
DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-957]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (the "Department") has determined that countervailable subsidies are being provided to producers and exporters of seamless carbon and alloy steel standard, line, and pressure pipe ("seamless pipe") from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* September 21, 2010.

FOR FURTHER INFORMATION CONTACT: Shane Subler, Joseph Shuler, and Matthew Jordan, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0189, (202) 482-1293, and (202) 482-1540, respectively.

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2008, through December 31, 2008.

Case History

The following events have occurred since our preliminary determination. *See 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 (March 1, 2010) ("*Preliminary Determination*").

On February 23, 2010, the Department received supplemental questionnaire

responses from Hengyang Steel Tube Group International Trading, Inc. (“Hengyang Trading”), Hengyang Valin Steel Tube Co., Ltd. (“Hengyang Valin”), Hengyang Valin MPM Tube Co., Ltd. (“Hengyang MPM”), Xigang Seamless Steel Tube Co., Ltd. (“Xigang Seamless”), Wuxi Seamless Special Pipe Co., Ltd. (“Special Pipe”), Jiangsu Xigang Group Co., Ltd. (“Xigang Group”), and Wuxi Resources Steel Making Co., Ltd. (“Resources Steel”), as well as responses from Hunan Valin Xiangtan Iron & Steel Co., Ltd. (“Valin Xiangtan”), Wuxi Sifang Steel Tube Co., Ltd. (“Sifang”), Hunan Valin Steel Co., Ltd. (“Hunan Valin”), and Hunan Valin Iron & Steel Group Co., Ltd. (“Valin Group”), (collectively, “Hengyang”).

On March 3, 2010, and March 8, 2010, the Department issued questionnaires regarding new subsidy allegations to Tianjin Pipe (Group) Corp., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., TPCO Charging Development Co., Ltd. (collectively, “TPCO”), and Hengyang. The Department received a response from TPCO on March 10, 2010. The Department received a response from Hengyang on March 23, 2010. The Department issued a supplemental questionnaire to Hengyang on March 29, 2010, and received a response on April 13, 2010. The Department issued a letter on April 5, 2010, to the Government of China (“GOC”) asking for an update of its initial questionnaire response with respect to coking coal purchase information supplied to the GOC by Hengyang. The Department received a response to this letter on May 4, 2010. The Department issued a supplemental questionnaire regarding export restrictions to the GOC on April 13, 2010 and received a response on April 20, 2010. The Department issued a letter on April 16, 2010, to the GOC regarding CRC China, a company identified by Hengyang as the ultimate owner of subsidiary companies that held ownership stakes in the responding Hengyang companies since December 11, 2001.¹ The Department received a response on April 30, 2010. The Department sent a letter to the GOC on May 5, 2010, regarding the GOC’s April 30 response on CRC China. The Department received a response on May 12, 2010. The Department issued a supplemental questionnaire to the GOC on May 18, 2010, and received a response on May 25, 2010.

¹ See Volume 5, page 5 of Hengyang’s January 4, 2010, questionnaire response.

On March 1, 2010, Petitioners² requested alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of seamless pipe from the PRC, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.210(b)(4). On March 15, 2010, the Department announced the alignment of the final countervailing duty determination of seamless pipe from the PRC with the final determination in the companion antidumping duty investigation of seamless pipe from the PRC. See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 75 FR 13255 (March 19, 2010).

On April 14, 2010, U.S. Steel filed an uncreditworthy allegation with respect to Xigang Group, Xigang Seamless, Special Pipe, and Resources Steel. On May 12, 2010, the Department announced it would not investigate the uncreditworthiness allegation. See Memorandum from Joseph Shuler and Shane Subler, International Trade Compliance Analysts, to Susan Kuhbach, Director, Office 1, Import Administration, entitled “Uncreditworthy Allegation,” (May 12, 2010).

On May 12, 2010, the Department received a response from U.S. Steel regarding the GOC’s April 20, 2010, export restrictions response.

