

**SUMMARY:** Notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). This will be the second meeting to be held in the calendar year 2010. Agenda topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice. All full Committee sessions will be open to the public.

**DATES:** The meeting will be held June 29 July 1, 2010, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at the Prospector Hotel, 375 Whittier Street in Juneau, AK 99801; 907-586-3737.

**FOR FURTHER INFORMATION CONTACT:** Mark Holliday, MAFAC Executive Director; (301) 713-2239 x-120; e-mail: [Mark.Holliday@noaa.gov](mailto:Mark.Holliday@noaa.gov).

**SUPPLEMENTARY INFORMATION:** As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This committee advises and reviews the adequacy of living marine resource policies and programs to meet the needs of commercial and recreational fisheries, and environmental, state, consumer, academic, tribal, governmental and other national interests. The complete charter and summaries of prior meetings are located online at <http://www.nmfs.noaa.gov/ocs/mafac/>.

#### Matters To Be Considered

This agenda is subject to change.

The meeting is convened to hear presentations and discuss policies and guidance on the following topics: status of the Deepwater Horizon oil spill and NOAA actions including scientific activities, ensuring seafood safety, assessing ecological and economic impacts, declaration of Federal fishery disasters, and conducting natural resource damage assessments; Office of Protected Resources programs and regulatory responsibilities; development of the draft aquaculture policy; recreational fisheries engagement; and NOAA strategic planning. Updates will be presented on NOAA budgets, catch share policy, enforcement activities, and the Interagency Ocean Policy Task Force. The meeting will include discussion of various MAFAC administrative and organizational matters and meetings of the standing subcommittees.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Holliday, MAFAC Executive Director; (301) 713-2239 x120 by 5 p.m. on June 16, 2010.

Dated: June 7, 2010.

**Eric C. Schwaab,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 2010-14082 Filed 6-10-10; 8:45 am]

**BILLING CODE 3510-22-S**

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XW86-1**

##### Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting, which is open to the public.

**DATES:** The GMT meeting will be held Monday, June 28, 2010 from 1 p.m. until business for the day is completed. The GMT meeting will reconvene Tuesday, June 29 through Thursday, July 1, from 8:30 a.m. until business for each day is completed.

**ADDRESSES:** The GMT meeting will be held at the Pacific Fishery Management Council office, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kelly Ames or Mr. John DeVore, Groundfish Management Staff Officers; telephone: (503) 820-2280.

**SUPPLEMENTARY INFORMATION:** The purpose of the GMT work session is to complete analyses for the 2011-12 Groundfish Harvest Specifications and Management Measures Environmental Impact Statement (EIS). The main task will be completing any analysis of the Council's preferred alternative for groundfish harvest specifications and management measures for the next biennium. The GMT may also address

other assignments relating to groundfish management. No management actions will be decided by the GMT.

Although non-emergency issues not contained in the meeting agenda may come before the GMT for discussion, those issues may not be the subject of formal GMT action during this meeting. GMT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820-2280 at least 5 days prior to the meeting date.

Dated: June 8, 2010.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-14105 Filed 6-10-10; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

**[C-570-966]**

##### Drill Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

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

**DATES:** *Effective Date:* June 11, 2010

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-4793 and 202-482-6071, respectively.

**SUPPLEMENTARY INFORMATION:**

### Case History

On December 31, 2009, the Department received the petition filed in proper form by the petitioners.<sup>1</sup> This investigation was initiated on January 20, 2010. *See Drill Pipe From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 4345 (January 27, 2010) (*Initiation Notice*), and accompanying Initiation Checklist.<sup>2</sup>

On April 8, 2010, the Department postponed the deadline for the preliminary determination. *See Drill Pipe From the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 75 FR 17902 (April 8, 2010). Normally, under section 703(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), the Department extends the due date of a preliminary determination to no later than 130 days after the day on which the investigation was initiated. However, as explained in the memorandum from the Deputy Assistant Secretary (DAS) for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. *See Memorandum to the File from Ronald K. Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm"* (February 12, 2010). As such, we extended the due date of the preliminary determination to no later than 137 days after the day on which the Department initiated the investigation. Because that date falls on a weekend, the deadline for completion of this preliminary determination is the next business day, *i.e.*, June 7, 2010.

In the *Initiation Notice*, the Department stated that it intended to rely on data from U.S. Customs and Border Patrol (CBP) for purposes of selecting the mandatory respondents. *See Initiation Notice*, 75 FR at 4347. On January 25, 2010, the Department released the results of a query performed on CBP's custom database for

calendar year 2009. *See Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, regarding "Release of Initial Customs and Border Patrol Data"* (January 25, 2010). Due to the large number of producers and exporters of drill pipe in the PRC, we determined that it was not practicable to individually investigate each producer and/or exporter. We, therefore, selected two producers and/or exporters of drill pipe to be mandatory respondents: Giant Oil Technology and Service Co., Ltd. (Giant Oil) and Xigang Seamless Steel Tube Co., Ltd. (Xigang), the two largest publicly identifiable producers and/or exporters of the subject merchandise. *See Memorandum to John M. Andersen, Acting DAS for AD/CVD Operations, from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, through Melissa G. Skinner, Director, AD/CVD Operations, Office 3, regarding "Respondent Selection"* (February 23, 2010). Also on February 23, 2010, we issued the initial countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (the GOC) and selected mandatory respondents, to whom we also issued a confirmation of shipment questionnaire on the same date.<sup>3</sup>

On March 5, 2010, Xigang submitted its response to the shipment questionnaire in which the company claimed that it did not export subject merchandise to the United States during the period of investigation (POI). *See Xigang's Shipment Questionnaire Response at 1-2* (March 5, 2010). Regarding Giant Oil, neither the GOC nor the Department was able to obtain a working address for the company. *See GOC's Drill Pipe submission* (March 8, 2010) and the *Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, regarding "Inability to Find Working Address for Giant Oil Technology and Service Ltd."* (March 19, 2010). Because the initial questionnaire and confirmation of shipment questionnaire could not be delivered to the company, Giant Oil did not submit a response to the Department.

Therefore, on March 19, 2010, the Department selected two other producers and/or exporters to be mandatory respondents in this investigation: DP Master Manufacturing Co., Ltd. (DP Master) and Wuxi Seamless Pipe Co., Ltd. (WSP). *See*

*Memorandum to John M. Andersen, Acting DAS for AD/CVD Operations, from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, through Melissa G. Skinner, Director, AD/CVD Operations, Office 3, regarding "Selection of Mandatory Respondents"* (March 19, 2010). DP Master, initially an interested party who requested to be a voluntary respondent,<sup>4</sup> received a copy of the initial CVD questionnaire on February 23, 2010. On March 19, 2010, the Department also issued the initial CVD questionnaire to WSP, which later reported that it did not export subject merchandise to the United States during the POI. *See Memorandum to the File from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 3, regarding "WSP's Questionnaire Response"* (June 3, 2010).

On April 16 and 23, 2010, we received DP Master's initial questionnaire response. DP Master responded to the questionnaire on behalf of itself and its four affiliated companies: Jiangyin Sanliang Petroleum Machinery Co., Ltd. (SPM); Jiangyin Liangda Drill Pipe Co., Ltd. (Liangda); Jiangyin Sanliang Steel Pipe Trading Co., Ltd. (SSP); and Jiangyin Chuangxin Oil Pipe Fittings Co., Ltd. (Chuangxin). Collectively, all companies are known as the DP Master Group. On April 20, 2010, we received the GOC's initial questionnaire response.

Regarding supplemental questionnaires, we issued to the DP Master Group a supplemental questionnaire and an addendum to that questionnaire on April 29, 2010, and May 4, 2010, respectively. We received the company's response on May 18, 2010. We issued to the GOC a supplemental questionnaire on May 12, 2010, and an addendum to that questionnaire on May 18, 2010. We received the GOC's response on May 27, 2010.

### Period of Investigation

The POI for which we are measuring subsidies is January 1, 2009 through December 31, 2009, which corresponds to the most recently completed fiscal year. *See* 19 CFR 351.204(b)(2).

### Scope of the Investigation

The products covered by this investigation are steel drill pipe, and steel drill collars, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes suitable for drill pipe), without regard to the specific chemistry of the steel (*i.e.*,

<sup>1</sup> Petitioners are VAM Drilling USA, Inc., Texas Steel Conversions, Inc., Rotary Drilling Tools, TMK IPSCO, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC.

<sup>2</sup> A public version of this and all public Departmental memoranda are on file in the Central Records Unit (CRU), Room 1117 in the main building of the Commerce Department.

<sup>3</sup> On February 25, 2010, the Department issued an addendum to the initial questionnaire to the GOC, Giant Oil, and Xigang. *See Addendum to the Initial Questionnaire issued by the Department* (February 25, 2010).

<sup>4</sup> *See* section 782(a) of the Act.

carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping (AD) or CVD order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States (HTSUS) categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.<sup>5</sup>

While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

#### Scope Comments

In accordance with the *Preamble* to the Department's regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*)), in the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. On February 12, 2010, the Department received scope comments from petitioners and Downhole Pipe and Equipment, L.P. (Downhole Pipe) and Command Energy Services International, Ltd. (Command Energy), U.S. importers of drill pipe from the PRC. On February 22, 2010, Downhole Pipe and Command Energy submitted to the Department comments in response to petitioners' February 12, 2010 scope comments.

The Department is evaluating the comments submitted by the parties and will issue its decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on August 5, 2010.

#### Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning

<sup>5</sup> Prior to February 2, 2007, these imports entered under different tariff classifications, including 7304.21.3000, 7304.21.6030, 7304.21.6045, and 7304.21.6060.

of section 701(b) of the Act, the International Trade Commission (the ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On March 8, 2010, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of drill pipe and drill collars from the PRC. *See Drill Pipe and Drill Collars From China*, Investigation Nos. 701-TA-474 and 731-TA-1176 (Preliminary), 75 FR 10501 (March 8, 2010).

#### 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 Issues and Decision Memorandum (CFS Decision Memorandum). In *CFS from the PRC*, the Department found that

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

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

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

#### Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, inter alia,

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

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

#### GOC—Steel Rounds

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

Regarding the PRC's steel rounds industry in general, the GOC responded at page 49 of its April 20, 2010 initial questionnaire response, that, for purposes of this investigation, it understands the term "steel rounds" to refer to billets in a round shape that may be an input used in the production of seamless pipe, including drill pipe. At page 50 of the initial questionnaire response, the GOC stated that, "there is no official statistics readily available regarding the production and consumption of steel rounds in China." The GOC added that there is no association in China that has responsibility for the production, exportation, or consumption of steel rounds.<sup>6</sup> The GOC provided no further explanation on the following requested information:

- The number of producers of steel rounds;
- The total volume and value of domestic production of steel rounds that is accounted for by companies in which the GOC maintains an ownership or management interest either directly or through other government entities;<sup>7</sup>

<sup>6</sup> *See* GOC Initial Questionnaire Response (IQR) (April 20, 2010) at 50.

