protective order, without the written consent of the Assistant Secretary for Import Administration. In accordance with section 705(b)(2)(B) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, case briefs for this investigation must be submitted no later than 50 days after the date of publication of the preliminary determination. *See* 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). 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. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d). Any such hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm, by telephone, the date, time, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

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

Dated: March 1, 2010.

Carole A. Showers,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–4986 Filed 3–8–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–959)

Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses from the People's Republic of China ("PRC"). For information on the estimated subsidy rates, *see* the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 9, 2010.

FOR FURTHER INFORMATION CONTACT: David Neubacher, Jennifer Meek, Mary Kolberg, 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) 482–5823, (202) 482–2778, (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's ("Department") notice of initiation in the **Federal Register**. *See Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 53703 (October 20, 2009) ("*Initiation Notice*"), and the accompanying Initiation Checklist.

On November 16, 2009, the Department selected two Chinese producers/exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses ("coated paper") as mandatory respondents: 1) Gold East Trading (Hong Kong) Company Limited ("GEHK"), Gold East Paper (Jiangsu) Co., Ltd. ("GEP") and Gold Huasheng Paper Co., Ltd. ("GHS") (collectively, "Gold companies") and 2) Shandong Sun Paper Industry Joint Stock Co., Ltd. ("Sun Paper") and its affiliate Yanzhou Tianzhang Paper Industry Co., Ltd. ("Yanzhou Tianzhang") (collectively, "Sun Paper companies"). *See* Memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations (November 16, 2009). A public version of this memorandum is on file in the Department's Central Records Unit in Room 1117 of the main Department building ("CRU").

On November 17, 2009, we issued questionnaires to the Government of the PRC ("GOC"), Gold companies and Sun Paper companies. On December 8, 2009, the Department postponed the deadline for the preliminary determination in this investigation until February 22, 2009. *See Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 74 FR 64669 (December 8, 2009).

We received responses to our questionnaire from the GOC, Gold companies and Sun Paper companies on January 7 and 8, 2010. *See* the GOC's Original Questionnaire Response (January 7, 2010) ("GQR"), Gold companies' Original Questionnaire Response (January 7, 2010) ("GEQR"), Sun Paper's Original Questionnaire Response (January 7, 2010) ("SPQR"), and Yanzhou Tianzhang's Original Questionnaire Response (January 7, and 8, 2010) ("YTQR").

We sent supplemental questionnaires to the Gold companies, Sun Paper companies and the GOC on February 4, 2010. We received responses to these supplemental questionnaires on February 12, 2010. *See* GOC's First Supplemental Questionnaire Response (February 12, 2010) ("G1SQR"), Sun Paper companies' First Supplemental Questionnaire Response (February 12, 2010) ("SP1SQR"), and Gold companies' First Supplemental Questionnaire Response (February 12, 2010).

On January 7, 2010, Appleton Coated LLC, NewPage Corporation, S.D.Warren Company d/b/a Sappi Fine Paper North America, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") requested that the Department extend the deadline for the submission of new subsidy

allegations beyond the January 13, 2010, deadline established by the Department's regulations. On January 8, 2010, we extended the deadline. On January 13 and 14, 2010, Petitioners submitted two sets of new subsidy allegations. The Department is still reviewing these allegations.

On January 19, 2010, Petitioners submitted an allegation that the Asia Pulp and Paper companies (referred to herein as the Gold companies), including GEP, should be considered uncreditworthy for the period 2003 - 2008. Petitioners requested the Department to reaffirm its prior determination with regard to the uncreditworthiness of the Gold companies for the period 2003–2005[1] and initiate an investigation into the creditworthiness of the Gold companies during the period 2006–2008. Petitioners have submitted financial ratios for certain Gold companies and have pointed to other evidence on the record to argue that these companies were uncreditworthy for the period 2006 – 2008. *See* "Creditworthiness" section below.

On January 20, 2010, we issued a letter requesting that the GOC update its original questionnaire response for the cross–owned affiliates for which the Gold companies filed questionnaire responses. The GOC filed its response on February 12, 2010. *See* GOC's Supplemental Response (February 12, 2010) ("GSR").

On January 21, 2010, we issued a letter notifying the GOC that it did not provide responses to certain questions in the original questionnaire. In response to this letter, on February 12, and 25, 2010, the GOC filed information pertaining to the Chinese banking sector and provision of chemicals. *See* GOC's Additional Supplemental Response (February 25, 2010) ("G2SR").

On February 16, 18, 19, 23 and 25, 2010, Petitioners submitted comments for the preliminary determination. The Gold companies submitted comments for the preliminary determination on February 24, 2010.

The Department originally extended the deadline for this preliminary determination until February 22, 2010. As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has 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. The revised deadline for the preliminary determination of this investigation is now March 1, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 74 FR at 53703. We received comments concerning the scope of the antidumping duty ("AD") and countervailing duty ("CVD") investigations of coated paper from the PRC.

Timely comments were filed collectively by the GEP, GHS, PT Pindo Deli Pulp and Paper Mills, and PT Pabrik Kertas Tjimi Kimia Tbk. (collectively, "Scope Respondents") on November 6, 2009. These parties asked the Department to clarify the scope of these investigations by inserting language stating that multi–ply coated paperboard is not covered. According to Scope Respondents, multi–ply coated paperboard is not the same as subject coated paper and paperboard. First, Scope Respondents claim its end–use is not for graphic printing purposes or as a cover for graphic applications as stated in the petition, but primarily for packaging functions (*e.g.*, cosmetics, cigarettes, *etc.*). Moreover, the physical characteristics of this product and its production process differ from those of subject coated paper. In addition, Scope Respondents note the Harmonized Tariff Schedule ("HTS") number for multi–ply coated paper products was not included in the scope by Petitioners and, thus, it was not their intention to consider this product subject to the order. Finally, Scope Respondents claim that including multi–ply coated paperboard would call into question the Department's industry standing analysis.

In response to Scope Respondents' submission, Petitioners submitted comments on November 16, 2009. Petitioners assert the scope provides clear, specific criteria (*e.g.*, sheets, suitable for high quality print graphics, using sheet–fed press, coated, 80 or higher GE brightness level, weight no more than 340 gsm, *etc.*) for determining covered merchandise. Petitioners also point out that neither the petitions nor the initiation documents indicate that plies are a relevant physical characteristic. Furthermore, that multi–ply products produced by Scope Respondents are suitable for more than a single use. Thus, if the coated paper product, including multi–ply coated paperboard, meets the criteria stated in the scope, the product is subject to these investigations and the arguments provided by Scope Respondents (*e.g.*, characteristics, production process, HTS numbers, *etc.*) are immaterial. Finally, Petitioners claim that there is no reason to re–examine the analysis conducted at the initiation phase of the investigation regarding Petitioners' standing.

On December 16, 2009, Scope Respondents requested that the Department revisit its determination regarding industry support. While acknowledging that the deadline had passed, Scope Respondents claimed that neither the statute nor the Department's regulations preclude it from extending the deadline and revisiting its industry support determination.

On December 28, 2009, Petitioners responded that the statute and Statement of Administrative Action are clear that an industry support determination cannot be reconsidered in the context of the investigation. On February 19, 2010, representatives of Scope Respondents met with Department officials to discuss their scope comments. *See* Memorandum to the File from Nancy Decker, regarding "Ex–Parte Meeting with Counsel to Respondents" (March 1, 2010). On February 23, 2010, Scope Respondents filed documents and photographs of items presented to the Department at this *ex parte* meeting. On February 22, 2010, representatives of Petitioners met with Department officials to discuss their scope comments. *See* Memorandum to the File from Nancy Decker, regarding "Ex–Parte Meeting with Counsel to Petitioners" (March 1, 2010). On February 23, 2010, Petitioners filed a submission in which they included a calculation presented to the Department during this *ex parte* meeting.

On February 25, 2010, Petitioners filed additional comments rebutting the documents filed by Scope Respondents and restating their prior claims. In response to a question the Department posed during the *ex parte* meeting, Petitioners stated that the phrase "suitable for high quality print graphics"

[1] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) ("*CFS from the PRC*"), and the accompanying Issues and Decision Memorandum ("*CFS Decision Memorandum*") at p. 8.

could be stricken from the description of the subject merchandise without altering the scope of these investigations.

Based on our review of the scope, we agree with Petitioners that the number of plies is not among the specific physical characteristics (*e.g.*, brightness, coated, weight, *etc.*) defining the subject merchandise. Accordingly, we preliminarily find that multi–ply coated paper is covered by the scope of these investigations, to the extent that it meets the description of the merchandise in the scope.

