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BEFORE THE
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OF THE
U.S. DEPARTMENT OF COMMERCE
AND THE
U.S. INTERNATIONAL TRADE COMMISSION

COUNTERVAILING DUTY PETITION

VOLUME II
THE PEOPLE'S REPUBLIC OF CHINA CVD

GRAIN-ORIENTED ELECTRICAL STEEL FROM THE PEOPLE'S REPUBLIC OF CHINA, THE CZECH REPUBLIC, THE FEDERAL REPUBLIC OF GERMANY, JAPAN, THE REPUBLIC OF KOREA, POLAND, AND THE RUSSIAN FEDERATION

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I. GRAIN-ORIENTED ELECTRICAL STEEL FROM THE PEOPLE'S REPUBLIC OF CHINA IS BEING UNLAWFULLY SUBSIDIZED BY THE CHINESE CENTRAL, PROVINCIAL, AND LOCAL GOVERNMENTS

A. Introduction

This volume presents information reasonably available to Petitioners that the production of grain-oriented electrical steel ("GOES") from the People's Republic of China ("China") is benefiting from countervailable subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended ("the Act"). 19 U.S.C. § 1677(5). The general information required by section 351.202 of the regulations of the U.S. Department of Commerce ("Commerce" or the "Department"), 19 C.F.R. § 351.202, and section 207.11 of the regulations of the U.S. International Trade Commission ("ITC" or the "Commission"), 19 C.F.R. § 207.11, can be found in Volume I of this Petition.

Pursuant to 19 U.S.C. § 1671(a)(l) and (2), the Department shall impose a countervailing duty on merchandise imported from a "Subsidies Agreement" country,[1] where the imported merchandise: (1) is produced or exported by manufacturers that benefit from countervailable subsidies and (2) materially injures or threatens a domestic industry. In recent years, the Department consistently has determined that the countervailing duty law may be applied to imports of merchandise produced in China.[2] Furthermore, the President signed legislation

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[1] China, as a member of the World Trade Organization ("WTO"), is a country under the "Subsidies Agreement" as it relates to 19 U.S.C. § 1671(b).

[2] See, e.g., Memorandum from the Team through Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China (Apr. 30, 2012) ("Steel Cylinders I&D Memo"); Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty

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explicitly authorizing the application of the countervailing duty law to non-market economy countries, including China.[3] Importantly, within the context of ongoing litigation, this legislation

(footnote cont'd from previous page)
Investigation of Aluminum Extrusions from the People's Republic of China (Mar. 28, 2011) ("Aluminum Extrusions I&D Memo"); Memorandum from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Deputy Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe ("Seamless Pipe") from the People's Republic of China (Sept. 10, 2010) ("Certain Carbon and Alloy Steel Pipe I&D Memo"); Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Import Administration, to Carole A. Showers, Acting Deputy Assistant Secretary for Policy and Negotiations, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Oil Country Tubular Goods ("OCTG") from the People's Republic of China (Nov. 23, 2009) ("OCTG I&D Memo"); Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Line Pipe (Line Pipe) from the People's Republic of China (Nov. 17, 2008) ("Line Pipe I&D Memo"); Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration to David M. Spooner, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination: Certain New Pneumatic Off-the-Road Tires (OTR Tires) from the People's Republic of China (July 7, 2008) ("OTR Tires I&D Memo"); Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination: Laminated Woven Sacks from the People's Republic of China (June 16, 2008) ("LWS I&D Memo"); Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Lightweight Thermal Paper from the People's Republic of China (Sept. 25, 2008) ("Thermal Paper I&D Memo"); and Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, Issues and Decision Memorandum in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China (Oct. 17, 2007) ("CFS Paper I&D Memo").

[3] See An Act to Apply the Countervailing Duty Provisions of the Tariff Act of 1930 to Nonmarket Economy Countries, and for Other Purposes, enacted on Mar. 13, 2012, Pub. L. No. 112-99, 126 Stat. 265 (2012) (codified at 19 U.S.C. §§ 1671, 1677f-1).

has been approved by the U.S. judicial system.[4] The Department, therefore, should initiate a countervailing duty ("CVD") investigation on imports of GOES from China.

B. <u>Information Relating to Chinese Producers of Grain-Oriented Electrical Steel</u>

Petitioners have identified a number of Chinese producers of GOES who are believed to have benefited from countervailable subsidies and whose products are believed to have been exported to the United States during the period of investigation. The names and addresses of these companies are provided in **Exhibit GENERAL-3** of the Petition Volume I. Petitioners believe that these producers and exporters have benefited from one or more of the countervailable subsidies discussed in detail below. Petitioners have been unable to obtain information regarding the proportion of total exports to the United States for individual producers/exporters during the most recent twelve-month period.

C. <u>Chinese GOES Producers Benefit from Subsidies Conferred at All Levels of Government Pursuant to China's Industrial Policies</u>

A fundamental element of China's drive to become a leading international economic power has been the Chinese government's extensive industrial policies that direct and manage the country's economic and industrial development. The Chinese authorities' economic decision-making process, as well as many of their decisions regarding the provision of subsidies, is guided by a comprehensive set of industrial policies that defines which industries, enterprises, and products should be targeted for preferential support and controlled by the government. Because steel production advances not just one but many of the Chinese government's industrial policy objectives, the GOES industry in China benefits from both subsidies and other governmental support measures granted by all levels of the government.

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4 <u>GPX Int'l Tire Corp. v. United States</u>, 678 F.3d 1308 (Fed. Cir. 2012).

1. The Chinese Government's Steel Plans Specifically Encourage the Development of the Grain-Oriented Electrical Steel Industry

One cornerstone of China's steel-development plans was the "Steel and Iron Industry Development Policy, Order No. 35 of the National Reform and Development Commission" ("NRDC") ("Steel Plan"), which was promulgated by the State Council in July 2005. The Steel Plan constituted a comprehensive and authoritative planning document outlining the Chinese government's ambitious objectives for the steel industry during the period 2006-2010 and serving as the primary medium through which the Chinese government applied its industrial policy initiatives to the steel industry.[5] In fact, the steel industry's strategic importance to China's national economy was affirmed clearly in the Steel Plan, which stresses the need for "the sound development of the iron and steel industry."[6] Furthermore, Article 19 of the Steel Plan specifically encouraged specialty steel enterprises, including producers of grain-oriented electrical steel, to "carry out research, develop and produce special steel for the use of the military industry, bearing, gears, models, heat resistance, cold resistance and corrosion resistance, etc. so as to enhance the product quality and technical level."[7]

More recently, the updated "Iron and Steel Industry 12th Five-Year Plan" (the "Iron & Steel Plan"), which covers 2011 through 2015, designates "high magnetic induction grain-oriented silicon steel" and other "specialty steel products" as "key steel product types" that are to

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[5] See, e.g., Order of the National Development and Reform Commission No. 35: Policies for Development of Iron and Steel Industry, at Art. 1 (July 8, 2005) (steel industry is centrally important to China's world-wide competitiveness); Art. 3 (adjustment in the steel industry's organizational structure through mergers and acquisitions); and Art. 14 (support of independent research and innovation). **CVD Exhibit-1.**

[6] Id. at Preamble. **CVD Exhibit-1.**

[7] Id. at Art. 19. **CVD Exhibit-1.**

be given developmental priority for China.[8] In fact, the Iron & Steel Plan calls for special treatment of "leading specialty steel enterprises" including Baosteel Specialty Steel, a producer of GOES.[9] The Iron & Steel Plan further requires that government entities "coordinate" policies to this end, "including fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, {and} environmental protection policy . . . ."[10]

In order to provide additional direction to the specialty steel industry, the GOC issued the High Quality Specialty Steel Science and Technology Development 12th Five Year Special Plan (the "Specialty Steel Plan").[11] The Specialty Steel Plan identifies electrical/silicon steel (which includes GOES)[12] as a "high quality specialty steel" and as a key technology.[13] It also designates the development of super low iron loss and high silicon electrical steel as a key task for the 12th five year period and calls for organizing national-level science and technology innovation teams focusing on electrical steel.[14] In addition, the Specialty Steel Plan echoes the Iron & Steel Plan by calling for the promotion of production of the subject merchandise through means including:

> Fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, environmental protection policy, and production safety policy … .

8 Circular of the Ministry of Industry and Information Technology on Printing and Distributing the Iron and Steel Industry 12th Five Year Development Plan Gong Xin Gui (2011) No. 480, at 3 (Oct. 24, 2011). **CVD Exhibit-2.**

9 Id. at 2.

10 Id. at 4.

11 Circular of the Ministry of Science and Technology on Printing and Distributing the High Quality Specialty Steel Science and Technology Development 12th Five Year Plan, High Quality Specialty Steel Science and Technology Development 12th Five Year Special Plan (Aug. 6, 2012). **CVD Exhibit-3.**

12 Grain-oriented electrical steel is an iron-silicon alloy and thus is often referred to as "silicon steel." See "Electrical Steel," AK Steel's Website. **CVD Exhibit-4.**

13 Specialty Steel Plan, at 1. **CVD Exhibit-3.**

14 Id.

It also calls on the GOC

> to coordinate with the specialty steel industry policy, strongly support independent innovation, encourage specialty steel enterprises with strong technology innovation ability and good operation condition to develop towards the direction of "being specialized, fine, special, and high" and focus on product type, quality, and profitability, and form a rational industrial structure and layout.[15]

Another industrial policy addressing GOES is the Circular of the State Council on Printing and Distributing the 12th Five Year National Strategic Emerging Industry Development Plan.[16] This circular from China's highest executive authority identifies "major projects" as projects involving the application of "high magnetic induction grain-oriented silicon steel."[17] The circular further calls for increasing "fiscal, taxation, and financial policy support" for such projects.[18] In particular, it directs that relevant entities will "establish strategic emerging industry development special fund, and strongly support major key technology research and development, major industry innovation development projects," among others.[19] It further provides that the government will "strengthen the combination of financial policy and fiscal policy {and} … encourage financial institutions to increase credit loan supports to strategic emerging industries."[20]