<sup>7</sup> Includes governments at all levels, including townships and villages, ministries, or agencies of those governments including state asset

- The total volume and value of domestic consumption of steel rounds and the total volume and value of domestic production of steel rounds;
- The percentage of domestic consumption accounted for by domestic production;
- The names and addresses of the top ten steel rounds companies—in terms of sales and quantity produced—in which the GOC maintains an ownership or management interest, and identification of whether any of these companies have affiliated trading companies that sell imported or domestically produced steel rounds; and
- Trade publications which specify the prices of the good/service within your country and on the world market. Provide a list of these publications, along with sample pages from these publications listing the prices of the good/service within your country and in world markets during the POI.

On May 12, 2010, we issued a supplemental questionnaire noting that the GOC had failed to provide the information requested in the original questionnaire regarding the steel rounds industry in the PRC.<sup>8</sup> At page 11 of its May 27, 2010 supplemental questionnaire response, the GOC reiterated that “there are no official statistical data regarding these questions and would add that it is also unable to check, confirm the correctness of, let alone submit data concerning this market due to the nature of the products.”

With respect to the specific companies that produced the steel rounds purchased by the respondents, we asked the GOC to provide particular ownership information for these producers so that we could determine whether the producers are “authorities” within the meaning of section 771(5)(B) of the Act.<sup>9</sup> Specifically, we stated in our questionnaire that the Department normally treats producers that are majority-owned by the government or a government entity as “authorities.”<sup>10</sup> Thus, for any steel rounds producers that were majority government-owned, the GOC needed to provide the following ownership information if it wished to argue that those producers were not authorities:

- Translations of the most recent capital verification report predating the POI and, if applicable, any capital

verification reports completed during the POI. Translation of the most recent articles of association, including amendments thereto.

- The names of the ten largest shareholders and the total number of shareholders, a statement of whether any of these shareholders have any government ownership (including the percentage of ownership), and an explanation of any other affiliation between these shareholders and the government.
- The total level (percentage) of state ownership, either direct or indirect, of the company’s shares; the names of all government entities that own shares in the company; and the amount of shares held by each.
- Any relevant evidence to demonstrate that the company is not controlled by the government, *e.g.*, that the private, minority shareholder(s) control the company.<sup>11</sup>

On page 54 of the initial questionnaire response, the GOC reported that all but one of the producers that supplied steel rounds to the DP Master Group were state-owned enterprises (SOEs). The GOC did not provide a response to the above questions, thereby conceding that those steel round producers are government authorities. The DP Master Group also identified the firms that produced the steel rounds that it acquired during the POI and, with the exception of a single producer, stated that all of the steel rounds acquired during the POI were produced by SOEs.<sup>12</sup>

With regard to the remaining producer of steel rounds, the GOC stated that it “does not have sufficient time to obtain the information requested at Appendix 5 for this response but will provide it in due course.”<sup>13</sup> Based on the name of the steel round producer that the GOC reported, the Department requested that the GOC provide specific documents regarding that supplier, which were submitted to the Department in the *PC Strand From the PRC* investigation.<sup>14</sup> See *Pre-Stressed Concrete Steel Wire Strand From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Strand from the PRC*), and accompanying Issues and Decision Memorandum (PC Strand Decision Memorandum). At page 11 of its May 27, 2010 supplemental questionnaire

response, the GOC stated that the steel round producer is related to but different than the producer in *PC Strand from the PRC*. As such, the GOC stated that the documents requested by the Department are not applicable. The GOC, however, did not provide the information requested at Appendix 5 for this steel rounds producer.

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

With respect to the GOC’s failure to provide requested information about the production and consumption of steel rounds, we are assuming adversely that the GOC’s dominance of the market in the PRC for this input results in significant distortion of the prices and, hence, that use of an external benchmark is warranted. With respect to the GOC’s failure to provide ownership information about a certain producer of the steel rounds, we are assuming adversely that this producer is a government authority.

The Department’s practice when selecting adverse information from among the possible sources of information is to ensure that the result is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998) (*Semiconductors From Taiwan*). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol. 1 at 870 (1994).

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

management bureaus, state-owned enterprises and labor unions.

<sup>8</sup> See Department’s First Supplemental Questionnaire Issued to the GOC (May 12, 2010) at 3.

<sup>9</sup> See Department’s Initial Questionnaire (February 23, 2010) at Appendix 5.

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

<sup>11</sup> *Id.*

<sup>12</sup> See DP Master Group IQR (April 16, 2010) at Exhibit 13.

<sup>13</sup> See GOC IQR at 54.

<sup>14</sup> See Department’s First Supplemental Questionnaire Issued to the GOC at 3.

Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See, e.g., SAA at 870. The Department considers information to be corroborated if it has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *Id.* at 869.

To corroborate the Department’s treatment of a certain company that produced the steel rounds purchased by the DP Master Group as an authority and our finding that the GOC dominates the domestic market for this input, we are relying on *Circular Welded Carbon Quality Steel Line Pipe From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008) (*Line Pipe From the PRC*), and accompanying Issues and Decision Memorandum (Line Pipe Decision Memorandum).<sup>15</sup> In that case, the Department determined that the GOC owned or controlled the entire hot-rolled steel industry in the PRC. See Line Pipe Decision Memorandum at Comment 1. Evidence on the record of this investigation shows that many steel producers in the PRC are integrated producers, manufacturing both long products (rounds and billets) and flat products (hot-rolled steel). See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding “Additional Information on Steel Rounds” (June 7, 2010).

Consequently, government ownership in the hot-rolled steel industry is a reasonable proxy for government ownership in the steel rounds and billets industry. As a result, we find that the use of an external benchmark is warranted for calculating the benefit that the DP Master Group received from purchasing steel rounds from an SOE during the POI. For details on the calculation of the subsidy rate, see below at “Provision of Steel Rounds for LTAR.”

<sup>15</sup> This approach is consistent with the Department’s approach to the steel rounds industry in the PRC in *Certain Seamless Carbon and Alloy Steel Standard Line, and Pressure Pipe From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination*, 75 FR 9163, 9165 (March 1, 2010).

### GOC—Green Tubes

The Department is investigating the alleged provision of green tubes for LTAR by the GOC. We requested information from the GOC about the PRC’s green tubes industry in general and the specific companies that produced green tubes purchased by the respondents. Regarding producers of green tubes, both the GOC and the DP Master Group reported that the only supplier of green tubes to the companies during the POI is an SOE, thereby conceding that the green tube producer is a government authority.<sup>16</sup> With respect to the production and consumption of green tubes in the PRC, the GOC has failed to provide the requested information within the established deadlines (see discussion below).

At page 58 of the April 20, 2010 initial questionnaire response, the GOC stated that, “there is no official statistics readily available regarding the production and consumption of green tubes in China.” The GOC added that there is no association in China that has responsibility for the production, exportation, or consumption of green tubes.<sup>17</sup> The GOC provided no further explanation on the following requested information:

- The number of producers of green tubes;
- The total volume and value of domestic production of green tubes that is accounted for by companies in which the GOC maintains an ownership or management interest either directly or through other government entities;<sup>18</sup>
- The total volume and value of domestic consumption of green tubes and the total volume and value of domestic production of green tubes;
- The percentage of domestic consumption accounted for by domestic production;
- The total volume and value of imports of green tubes;
- The names and addresses of the top ten green tubes companies—in terms of sales and quantity produced—in which the GOC maintains an ownership or management interest, and identification of whether any of these companies have affiliated trading companies that sell imported or domestically produced green tubes;
- A discussion of what laws or policies govern the pricing of green

<sup>16</sup> See GOC IQR at 59; and DP Master Group IQR at Exhibit 14.

<sup>17</sup> See GOC IQR at 59.

<sup>18</sup> Includes governments at all levels, including townships and villages, ministries, or agencies of those governments including state asset management bureaus, state-owned enterprises and labor unions.

tubes, the levels of production of green tubes, or the development of green tubes capacity;

- Price controls on green tubes or any price floors or ceilings;
- The role of state-owned trading companies in the distribution of both domestic and imported green tubes and whether the state-owned trading companies are affiliated with the state-owned green tubes producers;
- VAT and import tariff rates in effect for green tubes;
- An explanation of any export tariff on green tubes;
- An explanation of any export licensing requirements on green tubes;
- A list of the industries in the PRC that purchase green tubes directly, using a consistent level of industrial classification; and
- Trade publications which specify the prices of the good/service within your country and on the world market. Provide a list of these publications, along with sample pages from these publications listing the prices of the good/service within your country and in world markets during the period of investigation.

On May 12, 2010, we issued a supplemental questionnaire noting that the GOC had failed to provide the information requested in the original questionnaire regarding the green tubes industry in the PRC.<sup>19</sup> At page 13 of its May 27, 2010, supplemental questionnaire response, the GOC stated that “there is no well-established definition for green tubes” and reiterated that “there are no official statistical data regarding these questions and that it is also unable to check, confirm the correctness of, let alone submit data concerning this market due to the nature of the products.” The GOC explained that in past cases it has consulted the National Statistics Bureau (SSB) to ascertain the number of producers of a particular input and related information.<sup>20</sup> Specifically, in past cases, the GOC explained that it has examined SSB, Major Industrial Output Statistics as the data source for information regarding the annual production of an input or the total production of an input accounted for by SOEs.<sup>21</sup> However, for green tubes no such data are collected or reported.<sup>22</sup> Inasmuch as this source does not keep such data, the GOC explained that it has been unable to obtain any data from any

<sup>19</sup> See Department’s First Supplemental Questionnaire Issued to the GOC at 4.

<sup>20</sup> See GOC First Supplemental Questionnaire Response (First SQR) (May 27, 2010) at 14.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

alternative source.<sup>23</sup> The GOC further added that an adverse inference is not appropriate for selecting the benchmark for purchases of green tubes because even the petitioners concede that “no price data are published for unfinished green tube for drill pipe production.”<sup>24</sup>

With respect to the GOC’s failure to provide requested information about the production and consumption of green tubes in the PRC, we preliminarily find that the GOC acted to the best of its ability in responding to the Department’s information request. Unlike its response with respect to steel rounds, the GOC provided details regarding the efforts it took to obtain information regarding green tubes. Therefore, the Department must rely on “facts available” in making the preliminary determination on the PRC green tubes industry. *See* section 776(a)(1) of the Act. Because the record is void of any information on the production and consumption of green tubes in the PRC, we find that the use of an external benchmark is warranted for calculating the benefit that the DP Master Group received from purchasing green tubes from an SOE during the POI.

For a discussion of the external benchmark used and details on the calculation of the subsidy rate, *see* below at “Provision of Green Tubes for LTAR.”