Given that Petitioners' most recent submission regarding the suitability language was received shortly before these preliminary determinations, we have not had sufficient time to analyze this issue. Accordingly, we have not amended the scope and we invite parties to further comment with respect to whether the phrase "suitable for high quality print graphics" can be stricken from the description of the subject merchandise without altering the scope of these investigations. These scope comments must be filed within 20 calendar days of publication of this notice, and they must be filed on the record of this investigation, as well as the records of the concurrent AD investigations on coated paper from Indonesia and the PRC and the CVD investigation of coated paper from Indonesia.

In their February 25, 2010 submission, Petitioners also stated that the phrase in the scope, "(c) any other coated paper that meets the scope definition" should also include the word "paperboard." We agree that the word "paperboard" was inadvertently omitted (*e.g.*, it is already explicitly included in the first sentence of the scope language and in "(b)" of the second paragraph) and have corrected the scope language to read "(c) any other coated paper and paperboard that meets this scope definition."

Scope of the Investigation

The scope of this investigation consists of Coated Paper, which are certain coated paper and paperboard[2] in sheets suitable for high quality print graphics using sheet–fed presses; coated on one or both sides with kaolin (China or other clay), calcium carbonate, titanium dioxide, and/or other inorganic substances; with or without a binder; having a GE brightness level of 80 or higher;[3] weighing not more than 340 grams per square meter; whether gloss grade, satin grade, matte grade, dull grade, or any other grade of finish; whether or not surface–colored, surface–decorated, printed (except as described below), embossed, or perforated; and irrespective of dimensions.

Coated Paper includes: (a) coated free sheet paper and paperboard that meets this scope definition; (b) coated groundwood paper and paperboard produced from bleached chemi–thermo-mechanical pulp ("BCTMP") that meets this scope definition; and (c) any other coated paper and paperboard that meets this scope definition.[4]

Coated Paper is typically (but not exclusively) used for printing multi–colored graphics for catalogues, books, magazines, envelopes, labels and wraps, greeting cards, and other commercial printing applications requiring high quality print graphics.

Specifically excluded from the scope are imports of paper and paperboard printed with final content printed text or graphics.

As of 2009, imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

The HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended ("the Act"), 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 November 9, 2009, the U.S. International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of coated paper from the PRC. *See Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses From China and Indonesia; Determinations*, Investigation Nos. 701–TA–470–471 and 731–TA–1169–1170, 74 FR 61174 (November 23, 2009).

Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

On October 14, 2009, the Department initiated the CVD and AD investigations of coated paper from Indonesia and the PRC. *See Initiation Notice*, *Certain Coated Paper From Indonesia: Initiation of Countervailing Duty Investigations*, 74 FR 53707 (October 20, 2009) and *Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses From Indonesia and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 74 FR 53710 (October 20, 2009). The CVD and the AD investigations have the same scope with regard to the merchandise covered.

On February 25, 2010, Petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determinations with the final determinations in the companion AD investigations of coated paper from Indonesia and the PRC. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final determination in the companion AD investigation of coated paper from the PRC. Consequently, the final CVD determination will be issued no later than July 12, 2010, unless postponed in the companion AD investigation.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation ("POI"), is January 1, 2008, through December 31, 2008.

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published *CFS from the PRC*, and the accompanying CFS Decision Memorandum. In *CFS from the PRC*, the Department found that

[2] " 'Paperboard' refers to Coated Paper that is heavier, thicker and more rigid than coated paper which otherwise meets the product description. In the context of Coated Paper, paperboard typically is referred to as 'cover,' to distinguish it from 'text.' "

[3] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off of a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

[4] As noted *supra* in the Scope Comments section, we have determined that the word "paperboard" was inadvertently left out of the sentence in the *Initiation Notice* and have corrected it for the preliminary determination.

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 Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008), 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, as the date from which the Department will identify and measure subsidies in the PRC. *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 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 – Papermaking Chemicals (Kaolin Clay, Calcium Carbonate, Titanium Dioxide)

The Department is investigating the alleged provision of kaolin clay, calcium carbonate, and titanium dioxide for less than adequate remuneration by the GOC. We requested information from the GOC regarding the specific companies that produced these papermaking chemicals used by the Gold companies and Sun Paper companies, and more generally about the market in the PRC for these chemicals.

With respect to the specific companies that produced the papermaking chemicals purchased by the Gold companies and Sun Paper companies, we were seeking information that would allow us to determine whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. 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." Thus, for any producers of kaolin clay, calcium carbonate, or titanium dioxide that were majority government–owned, the GOC needed to provide the requested information only if it wished to argue that those producers were not authorities. For any suppliers that the GOC claimed were directly, 100–percent owned by individual persons during the POI, we requested the following:

- Translated copies of source documents that demonstrate the supplier's ownership during the POI, such as capital verification reports, articles of association, share transfer agreements, or financial statements.
- Identification of the owners, members of the board of directors, or managers of the suppliers who were also government or Chinese Communist Party ("CCP") officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.

Finally, for input suppliers with some direct corporate ownership or less–than-majority state ownership during the POI, we explained that it was necessary to trace back the ownership to the ultimate individual or state owners. For these suppliers, we requested the following:

- The total level (percentage) of state ownership of the company's shares; the names of all government entities that own shares, either directly or indirectly, in the company; whether any of the owners are considered "state–owned enterprises" by the government; and the amount of shares held by each government owner.
- For each level of ownership, a translated copy of the section(s) of the articles of association showing the rights and responsibilities of the shareholders and, where appropriate, the board of directors, including all decision making (voting) rules for the operation of the company.
- For each level of ownership, identification of the owners, members of the board of directors, or managers of the suppliers who were also government or CCP officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.
- A statement of whether any of the shares held by government entities have any special rights, priorities, or privileges, *e.g.*, with regard to voting rights or other management or decision–making for the company; a statement of whether there are any restrictions on conducting, or acting through, extraordinary meetings of shareholders; whether there are any restrictions on the shares held by private shareholders; and the nature of the private shareholders' interest in the company, *e.g.*, operational, strategic, or investment–related, *etc.*

In the GQR at 127, the GOC stated that it had not obtained complete ownership information for the companies that produced these papermaking chemicals purchased by the Gold companies and Sun Paper companies. The GOC further stated that it expected to provide such information when the Department determined which cross–owned affiliates of the mandatory respondents would be required to file responses. *See* GQR at 127–128.

On January 20, 2010, we issued a letter requesting that the GOC update its initial questionnaire response for the cross–owned affiliates for which the Gold companies filed questionnaire responses. The GOC filed its response on February 12, 2010.

On January 21, 2010, we issued a separate letter noting that the GOC did not provide responses to certain questions in the original questionnaire regarding chemical suppliers. We pointed out that the GOC had not requested, and the Department had not granted, an extension of the deadline for submitting this information. We stated that the requested information must be submitted by February 4, 2010. Subsequently, the deadline was extended to February 25, 2010.

On February 16, 2010, the GOC submitted a list of the producers of these papermaking chemicals purchased by Respondents during the POI and

documents that appear to establish the direct owners of most of them. Additional documentation was submitted on February 25, 2010 regarding the ownership of additional papermaking chemical suppliers. Based on the submitted information, the papermaking chemical producers present a variety of ownership structures: majority government owned; corporate ownership; corporate and individual ownership; and individual ownership. Where there was ownership by individuals, the GOC did not answer the question on whether owners, members of the board of directors, or managers of the suppliers were also government or CCP officials during the POI. The GOC also did not discuss whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval. For producers with some direct corporate ownership or less–than-majority state ownership during the POI, the GOC did not respond to our requests for the following information:

- The total level (percentage) of state ownership of the company's shares; the names of all government entities that own shares, either directly or indirectly, in the company; whether any of the owners are considered "state–owned enterprises" by the government; and the amount of shares held by each government owner.
- For each level of ownership, identification of the owners, members of the board of directors, or managers of the suppliers who were also government or CCP officials during the POI.
- A discussion of whether and how operational or strategic decisions that are made by the management or board of directors are subject to government review or approval.
- A statement of whether any of the shares held by government entities have any special rights, priorities, or privileges, *e.g.*, with regard to voting rights or other management or decision–making for the company; a statement of whether there are any restrictions on conducting, or acting through, extraordinary meetings of shareholders; whether there are any restrictions on the shares held by private shareholders; and the nature of the private shareholders' interest in the company, *e.g.*, operational, strategic, or investment–related, *etc*.

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 our 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. Therefore, we are assuming adversely that all of Respondents' non–cross-owned suppliers of kaolin clay, calcium carbonate, and titanium dioxide are "authorities."