From June 7, 2010, to June 18, 2010, we conducted verification of the questionnaire responses submitted by Hengyang and TPCO. See Memorandum from Shane Subler and Matthew Jordan, International Trade Compliance Analysts, Office 1, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled “Verification Report: Hengyang Steel Tube Group International Trading, Inc. (“Hengyang Trading”), Hengyang Valin Steel Tube Co., Ltd. (“Hengyang Valin”), Hengyang Valin MPM Tube Co., Ltd. (“Hengyang MPM”), Xigang Seamless Steel Tube Co., Ltd. (“Xigang Seamless”), Wuxi Seamless Special Pipe Co., Ltd. (“Special Pipe”), Jiangsu Xigang Group Co., Ltd. (“Xigang Group”), Wuxi Resources Steel Making Co., Ltd. (“Resources Steel”), Hunan Valin Xiangtan Iron & Steel Co., Ltd. (“Valin

² Petitioners in this investigation are United States Steel Corporation (“U.S. Steel”); TMK IPSCO; V&M Star L.P.; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (collectively, “Petitioners”).

Xiangtan”), Wuxi Sifang Steel Tube Co., Ltd. (“Sifang”), Hunan Valin Steel Co., Ltd. (“Hunan Valin”), and Hunan Valin Iron & Steel Group Co., Ltd. (“Valin Group”) (collectively, “Hengyang”) (July 16, 2010); and Memorandum from Scott Holland and Joseph Shuler, International Trade Compliance Analysts, Office 1, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled “Verification Report: Tianjin Pipe (Group) Corporation (“TPCO Group”), Tianjin Pipe Iron Manufacturing Co., Ltd. (“TPCO Iron”), Tianguan Yuantong Pipe Product Co., Ltd. (“Yuantong”), Tianjin Pipe International Economic and Trading Co., Ltd. (“TPCO International”), and TPCO Charging Development Co., Ltd. (“Charging”) (collectively, “TPCO”) (August 9, 2010).

On August 13, 2010, the Department issued its Hengyang Post-Preliminary Analysis and TPCO Post-Preliminary Analysis.³ We received case briefs from the GOC, TPCO, Hengyang, U.S. Steel, Toyota Tsusho American Inc. (“TAI”), and Salem Steel North America, LLC (“Salem Steel”) on August 26, 2010. We returned the case brief of Hengyang on August 26, 2010, as it appeared to contain new factual information not on the record of this case. Hengyang resubmitted its case brief on August 30, 2010. The GOC, TPCO, Hengyang, and U.S. Steel submitted rebuttal briefs on September 1, 2010.

The GOC, TPCO, and Petitioners requested a hearing. The same parties later withdrew their requests. Therefore, no hearing was held. Hengyang and U.S. Steel requested a meeting. A meeting with Hengyang was held on September

³ See Memorandum from Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated August 13, 2010, “Countervailing Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for: Hengyang Steel Tube Group International Trading, Inc. (“Hengyang Trading”), Hengyang Valin Steel Tube Co., Ltd. (“Hengyang Valin”), Hengyang Valin MPM Tube Co., Ltd. (“Hengyang MPM”), Xigang Seamless Steel Tube Co., Ltd. (“Xigang Seamless”), Wuxi Seamless Special Pipe Co., Ltd. (“Special Pipe”), Jiangsu Xigang Group Co., Ltd. (“Xigang Group”), Wuxi Resources Steel Making Co., Ltd. (“Resources Steel”), Hunan Valin Xiangtan Iron & Steel Co., Ltd. (“Valin Xiangtan”), Wuxi Sifang Steel Tube Co., Ltd. (“Sifang”), Hunan Valin Steel Co., Ltd. (“Hunan Valin”), Hunan Valin Iron & Steel Group Co., Ltd. (“Valin Group”) (collectively “Hengyang”) (August 13, 2010) (“Hengyang Post-Preliminary Analysis”); and Memorandum from Edward Yang to Ronald Lorentzen, “Countervailing Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for (TPCO)” (August 13, 2010) (“TPCO Post-Preliminary Analysis”).

2, 2010. A meeting with U.S. Steel was held on September 3, 2010.