### GOC—Electricity

The GOC also did not provide a complete response to the Department’s February 23, 2010 initial questionnaire regarding its alleged provision of electricity for LTAR. Specifically, the Department requested that the GOC explain how electricity cost increases are reflected in retail price increases.<sup>25</sup> In its April 20, 2010 questionnaire response, the GOC responded that it was unable to provide provincial price proposals for 2006 and 2008.<sup>26</sup> The GOC’s response also explained theoretically how the national price increases should be formulated; however, the response did not explain the actual process that led to the price increases.<sup>27</sup> Therefore, on May 12, 2010, the Department issued a supplemental questionnaire reiterating its request for this information.<sup>28</sup> However, the GOC’s subsequent supplemental questionnaire response did not address the missing

information.<sup>29</sup> The GOC also did not provide sufficient answers to the Department’s questions. For example, we asked the GOC to explain how the NDRC developed the national price increase. In response, the GOC provided the Interim Rules on Sales Price of Electricity, but did not provide an explanation on how the NDRC developed the national price increase.<sup>30</sup> Similarly, we asked the GOC to explain the methodology used to calculate each of the cost element increases; however, in response, the GOC stated “the methodology used to calculate each of these cost element increases are mainly common practices of costing.”<sup>31</sup> We also asked the GOC to explain how all significant cost elements are accounted for within the province’s price proposal. To which, the GOC simply stated “significant cost elements will normally be accounted for within the province’s price proposal in a manner consistent with the relevant rules on costing and pricing of electricity.”<sup>32</sup>

Consequently, we preliminarily determine that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination. *See* section 776(a)(1), section 776(a)(2)(A), and section 776(a)(2)(B) of the Act. Moreover, we preliminarily determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information as it did not explain why it was unable to provide the requested information. Therefore, an adverse inference is warranted in the application of facts available. *See* section 776(b) of the Act. In drawing an adverse inference, we find that the GOC’s provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A) of the Act. We have also relied on an adverse inference in selecting the benchmark for determining the existence and amount of the benefit. *See* section 776(b)(2) of the Act and section 776(b)(4) of the Act. As such, we have placed on the record of this investigation, the July 1, 2008 electricity rate schedules, which were submitted to the Department by the GOC in the CVD investigation on *PC Strand from the PRC*, and which reflect the highest rates that the respondents would have paid in the PRC during the POI. *See* *PC Strand Decision*

Memorandum at “Federal Provision of Electricity for LTAR.” Specifically, we have selected the highest rates for “large industrial users” for the peak, valley, and normal ranges. *See* Memorandum to File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding “Electricity Rate Data” (June 7, 2010).

For details on the calculation of the subsidy rate for the DP Master Group, *see* below at “Provision of Electricity for LTAR.”

### Subsidies Valuation Information

#### *Allocation Period*

Under 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (AUL) of the renewable physical assets used to produce the subject merchandise. Pursuant to 19 CFR 351.524(d)(2), there is a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of Treasury. For the subject merchandise, the IRS Tables prescribe an AUL of 15 years. No interested party has claimed that the AUL of 15 years is unreasonable.

Further, for non-recurring subsidies, we have applied the “0.5 percent expense test” described in 19 CFR 351.524(b)(2). Under this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total sales or total export sales, as appropriate) for the same year. If the amount of subsidies is less than 0.5 percent of the relevant sales, then the benefits are allocated to the year of receipt rather than allocated over the AUL period.

#### *Attribution of Subsidies*

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)–(v) provides that the Department will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) Two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) a firm that produces an input that is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 14, with reference to the Petition at Volume III, page III–26.

<sup>25</sup> *See* Department’s Initial Questionnaire at Appendix 6.

<sup>26</sup> *See* GOC IQR at 62.

<sup>27</sup> *Id.* at 61–67.

<sup>28</sup> *See* Department’s First Supplemental Questionnaire Issued to the GOC at 5–9.

<sup>29</sup> *See* GOC First SQR at 17–24.

<sup>30</sup> *Id.* at 18.

<sup>31</sup> *Id.* at 22.

<sup>32</sup> *Id.*

corporation with cross-ownership with the subject company.

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

#### *DP Master Group*

As discussed above, the DP Master Group companies are: DP Master, SPM, Liangda, SSP, and Chuangxin. DP Master, SPM, and Liangda are involved in the production of drill pipe.<sup>33</sup> Neither DP Master nor its affiliates are integrated producers; they purchase green tubes and steel rounds for their various pipe production facilities.<sup>34</sup>

Specifically, DP Master produces and exports drill pipe, drill collar, and heavy weight drill pipe.<sup>35</sup> SPM provides machining and threading services for the drill pipes produced by DP Master.<sup>36</sup> Liangda manufactures drill collars for DP Master and provides heat treatment services for the drill pipe produced by DP Master.<sup>37</sup> SSP purchases and supplies green tubes to DP Master and Liangda for the production of drill pipe.<sup>38</sup> Chuangxin, a holding company, is the parent company of the other four companies; it is not involved in the production and/or sale of drill pipe.<sup>39</sup>

DP Master, SPM, Liangda, SSP, and Chuangxin are managed and/or controlled by the same individuals.<sup>40</sup> In accordance with 19 CFR 351.525(b)(6)(vi), we preliminarily determine that DP Master, SPM, Liangda, SSP, and Chuangxin are cross-owned companies. For subsidies received by DP Master, SPM, and

Liangda, the companies involved in the production of subject merchandise, we have attributed those subsidies to the consolidated sales of DP Master, SPM, and Liangda, exclusive of intra-company sales. For subsidies received by SSP, the trading company, we have attributed those subsidies to the consolidated sales of SSP, DP Master, SPM, and Liangda, exclusive of intra-company sales. For subsidies received by DP Master, SPM, Liangda, SSP, and Chuangxin, we have attributed those subsidies to the consolidated sales of DP Master, SPM, Liangda, SSP, and Chuangxin, exclusive of intra-company sales.

#### **Benchmarks and Discount Rates**

The Department is investigating loans received by the DP Master Group from Chinese policy banks and state-owned commercial banks (SOCBs), which are alleged to have been granted on a preferential, non-commercial basis. The Department is also investigating various grants received by the DP Master Group. Therefore, the derivation of the Department's benchmark and discount rates is discussed below.

*Benchmark for Short-Term RMB Denominated Loans:* Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company for benchmarking purposes. *See* 19 CFR 351.505(a)(3)(i). If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national interest rate for comparable commercial loans." *See* 19 CFR 351.505(a)(3)(ii).

As noted above, section 771(5)(E)(ii) of the Act indicates that the benchmark should be a market-based rate. However, for the reasons explained in *CFS from the PRC*, loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. *See* CFS Decision Memorandum at Comment 10. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, because Chinese banks reflect significant government intervention in the banking sector, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR

351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada. *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying Issues and Decision Memorandum (*Softwood Lumber Decision Memorandum*) at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

We are calculating the external benchmark using the regression-based methodology first developed in *CFS from the PRC* and more recently updated in *LWTP from the PRC*. *See* CFS Decision Memorandum at Comment 10; *see also Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*LWTP from the PRC*), and accompanying Issues and Decision Memorandum (*LWTP Decision Memorandum*) at "Benchmarks and Discount Rates." This benchmark interest rate is based on the inflation-adjusted interest rates of countries with per capita gross national incomes (GNIs) similar to the PRC. The benchmark interest rate takes into account a key factor involved in interest rate formation (*i.e.*, the quality of a country's institutions), which is not directly tied to the state-imposed distortions in the banking sector discussed above.

This methodology relies on data published by the World Bank and International Monetary Fund (*see* further discussion below). For the year 2009, the World Bank, however, has not yet published all the necessary data relied on by the Department to compute a short-term benchmark interest rate for the PRC. Specifically, the following data are not yet available: World Governance Indicators and World Bank classifications of lower-middle income countries based on GNI per capita in U.S. dollars. Therefore, for purposes of this preliminary determination, where the use of a short-term benchmark rate for 2009 is required, we have applied the 2008 short-term benchmark rate for the PRC, as calculated by the Department (*see* discussion below). The

<sup>33</sup> *See* DP Master Group IQR at 8.

<sup>34</sup> *Id.* at 12.

<sup>35</sup> *Id.* at 12. Also, DP Master is the only company within the DP Master Group that exports subject merchandise. *Id.* at 8.

<sup>36</sup> *Id.* at 13.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 12.

<sup>39</sup> *Id.* at 8.

<sup>40</sup> *Id.* at 12.

Department notes that the current 2008 loan benchmark may be updated, pending the release of all the necessary 2009 data, by the final determination.

The 2008 short-term benchmark was computed following the methodology developed in *CFS from the PRC*. We first determined which countries are similar to the PRC in terms of GNI, based on the World Bank's classification of countries as: Low income; lower-middle income; upper-middle income; and high income. The PRC falls in the lower-middle income category, a group that includes 55 countries as of July 2007. As explained in *CFS from the PRC*, this pool of countries captures the broad inverse relationship between income and interest rates.

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

For the resulting inflation-adjusted benchmark lending rate, see Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "2008 Short-Term Interest Rate Benchmark" (June 7, 2010). Because these are inflation-adjusted benchmarks, it is necessary to adjust the respondent's interest payments for inflation. This was done using the PRC inflation rate as reported in the IFS.

**Benchmark for Long-Term RMB Denominated Loans:** The lending rates reported in the IFS represent short- and

medium-term lending, and there are no sufficient publicly available long-term interest rate data upon which to base a robust long-term benchmark. To address this problem, the Department has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates. See *Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008) (*LWRP from the PRC*), and accompanying Issues and Decision Memorandum (LWRP Decision Memorandum) at "Discount Rates." In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where n equals or approximates the number of years of the term of the loan in question. See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum (Citric Acid Decision Memorandum) at Comment 14.

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

## Analysis of Programs

### I. Programs Preliminarily Determined To Be Countervailable

#### A. Policy Loans to Chinese Drill Pipe Producers

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

Record evidence demonstrates that the GOC, through its directives, has highlighted and advocated the

development of the drill pipe industry. At the national level, the GOC has placed an emphasis on the development of high-end, value-added steel products through foreign investment as well as through technological research, development, and innovation. In laying out this strategy, the GOC has identified the specific products it has in mind. For example, an "objective" of the 10th Five-Year Plan for the Metallurgical Industry (the Plan) was to develop key steel types that were mainly imported; high strength, anticrushing, corrosion resistant petroleum pipe, high pressure boiler pipe, and welded pipe used in oil and gas transmission pipelines were among the listed products.<sup>41</sup> Moreover, among the "Policy Measures" set out in the Plan for achieving its objectives was the encouragement of enterprises to cooperate with foreign enterprises, particularly in the production and development of high value-added products and high-tech products.<sup>42</sup>

Similarly, in the Development Policies for the Iron and Steel Industry (July 2005) at Article 16, the GOC states that it will "enhance the research and development as well as designing and manufacture levels of major technical equipment of our iron and steel industry."<sup>43</sup> To accomplish this, the GOC states it will provide support to key steel projects relying on domestically produced and newly developed equipment and facilities, through tax and interest assistance, and scientific research expenditures.<sup>44</sup>

Later in 2005, the GOC implemented the Decision of the State Council on Promulgating the "Interim Provisions on Promoting Industrial Structure Adjustment" for Implementation (No. 40 (2005)) (Decision 40) in order to achieve the objectives of the Eleventh Five-Year Plan.<sup>45</sup> Decision 40 references the Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue), which outlines the projects which the GOC deems "encouraged," "restricted," and "eliminated," and describes how these projects will be considered under government policies.<sup>46</sup> Steel tube for oil well pipe, high-pressure boiler pipe, and long-distance transportation pipe for oil and gas were named in the Industrial

<sup>41</sup> See GOC IQR at Exhibit 12 for the Plan at "(III) Implementation Main Points; 2. Production Structure Readjustment."