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15 Specialty Steel Plan, at 2. **CVD Exhibit-3.**

16 Circular of the State Council on Printing and Distributing the 12th Five Year National Strategic Emerging Industry Development Plan, Guo Fa (2012) No. 28 (July 9, 2012). **CVD Exhibit-5.**

17 Id. at 1.

18 Id. at 2.

19 Id.

20 Id.

The Circular of Printing and Distributing the New Materials Industry 12th Five Year Development Plan issued by the Ministry of Industry and Information Technology also addresses GOES. This industrial policy specifies that casting technologies for grain-oriented silicon steel production facilities are included in the nation's development priorities.[21] Consequently, government units are instructed to implement the policy earnestly and coordinate with other policies, such as financial policy, taxation policy, land policy, and trade policy.[22] The circular continues that relevant entities should:

> Strengthen the cooperation of government, enterprises, research institutes and financial institutions, and gradually form a "government, industry, academia, research, and financial" supporting and promoting system. (Portions omitted...) Encourage financial institutions to innovate credit loan products and services that match the development characteristics of the new materials industry, reasonably increase credit loan support, establish new materials industry development special loans at financial institutions such as China Development Bank, and actively support enterprises, projects, and industrial parks/zones that match the new materials industry development plan and policies. Support qualified new materials enterprises to finance by IPO, issue enterprise bonds and company bonds.[23]

Importantly, these steel-specific plans provide authorities with a broad range of fiscal incentives (such as loans and interest discounts) and enforcement powers to support the government's industrial policy objectives.[24] Thus, China's steel-industry planning documents establish a comprehensive policy framework through which the Chinese authorities directly

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[21] Circular of Printing and Distributing the New Materials Industry 12th Five Year Development Plan (Jan. 4, 2012). **CVD Exhibit-6**.

[22] Id.

[23] Id. at 2.

[24] See, e.g., Steel Plan, at Art. 16 (authorizing "taxation, interest subsidy and scientific research funds"). **CVD Exhibit-1**.

support and influence the business activities of GOES producers in accordance with the government's industrial policy initiatives.

2. The Chinese Government Controls and Directs Investment Throughout Provinces and Localities with the Issuance of State Mandates and State-Owned Enterprises

A key component of Chinese industrial policy has been to support and control key industrial sectors that it considers to be critical to China's overall economic prosperity and social stability.[25] The Chinese government's position was explained succinctly by former Party General Secretary Jiang Zemin in 1997 at the 15th National Congress of the Communist Party Central Committee:

> The dominant position of public ownership should manifest itself mainly as follows: Public assets dominate in the total assets in society; the state-owned sector controls the life-blood of the national economy and plays a leading role in economic development. This is the case for the country as a whole … . We should make a strategic readjustment of the layout of the state-owned sector of the economy. <u>The state-owned sector must be in a dominant position in major industries and key areas that concern the life-blood of the national economy. But in other areas, efforts should be made to reorganize assets and readjust the structure so as to strengthen the focal points and improve the quality of the state assets as a whole. On the premise that we keep public ownership in the dominant position, that the state controls the life-blood of the national economy and that the state-owned sector has stronger control capability and is more competitive</u>, even if the state-owned sector accounts for a smaller proportion of the economy, this will not affect the socialist nature of our country.[26]

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[25] See, e.g., "Tenth 5-Year Plan of Industrial Structure Adjustment Published," People's Daily Online (Nov. 20, 2001) (explaining that the Chinese government must hold a controlling stake in strategic enterprises that concern the national economy and must also uphold the dominance of the public sector in the economy). **CVD Exhibit-7**.

[26] Jiang Zemin's Report at the 15th National Congress of the Communist Party Central Committee, at 11, available at http://www.fas.org/news/china/1997/970912-prc.htm (emphasis added). **CVD Exhibit-8**.

In December 2006, a senior Chinese official reiterated the government's intention to support pillar and backbone industries and, in particular, to maintain strong state control over "the key sectors critical to national security and the economic lifeline of China," which include the "iron and steel" sector.[27] The president of the State-owned Assets Supervision and Administration Commission ("SASAC") explained that "Central SOEs should . . . become heavyweights" in these "strategically important sectors" and that "State capital can be channelled to priority industries and retreat from non-essential areas."[28]

The Chinese government's "Guidance Catalogue for the Industrial Structure Adjustment (Version 2011)" (the "Guidance Catalogue") is a planning document that lists these key industries and products that are favored by the government and, therefore, eligible for preferential treatment.[29] Grain-oriented electrical steel is identified as "encouraged" in the Guidance Catalogue.[30] In addition to establishing eligibility for certain benefits from the central government, the Guidance Catalogue also gives provincial and local authorities the discretion to implement their own policies to promote the development of favored industries.[31]

Further, the "Decision of the State Council on Promulgating and Implementing the 'Temporary Provisions on Promoting Industrial Structure Adjustment' No. 40" calls for

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27 See "China Names Key Industries for Absolute State Control," at 1 and 2, China Daily (Dec. 19, 2006). **CVD Exhibit-9**.

28 Id.

29 Guidance Catalogue for the Industrial Structure Adjustment (Version 2011), Order of the NDRC of the People's Republic of China No. 9 (Mar. 27, 2011). **CVD Exhibit-10**.

30 Id.

31 Id.

providing financing and other benefits to such "encouraged" projects.[32] Decision No. 40 mandates that all levels of government assist in the development of China's "encouraged industries:

> The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government shall take the promotion of industrial structure adjustment as an important reform and development task at present and within a period in the future … lay emphasis on implementation and shall, in accordance with the "Temporary Provisions" … formulate specific measures, rationally guide the investment directions, encourage and support the development of advanced production capacities, restrict and eliminate outdated production capacities …. All relevant administrative departments shall speed up the formulation and amendment of policies on public finance, taxation, credit, land, import and export, etc., effectively intensify the coordination and cooperation with industrial policies, and further improve and promote the policy system on industrial structure adjustment.[33]

In fact, information available indicates that sub-national governments have adopted and implemented the GOC's directives regarding support for the specialty steel industry and for GOES in particular, in accordance with Decision No. 40. As reported by the Congressional Research Service, many Chinese steel companies ". . . are strongly supported by provincial governments, including with subsidized loans, so that they can stay in production … ."[34] The

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32 See Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment" No. 40 (2005) ("Decision No. 40"). **CVD Exhibit-11**. The Catalogue for the Guidance of Foreign Investment Industries applies to foreign-invested enterprises, and the Directory Catalogue on Readjustment of Industrial Structure covers all other kinds of enterprises in China. The Department has found that this list of encouraged industries serves as an important basis for guiding investment decisions, and for the governments to administer investment projects. See, e.g., CFS Paper I&D Memo at 52-53; OCTG I&D Memo at 101.

33 See Decision No. 40 at Preamble, **CVD Exhibit-11**.

34 Congressional Research Service Report for Congress, "Steel: Price and Policy Issues," at 21, Order Code RL32333 (Aug. 31, 2006). **CVD Exhibit-12**.

provincial policies described below indicate that this is certainly the case with respect to the GOES industry.

For instance, the Hubei Province Metallurgy Industry 12th Five Year Development Plan (the "Hubei Plan") refers specifically to the production of electrical steel.[35] In particular, the Hubei Plan designates the "first silicon steel renovation project" of Wuhan Iron and Steel (Group) Corp. ("WISCO") as a "key project."[36] The Hubei Plan directs that authorities in its jurisdiction ". . . should attach importance to the sustainable development of the metallurgy industry, ... focus on the targets and tasks set forth in the Plan," and implement the Hubei Plan together "with industrial policies and local economic and social development general plans, and well handle the coordination with investment, land, environment, and other policies."[37] Finally, the Hubei Plan calls for tax and other financial support from government entities to meet the goals of the plan:

> Further implement preferential tax policies that support enterprises' merger & acquisition and restructuring, increase fiscal and financial supports to enterprises undertaking merger & acquisition and restructuring, and expand such enterprises' financing channels in the capital market.[38]

The GOC's administrative system ensures that provincial and local policy goals and objectives are in conformity with the central government's policy goals and objectives.[39] This is particularly important because local governments have significant influence over banks and use that influence to ensure that the country's industrial plans and programs, including those

[35] Hubei Province Metallurgy Industry 12th Five Year Development Plan. **CVD Exhibit-13.**

[36] Id. at 1.

[37] Id. at 2.

[38] Id.

[39] See CFS Paper I&D Memo at 53.

described above for the GOES industry, are carried out.[40] For this reason, the Department has considered five-year plans to be "a central government policy or program that local governments adopt and implement."[41]

3. Conclusion

To achieve their industrial policy objectives, governments in China have implemented various measures pursuant to long-term "plans" aimed at developing and controlling the key sectors of the economy, including the grain-oriented electrical steel industry. The evidence available to Petitioners indicates that Chinese GOES producers are among the industries targeted for special assistance by the Chinese government.

Additionally, the Department has determined in recent countervailing duty investigations of imports from China that numerous programs implemented to carry out Chinese industrial policies constitute countervailable subsidies that are providing an unfair, competitive advantage to Chinese industries.[42] Consistent with the agency's findings in those cases, this petition identifies numerous subsidy programs through which the central, provincial, and local governments in China are conferring substantial countervailable subsidies on the domestic industry producing grain-oriented electrical steel. This evidence provides a more than sufficient basis for initiating an investigation to determine whether Chinese GOES producers are benefiting from myriad subsidies granted to favored industries in China.

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[40] See Amended Preliminary Affirmative Countervailing Duty Determination in Coated Free Sheet Paper From the People's Republic of China, 72 Fed. Reg. 17,484, 17,493 (Apr. 9, 2007) ("CFS Paper Preliminary Determination").