Scope of the Investigation

The scope of this investigation consists of certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (e.g., hot-finished or cold-drawn), end finish (e.g., plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (e.g., bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or “hollow profiles” suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (“ASTM”) or American Petroleum Institute (“API”) specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, ASTM A-1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below.

Specifically excluded from the scope of the investigation are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A-335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the investigation are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, i.e., outside diameter and wall thickness of ASTM A-53, ASTM A-106 or API 5L specifications.

The merchandise covered by the investigation is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015,

7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Scope Comments

On May 26, 2010, Salem Steel, a U.S. importer of cold drawn seamless mechanical tubing, submitted comments on the scope of this investigation. Salem requested that the Department amend the scope of this investigation to exclude CD Mechanical Tubing from the scope of the investigation. On June 4, 2010, Salem Steel submitted proposed scope language to exclude CD mechanical tubing from the scope of the investigation. On June 8, 2010, TAI submitted comments supporting Salem’s proposed scope exclusion language. On June 23, 2010, the Department issued a proposed scope modification via letter and requested comments. *See* Letter to Interested Parties, Regarding the “Antidumping Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China,” dated June 23, 2010. Specifically, the Department’s proposed scope modification language excluded “all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, i.e., outside diameter and wall thickness of ASTM A-53, ASTM A-106 or APL 5L specifications.” *Id.* On June 30, 2010, TAI and Salem Steel submitted comments that both supported the Department’s proposed scope modifications, as well as language that suggested additional modifications to the scope of the investigation. On July 2, 2010, Petitioners also submitted comments that both supported the Department’s proposed scope modification, as well as language that suggested additional modifications to the scope of the investigation. On August 20, 2010, the Department issued a proposed scope modification via memorandum and requested comments. On August 23, 2010, TAI submitted comments supporting the Department’s proposed scope modification language. After considering parties’ comments, the Department has determined to remove ASTM A-335 from the list of covered specifications included within the scope of this investigation, and include the following exclusion language in the scope:

Specifically excluded from the scope of these investigations are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A-335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of these investigations are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, i.e., outside diameter and wall thickness of ASTM A-53, ASTM A-106 or API 5L specifications.

See Comment 5 of the accompanying Issues and Decision Memorandum for additional information.

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the U.S. International Trade Commission (“ITC”) must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On November 2, 2009, the ITC issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly subsidized imports of seamless pipe from the PRC. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China*, 74 FR 57521 (November 6, 2009) and *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China: Investigation Nos. 701-TA-469 and 731-TA-1168 (Preliminary)* (November 2009).

Critical Circumstances

In the *Preliminary Determination*, the Department concluded that critical circumstances did not exist with respect to imports of seamless pipe from the PRC from TPCO, in accordance with 703(e)(1) of the Act, because TPCO’s shipments did not reach the threshold for a finding that there have been massive imports of the subject merchandise over a relatively short period.⁴ However, in the *Preliminary Determination*, the Department concluded that critical circumstances do exist with respect to imports of seamless pipe from the PRC from Hengyang, in accordance with 703(e)(1)(B) of the Act. For “all other” exporters, we determined that critical circumstances do exist with respect to imports of seamless pipe from the PRC from “all other” exporters, in

⁴ *See* 75 FR at 9165.

accordance with section 703(e)(1)(B) of the Act.⁵

We have not received any information since the *Preliminary Determination* that would lead us to change our preliminary finding. Therefore, in accordance with 705(a)(2) of the Act, we continue to find that critical circumstances exist with respect to imports of subject merchandise from the PRC from Hengyang and “all other” exporters, but not for imports from TPCO.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Acting Deputy Assistant Secretary for Import Administration, entitled “*Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe (“Seamless Pipe”) from the People’s Republic of China*” (September 10, 2010) (hereafter “Decision Memorandum”), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, Room 1117 in the main building of the Commerce Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Use of Adverse Facts Available

For purposes of this final determination, we have continued to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine that the GOC’s dominance of the market in the PRC for steel round billets supports the reasonable conclusion that this market is significantly distorted. Consequently, we are not relying on domestic prices in the PRC in determining whether a benefit was conferred through the GOC’s provision of steel round billets to the mandatory respondents. Similarly, we

have continued to apply AFA to determine that all of the steel round billets were provided by government authorities.

