duty order on non–malleable pipe fittings from the PRC pursuant to section 751(c) of the Act. *See Initiation of Five–year (''Sunset'') Reviews*, 73 FR 11392 (March 3, 2008). The Department received Notice of Intent to Participate from Anvil International, Inc. and Ward Manufacturing (collectively ''the domestic interested parties'') within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under 19 CFR 351.102(b), as manufacturers of a domestic–like product in the United States. Jinan Meide Casting Co., Ltd. (''JMC'') filed an entry of appearance as an interested party, specifically, as a PRC–based producer and exporter of the subject merchandise under section 771(9)(A) of the Act.

We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive response from JMC or from any other respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the order.

Scope of the Order

For purposes of this review, the products covered are finished and unfinished non–malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or un–threaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as ''cast iron pipe fittings'' or ''gray iron pipe fittings.'' These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.l6.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (''UL'') certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (''MJ''), or push on ends (''PO''), or flanged ends and produced to the American Water Works Association (''AWWA'') specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Non–Malleable Cast Iron Pipe Fittings from the People's Republic of China; Final Results,'' dated July 1, 2008 (''Decision Memorandum''), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''July 2008.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on non–malleable pipe fittings from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted–average percentage margins:

Manufacturers/Exporters/Producers	Weighted–Average Margin (percent)
Jinan Meide Casting Co., Ltd.	7.08
Shanghai Foreign Trade Enterprises Co., Ltd.	6.34
PRC–Wide Entity Rate (including Myland Industrial Co., Ltd., and Buxin Myland (Foundry) Ltd.)	75.50

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: July 01, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–15738 Filed 7–9–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–931]

Circular Welded Austenitic Stainless Pressure Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of circular welded austenitic stainless pressure pipe (CWASPP) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination. See ''Disclosure and Public Comment'' section below for procedures on filing comments.

EFFECTIVE DATE: July 10, 2008.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, or Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2209 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the issuance of the Department's notice of initiation in the **Federal Register**. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation,* 73 FR 9994 (February 25, 2008) (*Initiation Notice*), and accompanying initiation checklist (February 19, 2008) (Initiation Checklist). On February 19, 2008, the Department issued the results of its query of the U.S. Customs and Border Protection (CBP) trade database to interested parties. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Results of Query of Customs and Border Protection Database'' (February 19, 2008), a proprietary document of which the public version is on file in the Central Records Unit (CRU), room 1117 in the main Department building. On February 29, 2008, Zhejiang Jiuli High-Tech Metals Co. Ltd. (Jiuli), a Chinese producer and exporter of CWASPP, requested that the Department select the company as a mandatory respondent. Jiuli further requested that, in the event that the Department did not select it as a mandatory respondent, the Department designate Jiuli as a voluntary respondent as provided under 19 CFR 351.204(d). On March 3, 2008, Jiuli submitted comments regarding the Department's selection of mandatory respondents in the investigation. On March 14, 2008, the Department selected as mandatory respondents the two largest Chinese producers/exporters of CWASPP that could reasonably be examined. The mandatory respondents selected by the Department are, in alphabetical order, Froch Enterprise Co. Ltd. (Froch) (also known as Zhangyuan Metal Industry Co. Ltd.) and Winner Stainless Steel Tube Co. Ltd. (Winner). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary, for Import Administration, through Melissa G. Skinner, Director, Office 3, Operations, from the team, ''Respondent Selection'' (March 14, 2008), a proprietary document of which the public version is on file in the CRU. On the same day, we issued a countervailing duty (CVD) questionnaire to the Government of China (GOC) requesting that the GOC forward the company sections of the questionnaire to the mandatory respondents. As a courtesy, we also issued the CVD questionnaire to Froch, and Winner, and to Jiuli.[1]

On March 17, 2008, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of CWASPP from the PRC. *See Welded Stainless Steel Pressure Pipe from China,* USITC Pub 3986, Investigation Nos. 701–TA–454 and 731–TA–1144 (Preliminary) (March 2008). On the same day, Prudential Stainless & Alloy (Prudential), a U.S importer and distributor of CWASPP, submitted comments regarding the scope of the investigation.[2]

On April 4, 2008, we published a postponement of the preliminary determination of this investigation until no later than June 30, 2008. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Amended Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 73 FR 18511 (April 4, 2008).

On May 5, 2008, we received the GOC's response to the Department's initial questionnaire. On May 9, 2008, we received a response to the initial questionnaire from Winner and its affiliates Winner Machinery Enterprises Company Limited (Winner HK) and Winner Steel Products (Guangzhou) Co., Ltd. (WSP) (collectively the Winner Companies). Froch did not respond to the Department's initial questionnaire. On May 14, 2008, the GOC submitted its response to the Department's government supplemental questionnaire. On June 10, 2008, the Winner Companies submitted their response to the Department's supplemental questionnaire. On June 16, 2008, the GOC submitted its response to the Department's second government supplemental questionnaire.

On May 30, 2008, petitioners submitted new subsidy allegations concerning 11 programs.[3] On June 9, 2008, members of the Import Administration staff met with officials from the GOC regarding new subsidy allegations filed by petitioners. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''*Ex Parte* Meeting with Officials from the Government of China'' (June 9, 2008), a public document on file in the CRU. On June 11, 2008, the GOC submitted comments to the Department urging it to reject petitioners' new subsidy allegations on the grounds that petitioners alleged them in an untimely matter and that they are without merit. On June 12, 2008, the Department issued a letter to petitioners asking them to explain why they were unable to submit their new subsidy allegations within the regulatory deadline established under 19 CFR 351.301(d)(4)(i)(A). On June 18, 2008, petitioners submitted their response to the Department and responded to the comments made by the GOC in its June 12, 2008 submission.