<sup>42</sup> *Id.* at "(V) Policy Measures."

<sup>43</sup> *Id.* at Exhibit 10.

<sup>44</sup> *Id.* at Article 16.

<sup>45</sup> *Id.* at Exhibit 13.

<sup>46</sup> *Id.* at "Chapter III Catalogue for the Guidance of Industrial Structural Adjustment."

Catalogue as an “encouraged project.”<sup>47</sup> For the “encouraged” projects, Decision 40 outlines several support options available from the government, including financing.<sup>48</sup>

Turning to the provincial and municipal plans, the Department has described the inter-relatedness of national level plans and directives with those at the sub-national level. See LWTP Decision Memorandum at Comment 6. Based on our review of the sub-national plans, we find that they mirror the national government’s objective of supporting and promoting the production of innovative and high-value added products, including drill pipe.

Examples from the five-year plans of the Jiangsu province where the DP Master Group companies are located are as follows:

Outline of the 11th Five-Year Program for Industrial Structural Adjustment and Development in Jiangsu: “Emphasize on the development of high-quality steel products with high added value and high technological content such as motor plates, shipbuilding steel plates, \* \* \* pinion steel, oil well billet, special pipes and sticks, and highly qualified high-carbon hard wires.”<sup>49</sup>

The 10th Five-Year Program for Industrial and Commercial Restructuring of Jiangsu: “We should develop functional metallic materials, stainless steel cold-rolled sheet, high-speed railway steel, oil well and pipeline steel, \* \* \* hard alloy products and etc.”<sup>50</sup>

Special Program (Guihua) on Adjustment & Development of Iron and Steel Industries during the Eleventh Five-year Period in Jiangsu: “We shall strengthen the guidance of industrial policies, the support from credit policy and the regulation by fiscal and taxation policies to guide the direction of investments.”

See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding “Additional Document for Jiangsu Province—Development of Iron and Steel Industries” (June 7, 2010).

As noted in *Citric Acid from the PRC*:<sup>51</sup>

In general, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support those objectives or goals. Where such plans or policy directives exist, then we will find a policy lending program that is

specific to the named industry (or producers that fall under that industry).<sup>52</sup> Once that finding is made, the Department relies upon the analysis undertaken in *CFS from the PRC*<sup>53</sup> to further conclude that national and local government control over the SOCBs results in the loans being a financial contribution by the GOC.<sup>54</sup>

Therefore, on the basis of the record information described above, we preliminarily determine that the GOC has a policy in place to encourage the development of production of drill pipe through policy lending.

The DP Master Group reported that DP Master and SPM had outstanding loans during the POI.<sup>55</sup> In its April 20, 2010 questionnaire response, the GOC provided information on the banks that provided lending to the companies and reported that there is government ownership in each bank.<sup>56</sup> Consistent with our determination in prior proceedings, we preliminarily find these banks to be SOCBs. See, e.g., *Certain Oil Country Tubular Goods From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from the PRC*), and accompanying Issues and Decision Memorandum (OCTG Decision Memorandum) at Comment 20.

The loans to drill pipe producers from SOCBs in the PRC constitute a direct financial contribution from the government, pursuant to section 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans (see section 771(5)(E)(ii) of the Act). Finally, we preliminarily determine that the loans are *de jure* specific within the meaning of section 771 of the Act because of the GOC’s policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the drill pipe industry.

To calculate the benefit, we compared the amount of interest DP Master and SPM paid on their outstanding loans to the amount they would have paid on

comparable commercial loans. See 19 CFR 351.505(a). In conducting this comparison, we used the interest rates described in the “Benchmarks and Discount Rates” section above. We have attributed benefits under this program to total consolidated sales of DP Master, SPM, and Liangda (exclusive of intra-company sales), as discussed in the “Attribution of Subsidies” section above. On this basis, we preliminarily determine a countervailable subsidy of 0.87 percent *ad valorem* for the DP Master Group.

#### B. Two Free, Three Half Tax Exemption for FIEs

The Foreign Invested Enterprise and Foreign Enterprise Income Tax Law (FIE Tax Law), enacted in 1991, established the tax guidelines and regulations for FIEs in the PRC. The intent of this law is to attract foreign businesses to the PRC. According to Article 8 of the FIE Tax Law, FIEs which are “productive” and scheduled to operate not less than 10 years are exempt from income tax in their first two profitable years and pay half of their applicable tax rate for the following three years. FIEs are deemed “productive” if they qualify under Article 72 of the Detailed Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign Investment Enterprises and Foreign Enterprises. The Department has previously found this program countervailable. See, e.g., CFS Decision Memorandum at 10–11.

DP Master and Liangda are “productive” FIEs and received benefits under this program during the POI.<sup>57</sup> SPM, SSP, and Chuangxin are domestically-owned companies.<sup>58</sup>

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

For the 2008 tax year (for which tax returns were filed during the POI), DP Master was in its third year of

<sup>47</sup> *Id.* at Exhibit 14 for Industrial Catalogue at “VII Iron and Steel.”

<sup>48</sup> *Id.* at Exhibit 13 at Article 17.

<sup>49</sup> *Id.* at Exhibit 15 at “6. Development Priority.”

<sup>50</sup> *Id.* at Exhibit 17 at “Section 1. Optimizing the Industrial Structure; 1. Prioritizing the Development of High Technologies; New Materials Industry.”

<sup>51</sup> See *Citric Acid Decision Memorandum* at Comment 5.

<sup>52</sup> See CFS Decision Memorandum at 49, and LWTP Decision Memorandum at 98.

<sup>53</sup> See CFS Decision Memorandum at Comment 8.

<sup>54</sup> See *Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (*OTR Tires from the PRC*), and the accompanying Issues and Decision Memorandum (OTR Tires Decision Memorandum) at 15; and LWTP Decision Memorandum at 11.

<sup>55</sup> See DP Master Group IQR at 22.

<sup>56</sup> See GOC IQR at 10–11.

<sup>57</sup> See DP Master Group IQR at 29–30.

<sup>58</sup> *Id.* at 15–16.

profitability and was eligible for 50 percent reduction in its income tax liability.<sup>59</sup> Liangda was in its first year of eligibility and received a 100 percent reduction in its income tax liability for tax year 2008.<sup>60</sup>

To calculate the benefit, we treated the income tax savings enjoyed by DP Master and Liangda as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the companies' tax savings received during the POI by the total consolidated sales of DP Master, SPM, and Liangda (exclusive of intra-company sales), as discussed in the "Attribution of Subsidies" section above. To compute the amount of the tax savings, we compared the income tax amount that each respondent would have paid in absence of the program. On this basis, we preliminarily determine a countervailable subsidy of 9.05 percent *ad valorem* for the DP Master Group.

Further, the respondents reported that the GOC terminated the Two Free, Three Half Tax Exemption for FIEs on January 1, 2008, under the 2008 Enterprise Income Tax Law (EITL).<sup>61</sup> We find that respondents' claims of termination do not meet the requirements specified under 19 CFR 351.526(d)(1), which provide that the Department will not find a program to be terminated and a program-wide change warranted if it finds that the administering authority continues to provide residual benefits under the program. As indicated in the EITL and the Notice of the State Council on the Implementation of the Transitional Preferential Policies in Respect of the Enterprise Income Tax (Transitional Period Notice),<sup>62</sup> from January 1, 2008, enterprises that previously enjoyed this program may continue to enjoy any preferential treatment previously enjoyed until the expiration of the transitional time period. For enterprises that previously had not enjoyed preferential treatment, the preferential time period shall be calculated from 2008. The GOC reported that this program will be terminated at the expiration of the transitional period in 2012.

### C. Exemption From City Construction Tax and Education Tax for FIEs

Pursuant to the Circular Concerning Temporary Exemption from Urban Maintenance and Construction Tax and Additional Education Fees for Foreign-

Funded and Foreign Enterprises (GUOSHUIFA {1994} No. 38), the local tax authorities exempt all FIEs and foreign enterprises from the city maintenance and construction tax and education fee surcharge.<sup>63</sup> The GOC explained that the construction tax is based on the amount of product tax, value added tax, and/or business tax actually paid by the taxpayer.<sup>64</sup> For taxpayers located in urban areas, the rate is seven percent; for taxpayers located in counties or townships, the rate is five percent; and for taxpayers located in areas other than urban areas, counties, and townships, the rate is one percent.<sup>65</sup> Regarding the education fee surcharge, the DP Master Group reported that FIEs pay only one percent of the actual amount of the product tax, value-added tax, and business tax paid, whereas other entities pay four percent of that amount.<sup>66</sup> DP Master and Liangda are FIEs and, therefore, received exemptions under this program.

Consistent with our finding in *Racks from the PRC*, we preliminarily determine that the exemptions from the city construction tax and education surcharge under this program confer a countervailable subsidy. *See Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Racks from the PRC*), and accompanying Issues and Decision Memorandum (Racks from the PRC Decision Memorandum) at "Exemption from City Construction Tax and Education Tax for FIEs in Guangdong Province." The exemptions are financial contributions in the form of revenue forgone by the government and provide a benefit to the recipient in the amount of the savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemptions afforded by this program are limited as a matter of law to certain enterprises, *i.e.*, FIEs, and, hence, specific under section 771(5A)(D)(i) of the Act. To calculate the benefit, we treated DP Master's and Liangda's tax savings and exemptions as a recurring benefit, consistent with 19 CFR 351.524(c)(1).

To compute the amount of city construction tax savings, we first determined the rate the companies would have paid in the absence of the program. At page 36 of the May 18, 2010, supplemental questionnaire

response, SPM, not an FIE, reported that it paid a five percent "Urban Maintenance and Construction Tax." SPM, DP Master, and Liangda are all located in Chuangxin Village, Jiangyin City.<sup>67</sup> Therefore, we preliminarily determine that DP Master and Liangda should have paid a construction tax of five percent.<sup>68</sup> Next, we compared the rate the companies would have paid in the absence of the program (five percent during the POI) with the rate the companies paid (zero), because they are FIEs.