The Department continues to find that the use of “facts otherwise available” is warranted with regard to the GOC’s provision of electricity to the mandatory respondents. Specifically, the Department requested that the GOC explain how electricity cost increases are reflected in retail price increases. The GOC responded that it was gathering this information, but it did not request an extension from the Department for submitting this information after the original questionnaire deadline date. Because the GOC did not provide the requested information, we determine that necessary information is not on the record. Accordingly, the use of facts otherwise available under section 776(a) of the Act is appropriate. By not responding to our questionnaire, the GOC has failed to act to the best of its ability. Accordingly, we find that an adverse inference is warranted, pursuant to section 776(b) of the Act. Specifically, 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 a benchmark for determining the existence and amount of the benefit.

The Department continues to find that the use of “facts otherwise available” is warranted with regard to TPCO’s reported receipt of countervailable grants. The Department requested that the GOC provide information about these grants in the initial questionnaire and a supplemental questionnaire. The GOC did not provide the requested information, asserting that it needed more time to gather the data. Although the GOC responded that it was gathering this information, it did not request an extension from the Department for submitting this information after the supplemental questionnaire deadline date. Because the GOC did not provide the requested information concerning these grants, we determine that necessary information is not on the record and that the GOC did not provide requested information by the submission deadline. Accordingly, the use of facts otherwise available pursuant to section 776(a) of the Act is appropriate. Also, we 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 respond by the deadline dates, nor did it explain why it is unable to

provide the requested information, with the result that an adverse inference pursuant to section 776(b) of the Act is warranted in the application of facts available. We find that these subsidies are a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grant. See 19 CFR 351.504(a). We determine, in the absence of a response from the GOC, that the subsidies received under this program are limited to TPCO. Hence, we find that these subsidies are specific under section 771(5A)(D)(i) of the Act.

In a departure from the *Preliminary Determination*, the Department now finds that the use of “facts otherwise available” pursuant to section 776(a) of the Act is warranted with regard to the provision of coking coal for less than adequate remuneration (“LTAR”). In the *Preliminary Determination*, based on the information on the record at that time, the Department found that none of the mandatory respondents received benefits under the program.⁶ At that time, Hengyang was scheduled to provide a supplemental questionnaire response on behalf of certain cross-owned affiliates. Accordingly, the Department stated, “We intend to address {Hengyang’s supplemental} response in a post-preliminary determination.”⁷ In Hengyang’s February 23, 2010 supplemental questionnaire response, Hengyang indicated that a cross-owned affiliate used coking coal. Accordingly, subsequent to the *Preliminary Determination*, the Department investigated the allegation concerning coking coal provided for LTAR. In the context of its investigation, the Department requested information from the GOC about the coking coal suppliers and the coking coal industry within the PRC. The GOC did not provide the requested information. Because the GOC did not provide the requested information concerning the coking coal industry within the PRC, we determine that necessary information is not on the record. Accordingly, the use of facts otherwise available pursuant to section 776(a) of the Act is appropriate. Also, we determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information, with the result that an adverse inference pursuant to section 776(b) of the Act is warranted in the application of facts available. Consequently, we have applied AFA to

⁶ See 75 FR at 9180.

⁷ See 75 FR at 9170.

⁵ See 75 FR at 9165.

determine that all of the coking coal was provided by government authorities.

In a departure from the *Preliminary Determination*, the Department now finds that the use of “facts otherwise available” is warranted with regard to export restrictions on coke. In the *Preliminary Determination*, the Department found the program to be not countervailable.⁸ After the *Preliminary Determination*, we requested additional information on this program from the GOC. The GOC failed to answer certain questions from the supplemental questionnaires, which we described in the TPCO Post-Preliminary Analysis and Hengyang Post-Preliminary Analysis.⁹ Because the GOC did not provide the requested information concerning the coke industry within the PRC, we determine that necessary information is not on the record. Accordingly, the use of facts otherwise available pursuant to section 776(a) of the Act is appropriate. Also, we determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information, with the result that an adverse inference pursuant to section 776(b) of the Act is warranted in the application of facts available. In drawing an adverse inference, we determine that the GOC’s export restraints on coke constitute a financial contribution (*i.e.*, provision of goods) to PRC producers of downstream goods that incorporate coke within the meaning of sections 771(5)(B) and (D)(ii) of the Act. Moreover, as an adverse inference, we find that GOC’s export restraints on coke are specific to producers of seamless pipe in the PRC within the meaning of section 771(5A) of the Act. Accordingly, we determine that, through these export restraints, the GOC is providing inputs to downstream producers of seamless pipe.