As explained above, the Department also requested more general information from the GOC about the markets in the PRC for these chemicals. This additional information is necessary to determine whether these papermaking chemicals have been provided for less than adequate remuneration because it allows us to establish a benchmark for determining whether a benefit has been provided. The GOC initially provided information in the GSR and then updated this information in the G2SR. Upon review of the submitted information, we determine we require additional information, including information about the GOC's ownership classifications, other ways in which the GOC may influence the markets for these papermaking chemicals in the PRC, and the efforts the GOC has made to obtain certain of the requested data. Therefore, while we have preliminarily determined that the producers of the papermaking chemicals purchased by the Gold companies and Sun Paper companies are "authorities," we are not making a finding that these chemicals have been provided for less than adequate remuneration for this preliminary determination and have listed these alleged subsidies under the "Programs for Which More Information Is Required" section, below.

GOC – Electricity

The GOC also did not provide a complete response to the Department's request for information regarding the GOC's alleged provision of electricity for less than adequate remuneration. Specifically, the Department requested that the GOC explain how electricity cost increases are reflected in retail price increases. In its GSR, 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.

As explained above in connection with the information requested about the producers of papermaking chemicals purchased by the Gold companies and Sun Paper companies, the Department made clear that its standard investigation procedures require the GOC to request an extension when it is not able to meet a deadline. *See*, *e.g.*, 19 CFR 351.302(c). In this regard, the Department notes that the GOC has participated in numerous CVD investigations and the GOC is familiar with this standard procedure. Because the GOC did not ask for or receive an extension of that deadline, we preliminarily determine that the GOC has failed to provide necessary information and, thus, the Department must rely on "facts available" in making our preliminary determination. *See* section 776(a)(1), section 776(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 as it did not respond by the deadline dates, nor did it provide any explanation stating why it was unable to provide the requested information by the established deadlines, with the result that 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* discussion *infra* at I.D.1 "Provision of Electricity" further explaining the Department's determinations with respect to financial contribution, benefit, and specificity. The benchmark rates we have selected as adverse facts available are based on GOC electricity grid rates we obtained for various provinces in the PRC. *See* GSR at Exhibit 9, and Memorandum to File from David Neubacher, International Trade Compliance Analyst, Office 1, "Electricity Rate Data" (March 1, 2010) (attaching public government rate document provided in the CVD investigation of "Certain Kitchen Appliance Shelving and Racks from the People's Republic of China").

For details on the calculation of the subsidy rate for Respondents, *see* below at section I.D.1, "Provision of Electricity for Less Than Adequate Remuneration."

Yanzhou Tianzhang - Exemption for City Maintenance and Construction Taxes and Education Surcharges for FIEs

In response to the Department's questionnaire, Yanzhou Tianzhang reported that it did not use the "Exemption for City Maintenance and Construction Taxes and Education Surcharges for FIEs" program. Despite this, proprietary information submitted by Yanzhou Tianzhang shows the company did not pay these taxes or surcharges. As explained below in the section where we discuss this program, there appears to have been some confusion about the term "exemption" and, in particular, whether companies can be "exempted" from paying taxes they have never been subject to.

Because Yanzhou Tianzhang failed to provide the information needed to calculate its benefit under this program (*e.g.*, what the company would have owed had it been subject to these taxes and surcharges), we are relying on facts otherwise available to calculate a preliminary margin pursuant to section 776(a) of the Act. Because we were not able to seek clarification from Yanzhou Tianzhang before this preliminary determination, we are unable to determine whether the failure to provide this information resulted from a failure to cooperate within the meaning of section 776(b) of the Act. Accordingly, we are applying the Gold companies' calculated rate for this program as neutral facts available.

Subsidies Valuation Information

Allocation Period

The average useful life ("AUL") period in this proceeding, as described in 19 CFR 351.524(d)(2), is 13 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B–2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation 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) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross–ownership exists between the companies, and (2) the cross–owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross–owned 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 U.S. 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).

Gold companies

GEP and the other mandatory respondent, GHS, producers of subject merchandise, responded on behalf of themselves and the following affiliates: Sinar Mas Paper (China) Investment Co., Ltd. ("SMPI"); Ningbo Zhonghua Paper Co., Ltd. ("NBZH"); Ningbo Asia Pulp & Paper Co., Ltd. ("NAPP"); Gold Zuan Chemicals (Suzhou) Co., Ltd. ("GZC"); Gold Lun Chemicals (Zhenjiang) Co., Ltd. ("GLC"); Gold Sheng Chemicals (Zhenjiang) Co., Ltd. ("GSC"); Hainan Jinhai Pulp & Paper Co., Ltd. ("JHP"); Sichan Jianan Pulp Co., Ltd. ("JAP"); Guangxi Jingui Forestry Co., Ltd. ("JGF"); Guangxi Jinqinzhou High–Yield Forest Co., Ltd. ("JQZ"); Jinqing Yuan Timber land (Paper Mill) Co., Ltd. ("JQY"); Hainan Jinhua Forestry Co., Ltd. ("JHF"); Jinshaoguan First Quality Timberland (Paper Mill) Ltd. ("JSG"); Yangjiang Golden Sun Forestry Co., Ltd. ("YJGS"); Leizhou Golden Sun Forestry Co., Ltd. ("LZGS"); Ganzhou Golden Sun Forestry Co., Ltd. ("GZGS"); and Wenshan Jin Wenshan Forestry Co., Ltd. ("WSGWS"). GEP reported the above companies as cross–owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of ownership, majority–ownership, or common control. *See* GEQR at 7–9. Therefore, based on information on the record, we preliminarily determine that cross–ownership existed between GEP, GHS and the above companies during the POI pursuant to 19 CFR 351.525(b)(6)(vi).

SMPI is the parent of the responding Gold companies. There is no evidence that SMPI served as a conduit for subsidies to a particular subsidiary. Therefore, in accordance with 19 CFR 351.525(b)(6)(iii), we have attributed the subsidies received by SMPI to the consolidated sales of SMPI and its subsidiaries.

GEP and GHS reported that NBZH and NAPP produced multi–ply coated paper during the POI. Although the Gold companies claim that multi–ply paper products are excluded from this investigation, we disagree that they are *per se* excluded (*see* "Scope Comments" section above). Because NBZH and NAPP produced multi–ply products that meet the scope criteria (*e.g.*, weight, brightness, coating, *etc.*) we are treating both NBZH and NAPP as producers of subject merchandise and, pursuant to 19 CFR 351.525(b)(6)(ii), we are attributing the subsidies received by NBZH and NAPP to the combined sales of GEP, GHS, NAPP, and NBZH minus any intercompany sales.

GZC, GLC, and GSC supplied papermaking chemicals to GEP and GHS during POI. JHP and JAP supplied GEP and GHS with pulp during the POI during the POI. Finally, JGF, JQZ, JQY, JHF, JSG, YJGS, LZGS, GZGS, and WSGWS supplied wood to JHP for the production of pulp during the POI. See GEQR at 7–9. GEP and GHS argue that any subsidies to the cross–owned pulp and wood producers should not be attributed to producers of subject merchandise because the pulp and wood were used only to produce paper sold in the PRC.

With regard to the cross–owned suppliers of papermaking chemicals, we preliminarily determine that the papermaking chemicals are "primarily dedicated" to the production of the downstream product, paper, based on Respondents having identified them as "papermaking chemicals." *See* GEQR at 5. Thus, pursuant to 19 CFR 525(b)(6)(iv), we are attributing subsidies received by GSC, GZC, and GLC to the combined sales of the input and downstream products produced by each company (excluding sales between the companies).

In addition, we preliminarily determine that subsidies received by the cross–owned pulp and wood suppliers should be attributed to the combined sales of the input and the downstream products produced from those inputs (excluding sales between the companies). This is consistent with the Department's prior determination that pulp is "primarily dedicated" to the production of paper, as required by 19 CFR 351.525(b)(6)(iv). *See*, *e.g.*, CFS Decision Memorandum at Comment 18 and *Final Affirmative Countervailing*

Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indonesia, 71 FR 47174 (August 16, 2006), and accompanying Issues and Decision Memorandum at Comment 3.

With regard to GEP's and GHS's argument that these inputs are not included in the downstream products exported to the United States, we note the Department has addressed this issue in other proceedings. *See*, *e.g.*, *Light–Walled Rectangular Pipe and Tube From 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 Comment 8 and CFS Decision Memorandum at Comment 18. We have found that it would be improper to trace subsidized inputs through a company's production process and it would be improper to tie subsidies bestowed on the input product exclusively to sales in the domestic market. *See*, *e.g.*, LWRP Decision Memorandum at Comment 8. Therefore, we have rejected GEP's and GHS's argument.