[41] See id., 72 Fed. Reg. at 17,492.

[42] See, e.g., LWS I&D Memo at 21-26.

D. Petitioners' Efforts to Obtain Information Regarding the Grain-Oriented Electrical Steel Industry in China and Chinese Subsidy Programs

1. Difficulty in Obtaining Information

Petitioners have undertaken an extensive search of all information reasonably available that documents countervailable subsidies provided by the central, provincial, and local governments of China and identifies the structure and nature of the Chinese GOES industry. While the subsidy allegations presented in this Petition satisfy the countervailing duty statute and Commerce's regulations, obtaining evidence of the nature and amount of assistance received by specific Chinese producers has been complicated and made particularly challenging by the Chinese government's lack of transparency and the lack of publicly-available information in China.

Many of the subsidies benefiting producers in China are handled internally and are sui generis in nature, making them almost impossible to trace. The difficulty in obtaining accurate and complete information relating to countervailable subsidies is emphasized in the Office of the United States Trade Representative's 2007 National Trade Estimate, which states:

> China's subsidy programs are often the result of internal administrative measures and are not publicized. Sometimes they take the form of income tax reductions or exemptions. They can also take a variety of other forms, including mechanisms such as credit allocations, low-interest loans, debt forgiveness and reduction of freight charges.[43]

Likewise, the U.S.-China Business Council, in testimony before the Trade Policy Staff Committee, has stated that:

> The existence of illegal subsidies is difficult to prove . . .. However sixty-four percent of 2007 USCBC survey respondents indicated that they believe they compete with domestic Chinese

[43] See 2007 National Trade Estimate Report on Foreign Trade Barriers, United States Trade Representative, at 104 (Mar. 2007). **CVD Exhibit-14**.

> firms that receive subsidies, and 85 percent of those companies indicated that their competitiveness had been affected by those subsidies. In some cases, US companies do not know the specifics of the subsidies and can only speculate about their nature and impact. Other survey respondents specified preferential bank financing from state banks to local companies and direct subsidies for research and development.[44]

Furthermore, a working paper prepared for the U.S. International Trade Commission ("the ITC") found that preferential policies and regulations are common at regional levels of government in China.[45] For example, these regional governments can employ preferential programs to attract foreign investment.[46] Therefore, while national tax and policy incentives are theoretically handled in a uniform manner, they may be treated by local officials as a floor for subsidy opportunities rather than a ceiling.[47] Incentives to move beyond the scope of central government directives also extend to officials at government-owned banks, who must report to local or provincial authorities.[48] Thus, local bank officials may come under pressure from public officials to provide incentives that attract foreign investment to their regions. Such incentives could come in the form of favorable interest rates, preferable repayment schedules or terms, or even loan forgiveness.

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44 See "China's Implementation of Its World Trade Organization Commitments, An Assessment by the US-China Business Council," The U.S.-China Business Council, at 10-11, submitted on September 27, 2007, Trade Policy Staff Committee Hearing. **CVD Exhibit**-15.

45 See Shunli Yao, "Chinese Foreign Trade Performance and the China-US Trade: 1995-2004 - A Graphical Analysis Based on China Customs Statistics," at 3-5 (USITC Office of Economics Mar. 2008). **CVD Exhibit**-16.

46 See id. at 4.

47 See, e.g., "India Industry: The Lure of China," Economist Intelligence Unit (July 8, 2004) (describing how officials in Haiyan County provided an investor from India with a four-year VAT exemption, and how this exemption was not mentioned in any official policy). **CVD Exhibit-17**.

48 See Charles Wolf and K.D. Yeh, et al., "Fault Lines in China's Economic Terrain," at 126 (2003). **CVD Exhibit-18**.

Given the complexities involved in determining where and how subsidies originate and apply with respect to industries in China, Petitioners are unable to quantify specific countervailing duty margins. Nevertheless, whenever possible, Petitioners have provided factual information that gives a reasonable indication of the value of the subsidy to producers or exporters of the subject merchandise.

2. Petitioners Examined All Information "Reasonably Available"

In accordance with statutory and regulatory provisions setting forth requirements for countervailing duty petitions, this Petition presents all information "reasonably available" to Petitioners concerning possible countervailable subsidies available to and bestowed on producers of the subject merchandise in China. See 19 U.S.C. § 1671a(b)(1) and 19 C.F.R. § 351.202 (setting forth "reasonably available" standard). Commerce has explained that the "reasonably available" standard is satisfied when a petitioner has consulted:

> all available sources including libraries, embassies, and Department of Commerce (DOC) Central Records Unit (Room B-099). In order to demonstrate that all available sources were sought, Petitioner should describe in detail its methodology in seeking the required information.[49]

Notably, a petitioner does not have to prove at the outset that a subsidy allegation will be confirmed during the course of the investigation, nor does the petition have to establish that a potentially countervailable subsidy actually has been used for a subsidy allegation to be included in an investigation.

This Petition has been prepared in accordance with these guidelines. In developing the subsidy allegations set forth below, Petitioners examined all information reasonably available

[49] International Trade Administration, Department of Commerce, Form ITA-336P, Format for Requesting Petition Relief Under U.S. Countervailing Duty Law; see also Proposed Collection; Comment Request, 62 Fed. Reg. 8220 (Feb. 24, 1997).

from public sources concerning possible subsidies to the production of GOES in China. This information includes:

(1) past Commerce countervailing duty determinations (i.e., Federal Register notices and information from case dockets contained in the Central Records Unit) covering the country, subject merchandise, and or/producers included in this Petition;

(2) articles and news reports on the producers, industries, and country in question available through the World Wide Web and on-line data services;

(3) where available, publicly available financial information for the producers, industries, and country at issue in this Petition;

(4) previous countervailing duty petitions concerning merchandise produced in China; and

(5) where available, documents from government agencies concerning producers of the subject merchandise, industries in China, and the alleged subsidy programs.

Petitioners have identified a number of Chinese GOES producers or exporters that are believed to have benefited from countervailable subsidies. Their names, addresses, and other contact information appear in **Exhibit GENERAL-3** of the Petition Volume I. Petitioners believe that these producers and exporters have benefited from one or more of the countervailable subsidies discussed in detail below. Notwithstanding the extensive amount of material reviewed in preparing this Petition, information sufficient to calculate an ad valorem subsidy is not reasonably available to Petitioners.

3. Period of Investigation and Allocation Period for Non-Recurring Subsidies

Based on agency practice, the period of investigation ("POI") in this case should be January 1, 2012 through December 31, 2012. Petitioners' allegations relate to benefits received during that year, as well as to non-recurring benefits received during a broader time period. Consistent with Commerce's practice of allocating non-recurring subsidies over time, these earlier subsidies also benefited the subject merchandise during the POI.

For non-recurring subsidies, the allegations in this Petition presume a 15-year allocation period in accordance with the guidelines of the Internal Revenue Service ("IRS") for depreciating business or income-producing property placed into service after 1986. Specifically, the IRS assigns an average useful life ("AUL") of fifteen years to productive assets employed in the "manufacture of primary steel mill products," a classification that would include the GOES industry.[50] Commerce, therefore, should include in its investigation any countervailable subsidies potentially provided to GOES producers during the period January 1, 1998 through December 31, 2012.

II. SUBSIDY ALLEGATIONS

Petitioners allege that the following subsidies provided by the Chinese central, provincial, and local governments confer countervailable benefits to producers of grain-oriented electrical steel in China within the meaning of section 771(5) of the Act (19 U.S.C. § 1677(5)) and request that Commerce initiate an investigation of these subsidies to determine whether the imposition of countervailing duties is warranted.

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50 See U.S. Internal Revenue Service's "How to Depreciate Property" (Pub. 946 Cat. No. 13081F) (describing the "Class Life" for the "manufacture of primary steel mill products"). **CVD Exhibit-19.**

In addition, Petitioners reserve the right to supplement these subsidy allegations or make new allegations, as information becomes available during the course of the investigation, consistent with the Department's regulations. See Definition of Factual Information and Time Limits for Submission of Factual Information; Final Rule, 78 Fed. Reg. 21,246, 21,255 (Apr. 10, 2013) (implementing new 19 C.F.R. §§ 351.301(c)(2)(iv)(A) and (C) (allowing new subsidy allegations no later than 40 days before the preliminary determination and upstream subsidy allegations by no later than 60 days after the preliminary determination)); and 19 C.F.R. § 351.311 (requiring Commerce to investigate subsidies discovered during investigation).

A. Preferential Lending

1. Policy Loans

The Department has determined in various CVD investigations that certain Chinese industries receive policy loans.[51] The Department has based these determinations on substantial evidence including GOC statements in industrial planning documents. As discussed below, producers of subject merchandise benefit from GOC policy loans.

As previously noted, the Guidance Catalogue 2011 identifies silicon steel, a category of products including GOES, as encouraged.[52] In addition, the NDRC's Iron & Steel Plan designates specialty steel products as "key" and a "development priority."[53] The Iron & Steel Plan further identifies "leading specialty steel enterprises" for support – including Baosteel Specialty Steel, a producer of GOES.[54] The Iron & Steel Plan requires Chinese government

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51 See, e.g., OCTG I&D Memo at 12; CFS Paper I&D Memo at 9-10.

52 Guidance Catalogue 2011. **CVD Exhibit-10.**

53 Iron & Steel Plan, at 3. **CVD Exhibit-2.**

54 Id. at 2.

entities to strengthen "finance policies" for such entities, a clear indication that these companies are eligible for policy loans.[55]

The Specialty Steel Plan designates silicon/electrical steel (which includes GOES) as a key technology.[56] The plan also designates the development of silicon electrical steel as a key task for the 12th five-year period and calls for organizing national-level science and technology innovation teams focusing on electrical steel.[57] To help companies meet these development goals, the GOC calls for preferential financing policies.[58]

Another industrial policy that directs lending toward GOES producers is the Circular of the State Council on Printing and Distributing the 12th Five Year National Strategic Emerging Industry Development Plan.[59] This circular identifies "major projects" to include projects involving the application of "high magnetic induction grain-oriented silicon steel."[60] The circular further encourages financial institutions to increase credit loan supports to relevant industries.[61]

The Circular of Printing and Distributing the New Materials Industry 12th Five Year Development Plan also calls for policy lending to GOES producers.[62] According to the circular, relevant entities should:

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[55] Id. at 4.