To compute the amount of the savings from the education fee exemption, we compared the rate the companies would have paid in the absence of the program (four percent during the POI) with the rate the companies paid (one percent).

To calculate the total benefit under the program, we summed the construction tax savings and the education fee exemptions. To calculate the net subsidy rate, we divided the companies' tax savings received during the POI by the total consolidated sales of DP Master, SPM, and Liangda (exclusive of intra-company sales), as discussed in the "Attribution of Subsidies" section above. On this basis, we preliminarily determine the countervailable subsidy to be 0.57 percent *ad valorem* for the DP Master Group.

### D. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Enacted in 1997, the Circular of the State Council on Adjusting Tax Policies on Imported Equipment (Guofa No. 37) (Circular 37) exempts both FIEs and certain domestic enterprises from the VAT and tariffs on imported equipment used in their production so long as the equipment does not fall into prescribed lists of non-eligible items. The National Development and Reform Commission (NDRC) and the General Administration of Customs are the government agencies responsible for administering this program. Qualified enterprises receive a certificate either from the NDRC or one of its provincial branches. To receive the exemptions, a qualified enterprise only has to present the certificate to the customs officials upon importation of the equipment. The objective of the program is to encourage foreign investment and to introduce foreign advanced technology equipment and

<sup>59</sup> *Id.* at 30.

<sup>60</sup> *Id.* at 30.

<sup>61</sup> *See* GOC IQR at Exhibit 25 for the EITL.

<sup>62</sup> *Id.* at Exhibit 26 for the Transitional Period Notice.

<sup>63</sup> *See* GOC First SQR at Exhibit 3.

<sup>64</sup> *Id.* at 9.

<sup>65</sup> *Id.*

<sup>66</sup> *See* DP Master Group First Supplemental Questionnaire Response (May 18, 2010) at 33.

<sup>67</sup> *See* DP Master Group IQR at 9.

<sup>68</sup> After issuance of this determination, we will issue a supplemental questionnaire to the GOC and the DP Master Group requesting confirmation on the rate that should have been paid by DP Master and Liangda.

industry technology upgrades. The Department has previously found this program to be countervailable. *See, e.g., Citric Acid Decision Memorandum at "VAT Rebate on Purchases by FIEs of Domestically Produced Equipment."* DP Master, an FIE, reported receiving VAT and tariff exemptions under this program for imported equipment.

We preliminarily determine that the VAT and tariff exemptions on imported equipment confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue forgone by the GOC and the exemptions provide a benefit to the recipients in the amount of the VAT and tariff savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1). We further preliminarily determine that the VAT and tariff exemptions under this program are specific under section 771(5A)(D)(iii)(I) of the Act because the program is limited to certain enterprises. As described above, only FIEs and certain domestic enterprises are eligible to receive VAT and tariff exemptions under this program. As noted above under the "Two Free/Three Half Tax Exemption for FIEs" program, the Department finds FIEs to be a specific group under section 771(5A)(D)(i) of the Act. The additional certain enterprises requiring approval by the NDRC do not render the program to be non-specific. This analysis is consistent with the Department's approach in prior CVD proceedings. *See, e.g., CFS Decision Memorandum at Comment 16, and OTR Decision Memorandum at "VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment on Encouraged Industries."*

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

To calculate the amount of import duties exempted under the program, we multiplied the value of the imported equipment by the import duty rate that would have been levied absent the program. To calculate the amount of VAT exempted under the program, we

multiplied the value of the imported equipment (inclusive of import duties) by the VAT rate that would have been levied absent the program. Our derivation of VAT in this calculation is consistent with the Department's approach in prior cases. *See, e.g., Line Pipe Decision Memorandum at Comment 8* ("\* \* \* we agree with petitioners that VAT is levied on the value of the product inclusive of delivery charges and import duties"). Next, we summed the amount of duty and VAT exemptions received in each year. For each year, we then divided the total grant amount by the corresponding total sales for the year in question. For certain years, DP Master's total amount of VAT and tariff exemptions was more than 0.5 percent of total sales for the respective year. Therefore, for these exemptions, we had to determine whether DP Master's VAT and tariff exemptions were tied to the capital structure or capital assets of the firm. Based on the description of the items imported in those years, we preliminarily find that the exemptions were for capital equipment.<sup>69</sup> As such, for these exemptions, we have allocated the benefit over the 15-year AUL using discount rates described under the "Benchmarks and Discount Rates" section above.

For the other years, DP Master's total amount of the VAT and tariff exemptions was less than 0.5 percent of the total consolidated sales of DP Master, SPM, and Liangda (exclusive of intra-company sales). Therefore, for those exemptions, we expensed the benefit to the year in which the benefit was received, consistent with 19 CFR 351.524(a). On this basis, we preliminarily determine the countervailable subsidy to be 0.14 percent *ad valorem* for the DP Master Group.

Further, the GOC reported that pursuant to the Announcement of Ministry of Finance, China Customs, and State Administration of Taxation, No. 43 (2008) (Notice 43), dated December 25, 2008, the VAT exemption linked to imported equipment under this program has been terminated but the import tariff exemption has not been terminated.<sup>70</sup> Article 1 of Notice 43 states that as of January 1, 2009, VAT on imported equipment for self-use in domestic and foreign investment projects as encouraged and stipulated in Circular 37 will be resumed and the custom duty exemption will remain in effect. Article 4 of Notice 43 provides for a transition period for the

termination of the VAT exemption. Under Article 4, for a project which has a letter of confirmation prior to November 10, 2008, and the imported equipment has been declared with customs before June 30, 2009, VAT and tariff can be exempted. However, for imported equipment for which the import customs declaration is made on or after July 1, 2009, VAT will be collected. As such, the GOC stated the latest possible date for companies to claim or apply for a VAT exemption under this program was June 30, 2009. The GOC reported that there is no replacement VAT exemption program.

Under 19 CFR 351.526(a)(1) and (2), the Department may take a program-wide change to a subsidy program into account in establishing the cash deposit rate if it determines that subsequent to the POI, but before the preliminary determination, a program-wide change occurred and the Department is able to measure the change in the amount of countervailable subsidies provided under the program in question. With regard to this program, we determine that a program-wide change has not occurred and have not adjusted the cash deposit rate. Under 351.526(d)(1), the Department will only adjust the cash deposit rate of a terminated program if there are no residual benefits. However, this program still provides for residual benefits up through and including the POI.

#### *E. Provision of Green Tubes for LTAR*

The Department is investigating whether producers, acting as Chinese government authorities, sold green tubes to the DP Master Group for LTAR. The DP Master Group (specifically, SSP) reported purchasing green tubes during the POI directly from a green tube producer. Both the DP Master Group and the GOC reported that the producer from which the respondents obtained green tubes is an SOE.<sup>71</sup> As a result, we determine that the producer, which supplied the DP Master Group with green tubes during the POI, is a government authority and provided to the DP Master Group a financial contribution, in the form of a governmental provision of a good. *See* section 771(5)(D)(iv) of the Act.

Having addressed the issue of financial contribution, we must next analyze whether the sale of green tubes to the DP Master Group by a producer designated as a government authority conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act. The Department's regulations at 19 CFR

<sup>69</sup> *See* DP Master Group First SQR at Exhibit 39.

<sup>70</sup> *See* GOC IQR at 28 and Exhibit 29.

<sup>71</sup> *See* DP Master Group IQR at Exhibit 14, and GOC IQR at 59.

351.511(a)(2) set 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 explained in *Softwood Lumber from Canada*, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation. See *Softwood Lumber Decision Memorandum at "Market-Based Benchmark."*

Beginning with tier one, we must determine whether the prices from actual sales transactions involving Chinese buyers and sellers are significantly distorted. As explained in the *Preamble*:

Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative {tier two} in the hierarchy.

See *Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65377 (November 25, 1998) (*Preamble*). The *Preamble* further recognizes that distortion can occur when the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market.

In our February 23, 2010 initial questionnaire and May 12, 2010 supplemental questionnaire, we instructed the GOC to provide the percentage of green tubes production accounted for by SOEs during the POI. In its initial and supplemental questionnaire responses, the GOC indicated that there were no official statistics readily available regarding the production and consumption of green tubes in the PRC and, therefore, did not provide the requested information.<sup>72</sup>

Section 776(a)(1) of the Act states that if the necessary information is not available on the record, then the Department shall use the facts otherwise available (FA) in reaching the applicable

determination. In this investigation, the GOC has stated for the various reasons noted above that the data requested by the Department does not exist and, therefore it is unable to obtain the percentage of green tube production accounted for by SOEs during the POI. As a result, we lack the necessary information to determine whether the GOC has a predominant role in the domestic market for this input that results in significant distortion of the prices. Moreover, at this stage of the investigation neither the GOC nor the DP Master Group has submitted data that could be used as a tier-one green tube benchmark. Furthermore, we note that the Department has determined that various steel inputs cannot serve as viable tier-one benchmarks in several CVD investigations involving the PRC. See, e.g., *Line Pipe Decision Memorandum at Comment 5*, see also *PC Strand Decision Memorandum at "Provision of Wire Rod for LTAR."* The Department finds no evidence that the GOC is not cooperating to the best of its ability and, thus, we preliminarily determine that the application of FA is warranted. Specifically, pursuant to section 776(a)(1) of the Act, we preliminarily determine that there is no suitable data on domestic prices for green tubes that are available which could serve as a viable tier-one benchmark as described under 19 CFR 351.511(a)(2)(i). Consequently, as there are no other available tier-one benchmark prices, we have turned to tier two, i.e., world market prices available to purchasers in the PRC.

We examined whether the record contained data that could be used as a tier-two green tubes benchmark under 19 CFR 351.511(a)(2)(ii). The Department has on the record of the investigation CIF import prices from various countries into the PRC of HTS category 7304.23, "seamless drill pipe, other than stainless, for use in drilling for oil or gas," as sourced from Global Trade Atlas.<sup>73</sup> Petitioners argue that these data constitute actual import prices for green tubes and, thus, may serve as the basis for a tier-two benchmark under 19 CFR 351.511(a)(2)(ii). We have reviewed the pricing data sourced from Global Trade Atlas and preliminarily determine that they are not appropriate for use as a tier-two benchmark. Petitioners' green tube prices are not broken out by month but are instead reported on an annual basis.<sup>74</sup> Given that SSP reported its

green tube purchases on a monthly basis, the preferred benchmark would be monthly purchases. Therefore, we preliminarily determine that annual green tube prices sourced from Global Trade Atlas are not suitable.