At this time, the Department continues to evaluate the timeliness of petitioners' new subsidy allegations. If the Department determines that the new subsidy allegations were submitted in accordance with 19 CFR 351.301(d)(4)(i)(A), then the Department will issue a new subsidy allegation decision memorandum in which it will identify, if any, the programs it will investigate. Any such decision memorandum will be provided to interested parties.

On June 25, 2008, petitioners requested that the Department align the final CVD determination with the final determination in the companion antidumping (AD) investigation of CWASPP from the PRC.

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials

[1] We received confirmation that the CVD questionnaire was delivered to Froch on March 19, 2008. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations (March 26, 2008), which includes a copy of the documentation from FedEx confirming delivery, a public document on file in the CRU. Winner also received a copy of the CVD questionnaire. *See, e.g.*, Winner's April 29, 2008, request for an extension of time to respond to the due date deadline, which serves as confirmation of Winner's receipt of the CVD questionnaire. We also served Jiuli with a copy of the CVD questionnaire. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations (March 26, 2008), a public document on file in room 1117 of the CRU, regarding the service of the initial questionnaire to Jiuli.

[2] These comments are identical to the comments filed by Prudential on March 10, 2008, in the companion antidumping duty investigation on these same products.

[3] Petitioners are Bristol Metals, LLC, Felker Brothers Corp., Marcegaglia U.S.A., Inc., Outokumpu Stainless Pipe, Inc., and the United Steelworkers.

(ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States. They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Scope Comments

In our *Initiation Notice,* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice. See Initiation Notice,* 73 FR at 9994. As stated above, on March 17, 2008, Prudential submitted timely scope comments.

Prudential argues that the current scope appears to cover all alloy grades within the specification ASTM A–312. However, according to Prudential, certain grades such as 309S, 310S, 321, 347, 317L, 904L (NO8904), 254SMO (S31254) and others are specialized, very low-volume products that do not compete with the high-volume commodity products such as 304, 304L, 316, and 316L that are manufactured by petitioners. Prudential contends that such low-volume, higher-priced specialty grades should be excluded from the scope. Specifically, Prudential argues that the Department should exclude all grades of CWASPP except the 304 series and 316 series. Prudential adds that series 304H and 304LN should remain within the scope in order to prevent circumvention.

Additionally, Prudential asserts that the scope of the investigation is unnecessarily broad with respect to schedules (*e.g.*, wall thickness) of CWASPP. Prudential contends that the scope should only cover schedules 40S and 10S, which it claims constitute the vast majority of pipe produced by petitioners. Prudential argues that schedules 5S, 20, 30, 60, and 80S should be excluded from the scope because they do not represent a threat to petitioners.

On March 14, 2008, petitioners filed rebuttal comments to Prudential's scope and product coverage comments. Petitioners oppose changing the scope of the investigation arguing that Prudential's proposed changes regarding alloy grade and schedules (wall thickness) would exclude products presently manufactured by the domestic industry that are important to the domestic industry. They note that these products were also covered by the ITC in its definition of like product in its preliminary investigation questionnaire.

On April 28, 2008, Prudential filed a letter in response to petitioners' March 14, 2008, submission. Prudential disagrees with petitioners' claim that the items Prudential is proposing to exclude are ''important'' to the domestic industry. Arguing that, as a specialty ''stockist,'' these items are important to Prudential, but not the industry as a whole. Prudential requests that the Department determine factually how much, of the approximately 35,000 tons produced last year domestically, were not 304, 304L, 304/L, 316, 316L or 316/L and were not schedule 10s or 40s. Prudential asserts that the percentages will be quite low and argues that it is doubtful that schedule 5s and 80s would be considered ''important'' and that, undeniably, the remaining schedules (20, 30, 60, 100, 120, 140, 160, and XXH) are of no importance to the domestic industry.

The Department is evaluating these comments and will issue its decision regarding the scope of the investigation in the preliminary determination of the companion AD investigation due no later than August 27, 2008.

Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

On June 25, 2008, petitioners submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), requesting alignment of the final CVD determination with the final determination in the companion AD investigation of CWASPP from the PRC. Therefore, in accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final determination in the companion AD investigation of CWASPP from the PRC. The final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 10, 2008.

Application of the Countervailing Duty Law to Imports From the PRC

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

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

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

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

Period of Investigation (POI)

The period of investigation for which we are measuring subsidies is calendar year 2007.

Adverse Facts Available

A. The GOC

As discussed below, the Department is investigating whether GOC authorities provided stainless steel coil, a major input in the production of CWASPP to respondents for less than adequate

remuneration (LTAR). In our March 14, 2008, questionnaire, we asked the GOC to respond to the items in the Standard Questions Appendix at Appendix One and Provision of Goods/Services Appendix at Appendix Five with respect to the GOC's alleged provision of stainless steel coil for LTAR. In its May 5, 2008, response, the GOC stated that:

> Given that the GOC does not believe there is a program providing stainless steel coil for less than adequate remuneration, the GOC believes that responding to Appendices One and Five is improper.

See GOC's May 5, 2008, questionnaire response at 21.

