I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of Laminated Woven Sacks (LWS) from the Socialist Republic of Vietnam (Vietnam), as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On March 7, 2018, Commerce received a countervailing duty (CVD) petition concerning imports of LWS from Vietnam, filed in proper form, on behalf of the Laminated Woven Sacks Fair Trade Coalition (the Coalition) and its individual members, Polytex Fibers Corporation and ProAmpac Holdings Inc., (the petitioners). The CVD petition was accompanied by an antidumping duty (AD) petition. On March 27, 2018, Commerce initiated the CVD investigation of LWS from Vietnam. The initial allegations and supplements to the Petition are described in the CVD

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In the *Initiation Notice*, we stated that we intended to select respondents based on U.S. Customs and Border Protection (CBP) data on entries of LWS from Vietnam made during the period of investigation (POI). On April 24, 2018, Commerce issued its Respondent Selection Memo, in which it determined to individually examine Duong Vinh Hoa Packaging Company Ltd. (DVH) and Xinsheng Plastic Industry Co., Ltd. (Xinsheng), the two largest exporters/producers accounting for the largest volume of subject merchandise by value exported to the United States from Vietnam during the POI. In the Respondent Selection Memo, Commerce noted that (1) TKMB Joint Stock Company (TKMB) requested that Commerce investigate it as a voluntary respondent; and (2) Commerce would consider whether to examine a voluntary respondent if it met the filing deadlines for all requests for information (and otherwise comply with all other regulatory deadlines). TKMB did not respond to Commerce’s affiliated companies section of the questionnaire by the stated deadline of May 9, 2018, and did not request an extension. TKMB submitted its response to the affiliated companies section of the questionnaire on May 21, 2018; Commerce subsequently rejected TKMB’s untimely affiliated companies submission. On June 11, 2018, TKMB submitted a response to the remainder of the initial questionnaire. Additionally, on June 12, 2018, TKMB filed a letter requesting that Commerce (1) reconsider the rejection of TKMB’s untimely affiliated companies questionnaire response; (2) include the untimely affiliated companies response in the record of the investigation; and (3) further consider TKMB’s request for treatment as a voluntary respondent. On July 31, 2018, TKMB filed a letter reiterating its request for treatment as a voluntary respondent. On August 6, 2018, Commerce rejected TKMB’s entire June 11, 2018, submission, because TKMB did not meet the stated May 9, 2018, deadline for the affiliated companies response, and therefore its June 11, 2018 submission was untimely filed and unsolicited new factual information.

On April 25, 2018, Commerce issued a CVD questionnaire to the Government of Vietnam (GOV). Commerce instructed the GOV to forward the questionnaire to the selected mandatory respondents.
respondents.

Between May 9, 2018, and July 20, 2018, DVH, Xinsheng, and the GOV filed responses to our affiliation,\textsuperscript{13} initial\textsuperscript{14} and supplemental questionnaires.\textsuperscript{15} We issued supplemental questionnaires to the GOV and the mandatory respondents between June 27, 2018, and July 17, 2018.\textsuperscript{16}

\begin{itemize}
\item \textsuperscript{13} See Letter from DVH, “Laminated Woven Sacks from Vietnam, Section III Questionnaire Response (Affiliated Companies) – Duong Vinh Hoa Packaging Company,” dated May 9, 2018 (DVH AQR); see also Letter from Xinsheng, “Laminated Woven Sacks from Vietnam, Section III Questionnaire Response (Affiliated Companies) – of Xinsheng Plastic Industry Co., Ltd (Viet Nam),” dated May 9, 2018 (Xinsheng AQR).
On June 25, 2018, July 18, 2018, July 23, 2018, July 24, 2018, and July 30, 2018, the petitioners submitted comments on and rebuttals of the factual information submitted by the mandatory respondents and the GOV. On August 1, 2018, DVH, Xinsheng, TKMB, and the GOV collectively submitted comments on the Petitioners Pre-Preliminary Determination Comments.

B. Postponement of Preliminary Results

On May 10, 2018, Commerce postponed the deadline for the preliminary determination of the investigation to the full 130 days permitted under section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).

C. Period of Investigation (POI)

The POI is January 1, 2017, through December 31, 2017.

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III. SCOPE COMMENTS

In accordance with the preamble to Commerce’s regulations,\(^\text{24}\) 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.\(^\text{25}\)

We received several comments concerning the scope of the AD and CVD investigations of LWS from Vietnam. 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 and CVD investigations in the preliminary determination of the companion AD investigation, which is currently scheduled for October 3, 2018. We will incorporate the scope determinations from the AD investigation into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The scope of this investigation covers laminated woven sacks. The complete description of the scope of this investigation is contained in Appendix I of the preliminary determination *Federal Register* notice. Merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. Merchandise covered by the scope may also enter under HTSUS subheadings 3917.39.0050, 3921.90.1100, 3921.90.1500, 5903.90.2500, 4601.99.0500, 4601.99.9000, and 4602.90.0000. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

V. ALIGNMENT

In accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), and based on the petitioners’ request,\(^\text{26}\) we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of Laminated Woven Sacks from Vietnam. 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 December 17, 2018, unless postponed.\(^\text{27}\)

VI. INJURY TEST

Because Vietnam 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 Vietnam materially injure, or threaten material injury to, a U.S. commerce.

\(^{24}\)See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

\(^{25}\)See *Initiation Notice*, 83 FR at 14254.


industry. On April 27, 2018, the ITC published its preliminary determination finding that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of LWS from Vietnam that are alleged to be subsidized by the GOV.28

VII. APPLICATION OF THE CVD LAW TO IMPORTS FROM VIETNAM

On April 1, 2010, Commerce published PRCBs from Vietnam, in which we found the CVD law applicable to Vietnam.29 Furthermore, on March 13, 2012, HR 4105 was enacted, which makes clear that Commerce has the authority to apply the CVD law to non-market economies such as Vietnam.30 The effective date provision of the enacted legislation makes clear that this provision applies to this proceeding.