[56] Specialty Steel Plan, at 1. **CVD Exhibit-3.**

[57] Id.

[58] Id.

[59] Circular of the State Council on Printing and Distributing the 12th Five Year National Strategic Emerging Industry Development Plan, Guo Fa (2012) No. 28. **CVD Exhibit-5.**

[60] Id. at 1.

[61] Id. at 2.

[62] Circular of Printing and Distributing the New Materials Industry 12th Five Year Development Plan (Jan. 4, 2012). **CVD Exhibit-6.**

> Strengthen the cooperation of government, enterprises, research institutes and financial institutions, and gradually form a "government, industry, academia, research, and financial" supporting and promoting system. (Portions omitted...) Encourage financial institutions to innovate credit loan products and services that match the development characteristics of the new materials industry, reasonably increase credit loan support, establish new materials industry development special loans at financial institutions such as China Development Bank, and actively support enterprises, projects, and industrial parks/zones that match the new materials industry development plan and policies. Support qualified new materials enterprises to finance by IPO, issue enterprise bonds and company bonds.[63]

As a consequence of national policies encouraging the production of subject merchandise described above, the production of GOES is supported by policy lending at the local level. Local governments have enthusiastically adopted and implemented these directives. As one example, Hubei Province encourages the production of electrical steel.[64] In particular, the Hubei Plan designates the "first silicon steel renovation project" of WISCO as a "key project."[65] The Hubei Plan states that local authorities in "{a}ll regions should attach importance to the sustainable development of the metallurgy industry, ... focus on the targets and tasks set forth in the Plan," and coordinate "industrial policies and local economic and social development general plans."[66] Finally, the Hubei Plan calls on all authorities within the province to "increase fiscal and financial supports to enterprises undertaking merger & acquisition and restructuring, and expand such enterprises' financing channels in the capital market."[67]

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63 Id. at 2.

64 Hubei Plan. **CVD Exhibit-13**.

65 Id.

66 Id.

67 Id.

Information reasonably available to Petitioners demonstrates that producers of GOES have received financing at preferential rates from state-owned banks. GOES producer Angang Steel Co., Ltd., a subsidiary of Anshan Iron & Steel Group Corporation (collectively, "Angang Group"), obtained several long-term loans from state-owned banks at interest rates lower than the reference rates set by the People's Bank of China ("PBC"). These include:

- One three-year, 500 million RMB loan from China Construction Bank at a rate of 5.99% in July 2011 (compared with the reference rate of 6.65%); and

- Two three-year, 500 million RMB loans from the Agricultural Bank of China at a rate of 5.76% in May 2011 (compared with the reference rate of 6.40%).[68]

Special loans for producers of subject merchandise are not limited to the Angang Group. GOES producer Baoshan Iron & Steel Co., Ltd. ("Baosteel"), an arm of the Baosteel Group Corporation ("Baosteel Group"), received three long-term loans totaling 750 million RMB as of 2012 from China Construction Bank at rates below the reference rate issued by the PBC.[69] WISCO, the GOES-producing subsidiary of Wuhan Iron and Steel (Group) Corp. ("WISCO Group"), received a 78 million RMB long-term loan from the Bank of China in 2011 at an interest rate below the reference rate issued by the PBC.[70]

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[68] 2012 Annual Report of Angang Steel Co., Ltd., at 174. **CVD Exhibit-20**. See also "RMB Loan Benchmark Interest Rate of Financial Institutions," Website of the People's Bank of China (July 6, 2012) ("RMB Loan Benchmark"). **CVD Exhibit-21**. Few loans are issued at an interest rate below the PBC benchmark rate. According to the PBC's statistics, only 11.18% of the loans issued in May 2011 and 8.53% of the loans issued in July 2011 were at an interest rate below the benchmark rate. China Monetary Policy Report – Quarter Two, 2011 (Aug. 10, 2011), at 7. **CVD Exhibit-22**. China Monetary Policy Report – Quarter Three, 2011 (Nov. 16, 2011), at 7. **CVD Exhibit-23**.

[69] 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 102. **CVD Exhibit-24**. See also RMB Loan Benchmark. **CVD Exhibit-21**.

[70] 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 116. **CVD Exhibit-25**.

As these examples demonstrate, reasonably available information indicates that numerous provinces have implemented industrial plans that encourage the production of specialty steel products, including GOES. This information also indicates that these governments have directed Chinese banks to lend to producers of such products. Given the national-level support directed to the specialty steel industry in the Iron & Steel Plan and Specialty Steel Plan, similarities between the programs, and competition among provinces for manufacturing facilities, each province with significant production of GOES likely has a similar program. Consequently, Petitioners believe this is a nation-wide subsidy program implemented at the provincial level.

a. Financial Contribution

The provision of loans by GOC-controlled banks constitutes a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. It is the Department's policy to consider loans provided by government policy banks, such as the China Development Bank, as direct loans from the government and thus direct financial contributions under the Act.[71]

b. Benefit

Pursuant to 19 C.F.R. § 351.505 and section 771(5)(E)(ii) of the Act, the benefit from any loan from the GOC or a GOC-controlled bank is equal to the difference between what the recipient paid on the government-provided loan and the amount the recipient would have paid for a comparable commercial loan that it could actually have obtained in the market.[72]

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71 See, e.g., CFS Paper Preliminary Determination, 72 Fed. Reg. at 17,493.

72 The Department repeatedly has found that Chinese domestic interest rates are distorted by significant government intervention in the banking sector and, thus, are unsuitable as benchmarks. See, e.g., Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China, at 4-7 (Feb. 19, 2013). Accordingly, the agency has used external benchmarks to calculate the benefit from all GOC loans. See id. The same practice should be applied in the instant case.

c. **Specificity**

Policy loans to Chinese producers of subject merchandise are de jure specific because, as described above, the GOC, through its constituent provinces and municipalities, has a policy in place to encourage and support the growth of the industry producing subject merchandise. 19 U.S.C. § 1677(5A)(D)(i). In addition, as explained in China's WTO Accession Protocol, loans from Chinese policy banks are by their very nature discretionary and, consequently, specific.[73]

2. **Preferential Export Financing**

The Department has frequently found that the GOC's policy banks and state-owned commercial banks ("SOCBs") provide preferential loans to exporters, including exporters in the steel industry. In OCTG, for example, the Department determined that a steel pipe exporter received preferential export financing from the Export-Import Bank of China, a government policy bank.[74] The Department made a similar finding in Line Pipe.[75] As discussed above, the GOC specifically encourages specialty steel enterprises, such as GOES producers, in official pronouncements including the Steel Plan.[76] Moreover, the Iron & Steel Plan mandates that government entities "coordinate" finance and trade policies in light of this designation.[77] Similarly, the Specialty Steel Plan designates the development of electrical steel as a key task and calls for financial and trade policies to help companies achieve that development.[78]

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73 See Annex 5A to the Protocol on the Accession of the People's Republic of China to the World Trade Organization at IX. **CVD Exhibit-26.**

74 OCTG I&D Memo at 12-13.

75 Line Pipe I&D Memo at 23-24.

76 Steel Plan, at Art. 19. **CVD Exhibit-1.**

77 Iron & Steel Plan, at 4. **CVD Exhibit**-2.

78 Specialty Steel Plan, at 2. **CVD Exhibit-3.**

Chinese exporters of GOES are eligible to receive special export financing because the production of specialty steel, such as GOES, is encouraged by the GOC. Producers of GOES have been designated as high- or new-technology enterprises ("HNTE").[79] The Export-Import Bank of China is a state-owned policy bank that supports the exports of Chinese electromechanical products and high-tech products.[80] As one example of this policy in practice, Baosteel received 600 million RMB in long-term loans from the Export-Import Bank of China as of 2012.[81]

a. Financial Contribution

The Department has determined that such loans constitute a financial contribution under section 771(5)(D)(i) of the Act.

b. Benefit

Export loans confer a benefit to the extent that they are provided on terms better than would be available from market sources. See 19 C.F.R. § 351.505 and section 771(5)(E)(ii) of the Act.[82]

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79 Baoshan Iron & Steel, Sustainability Report (2006), at 74. **CVD Exhibit-27**.

80 "2013 Recruitment Notice of the Export-Import Bank of China Ningbo Branch," Website of the Export-Import Bank of China (Mar. 1, 2013). **CVD Exhibit-28**.

81 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 102. **CVD Exhibit-24**.

82 The Department repeatedly has found that Chinese domestic interest rates are distorted by significant government intervention in the banking sector and, thus, are unsuitable as benchmarks. See, e.g., Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China, at 4-7 (Feb. 19, 2013). Accordingly, the agency has used external benchmarks to calculate the benefit from all GOC loans. See id. The same practice should be applied in the instant case.

c. **Specificity**

Because they are contingent on export performance, export loans are specific under section 771(5A)(B) of the Act, and thus, the Department should investigate whether any GOES producers benefited from export loans provided by state-owned banks.