On May 7, 2008, the Department issued a supplemental questionnaire to the GOC in which it requested that the GOC respond to the items contained in Appendices One and Five of the Department's initial questionnaire, as they pertain to the GOC's alleged provision of stainless steel coil for LTAR. In the May 7, 2008, supplemental questionnaire, the Department explained that failure to respond to the Department's questions in a timely fashion and in the manner requested may result in the Department resorting to the use of adverse facts available (AFA) within the meaning of section 776(b) of the Act.

In its May 14, 2008, supplemental questionnaire response, the GOC provided responses to most of the Department's questions. However, the GOC failed to adequately respond to the Department's questions concerning *de facto* specificity as it pertains to the GOC's alleged provision of stainless steel coil for LTAR. Regarding this alleged subsidy program, the Department, referencing its initial questionnaire, instructed the GOC in its May 7, 2008, supplemental questionnaire to:

> Please provide a list by industry and by region of the number of companies which have received benefits under this program in the year the provision of benefits was approved and each of the preceding three years. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the preceding three years.

Concerning the GOC's alleged provision of stainless steel coil for LTAR, the GOC stated that:

> No such list exists, nor does any data exist from which to derive such a list absent inquiring with every stainless steel coil producer in China. Such records would only reflect amounts sold and prices charged, as opposed to any ''benefit'' conferred by the transaction.

See GOC's May 14, 2008, supplemental questionnaire response at 8.

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

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Because the GOC failed to provide the requested information by the established deadlines, the Department does not have the necessary information on the record to determine whether the GOC provided stainless steel coil to producers of CWASPP in a manner that was *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act. Therefore, the Department must base its determination on the facts otherwise available in accordance with sections 776(a)(2)(A) and (B) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2)(A) and (B) and 776(b) of the Act, the use of AFA is appropriate for the preliminary determination with respect to the GOC's alleged provision of stainless steel coil to producers of CWASPP for LTAR.

As noted, the GOC refused to respond to the items contained in Appendices One and Five of the Department's initial questionnaire, as they pertain to the GOC's alleged provision of stainless steel coil to producers of CWASPP for LTAR. The Department issued a supplemental questionnaire in which it again instructed the GOC to respond to Appendices One and Five in regard to the LTAR allegations at issue. However, in its response, the GOC continued to provide insufficient information regarding the Department's questions pertaining to *de facto* specificity. Therefore, consistent with sections 776(a)(2)(A) and (B) of the Act, we find that the GOC did not act to the best of its ability and, therefore, we are employing adverse inferences in selecting from among the facts otherwise available. Accordingly, pursuant to section 776(b) of the Act, we find that the provision of stainless steel coil to producers of CWASPP by GOC authorities is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act. Thus, we preliminarily determine that the provision of stainless steel coil by GOC authorities to producers of CWASPP are countervailable to the extent that the provision of the goods constituted a financial contribution in accordance with 771(5)(D)(iii) of the Act and conferred a benefit upon producers of CWASPP within the meaning of 771(E)(iv) of the Act. The Department's decision to rely on adverse inferences when lacking a response from a foreign government is in accordance with its practice. *See, e.g., Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 71 FR 11397, 11399 (March 7, 2006) (unchanged in the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 71 FR 38861 (July 10, 2006) (relying on adverse inferences in determining that the Government of Korea directed credit to the steel

industry in a manner that constituted a financial contribution and was specific to the steel industry within the meaning of the sections 771(5)(D)(i) and 771(5A)(D)(iii) of the Act, respectively.

B. Froch

In this case, Froch did not provide the requested information that is necessary to determine a CVD rate for this preliminary determination. Specifically, Froch did not respond to the Department's March 14, 2008, initial questionnaire. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based Froch's CVD rate on facts otherwise available.

The Department has determined that, in the instant investigation, an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to the Department's initial questionnaire, Froch did not cooperate to the best of its ability in this investigation. Accordingly, we find that an adverse inference is warranted to ensure that Froch will not obtain a more favorable result than had it fully complied with our request for information.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) The petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g., Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review,* 71 FR 66165 (November 13, 2006), and accompanying decision memorandum at ''Analysis of Programs'' and Comment 1.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1190 (Fed. Cir. 1990).

For the six alleged income tax programs pertaining to either the reduction of the income tax rates or exemption from income tax, we have applied an adverse inference that Froch paid no income tax during the POI. The standard income tax rate for corporations in the PRC is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for these six income tax rate programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the six programs combined provided a 33 percent benefit). Our approach is consistent with the Department's practice. This 33 percent AFA rate does not apply to income tax credit or rebate programs. *See* CWP from the PRC Decision Memorandum at ''Use of Adverse Facts Available'' section. Our preliminary finding in this regard includes the Reduced Income Tax Rate for FIEs Located in Economic and Technological Development Zones and Other Special Economic Zones program even though we have calculated a net subsidy rate for the Winner Companies for this program. *See Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination,* 73 FR 35642, 35644 (June 24, 2008) (*LWP from the PRC*), and accompanying decision memorandum (LWP from the PRC Decision Memorandum) at ''Income Tax Subsidies for Foreign Invested Enterprises (FIEs)—Reduced Income Tax Rates for FIEs Based on Location'' section, where the Department assigned an AFA rate of 33 percent for income tax programs alleged with respect to a non-responding mandatory respondent even though the Department calculated an income tax rate for a particular program for a mandatory respondent that participated in the proceeding.