Additionally, for reasons stated in PRCBs from Vietnam, we are using the date of January 11, 2007, the date on which Vietnam became a member of the World Trade Organization (WTO), as the date from which Commerce will identify and measure subsidies in Vietnam for purposes of CVD proceedings.31

VIII. SUBSIDIES VALUATION

A. Allocation Period

Commerce 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.32 In the Initial Questionnaire, we notified the respondents to this proceeding that the AUL period would be 10 years, pursuant to 19 CFR 351.524(d)(1) and the U.S. Internal Revenue Service Publication 946 (2017), “Appendix B - Table of Class Lives and Recovery Periods” (IRS Pub. 946).33 No party in this proceeding submitted comments challenging the proposed AUL period, and we therefore preliminarily determine that a 10-year period is appropriate to allocate benefits from non-recurring subsidies.

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 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 expensed to the year of receipt rather than allocated over the AUL.

30 See HR 4105, 112th Cong. 1(b) (2012) (enacted).
31 See PRCBs from Vietnam at Comment 3.
32 See 19 CFR 351.524(b).
B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce 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 Commerce’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 Commerce’s regulations further clarifies Commerce’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.34

Thus, Commerce’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 (CIT) upheld Commerce’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.35

DVH

DVH, a producer and exporter of LWS to the United States during the POI,36 responded to Commerce’s original and supplemental questionnaire on behalf of itself.37 Based on DVH’s

34 See Countervailing Duties, 63 FR 65348, 65401 (November 25, 1998).
36 See DVH IQR at 1.
37 See DVH IQR; see also DVH SQR1; see also DVH SQR1a.
responses, we are preliminarily attributing subsidies received by DVH to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

DVH reported an affiliated company, Vinh Hoa Plastic Corporation (Vinh Hoa), which was a producer of subject merchandise until it ceased operations in 2015.38 Regardless of whether cross-ownership under 19 CFR 351.525(b)(6)(vi) exists between DVH and Vinh Hoa, we preliminarily find no evidence that Vinh Hoa received countervailable subsidies attributable to DVH during the POI. Therefore, we have not attributed the benefit from any subsidies that Vinh Hoa may have received to DVH.39

Xinsheng

Xinsheng, a producer and exporter of LWS to the United States during the POI,40 responded to Commerce’s original and supplemental questionnaires on behalf of itself.41 Based on Xinsheng’s responses, we are preliminarily attributing subsidies received by Xinsheng to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Xinsheng responded on behalf of a toll processor, Lotus Plastic Bag Co., Ltd. (Lotus), which does not produce any products but rather performs tolling services for Xinsheng.42 Based on information on the record, we preliminarily do not find evidence that cross-ownership under 19 CFR 351.525(b)(6)(vi) exists between Xinsheng and Lotus.43 Therefore, we have preliminarily not attributed the benefit from any subsidies that Lotus may have received to Xinsheng.

C. Denominators

When selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, Commerce considers the basis for the respondents’ receipt of benefits under each program. As discussed in further detail below in the “Programs Preliminarily Determined to be Countervailable” section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient’s total sales as the denominator. Where the program has been found to be contingent upon export activities, we used the recipient’s total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, see the DVH Preliminary Calculation Memorandum,44 and the Xinsheng Preliminary Calculation Memorandum.45

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38 See Vinh Hoa IQR at 5.
39 DVH reported that Vinh Hoa used the Import Duty Exemption on Imports of Spare Parts and Accessories for Companies in Industrial Zones program prior to the POI, but during the AUL period. See Vinh Hoa IQR at 21 and Exhibit D-1; see also DVH IQR at 6.
40 See Xinsheng IQR at 1; see also Xinsheng SQR1 at Exhibit 7.
41 See Xinsheng IQR; see also Xinsheng SQR1; see also Xinsheng SQR1a.
42 See Lotus IQR at 5.
45 See Xinsheng Preliminary Calculation Memorandum.
D. Interest Rate Benchmarks

Commerce is examining short-term and long-term loans that DVH had outstanding during the POI.

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,” indicating that a benchmark must be a market-based rate. Normally, Commerce uses comparable commercial loans reported by the company for benchmarking purposes. If the firm does not receive any comparable commercial loans during the relevant periods, Commerce’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”

In the CVD investigation on frozen warmwater shrimp from Vietnam, we found that “domestic interest rates in Vietnam are distorted due to the predominant role of the GOV in the banking sector through its direct and indirect ownership as well as through other means such as interest rate controls, policy, plans, and administrative guidance.” For the reasons explained in the Vietnam Banking Sector Update Memo of Shrimp from Vietnam Preliminary Determination, which is incorporated here by reference, we preliminarily determine that domestic interest rates in Vietnam are distorted due to the predominant role of the GOV in the banking sector through its direct and indirect ownership, as well as through other means such as interest rate controls, policy, plans, and administrative guidance. Therefore, we find that any loans received by respondents from private Vietnamese or foreign-owned banks are not suitable for use as benchmarks under 19 CFR 351.505(a)(3)(i). For the same reasons, we cannot use a national interest rate for commercial loans pursuant to 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Vietnamese benchmark for loans, Commerce is selecting an external market-based benchmark interest rate. The use of an external benchmark is

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consistent with Commerce’s practice. For example, in *Lumber from Canada*, Commerce used U.S. timber prices to measure the benefit for government-provided timber in Canada.\(^{50}\)

### A. Short-Term VND Benchmark

For loans denominated in VND, we are calculating the external benchmark following the regression-based methodology first developed in the CVD investigation of CFS from the People’s Republic of China (China), and updated in several subsequent investigations on exports from China.\(^{51}\) This methodology bases the benchmark interest rate on the inflation-adjusted interest rates of countries with per capita gross national incomes (GNIs) similar to Vietnam’s, and takes into account a key factor involved in interest rate formation, that of the quality of a country’s institutions, which is not directly tied to the state-imposed distortions in the banking sector discussed in the Vietnam Banking Sector Update Memo.