Sun Paper companies

Sun Paper and Yanzhou Tianzhang responded on behalf of themselves. They reported that Yanzhou Tianzhang is the producer of the subject merchandise and Sun Paper is the parent company of Yanzhou Tianzhang. *See* I.D.1 "Provision of Electricity" section below. There is no evidence that Sun Paper served as a conduit for subsidies to a particular subsidiary. Therefore, in accordance with 19 CFR 351.525(b)(6)(iii), we have attributed the subsidies received by Sun Paper to the consolidated sales of Sun Paper and its subsidiaries. Sun Paper identified two other affiliated companies that produce the subject merchandise. Sun Paper notes that these two companies, International Paper & Sun Cartonboard Co., Ltd. and Shandong International Paper and Sun Coated Paperboard Co., Ltd., are 50/50 joint ventures between International Paper, and Sun Paper. However, Sun Paper claims that cross–ownership does not exist between itself and the joint venture companies because Sun Paper states that it cannot use or direct the individual assets of these two joint venture companies in the same way that it can use its own assets as required under 19 CFR 351.525(b)(6)(vi). In support of this claim, Sun Paper cites to the articles of association for both companies. *See* SP1SQR at 2–3. The information contained in the documents is proprietary and we address it in a proprietary memorandum. *See* Memorandum to the File from Mary Kolberg, International Trade Analyst, regarding "Sun Paper Calculations for the Preliminary Determination" (March 1, 2010). Based on the information and analysis described in that memorandum, we preliminarily determine that Sun Paper is not cross–owned with these joint ventures within the meaning of 19 CFR 351.525(b)(6)(vi). We intend to examine this issue further following the preliminary determination.

Finally, Sun Paper and Yanzhou Tianzhang identified several other affiliated companies, but reported that these affiliates do not produce the subject merchandise, provide an input to the downstream product or otherwise fall within the situations described in 19 CFR 351.525(b)(6)(iii)-(v). *See* SPQR at 1–3, YTQR at 1–3, and SP1SQR at 3 and 4. Therefore, we do not reach the issue of whether these companies and Sun Paper are cross–owned within the meaning of 19 CFR 351.525(b)(6)(vi) and we are not including these companies in our subsidy calculations.

Entered Value ("EV") Adjustment

The Gold companies have reported that their sales of subject merchandise to the United States occur under toll processing agreements with two affiliated trading companies. Thus, they have requested the Department make an adjustment to the calculated subsidy rate to account for the mark–up between the export value from the PRC and the entered value of subject merchandise into the United States.

Citing the CFS Decision Memorandum, *CWASP from the PRC*, and *Bearings from Thailand*,[5] the Gold companies note the Department has generally looked at six criteria to determine whether to grant such an adjustment. The six criteria are: 1) the price on which the alleged subsidy is based differs from the U.S. invoiced price; 2) the exporters and the party that invoices the customer are affiliated; 3) the U.S. invoice establishes the customs value to which CVDs are applied; 4) there is a one–to-one correlation between the invoice that reflects the price on which subsidies are received and the invoice with the mark–up that accompanies the shipment; 5) the merchandise is shipped directly to the United States; and 6) the invoices can be tracked as back–to-back invoices that are identical except for price.

On February 19, 2010, Petitioners filed comments acknowledging that the Department should establish a CVD rate that is commensurate with the entered value of the subject merchandise, but arguing against the specific adjustment proposed by the Gold companies. First, they argue the proposed adjustment is inconsistent with law as it results in an undercollection of duties. Second, they claim the Gold companies have not provided sufficient supporting information in regard to the six criteria for granting the adjustment. Third, they cite to proprietary information to argue that the adjustment calculated by the Gold companies is flawed. Finally, Petitioners argue, the best method to achieve the goal of matching the subsidy calculation with the duties that are eventually collected is to use GEP's consolidated sales value as the denominator in the subsidy rate calculation. If the Department does make the adjustment requested by the Gold companies, Petitioners request that the Department recalculate the adjustment because the Gold companies have included data in their claimed adjustment not related to the entered value of the subject merchandise. (The exact nature of this data is proprietary.)

Petitioners supplemented their comments on February 23, 2010, with additional concerns on the adjustment information submitted by the Gold companies and also provided an alternative adjustment formula to the one used by the Department in prior cases. Finally, the Department received comments from the Gold companies responding to Petitioners' arguments on February 24, 2010, and Petitioners responded to the Gold companies' submission with additional comments on February 25, 2010.

As indicated by the determinations cited by the Gold companies, the Department has a practice to make an adjustment to the calculated subsidy rate when the sales value used to calculate that subsidy rate does not match the entered value of the merchandise, *i.e.*, where subject merchandise exported to the United States is produced under tolling agreements, and where the respondent can provide data to demonstrate that the six criteria above are met. In the instant case, we have not made the adjustment because the information submitted by the Gold companies did not permit an accurate calculation of the adjustment.

[5] *See* CFS Decision Memorandum at 9, *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 4936 (January 28, 2009) and accompanying Issues and Decision Memorandum at 11-12 ("*CWASP from the PRC*"), and *Ball Bearings and Parts Thereof From Thailand; Final Results of Countervailing Duty Administrative Review*, 57 FR 26646, 26647 (June 15, 1992) ("*Bearings from Thailand*").

In GESQR at S1–23, the Gold companies state the adjustment concerns all four paper producing companies and two affiliated offshore trading companies, GEHK and China Union (Macao Offshore) Company Limited. Moreover, the Gold companies assert that the sample documentation they provided demonstrates that each of the four companies meet the criteria as outlined in the above–mentioned cases. We disagree, however, that adequate support documentation was provided for each of the producer/trading company combinations. Moreover, for the producer/trading company combinations for which adequate information was provided, we were not able to disaggregate their sales so that we could apply the adjustment to them.

The Department has not applied the requested adjustment in this preliminary determination because the supporting information was not submitted and not because we have rejected or changed our practice. However, Petitioners' claims about the propriety of the current adjustment methodology have raised issues that could not be fully evaluated in the limited time available before the preliminary determination. Thus, we intend to examine these claims and invite parties to provide additional comments on the Department's entered value EV adjustment methodology following the preliminary determination in their case and rebuttal briefs.

Benchmarks and Discount Rates

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. For the reasons explained in *CFS from the PRC*,[6] 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. 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)(3)(i). Similarly, the GOC's intervention in the banking sector precludes us from using 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.

We are calculating the external benchmark using the regression–based methodology first developed in *CFS from the PRC*[7] and more recently updated in *LWTP from the PRC*.[8] This benchmark interest rate is based on the inflation–adjusted interest rates of countries with per capita gross national incomes ("GNI") similar to the PRC, and takes into account a key factor involved in interest rate formation, that of the quality of a country's institutions, that is not directly tied to the state–imposed distortions in the banking sector discussed above.

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 they are included in that agency's international financial statistics ("IFS"). With the exceptions noted below, we have used the interest and inflation rates reported in the IFS for the countries identified as "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, 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 each year the Department calculated an inflation–adjusted short–term benchmark rate, we have also excluded any countries with aberrational or negative real interest rates for the year in question.

The resulting inflation–adjusted benchmark lending rates are provided in the Respondents' preliminary calculation memoranda. *See, e.g.*, Preliminary Determination Calculation Memoranda for Gold companies and Sun Paper (March 1, 2010). Because these are inflation–adjusted benchmarks, it is necessary to adjust Respondents' interest payments for inflation. This was done using the PRC inflation figure as reported in the IFS. *Id.*

The lending rates reported in the IFS represent short- and medium–term lending, and there are not sufficient publicly available long–term interest rate data upon which to base a robust benchmark for long–term loans. To address this problem, the Department 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 LWRP from the PRC* and LWRP Decision Memorandum at 6–8. 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 from the PRC Decision Memorandum") at Comment 14. Finally, because these long–term rates are net of inflation as noted above, we adjusted the PRC Respondents' payments to remove inflation.

[6] *See CFS from the PRC* at Comment 10.

[7] *See CFS from the PRC* at Comment 10.

[8] *See 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 8-11.

Benchmarks for Foreign Currency–Denominated Loans

For foreign currency–denominated short–term loans, the Department used as benchmarks one–year London Interbank Offering Rate ("LIBOR") rates for the currency in which the loan was denominated, plus the average spread between LIBOR and the one–year corporate bond rates for companies with a BB rating. For long–term foreign currency–denominated loans, the Department added to the applicable short–term LIBOR rate a spread which was calculated as the difference between the one–year BB bond rate and the n–year BB bond rate, where "n" equals or approximates the number of years of the term of the loan in question. *See* LWTP Decision Memorandum at 10.