For the program involving the provision of stainless steel coil for LTAR, the Department has preliminarily determined to use the Winner Companies' rate calculated in this investigation for this program (which is 1.39 percent). Because the Winner Companies did not use any of the other alleged subsidy programs, for the remaining programs in this investigation (including the tax credit and refund programs), we are applying, where available, the highest non-*de minimis* subsidy rate calculated for the same or similar program in a China CVD investigation. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, we are applying the highest calculated subsidy rate for any program otherwise listed, which could conceivably be used by the respondents in this investigation. The Department has reached affirmative final CVD determinations in several investigations of products from the PRC. *See CFS from the PRC; CWP from the PRC; LWP from the PRC;* and *Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances,* 73 FR 35639 (June 24, 2008) (*Sacks from the PRC*), and accompanying decision memorandum (Sacks Decision Memorandum). As such, we are including the subsidy rates calculated in those final determinations in our AFA analysis in the instant investigation because those final determinations were completed more than seven days prior to the deadline for our preliminary determination. For further information concerning the derivation of Froch's AFA rate, see the Memorandum to the File from Eric B. Greynolds, ''Calculations for Preliminary Determination'' (Preliminary Calculations Memorandum) at Attachment III (June 30, 2008), a proprietary document of which the public version is on file in the CRU.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See, e.g.,* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 870. The Department considers information to be corroborated if it has probative value. *See* SAA at 870. To corroborate secondary information, the

Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

In instances in which it determines to apply AFA, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and relevance of the information used. With regard to the reliability aspect of corroboration, we note that these rates were calculated in prior final CVD determinations. No information has been presented that calls into question the reliability of these calculated rates that we are applying as AFA. 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 corroborating the rates selected, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996). In the absence of record evidence concerning these programs due to Froch's decision not to participate in the investigation, the Department has reviewed the information concerning China subsidy programs in this and other cases. For those programs for which the Department has found a program-type match, we find that programs of the same type are relevant to the programs of this case. For the programs for which there is no program-type match, the Department has selected the highest calculated subsidy for any China program from which Froch could conceivably receive a benefit to use as AFA. The relevance of this rate is that it is an actual calculated CVD rate for a China program from which Froch could actually receive a benefit. Due to the lack of participation by Froch and the resulting lack of record information concerning these programs, the Department has corroborated the rates it selected to the extent practicable.

On this basis, we preliminarily determine the AFA countervailable subsidy rate for Froch to be 106.85 percent *ad valorem. See* Preliminary Calculations Memorandum at Attachment III.

Subsidies Valuation Information

Cross-Ownership

As stated above, Winner is affiliated with Winner HK and WSP. According to Winner, during the POI Winner HK purchased finished subject merchandise from Winner for sale and consigned steel coil to Winner for manufacturing into subject merchandise that Winner returned to Winner HK for sale. Winner further states that during the POI, WSP was a sub-contractor for Winner. Specifically, Winner provided coils or slit coils to WSP, which WSP slit and/or formed into pipe and returned it to Winner. Winner states it then manufactured the processed coil into subject merchandise. In addition, WSP provided slit and/or formed pipe to Winner, which Winner claims were used to make non-subject merchandise.

Winner states that during the POI, Winner, Winner HK, and WSP were ''directly or indirectly, partially or wholly, owned'' by the same shareholders. Under 19 CFR 351.525(b)(6)(vi) cross-ownership exists between corporations if one corporation can use or direct the individual assets of the other corporation(s) in essentially the same way it uses its own. This section of the Department's regulations states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. Based on the information supplied by Winner indicating that the Winner Companies are owned by the same shareholders parent, we preliminarily determine that Winner, WSP, and Winner HK are cross-owned under 351.525(b)(6)(vi).

For purposes of attributing subsidies received by WSP (an affiliate that supplies stainless steel coil inputs to Winner) under the Provision of Stainless Steel Coil for LTAR program, in accordance with 19 CFR 351.525(b)(6)(iv), we preliminarily determine to attribute subsidies received by WSP to the combined sales of WSP's sales of steel coil, and the total sales of Winner and Winner HK, excluding intra-company sales. We have adopted the same approach in the preliminary determination with respect to the attribution of subsidies received by Winner under the Provision of Stainless Steel Coil for LTAR and Reduced Income Tax Rate for Foreign Investment Enterprises (FIEs) Located in Economic and Technological Development Zones and Other Special Economic Zones programs. Regarding Winner HK, we preliminarily determine that Winner HK is a Hong Kong company and did not receive any subsidies from the GOC.

Analysis of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. Reduced Income Tax Rate for Foreign Investment Enterprises (FIEs) Located in Economic and Technological Development Zones and Other Special Economic Zones

According to the GOC, this program provides tax incentives for enterprises located in special zones. The GOC states that the program was first enacted on June 15, 1988, pursuant to the Provisional Rules on Exemption and Reduction of Corporate Income Tax and Business Tax of FIEs in Coastal Economic Zones, as issued by the Ministry of Finance. The GOC states that the program was continued on July 1, 1991, pursuant to Article 30 of the FIE Tax Law. Specifically, pursuant to Article 7 of the FIE Tax Law for productive FIEs established in a coastal economic development zone, special economic zone, or economic technology development zone, the applicable enterprise income tax rate is 15 or 24 percent, depending on the zones in which productive FIE are located, as opposed to the standard 30 percent income tax rate.

We preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone and confers a benefit equal to the amount of tax savings within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act. Because eligibility under this program is limited to firms located within designated geographical regions, we preliminarily determine that the program is specific within the meaning of section 771(5A)(D)(iv) of the Act. We note that the Department has found this program countervailable in previous CVD proceedings. *See, e.g.*, CFS from the PRC Decision Memorandum at ''Reduced Income Tax Rates for FIEs Based on Location'' section.