Under this methodology, we first determine which countries are similar to the country in question, in this case Vietnam, in terms of GNI, based on the World Bank’s classification of countries as: low income, lower-middle income, upper-middle income, and high income. Based on GNI data for 2016 and previous years for which we require a benchmark, Vietnam falls into the lower-middle income (LMI) category; hence, we selected the countries in the LMI range of the World Bank’s GNI rankings for 2016 and previous years.\(^{52}\)

After identifying the appropriate interest rates for each year, 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 is factored into the analysis by using a statistical regression that relates the interest rates to these governance indicators. As explained in *CFS from China*, the regression captures the broad inverse relationship between income and interest rates.\(^{53}\) By limiting the analysis to the pool of countries within the GNI range of the country in question, the analysis yields a reasonable estimate of a benchmark interest rate for the country in question.

\(^{50}\) 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.”


\(^{52}\) See World Bank Country Classification, [http://data.worldbank.org/about/country-and-lending-groups](http://data.worldbank.org/about/country-and-lending-groups) (World Bank Country Classification); see also DVH Preliminary Calculation Memorandum at Attachment II. The World Bank has not yet published World Governance Indicators for 2017. Therefore, for this preliminary determination, where the use of a short-term Vietnamese benchmark rate for 2017 is required, we have applied the 2016 short-term benchmark rate. We note that the short-term benchmark may be updated, pending the release of all the necessary 2017 data, by the final determination.

\(^{53}\) See *CFS from China* and accompanying IDM at the “Benchmarks” section.
Many of the countries in the World Bank’s LMI 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 have used the interest and inflation rates reported in the IFS for the countries identified as “lower middle income” for 2016 and previous years for which we require a benchmark. First, we did not include those economies that Commerce considered to be non-market economies for antidumping purposes for any part of the years in question. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years because we use real interest rates (i.e., nominal interest rates less inflation) in the regression. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign currency-denominated instruments. Finally, for each year we excluded from the regression any countries that had aberrational or negative real interest rates for the year in question.

For years prior to 2016, the results of the regression analysis reflect a normal relationship: stronger institutions were associated with relatively lower real interest rates, while weaker institutions were associated with relatively higher real interest rates. For 2016, however, the regression does not yield that outcome for Vietnam’s income group. 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 2016 from China to compute the benchmark for years prior to 2016. For the 2016 benchmark, we are using an average of the interest rates of the lower-middle income countries.

As stated above, the regression relies on real interest rates. However, the loans under investigation have not been adjusted to remove inflation. Therefore, to ensure an accurate comparison in the benefit calculation, we adjusted the short-term benchmark to include inflation. This adjustment was done using the inflation rates that Vietnam reported to the IFS.

B. Long-Term VND Benchmark

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, Commerce has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.

In Citric Acid from the PRC, this methodology was revised by switching from a long-term markup 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. We are using the revised methodology here. Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.

54 See Interest Rate Benchmark Memo. See also, e.g., Nails from Vietnam Preliminary Determination PDM at 7-12 and Shrimp from Vietnam IDM at 7-8.
55 See DVH Preliminary Calculation Memorandum at Attachment II.
56 See Citric Acid from China and accompanying IDM at the “Benchmarks and Discount Rates” section.


C. Foreign Currency Benchmarks

To calculate benchmark interest rates for foreign currency-denominated loans, Commerce is again following the methodology developed over a number of successive China investigations. For any short-term foreign currency loans, Commerce is using as a benchmark the one-year dollar London Inter-bank Offered Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. For any long-term foreign currency loans, Commerce is adding the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.57.

IX. 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. Preferential Lending to Exporters

DVH

We initiated an investigation into whether respondents received preferential lending to exporters during the POI.58 DVH reported that it had outstanding financing during the POI from one Vietnamese state-owned commercial bank (SOCB).59

At page II-4 of the Questionnaire, we requested that the GOV provide all documentation for each respondent’s largest loan outstanding during the POI from SOCBs. At page 12 of GOV IQR, the GOV claimed that it “coordinated with the respondents and the relevant SOCBs to identify the largest loan outstanding for each respondent in the investigation and is providing translated copies of all internal bank documentation regarding these loans,” including DVH’s lending bank. The exhibit that the GOV cited, however, did not contain English translations for the following pages of the original Vietnamese-language DVH credit appraisal in Exhibit A-11 of GOV SQR1: 3-6, 10-13, 15-16, 20-22, 26-27. Although Commerce requested twice (in the Initial Questionnaire and the GOV First Supplemental Questionnaire) that the GOV translate all documents into English and ensure that those translated pages are also submitted in original form, the GOV’s revised Exhibit A-11 that includes DVH’s credit appraisal did not comply with that request.