3. **Preferential Loans for SOEs**

The Department previously has investigated and countervailed preferential lending to SOEs. For example, in OCTG, the Department countervailed low-interest loans to an SOE respondent.[83] In the instant case, certain GOES producers, such as Baosteel[84] and Angang Group,[85] are state- or collectively-owned enterprises. Accordingly, the Department should investigate any loans provided to SOE producers of GOES, whether as policy loans for specialty steel producers or loans to SOEs.

a. **Financial Contribution**

Loans from GOC-controlled banks to SOEs constitute financial contributions under Section 771(5)(D)(i) of the Act.

b. **Benefit**

Pursuant to 19 C.F.R. § 351.505 and section 771(5)(E)(ii) of the Act, the benefit from any loan from the GOC or a GOC-controlled bank is equal to the difference between what the recipient paid on the government-provided loan and the amount the recipient would have paid for a comparable commercial loan that it could actually have obtained on the market.[86]

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83 OCTG I&D Memo at 12.

84 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 30. **CVD Exhibit-24.**

85 2012 Annual Report of Angang Steel Co., Ltd., at 65. **CVD Exhibit-20.**

86 The Department repeatedly has found that Chinese domestic interest rates are distorted by significant government intervention in the banking sector and, thus, are unsuitable as benchmarks. See, e.g., Issues and Decision Memorandum for the Final Determination in the

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c. Specificity

Preferential loans to SOEs are de facto specific under Section 771(5A)(D)(iii)(I) of the Act, because the recipients are a limited group of enterprises, SOEs. Petitioners further note that pursuant to ¶ 10.2 of China's WTO Accession Protocol, subsidies provided to SOEs are deemed specific when SOEs are the predominant recipients of such subsidies or receive disproportionately large amounts of such subsidies.[87]

B. Tax Programs

1. Income Tax Reductions for HNTEs

Under China's new tax regime, enterprises that are qualified as high- or new-technology enterprises are entitled to a reduced tax rate of 15 instead of 25 percent.[88] Additional tax benefits may also be available to HNTEs. For example, Circular Guofa 2007 No. 40 provides that certain HNTEs located in a special economic zone (i.e., Shenzhen, Zhuhai, Shantou, Xiamen or Hainan Special Economic Zone) or in the Pudong New District of Shanghai are exempt from income taxes for the first two years after earning income from production and pay only half of the

(footnote cont'd from previous page)
Countervailing Duty Investigation of Drawn Stainless Steel Sinks from the People's Republic of China, at 4-7 (Feb. 19, 2013). Accordingly, the agency has used external benchmarks to calculate the benefit from all GOC loans. See id. The same practice should be applied in the instant case.

87 See China's WTO Accession Protocol, ¶ 10.2. **CVD Exhibit-26.**

88 See Enterprise Income Tax Law of The People's Republic of China, Order of the President of the People's Republic of China No. 63 (Mar. 16, 2007) ("Enterprise Income Tax Law"). **CVD Exhibit-29.**

standard tax rate for the next three years.[89] There are certain additional requirements related to how long a company has been in existence.[90]

Companies must be engaged in certain activities to be eligible for support under this program.[91] Baosteel published a report indicating that the company makes "every effort to attain governmental financial policy support" and that it obtained a "High and New Technology Export Seller's Credit" from a Chinese policy bank, indicating that the GOC considers Baosteel to be a HNTE.[92]

a. Financial Contribution

An income tax exemption or reduction qualifies as a financial contribution in the form of revenue forgone by the government in accordance with Section 771(5)(D)(ii) of the Act.

b. Benefit

This program provides a benefit to the recipient in the amount of the tax savings from the program. See 19 C.F.R. § 351.509(a)(1).

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89 See Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-tech Enterprises Newly Set up in Special Economic Zones and in Pudong New District of Shanghai, Guo Fa 2007 No. 40 (Dec. 26, 2007). **CVD Exhibit-30**.

90 See Implementation Regulations of the Corporate Income Tax Law of the People's Republic of China. **CVD Exhibit-31.** See also Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology, Ministry of Finance, and State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises, GuoKeFaHuo (2008) No. 172. **CVD Exhibit-32**. Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for Hi-Tech Enterprises, Guo Shui Han (2009) No. 203 (Apr. 22, 2009). **CVD Exhibit-33**.

91 See id. In addition, there are requirements related to revenue streams, intellectual property rights, and R&D.

92 Baoshan Iron & Steel, Sustainability Report 2006, at 74. **CVD Exhibit-27**.

c. Specificity

Income tax reductions for HNTEs are specific within the meaning of Section 771(5A)(D)(i) of the Act, because it is limited as a matter of law to only certain enterprises.

2. Income Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment

According to China's 2006 WTO subsidies notification, the GOC offers preferential income tax policies to domestic enterprises if these enterprises upgrade their manufacturing operations with Chinese-made equipment.[93] The notification explains that domestic enterprises that upgrade technology consistent with the GOC industrial policies may deduct 40 percent of the cost of equipment from their next year's income tax obligation.[94] In those circumstances where the income tax due is less than 40 percent of the cost of the machinery, the remainder of the cost may be deducted in subsequent years, for a period up to five years.[95]

During the Department's Line Pipe investigation, the GOC stated that this program was terminated effective January 1, 2008, pursuant to the Circular on Relevant Issues with Respect to Ceasing Implementing of Income Tax Credit to Purchase of Domestically Produced Equipment by Enterprises.[96] However, because these income tax credits were provided for equipment, the benefit from this subsidy is tied to the company's capital assets and, thus, could continue to benefit the subject merchandise as a non-recurring subsidy.[97] The Department, therefore, should

93 See GOC WTO Notification at LIX. **CVD Exhibit-34**.

94 See id.

95 See id.

96 Line Pipe I&D Memo at 79.

97 See 19 C.F.R. § 351.524(c)(2)(iii).

examine whether benefits under this program continue to benefit GOES producers, were grandfathered, or exist under a new name.

a. Financial Contribution

Pursuant to Section 771(5)(D)(ii) of the Act, income tax credits constitute financial contributions in the form of revenue forgone by the government.

b. Benefit

This program provides a benefit to the recipient in the amount of the tax savings from the program. See 19 C.F.R. § 351.509(a)(1).

c. Specificity

The income tax credit is deemed specific under Section 771(5A)(C) of the Act, because it is contingent upon the use of domestic over imported goods.

3. Import Tariff and VAT Reductions for FIES and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

The State Council's Circular on Adjusting Tax Policies on Imported Equipment exempts both Foreign Invested Enterprises ("FIEs") and certain domestic enterprises in encouraged industries from paying value-added taxes ("VAT") and tariffs on imported equipment not for resale.[98] The objective of this program is to encourage foreign investment and to introduce advanced equipment from abroad into China for the upgrading of domestic industrial technology.[99] The Department has countervailed this program in past investigations.[100]

98 See Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment Guo Fa (1997) No. 37. **CVD Exhibit-35**. See also CFS Paper I&D Memo at 13.

99 Id. See also GOC WTO Notification at LX. **CVD Exhibit-34**.

100 See, e.g., OTR Tires I&D Memo at 22-23.

a. Financial Contribution

Import tariff and VAT exemptions provide a financial contribution in the form of revenue foregone by the GOC in accordance with Section 771(5)(D)(ii) of the Act.

b. Benefit

This program provides a benefit to the recipient in the form of the tax savings from the program. See 19 C.F.R. § 351.510(a)(1).

c. Specificity

The Department has found this program to be specific on a de facto basis under Section 771(5A)(D)(iii)(I) of the Act, because the actual recipients of the subsidy are limited in number.[101]

C. Government Provision of Goods and Services for Less Than Adequate Remuneration

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

In China, all land is owned by the State.[102] As a result, the GOC has exceptional influence over supply and demand for land, as well as over the terms on which it is offered for industrial use.[103] The evidence available to Petitioners indicates that Chinese producers of GOES benefit from the government provision of land-use rights for less than adequate remuneration.

A variety of national and local industrial plans call for authorities to use land and land policies to support encouraged industries, including GOES production. The Iron & Steel Plan

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101 See OTR Tires I&D Memo at 22; see also CFS Paper I&D Memo at 87-88.

102 See Line Pipe I&D Memo at 15.

103 See, e.g., Preliminary Affirmative Countervailing Duty Determination of Certain New Pneumatic Off-the-Road Tires from the People's Republic of China, 72 Fed. Reg. 71,360, 71,368 (Dec. 17, 2007) ("OTR Tires Preliminary Determination").

designates the GOES and other "specialty steel products" as "key"[104] and mandates that government entities "coordinate" their "land policies" in light of this designation.[105] Similarly, the Specialty Steel Plan promotes the production of silicon steel, including GOES, through "land policies."[106] For its part, Hubei Province has designated silicon steel as a "key project"[107] and further directs the local authorities to support such projects through "industrial policies and local economic and social development general plans, and well handle the coordination with ... land, environment, and other policies."[108]

As the Department is aware from prior investigations, in addition to discounted land for encouraged industries and companies, the GOC also provides preferential land-use rights to SOEs. As the Department has found in prior investigations, SOEs are eligible to receive "allocated" land-use rights (as opposed to "granted" or "conveyed" land-use rights).[109] Allocated land-use rights are transferred from the State to an SOE for a nominal, one-time charge and annual fee and do not expire.[110] In the preliminary determination in OTR Tires, the Department noted that "the information on the record indicates that allocated land-use rights, which can only be transferred to state entities and which are subject to significantly different terms than granted land-use rights, are specific to SOEs pursuant to section 771(5A)(D)(i) of the Act."[111] The fees associated with allocated land-use rights do not approximate or reflect market values, and, as a

104 Iron & Steel Plan, at 3. **CVD Exhibit-2.**

105 Id. at 4.

106 Id.

107 Hubei Plan. **CVD Exhibit-13.**

108 Id.

109 OTR Tires Preliminary Determination, 72 Fed. Reg. at 71,368.

110 Id.

111 Id.

result, recipients of this type of land-use rights benefit from a countervailable subsidy. Producers of GOES that are SOEs include Angang,[112] Baosteel,[113] and WISCO.[114]

a. Financial Contribution

As the Department has found in its prior investigations, the provision of land-use rights constitutes a financial contribution from the GOC within the meaning of Section 771(5)(D)(iii) of the Act.

b. Benefit

As detailed above, the information available to Petitioners indicates that the GOC provides allocated land-use rights to SOEs at a nominal fee, thus providing a benefit within the meaning of 19 C.F.R. § 351.511(a)(2).[115] Due to the market distortions resulting from the GOC's ownership and control of all land in China, the Department should calculate the amount of the benefit through a comparison to land-use values in a market economy at a similar stage of economic development that is reasonably proximate to China.[116] The benefit will be the difference between the price paid and the amount the recipient would have paid in reference to the market benchmark.

c. Specificity

"Allocated" land-use rights are only available to SOEs, a select group of enterprises, making the government provision of allocated land-use rights at below-market prices specific

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112 2012 Annual Report of Angang Steel Co., Ltd., at 65. **CVD Exhibit-20.**

113 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 30. **CVD Exhibit-24**.