Under 19 CFR 351.509(b), in the case of an income tax reduction program, the Department normally will consider the benefit as having been received on the date on which the recipient firm would otherwise have had to pay the taxes associated with the reduction. Normally, this date is the date on which the firm in question filed its tax return. In its questionnaire response, Winner indicates that it received an income tax reduction under the program with

respect to the tax return filed during the POI. Therefore, we preliminarily determine that Winner received a benefit under this program during the POI.

In accordance with 19 CFR 351.509(a), to calculate the benefit, we subtracted the income tax rate Winner paid under the program from the income tax rate Winner would have paid absent the program and multiplied the difference by Winner's taxable income.

To calculate the net subsidy rate, we divided the benefit by the total sales denominator for Winner and WSP, as described in the ''Cross-Ownership'' section. On this basis, we preliminarily determine a net subsidy rate of 0.08 percent *ad valorem* for the Winner Companies.

B. Provision of Stainless Steel Coil for Less Than Adequate Remuneration

The Department is investigating whether GOC authorities provided stainless steel coil to producers of CWASPP for LTAR. As instructed in the Department's questionnaires, the Winner Companies identified the suppliers from whom they purchased stainless steel coil during the POI. In addition to the supplier names, the Winner Companies, as instructed, indicated the date of payment, quantity, unit of measure, purchase price (with and without VAT and quantity discounts), grade, and delivery terms. Having obtained permission from the Winner Companies to disclose the proprietary names of their suppliers to the GOC, we asked the GOC to provide certain information regarding the Winner Companies' domestic suppliers of stainless steel coil. *See* Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Consent to Release Company-Specific Proprietary Information to the Government of China (GOC)'' (May 28, 2008), a public document on file in the CRU.

In order to assess whether an entity should be considered to be the government for purposes of countervailing duty investigations, the Department has in the past considered the following factors to be relevant: (1) The government's ownership; (2) the government's presence on the entity's board of directors; (3) the government's control over the entity's activities; (4) the entity's pursuit of governmental policies or interests; and (5) whether the entity is created by statute. Not all of these criteria must be satisfied for an entity to be considered a government entity, but, taken together these five criteria inform our decision. *See e.g., Coated Free Sheet Paper from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 72 FR 60639 (October 25, 2007) (*CFS from Korea*), and accompanying decision memorandum (CFS from Korea Decision Memorandum) at Comment 11. In addition, we instructed the GOC to indicate whether the Winner Companies' domestic suppliers of stainless steel coil were trading companies, and if so, to provide information related to the five factors listed above as it pertains to the entities from whom the trading companies purchased the stainless steel coil.

In its response, the GOC provided information pertaining to the ''Five Factor Test'' for each of the Winner Companies'' domestic stainless steel coil suppliers. In its response, the GOC states that none of the domestic suppliers of the Winner Companies' stainless steel coils met criteria two through five under the ''Five Factor Test.'' However, the GOC provided information indicating that, in certain instances, domestic suppliers of the Winner Companies' stainless steel coil were majority-owned by GOC entities. *See* GOC's second supplemental questionnaire response at Exhibit 1; GOC's supplement to its second supplemental questionnaire response at Exhibits 1–24. Based on our review of the information submitted by the GOC, we preliminarily determine that domestic suppliers of the Winner Companies' stainless steel coil that were majority-owned by the GOC during the POI constitute government authorities.

In addition, in its response the GOC identified which of the Winner Companies' domestic stainless steel coil suppliers were trading companies. However, the GOC was unable to provide the requested information concerning the ''Five Factor Test'' as it pertains to the suppliers from whom the domestic trading companies purchased the stainless steel coil. *See* GOC's second supplemental questionnaire response at 3 (''The GOC does not possess the information requested by the Department'').

Regarding domestic trading companies that supplied stainless steel coil to the Winner Companies during the POI, the GOC was unable to provide the requested information concerning the entities from which the trading companies acquired the input, even in instances involving government-owned trading companies. Thus, we preliminarily determine that the necessary information is not on the record, and we are resorting to the use of facts available within the meaning of sections 776(a)(1) and (2) of the Act.

In its response, the GOC provided information on the amount of stainless steel coil produced by state-owned enterprises (SOEs) and private producers in China. *See* GOC's June 16, 2008, second supplemental questionnaire at page 4. Using these data, we derived the ratio of stainless steel coil produced by SOEs during the POI (82 percent).[4] Thus, pursuant to sections 776(a)(1) and (2) of the Act, for purposes of this preliminary determination we are resorting to the use of facts available (FA) with regard to the stainless steel coil sold to the Winner Companies by domestic trading companies. Specifically, we are assuming that the percentage produced by government authorities is equal to the ratio of stainless steel coil produced by SOEs during the POI.[5] This approach is consistent with the Department's practice. *See* CWP from the PRC Decision Memorandum at the ''Hot-rolled Steel for Less Than Adequate Remuneration'' section; *see also* LWP from the PRC Decision Memorandum at the ''Hot-rolled Steel for Less Than Adequate Remuneration'' section. For further discussion, see our description of the benefit calculations below. We will seek additional information regarding the amount of stainless steel coil purchased by domestic trading companies that was produced by SOEs.

In their submissions, the Winner Companies argue that the Department should not subject the stainless steel coils that WSP purchased from GOC authorities to our LTAR subsidy analysis because the inputs were not subsequently used to make CWASPP. For purposes of this preliminary determination, we disagree with the Winner Companies' arguments. We note that the Winner Companies are not arguing that the inputs WSP purchased from GOC authorities are incompatible with the production process used to produce CWASPP but that WSP did not use those inputs to produce CWASPP. In this regard, we note that 19 CFR 351.503(c) states that:

> In determining whether a benefit is conferred, the Secretary is not required to consider the effect of the government action on the firm's performance, including its prices or output, or how the firm's behavior otherwise is altered.