The Department also now finds that the use of “facts otherwise available” is warranted with regard to deed tax exemption. In the Hengyang Post-Preliminary Analysis, we determined that Hengyang Valin and Valin Xiangtan each received benefits under this program.¹⁰ We asked the GOC to update its response to the initial questionnaire regarding the benefits received by Hengyang Valin and Valin Xiangtan. However, the GOC stated that it has no record of either company receiving benefits from this program and, therefore, did not provide a response to

any parts of the original questionnaire with respect to this program.¹¹ Because the GOC did not provide the requested information concerning these exemptions, we determine that necessary information is not on the record. Accordingly, the use of facts otherwise available pursuant to section 776(a) of the Act is appropriate. Also, we determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information. We determine that these deed tax exemptions confer a countervailable benefit on Hengyang. The deed tax exemptions are a financial contribution in the form of revenue forgone.¹² In the absence of a response from the GOC, we find, as an adverse inference pursuant to section 776(b) of the Act, that the subsidies received under this program are limited to Hengyang and, therefore, are specific under section 771(5A)(D)(i) of the Act. The amount of the countervailable benefit is the amount of deed tax Hengyang would have paid in the absence of this program.¹³

The Department finds that the use of “facts otherwise available” is warranted with regard to CRC China and its subsidiaries. In the Hengyang Post-Preliminary Analysis, we found that Hengyang and the GOC failed to provide complete information on CRC China or its subsidiaries.¹⁴ Thus, we had no information to determine the ownership structure of CRC China or its subsidiaries, or to determine whether CRC China or its subsidiaries received countervailable subsidies. We also could not determine whether CRC China and/or its subsidiaries have other cross-owned affiliates (*e.g.*, producers of seamless pipe) that received countervailable subsidies. Because the GOC did not provide the requested information concerning CRC China and its subsidiaries, we determine that necessary information is not on the record. Accordingly, the use of facts otherwise available pursuant to section 776(a) of the Act is appropriate. Also, we 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 pursuant to section 776(b) of the Act is warranted in the application of facts available. For purposes of this final determination, we determine that CRC China together with its subsidiaries

benefitted from all countervailable programs that at least one respondent in this investigation has used because we do not have information on the record concerning which programs CRC China and its subsidiaries actually used, but do have information that exporters or producers of seamless pipe and their cross-owned companies did use and benefit from these programs. For each of these programs, we are applying the highest rate that we calculated for that program for the responding Hengyang companies as a whole or for TPCO.¹⁵ Specifically, we will apply the highest calculated rate for the identical program in this investigation if either Hengyang or TPCO used the program.

For a full discussion of these issues, please see the Decision Memorandum, at “Use of Facts Otherwise Available and Adverse Facts Available.”

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated a rate for each individually investigated producer/exporter of the subject merchandise. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an “all others” rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Notwithstanding the language of section 705(c)(1)(B)(i)(I) of the Act, we have not calculated the “all others” rate by weight averaging the rates of TPCO and Hengyang, because doing so risks disclosure of proprietary information. Therefore, we have calculated a simple average of the two responding firms’ rates. Since both TPCO and Hengyang received countervailable export subsidies and the “all others” rate is a simple average based on the individually investigated exporters and producers, the “all others” rate includes export subsidies.

We determine the total net countervailable subsidy rates to be:

⁸ See 75 FR at 9179.

⁹ See TPCO Post-Preliminary Analysis at pages 3–9; see also Hengyang Post-Preliminary Analysis at pages 25–30.