Uncreditworthiness Benchmark

As discussed below, the Department is finding the Gold companies uncreditworthy in 2003 through 2005. To construct the uncreditworthy benchmark rate for those years, we used the long–term rates described above as the "long–term interest rate that would be paid by a creditworthy company" in the formula presented in 19 CFR 351.505(a)(3)(iii).

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 agreed to provide the subsidy.

Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long–term financing from conventional commercial sources. *See* 19 CFR 351.505(a)(4). According to 19 CFR 351.505(a)(4)(i), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government–provided loan, the firm could not have obtained long–term loans from conventional commercial sources. In making this determination, according to 19 CFR 351.505(a)(4)(i)(A)-(D), the Department normally examines the following four types of information: (1) receipt by the firm of comparable commercial long–term loans; (2) present and past indicators of the firm's financial health; (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position. If a firm has taken out long–term loans from commercial sources, this will normally be dispositive of the firm's creditworthiness. However, if the firm is government–owned, the existence of commercial borrowings is not dispositive of the firm's creditworthiness. This is because, in the case of a government–owned firm, a bank is likely to consider that the government will repay the loan in the event of a default. *See Countervailing Duties; Final Rule*, 63 FR 65348, 65367 (November 25, 1998). For government–owned firms, we will make our creditworthiness determination by examining receipt by the firm of comparable commercial long–term loans and the other factors listed in 19 CFR 351.505 (a)(4)(i).

Gold East

In *CFS from the PRC*, the Department found that GEP and its cross–owned subsidiaries were uncreditworthy for the period 2003 through 2005. *See* CFS Decision Memorandum at 8. In our questionnaire, we noted our previous finding from *CFS from the PRC* and explained that if the Gold companies wished to contest it, the companies should provide certain information.

The Gold companies provided information concerning creditworthiness, including the proprietary final creditworthiness memo from *CFS from the PRC*. Based on our review, no new information was submitted that would lead us to reconsider our prior analysis and, thus, we preliminarily reaffirm our determination in *CFS from the PRC*. Therefore, we are preliminarily finding the Gold companies, including GEP and its cross–owned affiliates, to be uncreditworthy for the period 2003 through 2005.

According to 19 CFR 351.505(a)(6), the Department "will not consider the uncreditworthiness of a firm absent a specific allegation by petitioner that is supported by information establishing a reasonable basis to believe or suspect that the firm is uncreditworthy." As noted above in the Case History section, Petitioners have submitted financial ratios for the Gold companies and have pointed to other evidence on the record to argue that these companies were uncreditworthy for the period 2006 through 2008. We are still analyzing this data to determine if they provide a reasonable basis to believe or suspect that the Gold companies were uncreditworthy during 2006 through 2008. If we determine to investigate the Gold companies' creditworthiness for the 2006 through 2008 period, we will make a preliminary finding on this matter prior to our final determination and will provide the parties with an opportunity to comment on that preliminary finding.

No creditworthiness allegation was made with respect to the Sun Paper companies.

Analysis of Programs

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

I. Programs Preliminarily Determined To Be Countervailable

A. Preferential Lending To The Coated Paper Industry

1. Policy Loans to Coated Paper Producers and Related Pulp Producers from State–Owned Commercial Banks and Government Policy Banks

In the CVD investigation of coated free sheet paper, the Department found that, "the GOC has a policy in place to encourage and support the growth and development of the paper industry through preferential financing initiatives, as illustrated in the five–year plans and industrial policies on the record."[9] The Department further determined that, "loans provided by Policy Banks and state–owned commercial banks ("SOCBs") in the PRC constitute a direct financial contribution from the government " In *LWTP from the PRC*, the Department affirmed its earlier finding and extended it through the POI.

Based on the record of the instant investigation, the Department preliminarily determines that the five–year plans and industrial policies cited in the CFS Decision Memorandum and LWTP Decision Memorandum continue to be in effect.[10] Specifically, the Tenth Five–Year and 2010 Special Plan for the Construction of National Forestry and Papermaking Integration Project;[11] the Development Policy for Papermaking Industry (2007);[12] the Decision of the State Council on Promulgating and Implementing the Provisional Regulation on Promoting Industrial Structure Adjustment GUOFA (2005) No. 40,[13] the Guiding Catalogue for Industry Restructuring (2005 version),[14] together indicate that the GOC has in place a policy to promote specifically the pulp and paper industry. Additionally, the five–year plans of

[9] *See* CFS Decision Memorandum at 9 and 49.

[10] *See* CFS Decision Memorandum at 9 - 11 and *LWTP from the PRC* and LWTP Decision Memorandum at 11 - 12.

[11] *See* Petition at Exhibit IV-34.

[12] *See* Petition at Exhibit IV-39.

[13] *See* GQR at Exhibit A-1.

[14] *See* GQR at Exhibit A-2.

provinces and municipalities where Respondents in this investigation are located provide evidence of sub–national government support for these objectives. For example:

The Outline of the Tenth Five–year Plan (Jihua) of Social and Economic Development of Jiangsu Province: In describing how it seeks to adjust the province's economic structure, the plan states " we will selectively develop such industries with local advantages, including modern papermaking " *See* GQR at A–3, Chapter II ("Adjustment of Economic Structure"), Section 5 ("Optimize Industrial Structure to Enhance Overall Competitiveness"), paragraph 12.

Outline of the Eleventh Five–year Plan (Guihua) for Economic and Social Development of Jiangsu: In describing its "Priorities in Development and Policy Making," this provincial plan states that Jiangsu will "push the efficiency" of the forest industry and, in developing its manufacturing industry, it will "lay emphasis upon the development of competitive industries. By setting up industrial bases of paper making, we shall increase shares of competitive industries in manufacturing " *See* GQR at A – 4, Volume III ("Priorities in Development and Policy Making"); Chapter V ("Industry Development"), Section 1 ("Developing Modern and Efficient Agriculture") and Section 2 ("Developing Advanced Manufacturing Industry").

Tenth Five–year Plan (Jihua) of Social and Economic Development of Suzhou Municipality: In describing the municipality's goals, the plan states " focus on the development of paper making " *See* GQR at A–5, Chapter 2 ("Economic Development"), Section 2 ("Industry").

Outline of the Tenth Five–year Plan (Jihua) for Economic and Social Development of Zhenjiang: In describing its goals for "Optimizing and enhancing the secondary industry industry," this plan specifically identifies respondent, Gold East (" strive to form super large enterprises which have annual sales amount over 5 billion yuan including Gold East Paper ") and names "paper and paper products processing" as "champion" products. *See* GQR at A–7, "Main direction and target of the development of the 10th Five–year' plan," Section 2 ("Giving prominence to the main line of structure adjustment, improving the overall economy quality").

Notice from the People's Government of Zhenjiang on Issuing the "Guideline for the 11th Five–year Plan (Jihua) of Economy and Social Development of Zhenjiang: Among its goals, this plan states that Zhenjiang will "Expand leading industries" including papermaking. *See* GQR at A–7, Chapter 7 ("Optimize Industrial Structure and Improve Quality of Economic Growth"), Section 1 ("Development of Manufacture Industries").

Outline of Tenth Five–year Plan (Jihua) for Economic and Social Development of Shandong: In describing this province's desire to "Promote the optimization and upgrade of traditional industries, this plan specifically addresses the papermaking industry and identifies numerous actions, including: make efforts to enhance product grades; cultivate large groups; and rely on large tracts of land suitable for forestation and key enterprises to build a 700 thousand ton hardwood pulp project." *See* GQR at A–8, "III. Emphasis on the industrial development and structural adjustment," "(7) Promote the optimization and upgrade of traditional industries," "6. Paper–making Industry."

Outline of the Eleventh Five–year Plan (Guihua) for Economic and Social Development of Shandong: This plan addresses both forestry and papermaking in its call to "accelerate building the forest base of industrial raw materials" and in identifying papermaking among the new material industries to be developed. *See* GQR at A–09, Chapter 5 ("Accelerate the Development of Modern Agriculture") and Chapter 6 ("Efforts on Construction of the Powerful Manufacture Industry Province").

Outline of the Tenth Five–year Plan (Jihua) of Social and Economic Development of Jining Municipality: This plan discusses reform of traditional industries including papermaking and describes as a goal developing coated paper. It also specifically names Sun Paper as among the producers to be supported in expanding, upgrading and constructing its forest–paper project. *See* GQR at A–10, "I. To vigorously develop modern manufacturing industry," "2. To reform traditional industries and shore up and foster emerging industries." Virtually identical language appears in the *Outline of the Eleventh Five–year Program (GUIHUA) of Social and Economic Development of Jining Municipality*. *See* GQR at A–11, "I. To vigorously develop modern manufacturing industry," "2. To reform traditional industries and shore up and foster emerging industries."