Further, the *Preamble* adds that:

[4] At this time, we have solicited from the GOC information concerning domestic consumption of imported stainless steel coil and stainless steel coil produced by SOEs and private companies.

[5] In other words, as FA, we are assuming that 82 percent of the stainless steel coil purchased by domestic trading companies during the POI was produced by SOEs.

In analyzing whether a benefit exists, we are concerned with what goes into a company, such as enhanced revenues and reduced-cost inputs in the broad sense that we have used the term, not with what the company does with the subsidy.

See Countervailing Duties; Final Rule, 63 FR 65348, 65361 (November 25, 1998) (*Preamble*)). *See also, Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review,* 73 FR 7708 (February 11, 2008), and accompanying decision memorandum at Comment 8 (explaining that because the imported equipment at issue could be used to make subject merchandise, the respondent failed to demonstrate that subsidy benefits were tied to non-subject merchandise, pursuant to 19 CFR 351.525(b)(5)). Therefore, in accordance with our regulations, we do not consider the manner in which WSP used its inputs as a factor that is germane to the Department's subsidy analysis and, thus, we have for purposes of this preliminary determination subjected WSP's purchases of stainless steel coils from GOC authorities to our LTAR subsidy analysis.

However, information on the record indicates that stainless steel coil that is of the grade 430 is incompatible with the production process used to produce CWASPP (*i.e.*, stainless steel coil that is grade 430 is not austentitic). *See* June 30, 2008, Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Public Information Concerning Stainless Steel of Grades 201 and 430,'' a public document on file in the CRU (June 30, 2008) (Steel Grade Memorandum). This circumstance is markedly different than the issue of whether or how a firm used a particular input and, therefore, is distinct from the issue described under 19 CFR 351.503(c). Thus, because record evidence indicates that stainless steel coil of grade 430 cannot, by its nature, be used to make CWASPP, we have for purposes of this preliminary determination excluded the grade from our LTAR subsidy analysis. *See* 19 CFR 351.525(b)(5).

Having identified the extent to which the Winner Companies' obtained stainless steel coil from GOC authorities, we preliminarily determine that the GOC authorities' provision of stainless steel coil constitutes a financial contribution under section 771(5)(D)(iii) of the Act.[6] Furthermore, as discussed above in the ''Adverse Facts Available'' section, pursuant to section 776(b) of the Act, we find that the provision of stainless steel coil to producers of CWASPP by GOC authorities is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act.

The Department's regulation at 19 CFR 351.511(a)(2) sets forth the basis for identifying appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services. 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 we have explained in *Canadian Lumber*, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation.[7] This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

Based on the hierarchy established above, we must first determine whether there are market prices from actual sales transactions involving Chinese buyers and sellers that can be used to determine whether GOC authorities sold stainless steel coils to the Winner Companies for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority, or a substantial portion of, the market for a good or service, prices for such goods and services in the country will be considered significantly distorted and will not be an appropriate basis of comparison for determining whether there is a benefit.[8]

As explained above, for purposes of this preliminary determination, we find that SOEs account for approximately 82 percent of the stainless steel coil production in the PRC during the POI (and approximately 71 percent of production if available data on import volume are included). Consequently, because of the government's overwhelming involvement in the PRC stainless steel coil market, the use of private producer prices in China would be akin to comparing the benchmark to itself (*i.e.*, such a benchmark would reflect the distortions of the government presence).[9] As we explained in *Canadian Lumber:*

> Where the market for a particular good or service is so dominated by the presence of the government, the remaining private prices in the country in question cannot be considered to be independent of the government price. It is impossible to test the government price using another price that is entirely, or almost entirely, dependent upon it. The analysis would become circular because the benchmark price would reflect the very market distortion which the comparison is designed to detect.[10]

For these reasons, prices stemming from private transactions within China cannot give rise to a price that is sufficiently free from the effects of the GOC's actions, and therefore cannot be considered to meet the statutory and regulatory requirement for the use of market-determined prices to measure the adequacy of remuneration. We note that our finding in this regard is consistent with the Department's finding in *CWP from the PRC. See* CWP from the PRC Decision Memorandum at Comment 7, n. 206:

> Even if, arguendo, we were to rely on the GOC's 71 percent production figure, we would still find that government production accounts for a significant portion of the HRS industry, so that it is reasonable to conclude that private prices in China are significantly distorted, and therefore unusable as benchmarks.

Next, turning to tier one benchmark prices stemming from actual import prices, there is record evidence that Winner HK purchased stainless steel coil from a supplier located outside of China during the POI.[11] The stainless steel coil Winner HK imported from the foreign supplier accounts for a significant percentage of the stainless steel coil purchased by the Winner Companies during the POI. The company-specific import price data contain information on monthly prices. In addition, the data contain prices for every grade of stainless steel that the Winner Companies purchased from

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[6] For purposes of this preliminary determination, we find that private producers that provided stainless steel coil to the Winner Companies during the POI do not constitute government authorities and, thus, their provision of stainless steel coil to the Winner Companies does not constitute a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

[7] *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) (*Canadian Lumber*), and accompanying decision memorandum at 36.

[8] *See Preamble,* 63 FR at 65377.

[9] *See Canadian Lumber* decision memorandum at 34.