¹⁰ See Hengyang Post-Preliminary Analysis at pages 22–23.

¹¹ See Response of the Government of China to the Department’s Fourth Supplemental Questionnaire (May 5, 2010) (“G4SR”) at 1.

¹² See section 771(5)(D)(ii) of the Act.

¹³ See 19 CFR 351.509(a)(1).

¹⁴ See Hengyang Post-Preliminary Analysis at 8.

¹⁵ Tianjin Pipe (Group) Corporation, Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuanlong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd. (collectively, “TPCO”).

Exporter/Manufacturer	Net subsidy rate
Tianjin Pipe (Group) Corp., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd.	13.66
Hengyang Steel Tube Group Int'l Trading, Inc., Hengyang Valin Steel Tube Co., Ltd., Hengyang Valin MPM Tube Co., Ltd., Xigang Seamless Steel Tube Co., Ltd., Wuxi Seamless Special Pipe Co., Ltd., Wuxi Resources Steel Making Co., Ltd., Jiangsu Xigang Group Co., Ltd., Hunan Valin Xiangtan Iron & Steel Co., Ltd., Wuxi Sifang Steel Tube Co., Ltd., Hunan Valin Steel Co., Ltd., Hunan Valin Iron & Steel Group Co., Ltd.	53.65 33.66
All Others	

Also, in accordance with section 703(d) of the Act, we instructed U.S. Customs and Border Protection ("CBP") to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after June 29, 2010, but to continue the suspension of liquidation of entries made from March 1, 2010, through June 28, 2010.

We will issue a countervailing duty order if the ITC issues a final affirmative injury determination, and will instruct CBP to suspend liquidation of entries of seamless pipe from the PRC and to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) 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 related 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 APO, without the written

consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 10, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix—List of Comments and Issues in the Decision Memorandum

General Issues

- Comment 1 Application of CVD Law to the PRC
- Comment 2 Whether Application of the CVD Law to NMEs Violates the Administrative Protection Act
- Comment 3 Double Counting/Overlapping Remedies
- Comment 4 Cutoff Date for Identifying Subsidies
- Comment 5 Scope of the Investigation

Provision of Steel Rounds for LTAR

- Comment 6 Application of AFA in Determining the Benchmark for Steel Rounds
- Comment 7 Government Ownership Should Not be the Dispositive Factor in Determining Whether a Financial Contribution Has Occurred
- Comment 8 Trading Company Suppliers
- Comment 9 Benchmark Issues

Government Policy Lending

- Comment 10 Whether Chinese Commercial Banks Are "Authorities"
- Comment 11 Whether the Policy Loan Program Is *De Jure* Specific
- Comment 12 Whether the Department Should Use an In-country Benchmark
- Comment 13 External Benchmark Methodology

Whether There is a Provision of Land for LTAR

- Comment 14 Financial Contribution

- Comment 15 Whether to Use an In-country Benchmark
- Comment 16 Whether There Are Flaws in the Thai Benchmark
- Comment 17 Whether Land Is Specific
- Comment 18 Provision of Land-use Rights to Hengyang

Provision of Coking Coal for LTAR

- Comment 19 Countervailability of Program
- Comment 20 Freight Benchmark for Coking Coal Purchases

Hengyang-specific Issues

- Comment 21 Cross-ownership Between Hengyang Companies
- Comment 22 Application of AFA to CRC China
- Comment 23 Finding that the GOC Did Not Cooperate With Respect to CRC China
- Comment 24 Hengyang Attribution
- Comment 25 Hengyang Electricity Purchases
- Comment 26 Currency Denomination for Hengyang Loans
- Comment 27 Clerical Error Allegations for Debt Restructuring
- Comment 28 Uncreditworthiness Allegation

TPCO-specific Issues

- Comment 29 TPCO Attribution of Subsidies
- Comment 30 TPCO Group Accelerated Depreciation

Other Issues

- Comment 31 Export Restraints on Steel Rounds
- Comment 32 Export Restraints on Coke

[FR Doc. 2010-23547 Filed 9-20-10; 8:45 am]

BILLING CODE 3510-DS-P