At Exhibit A-2 of DVH SQR1, DVH stated that its outstanding loans from the SOCB “were not and are not contingent on” exports. Additionally, in response to Commerce’s request to provide approval letters, contracts, and other records regarding benefits received under the loans program, at Exhibit A-3 of DVH SQR1, DVH provided fully translated copies and Vietnamese-

57 See DVH Preliminary Calculation Memorandum at Attachment II.
58 See Initiation Checklist at 8-9.
59 See DVH IQR at 20.
language original pages of requests for credit from and contracts with the SOCB. Because the GOV did not provide all of the translated pages for DVH’s credit appraisal as we requested in the GOV First Supplemental Questionnaire, we cannot rely on this evidence to determine whether the SOCB’s decisions to grant DVH’s loans were contingent upon DVH’s export performance. However, upon review of the record, we have preliminarily determined, based on the GOV’s plastics industry planning decision which contemplates preferential loans and strengthening trade promotion in foreign countries, that the “Preferential Lending to Exporters” program is an export-oriented lending program, and that the SOCB’s financing to DVH was contingent on export performance.  

Commerce has previously found that DVH’s lender is an SOCB. This finding is consistent with the record in the instant proceeding, in which the GOV identifies DVH’s lender as an SOCB. As explained above, the SOCB’s financing to DVH was contingent on export performance. Therefore, we preliminarily determine that DVH’s loans from the SOCB under this program are specific under sections 771(5A)(A) and (B) of the Act.

To calculate the benefit, we summed the interest savings on DVH’s outstanding loans from the SOCB during the POI and divided the total by the appropriate POI export sales total, as described in the “Attribution of Subsidies” section above. On this basis, we preliminarily determine a net countervailable subsidy rate of 1.60 percent.

**Xinsheng**

Xinsheng also reported outstanding financing during the POI from an SOCB. Based on the interest rate benchmark methodology described above under the “Subsidies Valuation - Interest Rate Benchmarks” section, we preliminarily find that any total benefit to Xinsheng from its loans from SOCBs would be less than 0.005 percent *ad valorem*. As such, consistent with our past practice, we have not included any benefit from Xinsheng’s loans in our preliminary CVD rate. Therefore, without prejudice to a determination as to whether Xinsheng received its loans under

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60 See also Petition Exhibit III-5, “Decision Approving the Planning on Development of Vietnam's Plastics Industry up to 2020, with a vision toward 2025, No.2992/QD-BCT (June 17, 2011) (Vietnam Plastics Industry Plan 2020) at 3-4 (regarding preferential loans from the GOV, and efforts to strengthen trade promotion in foreign countries).


62 See GOV IQR at 6. The GOV treated DVH’s lender’s percentage of government ownership as business proprietary information but identified DVH’s lender in its discussion of SOCBs in Vietnam. Id. The Vietnam Banking Sector Update Memo provides additional information on the role of SOCBs – including DVH’s lender – in the banking sector.

63 See also Vietnam Plastics Industry Plan 2020 at 3-4 (regarding preferential loans from the GOV, and efforts to strengthen trade promotion in foreign countries).

64 See Xinsheng IQR at 14.

65 See, e.g., Nails from Vietnam PDM at 8; Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 59212 (September 27, 2010), and accompanying IDM at 23.
a countervailable subsidy program, we preliminarily determine that Xinsheng received no measurable benefit from its loans during the POI.  

2. Income Tax Preferences for Companies in Special Zones

Both DVH and Xinsheng received income tax exemptions on their 2016 income tax returns filed in 2017. Specifically, DVH received a complete income tax exemption under Article 16(3) of Decree No. 124/2008/ND-CP for being located in Long An Province, which is designated as an area of socioeconomic difficulties in the Appendix to the Decree. Xinsheng qualified for a partial income tax exemption, based on its location in Tay Ninh Province, which is also designated as an area of socioeconomic difficulties. On April 1, 2018, subsequent to the filing of its income tax return in 2017, Xinsheng amended its 2016 income tax return to reflect an income tax loss. However, pursuant to 19 CFR 351.509(b), Commerce normally will consider the benefit as having been received at the time the recipient firm otherwise would be required to pay the tax, and we see no reason to depart from our typical practice here. Thus, we preliminarily determine that Xinsheng received a partial income tax exemption during the POI.

We preliminarily determine that the income tax reductions under Article 16(3) of Decree No. 124/2008/ND-CP are financial contributions in the form of revenue foregone by the GOV under section 771(5)(D)(ii) of the Act and confer benefits to DVH and Xinsheng in the amount of the tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). We preliminarily determine that the income tax reductions are specific under section 771(5A)(D)(iv) of the Act, because they are limited to enterprises or industries located within designated geographical regions (i.e., regions experiencing especially difficult socioeconomic conditions).

To calculate the net subsidy rate, we divided the tax savings applicable to the tax returns that DVH and Xinsheng filed during the POI, pursuant to 19 CFR 351.509(b), by the appropriate POI sales total, as described in the “Attribution of Subsidies” section above. On this basis, we preliminarily determine that DVH received a countervailable subsidy of 0.51 percent, and Xinsheng received a countervailable subsidy of 0.08 percent.

3. Import Duty Exemptions on Imports of Raw Materials for Exporting Goods

Import duty reimbursements for imported raw materials for exporting goods are governed by Article 16.7 of the Law on Import and Export Duty 2016, dated April 6, 2016, Article 12 of Decree No. 134/2016/ND-CP, dated September 1, 2016, Decree No. 08/2015/ND-CP, dated January 21, 2015 (Decree 08) and Circular No. 38/2015/TT-BTC, dated March 25, 2015 (Circular 38). Under the program, import duty exemptions are provided for imported raw materials purchased by companies engaged in the export of goods to foreign countries. The import duty exemptions are limited in amount and are available for a limited period of time. The program is designed to promote the export of goods and to encourage companies to invest in production facilities and equipment. The program is subject to various conditions and requirements, including the requirement that companies must demonstrate that they are engaged in the export of goods to foreign countries and that they are operating in designated export-oriented zones.