[10] *See Canadian Lumber* decision memorandum at 38–39.

[11] The identity of the foreign supplier is business proprietary.

GOC authorities during the POI, though month-to-month comparisons of prices within grades are not possible in some instances due to the lack of company-specific import prices in certain months.

In addition, the Department has on the record of the investigation tier two benchmark prices for certain grades of stainless steel coil, namely grades 304 and 316. The sources for the tier two benchmark prices are the *Steel Business Briefing* (SBB) publication and Management Engineering and Production Services (MEPS). The data reported by SBB contain delivered, monthly prices for stainless steel coil, grade 304, for Europe, North America, Asia (on an import price basis), and the world for the POI. The data reported by MEPS contain monthly prices for stainless steel coil (both hot- and cold-rolled), grades 304 and 316, for Europe, North America, Asia, and the world for the POI.[12] Further, as discussed above, the GOC reported aggregate import data for the POI, as reported by its Customs Service. However, these aggregate import data do not delineate the prices by grade or month. Therefore, because the aggregated import data submitted by the GOC do not delineate the prices by grade or month, we are excluding this information from consideration for use as benchmarks.

As stated above, we preliminarily determine that government production accounts for a significant portion of the stainless steel coil industry so that it is reasonable to conclude that private prices in China are significantly distorted, and therefore unusable as benchmarks. Given this finding, we must test the available company-specific import prices of stainless steel coil in order to ascertain whether they are also distorted by the dominance of government production in the PRC. To conduct the test, we have compared the company-specific import price data for stainless steel coil to the world price data for stainless steel coil reported in MEPS and SBB and have validated these import prices with market-based world prices.

Furthermore, we preliminarily find that the world prices for stainless steel coil reported by MEPS and SBB are comparable to the company-specific import prices reported by the Winner Companies. Therefore, for purposes of this preliminary determination, we conclude that the world prices for stainless steel coil reported by MEPS and SBB should be treated as surrogate import prices and, thus, serve as a tier one benchmark. Although the regulations refer to ''actual imports,'' we see no meaningful difference in actual and potential market-determined import prices stemming from transactions outside the country.[13] This is particularly the case where, as here, an actual import price is comparable to world market-determined price, such as those contained in MEPS and SBB. In effect, because of the comparability between the company-specific import prices and the MEPS and SBB world prices, we consider the latter to be equivalent or surrogates for actual imports. These prices are thus appropriately considered tier one benchmark prices. We note that this approach is consistent with the Department's approach in *CWP from the PRC. See* CWP from the PRC Decision Memorandum at Comment 7. For these reasons, to measure whether GOC authorities sold stainless steel coil to the Winner Companies for LTAR during the POI, we are relying on the simple average of the company-specific import prices, MEPS, and SBB.

To calculate the benefit, we first converted the benchmark prices into the same unit of measure (USD per tonne). Next, we converted the benchmark unit prices from U.S. dollars to renminbi (RMB) using average USD to RMB exchange rates, as reported by the Federal Reserve Statistical Release. We then compared the benchmark unit prices to the unit prices the Winner Companies paid to domestic suppliers of stainless steel coil during the POI.

We conducted the benefit calculation by comparing prices within each grade. Information concerning the grades of stainless steel coil imported by Winner HK during the POI is business proprietary. Therefore, for further discussion regarding the manner in which the Department conducted its benefit calculation, see the Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, ''Comparisons of Grades of Stainless Steel Coil for Purposes of the Preliminary Determination'' (Jun 30, 2008), a business proprietary document, of which the public version is on file in the CRU.

Regarding petitioners' allegation concerning export restraints on stainless steel coil, we find that it is not necessary to examine the allegation because our benchmarks account for any influence that export restraints may have on domestic prices for the input.

We encourage interested parties to submit comments on our use of company-specific import prices and prices from MEPS and SBB in the derivation of the benchmark including the most appropriate method to employ to validate company-specific import prices into the PRC using world market pricing data. We also invite interested parties to comment on the manner in which we conducted the benefit calculation as it pertains to the comparison of prices by grade and month.

In instances in which the benchmark unit price was greater than the price paid to GOC authorities, we multiplied the difference by the quantity of stainless steel coil purchased from GOC authorities to arrive at the benefit. As explained above, in instances in which the Winner Companies purchased the stainless steel coil from government trading companies and/or private trading companies, we multiplied the product of the price difference per unit and the quantity of stainless steel coil purchased by 82 percent to arrive at the benefit.

To calculate the net subsidy rate, we divided the total benefit by the Winner Companies' total sales for the POI. On this basis, we calculated a total net subsidy rate of 1.39 percent *ad valorem* for the Winner Companies.

II. Program Preliminarily Found Not To Provide Countervailable Benefits During the POI

A. Provision of Land-Use Rights for Less Than Adequate Remuneration

As explained in the Initiation Checklist, the Department is examining whether GOC-owned/controlled entities sold land to producers of CWASPP for LTAR. In its questionnaire responses, Winner states in 1993, 1996, and 2000, it made payments for land-use rights. Winner states that in 1993, prior to the incorporation of Winner, one of its founders purchased land-use rights from a foreign investor, who had, in turn, acquired the land from the Xiaobu Village Administration. Similarly, Winner states that in 1996 it acquired land-use rights from an individual, who had in turn acquired the land-use rights from the Xiaobu Village Administration. Further, Winner states that in 1999 it

[12] The data reported by MEPS do not indicate whether the prices are reported on a delivered basis. However, when compared on a monthly basis, the prices reported by MEPS for grade 304 are, in some instances, higher than the prices for grade 304 reported by SBB, which are reported on a delivered basis. Thus, for purposes of the preliminary determination, we are assuming that the stainless steel coil prices in MEPS are reported on a delivered basis.