In addition, petitioners have placed on the record of the investigation monthly pricing data for the POI of seamless pipe and tube from various countries, as sourced from the Metal Bulletin Research (MBR).<sup>75</sup> The DP Master Group placed the same seamless pipe and tube pricing data from the MBR on the record of the investigation as well as seamless pipe and tube pricing data from the Steel Business Briefing (SBB) and SteelOrbis (SO).<sup>76</sup> In its May 28, 2010 and June 1, 2010 submissions, the DP Master Group argues that the seamless pipe and tube pricing data from the MBR, SBB, and SO represent pipe and tube products that are at a slightly more advanced stage of finishing than green tube products.<sup>77</sup> The DP Master Group therefore argues that, in order to derive a benchmark that is comparable to green tubes, the Department should average the seamless pipe and tube prices from the MBR, SBB, and SO with the steel rounds pricing data that it supplied in its questionnaire responses.<sup>78</sup> For the steel rounds pricing data supplied by the DP Master Group, see the DP Master Group's April 16, 2010 questionnaire response at Exhibit 13 and May 18, 2010 supplemental questionnaire response at Exhibit 44.

Alternatively, the DP Master Group argues that, in order to more closely approximate green tube pricing, the Department could discount the prices for seamless pipe and tube, as sourced from MBR, SBB, and SO, by the value added during the production process, namely heat treating, upsetting, and other processes performed on green tube to produce seamless pipe and tube. The DP Master Group contends that green tubes represent only 60 percent of the value of the seamless pipe and tube products under consideration as a green tube benchmark and, thus, to the extent the Department uses the seamless pipe and tube prices as a proxy for green tube prices, the Department should reduce the seamless pipe and tube prices by 40

<sup>75</sup> See January through June pricing data in petitioners' December 31, 2009 petition, Volume I at Exhibit 15; see July through December pricing data in petitioners' May 28, 2010 submission at Exhibit 1.

<sup>76</sup> See DP Master Group's Benchmark Rebuttal and Supplemental Factual Information Submission (Benchmark Rebuttal) (May 28, 2010) submission at 15 and Exhibits 52 through 54.

<sup>77</sup> See DP Master Group Benchmark Rebuttal 14.

<sup>78</sup> *Id.* at 15.

<sup>73</sup> See Petitioners' CVD Benchmark Data Submission (Benchmark Submission) (May 24, 2010) at Exhibit 1.

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

<sup>72</sup> See GOC IQR at 58, and GOC First SQR at 13–15.

percent. The DP Master Group supports its argument in this regard with an affidavit from an engineer.<sup>79</sup>

In their May 28, 2010 and June 1, 2010 submissions, petitioners argue against calculating the green tubes benchmark as the average of steel rounds and seamless pipe and tube prices. Petitioners contend that producing green tubes, drill pipe, and drill collars is a complicated and exacting process, and that such products must be manufactured to withstand severe conditions during the drilling process.<sup>80</sup> In contrast, argue petitioners, steel rounds (also known as billets) are merely pieces of steel that are not comparable to green tubes.

In this preliminary determination, we agree with petitioners that it is not appropriate to construct a green tube benchmark that is equal to the average of seamless pipe and tube prices and steel rounds prices. In light of the extensive further manufacturing required to produce seamless pipe and tube, we preliminarily determine that seamless pipe and tubes are more similar to green tubes than steel rounds.

Therefore, we have used the seamless pipe and tube pricing data, as sourced from MBR, SBB, and SO to construct our green tubes benchmark. We note that the Department has relied on pricing data from industry publications in recent CVD proceedings involving the PRC. *See, e.g.,* CWP Decision Memorandum at “Hot-Rolled Steel for LTAR,” and LWRP Decision Memorandum at “Hot-Rolled Steel for LTAR.” Concerning the comparability of seamless pipe and tube, we note that the Department has acknowledged the “overlap” between green tubes and other types of seamless pipe and tube (*e.g.,* casing and tubing) “with respect to diameter, wall thickness, and length” as well as an overlap with regard to strength and alloy requirements. *See Oil Country Tubular Goods from Austria: Initiation of Countervailing Duty Investigation*, 67 FR 20739, 20740 (April 26, 2002), and accompanying Initiation Checklist at 15.

In this preliminary determination, we have determined not to reduce the seamless pipe and tube prices by 40 percent as advocated by the DP Master Group. In its June 1, 2010 submission, the DP Master Group relies on an affidavit from an engineer.

<sup>79</sup> See DP Master Group’s Additional Comments Submission (Additional Comments) (June 1, 2010) at Exhibit 57.

<sup>80</sup> See Petitioners’ Comments Regarding Preliminary Determination Submission (Prelim Comments) (May 28, 2010) at 3, and petitioners’ Response to DP Master’s Rebuttal Comments Submission (Response Submission) (June 1, 2010).

The affidavit states:

In my experience in the industry (as detailed in the attached bio), tool joints and their connection to a standard 30 foot drill pipe represent about half of the cost of finished drill pipe, with the upset and heat-treated tube the other half of the value. With the upset and heat-treated tube (which could be called unfinished or semi-finished drill pipe), the green tube represents approximately 60 percent of the cost before attaching the tool joint, and the upsetting and heat treating process presents about 40 percent of the cost before attaching tool joints.<sup>81</sup>

Aside from the engineer’s assertions in the narrative of the affidavit, there is no discussion, description, or documentation to support the engineer’s cost estimates. As a result, we find that the DP Master Group has not sufficiently supported its argument in this regard.

Furthermore, we have preliminarily determined not to use certain price series for seamless pipe and tube, as supplied by the DP Master Group in its May 28, 2010 submission. Specifically, we preliminarily determine not to use prices for seamless pipe and tube exported from Ukraine to Turkey; Italy to the United Arab Emirates (UAE); and Japan to the UAE; as sourced from SO, on the grounds that it is not reasonable to conclude that these prices would be available to purchasers of seamless pipe and tube in the PRC, as described under 19 CFR 351.511(a)(2)(ii).

To determine whether the green tubes supplier, acting as a government authority, sold green tubes to the DP Master Group for LTAR, we compared the prices SSP paid to the supplier to the green tubes benchmark price. We conducted our comparison on a monthly basis. To arrive at a single monthly benchmark green tubes price, we simple averaged the prices for each month. When conducting the price comparison, we converted the benchmark to the same currency and unit of measure as reported by SSP for its purchases of green tubes.

As explained in 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, we have added import duties and the VAT applicable to imports of green tubes into the PRC, as reported by the GOC. *See* 19 CFR 351.511(a)(2)(iv). In addition, in accordance with 19 CFR

<sup>81</sup> See DP Master Group Additional Comments at Exhibit 57.

351.511(a)(2)(iv), we have added ocean freight costs to our green tubes benchmark price. Because our green tube benchmark consists of prices from North America, Europe, the Middle East, and Asia, we have added to the benchmark ocean freight costs from around the world. Specifically, for green tubes benchmark prices from the United States, we used ocean freight rates for shipments from the United States to the PRC.<sup>82</sup> For green tubes benchmark prices from Europe, Japan, and the Middle East, we used the ocean freight utilized in *OCTG from the PRC* and submitted on the record of the investigation by the DP Master Group. Specifically, we utilized an ocean freight rate corresponding to exports from Turkey, Black/Baltic Seas, Mediterranean, and London Metal Exchange (Far East) (LME).<sup>83</sup> In addition, in accordance with 19 CFR 351.511(a)(2)(iv), we have added inland freight costs to the green tubes benchmark as well as to SSP’s domestic purchases of green tubes. Our inclusion of inland freight costs in LTAR benefit calculation is consistent with the Department’s practice. *See, e.g.,* PC Strand Decision Memorandum at Comment 13.

Comparing the benchmark unit prices to the unit prices paid by SSP for green tubes, we determine that green tubes were provided for LTAR and that a benefit exists in the amount of the difference between the benchmark and what the respondent paid. *See* section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a). We calculated the total benefit by multiplying the unit benefit by the quantity of green tubes purchased.

Finally, with respect to specificity, we determine that the program is specific under section 771(5A)(D)(iii)(I) of the Act because the industries that utilize green tubes are limited. This finding is in keeping with the Department’s determination in other China CVD investigations where we found the industries that used a particular steel input to be limited. *See e.g.,* OCTG Decision Memorandum at “Provision of Steel Rounds for LTAR.”

We find that the GOC’s provision of green tubes for LTAR to be a domestic subsidy as described under 19 CFR 351.525(b)(3). Therefore, to calculate the net subsidy rate, we divided the benefit by a denominator comprised of total

<sup>82</sup> These publicly available ocean rate data were originally submitted on the record of *PC Strand from the PRC* and placed on the record of the instant investigation. *See* the Preliminary Calculation Memorandum.

<sup>83</sup> See DP Master Group IQR at Exhibit 13; *see also* Preliminary Calculations Memorandum.

consolidated sales of DP Master, SSP, SPM, and Liangda (exclusive of intra-company sales), as discussion in the "Attribution of Subsidies" section above. On this basis, we preliminarily determine a countervailable subsidy of 4.96 percent *ad valorem* for the DP Master Group.

#### F. Provision of Electricity for LTAR

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

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

Consistent with this practice, the Department finds that the GOC's provision of electricity confers a financial contribution, under section 771(5)(D)(iii) of the Act, and is specific, under section 771(5A) of the Act. To determine the existence and amount of any benefit from this program, we relied on the DP Master Group's reported information on the amounts of electricity all group companies purchased and the amounts they paid for electricity during the POI. We compared the rates paid by the DP Master Group for their electricity to the highest rates that they would have paid in the PRC during the POI.

In its May 27, 2010 supplemental questionnaire response, the GOC reported that the rate schedules that went into effect on July 1, 2008, were replaced with new provincial electricity rate schedules on November 20, 2009.<sup>84</sup> The GOC added that the electricity rate schedule for Jiangsu Province went into effect on December 18, 2009.<sup>85</sup> The GOC provided 2009 provincial electricity rate schedules in its May 27, 2010 submission at Exhibit 17. However,

given that these 2009 electricity rate schedules were submitted to the Department on the eve of the preliminary determination of this investigation, we are unable to thoroughly review those provincial rates schedules for use in this determination.<sup>86</sup>

Therefore, for this preliminary determination, we are using the electricity rates schedules dated July 1, 2008 as the source of our benchmark electricity rates for use in the benefit calculations. As such, we have placed on the record of this investigation, the July 1, 2008, electricity rate schedules, which were submitted to the Department by the GOC in the CVD investigation on *PC Strand from the PRC*, and which reflect the highest rates that the respondents would have paid in the PRC during the POI. Specifically, we have selected the highest rates for "large industrial users" for the peak, valley, and normal ranges. The normal and peak rates were selected from the Electricity Sale Rate Schedule of Shanghai. The valley rate was selected from the Electricity Sale Rate Schedule of Beijing. For those electricity rate schedules and electricity rate benchmark chart, see Memorandum to File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Electricity Rate Benchmark Data" (June 7, 2010). This benchmark reflects an adverse inference, which we have drawn as a result of the GOC's failure to act to the best of its ability in providing requested information about its provision of electricity in this investigation.