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66 See Xinsheng Preliminary Calculation Memo.
67 See GOV IQR at Exhibit C-3.
68 See GOV IQR at 17.
69 See Xinsheng SQR1a at 5.
70 See DVH Preliminary Calculation Memorandum.
71 See Xinsheng Preliminary Calculation Memorandum.
72 See GOV IQR at Exhibit D-2.
materials that are incorporated into exported goods or directly used in the production of such goods. The amount of the exemption is equal to the amount of the duty corresponding to the value of imported materials actually used in the production of the finished goods that are exported. This amount is determined or declared at the time of reporting to Vietnam’s Customs agency on the use of imported raw materials for manufacture of exported goods in accordance with customs regulations. In this regard, the GOV claimed that it has developed a mechanism to track: (1) the amount of imported material actually consumed for the production of export products, including scrap and discarded products that are lost in the production process (this is called the “consumption norm”); and (2) whether the exported products are actually exported.

For import duty exemptions on raw materials for exported goods, the exemptions cannot exceed the amount of duty levied; otherwise, the excess amounts exempted confer a countervailable benefit under 19 CFR 351.519(a)(1)(i). Moreover, under 19 CFR 351.519(a)(4), the government must have a system or procedure to confirm which inputs are consumed in production and in what amounts and such system or procedure must be reasonable, effective for the purposes intended and based on generally accepted commercial practices in the country of export; otherwise, the exemptions confer a benefit equal to the total amount of duties exempted. In previous investigations, Commerce concluded that the GOV does not have in place a system to confirm which inputs are consumed in the production of the exported products and in what amounts, including a normal allowance for waste.

The GOV has provided a description of the multi-step process which the Vietnam customs authority employs to determine eligibility for duty exemptions. The GOV explains that companies who import raw materials to produce exported goods are required to: (1) inform Vietnamese Customs about their production facilities, including the location where imported materials are stocked, finished export goods are stored, and manufacturing equipment and machinery are installed; (2) maintain records on norms of material consumption for each type of material, finished product design, or production process chart; and (3) prepare a report on the stock in and stock out for manufacturing, leftovers of imported materials, and supplies for each finished product code. This report must be reconciled to the accounting documentation of the producer. The producer uses this report and the norms therein to determine the amount of import duty subject to exemption.

The GOV further explains that its inspections are conducted through documentary inspection and in some cases physical inspection, pursuant to Chapter III of Decree 08/2015/ND-CP and Chapter II of Circular 38/2015/TT-BTC (Circular 38), the latter of which provides guidance for the implementation of Decree 08/2015/ND-CP. Vietnamese Customs inspections for these goods can include: (i) physical inspection of a factory that produces exported goods, which takes place no more than five days following notice to the importer of the inspection; (ii) inspection of the use of imported materials, supplies and machinery and this type of inspection can even be

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73 See GOV IQR at Exhibit D-1.
74 Id.
75 Id.
76 See, e.g., Shrimp from Vietnam and accompanying IDM at Comment 7; see also Nails from Vietnam Final Determination and accompanying IDM at 15-17.
77 See GOV SQR at 15.
78 Id.
conducted after the export post clearance; and (iii) inspection when Vietnamese Customs receives the importer’s report on duty liquidation (i.e., the use of imported materials to produce exported goods). Items (ii) and (iii) can be performed through a paper inspection (i.e., a review of the importer’s purchase documents, inventory reports, export documents, etc.) or a physical inspection (i.e., inspection of the importer’s factory).

The GOV also reported that “waste or scrap that is generated while producing products intended for export and that is within the production norm can be resold in the domestic market without the payment of import duties” pursuant to Article 71 of Circular 38. Specifically, the article states that “[w]hen rejects and waste within the norm for manufacture of goods for export (such as peanut shells) are sold domestically, customs procedures are exempt. However, taxes must be declared and paid to inland tax authorities in accordance with regulations of law on taxation.” Therefore, producers may recover and sell “waste” material from imported inputs without paying duties on that waste.

As stated in 19 CFR 351.519(a), “the term ‘remission or drawback’ includes full or partial exemptions and deferrals of import charges.” Under 19 CFR 351.519(a)(1)(ii), in the case of exemptions of import charges upon export, “a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowance for waste.” Under 19 CFR 351.519(a)(4)(i), the entire amount of such exemptions will confer a benefit, unless Commerce determines that “[t]he government in question has in place and applies a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts, and the system or procedure is reasonable, effective for the purposes intended, and is based on generally accepted commercial practices in the country of export.” As stated in Hot-Rolled Steel from Thailand, we consider whether the production process produces resalable scrap to be essential to the calculation of a normal allowance for waste.

The GOV and DVH reported that DVH used this program. DVH subsequently revised the list of raw materials it imported during the POI in a supplemental response, to correct its initial submission of the applicable tariff rates and exemption amounts based on country of origin for the raw materials DVH imported.

As explained above, the GOV’s system does not account for resalable waste, because such waste is exempt from duties; therefore, we find this system to not meet the regulatory requirements under 19 CFR 351.519(a)(4)(i) for calculating a benefit on an amount other than the total amount of exempted duties. On this basis, we preliminarily find that the “Raw Material for Exporting Goods” program used by DVH confers a benefit equal to the total amount of the duties.