[13] *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186, 43197 (August 17, 2001) (unchanged in the final determination, *see Canadian Lumber* decision memorandum at 37–38).

purchased land-use rights from the Huasan Town Administration. Winner states that in 2000, the Huasan Town Administration ''confirmed'' the granting of land-use rights.

Winner also states that in 2002 it received from the Government of the Province of Guandong a certificate of land-use rights for the land it acquired in 1993, 1996, and 1999. Winner further states that no land-use payments were made to the GOC or GOC governments during the POI.

Based on Winner's questionnaire responses, we preliminarily determine that there were no payments associated with its acquisition of land-use rights after the December 11, 2001, ''cut-off'' date established in *CWP from the PRC*. *See* CWP from the PRC Decision Memorandum at Comment 2. Therefore, in accordance with the approach established in CWP from the PRC, we preliminarily determine that this program did not confer benefits upon Winner during the POI.

III. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the Winner Companies did not apply for or receive benefits during the POI under the programs listed below.[14]

A. Preferential Lending

1. Loans and Export Credits Pursuant to the Northeast Revitalization Program Income Tax Programs.

B. Tax Programs

2. ''Two Free, Three Half'' Program.

3. Income Tax Reductions for Export-Oriented Foreign Investment Enterprises (''FIEs'').

4. Income Tax Credit or Refund for Reinvestment of FIE Profits.

5. Provincial and Local Tax Exemptions and Reductions for Productive FIEs.

6. Local Income Tax Reductions in Certain Development Zones.

7. Preferential Tax Policies for Research and Development at FIEs.

C. Indirect Tax Programs and Import Tariff Program

8. VAT Refunds on Purchases of Domestically Produced Equipment by FIEs.

9. Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies.

D. Provincial Subsidy Programs

10. Guangdong Province's ''Outward Expansion'' Program.

11. Preferential Loans Pursuant to Liaoning Province's Five-Year Framework.

12. Preferential Tax Policies for Town and Village Enterprises (''TVEs'').

E. Provision of Goods or Services for Less Than Adequate Remuneration

13. Provision of Stainless Steel Coil for Less than Adequate Remuneration.

14. Provision of Land-Use Rights for Less Than Adequate Remuneration.

Government Restraints on Exports

15. Export Restraints on Flat-rolled Steel.

Verification

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the Winner Companies and the GOC prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for each producer/exporter of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rate to be:

Exporter/manufacturer	Net subsidy rate
Winner Stainless Steel Tube Co. Ltd. (Winner)/ Winner Steel Products (Guangzhou) Co., Ltd. (WSP)/ Winner Machinery Enterprises Company Limited (Winner HK) (Collectively the Winner Companies).	1.47 percent *ad valorem*.
Froch Enterprise Co. Ltd. (Froch) (also known as Zhangyuan Metal Industry Co. Ltd.)	106.85 percent *ad valorem*.
All Others	1.47 percent *ad valorem*.

Sections 703(d) and 705(c)(5)(A)(i) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States, excluding any zero and *de minimis* net subsidy rates, and any rates determined entirely under section 776 of the Act. Thus, in accordance with sections 703(d) and 705(c)(5)(A)(i) of the Act, we are equating the net subsidy rate for all other producers/exporters of CWASPP from the PRC with the net subsidy rate calculated for the Winner Companies.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of CWASPP from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.

ITC Notification

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

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

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. The Department will notify interested parties of the schedule for submission of case briefs. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2). Rebuttal briefs must be limited to issues raised in the case briefs. *See* 19 CFR 351.309(d)(2).

[14] As explained above, Froch did not respond to the Department's initial questionnaire. Therefore, as AFA, we are assigning net subsidy rates to Froch for each of the programs listed in this section, the exception being Export Restraints on Hot Rolled Stainless Steel Coils, which as explained above, the Department has determined it is not necessary to examine this subsidy program due to the benchmark used to calculate the benefit calculation.

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time. *Requests for a public hearing should contain:* (1) Party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: June 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–15733 Filed 7–9–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–923)

Raw Flexible Magnets from the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of raw flexible magnets (RFM) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: July 10, 2008.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–4793.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is Magnum Magnetics Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation (POI), is January 1, 2006, through December 31, 2006.

Case History

On February 25, 2008, the Department published in the **Federal Register** its preliminary affirmative determination in the countervailing duty (CVD) investigation of RFM from the PRC. *See Raw Flexible Magnets 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 9998 (February 25, 2008) (*RFM Preliminary Determination*).

On April 29, 2008, we received a case brief from the Government of the People's Republic of China (GOC). Petitioner submitted a rebuttal brief on May 5, 2008. Neither the GOC nor petitioner requested a hearing.

Scope of Investigation

The products covered by this investigation are certain flexible magnets regardless of shape,[1] color, or packaging.[2] Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co–polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized.

Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of this investigation are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.*, ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non–permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re–printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this investigation. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of this proceeding is dispositive.

Scope Comments

Interested parties submitted comments on the scope of investigation. Those comments are fully addressed in the Decision Memorandum, which is hereby adopted by this notice.

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended, (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the International Trade Commission (ITC) must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On November 9, 2007, the ITC published its preliminary determination that there is

[1] The term ''shape'' includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

[2] Packaging includes retail or specialty packaging such as digital printer cartridges.