In *Citric Acid from the PRC*,[15] the Department stated:

> 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). Once that finding is made, the Department relies upon the analysis undertaken in *CFS from the PRC* to further conclude that national and local government control over the SOCBs results in the loans being a financial contribution by the GOC.

In this investigation, the GOC has not provided evidence that would lead us to revisit our finding in *CFS from the PRC* regarding government control of the SOCBs.[16] Therefore, we preliminarily determine that the loans to Respondents from policy banks and SOCBs are a financial contribution in the form of a direct transfer of funds and that 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* sections 771(5)(D)(i) and 771(5)(E)(ii) of the Act. We further determine preliminarily that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC's policy demonstrated by the above–cited plans and directives to encourage and support the growth and development of the PRC pulp and paper industry.

To calculate the benefit under the policy lending program, we used the benchmarks described under "Subsidies Valuation - Benchmarks and Discount Rates" above. As noted in the "Creditworthiness" section above, we have determined the Gold companies to be uncreditwothy for the period 2003 through 2005; therefore, we have used an uncreditworthy benchmark as set forth under 19 CFR 351.505(a)(3)(iii) for loans approved in those years.

[15] *See* Citric Acid from the PRC Decision Memorandum at Comment 5 (citations omitted).

[16] *See* CFS Decision Memorandum at Comment 8.

For the paper producing Gold companies, we divided the benefit received during the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the benefit by the combined sales of the Gold companies' paper producers that received the inputs plus the input suppliers' sales minus inter–company sales during the POI. For SMPI, we divided the benefit by its consolidated sales. We then summed the calculated rates.

For Yanzhou Tianzhang, we divided its benefit received during the POI by its sales during the POI. For Sun Paper, we divided the benefit by its consolidated sales. We then summed the calculated rates.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 7.27 percent *ad valorem* and the Sun Paper companies received a countervailable subsidy of 0.94 percent *ad valorem*.

B. Income Tax Programs

1. Income Tax Exemption/Reduction under the Two Free/Three Half Program

Under Article 8 of the *FIE Tax Law*, a foreign–invested enterprise ("FIE") that is "productive" and is scheduled to operate for more than ten years may be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years. *See* GQR at 34. The Department has previously found this program countervailable. *See*, *e.g.*, OCTG Decision Memorandum[17] at 16, CFS Decision Memorandum at 11 12, and Citric Acid from the PRC Decision Memorandum at 15–16.

GEP, GHS, GZC, GLC, JHF, JAP, JQZ, and JQY reported using this program during the POI. *See* GEQR at 34. Yanzhou Tianzhang also reported using this program during the POI. *See* YTQR at 13.

We preliminarily determine that the exemption or reduction of 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 recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also 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.

To calculate the benefit, we treated the income tax savings enjoyed by GEP, GHS, GZC, GLC, JHF, JAP, JQZ, JQY, and Yanzhou Tianzhang as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax rate the above companies would have paid in the absence of the program (30 percent) with the income tax rate the company actually paid (15 or zero percent).

For the paper producing Gold companies, we divided the tax savings received during the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the tax savings by the combined sales of the Gold companies' paper producers that receive the inputs plus the input suppliers' sales minus inter–company sales during the POI.

For Yanzhou Tianzhang, we divided its tax savings received during the POI by its sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 1.37 percent *ad valorem* and Yanzhou Tianzhang received a countervailable subsidy of 1.46 percent *ad valorem* under this program.

2. Local Income Tax Exemption and Reductions for "Productive" FIEs

Under Article 9 of the *FIE Tax Law*, the provincial governments have the authority to exempt FIEs from the local income tax of three percent. *See* GQR at 56. According to the *Regulations on Exemption and Reduction of Local Income Tax of FIEs in Jiangsu Province*, a "productive" FIE in Jiangsu Province may be exempted from the three percent local income tax during the "Two Free, Three Half" period. Additionally, according to Article 6, FIEs eligible for the reduced income tax rate of 15 percent can also be exempted from paying local income tax. *See* GQR at Exhibit GOC–HH–3. According to the *Provisional Rules on Exemption of Local Income Tax for FIEs and Foreign* Enterprises (Decree 14 of Zhejiang Government, 1991) at Article 4, productive FIEs in Zhejiang Province are exempted from paying the local income tax for the first two years after their first profitable year, and pay at a reduced (half) rate for the next three consecutive years. *See* G1SR at Exhibit GOC–SUPP–35. The Department has previously found this program to be countervailable. *See*, *e.g.*, OCTG Decision Memorandum at 17 – 18, CFS Decision Memorandum at 12–13 and Citric Acid from the PRC Decision Memorandum at 21.

GEP, GHS, NBZH, GZC, GLC, GSC, JHP, JHF, JAP, JQZ, and JQY reported using this program during the POI. *See* GEQR at 39. Yanzhou Tianzhang also reported using this program during the POI. *See* YTQR at 14.

We preliminarily determine that the exemption from or reduction in the local income tax received by "productive" FIEs under this program confers a countervailable subsidy. The exemption or reduction is a financial contribution in the form of revenue forgone by the government and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption or 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.

To calculate the benefit, we treated the income tax savings enjoyed by GEP, GHS, NBZH, GZC, GLC, GSC, JHP, JHF, JAP, JQZ, JQY, and Yanzhou Tianzhang as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax rate the above companies would have paid in the absence of the program (three percent) with the income tax rate the company actually paid.

For the paper producing Gold companies, we divided the tax savings received during the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the tax savings by the combined sales of the Gold companies' paper producers that receive the inputs plus the input suppliers' sales minus inter–company sales during the POI. For Yanzhou Tianzhang, we divided its tax savings received during the POI by its sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.36 percent *ad valorem* and Yanzhou Tianzhang received a countervailable subsidy of 0.31 percent *ad valorem* under this program.

[17] *See 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) and accompanying Issues and Decision Memorandum ("OCTG Decision Memorandum").

3. Income Tax Reduction for FIEs Purchasing Domestically Produced Equipment

The GOC responded that the program does not exist. *See* GQR at 68. However, Yanzhou Tianzhang reported that it received benefits under this program during the POI and referenced the relevant law, "Notice of the Ministry of Finance and the State Administration of Taxation concerning the Issue of Tax Credit for Enterprise Income Tax for Domestic Equipment Purchased by Foreign–funded Enterprises." *See* YTQR at 15.

In its questionnaire response, the GOC stated that this alleged subsidy program does not exist. *See* GQR at 68. In our supplemental questionnaire to the GOC, we noted that Yanzhou Tianzhang reported using this program and that the Department had previously found this program to be countervailable in *Citric Acid from the PRC*. *See* Citric Acid from the PRC Decision Memorandum at 16 – 17. The GOC responded that Yanzhou Tianzhang may have been confused between the terms "reduction" and "credit" and that no such program exists.

Yanzhou Tianzhang claims to have received a tax reduction under this program. Moreover, as noted above, the Department previously found this program to confer a countervailable subsidy and the GOC has provided no evidence showing that this program has been terminated. Accordingly, we are following our previous practice and preliminarily determine that Yanzhou Tianzhang received a countervailable benefit during the POI.

The tax credits are a financial contribution in the form of revenue forgone by the government and provide a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further determine that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(A) and (C) of the Act.

To calculate the benefit, we treated the income tax savings enjoyed by Yanzhou Tianzhang as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the company's tax savings by its sales during the POI, pursuant to 19 CFR 351.525(b)(3).

On this basis, we preliminarily determine that Yanzhou Tianzhang received a countervailable subsidy of 0.78 percent *ad valorem* under this program.

4. Income Tax Subsidies for FIEs Based on Geographic Location

To promote economic development and attract foreign investment, "productive" FIEs located in coastal economic zones, special economic zones or economic and technical development zones in the PRC receive preferential tax rates of 15 percent or 24 percent, depending on the zone, under Article 7 of the *FIE Tax Law*. *See* GQR, at 70. This program was created June 15, 1988, pursuant to the *Provisional Rules on Exemption and Reduction of Corporate Income Tax and Business Tax of FIEs in Coastal Economic Development Zone* issued by the Ministry of Finance and the July 1, 1991, *FIE Tax Law* continued this policy. The Department has previously found this program to be countervailable. *See* Citric Acid from the PRC Decision Memorandum at 14 - 15 and CFS Decision Memorandum at 12.

GEP, GHS, NBZH, GZC, GLC, GSC, JHP, JQZ, and JQY reported using this program during the POI. *See* GEQR at 45

We preliminarily determine that the reduced income tax rate paid by productive FIEs under this program confers a countervailable subsidy. The reduced rate is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further determine preliminarily that the reduction afforded by this program is limited to enterprises located in designated geographic regions and, hence, is specific under section 771(5A)(D)(iv) of the Act.