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79 See GOV IQR at 22-23.
80 See GOV IQR at Exhibit D-2.
81 Id.
82 See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001) and accompanying IDM at “Duty Exemptions on Imports of Raw and Essential Materials Under IPA Section 36(1);” see also Shrimp from Vietnam and accompanying IDM at “Import Duty Exemptions for Imported Raw Materials for Exported Goods.”
83 See GOV IQR at 20-23 and Exhibits D-1 and D-3; see also DVH IQR at 25 and Exhibits D-1 and D-3.
84 See DVH SQR at Exhibit D-10.
exempted, in accordance with section 771(5)(E) of the Act and 19 CFR 351.519(a)(4). Because
the import duty exemptions on raw materials are contingent upon export performance, we
preliminarily determine that they are specific in accordance with section 771(5A)(A) and (B) of
the Act. We further preliminarily determine that the exemptions constitute a financial
contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act.

Normally, we treat exemptions from indirect taxes and import charges on raw materials as
recurring benefits, consistent with 19 CFR 351.524(c)(1), and allocate the benefits to the year in
which they were received. Thus, to calculate the net subsidy rate for DVH, we first determined
the total value of duties exempted during the POI by multiplying the value of each exempted raw
material imported during the POI by the applicable tariff rate. We subtracted any partial duties
that the respondents paid. We then divided this amount by the POI export sales total for DVH,
as described in the “Attribution of Subsidies” section above.

On this basis, we preliminarily determine a net countervailable subsidy rate of 1.13 percent ad
valorem for DVH.85

4. Import Duty Exemptions on Imported Raw Materials for Export Processing Enterprises
and Export Processing Zones

The GOV and Xinsheng initially reported that Xinsheng used the “Import Duty Exemptions on
Imports of Raw Materials for Exporting Goods” program.86 However, in subsequent responses,
the GOV and Xinsheng reported that Xinsheng is ineligible for this program because Xinsheng is
an “export-oriented enterprise located in an export processing zone” which is a “non-tariff
zone.”87 The petitioners did not allege this program in the Petition. However, section 775 of the
Act provides that if Commerce “discovers a practice which appears to be a countervailable
subsidy, but was not included in the matters alleged in a countervailing duty petition ... then the
administering authority (1) shall include the practice, subsidy, or subsidy program in the
proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy
with respect to the merchandise which is the subject of the proceeding ... .”88

Under Article 2.4(c) of the Decree entitled “Guidelines for the law on export and import duties,”
dated September 1, 2016, goods imported from foreign countries to non-tariff zones (i.e., free
trade zones) and used within the non-tariff zones do not incur import duties.89 Also, under
Article 1.2 of Decree No. 87 (Decree 87) entitled “Detailing a number of articles of the law on
import duty and export duty,” dated August 13, 2010, “(g)oods brought from the domestic
market into non-tariff zones or vice versa are dutiable” and that “non-tariff zones include export
processing zones, export processing enterprises, warehouses and storing zones of goods pending
duty.”90 Article 2.3 of Decree 87 states “Goods exported from non-tariff zones to foreign

85 See DVH Preliminary Calculation Memorandum.
86 See GOV IQR at 20; see also Xinsheng IQR at Exhibit D-1.
87 See Xinsheng SQR1 at 13-14.
88 See also 19 CFR 351.311 (b).
89 See GOV IQR at Exhibit D-2.
90 Id.
countries; goods imported from foreign countries into non-tariff zones for use in non-tariff zones only; goods transported from one non-tariff zone to another91 are non-dutiable objects. Thus, Xinsheng did not pay any import duties on its “imports” of raw materials from foreign or domestic sources.

We examined an export processing zone program such as the program utilized by Xinsheng in *CWP from Vietnam*, and found the program to be not countervailable.92 In *CWP from Vietnam*, we found that imports of raw materials, spare parts and accessories, and fixed assets into an export processing zone that is designated a “non-tariff area,” are not subject to duties in Vietnam and, therefore, the GOV had not foregone revenue by not collecting duties on the company’s imports, and had not provided a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.93 However, in our decision we stated the following:

Our decision should not be read to mean that a government can simply hand a company a certificate declaring the company to be outside the country’s customs territory and the Department will find no subsidy. Instead, such companies or free trade areas must be subject to rigorous customs enforcement measures that ensure goods entering the free trade area are accounted for through exportation or entry into the country’s customs territory and, in the latter case, appropriate duties are collected.94

In our supplemental questionnaire to the GOV in the instant investigation, we requested that the GOV provide supporting documentation for the inspection regime applicable to Xinsheng’s program.95 On July 2, 201896 and July 12, 2018,97 we granted the GOV extensions to provide the report, which it acknowledged that it had.98 On July 20, 2018, the GOV stated that “the Ministry of Finance determined that these reports cannot be disclosed because Article 1.12, 13, and 16 of Circular 56/2013|TT-BCA of the Ministry of Public Security on State Secrets and Confidentiality

91 Id.
92 See *Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Final Negative Countervailing Duty Determination*, 77 FR 64471 (October 22, 2012) (*CWP from Vietnam*) and accompanying IDM at Comment 3. The previous version of the non-tariff zone law – the Law on Import and Export Duty 2005 – which treated goods imported from abroad to non-tariff zones (i.e., duty free zones) as “non-dutiable objects” that were not subject to import duties. See GOV SQR3 at Exhibit D-10 (Article 3.3)
93 Id.
94 Id.
95 Specifically, the supplemental questionnaire requested that the GOV “(e)xplain whether Vietnamese customs issues reports of the findings of its inspections, as it does with post-clearance examinations decisions referred to in Articles 98 and 99 of Decree 08. If yes, state how long afterwards does it issue such reports.” See GOV First Supplemental Questionnaire at 6.
provides that documents relating to customs control are confidential." The GOV submitted this
law in its response. Thus, there is insufficient information on the record to support a finding
that the export processing zone in which Xinsheng operates is subject to “rigorous customs
enforcement measures that ensure goods entering the free trade area are accounted for through
exportation or entry into the country’s customs territory,” which we identified as a requirement
in CWP from Vietnam.