Consistent with our approach in *PC Strand from the PRC*, to measure whether the DP Master Group received a benefit under this program, we first calculated the variable electricity cost the respondents paid by multiplying the monthly kilowatt hours (KWH) consumed at each price category (e.g., peak, normal, and valley) by the corresponding electricity rates charged at each price category in Jiangsu Province. Next, we calculated the benchmark variable electricity cost by multiplying the monthly KWH respondents consumed at each price category (e.g., peak, normal, and valley) by the highest electricity rate charged at each price category, as reflected in the electricity rate benchmark chart. To calculate the benefit for each month, we subtracted the variable electricity cost paid by respondents during the POI

from the monthly benchmark variable electricity cost.

To measure whether the DP Master Group received a benefit with regard to their transmitter capacity charge, we first multiplied the monthly transmitter capacity charged to respondents by the corresponding consumption quantity. Next, we calculated the benchmark transmitter capacity cost by multiplying respondents' consumption quantities by the highest transmitter capacity rate reflected in the electricity rate benchmark chart. To calculate the benefit, we subtracted the transmitter costs paid by respondents during the POI from the benchmark transmitter costs.

We then calculated the total benefit received during the POI under this program by summing the benefits stemming from the DP Master Group's variable rate payments and transmitter capacity payments.

To calculate the net subsidy rate pertaining to electricity payments made by the DP Master Group, we divided the benefit amount by the total consolidated sales of DP Master, SPM, SSP, Liangda, and Chuangxin (exclusive of intra-company sales), as discussion in the "Attribution of Subsidies" section above. On this basis, we preliminarily determine a countervailable subsidy of 0.13 percent *ad valorem* for the DP Master Group.

## II. Programs Preliminarily Determined Not To Provide Countervailable Benefits During the POI

### A. Provision of Steel Rounds for LTAR

The Department is investigating whether producers and suppliers, acting as Chinese government authorities, sold steel rounds to the DP Master Group for LTAR. The DP Master Group (specifically, DP Master and Liangda) reported purchasing steel rounds during the POI from trading companies as well as directly from steel round producers. In all instances, the DP Master Group was able to identify the firm that produced the steel rounds that the companies acquired during the POI. In their questionnaire responses,<sup>87</sup> both the DP Master Group and the GOC indicated that, with the exception of a single producer (hereinafter referred to as Producer A), all of the steel rounds acquired by the respondents during the POI were produced by SOEs.<sup>88</sup> As a result, for those producers that the DP Master Group identified as SOEs, we determine that the producers are

<sup>87</sup> See DP Master Group First SQR at Exhibit 41, and GOC IQR at 53–54.

<sup>88</sup> The identity of Producer A is business proprietary.

<sup>84</sup> See GOC First SQR at 24.

<sup>85</sup> *Id.*

<sup>86</sup> For the final determination, we intend to examine the 2009 provincial electricity rate schedules, which were submitted by the GOC.

government authorities that provided to the respondent a financial contribution, in the form of a governmental provision of a good. See section 771(5)(D)(iv) of the Act.

Regarding Producer A, in the initial questionnaire, the Department instructed the GOC to provide ownership information for all input suppliers/producers that the GOC claimed were not GOC authorities.<sup>89</sup> In its questionnaire response, the GOC stated that, with regard to Producer A, the GOC did “ \* \* \* not have sufficient time to obtain the information requested in Appendix 5 for this response but will provide it in due course.”<sup>90</sup> In its May 12, 2010 supplemental questionnaire response, the Department stated, “to the extent that the GOC has provided information on Producer A in another investigation before the Department, please submit that information for Producer A on the record of this investigation.”<sup>91</sup> The Department then referenced several exhibits from *PC Strand from the PRC* in which the GOC had supplied ownership information for an input producer with the same name as Producer A.<sup>92</sup> In its supplemental questionnaire response, the GOC claimed that, though the firms were related and had similar names, Producer A was not the same input producer as the one examined in the context of the *PC Strand from the PRC*.<sup>93</sup> The GOC further stated that, to the best of its knowledge, one shareholder of Producer A is a company based in Hong Kong and publicly listed on the Hong Kong and Clearing Limited stock exchanges.<sup>94</sup> The GOC did not, however, provide ownership information for Producer A as originally requested by the Department in the initial questionnaire.

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

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

We preliminarily determine that the GOC did not provide the information requested by the Department as it pertains to Producer A. First, the GOC failed to respond to the ownership questions contained in the Department’s initial questionnaire. Second, when given a second opportunity to supply ownership information regarding Producer A, as requested in the supplemental questionnaire, the GOC, instead merely stated that the input producer examined in *PC Strand from the PRC* was not the same as Producer A. We find that in failing to provide the requested information the GOC did not act to the best of its ability. Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to Producer A and determine that Producer A is a GOC authority whose sales of steel rounds to the DP Master Group during the POI constitutes a financial contribution, in the form of the provision of a good, within the meaning of section 771(5)(D)(iv) of the Act.

Having addressed the issue of financial contribution, we must next analyze whether the sale of steel rounds to the DP Master Group by producers designated as government authorities conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act. The Department’s regulations at 19 CFR 351.511(a)(2) set 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 explained in *Softwood Lumber from Canada*, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation. See *Softwood*

*Lumber Decision Memorandum* at “Market-Based Benchmark.”

Beginning with tier-one, we must determine whether the prices from actual sales transactions involving Chinese buyers and sellers are significantly distorted. As explained in the *Preamble*:

Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government’s involvement in the market, we will resort to the next alternative {tier two} in the hierarchy.

See *Preamble*, 63 FR 65377. The *Preamble* further recognizes that distortion can occur when the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market.

In our February 23, 2010 initial questionnaire and May 12, 2010 supplemental questionnaire, we instructed the GOC to provide the percentage of steel rounds production accounted for by SOEs during the POI. In its initial and supplemental questionnaire responses, the GOC indicated that there were no official statistics readily available regarding the production and consumption of steel rounds in the PRC and, therefore, did not provide the requested information.<sup>95</sup>

We preliminarily determine that the GOC did not provide the information requested by the Department as it pertains to the share of steel rounds accounted for by SOEs during the POI despite having been given more than one opportunity to do so. We preliminarily determine that, in failing to provide the requested information, the GOC did not act to the best of its ability. Therefore, in accordance with section 776(b) of the Act, we are drawing an adverse inference with respect to the percentage of steel rounds produced by SOEs during the POI. Specifically, we determine that SOEs accounted for a dominant share of the steel rounds market in the PRC during the POI and that domestic prices for steel rounds cannot serve as a viable tier one benchmark, as described under 19 CFR 351.511(a)(2)(i). Consequently, as there are no other available tier one benchmark prices, we have turned to tier two, i.e., world market prices available to purchasers in the PRC.

We examined whether the record contained data that could be used as a tier-two steel rounds benchmark under 19 CFR 351.511(a)(2)(ii). The Department has on the record of the investigation prices for steel rounds, as

<sup>95</sup> See GOC IQR at 58, and GOC First SQR at 11–12.

<sup>89</sup> See Department’s Initial Questionnaire at II–12, II–13, and Appendix 5.

<sup>90</sup> See GOC IQR at page 54.

<sup>91</sup> See Department SQR Issued to the GOC at 3.

<sup>92</sup> *Id.*

<sup>93</sup> See GOC First SQR at 11.

<sup>94</sup> *Id.*

sourced from the SBB.<sup>96</sup> No other interested party submitted tier-two steel rounds prices on the record of this investigation. Therefore, we find that the data from the SBB should be used to derive a tier-two, world market price for steel rounds that would be available to purchasers of steel rounds in the PRC. We note that the Department has relied on pricing data from SBB in recent CVD proceedings involving the provision of steel rounds for LTAR. See OCTG Decision Memorandum at “Provision of Steel Rounds for LTAR.”

To determine whether steel rounds suppliers, acting as government authorities, sold steel rounds to the DP Master Group for LTAR, we compared the prices that DP Master and Liangda paid to the suppliers to the steel rounds benchmark price. We conducted our comparison on a monthly basis. SBB provides multiple prices for each month of the POI. Specifically, the SBB data contain steel rounds export prices for Latin America, Turkey, the Black Sea/Baltic regions, and East Asia as well as steel rounds price data from the London Metal Exchange (LME) cash bid settlement prices series. The Department used these same price series from SBB to derive the steel rounds benchmark in *OCTG from the PRC*. See OCTG Decision Memorandum at “Provision of Steel Rounds for LTAR” and Comment 13A. Our regulations, at 19 CFR 351.511(a)(2)(ii), state that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, consistent with 351.511(a)(2)(ii), we averaged the price series noted above. When conducting the price comparison, we converted the benchmark to the same currency and unit of measure as reported by DP Master and Liangda for their purchases of steel rounds.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, we have added import duties and the VAT applicable to imports of steel rounds into the PRC, as reported by the GOC. In addition, in accordance with 19 CFR 351.511(a)(2)(iv), we have added ocean freight costs to our steel rounds benchmark price. Specifically, we have added to the steel rounds benchmark

the same ocean freight rates added to the steel rounds benchmark calculated in *OCTG from the PRC*. In addition, in accordance with 19 CFR 351.511(a)(2)(iv), we have added inland freight costs to the steel rounds benchmark as well as to DP Master’s and Liangda’s domestic purchases of steel rounds. Our inclusion of inland freight costs in the LTAR benefit calculation is consistent with the Department’s practice. See, e.g., PC Strand Decision Memorandum at Comment 13.

Finally, with respect to specificity, the GOC stated that steel rounds are used by producers of various types of seamless pipe (including the drill pipe industry).<sup>97</sup> Therefore, we preliminarily determine that this subsidy is specific because the recipients are limited in number. See section 771(5A)(D)(iii)(I) of the Act. See OCTG Decision Memorandum at Comment 12. We further find the GOC’s provision of steel rounds for LTAR to be a domestic subsidy as described under 19 CFR 351.525(b)(3).

Comparing the benchmark unit prices to the unit prices paid by the respondents for steel rounds, we preliminarily determine that steel rounds were not provided for LTAR and that a benefit does not exist. See section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a).

#### *B. Export Incentive Payments Characterized as “VAT Rebates”*

The Department’s regulations state that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted “exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.” See 19 CFR 351.517(a); see also 19 CFR 351.102(a)(28) (for a definition of “indirect tax”). To determine whether the GOC provided a benefit under this program, we compared the VAT exemption upon export to the VAT levied with respect to the production and distribution of like products when sold for domestic consumption. The GOC reported that the VAT levied on drill pipe sales in the domestic market is 17 percent and that the VAT exemption upon the export of drill pipe is 13 percent. Thus, we have preliminarily determined that the VAT exempted upon the export of drill pipe did not confer a countervailable benefit because the amount of the VAT rebated on export is lower than the amount paid in the domestic market.