114 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 33. **CVD Exhibit-25**.

115 Petitioners note that, pursuant to ¶ 15 of China's WTO Accession Protocol, the Department may ". . . use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks." **CVD Exhibit-26.**

116 See, e.g., LWS I&D Memo at 14-18.

under Section 771(5A)(D)(i) of the Act.[117] Petitioners further note that pursuant to ¶ 10.2 of China's WTO Accession Protocol, subsidies provided to SOEs are deemed specific when SOEs are the predominant recipients of such subsidies, or receive disproportionately large amounts of such subsidies.[118]

2. Provision of Electricity for Less Than Adequate Remuneration

The Department has investigated the provision of electricity for less than adequate remuneration in numerous other investigations, including OCTG and Seamless Pipe.[119] In those investigations, the Department found that electricity rates vary across regions and stated that it would continue to investigate the provision of electricity for less than adequate remuneration in future investigations and administrative reviews.[120]

Further, in the instant case, new agencies report that Hubei Province had "to ration power supplies to energy-guzzling industries such as steel, aluminum and cement as it copes with severe coal shortages."[121] Despite Hubei's rationing of electricity, WISCO "had been unaffected."[122] At the same time that Hubei "was experiencing a daily power shortfall," WISCO stated that "{i}t is a fact that power plants lack coal but our electricity supply is still normal and steel production has not been disrupted . . ..."[123] These facts underscore the need for the

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117 OTR Tires Preliminary Determination, 72 Fed. Reg. at 71,368.

118 See China's WTO Accession Protocol, ¶ 10.2. **CVD Exhibit-26**.

119 Seamless Pipe I&D Memo at 4, 10 & 18-19.

120 Line Pipe I&D Memo at 29-30.

121 "China's Hubei Cuts Power To Steel Companies As Coal Shortage Hits," Reuters (Jan. 6, 2011). **CVD Exhibit-36**.

122 Id.

123 Id.

Department to investigate anew the provision of electricity in relation to GOES producers, a conclusion fully supported by the agency's own findings.[124]

a. **Financial Contribution**

The provision of electricity for less than adequate remuneration by the GOC confers a financial contribution under Section 771(5)(D)(iii) of the Act, because the GOC is providing GOES producers a good or service.[125]

b. **Benefit**

A benefit is conferred under Section 771(5)(E)(iv) of the Act to the extent electricity is provided to GOES producers for less than adequate remuneration. See also 19 C.F.R. §351.511(a).

c. **Specificity**

In prior CVD investigations, the Department has found that the GOC provides different electricity rates for distinct jurisdictions in China.[126] This discriminatory provision of lower-cost electricity in certain designated geographic regions within the jurisdiction of the authority

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[124] See Memorandum to David Spooner Regarding the Post-Preliminary Findings for New Subsidy Allegations in the Countervailing Duty Investigation of Lightweight Thermal Paper from the People's Republic of China, at 4-5 (Sept. 2, 2008) ("Thermal Paper Post-Prelim. Memo"), at 4-5 ("Recommend{ed} ... that, in light of the new evidence regarding the role of the NDRC in setting prices discovered during the verification of this case, in any future administrative review of this proceeding as well as in other China CVD proceedings ... we intend to investigate and analyze further the electricity rate-setting authority in China and the considerations that go into setting those rates.") (emphasis added). **CVD Exhibit-37**.

[125] The provision of electricity to individual companies does not fall within the "general infrastructure" exception of section 771(5)(D)(iii) of the Act, because it cannot be construed as a financial contribution "created for the broad societal welfare," as required by 19 C.F.R. § 351.511(d). See also Thermal Paper I&D Memo at Section I.N.

[126] See Thermal Paper Post-Prelim. Memo at 4-5 ("The record further shows that the NDRC set different rate adjustments for different jurisdictions. These facts support a finding of regional specificity with respect to electricity rates in Guangdong Province."). **CVD Exhibit-37**; unchanged at final, see Thermal Paper I&D Memo at 22-23.

providing the subsidy renders this program regionally specific under Section 771(5A)(D)(iv) of the Act.

D. Government Purchase of Goods for More Than Adequate Remuneration

1. GOC Purchase of GOES for More Than Adequate Remuneration

As noted in Section I.C., the GOC has created and implemented a comprehensive policy directing the development of the Chinese specialty steel and GOES industry. As part of its policy to assist directly in the development and expansion of this industry, the GOC has implemented a program to purchase steel from Chinese producers at prices that exceed world market prices. Such procurements are specific, financial contributions that result in a significant benefit to China's GOES producers.

The law that covers government procurement in China is the Government Procurement Law of the People's Republic of China (the "Government Procurement Law"). Adopted in 2002, the Government Procurement Law permits government agencies in China to procure imported goods or services only when domestic goods or services are either unavailable or cannot be obtained under "reasonable commercial terms."[127] In particular, Article 10 of China's Government Procurement Law provides:

> The government shall procure domestic goods, construction and services, except in one of the following situations:
>
> (1) where the goods, construction or services needed are not available within the territory of the People's Republic of China or, though available, cannot be acquired on reasonable commercial terms;
>
> (2) where the items to be procured are for use abroad; and

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[127] Government Procurement Law of the People's Republic of China, Order of the President No. 68, at Art. 10 (June 29, 2002). **CVD Exhibit-38.**

(3) where otherwise provided for by other laws and administrative regulations.[128]

This law applies to all levels of government procurement -- national, provincial, and local.[129]

Moreover, the draft regulations implementing the Government Procurement Law guarantee that Chinese companies will benefit from significant pricing preferences. The GOC's draft Implementation Regulations on the Government Procurement Law of the People's Republic of China state that "{t}he situation where reasonable commercial terms' {sic} are not available for procurement under Article 10 refers to instances where the lowest offered price for domestic goods, construction or services, that meet the requirements of procurement documents, exceeds the lowest offered price for foreign goods, construction or services by more than 20 percent."[130] Essentially, this means that goods procured from domestic sources have an automatic 20-percent price premium over any goods offered from foreign sources.

Beginning in 2006, the GOC took another important step to secure preferences for domestic Chinese companies in government procurement when the GOC adopted its policy of promoting "indigenous innovation."[131] Under this policy, government agencies work cooperatively to develop measures that favor products that use indigenously-developed ideas and technology.[132] In the wake of this policy pronouncement, government agencies at all levels have implemented preferential policies, product catalogues, financing schemes, and other tools aimed

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128 Id.

129 See U.S.-China Business Council, PRC Government Procurement Policy (July 2009) at 3, **CVD Exhibit-39**.

130 Implementation Regulations on the Government Procurement Law of the People's Republic of China (Draft) (Jan. 11, 2010). **CVD Exhibit-40**.

131 U.S.-China Business Council, Issue Brief: New Developments in China's Domestic Innovation and Procurement Policies (Jan. 2010) at 1. **CVD Exhibit-41**.

132 Id.

at furthering the indigenous innovation goals in government procurement.[133] Subsequently, the GOC released the Selected Supporting Policies for the 2006-2020 Medium and Long-Term Science and Technology Development Plan issued in 2006.[134] This plan developed preferences for indigenous-innovation products in price-based bidding.[135]

In 2007, the pricing preferences for indigenously-produced products were further strengthened when the GOC issued the 2007 Evaluation Measure on Indigenous Innovation Products for Government Procurement (the "Evaluation Measures").[136] Article 13 of the Evaluation Measures provides that indigenous innovation products shall be given preferences at a margin of 5-10 percent in the event that price is the sole determining factor, while Article 14 states that indigenous innovation products shall enjoy an additional 4- to 8-percent margin on technical and price evaluations if comprehensive evaluation methods are used.[137]

Furthermore, the GOC's industrial policies provide that specialty or silicon steel should be used in government projects. The Specialty Steel Plan calls for the development of silicon steel to meet "the need of the power industry."[138] Similarly, the Steel Plan calls on specialty steel enterprises to "produce special steel for the use of the military industry."[139] Information available to Petitioners indicates that Baosteel and WISCO developed silicon steel specifically for GOC's electricity projects, to supplant the need for foreign-sourced GOES.

133 Id.

134 Id. at 3.

135 Id.

136 Id.

137 Id.

138 Specialty Steel Plan, at 1. **CVD Exhibit-3.**

139 Steel Plan, at Art. 19. **CVD Exhibit-1.**

In particular, the Three Gorges Project is one of the world's largest hydropower-complex projects and the key project for improvement and development of the Yangtze River.[140] Although imported electrical steel was initially used to construct the Three Gorges Dam, the GOC preferred to use Chinese steel for the project. Baosteel commissioned its production line for GOES in May 2008.[141] By 2010, Baosteel had supplied 1,000 metric tons of GOES to the Three Gorges Dam Project.[142] Reportedly, Baosteel's silicon steel products were selected by the Three Gorges Project specifically to substitute domestic silicon steel for imported silicon steel in 2010.[143] Supplying the Three Gorges Dam has been extremely profitable for Baosteel. In 2010, Baosteel's silicon steel gross profit increased by 100.39% year-over-year.[144] This increase in profit likely resulted from the 8.5% year-over-year increase in GOES output,[145] which likely was sold to the GOC for the Three Gorges Dam Project.

