit Type
Treasury Bond Loans	10.54%	Highest Rate for Similar Program Based on Benefit Type
Preferential Loans for Key Projects and Technologies	10.54%	Highest Rate for Similar Program Based on Benefit Type
Loans and Interest Subsidies Provided Pursuant to Northeast Revitalization Program	10.54%	Highest Rate for Similar Program Based on Benefit Type
Provision of Land to SOEs for LTAR	13.36%	Highest Rate for Similar Program Based on Benefit Type

Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China	0.51%	Highest Rate for Similar Program Based on Benefit Type
Tax Offsets for Research and Development under the EITL	9.71%	Highest Rate for Similar Program Based on Benefit Type
Tax Offsets for Research and Development by FIEs	9.71%	Highest Rate for Similar Program Based on Benefit Type
Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises	9.71%	Highest Rate for Similar Program Based on Benefit Type
Grants for Antidumping Investigations	0.58%	Highest Rate for Similar Program Based on Benefit Type
Foreign Trade Development Grants	0.58%	Highest Rate for Similar Program Based on Benefit Type
Export Assistance Grants	0.58%	Highest Rate for Similar Program Based on Benefit Type
Subsidies for Development of Famous Export Brands and China World Top Brands	0.58%	Highest Rate for Similar Program Based on Benefit Type
Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands	0.58%	Highest Rate for Similar Program Based on Benefit Type
VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment	9.71%	Highest Rate for Similar Program Based on Benefit Type
VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program	9.71%	Highest Rate for Similar Program Based on Benefit Type
Export Interest Subsidies	0.58%	Highest Rate for Similar Program Based on Benefit Type
State Special Fund for Promoting Key Industries and Innovation Technologies	0.58%	Highest Rate for Similar Program Based on Benefit Type
Funds for Outward Expansion of Industries in Guangdong Province	0.08%	Highest Rate for Similar Program Based on Benefit Type
Provincial Fund for Fiscal and Innovation Technologies	0.58%	Highest Rate for Similar Program Based on Benefit Type
Waste Water Treatment Subsidies	0.58%	Highest Rate for Similar Program Based on Benefit Type
Technology to Improve Trade Research and Development Fund	0.58%	Highest Rate for Similar Program Based on Benefit Type
Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises	0.58%	Highest Rate for Similar Program Based on Benefit Type
Shandong Province's Environmental Protection Industry Research and Development Funds	0.58%	Highest Rate for Similar Program Based on Benefit Type

Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers	0.58%	Highest Rate for Similar Program Based on Benefit Type
Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology	0.58%	Highest Rate for Similar Program Based on Benefit Type

**Total AFA Rate: 166.77**