To calculate the benefit, we treated the income tax savings enjoyed by GEP, GHS, NBZH, GZC, GLC, GSC, JHP, JQZ, and JQY as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To compute the amount of the tax savings, we compared the income tax rate the above companies would have paid in the absence of the program (30 percent) with the income tax rate the company actually paid (24 or 15 percent).

For the paper producing Gold companies, we divided the tax savings received during the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the tax savings by the combined sales of the Gold companies' paper producers that receive the inputs plus the input suppliers' sales minus inter–company sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 1.79 percent ad valorem under this program.

5. Preferential Tax Policies for Research and Development ("R&D") at FIEs

According to the *Circular on Relevant Issues relating to Using R&D Expenses to Deduct Taxable Income by FIEs* (GUOSHUIFA {1999} No. 173), an FIE may deduct 150 percent of its qualifying R&D expenses from its taxable income when those expenses increase by 10 percent over R&D expenses incurred in the last tax year. The deduction is capped by taxable income and no carry–forward is allowed if the deduction is more than the taxable income of the current period. *See* GQR at 82.

GEP reported using this program during the POI. *See* GEQR at 52.

We preliminarily determine that the exemption from or reduction in the income tax received by FIEs under this program confers a countervailable subsidy. The exemption or reduction is a financial contribution in the form of revenue forgone by the government and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We also preliminarily determine that the exemption or 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.

To calculate the benefit, we treated the income tax savings enjoyed by GEP as a recurring benefit, consistent with 19 CFR 351.524(c)(1). We divided their tax savings received during the POI by the combined sales of the Gold companies' paper producers minus inter–company sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.02 percent *ad valorem* under this program.

C. Indirect Tax and Import Tariff Programs

1. Value–Added Tax ("VAT") and Tariff Exemptions on Imported Equipment

Enacted in 1997, the *Circular of the State Council on Adjusting Tax Policies on Imported Equipment* (*GUOFA No. 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. Qualified enterprises receive a certificate either

from the National Development and Reform Commission or its provincial branch. To receive the exemptions, qualified enterprises must adequately document both the product eligibility and the eligibility of the imported article to the local Customs authority. *See* GQR at 96–97. The Department has previously found this program to be countervailable. *See* Citric Acid from the PRC Decision Memorandum at 19 - 20 and CFS Decision Memorandum at 14.

GEP, GHS, NBZH, NAPP, GZC, GLC, GSC, JHP, and JAP reported using this program. *See* GEQR at 63. Yanzhou Tianzhang reported using this program. *See* YTQR at 20.

We preliminarily determine that VAT and tariff exemptions on imported equipment confer a countervailable subsidy. The exemptions are a financial contribution in the form of revenue forgone by the GOC and they 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 determine the VAT and tariff exemptions under this program are specific under section 771(5A)(D)(i) because the program is limited to certain enterprises, *i.e.*, FIEs and domestic enterprises with government–approved projects. *See* CFS Decision Memorandum, at Comment 16.

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 expense these benefits in the year in which 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).

For GEP, GHS, NBZH, NAPP, GZC, GLC, GSC, JHP, JAP, and Yanzhou Tianzhang, we applied the "0.5 test," pursuant to 19 CFR 351.524, for each of the years in which exemptions were reported (treating year of receipt as year of approval). For the years in which the amount was less than 0.5 percent, we have expensed the exempted amounts in the year of receipt, consistent with 19 CFR 351.524(a). For those years in which the VAT and tariff exemptions were greater than or equal to 0.5 percent, we are treating the exemptions as non–recurring benefits, consistent with 19 CFR 351.524(c)(2)(iii), and allocating the benefits over the AUL. We used the discount rate described above in the "Benchmarks and Discount Rates" section to calculate the amount of the benefit for the POI.

For the paper producing Gold companies, we divided the benefits received in or allocated to the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the benefits received in or allocated to the POI by the combined sales of the Gold companies' paper producers that receive the inputs plus the input suppliers' sales minus inter–company sales during the POI.

For Yanzhou Tianzhang, we divided the benefits received in or allocated to the POI by its sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.83 percent *ad valorem* and Yanzhou Tianzhang does not have a measurable subsidy under this program.

2. VAT Rebates on Domestically Produced Equipment

As outlined in *GUOSHUIFA (1999) No. 171, Notice of the State Administration of Taxation Concerning the Trial Administrative Measures on Purchase of Domestically Produced Equipment by FIEs*, the GOC refunds the VAT on purchases of certain domestically produced equipment to FIEs if the purchases are within the enterprise's investment amount and if the equipment falls under a tax–free category. *See* GQR at 111. The Department has previously found this program to be countervailable. *See* Citric Acid from the PRC Decision Memorandum at 20 and CFS Decision Memorandum at 13 – 14.

GEP, GHS, NBZH, NAPP, GZC, GLC, JHP, and JAP reported using the program. See GEQR at 67.

We preliminarily determine that the rebate of the VAT paid on purchases of domestically produced equipment by FIEs confers a countervailable subsidy. The rebates are a financial contribution in the form of revenue forgone by the GOC and they provide a benefit to the recipients in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1). We further preliminarily determine that the VAT rebates are contingent upon the use of domestic over imported goods and, hence, specific under section 771(5A)(A) and (C) of the Act.

Normally, we treat exemptions from indirect taxes and import charges, such as VAT rebates, as recurring benefits, consistent with 19 CFR 351.524(c)(1), and expense these benefits in the year 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).

For GEP, GHS, NBZH, NAPP, GZC, GLC, JHP, and JAP, we applied the "0.5 test," pursuant to 19 CFR 351.524, for each of the years in which rebates were reported (treating year of receipt as year of approval). For the years in which the amount was less than 0.5 percent, we have expensed the rebates in the year of receipt, consistent with 19 CFR 351.524(a). For those years in which the VAT rebates were greater than or equal to 0.5 percent, we preliminarily determine that the VAT and tariff exemptions were for capital equipment based on the companies' information. *See* GEQR at 69. Therefore, we are treating the rebates as non–recurring benefits, consistent with 19 CFR 351.524(c)(2)(iii), and allocating the benefits over the AUL. We used the discount rate described above in the "Benchmarks and Discount Rates" section to calculate the amount of the benefit for the POI.

For the paper producing Gold companies, we divided the benefits received in or allocated to the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the benefits received in or allocated to the POI by the combined sales of the Gold companies' paper producers that receive the inputs plus the input suppliers' sales minus inter–company sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.22 percent *ad valorem* under this program.

3. Domestic VAT Refunds for Companies Located in the Hainan Economic Development Zone ("EDZ")

According to "Circular on Publication of the Preferential Policies for Hainan Province Yangpu Economic Development Zone (QIONGFU {1999} No.54)," enterprises may receive VAT refunds based on level of investment. *See* GSR at 19 and GEQR at 71. The program was previously found countervailable. *See* CFS Decision Memorandum at 15.

JHP reported using the program during the POI. *See* GEQR at 71.

We preliminarily determine that the domestic VAT refund confers a countervailable subsidy. The refund is a financial contribution in the form of

revenue forgone by the local government and it provides a benefit to the recipient in the amount of the refunded taxes. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a)(1). We further preliminarily determine that the program is limited to enterprises located in a designated geographical region and, hence, is specific under section 771(5A)(D)(iv) of the Act.

To calculate the benefit, we treated the VAT refund enjoyed by JHP as a recurring benefit, consistent with 19 CFR 351.524(c)(1). We divided the amount received during the POI by the combined sales of JHP and the Gold companies' paper producers that received the inputs from JHP minus inter–company sales during the POI.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.40 percent *ad valorem* under this program.

4. Exemption from City Maintenance and Construction Taxes and Education Surcharges for FIEs[18]

SMPI, GEP, GHS, NBZH, NAPP, GZC, GLC, GSC, JHP, and JAP stated that FIEs are, by law, not subject to these taxes and surcharges, and these companies reported what they would have paid during the POI had they been subject to them. *See* GEQR at 94. Yanzhou Tianzhang stated it did not use the program during the POI. *See* YTQR at 19.

The GOC reported that FIEs do not pay these taxes and surcharges. *See* GQR at 94. In the G1QSR, the GOC responded to our follow–up question regarding this program stating that because FIEs are not subject to these taxes and surcharges, they have not received an exemption from them. *See* G1SQR at 4.

We preliminarily determine that the exemptions from the city maintenance and construction taxes and education surcharges confer a countervailable subsidy. 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 determine that the exemptions afforded by this program are limited as a matter of law to certain enterprises, FIEs and, hence, specific under section 771(5A)(D)(i) of the Act.