Baosteel is not the only GOES producer to supply the Three Gorges Dam. WISCO also was selected by the GOC as a supplier to the Three Gorges Project in 2010.[146] Moreover, WISCO has been granted contracts to supply other hydroelectrical projects.[147]

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140 "Three Gorges Projects," Website of China Three Gorges Corporation. **CVD Exhibit-42.**

141 "Baosteel's output of grain-oriented silicon steel exceeds 100,000 mt in past year," Steel Orbis (Oct. 8, 2010). **CVD Exhibit-43**.

142 Id.

143 2010 Annual Report of Baoshan Iron & Steel Co., Ltd., at 25. **CVD Exhibit-44.**

144 "Baosteel Silicon Steel Business Performed Well In 2010," Steel Guru (Jan. 7, 2011). **CVD Exhibit-45.**

145 Id.

146 2010 Annual Report of Wuhan Iron & Steel Co., Ltd., at 27. **CVD Exhibit-46.**

147 "Wuhan Iron and Steel Co., Ltd.: WISCO won supply contract for the world largest hydroelectric generating unit," 4-Traders (June 25, 2012). **CVD Exhibit-47**.

Government purchases of goods for more than adequate remuneration have been found by the Department to provide a countervailable subsidy in several prior proceedings. In Uranium from France, for example, the Department found that Eurodif, the respondent in the investigation, received a countervailable benefit resulting from purchases of low enriched uranium by EdF, a wholly-owned subsidiary of the Government of France, for more than adequate remuneration.[148] The Department found that this constituted a financial contribution provided by the Government of France under section 771(5)(D)(iv) of the Act.[149]

Similarly, in Stainless Steel Sheet and Strip in Coils from the Republic of Korea, the Department found that the purchase by POSCO (a company owned and controlled by the Government of Korea), the specialty steel bar and pipe division of the respondent company, Sammi, was made for more than adequate remuneration.[150] The Department found this transaction provided a financial contribution to Sammi under section 771(5)(D) of the Act, which was specific in accordance with section 771(5A)(D)(i) of the Act.[151]

a. Financial Contribution

The entities purchasing GOES are government entities, entities that are majority-owned by the Chinese government at the national, provincial, or local level, making purchases for construction and infrastructure improvements to the Three Gorges Project. Consistent with the

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148 Notice of Final Affirmative Countervailing Duty Determination: Low Enriched Uranium From France, 66 Fed. Reg. 65,901 (Dec. 21, 2001), and accompanying Issues and Decision Memorandum.

149 See id.

150 Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 64 Fed. Reg. 30,636, 30,643 (June 8, 1999).

151 Id.

Department's findings in Stainless Steel Sheet and Strip in Coils from the Republic of Korea,[152] majority-government-owned entities are government authorities capable of providing a financial contribution in accordance with section 771(5)(D) of the Act.[153]

b. Benefit

Section 771(5)(E)(iv) of the Act states that a countervailable benefit may be provided through a government's purchase of a good for "more than adequate remuneration." Section 771(5)(E)(iv) of the Act goes on to provide that the adequacy of remuneration will be determined in relation to the prevailing market conditions for the goods being purchased in the country that is subject to investigation.

Government procurement of goods at prices higher than those prevailing in the world market is considered by many as one of the problems in China's government procurement activities.[154] Petitioners have conducted an exhaustive search for information regarding the actual prices paid by GOC entities and by government-owned companies, but public sources do not reveal this information. Petitioners, however, believe that the pricing preferences inherent in

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[152] Id. ("Based on the information on the record, we determine that the actions of POSCO should be considered as an action of the GOK because POSCO is a government-controlled company. During the POI, the GOK was the largest shareholder of POSCO. The shareholdings of the GOK are approximately ten times larger than the next largest shareholder. . .. In addition, the Chairman of POSCO is appointed by the GOK. . .. Half of POSCO's outside directors were appointed by the GOK and the Korean Development Bank . . .. POSCO is also one of three companies designated as a 'Public Company' by the GOK.").

[153] This practice also is consistent with the treatment of government entities for purposes of allegations regarding the government provision of goods for less than adequate remuneration in recent countervailing duty investigations involving China. See, e.g., OCTG I&D Memo at 70-71.

[154] See "Guangdong Legislation Attempts to Solve 'Chronic Problems' in Government Procurement," *Bid Winning Net* (Aug. 12, 2009). **CVD Exhibit-48**. See also "Problems in Supply by Agreement and Resolution Strategies," *Ningbo City Government Procurement Net* (Feb. 16, 2009). **CVD Exhibit-49**.

China's various government procurement laws and regulations, as well as in the indigenous innovation program (that is, the information reasonably available to Petitioners), provide sufficient basis for the Department to initiate an investigation of whether GOC procurement of silicon steel, including GOES, may result in a benefit to Chinese producers.

c. Specificity

Article 10 of the Government Procurement Law requires the GOC to source goods, construction, and other services from domestic companies. The only exception for this mandate is when the goods, construction, or services cannot be purchased on reasonable economic terms, when the procured items are services for use abroad, or where otherwise provided for by other laws or regulations, i.e., only under very circumscribed situations.[155]

Consequently, as a matter of law, the GOC's government procurement program is contingent upon the use of domestic goods over imported goods and, therefore, is specific under section 771(5A)(C) of the Act.

E. Grant Programs

1. The State Key Technology Renovation Project Fund

The Department has countervailed the State Key Technology Renovation Project Fund program in past investigations.[156] The program was created pursuant to state circular Guojingmao Touzi (1999) No. 886 ("Circular No. 886") and operates under regulatory guidelines including the Measures for the Administration of National Debt Special Fund for National Key Technology Renovation Project (the "Special Fund Measures"), Guojingmao

155 Government Procurement Law of the People's Republic of China, Order of the President No. 68, at Art. 10 (June 29, 2002) ("The definitions for the domestic goods, construction or services mentioned in the preceding paragraph shall be applied in accordance with the relevant regulations of the State Council."). **CVD Exhibit-38**.

156 See, e.g., OTR Tires I&D Memo at 23-24; OCTG I&D Memo at 15-16.

Touzi (1999) No. 122, Guojingmao Touzi (1999) No. 1038, and Guojingmao Touzi (2000) No. 822.[157] According to the GOC, the program is intended to promote: (a) technological renovation in key industries, enterprises, and products; (b) technology upgrades; (c) improvements in product structure; (d) improvements in quality; (e) increases in supply; (f) the expansion of domestic demand; and (g) further development of the state economy.[158]

Under this program, companies apply for funds to cover the cost of financing specific renovation projects. Under Paragraph 9 of the Special Fund Measures, payments are disbursed in the form of "project investment facility" grants covering two years of interest payments on loans to fund the project, or up to three years for enterprises located in the northeast, central or western areas of China.[159] The total amount of the grant is not to exceed 15 percent of the project cost.[160] Further, under Article 11 of the Special Fund Measures, Key Technology Program funds may also be disbursed as "loan interest grant," which are calculated with reference to the amount of the project loans and prevailing interest rates during a period of one to two years.[161]

In addition, Article 8 of Circular No. 886 states that the recipients of these funds will be selected primarily from large state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups, and other leading enterprises.[162] Article 8 also states that preference in recipient selection will be given to the "enterprises located

157 See CFS Paper Preliminary Determination, 72 Fed. Reg. at 17,491.

158 See id.

159 See Notice Concerning the Promulgation and Circulation of "Measures for the Administration of National Key Technological Renovation Projects" and "Measures for the Administration of Treasury-Bond Special Fund for National Key Technological Renovation Projects" Guo Jing Mao Touzi (1999) No. 886, at 10 (Sept. 10, 1999). **CVD Exhibit-50.**

160 See id.

161 See id.

162 See id.

in north-east, central, and west areas."[163] As companies engaged in an industry strongly encouraged and designated as "key" by the GOC, Chinese GOES producers should be eligible for this program.[164]

a. <u>Financial Contribution</u>

This program provides a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.

b. <u>Benefit</u>

The benefit equals the amount(s) of the grant(s) in accordance with 19 C.F.R. § 351.504(a).

c. <u>Specificity</u>

This program is specific under Section 771(5A)(D)(i) of the Act, because it is limited as a matter of law to certain enterprises, <u>i.e.,</u> large-sized, state-owned enterprises and large-sized, state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries.[165] Petitioners further note that pursuant to ¶ 10.2 of China's WTO Accession Protocol, subsidies provided to SOEs are deemed specific when SOEs are the predominant recipients of such subsidies or receive disproportionately large amounts of such subsidies.[166]

2. <u>The State Science and Technology Support Scheme</u>

As explained in the Circular of Ministry of Science and Technology and Ministry of Finance on Printing and Distributing Interim Measures on Administration of State Science and

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163 <u>See</u> <u>id.</u>

164 Specialty Steel Plan, at 1. **CVD Exhibit-3.**

165 <u>See</u> <u>CFS Paper Preliminary Determination</u>, 72 Fed. Reg. at 17,491.

166 <u>See</u> China's WTO Accession Protocol, ¶ 10.2. **CVD Exhibit-26.**

Technology Support Scheme, the State Science and Technology Scheme was established to implement the National Mid-term and Long-term Science and Technology Plan (2006-2020).[167] Supervised by the Ministry of Science and Technology ("MOST") and the Ministry of Finance ("MOF"), the State Science and Technology Scheme supports research aimed at resolving scientific or technological problems in the area of economic and social development through grants from the central government.[168]

a. Financial Contribution

This program provides a financial contribution, because it represents a direct transfer of funds in the form of a grant consistent with Section 771(5)(D)(i) of the Act.

b. Benefit

Grants provided under the State Science and Technology Scheme provide a benefit in the amount of the grant(s) according to 19 C.F.R. § 351.504(a).

c. Specificity

As discussed in the sections above, the GOC has developed a series of policies and measures to encourage and support producers of GOES. This program is designed for select companies and is, therefore, specific as a matter of law pursuant to Section 771(5A)(D)(i) of the Act. Additionally, only those entities that MOST considers "excellent" may participate in this program.[169] As a result, the program is also specific under Section 771(5A)(D)(ii)(I) of the Act as well as Section 771(5A)(D)(ii)(III), because there are no clear, objective selection criteria.