Moreover, we also noted in CWP from Vietnam that “{f}or scraps and discarded products of
commercial value which are allowed for sale into the inland, inland enterprises shall carry out
import procedures under regulations applicable to commercial imports” and we noted that even if
the rate of duty for scrap is zero percent, the scrap transaction from the zone sold into the
customs territory of Vietnam is still treated on the same basis as would be imports from a foreign
country. The allowable waste and scrap that can be sold must conform to “norms of
manufacturing,” meaning producers must maintain records demonstrating that generated scrap
that can be sold outside of the zone must reflect a normal rate of loss. These are the same
“norms of manufacturing” that are also applicable to the “Raw Materials for Exporting Goods”
program. As noted above with respect to that program, Article 71 of Circular 38 specifically
states that “rejects and waste within the norm for manufacture of goods for export . . . are sold
domestically, customs procedures are exempt.” Thus, as described above under the “Import
Duty Exemptions on Imports of Raw Materials for Exporting Goods” program, a producer in an
export processing zone may also recover and sell “waste” material from imported inputs without
paying duties on that waste.

Under 19 CFR 351.519(a)(4)(i), the entire amount of duty exemptions on inputs will confer a
benefit, unless Commerce determines that “{t}he government in question has in place and
applies a system or procedure to confirm which inputs are consumed in the production of the
exported products and in what amounts, and the system or procedure is reasonable, effective for
the purposes intended, and is based on generally accepted commercial practices in the country of
export.” As stated in Hot-Rolled Steel from Thailand, we consider whether the production
process produces resalable scrap to be essential to the calculation of a normal allowance for
waste. As explained under the “Import Duty Exemptions on Imports of Raw Materials for
Exporting Goods” section above, the GOV’s system does not account for resalable waste,
because such waste is exempt from duties. Therefore, we preliminarily determine that the GOV
does not demonstrate that its system or procedure conforms to the regulatory requirements of 19
CFR 351.519(a)(4)(i).

99 See GOV SQR1c at 5.
100 Id. at Exhibit D-11.
101 See CWP from Vietnam at Comment 3.
102 See GOV IQR at 21-22; see also GOV SQR2 at 14-16.
103 See GOV SQR3 at 4-5.
104 See GOV IQR at Exhibit D-2.
105 Id. at 22-23.
106 See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From
Thailand, 66 FR 50410 (October 3, 2001) and accompanying IDM at “Duty Exemptions on Imports of Raw and
Essential Materials Under IPA Section 36(1);” see also Shrimp from Vietnam and accompanying IDM at “Import
Duty Exemptions for Imported Raw Materials for Exported Goods.”
On these bases, we preliminarily determine that the exemptions constitute a financial contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act. Because the import duty exemptions on raw materials are contingent upon export performance, we preliminarily determine that they are specific in accordance with section 771(5A)(A) and (B) of the Act. We further preliminarily find that the import duty exemptions for imports into the export processing zone for Xinsheng confer a benefit equal to the total amount of the duties exempted, in accordance with 19 CFR 351.519(a)(4).

Normally, we treat exemptions from indirect taxes and import charges on raw materials as recurring benefits, consistent with 19 CFR 351.524(c)(1), and allocate the benefits to the year in which they were received. Thus, to calculate the net subsidy rate for Xinsheng, we first determined the total value of duties exempted during the POI by multiplying the value of each exempted raw material imported during the POI by the standard tariff rate. We subtracted any partial duties that the respondents paid. We then divided this amount by the POI export sales total, as described in the “Attribution of Subsidies” section above.

We preliminarily determine a net countervailable subsidy rate of 6.06 percent ad valorem for Xinsheng.108

5. Import Duty Exemption on Imports of Spare Parts and Accessories for Companies in Industrial Zones

Import duty reimbursements for imported spare parts and accessories for companies in industrial zones are governed by Article 16.11 of the Law on Import and Export Duty 2016 and Article 14 of Decree No. 134/2016, ID-CP.109 These laws provide that imported goods to create fixed assets for companies subject to investment preferences are exempt from import duties.110 These imported goods include machinery and equipment; components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for the manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment; special-use vehicles in a technological line directly used for a manufacture project; and building materials that cannot be domestically-produced.111

Investment preferences are governed by the Law on Investment No.67/2014/QH13, effective since July 1, 2015; and Decree No. 118/2015, ND-CP, dated November 12, 2015.112 In particular, Appendix I to Decree No. 118 identifies sectors eligible for investment preferences.

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107 We note that Xinsheng also reported preferential tariff rates for certain imported items; however, the record lacks information to determine whether the items qualified for preferential treatment pursuant to specific trade agreements. Moreover, since Xinsheng made no claim to Vietnamese customs that any of its imported merchandise qualified for a preferential tariff due to its use of the export processing zone program, application of the preferential tariff rate in the calculation would be speculative. See Xinsheng SQR1 at 17.
108 See Xinsheng Preliminary Calculation Memorandum.
109 See GOV IQR at Exhibit D-2.
110 Id. at Exhibit D-5, page 1.
111 Id.
112 Id. at Exhibit D-2.
and Appendix II identifies areas eligible for investment preferences. Industrial zones established by government regulations are considered as areas with difficult socio-economic conditions, as provided in Point 55 of Appendix II. Thus, enterprises located in industrial zones are entitled to import duty exemptions on their imported goods used to create fixed assets.