#### *C. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands*

DP Master reported that it received a one-time award in 2008 for being a Jiangsu Province Famous Brand.<sup>98</sup> We preliminarily find that the award represents less than 0.5 percent of total consolidated sales, as well as total consolidated export sales, for DP Master, SPM, and Liangda for 2008. As such, this grant is expensed in 2008, the year of receipt, under 19 CFR 351.524(b)(2), and not allocable to the POI. See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding “DP Master Group Grants” (June 7, 2010) (Grant Memorandum).

Consistent with our past practice, we therefore have not included this program in our preliminary net countervailing duty rate calculations. See, e.g., CFS Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE,” and *Final Results of Countervailing Duty Administrative Review: Low Enriched Uranium from France*, 70 FR 39998 (July 12, 2005) (*Uranium from France*), and accompanying Issues and Decision Memorandum (Uranium Decision Memorandum) at “Purchases at Prices that Constitute More than Adequate Remuneration,” (citing *Notice of Final Results of Countervailing Duty Administrative Review and Rescission of Certain Company-Specific Reviews: Certain Softwood Lumber Products From Canada*, 69 FR 75917 (December 20, 2004), and accompanying Issues and Decision Memorandum at “Other Programs Determined to Confer Subsidies”).

#### *D. Scientific Innovation Award*

In its May 18, 2010 submission, in response to a financial statement item, DP Master reported that it received a one-time scientific innovation award in 2008.<sup>99</sup> We preliminarily find that the award represents less than 0.5 percent of total consolidated sales, as well as total consolidated export sales, for DP Master, SPM, and Liangda for 2008. As such, this grant is expensed in 2008, the year of receipt, under 19 CFR 351.524(b)(2), and not allocable to the POI. See Grants Memorandum.

Consistent with our past practice, we therefore have not included this program in our preliminary net

<sup>96</sup> See DP Master Group IQR at Exhibit 13, and DP Master Group First SQR at Exhibit 44.

<sup>97</sup> See GOC IQR at 52.

<sup>98</sup> See DP Master Group IQR at 54, First SQR at 12–13.

<sup>99</sup> See DP Master Group First SQR at 9–10.

countervailing duty rate calculations. *See, e.g.*, CFS Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE,” and Uranium Decision Memorandum at “Purchases at Prices that Constitute More than Adequate Remuneration.”

#### *E. Development Fund Grant*

In the May 18, 2010 submission, SPM reported that it received a development fund grant in 2008.<sup>100</sup> We preliminarily find that the award represents less than 0.5 percent of total consolidated sales, as well as total consolidated export sales, for DP Master, SPM, and Liangda for 2008. As such, this grant is expensed in 2008, the year of receipt, under 19 CFR 351.524(b)(2), and not allocable to the POI. *See* Grant Memorandum.

Consistent with our past practice, we therefore have not included this program in our preliminary net countervailing duty rate calculations. *See, e.g.*, CFS Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE,” and Uranium Decision Memorandum at “Purchases at Prices that Constitute More than Adequate Remuneration.”

#### *F. VAT Rebates to Welfare Enterprises*

In its May 18, 2010 submission, in response to a financial statement item, SPM reported that it received VAT rebates in 2007 and 2008.<sup>101</sup> SPM explained that the rebates date back to when it was “Yinhui Plastic Steel Factory,” which was a “welfare” enterprise and, thus, entitled to a refund of output VAT paid to the tax bureau in the prior year. SPM stated that a “welfare” enterprise is an enterprise which hires a certain number of handicapped persons up to 50 percent or more of total production personnel of the enterprise.<sup>102</sup> We preliminarily find that, to the extent any recurring tax benefit was received in the form of a tax rebate, which may have been excessive, it would be expensed in the year of receipt, *i.e.*, 2007 and 2008, under 19 CFR 351.524(a) and (c), and not allocable to the POI.

Consistent with our past practice, we therefore have not included this

program in our preliminary net countervailing duty rate calculations. *See, e.g.*, CFS Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE,” and Uranium Decision Memorandum at “Purchases at Prices that Constitute More than Adequate Remuneration.”

### **III. Programs for Which More Information Is Necessary**

#### *A. Technology To Improve Trade R&D Fund*

DP Master reported that it received a one-time award in 2009 from the Jiangsu Treasury Department under the Technology to Improve Trade R&D Fund program, which benefitted the company’s research and development efforts.<sup>103</sup> Because we lack complete information on this program, we intend to seek additional information from the GOC and the DP Master Group after the preliminary determination. Specifically, we intend to request information on the program’s purpose, the laws/regulations related to the program, government agencies that administer the program, the application process, eligibility criteria, and specificity data.

#### *B. Grant Received by Chuangxin*

In its May 18, 2010 submission, in response to a question regarding a financial statement item, Chuangxin reported that it received a one-time award in 2009.<sup>104</sup> Because we lack complete information on this program, we intend to seek additional information from the GOC and the DP Master Group after the preliminary determination. Specifically, we intend to request information on the program’s purpose, the laws/regulations related to the program, government agencies that administer the program, the application process, eligibility criteria, and specificity data.

#### *C. Provision of Land-Use Rights Within Designated Geographical Areas for LTAR*

In the questionnaire responses, the DP Master Group certified that none of the companies are located in a special, economic, development, or trade zone, in Jiangyin City.<sup>105</sup> Additionally, the DP Master Group certified that none of the companies acquired land-use rights based upon being located within a special, economic, development, or trade zone during the period December

11, 2001 through December 31, 2009.<sup>106</sup> We, however, recognize that there is conflicting information on the record as to whether the DP Master Group companies are or are not located in a special, economic, development, or trade zone. Specifically, we note that the business licenses for DP Master, Liangda, and Chuangxin state that these companies are located in the Shengang Industrial Zone, Jiangyin City.<sup>107</sup> Also, according to DP Master’s financial statement for the year ending December 31, 2007, the company is registered in a coastal economic open zone.<sup>108</sup>

Given this conflicting information on the record, we intend to seek additional information regarding the location of the companies from the GOC and the DP Master Group after the issuance of this preliminary determination.

### **IV. Programs Preliminarily Determined To Be Not Used**

We preliminarily determine that the DP Master Group did not apply for or receive benefits during the POI under the programs listed below:

1. Export Loans from Policy Banks and SOCBs
2. Treasury Bond Loans
3. Preferential Loans for SOEs
4. Preferential Loans for Key Projects and Technologies
5. Preferential Lending to Drill Pipe Producers and Exporters Classified as Honorable Enterprises
6. Debt-to-Equity (D/E) Swaps
7. Loans and Interest Forgiveness for SOEs
8. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
9. Reduction In or Exemption From Fixed Assets Investment Orientation Regulatory Tax
10. Local Income Tax Exemption and Reduction Programs for Productive FIEs
11. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
12. Income Tax Reductions for Export-Oriented FIEs
13. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
14. Provision of Land to SOEs for LTAR
15. Provision of Hot-Rolled Steel for LTAR
16. Provision of Coking Coal for LTAR
17. Provision of Electricity at LTAR to Drill Pipe Producers Located in Jiangsu Province

<sup>106</sup> *Id.* at 41.

<sup>107</sup> *See* DP Master Group IQR at Exhibit 9, page 632, 638, and 640.

<sup>108</sup> *Id.* at Exhibit 3, page 236.

<sup>100</sup> *Id.* at 19–20.

<sup>101</sup> *Id.*

<sup>102</sup> *See* “Circular of the State Administration of Taxation on the Question Concerning Tax Exemption and Reduction for Social Welfare Production Units Run by Civil Affairs Departments,” (Guo Shui Fa (1990) No. 127), provided at Exhibit 31 of DP Master Group’s SQR (public version).

<sup>103</sup> *See* DP Master Group First SQR at 5–6, 8.

<sup>104</sup> *Id.* at 17.

<sup>105</sup> *Id.* at 40.

- 18. Provision of Water at LTAR to Drill Pipe Producers Located in Jiangsu Province
- 19. State Key Technology Project Fund
- 20. Export Assistance Grants
- 21. Programs to Rebate Antidumping Legal Fees
- 22. Grants and Tax Benefits to Loss-Making SOEs at National and Local Level
- 23. Subsidies Provided to Drill Pipe Producers Located in Economic and Technological Development Zones (ETDZs) in Tianjin Binhai New Area
- 24. Subsidies Provided to Drill Pipe Producers Located in ETDZs in Tianjin Economic and Technological Development Areas
- 25. Subsidies Provided to Drill Pipe Producers Located in High-Tech Industrial Development Zones.

**Verification**

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the DP Master Group, WSP, Xigang, and the GOC prior to making our final determination.<sup>109</sup>

**Suspension of Liquidation**

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for subject merchandise produced and exported by the DP Master Group. We preliminarily determine the total estimated net countervailable subsidy rate to be:

Producer/Exporter	Net subsidy <i>ad valorem</i> rate (%)
DP Master Manufacturing Co., Ltd. (DP Master), Jiangyin Sanliang Petroleum Machinery Co., Ltd. (SPM); Jiangyin Liangda Drill Pipe Co., Ltd. (Liangda); Jiangyin Sanliang Steel Pipe Trading Co., Ltd. (SSP), and Jiangyin Chuangxin Oil Pipe Fittings Co., Ltd. (Chuangxin) (collectively, DP Master Group) .....	15.72
All Others .....	15.72

Sections 703(d) and 705(c)(5)(A) 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. The all others rate may not include zero and

<sup>109</sup> With regard to WSP and Xigang, we will verify each company's claim that it did not export subject merchandise to the United States during the POI.

*de minimis* net subsidy rates, or any rates based solely on the facts available. Because we have calculated a rate for only the DP Master Group, the rate for the DP Master Group is the all others rate.

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

**ITC Notification**

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

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

**Disclosure and Public Comment**

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

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.

Dated: June 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-489-501]

**Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** In response to a request by interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube ("welded pipe and tube") from Turkey. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 30052 (June 24, 2009) ("*Review Initiation*"). This review covers the Borusan Group<sup>1</sup> (collectively "Borusan"), Tubeco Pipe and Steel Corporation, Toscelik,<sup>2</sup> Erbosan, Erciyas Boru Sanayi ve Ticaret A.S. ("Erbosan"),

<sup>1</sup> The Borusan Group includes Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Birlesik Boru Fabrikalari San ve Tic., Borusan Istikbal Ticaret T.A.S., Boruson Holding A.S., Boruson Gemlik Boru Tesisleri A.S., Borusan Ihracat Ithalat ve Dagitim A.S., and Borusan Ithacat ve Dagitim A.S.

<sup>2</sup> Toscelik Profil ve Sac Endustrisi A.S., Toscelik Metal Ticaret A.S., Tosyali Dis Ticaret A.S. (collectively "Toscelik").