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[167] See Circular of Ministry of Science and Technology and Ministry of Finance on Printing and Distributing Interim Measures of Administration State Science and Technology Support Scheme Guo Ke Fa Ji Zi (2006) No. 331 (July 31, 2006). **CVD Exhibit-51.**

[168] See id. at Art. 10(3).

[169] Id.

3. Grants to Cover Legal Fees in Trade Remedy Cases

According to submissions filed at the WTO by the European Union, the Shenzhen World Trade Organization Office (the "Shenzhen WTO Office") has a fund of more than 10 million RMB to reimburse up to 30 percent of legal fees to local companies facing anti-dumping investigations abroad.[170] Shenzhen is an important industrial center in Guangdong Province, and the Shenzhen WTO Office is a government entity.[171] The European Union's submission notes that the fund aims to "encourage local export companies to aggressively strive for their legal rights in the anti-dumping cases through legal action."[172]

a. Financial Contribution

This program provides a financial contribution in the form of a direct transfer of funds from a government source in accordance with Section 771(5)(D)(i) of the Act.

b. Benefit

The benefit from this program equals the amount of the grant in accordance with 19 C.F.R. § 351.504(a).

c. Specificity

This program is a prohibited export subsidy within the meaning of Section 771(5A)(B) of the Act, because it is limited to companies that export.

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170 See Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China, Questions from the European Communities to China with regard to China's Transitional Review Mechanism on Subsidy Practices, G/SCM/Q2/CHN/24 (Oct. 20, 2006), at 2. **CVD Exhibit-52.**

171 "Government Fund Helps Firms Face Anti-dumping Charges," China Daily (Feb. 16, 2004). **CVD Exhibit-53.**

172 See Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China, Questions from the European Communities to China with regard to China's Transitional Review Mechanism on Subsidy Practices, G/SCM/Q2/CHN/24 (Oct. 20, 2006), at 2. **CVD Exhibit-52.**

4. Special Fund for Energy Savings Technology Reform

The Circular of the Ministry of Finance and National Development and Reform Commission on Printing and Distributing Interim Measures on Administration of Energy-Saving Technology Reform Awards Fiscal Funds provides awards to support certain enterprises undertaking energy-saving technology reform projects.[173] The Iron & Steel Plan also provides for benefits under this plan by requiring government bodies "to coordinate with the iron and steel industry policy" by "{s}trengthening other policies, including ... energy saving policy, {and} environmental protection policy."[174] In addition to the MOF and the NDRC, local government agencies also supervise the implementation of this program and the construction of funded projects.[175]

Local governments have adopted regulations to implement the policies described above. Angang has reported in its financial statements the following line item – "Other Payables: The Energy-saving and Emission-reducing funds transferred by Angang holding" – which had a beginning balance of 319 million RMB and an ending balance of 365 million RMB in 2012.[176] Thus, Angang may have received payments under this program.

a. Financial Contribution

Energy savings grants confer a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.

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173 See Circular of Ministry of Finance and National Development and Reform Commission on Printing and Distributing Interim Measures on Administration of Energy-Saving Technology Reform Awards Fiscal Funds, Cai Jian (2007) No. 371 (Aug. 10, 2007). **CVD Exhibit-54.**

174 Iron & Steel Plan, at 4. **CVD Exhibit-2.**

175 See Circular of Ministry of Finance and National Development and Reform Commission on Printing and Distributing Interim Measures on Administration of Energy Saving Technology Reform Awards Fiscal Funds, Cai Jian (2007) No. 371 (Aug. 10, 2007). **CVD Exhibit-54.**

176 2012 Annual Report of Angang Steel Co., Ltd., at 171. **CVD Exhibit-20.**

b. **Benefit**

Grants made under the Energy Saving Special Fund program provide a benefit in the amount received according to 19 C.F.R. § 351.504(a).

c. **Specificity**

This program is de facto specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act, because the actual recipients of the grant are limited to a small number of enterprises.

5. **Grants for Listing Shares**

Grants from local governments to companies that list shares appear to be common in China. For example, one municipality facilitates public offerings by:

> offering a "green passage to listing", providing assistance in areas such as licensing, land use applications and foreign exchange. Furthermore, each enterprise is provided with incentives specific to its circumstances. If the incorporation of a joint stock company involves the transfer of land use rights or property ownership, then the expenses involved in the transfer can be cut in half. After reorganizing into a stock company, the tax increment will be returned in full after the enterprise goes public. When the "tutoring" period is completed and the enterprise is listed, it is awarded RMB300,000 (US$42,000) by the municipal government. In {a nearby} city, local companies receive an additional bonus of RMB3 million (US$420,000) when they list.[177]

GOES producers are eligible for this program to the extent their shares trade on stock exchanges. For example, Beijing Shougang Corporation, the parent company to Hebei Shougang Qian'an Iron & Steel Co., Ltd., has listed shares and would be eligible to receive benefits under this program.[178] The Department should investigate this program for any respondent company that has listed shares.

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177 See "Listing Frenzy," China Business Feature (Feb. 27, 2008). **CVD Exhibit-55.**

178 "Beijing Shougang Co., Ltd.: Company Information," Emerging Markets Information Service. **CVD Exhibit-56.**

a. Financial Contribution

This program provides a financial contribution in the form of a direct transfer of funds from a government source in accordance with Section 771(5)(D)(i) of the Act.

b. Benefit

Grants provide a benefit equal in their amount according to 19 C.F.R. § 351.504(a).

c. Specificity

The program is de facto specific under Section 771(5A)(D)(iii)(I) of the Act, because only a small number of Chinese companies is allowed to list on bourses.[179] Also, it is specific under Section 771(5A)(D)(i), because it is limited to companies with listed shares.

6. Export Rebates for Mechanic, Electronic and High-Tech Products

In Aluminum Extrusions, the Department determined that the GOC provides a grant in the form of an export rebate for, inter alia, high-tech products.[180] Because GOES producers have been designated as HNTEs,[181] they similarly are eligible to receive benefits under this program.

a. Financial Contribution

Export rebates from the GOC constitute a financial contribution under Section 771(5)(D)(i) of the Act.

b. Benefit

The benefit from this program equals the amount of the grant(s) according to 19 C.F.R. § 351.504(a).

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179 See Administrative Measures for the Initial Public Offering and Listing of Stocks, China Securities Regulatory Commission Order No. 32 (May 17, 2006). **CVD Exhibit-57**.

180 Aluminum Extrusions I&D Memo at Section VII.M.

181 See Baoshan Iron & Steel, Sustainability Report 2006, at 74. **CVD Exhibit-27**.

c. **Specificity**

Because such rebates are contingent upon export performance, they are prohibited, specific, subsidies under Sections 771(5A)(A) and (B) of the Act.

7. **Grants to Angang**

Angang's 2012 annual report demonstrates that it has received numerous grants from the GOC. In particular, Angang's "deferred income" account for assets-related, government grants had an ending balance of 659 million RMB in 2012, which suggests that Angang booked several GOC grants into this account during 2012.[182] Angang also reported the following GOC grants as income in 2012: 7 million RMB as a research and development subsidy; 40 million RMB in grants for military projects; and 13 million RMB in environmental rewards.[183] Finally, Angang reported that the GOC gave it cash grant infusions totaling 91 million RMB in 2012.[184]

a. **Financial Contribution**

The various grants reported by Angang constitute financial contributions under Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. **Benefit**

Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a).

c. **Specificity**

As there is no clear evidence if Angang was the sole beneficiary, or whether these grants were provided under previously alleged programs, the grants may be specific under Section 771(5A)(D)(i) of the Act and should be investigated by the Department.

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182 2012 Annual Report of Angang Steel Co., Ltd., at 173-174. **CVD Exhibit-20.**

183 Id. at 181.

184 Id. at 186.

8. Grants to Baosteel

Baosteel's 2012 annual report demonstrates that it has received numerous grants from the GOC. In particular, Baosteel's "deferred income" account for assets-related, government grants had an ending balance of 961,802,609.24 RMB in 2012.[185] In addition, Baosteel reported that the GOC gave it cash infusions totaling 698,766,382.87 RMB in 2012.[186]

a. Financial Contribution

The various grants reported by Baosteel in its annual report constitute a financial contribution under Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. Benefit

Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a).

c. Specificity

As there is no clear evidence if Baosteel was the sole beneficiary, or whether these grants were provided under previously alleged programs, the grants may be specific under Section 771(5A)(D)(i) of the Act and should be investigated by the Department.

9. Grants to WISCO

WISCO's 2012 annual report demonstrates that it has received numerous grants from the GOC. The company reported, for example, that the GOC gave it cash grant infusions totaling 344,803,628.73 RMB in 2012.[187]

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185 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 103. **CVD Exhibit-24.**

186 Id. at 110.

187 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 121. **CVD Exhibit-25.**

a. Financial Contribution

The grants reported by WISCO in its annual report constitute a financial contribution under Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. Benefit

Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a).

c. Specificity

As there is no clear evidence if WISCO was the sole beneficiary, or whether these grants were provided under previously alleged programs, the grants may be specific under Section 771(5A)(D)(i) of the Act and should be investigated by the Department.

III. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated, supra, Chinese producers and exporters of GOES benefit from massive countervailable subsidies provided by all levels of the GOC. Accordingly, Petitioners request that the Department initiate a countervailing duty investigation of GOES from China.