The GOV and DVH reported that DVH used this program. Additionally, the GOV and DVH reported that DVH was eligible for import duty exemptions based on its location in Long An Province, and not based on its location in an industrial zone. Exemptions from import duties are normally treated as a recurring subsidy (the one exception involves duty exemptions on imports of plant and equipment). In addition, spare parts and accessories are imported on a regular basis and, thus DVH could expect exemptions on such imports on an ongoing basis from year to year. We preliminarily find that DVH only received non-recurring benefits under this program prior to the POI, but also preliminarily find that none of the benefits that DVH received for imported factory equipment pass the “0.5 percent test” provided in 19 CFR 351.524(b)(2). Thus, the benefits are allocated to the year of receipt. As a result, Commerce preliminarily finds that DVH did not benefit from this program during the POI.

The GOV and Xinsheng initially reported that Xinsheng used the same program as DVH, pursuant to Article 16.11 of the Law on Import and Export Duty 2016 and Article 14 of Decree No. 134/2016, ID-CP. However, Xinsheng and the GOV ultimately reported that Xinsheng did not use this program, but rather that all of its imports are non-dutiable because Xinsheng operates in a “non-tariff” export processing zone. As noted above, the GOV did not submit supporting documentation requested by Commerce, stating that “the Ministry of Finance determined that these reports cannot be disclosed because Article 1.12, 13, and 16 of Circular 56/2013/TT-BCA of the Ministry of Public Security on State Secrets and Confidentiality provides that documents relating to customs control are confidential.” The GOV submitted this law in its response. Due to the decision of the GOV not to submit this documentation, there is insufficient information on the record to support a finding that the export processing zone in which Xinsheng operates is subject to “rigorous customs enforcement measures that ensure goods entering the free trade area are accounted for through exportation or entry into the country’s customs territory,” which we identified as a requirement in CWP from Vietnam, as discussed above with respect to imported raw materials.

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113 See GOV IQR at Exhibit D-5, page 1.
114 Id.
115 Id.
116 Id. at 23-24 and Exhibits D-5 and D-6; see also DVH IQR at 26 and Exhibits D-6 and D-8.
117 Id.
118 See 19 CFR 351.524(c)(1).
119 See DVH Preliminary Calculation Memorandum.
120 Id.
121 See GOV IQR at 23-24; see also Xinsheng IQR at 24-25.
122 See GOV SQR3 at 2-3; see also Xinsheng SQR1 at 15-16.
123 See GOV SQR1c at 5.
124 Id. at Exhibit D-11.
Exemptions from import duties are normally treated as a recurring subsidy (the one exception involves duty exemptions on imports of plant and equipment).\footnote{See 19 CFR 351.524(c)(1).} In addition, spare parts and accessories are imported on a regular basis and, thus Xinsheng could expect exemptions on such imports on an ongoing basis from year to year.

Xinsheng reported that it received import duty reimbursements for imported factory equipment pursuant to “Import Duty Exemption on Imports of Spare Parts and Accessories for Companies in Industrial Zones” during the AUL period. Based on our finding explained above regarding the enforcement measures for the export processing zone in which Xinsheng operates, we preliminarily determine that these exemptions constitute a financial contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act. Because the exemptions are contingent upon export performance, we preliminarily determine that they are specific in accordance with section 771(5A)(A) and (B) of the Act. Further, we preliminarily determine that the program provides a benefit equal to the total amount of the duties exempted, in accordance with 19 CFR 351.519(a). None of the benefits that Xinsheng received for imported factory equipment pass the “0.5 percent test” provided in 19 CFR 351.524(b)(2), and thus are allocated to the year of receipt.\footnote{See Xinsheng Preliminary Calculation Memorandum.} On this basis, Commerce preliminarily determines a net countervailable subsidy rate of 0.01 percent \textit{ad valorem} for Xinsheng.\footnote{Id.}

\section*{B. Programs Preliminarily Determined Not to Be Used During the POI}

\begin{enumerate}
\item Preferential Lending and Export Credits from the Vietnam Development Bank
\item Interest Rate Support Program
\item Export Factoring
\item Financial Guarantees for Export Activities
\item Land Rent Reductions or Exemptions for Plastic Producers
\item Land Rent Exemptions for Exporters
\item Land Rent Exemptions for Foreign-Invested Enterprises
\item Land Rent Exemptions for Enterprises Located in Special Zones
\item Provision of Utilities for LTAR in Industrial Zones
\item Income Tax Preferences for Exporters
\item Income Tax Preferences for Small and Medium Sized Enterprises
\item Income Tax Exemptions and Reductions for Business Expansion and Intensive Investment
\item Preferential Income Tax Programs for Foreign-Invested Entities
\item Import Duty Exemptions for Foreign-Invested Entities
\item Export Promotion Program
\end{enumerate}

\section*{X. Calculation of the All-Others Rate}

Sections 703(d) and 705(c)(5)(A) of the Act state that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates
established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Xinsheng and DVH that are not zero, *de minimis*, or based entirely on facts otherwise available under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight-averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the “all-others” rate, we calculated a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company’s publicly-ranged values for the merchandise under consideration.\textsuperscript{128} Thus, we calculated the all-others rate to be 5.19 percent *ad valorem*.

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\textbf{XI. ITC NOTIFICATION}
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In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Assistant Secretary for Enforcement and Compliance.

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

\textsuperscript{128} See Memorandum, “Countervailing Duty Investigation of Laminated Woven Sacks from Vietnam: Calculation of All-Others Rate,” dated August 6, 2018.
XII. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

☑ ☐

Agree Disagree

8/6/2018

Signed by: JAMES MAEDER
James Maeder
Associate Deputy Assistant Secretary
  for Antidumping and Countervailing Duty Operations,
performing the duties of Deputy Assistant Secretary
Assistant Secretary for Enforcement and Compliance