For the paper producing Gold companies, we divided the tax savings received in the POI by the combined sales of the Gold companies' paper producers. For the cross–owned input suppliers among the Gold companies, we divided the tax savings received in the POI by the combined sales of the Gold companies' paper producers that received the inputs plus the input suppliers' sales minus inter–company sales during the POI.

As stated above, Yanzhou Tianzhang claimed not to use this program during the POI. However, proprietary information on the record indicates otherwise, although that information does not allow us to calculate Yanzhou Tianzhang's subsidy. *See* YTQR at Appendix 6. Therefore, as explained under the "Use of Facts Otherwise Available and Adverse Inferences" section above, we have assigned to Yanzhou Tianzhang the rate calculated for the Gold companies for this preliminary determination. We intend to seek further information from Yanzhou Tianzhang for use in our final determination.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.43 percent *ad valorem* and that Yanzhou Tianzhang received a countervailable subsidy of 0.43 percent *ad valorem* under this program.

D. Government Provision of Goods and Services for Less than Adequate Remuneration

1. Provision of Electricity

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

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 adverse facts available, typically finds that a financial contribution exists under the alleged program and that the program is specific. *See, e.g., Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) and accompanying Issues and Decision Memorandum at 17 "F. Government Provision of Electricity for Less than Adequate Remuneration" and OCTG Decision Memorandum at 22 "K. Provision of Electricity for Less than Adequate Remuneration." 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.

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 companies' reported information on the amounts of electricity they purchased and the amounts they paid for electricity during the POI. We compared the rates paid by the companies who sourced electricity from the grid, SMPI, NBZH, NAPP, JHP, JAP, JGF, JQZ, JQY, JHF, JSG, YJGS, LZGS, GZGS, and WSGWS, to the highest rates that they would have paid in the PRC during the POI. Specifically, we have used the highest peak, valley and normal rates for the Gold companies based upon their user category. This benchmark reflects the adverse inference 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.

On this basis, we preliminarily determine that the Gold companies received a countervailable subsidy of 0.14 percent *ad valorem* under this program. The Sun Paper companies did not purchase electricity from the government grid during the POI. Therefore, we preliminarily determine that the Sun Paper companies did not use this program during the POI.

II. Programs Preliminarily Determined To Be Not Used By Respondents or To Not Provide Benefits During the POI

A. Famous Brands Awards

GHS reported receiving a famous brand award from the local government in 2006. *See* GEQR at 79.

We preliminarily determine that the total amount of the grant was less than 0.5 percent of the paper–producing Gold companies' sales in 2006. Therefore, we have preliminarily expensed the benefit in 2006 pursuant to 19 CFR 351.524(b)(2) and we preliminarily determine that the Gold companies received no benefit from this program during the POI. As a result, we have not made a determination with respect to whether this program provided a countervailable subsidy.

Based upon responses by the GOC, the Gold companies, and the Sun Paper companies, we preliminarily determine

[18] This program was incorrectly listed as an income tax program in our Initiation Checklist.

that the Gold companies and the Sun Paper companies did not apply for or receive benefits during the POI under the programs listed below.

B. Preferential Lending To The Coated Paper Industry

1. *Fast–Growth High–Yield Forestry Program Loans*

C. Income Tax Programs

1. *Preferential Tax Policies for Technology or Knowledge–Intensive FIEs*
2. *Preferential Tax Programs for FIEs that are High or New Technology Enterprises*
3. *Income Tax Reductions for High–Technology Industries in Guangdong Province*
4. *Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment*
5. *Income Tax Exemption Program for Export–Oriented FIEs*
6. *Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export–Oriented Enterprises*

D. Grant Programs

1. *Funds for Forestry Plantation Construction and Management*
2. *The State Key Technologies Renovation Project Fund*
3. *Loan Interest Subsidies for Major Industrial Technology Reform Projects in Wuhan*
4. *Funds for Water Treatment Improvement Projects in the Songhuajiang Basin*
5. *Special Fund for Energy Saving Technology Reform in Wuhan and Shouguang Municipality*
6. *Clean Production Technology Fund*

E. Economic Development Zone Programs

1. *Subsidies in the Nanchang EDZ*
2. *Subsidies in the Wuhan EDZ*
3. *Subsidies in the Zhenjiang EDZ*

III. Programs for Which More Information Is Required

A. Government Provision of Goods and Services for Less than Adequate Remuneration

1. *Provision of Papermaking Chemicals*

As explained under "Use of Facts Otherwise Available and Adverse Inferences," we plan to seek additional information, including information about the GOC's ownership classifications of the producers of papermaking chemicals, other ways in which the GOC may influence the markets for these papermaking chemicals in the PRC, and other requested data that the GOC identified as "NA."

B. Subsidies in the Yangpu EDZ

The Gold companies reported that JHP obtained land–use rights from Dan Zhou city authorities, Hainan Yangpu Development Company and Hainan Yangpu Land Development Company. *See* GEQR at 88 – 90. In the GSR, the GOC stated JHP is located in the Yangpu EDZ, but did not purchase land–use rights from the land administrative authority from December 11, 2001 to the end of 2008. On February 22, 2010, the Gold companies submitted corrections and clarifications to their questionnaire responses and stated that the land obtained from Dan Zhou city is adjacent to, but outside of the Yanpu EDZ. *See* GECS at 3 – 4.

Based on our examination of these claims and the proprietary documentation regarding these land–use rights submitted by the GOC and Gold companies, we have found inconsistencies that we are unable to clarify at this time. *See* "Gold Companies Preliminary Calculation Memorandum". Therefore, we intend to seek additional information and clarification from the Gold companies and the GOC following the preliminary determination.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by Respondents prior to making our final determination.

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)(5)(A)(i) of the Act, we have not calculated the "all others" rate by weight averaging the rates of GEP and Yanzhou Tianzhang, because doing so risks disclosure of proprietary information. Therefore, we have calculated a simple average of the two responding firms' rates.

We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate
Gold East Paper (Jiangsu) Co., Ltd, Gold Huasheng Paper Co., Ltd., Gold East Trading (Hong Kong) Company Ltd., Ningbo Zhonghua Paper Co., Ltd., and Ningbo Asia Pulp & Paper Co., Ltd.	12.83
Shandong Sun Paper Industry Joint Stock Co., Ltd. and Yanzhou Tianzhang Paper Industry Co., Ltd.	3.92
All Others	8.38

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

ITC Notification

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

In accordance with section 705(b)(2) 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), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Due to the anticipated timing of verification and issuance of verification reports, 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 must be filed within five

days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). 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. *See* 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310(c). If a request for a hearing is made in this investigation, the hearing will be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 1, 2010.

Carole A. Showers,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–5007 Filed 3–8–10; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Appointment of Performance Review Board for Senior Executive Service.

SUMMARY: The Committee For Purchase from People Who Are Blind Or Severely Disabled (Committee) has announced the following appointments to the Committee Performance Review Board.

The following individuals are appointed as members of the Committee Performance Review Board responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executive Service employees:

Perry E. Anthony, Ph.D., Deputy Commissioner, Rehabilitation Services Administration, Department of Education.

Abram Claude, Jr., Private Citizen

Paul M. Laird, Assistant Director, Industries, Education and Vocational Training and Chief Operating Officer/FPI, Department of Justice.

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

DATES: *Effective Date:* March 10, 2010.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@abilityone.gov.*

Patricia Briscoe,

Deputy Director, Business Operations.

[FR Doc. 2010–4919 Filed 3–8–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) the Department of Defense announces that the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel) will meet on March 25, 2010.

DATES: The meeting will be held on March 25, 2010, from 8 a.m. to 5 p.m and will be open to the public from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Thomas Bacon, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel, 5111 Leesburg Pike, Skyline 5, Suite 810, Falls Church, VA 22041–3206, Telephone: (703) 681–2890 Fax: (703) 681–1940, E-mail: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting

The Panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary.

Meeting Agenda

Sign-In; Welcome and Opening Remarks; Public Citizen Comments; Scheduled Therapeutic Class Reviews—Basal Insulins; Antihemophilic Factors; Designated Newly Approved Drugs and Drugs recommended for non-formulary placement due to non-compliance with Fiscal Year 2008, National Defense Authorization Act, Section 703; Panel Discussions and Vote, and comments following each therapeutic class review.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public from 9 a.m. to 5 p.m. Seating is limited and will be provided only to the first 220 people signing in. All persons must sign in legibly.

Administrative Work Meeting

Prior to the public meeting the Panel will conduct an Administrative Work Meeting from 8 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington, DC, 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer. The Designated Federal Officer's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel