DOC Inv. No. C-570-997
ITC Inv. Nos. 701-TA- and 731-TA-
Total Pages: 1388
Investigation

PUBLIC VERSION
This volume contains no Business Proprietary Information.

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE UNITED STATES INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF	**PETITIONS FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES**
NON-ORIENTED ELECTRICAL STEEL FROM CHINA, GERMANY, JAPAN, KOREA, SWEDEN, AND TAIWAN	**VOLUME VIII: CHINA COUNTERVAILING DUTY ALLEGATION**

PETITIONER:
AK Steel Corporation

COUNSEL:
Joseph W. Dorn
Stephen A. Jones
Christopher T. Cloutier
Brian E. McGill
P. Lee Smith
Edmond A. O'Neill, Consultant
Richard C. Lutz, Consultant
Craig W. Matney, Consultant

KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, D.C. 20006
(202) 737-0500

September 30, 2013

TABLE OF CONTENTS

LIST OF EXHIBITS

EXHIBIT VIII-14: *Zhejiang Province Banking Industry 12th Five-Year Plan*, Zhe Yin Jian Fa [2011] No. 115 (June 20, 2011).

EXHIBIT VIII-15: *Hubei Province Metallurgy Industry 12th Five Year Development Plan*.

EXHIBIT VIII-16: *Fujian Province Economic and Social Development 12th Five-Year Plan*, (Jan. 18, 2011).

EXHIBIT VIII-17: *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan*.

EXHIBIT VIII-18: Internal Revenue Service, "How to Depreciate Property" (2009).

EXHIBIT VIII-19: 2012 Annual Report of Angang Steel Co., Ltd.

EXHIBIT VIII-20: "RMB Loan Benchmark Interest Rate of Financial Institutions," *Website of the People's Bank of China*, (July 6, 2012).

EXHIBIT VIII-21: *China Monetary Policy Report – Quarter Two, 2011* (August 10, 2011).

EXHIBIT VIII-22: *China Monetary Policy Report – Quarter Three, 2011* (November 16, 2011).

EXHIBIT VIII-23: 2012 Annual Report of Baoshan Iron & Steel Co., Ltd.

EXHIBIT VIII-24: 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd.

EXHIBIT VIII-25: 2012 Annual Report of Wuhan Iron & Steel Co., Ltd.

EXHIBIT VIII-26: "Provincial Banking Regulatory Bureau Director Minyuan Zhou Lead A Hundred of Provincial-level Banking Institutions' Chairmen to Conduct Survey at Our Company," *Website of Fujian Xinjiu Technology Group Co., Ltd.* (May 3, 2013).

EXHIBIT VIII-27: *Protocol on the Accession of the People's Republic of China to the World Trade Organization*, WT/L/432 (November 23, 2001).

EXHIBIT VIII-28: "2013 Recruitment Notice of the Export-Import Bank of China Ningbo Branch," *Website of the Export-Import Bank of China* (March 1, 2013).

EXHIBIT VIII-29: Baoshan Iron & Steel, Sustainability Report (2006).

EXHIBIT VIII-30: "Profile of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.," *Website of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.*

EXHIBIT VIII-31: "Recruitment Information of Xinwanxin (Fujian) Fine Thin Board Co., Ltd. and Fujian Putian City Wanxin Metal Products Co., Ltd.," *Website of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.*

EXHIBIT VIII-32: "News Digest: Shougang Will Receive Tax Rebate To Fund Relocation," *The China* (December 21, 2010).

EXHIBIT VIII-33: *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law*, Order of the President No. 45 (April 9, 1999).

EXHIBIT VIII-34: *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).

EXHIBIT VIII-35: *Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39.

EXHIBIT VIII-36: "Profile of Jiangsu Jijing Metal Technology Co., Ltd.," *Website of Jiangsu Jijing Metal Technology Co., Ltd.*

EXHIBIT VIII-37: *Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises*, Guo Shui Fa 2000 No. 90 (May 18, 2000).

EXHIBIT VIII-38: *Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by Foreign Invested Enterprises and Foreign Enterprises*, Cai Shui Zi 2000 No. 49 (Jan. 14, 2000).

EXHIBIT VIII-39: *Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39.

EXHIBIT VIII-40: *China's Notification Pursuant to Article XVI: 1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures*, G/SCM/N/123/CHN (Apr. 13, 2006).

EXHIBIT VIII-41: *Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises* (July 1, 1991).

EXHIBIT VIII-42: *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.

EXHIBIT VIII-43: *Regulations of Implementation of the Enterprise Income Tax Law*, Guowuyuanlin (2007) No. 512 (December 2007).

EXHIBIT VIII-44: 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.

EXHIBIT VIII-45: *Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for High or New Technology Enterprises*, Gou Shui Han (2009) No. 203.

EXHIBIT VIII-46: *SAT's Circular on Certain Issues Regarding Expenses on Research and Development to Be Offset from Taxable Income of FIEs*, Guo Shui Fa 1999 No. 173 (Sept. 17, 1999).

EXHIBIT VIII-47: *Ministry of Finance and State Administration of Taxation Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (June 1, 2002).

EXHIBIT VIII-48: *Supplementary Circular Concerning the Preferential Policy for Enterprises with Foreign Investment*, Guo Shui Han 2003 No. 368.

EXHIBIT VIII-49: *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, Guo Fa 1997 No. 37.

EXHIBIT VIII-50: *Interim Administrative Measures on Purchase of Domestic Equipment by Projects with Foreign Investment*, Guo Shui Fa 1999 No. 171.

EXHIBIT VIII-51: "Anshan Creates 'Angang Economy Circle,'" *Sh-overseas.com* (July 10, 2004).

EXHIBIT VIII-52: "China's Hubei Cuts Power To Steel Companies As Coal Shortage Hits," *Reuters* (January 6, 2011).

EXHIBIT VIII-53: *Several Preferential Policies to Support Provincial-level Transformation and Comprehensive Reform Model Projects*, Circular of the General Office of the People's Government of Shanxi Province on Printing and Distributing the Several Preferential Policies to Support Provincial-level Transformation and Comprehensive Reform Model Projects, Jin Zheng Ban Fa (2012) No. 64 (September 12, 2012).

EXHIBIT VIII-54: "No Electricity Rate Hike Expected," *China State Power Information Network* (May 28, 2010).

EXHIBIT VIII-55: *Memorandum to David Spooner regarding Countervailing Duty Investigation: Lightweight Thermal Paper from the People's Republic of China; Post-Preliminary Findings for New Subsidy Allegations* (Sept. 2, 2008).

EXHIBIT VIII-56: "Guangdong Electricity Tariff Rise Lowest In China," *hktdc.com* (Dec. 1, 2009).

EXHIBIT VIII-57: "Nanhai District Preferential Policies for Inviting Investment," *Foshan Industries Website*.

EXHIBIT VIII-58: *Circular of the Administrative Measures on the State Key Technology Renovation Projects and the Administrative Measures on Special Fund Generated by Treasury Bonds for the State Key Technology Renovation Projects*, Guo Jing Mao Touzi 1999 No. 886.

EXHIBIT VIII-59: *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.

EXHIBIT VIII-60: AQSIQ, *China Famous Brand Strategy Development Report* (Dec. 2006).

EXHIBIT VIII-61: United States Trade Representative, "United States Wins End to China's 'Famous Brand' Subsidies after Challenge at WTO; Agreement Levels Playing Field for American Workers in Every Manufacturing Sector" (Dec. 18, 2009).

EXHIBIT VIII-62: *Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China, Questions from the European Union to China concerning Subsidies and Price Controls*, G/SCM/Q2/CHN/24 (Oct. 20, 2006).

EXHIBIT VIII-63: "Government fund helps firms face anti-dumping charges," *China Daily* (Feb. 16, 2004).

EXHIBIT VIII-64: *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.

EXHIBIT VIII-65: *Provisional Measures on Clean Production Inspection*, Decree No. 16 (Aug. 16, 2004).

EXHIBIT VIII-66: "Listing Frenzy," *China Business Feature* (Feb. 27, 2008).

EXHIBIT VIII-67: "Beijing Shougang Co., Ltd.: Company Profile," *Emerging Markets Information Service*.

EXHIBIT VIII-68: *Administrative Measures for the Initial Public Offering and Listing of Stocks*, China Securities Regulatory Commission Order No. 32 (May 17, 2006).

EXHIBIT VIII-69: "Three Gorges Projects," *Website of China Three Gorges Corporation*.

EXHIBIT VIII-70: 2010 Annual Report of Baoshan Iron & Steel Co., Ltd.

EXHIBIT VIII-71: "Baosteel's Output Of Grain Oriented Silicon Steel Exceeds 100000 Mt In Past Year," *Steel Orbis* (October 8, 2010).

EXHIBIT VIII-72: "Baosteel Silicon Steel Business Performed Well In 2010," *Steel Guru* (January 7, 2011).

EXHIBIT VIII-73: 2010 Annual Report of Wuhan Iron & Steel Co., Ltd.

EXHIBIT VIII-74: "Wuhan Iron and Steel Co., Ltd.: WISCO Won Supply Contract For The World Largest Hydroelectric Generating Unit," *4-Traders* (June 25, 2012).

EXHIBIT VIII-75: *Government Procurement Law of the People's Republic of China*, Order of the President No. 68 (Jun. 29, 2002).

EXHIBIT VIII-76: The US-China Business Council, PRC Government Procurement Policy (July 2009).

EXHIBIT VIII-77: *Implementation Regulations on the Government Procurement Law of the People's Republic of China (Draft)* (Jan. 11, 2010).

EXHIBIT VIII-78: U.S.-China Business Council, Issue Brief: *New Developments in China's Domestic Innovation and Procurement Policies* (Jan. 2010).

EXHIBIT VIII-79: "Guangdong Legislation Attempts to Solve 'Chronic Problems' in Government Procurement," *Bid Winning Net* (Aug. 12, 2009).

EXHIBIT VIII-80: "Problems in Supply by Agreement and Resolution Strategies," *Ningbo City Government Procurement Net* (Feb. 16, 2009)

I. NAME OF THE COUNTRY IN WHICH THE SUBJECT MERCHANDISE IS MANUFACTURED OR PRODUCED

The name of the country in which the subject merchandise is manufactured or produced is the People's Republic of China ("China").

II. IMPORTS OF NOES FROM CHINA ARE BENEFITING FROM COUNTERVAILABLE SUBSIDIES

Unfairly traded exports of non-oriented electrical steel ("NOES") from China have been disrupting markets around the world. In July 2013, the Brazilian administering authority imposed antidumping duties on NOES originating from China.[1] The antidumping duties imposed ranged from $175.94 to $432.95 per ton.[2]

China's rapid growth in NOES exports can be traced to several policies enacted by the Government of China ("GOC"). As the Department of Commerce (the "Department") is aware, Chinese industrial policies identify favored industries, enumerate the types of preferences to be provided to such industries, establish production targets, and in many instances identify individual enterprises for special treatment.[3] Issued by elite planning agencies with input from the highest levels of the Communist Party, such plans serve as economic and industrial

---

[1] "STXNEWS LATAM-Brazil Trade Body Sets Anti-dumping Penalties on GNO Steel Imports," *Reuters.com* (July 17, 2013). **Exhibit VIII-1**.

[2] *Id.*

[3] *See Memorandum For David M. Spooner, Assistant Secretary for Import Administration, "Countervailing Investigation of Coated Free Sheet Paper from the People's Republic of China Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-Day Economy,"* (March 29, 2007) at 9. **Exhibit VIII-2**. ("*Georgetown Steel Memo*") ("Instead of directly allocating all financial resources in the economy, the PRC central and local government's primary levers of economic and financial control lie in its use of administrative measures (which allow for *ad hoc* discretionary policy implementation), five-year plans and industrial policies which may serve as guidance for lending and growth, and decentralized (local) control over the banking sectors"). *See also* "New Five-Year Plan Called 'Revolutionary,'" *Asia Times Online* (Oct. 13, 2005). **Exhibit VIII-3**; *see also Report of the Working Party on the Accession of the People's Republic of China to the World Trade Organization*, WT/MIN(01)3 (Nov. 10, 2001) at paras. 171-176. **Exhibit VIII-4**.

instructions for the GOC's operating units, including provincial planning agencies, local governments, banks, and state-owned enterprises ("SOEs").[4]

The production of particular types of steel, including NOES, has been designated as encouraged in GOC industrial policies. For example, the National Development and Reform Commission ("NDRC"), China's premier economic planning agency, issued a *2005 Iron & Steel Policy* directive.[5] Article 19 of the *2005 Iron & Steel Policy* encourages specialty steel enterprises (silicon electrical steel is a specialty steel)[6] 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] China's WTO trade policy review noted that this and other GOC policies lead to "assistance in the form of tax refunds, discounted interest rates, and funds for research and development, etc. to major iron and steel projects... ."[8]

More recent GOC industrial policies also highlight government support for production of the subject merchandise. Specifically, the production of silicon steel is identified as "encouraged" in the *Guidance Catalogue for the Industrial Structure Adjustment (Version*

---

[4] GOC guidance to industries has a history of remarkable effectiveness. *See generally Trade Policy Review Report By The Secretariat: People's Republic Of China*, WT/TPR/S/161 (Feb., 28 2006) at xiii-xiv. **Exhibit VIII-5**.

[5] Order of the National Development and Reform Commission No. 35: *Policies for Development of Iron and Steel Industry* (July 8, 2005) ("*2005 Iron & Steel Policy*"). **Exhibit VIII-6**.

[6] "Electrical Steel," AK Steel's Website. **Exhibit VIII-7**.

[7] *2005 Iron & Steel Policy*. Exhibit VIII-6.

[8] *Trade Policy Review Report By The Secretariat: People's Republic Of China*, WT/TPR/S/161 (Feb., 28 2006) at 192. Exhibit VIII-5.

2011).[9] The *Iron and Steel Industry 12th Five-Year Plan* (the "*Iron & Steel Plan*"), which covers 2011 through 2015, designates the NOES and other "special steel products" sector as "key" and a "development priority" for China.[10] The *Iron & Steel Plan* calls for special treatment of "leading specialty steel enterprises," including Taiyuan Steel and Baosteel Specialty Steel, two producers of NOES.[11] It also instructs GOC agencies to "strongly promote specialty steel enterprises" in support of their efforts to develop better technology and products.[12] The *Iron & Steel Plan* further requires that government entities "coordinate" policies to this effect, "including fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, {and} environmental protection policy."[13]

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*").[14] The *Specialty Steel Plan* identifies silicon electrical steel, which includes NOES[15] as a "specialty steel" and as a key technology. It also designates the development of silicon electrical steel as a key task for the 12th five year period and calls for

[9] *Guidance Catalogue for the Industrial Structure Adjustment (Version 2011)*, Order of the NDRC of the People's Republic of China No. 9 (March 27, 2011) ("*Guidance Catalogue 2011*"). **Exhibit VIII-8**.

[10] 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 (October, 24, 2011) (the "*Iron & Steel Plan*"). **Exhibit VIII-9**.

[11] *Id. See also* Foreign Producers/Exporters, Petition Volume I: Exhibit I-2.

[12] *Id.*

[13] *Id.*

[14] 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* (August 6, 2012) ("*Specialty Steel Plan*"). **Exhibit VIII-10.**

[15] "Electrical Steel," AK Steel's Website. Exhibit VIII-7.

organizing national-level science and technology innovation teams focusing on electrical steel. In addition, the *Specialty Steel Plan* calls for promoting production of the subject merchandise through the following means:

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

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.[16]

The manufacture of NOES is clearly encouraged by the GOC.[17] *Decision No. 40 of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"* calls for providing financing and other benefits to such encouraged projects.[18] *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

---

[16] *Id.*

[17] *See Guidance Catalogue 2011.*

[18] *Decision No. 40 of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment*," (2005) ("*Decision No.40*"). **Exhibit VIII-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.*, *China CFS Paper I&D Memo* at 52-53; *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 64045 (Dec. 7, 2009), Issues and Decision Memo. ("*OCTG*") at 101.

> important reform and development task at present and within a period in the future… lay emphasis on implementation and shall, in accordance with the "Interim 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, export, etc., effectively intensify the coordination and cooperation with industrial policies, and further improve and promote the policy system on industrial structure adjustment.[19]

Decision No. 40, therefore, requires the GOC and other entities in China to "support the development of cold rolled stainless steel sheets {and} cold rolled silicon steel."[20]

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.[21] 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 for the NOES industry, are carried out.[22] For this reason, the Department has considered five-year plans to be "a central government policy or program that local governments adopt and implement."[23]

The information available indicates that sub-national governments have adopted and implemented the GOC's directives regarding support of the specialty steel industry and NOES in particular. As reported by the Congressional Research Service, many Chinese steel "companies

---

[19] *See Decision No. 40* at Preamble. Exhibit VIII-11.

[20] *Id.* at Article 6.

[21] *See Coated Free Sheet Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 60645 (Oct. 25, 2007), Issues and Dec. Memo. at 53 ("*China CFS Paper I&D Memo*").

[22] *See Coated Free Sheet Paper From the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 17484, 17493 (Apr. 9, 2007) ("*China CFS Paper Preliminary Determination*").

[23] *See id.* at 17492.

are strongly supported by provincial governments, including with subsidized loans, so that they can stay in production."[24] The provincial policies described below indicate that this is certainly the case with respect to the NOES industry.

The *Economic and Social Development 12th Five-Year Plan of Zhejiang Province* designates the iron and steel industry as one of the eleven key manufacturing industries and prioritizes "high-quality specialty steel."[25] The *Banking Industry 12th Five-Year Plan Of Zhejiang* further calls for banks to "allocate financial resources, and promote the transformation and upgrade" of such encouraged industries.[26] Thus, these provincial policies work in tandem with national policies to support specialty steel producers.

The *Hubei Province Metallurgy Industry 12th Five Year Development Plan* (the "*Hubei Plan*") refers to the production of cold-rolled silicon steel and designates the "first silicon steel renovation project" of Wuhan Iron and Steel (Group) Corp. ("WISCO") as a "key project."[27] The *Hubei Plan* provides 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."[28] Finally, the *Hubei Plan* calls for tax and other financial support from government entities to meet the goals of the plan:

---

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

[25] *Zhejiang Province Economic and Social Development 12th Five-Year Plan*, Zhe Zheng Fa [2011] No. 15 (Feb. 28, 2011). **Exhibit VIII-13**.

[26] *Zhejiang Province Banking Industry 12th Five-Year Plan*, Zhe Yin Jian Fa [2011] No. 115 (June 20, 2011). **Exhibit VIII-14**.

[27] *Hubei Province Metallurgy Industry 12th Five Year Development Plan* (the "*Hubei Plan*"). **Exhibit VIII-15**.

[28] *Id.*

> 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.[29]

Fujian Province similarly promotes the specialty steel industry. For example, the *Fujian Province Economic and Social Development 12th Five-Year Plan* encourages the production of specialty steel,[30] and the *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan* encourages the production of "cold-rolled silicon steel sheets and specialty steel and other steel products used in electromechanical industry."[31] To help companies achieve its goals, the *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan* provides that relevant entities should:

> 1. Strengthen the credit loan support for the development of the iron and steel industry and the non-ferrous metals industry. Encourage financial institutions to support the iron and steel industry and the non-ferrous metals industry…. Encourage financial institutions to innovate financial products, develop all kinds of credit loan business with real property, personal property, and rights as the mortgage (pledge), to meet enterprises' reasonable needs for capitals….
>
> 2. Create a good financing environment, and expand enterprises' financing channels. Improve the government-bank-enterprise communication and coordination mechanism, to help enterprises raise the financing efficiency. Utilize financial products and services, including the export credit loan, export credit insurance, etc., to support iron and steel enterprises and non-ferrous metals enterprises to explore the world market.[32]

---

[29] *Id.*

[30] *Fujian Province Economic and Social Development 12th Five-Year Plan*, (Jan. 18, 2011). **Exhibit VIII-16**.

[31] *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan*. **Exhibit VIII-17**.

[32] *Id.*

The information reasonably available to Petitioner discussed above demonstrates that the GOC has national-level policy of encouraging the development of silicon steel, including NOES, that is outlined in various industrial plans. This national policy has been dutifully implemented at the provincial level. Numerous provinces have identified the production of silicon steel, including NOES, as "key" and "encouraged." Some industrial plans identify NOES producers as companies eligible for special treatment. Taken as a whole, China's industrial policies make clear that the GOC has implemented policies to encourage the production of NOES with a variety of subsidy programs, as discussed in detail below.

The Department should note that, for purposes of 19 C.F.R. § 351.524(d)(2), the average useful life of renewable physical assets in the steel industry is 15 years.[33] Accordingly, assuming that the period of investigation ("POI") is calendar year 2012, Petitioner respectfully requests that the Department investigate any allocable, non-recurring subsidies granted during 1997 - 2012, and any outstanding loans or recurring subsidies provided during the presumptive POI.

III. NAMES AND ADDRESSES OF CHINESE NOES PRODUCERS AND EXPORTERS BELIEVED TO BENEFIT FROM COUNTERVAILABLE SUBSIDIES

Petitioner has identified numerous Chinese producers or exporters of NOES believed to benefit from countervailable subsidies provided by national, provincial, and local governments in China. The names and contact information for producers of NOES in China are listed in Volume I: Exhibit I-2. The information provided in this exhibit represents the information reasonably available to Petitioner. Petitioner has been unable to obtain information regarding the proportion of total exports to the United States for individual producers during the most recent twelve-month period.

---

[33] *See* Internal Revenue Service, "How to Depreciate Property" (2009). **Exhibit VIII-18**. *See also Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 4936 (January 28, 2009), Issues and Dec. Memo. at IV.A ("*Stainless Pipe*").

IV. SUBSIDY PROGRAMS

Information reasonably available to Petitioner demonstrates that the production of subject merchandise from China is benefiting from countervailable subsidies within the meaning of Section 771(5) of the Tariff Act of 1930, as amended (the "Act"). The general information required by Section 351.202(b) of the Department's regulations is provided in Volume I of this petition.

Pursuant to Section 701(a)(1) and (2) of the Act, the Department shall impose a countervailing duty ("CVD") on merchandise imported from a "Subsidies Agreement" country 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.[34] China, as a member of the World Trade Organization ("WTO"), is a Subsidies Agreement country as defined by Section 701(b) of the Act.[35] Moreover, Congress confirmed that the CVD law applies to China in Section 701(f) of the Act.[36] The Department has consistently determined that the CVD laws may be applied to imports of merchandise from China.[37] Petitioner requests that the Department initiate a CVD investigation into the policies and programs set forth herein and any other countervailable subsidy programs discovered during the course of the CVD investigation.

A. Preferential Lending

1. Policy loans

The Department has determined in numerous CVD investigations that certain Chinese industries receive policy loans.[38] The Department has based these determinations on evidence

---

[34] 19 U.S.C. § 1671(a)(1) and (2).

[35] 19 U.S.C. § 1671(b).

[36] 19 U.S.C. 1671(f).

[37] *See, e.g.*, *China CFS Paper I&D Memo* at 19-20.

[38] *See, e.g., OCTG* at 12; *China CFS Paper I&D Memo* at 9-10.

including GOC statements in industrial planning documents. As discussed below, producers of subject merchandise are one of those industries that benefits from GOC policy loans.

National-level industrial policies direct national and local authorities to support producers of NOES with policy lending. The *Guidance Catalogue 2011* identifies silicon steel, a category of products including NOES, as encouraged.[39] In addition, the NDRC's *Iron & Steel Plan* designates NOES and other specialty steel products as "key" and a "development priority."[40] The *Iron & Steel Plan* further identifies "leading specialty steel enterprises" for support – including Taiyuan Steel and Baosteel Specialty Steel, two producers of NOES.[41] The *Iron & Steel Plan* requires GOC entities to strengthen "finance policies" for such entities, a clear indication that these companies are eligible for policy loans.[42] Moreover, *Decision No. 40* requires that the GOC and "{a}ll relevant administrative departments shall speed up the formulation and amendment of policies on public finance {and} credit" to support encouraged industries,[43] which specifically includes "cold rolled stainless steel sheets {and} cold rolled silicon steel."[44]

The GOC has taken the additional step of issuing an industrial plan for specialty steel, which includes silicon steel. The *Specialty Steel Plan* designates silicon electrical steel (which includes NOES) as a key technology and designates the development of silicon electrical steel as

[39] *Guidance Catalogue 2011*. Exhibit VIII-7.

[40] *Iron & Steel Plan*. Exhibit VIII-9.

[41] *Id.*

[42] *Id.*

[43] *Decision No. 40* at Preamble. Exhibit VIII-11.

[44] *Id.* at Article 6.

a key task for the current Five Year Period.[45] To help companies meet these development goals set out in the *Specialty Steel Plan*, the GOC calls for preferential financing policies.[46]

As a consequence of national policies encouraging the production of subject merchandise, as described in both the *Iron & Steel Plan* and the *Specialty Steel Plan*, production of NOES is supported by policy lending at the lower levels of government. Provincial governments have adopted and implemented these directives. As one example, the *Economic and Social Development 12th Five-Year Plan of Zhejiang Province* prioritizes "high-quality specialty steel."[47] A complementary policy, the *Banking Industry 12th Five-Year Plan Of Zhejiang,* calls on banks to efficiently allocate "financial resources, and promote the transformation and upgrade" of prioritized industries.[48]

Hubei Province similarly encourages the production of cold-rolled silicon steel.[49] In particular, the *Hubei Plan* designates the "first silicon steel renovation project" of WISCO as a "key project."[50] To meet its development goals, 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."[51]

---

[45] *Specialty Steel Plan*. Exhibit VIII-10.

[46] *Id.*

[47] *Zhejiang Province Economic and Social Development 12th Five-Year Plan*, Zhe Zheng Fa [2011] No. 15 (Feb. 28, 2011). Exhibit VIII-13.

[48] *Zhejiang Province Banking Industry 12th Five-Year Plan*, Zhe Yin Jian Fa [2011] No. 115 (June 20, 2011). Exhibit VIII-14.

[49] *Hubei Plan*. Exhibit VIII-15.

[50] *Id.*

[51] *Id.*

Fujian Province also promotes the production of cold-rolled silicon steel. The *Fujian Province Economic and Social Development 12th Five-Year Plan* encourages the production of specialty steel,[52] and the *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan* encourages the production of "cold-rolled silicon steel sheets and specialty steel and other steel products used in electromechanical industry."[53] To achieve its goals, the *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan* calls on the GOC to:

> 1. Strengthen the credit loan support for the development of the iron and steel industry and the non-ferrous metals industry. Encourage financial institutes to support the iron and steel industry and the non-ferrous metals industry…. Encourage financial institutes to innovate financial products, develop all kinds of credit loan business with real property, personal property, and rights as the mortgage (pledge), to meet enterprises' reasonable needs for capitals….
>
> 2. Create a good financing environment, and expand enterprises' financing channels. Improve the government-bank-enterprise communication and coordination mechanism, to help enterprises raise the financing efficiency. Utilize financial products and services, including the export credit loan, export credit insurance, and etc., to support iron and steel enterprises and non-ferrous metals enterprises to explore the world market.[54]

Information reasonably available to Petitioner demonstrates that producers of NOES have received financing at preferential rates from state-owned banks. NOES 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 benchmark rates set by the People's Bank of China ("PBC"). These include:

---

[52] *Fujian Province Economic and Social Development 12th Five-Year Plan*, (Jan. 18, 2011). Exhibit VIII-16.

[53] *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan.* Exhibit VIII-17.

[54] *Id.*

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

- Two three-year, 500 million RMB loans from the Agricultural Bank of China at a rate of 5.76 percent in May 2011 (compared with the benchmark rate of 6.40 percent).[55]

Other producers of subject merchandise have also received special loans. NOES producer Baoshan Iron & Steel Co., Ltd, ("Baosteel"), an arm of the Baosteel Group Corporation ("Baosteel Group"), received three long-term loans totaling 740 million RMB as of 2012 from China Construction Bank at rates below the benchmark rate issued by the PBC.[56] Likewise, Shanxi Taigang Stainless Steel Co., Ltd. ("STSS"), the subsidiary of Taiyuan Iron & Steel (Group) Co., Ltd. ("TISCO") that produces NOES, received 400 million RMB in long-term loans from the Agricultural Bank of China and 300 million RMB in long-term loans from the Industrial and Commercial Bank of China in 2012, both at interest rates below the PBC benchmark.[57] Wuhan Iron & Steel Co. Ltd. ("WISCO"), the NOES-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 benchmark rate issued by the

[55] 2012 Annual Report of Angang Steel Co., Ltd., at 174. **Exhibit VIII-19**. S*ee also* "RMB Loan Benchmark Interest Rate of Financial Institutions," *Website of the People's Bank of China*, (July 6, 2012) ("*RMB Loan Benchmark*"). **Exhibit VIII-20**. Few loans in China are issued at an interest rate below the PBC benchmark rate. According to the PBC's statistics, only 11.18 percent of the loans issued in May 2011 and 8.53 percent of the loans issued in July 2011 were at an interest rate below the benchmark rate. *China Monetary Policy Report – Quarter Two, 2011* (August 10, 2011) at 7. **Exhibit VIII-21**. *China Monetary Policy Report – Quarter Three, 2011*, (November 16, 2011) at 7. **Exhibit VIII-22**. As a result, while Petitioner does not imply that the PBC rate reflects market terms, interest rates below the benchmark do reflect the GOC's preference.

[56] 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 102. **Exhibit VIII-23**. S*ee also RMB Loan Benchmark*. Exhibit VIII-20.

[57] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 137. **Exhibit VIII-24**. S*ee also RMB Loan Benchmark*. Exhibit VIII-20.

PBC.[58] Finally, Fujian Xinjiu Technology Group Co., Ltd. ("Xinjiu") was selected by the Fujian Provincial Banking Regulatory Bureau as one of two key enterprises in Fuan City eligible for preferential lending.[59] The Chairman of Fujian Provincial Banking Regulatory Bureau recognized the company's development prospects, including its development of NOES, and directed local banks to provide support to Xinjiu in the form of loans.[60]

As the examples above demonstrate, reasonably available information indicates that numerous provinces have implemented industrial plans which encourage the production of silicon steel products, including NOES. 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*, *Specialty Steel Plan*, and *Decision No. 40*, similarities between the programs, and competition among provinces for manufacturing facilities, each province with significant production of NOES likely has a similar program. Consequently, this is a nation-wide subsidy program implemented at the provincial level.

The provision of loans by GOC-controlled banks constitutes a direct transfer of funds within the meaning of section 771(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.[61] Pursuant to 19 C.F.R. § 351.505 and Section 771(5)(E)(ii) of the Act, the benefit from any loan from the

[58] 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 116. **Exhibit VIII-25**.

[59] "Provincial Banking Regulatory Bureau Director Minyuan Zhou Lead A Hundred of Provincial-level Banking Institutions' Chairmen to Conduct Survey at Our Company," *Website of Fujian Xinjiu Technology Group Co., Ltd.* (May 3, 2013). **Exhibit VIII-26**.

[60] *Id.*

[61] *See CFS Preliminary Determination*, 72 Fed. Reg. at 17493.

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. Policy loans to Chinese producers of subject merchandise are *de jure* specific under Section 771(5A)(D)(i) 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. In addition, as explained in China's *WTO Accession Protocol*, loans from Chinese policy banks are by their very nature discretionary and, consequently, specific."[62]

2. Preferential export financing

The Department has previously found that the GOC's policy banks and nominally 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.[63] The Department made a similar finding in *Welded Line Pipe*.[64] As discussed above, the GOC encourages silicon steel enterprises, such as NOES producers, in official pronouncements, including the *2005 Iron & Steel Policy*.[65] Moreover, the *Iron & Steel Plan* mandates that government entities "coordinate" finance and trade policies in light of this designation.[66] Similarly, the *Specialty Steel Plan* designates the development of silicon electrical

[62] *See* Protocol on the Accession of the People's Republic of China to the World Trade Organization, WT/L/432 (November 23, 2001) at Annex 5A, IX ("*China's WTO Accession Protocol*"). **Exhibit VIII-27**.

[63] *OCTG* at 12-13.

[64] *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 Fed. Reg. 70961 (November 24, 2008), Issues and Dec. Memo. at 23-24 ("*Welded Line Pipe*").

[65] *2005 Iron & Steel Policy*. Exhibit VIII-6.

[66] *Iron & Steel Plan*. Exhibit VIII-9.

steel as a key task and calls for financial and trade policies to help companies develop production capabilities for silicon steel, including NOES.[67] Finally, the *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan* encourages the production of "cold rolled silicon steel sheets" and calls on local authorities to "{u}tilize financial products and services, including the export credit loan, export credit insurance, and etc., to support iron and steel enterprises and non-ferrous metals enterprises to explore the world market."[68]

Chinese exporters of NOES are eligible to receive special export financing because the production of silicon steel, such as NOES, is encouraged by the GOC. The Export-Import Bank of China is a state-owned policy bank that supports the exports of Chinese electromechanical products and high-tech products.[69] NOES is a electromechanical product because it is used in a variety of electrical applications. Moreover, producers of NOES have been designated as high- or new-technology enterprises ("HNTE") as a result of their production of NOES, a high- or new- technology product.[70] As one example of this policy in practice, Baosteel received US$600 million in long-term loans from the Export-Import Bank of China as of 2012.[71] STSS similarly

---

[67] *Specialty Steel Plan.* Exhibit VIII-10.

[68] *Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan*. Exhibit VIII-17.

[69] "2013 Recruitment Notice of the Export-Import Bank of China Ningbo Branch," *Website of the Export-Import Bank of China* (March 1, 2013). **Exhibit VIII-28**.

[70] Baoshan Iron & Steel, Sustainability Report (2006) at 74. **Exhibit VIII-29**. "Profile of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.," *Website of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.* ("*Profile of Xinwanxin*"). **Exhibit VIII-30**. "Recruitment Information of Xinwanxin (Fujian) Fine Thin Board Co., Ltd. and Fujian Putian City Wanxin Metal Products Co., Ltd.," *Website of Xinwanxin (Fujian) Fine Thin Board Co., Ltd.* **Exhibit VIII-31**.

[71] 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 102.

received several low-interest long-term loans from the Export-Import Bank of China as of 2012 totaling 2.8 billion RMB and more than 13 billion Japanese Yen.[72]

The Department has determined that such loans constitute a financial contribution under section 771 (5)(D)(i) of the Act. Because they are contingent on export performance, they are deemed specific under section 771(5A)(B) of the Act, and confer a benefit to the extent that they are provided on terms better than would be available from market sources.[73] The Department should investigate whether any producers of the subject merchandise benefited from export loans from the GOC's state-owned banks.

3. Treasury bond loans or grants

The GOC annually announces that certain projects will receive financial support through Treasury bond proceeds. The Department preliminarily found this program, also referred to as the Resource Saving and Environmental Protection Program, to have conferred a countervailable subsidy in *Wire Strand*.[74] In the instant case, Shougang Corp., also known as Beijing Capital Iron and Steel Group Company ("Shougang"), "applied for a treasury-bond discount loan of four billion yuan to sponsor its relocation and provide subsidies to workers."[75] The Department should investigate whether Shougang and any other NOES producers have received benefits under this program.

[72] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 136-137. Exhibit VIII-24. *See also RMB Loan Benchmark*. Exhibit VIII-20.

[73] *OCTG,* at 12-13.

[74] *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 56576, 56,590 (November 2, 2009). The Department, however, found that the program had not provided benefits above 0.005 percent ad valorem in that particular case.

[75] "News Digest: Shougang Will Receive Tax Rebate To Fund Relocation," *The China* (December 21, 2010). **Exhibit VIII-32**.

Loans or grants under this program constitute a financial contribution under Section 771 (5)(D)(i) of the Act. Loans provide a benefit to the extent that they are provided on terms better than those available from market sources, and grants provide a benefit in the amount of the grant. The program is *de jure* specific under Section 771(5A)(D)(i) of the Act, because the central government designates projects and enterprises that will benefit, and *de facto* specific under Section 771(5A)(D)(iii)(IV) to the extent that GOC officials exercise discretion in selecting beneficiaries.

4. Preferential loans for SOEs

The Department has investigated and countervailed preferential lending to SOEs in the past. In *OCTG*, the Department countervailed low-interest loans to an SOE respondent.[76] In the instant case, certain NOES producers such as Baosteel,[77] Angang Group,[78] and STSS[79] are state- or collectively-owned enterprises. Accordingly, the Department should investigate any loans provided to SOE producers of NOES, whether as policy loans for silicon steel producers or loans to SOEs.

Loans from GOC-controlled banks to SOEs constitute financial contributions under Section 771(5)(D)(i) of the Act. The 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. Petitioner further notes that pursuant to Article 10.2 of China's WTO Accession Protocol, subsidies provided to SOEs are deemed specific when SOEs are the predominant recipients of

---

[76] *OCTG* at 12.

[77] 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 30. Exhibit VIII-23.

[78] 2012 Annual Report of Angang Steel Co., Ltd., at 65. Exhibit VIII-19.

[79] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd. at 48. Exhibit VIII-24.

such subsidies or receive disproportionately large amounts of such subsidies.[80] They provide a benefit to recipients equal to the difference between what the recipients paid on the preferential loans and the amount they would have paid on comparable commercial loans pursuant to 19 C.F.R. § 351.505(a).

B. Income Tax Programs

1. "Two Free, Three Half Program"

Under Article 8 of the *FIE Tax Law*, a foreign invested enterprise ("FIE") that is "productive" and is scheduled to operate for more than ten years may, *inter alia*, be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years.[81] The Department has repeatedly found this program to constitute a countervailable subsidy.[82] This program provides a financial contribution, and it is specific because it is limited to a specific group of enterprises, FIEs.[83]

In response to a number of factors, including foreign subsidies investigations, China revised its tax code effective January 1, 2008 to create a flat income tax rate of 25 percent for most corporations regardless of the nationality of capital. Article 57 of the new tax law, however, provides that companies eligible for the "Two Free, Three Half" and similar

[80] *See China's WTO Accession Protocol*, art. 10.2. Exhibit VIII-27.

[81] *See Foreign Invested Enterprise and Foreign Enterprise Income Tax Law*, Order of the President No. 45 (April 9, 1999) ("*FIE Tax Law*"). **Exhibit VIII-33**. *OCTG* at 16.

[82] *See id.; Drill Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 Fed. Reg. 1971 (January 11, 2011), Issues and Dec. Memo. at 16-18 ("*Drill Pipe*").

[83] *OCTG* at 16 and fn. 45.

preferences will continue enjoying such benefits through 2012, the presumptive POI.[84] As explained in implementing regulations:

> Enterprises which enjoy the preferential policies of low tax rates in the past time shall be gradually transitioned to be enjoying the statutory tax rate within 5 years after carrying out the {*Enterprise Income Tax Law*} as of January 1, 2008. Among others, the enterprises that have been taxed at 15% shall be subject to the enterprise income tax rate of 18% in 2008, 20% in 2009, 22% in 2002, 24% in 2011 and 25% in 2012. The enterprises that enjoy the tax rate of 24% in the past time shall be subject to the tax rate of 25% as of 2008.
>
> As of January 1, 2008, the enterprises that enjoy "2-year exemption and 3-year half payment in the past time", "5-year exemption and 5-year half payment" of the enterprise income tax and other preferential treatments in the form of periodic tax deductions and exemptions may, after carrying out the EITL, go on to enjoy the relevant preferential treatments under the preferential measures and the time period set down in the previous tax law, administrative regulations and relevant documents until the expiration of the said time period.[85]

Because income tax returns are filed after the end of the calendar year, the tax return filed in 2012 would reflect income earned in 2011 when this program was still in effect. NOES producers such as Jiangsu Jijing Metal Technology Co., Ltd. ("Jijing")[86] and Xinwanxin[87] are eligible for this program because they are FIEs.

An income tax reduction or exemption is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. The exemption provides a benefit

---

[84] *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*"). **Exhibit VIII-34**.

[85] *Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. **Exhibit VIII-35**; *Drill Pipe* at 18.

[86] "Profile of Jiangsu Jijing Metal Technology Co., Ltd.," *Website of Jiangsu Jijing Metal Technology Co., Ltd.* ("*Profile of Jijing*"). **Exhibit VIII-36**.

[87] *Profile of Xinwanxin*. Exhibit VIII-30.

to the recipient in the amount of the tax savings pursuant to 19 C.F.R. § 351.509(a)(1). The program is specific within the meaning of Section 771(5A)(D)(i) of the Act because the tax savings are limited as a matter of law to FIEs.

2. Provincial tax exemptions and reductions for "productive" FIEs

Under Article 9 of the FIE Tax Law, provincial governments have the authority to grant exemptions or reductions on local income taxes to productive FIEs.[88] As one example of this program in action, Article 2 of the *Rules of Exemption and Deduction of Local Income Tax of FIEs in Guangdong Province* exempts "productive" FIEs from provincial income taxes during the period covered by the "Two Free, Three Half" program described above.[89] NOES producers such as Jijing and Xinwanxin are eligible for this program because they are FIEs.[90]

An income tax reduction or exemption is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. The exemption provides a benefit to the recipient in the amount of the tax savings pursuant to 19 C.F.R. § 351.509(a)(1). The program is specific within the meaning of Section 771(5A)(D)(i) of the Act because the exemption/reduction is limited as a matter of law to certain enterprises, "productive FIEs."

3. Tax reductions for FIEs purchasing Chinese-made equipment

China's tax rules provide certain incentives to FIEs investing in new equipment. In other investigations, the Department found that the *Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises* and the *Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax*

---

[88] *See* the *FIE Tax Law*. Exhibit VIII-33; *see also Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 37012 (July 27, 2009), Issues and Dec. Memo. at 12 ("*Kitchen Shelving*").

[89] *Id.*

[90] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

Credits for Purchase of Domestic Equipment by Foreign Invested Enterprises and Foreign Enterprises permits FIEs to obtain tax credits of up to 40 percent of the purchase value of domestically-produced equipment in certain circumstances.[91] Specifically, the credit is available to FIEs (and other firms with foreign ownership) engaged in projects which are classified in either the Encouraged or Restricted B categories of the *Catalog of Industrial Guidance for Foreign Investment*. The credit applies to any domestically-produced equipment so long as the equipment is not listed in the *Catalog of Non-Duty-Exemptible Articles of Importation*. The purpose of the program, according to the GOC, is to attract foreign investment.[92]

To receive a tax credit under this program, the requesting enterprise must submit an application to the local tax authority within two months of purchasing equipment. Once approved, the credit can be claimed on the enterprise's income tax return. The amount of the credit is limited to the lesser of 40 percent of the purchase price of the domestically-produced equipment or the incremental increase in income taxes owed over the previous year.[93] As indicated above, tax breaks under this program remained available in the presumptive POI notwithstanding changes in the law.[94] NOES producers such as Jijing and Xinwanxin are

[91] *China CFS Paper Preliminary Determination*, 72 Fed. Reg. at 17495.

[92] *See Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises,* Guo Shui Fa 2000 No. 90 (May 18, 2000). **Exhibit VIII-37**. *See also Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by Foreign Invested Enterprises and Foreign Enterprises,* Cai Shui Zi 2000 No. 49 (Jan. 14, 2000). **Exhibit VIII-38**. *China CFS Paper Preliminary Determination,* 72 Fed. Reg. at 17495.

[93] *Id.*

[94] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. **Exhibit VIII-39**.

eligible for this program because they are FIEs.[95] Information relating to the equipment purchases of these entities is not reasonably available to Petitioner.

An income tax reduction is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). The income tax credit is specific under Section 771(5A)(C) of the Act because it is contingent on the use of domestic over imported goods.

4. Tax reductions for FIEs in designated geographic locations

The GOC uses special tax rates to encourage FIEs to locate in designated coastal economic development zones, special economic zones, and economic and technical development zones.[96] This program was originally created in 1988 under the *Provisional Rules on Exemption and Reduction of Corporate Income Tax and Business Tax of FIEs in Coastal Economic Zone* of the Ministry of Finance, and more recently is administered under the *FIE Tax Law* and *Decree 85 of the State Council of 1991*.[97] Under Article 7 of the *FIE Tax Law* and Article 71 of *Decree 85*, "productive" FIEs located in the designated economic zones pay enterprise income tax at a reduced rate of either 15 or 24 percent, depending on the zone.[98] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax

[95] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[96] *See China's Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures*, G/SCM/N/123/CHN at X (Apr. 13, 2006) ("*GOC WTO Notification*"). **Exhibit VIII-40**.

[97] *See* the *FIE Tax Law,* Exhibit VIII-33; *see also Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises* (July 1, 1991) ("*Decree 85*"). **Exhibit VIII-41**.

[98] *See id; see also China CFS Paper I&D Memo* at 11.

regime.[99] Based on the information, including company addresses, available to Petitioner, it appears that several producers of NOES are located in designated geographical areas. For example, Winwanxin is a FIE located in Putian City Xianyou Licheng North Development Zone, and Jijing is a FIE located in Airport Industrial Park of Changzhou National High-tech Industrial Development Zone.[100] Thus, NOES producers are eligible to benefit from the tax breaks available under this program.

An income tax reduction is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the amount of the tax savings under 19 C.F.R. § 351.509(a)(1). The income tax credit is specific under Section 771(5A)(D)(iv) of the Act because it is limited to enterprises located in designated geographical regions.

5. Tax reductions for technology or knowledge-intensive FIEs

This subsidy program is available to FIEs that qualify as technology-intensive or knowledge-intensive and have major products listed in the *Catalogue of High and New Technology Products of China* promulgated by the Ministry of Science and Technology ("MOST").[101] Article 73 of the *Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises* authorizes a reduced income tax rate of 15 percent for "productive" FIEs located in coastal economic zones, special economic zones, or economic and technical development zones if they undertake, among other things, technology-

[99] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-35.

[100] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[101] *See GOC WTO Notification* at VI. Exhibit VIII-40.

intensive or knowledge-intensive projects.[102] Additionally, FIEs that have been established in zones specified by the State Council and that engage in projects encouraged by the GOC may qualify for the reduced income tax rate of 15 percent upon approval of State Administration of Taxation ("SAT").[103] FIEs having qualified products that account for 50 percent or more of total revenue pay a reduced income tax rate of 15 percent.[104] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax regime.[105]

Petitioner believes that a number of Chinese producers of NOES are designated as high-tech enterprises by the GOC and have received benefits under this program. For example, Baosteel, Winwanxin, and Jijing have been designated HNTEs by the relevant authorities.[106] Consequently, the information available to Petitioner indicates that many Chinese producers and exporters of NOES are eligible for this program.

An income tax reduction is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the amount of the tax savings under 19 C.F.R. § 351.509(a)(1). The program is specific within

[102] *See Decree 85.* Exhibit VIII-41; *see also Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 16836 (April 13, 2009), Issue and Dec. Memo. at 16 ("*Citric Acid*").

[103] *Id.*

[104] *Id.* Petitioner understands that effective in 2009 China unified the enterprise tax rate and local enterprise tax rate for domestic and foreign enterprises at 25 percent, although companies previously enjoying a preferential rate would continue to do so. *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39; *see also Enterprise Income Tax Law.* Exhibit VIII-34.

[105] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39.

[106] Baoshan Iron & Steel, Sustainability Report (2006). Exhibit VIII-29. *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

the meaning Section 771(5A)(D)(i) of the Act because the tax savings afforded by this program are limited as a matter of law to certain enterprises, "productive FIEs."

6. Tax reductions for FIEs that are also HNTEs

The GOC provides tax benefits to FIEs recognized as HNTEs established in State high- or new- technology industrial development zones, and for advanced technology enterprises with foreign investment.[107] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax regime.[108]

China reported to the WTO that the program works as follows: FIEs designated as HNTEs established in high- or new- technology industrial development zones pay income tax at the reduced rate of 15 percent.[109] In addition, foreign joint ventures scheduled to operate for at least ten years and designated as HNTEs established in high- or new- technology industrial development zones pay no income tax for their first two years of profitability and at half the normal rate for the next three years.[110] FIEs in high- and new- technology industrial development zones are also eligible to benefit from additional tax preferences administered by the governments of the zones themselves.[111]

Winwanxin is an FIE that has been designated as a HNTE by the relevant authorities.[112] Jijing is an FIE that is located in a National High-Tech Industrial Development Zone.[113]

---

[107] *See GOC WTO Notification* at VIII-IX. Exhibit VIII-40.

[108] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39.

[109] *See id.*

[110] *See id.*

[111] *See id.*

[112] *Profile of Xinwanxin.* Exhibit VIII-30.

[113] *Profile of Jijing*. Exhibit VIII-36.

Consequently, the information available to Petitioner indicates that Chinese producers and exporters of NOES are eligible for this program.

An income tax reduction is a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). The program is specific within the meaning of Section 771(5A)(D)(i) of the Act because the exemption/reduction is limited as a matter of law to certain enterprises, FIEs that are also HNTEs.

7. Tax reductions for HNTEs involved in certain projects

Under China's new tax regime, enterprises that are qualified as HNTEs are entitled to a reduced tax rate of 15 instead of 25 percent.[114] 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 standard tax rate for the next three years.[115] There are certain additional requirements related to how long a company has been in existence.[116]

---

[114] *See Enterprise Income Tax Law.* Exhibit VIII-34.

[115] *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. **Exhibit VIII-42**.

[116] *See Regulations of Implementation of the Enterprise Income Tax Law,* Guowuyuanlin (2007) No. 512 (December 2007). **Exhibit VIII-43**; *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. **Exhibit VIII-44**; *Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for High or New Technology Enterprises,* Gou Shui Han (2009) No. 203. **Exhibit VIII-45**.

Companies must be engaged in certain activities to be eligible for support under this program.[117] Subject merchandise producer STSS has apparently met all of the requirements because it enjoyed a reduced income tax rate of 15 percent in 2012.[118] Winwanxin is also an FIE that has been designated a HNTE by the relevant authorities and thus may be eligible.[119] Similarly, Jijing is an FIE that is located in a National High-tech Industrial Development Zone.[120]

An income tax exemption or reduction qualifies as a financial contribution in the form of revenue forgone by the government. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). The program is 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 – HNTEs.

8. Tax offsets for research and development at FIEs

According to China's 2006 subsidies notification to the WTO, the GOC maintains preferential tax policies for research and development at FIEs. The program is authorized by SAT Circular Guo Shui Fa 1999 No. 173 and is administered by the Ministry of Finance and SAT.[121] According to China's WTO notification, "the actual expenses of foreign-invested enterprises on research and development conducted in China, which have increased ten percent or more from the previous year, may be offset by 50 percent from the taxable income of the

---

[117] *See id.* In addition, there are additional requirements related to revenue streams, intellectual property rights, and R&D.

[118] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 97.

[119] *Profile of Xinwanxin*. Exhibit VIII-30.

[120] *Profile of Jijing*. Exhibit VIII-36.

[121] *See GOC WTO Notification* at XXVII. Exhibit VIII-40.

year."[122] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax regime.[123]

Petitioner believes that one or more Chinese producers of NOES may have received tax benefits under this program. Both Winwanxin and Jijing are FIEs.[124] NOES has been designated as high- and new- technology products by the relevant authorities, and silicon steel products including NOES are encouraged.[125] Thus, certain producers of NOES appear to be eligible to receive benefits under this program.

Pursuant to Section 771(5)(D)(ii) of the Act, income tax offsets constitute financial contributions in the form of revenue forgone by the government. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). The program is specific within the meaning of Section 771(5A)(D)(i) of the Act because the offset is limited as a matter of law to certain enterprises, *i.e.*, FIEs.[126]

9. 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.[127] The notification explains that domestic enterprises

[122] *See id.*

[123] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39.

[124] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[125] *Specialty Steel Plan*. Exhibit VIII-10.

[126] *See SAT's Circular on Certain Issues Regarding Expenses on Research and Development to Be Offset from Taxable Income of FIEs,* Guo Shui Fa 1999 No. 173 (Sept. 17, 1999). **Exhibit VIII-46**.

[127] *See GOC WTO Notification* at LIX. Exhibit VIII-40.

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.[128] In those circumstances where the income tax due is less than the 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.[129]

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

During the Department's *Welded 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*.[130] The Department should, however, examine whether benefits under this program have actually terminated, were grandfathered, or continue under a new name. The Department should investigate whether Chinese-owned producers of NOES in China, including but not limited to, Baosteel and WISCO, benefited from countervailable subsidies provided under this program. Moreover, because the benefits received under this program are tied to production equipment, benefits received by NOES producers may have continued through the allocation period.

[128] *See id.*

[129] *See id.*

[130] *Welded Line Pipe* at 79.

10. Tax reductions for export-oriented FIEs

An FIE may continue to pay income tax at half the standard rate following the expiration of the five-year term of the "Two Free, Three Half" program if its exports constitute 70 percent of sales.[131] Export-oriented enterprises in special economic and other specially designated zones already eligible to pay half the standard income tax rate may have their rate further reduced through this program pursuant to the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.[132] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax regime.[133] Chinese producers of NOES are eligible for this program. For example, both Winwanxin and Jijing are FIEs,[134] and producers of NOES have received financing for exports, as discussed above.

Pursuant to Section 771(5)(D)(ii) of the Act, tax reductions constitute financial contributions in the form of revenue forgone by the government. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). This program is deemed specific under Section 771(5A)(B) of the Act because it is contingent upon export performance.

11. Tax refunds for reinvestment of FIE profits in export-oriented enterprises

FIEs that re-invest profits into the same FIE, or use those profits to establish another FIE (or high-technology company), are eligible for complete refunds of the corporate income tax

---

[131] *See* Article 75 of *Decree 85*. Exhibit VIII-41; Article 6 and 8 of the *FIE Tax Law*. Exhibit VIII-33; *see also GOC WTO Notification*. Exhibit VIII-40.

[132] *See Decree 85*. Exhibit VIII-41.

[133] *See Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39.

[134] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-31.

already paid on the invested amount, so long as the recipient of the investment is export-oriented and scheduled to operate for at least five years. This program is authorized by *The Ministry of Finance and State Administration of Taxation's Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises*[135] and *The State Administration of Taxation's Supplementary Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises*.[136] As indicated above, these benefits continued into the presumptive POI notwithstanding the changes to China's tax regime.[137]

Producers of NOES with foreign investment are eligible for this program provided the entities in which they invest meet the export threshold. Given that producers of NOES have received export lending from GOC sources, some of the companies that are the focus of this petition likely benefit from this program.

Consistent with Section 771(5)(D)(ii) of the Act, income tax exemptions are financial contributions in the form of revenue forgone by the government. This program provides a benefit to the recipient in the amount of the tax savings from the program. 19 C.F.R. § 351.509(a)(1). This program is deemed specific because it is contingent upon export performance. Section 771(5A)(B) of the Act.

[135] *See Ministry of Finance and State Administration of Taxation Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (June 1, 2002). **Exhibit VIII-47**.

[136] *See Supplementary Circular Concerning the Preferential Policy for Enterprises with Foreign Investment*, Guo Shui Han 2003 No. 368. **Exhibit VIII-48**.

[137] *See Notification of the State Council on Carrying out the Transition Preferential Policies concerning Enterprise Income Tax*, Guo Fa 2007 No. 39. Exhibit VIII-39.

C. Other Tax Programs

1. Import tariff and VAT exemptions 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 FIEs and certain domestic enterprises in encouraged industries from paying VAT and tariffs on imported equipment not for resale.[138] The objective of this program is to encourage foreign investment and to introduce advanced equipment from abroad into China and upgrade domestic industrial technology.[139] The Department has countervailed this program in past investigations.[140] The information reasonably available to Petitioner indicates that certain companies that produce NOES in China, such as STSS, may have imported foreign-made equipment as a result of recent technological renovation projects.[141]

Import tariff and VAT exemptions provide a financial contribution in the form of revenue foregone by the GOC. Section 771(5)(D)(ii) of the Act. This program provides a benefit to the recipient in the form of the tax savings from the program. 19 C.F.R. § 351.510(a)(1). 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.[142] It is also specific because it is essentially limited to FIEs. Section 771(5A)(D)(i) of the Act.

[138] *See Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, Guo Fa 1997 No. 37. **Exhibit VIII-49**. S*ee also China CFS Paper I&D Memo* at 13.

[139] *Id. See also GOC WTO Notification* at LX. Exhibit VIII-40.

[140] *See e.g., Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 Fed. Reg. 40480 (July 15, 2008), Issues and Dec. Memo. at 22-23 ("*OTR Tires*").

[141] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 138. Exhibit VIII-24.

[142] *See OTR Tires* at 22; *see also China CFS Paper I&D Memo,* at 87-88.

2. VAT rebates on FIE purchases of Chinese-made equipment

As outlined in the *Interim Administrative Measures on Purchase of Domestic Equipment by Projects with Foreign Investment* (the "*1999 VAT Measures*"), the GOC refunds the VAT on FIE purchases of certain domestically-produced equipment.[143] Article 3 of the *1999 VAT Measures* specifies that this program is limited to FIEs. Article 4 defines the type of equipment eligible for the VAT exemption, which includes equipment falling under the "Encouraged" and "Restricted B" categories listed in the Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment and equipment for projects listed in the Catalogue of Key Industries, Products and Technologies Encouraged for Development by the State. VAT rebates on domestically-produced equipment are granted to FIEs upon presentation of documents showing their FIE status.[144] Producers of NOES, such as Winwanxin and Jijing, are eligible for this program because they are FIEs.[145]

The VAT refund program for purchases of domestic equipment qualifies as a financial contribution under Section Section 771(5)(D)(ii) because it involves revenue foregone by the GOC. This program provides a benefit to the recipient in the form of the tax savings from the program. 19 C.F.R. § 351.510(a)(1). 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.[146] It is also specific because it is limited to FIEs. Section 771(5A)(D)(i) of the Act.

---

[143] *See Interim Administrative Measures on Purchase of Domestic Equipment by Projects with Foreign Investment,* Guo Shui Fa 1999 No. 171. **Exhibit VIII-50.**

[144] *Id.; see also Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment,* Guo Fa 1997 No. 37. Exhibit VIII-49. *China CFS Paper I&D Memo* at 13.

[145] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[146] *CFS Paper I&D Memo* at 13.

3. Exemptions from administrative charges for companies in industrial zones

In *Aluminum Extrusions*, the Department investigated whether respondents in industrial zones received exemptions from administrative charges.[147] Although the Department determined that aluminum producers did not use this program,[148] producers of NOES, such as Jijing and Xinwanxin, are located in industrial zones.[149] It is likely that producers of NOES located in certain industrial zones benefit from exemptions from administrative charges. The Department should investigate this program with respect to the industry producing the subject merchandise.

Consistent with Section 771(5)(D)(ii) of the Act, exemptions from municipal government fees and taxes constitute financial contributions in the form of revenue forgone by the government. The exemptions provided under the program confer a benefit in the amount of the exemption or reduction of taxes otherwise due. 19 C.F.R. § 351.509(a)(1). The exemption or reduction of fees due is specific because the municipal authorities have designated certain geographical regions within their jurisdictions for disparate treatment within the meaning of Section 771(5A)(D)(iv) of the Act.

4. VAT rebates on domestically produced equipment

In *Coated Paper*, the Department determined that the GOC's *Notice of the State Administration of Taxation Concerning the Trial Administrative Measures on Purchase of Domestically Produced Equipment by FIEs* (GUOSHUIFA (1999) No. 171) provides FIEs with VAT refunds for purchases of certain domestically produced equipment.[150] Some producers of

---

[147] *Aluminum Extrusions from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 Fed. Reg. 22114, 22116 (April 27, 2010).

[148] *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 Fed. Reg. 18521 (April 4, 2011), Issues and Dec. Memo. at Section X.L ("*Aluminum Extrusions*").

[149] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30 .

[150] *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Affirmative Countervailing Duty*

NOES, such as Winwanxin and Jijing, are FIEs and thus eligible to receive benefits under this program to the extent that they purchased domestically produced equipment.[151] The Department should investigate whether producers of the subject merchandise received benefits under this program.

VAT rebates on FIE purchases of domestically produced equipment are a financial contribution in the form of revenue forgone by the GOC, or in the alternative, a direct financial contribution. *See* Sections 771(5)(D)(i) and (ii) of the Act. Such rebates provide a benefit in the amount of the tax savings. 19 C.F.R. § 351.510(a)(1). The VAT rebates provided under this program are contingent upon the use of domestic over imported goods and therefore are specific under Sections 771(5A)(A) and (C) of the Act.

D. Government Provision Of Goods And Services For Less Than Adequate Remuneration

1. Provision of land use rights for less than adequate remuneration

The evidence available to Petitioner indicates that that Chinese producers of NOES benefit from the government provision of land use rights for less than adequate remuneration. As the Department is aware, all land in China is owned by the State.[152] As a result, the GOC has exceptional influence over how land is used in China and, as a result, supply and demand.[153]

A variety of national and local industrial plans call for authorities to use land and land policies to support encouraged industries, such as silicon electrical steel, including NOES. The

---

Determination, 75 Fed. Reg. 59212 (September 27, 2010), Issues and Dec. Memo. at 18 ("*Coated Paper*").

[151] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[152] *See Welded Line Pipe* at 15.

[153] *See, e.g.*, *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 71360, 71368 (Dec. 17, 2008) ("*OTR Preliminary Determination*").

Iron & Steel Plan designates the NOES and other "Special Steel Products" sector as "key"[154] and mandates that government entities "coordinate" their "land policies" in light of this designation.[155] Similarly, the *Specialty Steel Plan* promotes the production of silicon steel, including NOES, through "land policies."[156] Hubei Province has designated silicon steel as a "key project,"[157] 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."[158]

In particular, Anshan City provided "'Angang with most preferential policies and best investment environment,' to attract Angang project to invest and settle locally and thus invigorate the local economy."[159] Anshan City "set forth preferential policies including providing 'zero land price' policy" for Angang.[160] Thus, it appears that Angang was provided no-cost land in order to attract it to locate in Anshan City.

Although private entities may purchase land-use rights from a government or from certain classes of other entities holding land-use rights, the Department has found that the GOC's ability to control land allocations and grants, combined with policies that restrict the ability of tenants to determine how to use land, result in severe market distortions.[161]

---

[154] *Iron & Steel Plan*. Exhibit VIII-9.

[155] *Id.*

[156] *Specialty Steel Plan*. Exhibit VIII-10.

[157] *Hubei Plan*. Exhibit VIII-15.

[158] *Id.*

[159] "Anshan Creates Angang Economy Circle,'" *Sh-overseas.com* (July 10, 2004). **Exhibit VIII-51**.

[160] *Id.*

[161] *See Welded Line Pipe* at 16.

a) Allocated land use rights for SOEs

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).[162] 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.[163] In the *OTR Tires Preliminary Determination*, 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."[164] The fees associated with allocated land use rights do not approximate or even reflect market values. As a result, recipients of this type of land use rights benefit from a countervailable subsidy. Producers of NOES that are SOEs include Angang,[165] Baosteel,[166] STSS,[167] and WISCO.[168]

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. As discussed above, the information available to Petitioner indicates that the GOC provides allocated land use rights to SOEs for only nominal fees, providing a benefit within the

162 *OTR Preliminary Determination*, 72 Fed. Reg. at 71368.

163 *Id.*

164 *Id.*

165 2012 Annual Report of Angang Steel Co., Ltd., at 65. Exhibit VIII-19.

166 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 30. Exhibit VIII-23.

167 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 48. Exhibit VIII-24.

168 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 33. Exhibit VIII-25.

meaning of 19 C.F.R. § 351.511(a)(2).[169] Because of 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 based on a comparison with land use values in a market economy at a similar stage of economic development that is reasonably proximate to China.[170] The benefit will be the difference between the price paid and the amount the recipient would have paid in reference to the market benchmark. "Allocated" land use rights are only available to SOEs, a group of enterprises, making the government provision of allocated land use rights at below market prices specific under Section 771(5A)(D)(i) of the Act.[171] Pursuant to Article 10.2 of China's WTO Accession Protocol, subsidies provided to SOEs are specific when SOEs are the predominant recipients of such subsidies or receive disproportionately large amounts of such subsidies.[172]

b) Land use rights in industrial and other special economic zones

The GOC provides land use rights at preferential rates to enterprises located in special economic zones. The provision of land to companies located in such zones has been found countervailable in prior investigations.[173]

[169] Pursuant to Article 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." Exhibit VIII-27.

[170] *See*, *e.g*., *LWS I&D Memo* at 14-18.

[171] *OTR Preliminary Determination*, 72 Fed. Reg. at 71368.

[172] *See China's WTO Accession Protocol*, art. 10.2. Exhibit VIII-27.

[173] *See, e.g., Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 Fed. Reg. 35639 (June 24, 2008), Issues and Dec. Memo. at 14-18 ("*LWS I&D Memo*"), and *Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 Fed. Reg. 57323 (October 2, 2008), Issues and Dec. Memo. at 22 ("*Thermal Paper I&D Memo*").

The information available to Petitioner indicates that numerous producers of NOES are located in industrial and special economic zones. As a result, these companies are eligible to receive benefits under this program. In particular, several producers of NOES are located in special zones and industrial zones such as Xinwanxin in Putian City Xianyou Licheng North Development Zone and Jijing in Airport Industrial Park of Changzhou National High-Tech Industrial Development Zone.[174] Moreover, Anshan High-tech Industrial Development Zone reportedly built Angang Science and Technology Park for Angang projects.[175]

Convincing a producer in an encouraged industry to locate in one industrial zone over another likely requires offering land at cut-rate prices. As the Department is aware, industrial and special economic zones in locations all over China compete for investment and, as a result, seek to offer more attractive packages than available elsewhere to potential investors.[176] Given this practice, the Department should investigate whether NOES producers have received such subsidies in this case regardless of their location.

As the Department has found in prior investigations,[177] the provision of land use rights constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act. The GOC provision of land use rights at below market prices confers a benefit within the meaning of 19 C.F.R. § 351.511(a)(2).[178] Due to government predominance in the land market in China,

[174] *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

[175] "Anshan Creates Angang Economy Circle,'" *Sh-overseas.com* (July 10, 2004). Exhibit VIII-51.

[176] *See, e.g., LWS I&D Memo* at 14-18, *and Thermal Paper I&D Memo* at 22.

[177] *See, e.g., LWS I&D Memo* at 14 ("we continue to find the sale of land-use rights constitutes a financial contribution from a government authority in the form of providing goods or services pursuant to section 771(5)(D)(iii) of the Act."), and *Welded Line Pipe* at 14.

[178] Petitioner notes that pursuant to Article 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." Exhibit VIII-27.

there are no commercial land benchmarks available within China. As a result, the Department should rely on an external benchmark to measure the benefit conferred by this program, consistent with the statute, the Department's regulations, and the Department's prior practice.[179] The benefit will be the difference between the price paid and the amount the recipient would have paid in reference to the market benchmark. This program is specific under Section 771(5A)(D)(iv) of the Act because the land use rights at issue are located within designated geographical regions of the jurisdictions providing them. Because these jurisdictions treat entities located within the zones differently, the resulting subsidy is specific.[180]

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*.[181] 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.[182]

News 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."[183] Despite Hubei's rationing of electricity, WISCO "had been unaffected."[184] At the

---

[179] *See, e.g.*, *LWS I&D Memo* at 14-18.

[180] *See, e.g., Welded Line Pipe Me*mo at 14; *see also OTR Tires* at 20-21.

[181] *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 Fed. Reg. 57444 (Sept. 21, 2010), Issues and Dec. Memo. at 4, 10, 18-19 ("*Seamless Pipe*").

[182] *Welded Line Pipe*, at 29-30.

[183] "China's Hubei Cuts Power To Steel Companies As Coal Shortage Hits," *Reuters* (January 6, 2011). **Exhibit VIII-52**.

[184] *Id.*

same time that Hubei "was experiencing a daily power shortfall," WISCO stated that "{i}t's a fact that power plants lack coal but our electricity supply is still normal and steel production has not been disrupted."[185] Similarly, Shanxi Province provides preferential electricity to select "model projects," including the silicon steel project of TISCO.[186] According to the *Several Preferential Policies to Support Provincial-level Transformation and Comprehensive Reform Model Projects* of Shanxi Province,

> {m}odel projects enjoy most preferential electricity price policy of the industry. Model projects can enjoy large-industry electricity policy. Model projects in service sector enjoy the preferential policy of paying the electricity fee at the same price as those in industry sector. For model projects that are originally in the large-industry electricity price category, provide a subsidy at 20% of the large-industry electricity price, through differential electricity price special income.[187]

The Department should investigate this subsidy program again in this case.

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 NOES producers a good or service.[188] A benefit is conferred under Section 771(5)(E)(iv) of the Act to the extent electricity is provided to NOES producers for less than adequate remuneration. 19 C.F.R. §351.511(a).

[185] *Id.*

[186] *Several Preferential Policies to Support Provincial-level Transformation and Comprehensive Reform Model Projects*, Circular of the General Office of the People's Government of Shanxi Province on Printing and Distributing the Several Preferential Policies to Support Provincial-level Transformation and Comprehensive Reform Model Projects, Jin Zheng Ban Fa (2012) No. 64 (September 12, 2012). **Exhibit VIII-53.**

[187] *Id.*

[188] 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, e.g., Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 Fed. Reg. 57323 (Oct. 2, 2008), Issues and Dec. Memo. at Section I.N ("*Thermal Paper I&D Memo*").

As the Department has found in previous investigations, the GOC controls electricity pricing in China.[189] In *Thermal Paper*, the Department determined that

> the facts in this investigation indicate that electricity rates for enterprises located in Guangdong were set at the national level. The record further shows that the {National Development Reform Commission ("NDRC")} set different rate adjustments for different jurisdictions. These facts support a finding of regional specificity with respect to electricity rates in Guangdong Province.[190]

In the instant case, certain producers or exporters of NOES are located in Guangdong Province.[191] As a result, the discriminatory provision of lower-cost electricity in certain designated geographic regions is regionally specific under Section 771(5A)(D)(iv) of the Act because the subsidy is only available within such designated geographical regions.[192] Other localities also offer preferential electricity rates to companies located within their jurisdictions.[193] Thus, to the extent the electricity in Guangdong and other provinces is provided at preferential rates, it is specific under Section 771(5A)(D)(iv) of the Act.

Finally, the Department has

> {r}ecommend{ed} … that, in light of the new evidence regarding the role of the NDRC in setting prices discovered during the

[189] *See Thermal Paper I&D Memo* at Comment 11 (discussing lower electricity rates provided to respondents through NDRC discretion). *See also* "No Electricity Rate Hike Expected," *China State Power Information Network* (May 28, 2010). **Exhibit VIII-54**.

[190] *Memorandum to David Spooner regarding Countervailing Duty Investigation: Lightweight Thermal Paper from the People's Republic of China; Post-Preliminary Findings for New Subsidy Allegations* (Sept. 2, 2008) at 4-5. **Exhibit VIII-55**, *unchanged in final determination*, *Thermal Paper I&D Memo* at 22-23.

[191] Foreign Producers/Exporters, Petition Volume I: Exhibit I-2.

[192] *See* "Guangdong Electricity Tariff Rise Lowest In China," *hktdc.com* (Dec. 1, 2009) (describing how NDRC and the Guangdong price control bureau vary the price of electricity for different areas within the province). **Exhibit VIII-56**.

[193] *See, e.g.,* "Nanhai District Preferential Policies for Inviting Investment," *Foshan Industries Website.* **Exhibit VIII-57.**

> 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.[194]

As in other proceedings, the Department should investigate whether producers of NOES have received electricity for less than adequate remuneration from the authorities of the geographic area in which they are located.[195]

E. Grant Programs

1. The State Key Technology Renovation Fund

The Department has countervailed the State Key Technology Renovation Project Fund program in past investigations.[196] 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 Touzi (1999) No. 122, Guojingmao Touzi (1999) No. 1038*, and *Guojingmao Touzi (2000) No. 822*.[197] According to the GOC, the program is intended to promote (a) technological renovation in key

---

[194] *Memorandum to David Spooner regarding Countervailing Duty Investigation: Lightweight Thermal Paper from the People's Republic of China; Post-Preliminary Findings for New Subsidy Allegations* (Sept. 2, 2008) at 4-5 (emphasis added). Exhibit VIII-55.

[195] *Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 37012 (July 27, 2009), Issues and Dec. Memo. at 17-18; *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 Fed. Reg. 57444 (Sept. 21, 2010), Issues and Dec. Memo. at 4, 10, 18-19; *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 Fed. Reg. 70961 (November 24, 2008), Issues and Dec. Memo. at 29-30; and *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 Fed. Reg. 64045 (Dec. 7, 2009), Issues and Decision Memo. 22-23.

[196] *See e.g.*, *OTR Tires* at 23-24; *OCTG* at 15-16.

[197] *See China CFS Paper Preliminary Determination,* 72 Fed. Reg. at 17491.

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.[198]

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.[199] The total amount of the grant is not to exceed 15 percent of the project cost.[200] Under Article 11 of the *Special Fund Measures*, Key Technology Program funds may also be disbursed as "loans interest grants," which are calculated with reference to the amount of the project loans and prevailing interest rates during a period of one to two years.[201]

Article 4 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.[202] Article 4 also states that preference in recipient selection will be given to the "old industrial bases in north-east, central, and western areas." [203] As companies engaged in an industry strongly encouraged and

[198] *See id.*

[199] *See Circular of the Administrative Measures on the State Key Technology Renovation Projects and the Administrative Measures on Special Fund Generated by Treasury Bonds for the State Key Technology Renovation Projects*, Guo Jing Mao Touzi 1999 No. 886 at 10. **Exhibit VIII-58**.

[200] *See id.*

[201] *See id.*

[202] *See id.*

[203] *See id.*

designated as "key" by the GOC, Chinese NOES producers should be eligible for this program.[204]

This program provides a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act. This program provides a benefit in the amount of the grant(s) according to 19 C.F.R. § 351.504(a). 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, *i.e.*, large-sized state-owned enterprises and large-size state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries.[205] Pursuant to Article 10.2 of China's *WTO Accession Protocol*, subsidies provided to SOEs are specific when SOEs are the predominant recipients of such subsidies or receive disproportionately large amounts of such subsidies.[206]

2. The State Science and Technology Support Scheme

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 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)*.[207] 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

[204] *Specialty Steel Plan*. Exhibit VIII-10.

[205] *See China CFS Paper Preliminary Determination,* 72 Fed. Reg. at 17491

[206] *See China's WTO Accession Protocol*, art. 10.2. Exhibit VIII-27.

[207] *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. **Exhibit VIII-59**.

scientific or technological problems in the area of economic and social development through grants from the central government.[208]

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. 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). The information available to Petitioner indicates that this program is specific because recipients are selected based on the GOC's designation of certain industries for development in its industrial planning documents. As discussed in the sections above, the GOC has developed a series of policies and measures to encourage and support producers of NOES. This program is therefore specific as a matter of law pursuant to Section 771(5A)(D)(i) of the Act. Subsidies provided under the State Science and Technology Support Scheme are also specific under Section 771(5A)(D)(ii)(I) and (III) of the Act because of the discretion the GOC exercises in selecting beneficiaries.[209]

3. "Famous Brands" awards

The Department has previously found that famous brand awards confer countervailable subsidies.[210] The purpose of the program is to raise the competitiveness of Chinese industries, and it is implemented at both the national and provincial levels.[211]

Available information indicates that Chinese producers of NOES have benefited from this program. For example, the "Wanxin" brand NOES has been designated as a Famous

---

[208] *See id.*

[209] *See id.*

[210] *See Citric Acid* at 13-14.

[211] *See* AQSIQ, *China Famous Brand Strategy Development Report* (Dec. 2006). **Exhibit VIII-60**.

Product of Fujian Province.[212] Although Petitioner understands that China agreed to abolish this subsidy program following a WTO challenge, it is unclear when the GOC has or will stop making grants under this program.[213]

As the Department has previously found, awards under the Famous Brands programs constitute a financial contribution in the form of a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.[214] The benefit from this program is the amount of any grant, as set forth in 19 C.F.R. § 351.504(a). In *Citric Acid*, the Department determined that very few enterprises received a Famous Brands award and, as a result, the program was *de facto* specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act.[215]

4. 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 RMB 10 million to reimburse up to 30 percent of legal fees to local companies facing anti-dumping investigations abroad.[216] Shenzhen is an important industrial center in Guangdong Province, and the Shenzhen WTO Office is a government entity.[217] The European Union's submission notes

---

[212] Profile of Xinwanxin. Exhibit VIII-30.

[213] United States Trade Representative, "United States Wins End to China's 'Famous Brand' Subsidies after Challenge at WTO; Agreement Levels Playing Field for American Workers in Every Manufacturing Sector" (Dec. 18, 2009). **Exhibit VIII-61**.

[214] *Citric Acid I&D Memo* at 14.

[215] *Id.*

[216] *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 Union to China concerning Subsidies and Price Controls*, G/SCM/Q2/CHN/24 (Oct. 20, 2006) at 2. **Exhibit VIII-62**.

[217] "Government fund helps firms face anti-dumping charges," *China Daily* (Feb. 16, 2004. **Exhibit VIII-63**.

that the fund aims to "encourage local export companies to aggressively strive for their legal rights in the anti-dumping cases through legal action."[218] As indicated above, Chinese NOES producers have been subject to antidumping and countervailing duty investigations in Brazil.[219] Consequently, it is likely that NOES exporters subject to that investigation have benefited from this program.

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. This program provides a benefit in the amount of the grants according to 19 C.F.R. § 351.504(a). 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.

5. Special fund for energy saving 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 projects.[220] 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."[221] In addition to the MOF and the NDRC, local government

[218] *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 Union to China concerning Subsidies and Price Controls*, G/SCM/Q2/CHN/24 (Oct. 20, 2006) at 2. Exhibit VIII-62.

[219] "STXNEWS LATAM-Brazil Trade Body Sets Anti-dumping Penalties on GNO Steel Imports," *Reuters.com* (July 17, 2013). Exhibit VIII-1.

[220] *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. **Exhibit VIII-64**.

[221] *Iron & Steel Plan*. Exhibit VIII-9.

agencies also supervise the implementation of this program and the construction of funded projects.[222]

Local governments have adopted regulations to implement the policies described above. In particular, the Fujian provincial government encourages local authorities to "support the iron and steel industry and the non-ferrous metals industry to undertake energy saving {and} emission reduction."[223] Xinjiu is located in Fujian,[224] and would be eligible for this program to the extent that it incorporated energy saving technology in any capacity expansions. Moreover, Angang has reported in its financial statements a line item for "other payables – the energy-saving and emission-reducing funds," which had a beginning balance of 319 million RMB and an ending balance of 365 million RMB in 2012.[225] Thus, Angang may have received payments under this program during the presumptive POI.

This program confers a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act. 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). This program is specific on a *de facto* basis within the meaning of Section 771(5A)(D)(iii)(I) of the Act, because as noted above, the actual recipients of the grant are limited to a small number of enterprises.

---

[222] *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. Exhibit VIII-64.

[223] *See Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan*. Exhibit VIII-17.

[224] Foreign Producers/Exporters, Petition Volume I: Exhibit I-2.

[225] 2012 Annual Report of Angang Steel Co., Ltd., at 171. Exhibit VIII-19.

6. The Clean Production Technology Fund

As the Department has previously found, the Clean Production Technology Fund program entered into force in October 2004 pursuant to the *Provisional Measures on Clean Production Inspection*.[226] The purpose of program is to decrease pollution through incentives including monetary rewards presented to companies that pass an environmental inspection.[227] This program is implemented at the local government level.[228] STSS reported receiving a total of 64,683,566.19 RMB in grants during 2012, including clean production subsidies and technological renovation subsidies.[229] Thus, STSS received grants for its clean production and technology renovations that may have been granted under this program.

This program provides a financial contribution in the form of a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act. The amount of the benefit from this program is the amount of the grant. 19 C.F.R. § 351.504(a). The program is specific under Section 771(5A)(D)(iii)(IV) because of the discretion exercised by the government when selecting companies to participate.

7. 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

[226] *China CFS Paper I&D Memo* at 15.

[227] *See id*.

[228] *See Provisional Measures on Clean Production Inspection*, Decree No. 16 (Aug. 16, 2004). **Exhibit VIII-65**.

[229] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 145. Exhibit VIII-24.

> 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.[230]

NOES producers are eligible for this program to the extent that they are trading shares on stock exchanges. Shougang, for example, has listed shares and would be eligible to receive benefits under this program.[231] The Department should investigate this program for any respondent company that has listed shares.

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. This program provides a benefit in the amount of the grants according to 19 C.F.R. § 351.504(a). The program is *de facto* specific under Section 771(5A)(D)(iii)(I) of the Act because only a small number of Chinese companies are allowed to list on bourses.[232] It is also specific under Section 771(5A)(D)(i) because it is limited to companies with listed shares.

8. Export rebate 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.[233] Because NOES producers have been designated as HNTEs,[234] they are likely eligible to receive benefits under this program.

---

[230] *See* "Listing Frenzy," *China Business Feature* (Feb. 27, 2008). **Exhibit VIII-66**.

[231] "Beijing Shougang Co., Ltd.: Company Profile," *Emerging Markets Information Service*. **Exhibit VIII-67**.

[232] *See Administrative Measures for the Initial Public Offering and Listing of Stocks*, China Securities Regulatory Commission Order No. 32 (May 17, 2006). **Exhibit VIII-68**.

[233] *Aluminum Extrusions*, at Section VII.M.

[234] Baoshan Iron & Steel, Sustainability Report (2006). Exhibit 29. *Profile of Jijing*. Exhibit VIII-36. *Profile of Xinwanxin*. Exhibit VIII-30.

Little is known about how the program works, but the following explanation from the *Aluminum Extrusions* case constitutes the information reasonably available:

> The Guang Ya Companies reported that Guangcheng received a grant under this program during the POI. See the Guang Ya Companies' July 8, 2010, initial questionnaire response at 60. The Department sent two questionnaires to the GOC concerning this program. In its responses, the GOC indicated that it could not find any "meaningful information" concerning the program. See, e.g., the GOC's August 18, 2010, second supplemental questionnaire response at 1. We determine that the grants issued by the GOC under this program constitute a financial contribution under section 771(5)(D)(i) of the Act and a benefit under section 771(5)(E) of the Act. Concerning specificity, we are resorting to the use of facts available (FA) within the meaning of section 776(a)(1) of the Act because the necessary information concerning the manner in which this program is administered is not on the record. Based on the information contained in the July 8, 2010, questionnaire response of the Guang Ya Companies indicating that they received the grant in the form of an "export rebate," we are relying upon FA and determine that the program is contingent upon exports and therefore specific under section 771(5A)(A) and (B) of the Act. Our findings remain unchanged from the Preliminary Determination. See 75 FR at 54315.

Export rebates from the GOC constitute a financial contribution under Section 771(5)(D)(i) of the Act. This program provides a benefit in the amount of the grant(s) according to 19 C.F.R. § 351.504(a). Because such rebates are contingent upon export performance, they are prohibited and thus specific under Section 771(5A)(A) and (B) of the Act.

9. 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 "government grants relating to assets" had an ending balance of 659 million RMB in 2012, which suggests that Angang booked several GOC grants into this account during 2012.[235] Angang also reported the following GOC

[235] 2012 Annual Report of Angang Steel Co., Ltd., at 173-174. Exhibit VIII-19.

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.[236] In addition, Angang reported that the GOC gave it cash grant infusions totaling 91 million RMB in 2012.[237]

The various grants reported by Angang in its annual report constitute financial contributions under Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a). These grants appear to be specific because the information available does not indicate that there was more than one beneficiary. Section 771(5A)(D)(i) of the Act. The grants could also be specific because the relevant government authorities use their discretion when selecting Angang as the beneficiary. Section 771(5A)(D)(iii)(IV) of the Act.

10. 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 a "government grant related to assets" had an ending balance of 961,802,609.24 RMB in 2012.[238] In addition, Baosteel reported that the GOC gave it cash infusions totaling 698,766,382.87 RMB in 2012.[239]

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. Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a). These grants appear to be specific because the information available does not indicate that there was

---

[236] *Id.* at 181. Exhibit VIII-19.

[237] *Id.*, at 186. Exhibit VIII-19.

[238] 2012 Annual Report of Baoshan Iron & Steel Co., Ltd., at 103. Exhibit VIII-23.

[239] *Id.*, at 110. Exhibit VIII-23.

more than one beneficiary. Section 771(5A)(D)(i) of the Act. The grants could also be specific because the relevant government authorities use their discretion when selecting beneficiaries. Section 771(5A)(D)(iii)(IV) of the Act.

11. Grants to STSS

The 2012 annual report for STSS demonstrates that it receives numerous grants from the GOC. In particular, its "other non-current reliabilities" account demonstrates that the company has received a number grants totaling 64,683,566 RMB for technological renovation projects, environmental protection projects, clean production projects, and energy saving products.[240] In 2012, STSS reported that the GOC gave it cash grant infusions totaling 83,469,300 RMB for operating activities and 131.4 million RMB for financing activities.[241]

The various grants reported by STSS in its annual report constitute financial contributions under Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. Such grants provide benefits in the amount of the payments pursuant to 19 C.F.R. § 351.504(a). These grants appear to be specific because the information available does not indicate that there was more than one beneficiary. Section 771(5A)(D)(i) of the Act. The grants could also be specific because the relevant government authorities use their discretion when selecting STSS as the beneficiary. Section 771(5A)(D)(iii)(IV) of the Act.

12. 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.[242]

---

[240] 2012 Annual Report of Shanxi Taigang Stainless Steel Co., Ltd., at 138 and 145. Exhibit VIII-24.

[241] *Id.*, at 147. Exhibit VIII-24.

[242] 2012 Annual Report of Wuhan Iron & Steel Co., Ltd., at 121. Exhibit VIII-25.

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. Such grants provide a benefit in the amount of the payment pursuant to 19 C.F.R. § 351.504(a). These grants appear to be specific because the information available does not indicate that there was more than one beneficiary. Section 771(5A)(D)(i) of the Act. The grants could also be specific because the relevant government authorities use their discretion when selecting beneficiaries. Section 771(5A)(D)(iii)(IV) of the Act.

F. Government Purchase Of Goods For More Than Adequate Remuneration

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

The GOC's industrial policies provide that 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."[243] Similarly, the *Policies for Development of Iron and Steel Industry* (2005) calls on specialty steel enterprises to "produce special steel for the use of the military industry."[244] Information available to Petitioner indicates that Baosteel and WISCO answered the GOC's call to develop silicon steel for use in GOC's electricity projects.

[243] *Specialty Steel Plan.* Exhibit VIII-10.

[244] *2005 Iron and Steel Policy*. Exhibit VIII-6.

The Three Gorges Project is one of the world's largest hydropower-complex projects and the key project for improvement and development of Yangtze River.[245] Although imported electrical steel was initially used in the construction of this dam, the GOC preferred to use Chinese steel for the project. Baosteel's NOES products were selected by the Three Gorges Project to substitute domestic silicon steel for imported silicon steel in 2010.[246] Supplying the Three Gorges Dam has been extremely profitable for Baosteel. In 2010, Baosteel's silicon steel gross profit increased by 100.39 percent year-over-year.[247] This increase in profit likely resulted from the 62.4 percent year-over-year increase in NOES output,[248] which likely was sold to the GOC for the Three Gorges Dam Project at a handsome profit.

WISCO also was selected by the GOC as a supplier of NOES to the Three Gorge Project in 2010.[249] Moreover, WISCO has been granted contracts to supply other hydroelectric projects.[250]

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 *Low Enriched Uranium from France* ("*Uranium from France*"), for example, the Department found that Eurodif, the respondent in the investigation, received a countervailable benefit resulting

---

[245] "Three Gorges Projects," *Website of China Three Gorges Corporation*. **Exhibit VIII-69**.

[246] 2010 Annual Report of Baoshan Iron & Steel Co., Ltd., at 25. **Exhibit VIII-70.** *See also* "Baosteel's Output Of Grain Oriented Silicon Steel Exceeds 100000 Mt In Past Year," *Steel Orbis* (October 8, 2010). **Exhibit VIII-71**.

[247] "Baosteel Silicon Steel Business Performed Well In 2010," *Steel Guru* (January 7, 2011). **Exhibit VIII-72**.

[248] *Id.*

[249] 2010 Annual Report of Wuhan Iron & Steel Co., Ltd., at 27. **Exhibit VIII-73**.

[250] "Wuhan Iron and Steel Co., Ltd.: WISCO Won Supply Contract For The World Largest Hydroelectric Generating Unit," *4-Traders* (June 25, 2012). **Exhibit VIII-74**.

from purchases of low enriched uranium by EdF, a wholly-owned subsidiary of the Government of France, for more than adequate remuneration. The Department found that this constituted a financial contribution provided by the Government of France under section 771(5)(D)(iv) of the Act.[251]

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) of the specialty steel bar and pipe division of the respondent company, Sammi, was made for more than adequate remuneration. The Department found this to be a financial contribution to Sammi under section 771(5)(D) of the Act.[252] The Department also found that the subsidy was specific in accordance with section 771(5A)(D)(i) of the Act.[253]

1. Financial contribution

Under section 771(5)(D)(iv) of the Act, a countervailable benefit may be provided through a government's purchase of goods for “more than adequate remuneration.” In this instance, the entities purchasing goods are government entities making purchases for construction and infrastructure improvements to the Three Gorges Project and other hydroelectric projects. This would apply to all entities that are controlled by the GOC at any level. Treating majority-government owned entities as the government for purposes of section 771(5)(D) of the Act is consistent with *Stainless Steel Sheet and Strip in Coils from the Republic*

[251] *Notice of Final Affirmative Countervailing Duty Determination: Low Enriched Uranium From France*, 66 Fed. Reg. 65901 (Dec. 21, 2001) and accompanying Issues and Decision Memorandum (“*Uranium I&D Memo*”) at Section “Purchase at Prices that Constitute ‘More Than Adequate Remuneration’.”

[252] *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea,* 64 Fed. Reg. 30636, 30643 (June 8, 1999).

[253] *Id.*

of Korea.[254] It is also consistent with the treatment of government entities for purposes of allegations regarding government provision of goods for less than adequate remuneration in numerous recent CVD investigations involving China.[255]

2. 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 provides that the adequacy of remuneration will be determined in relation to the prevailing market conditions for the goods being purchased in the country which is subject to investigation.

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 conditions."[256] This law applies to all levels of government – national, provincial, and local.[257]

---

[254] *Id.* "Based on the information on the record, we preliminarily 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. We also note that POSCO is one of three companies designated as a "Public Company" by the GOK. One of the other "Public Companies" is the state-run utility company, KEPCO. This determination that POSCO should be treated as a government-owned provider of a good or service is consistent with other cases involving the provision of a good or service by government-owned companies. *See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela, 62 FR 55014* (Oct. 22, 1997)."

[255] *See e.g., China OCTG I&D Memo* at 70-71.

[256] *Government Procurement Law of the People's Republic of China*, Order of the President No. 68 (Jun. 29, 2002). **Exhibit VIII-75**.

[257] *See* The US-China Business Council, PRC Government Procurement Policy (Jul. 2009) at 3. **Exhibit VIII-76**.

Article 10 of the Government Procurement Law of the People's Republic of China provides in relevant part:

> 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
>
> (3) where otherwise provided for by other laws and administrative regulations.[258]

Silicon steel needed for the Three Gorges Dam project was not available in China at the time construction began. By 2010, however, Baosteel and WISCO had built silicon steel production lines, and the GOC substituted Boasteel's and WISCO's silicon steel for imported products, pursuant to Article 10(1) of the *Government Procurement Law*.[259]

Moreover, the draft regulations implementing the *Government Procurement Law* guarantee that Chinese companies will benefit from significant pricing preferences. The PRC's draft *Implementation Regulations on the Government Procurement Law of the People's Republic of China* provide guidance regarding the implementation of China's *Government Procurement Law*. Specifically, the draft regulations state that "{t}he situation where reasonable commercial terms' are not available for procurement under Article 10 of the *Government Procurement Law*, 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

[258] *Government Procurement Law of the People's Republic of China*, Order of the President No. 68 (Jun. 29, 2002). Exhibit VIII-75.

[259] 2010 Annual Report of Baoshan Iron & Steel Co., Ltd., at 25. Exhibit VIII-70.

foreign goods, construction or services by more than 20 percent."[260] This means that goods procured from domestic sources have a 20 percent price advantage over 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."[261] Under this policy, government agencies work cooperatively to develop measures that favor products that use indigenously-developed ideas and technology.[262] In the wake of this policy pronouncement, government agencies at all levels have implemented preferential policies, product catalogues, financing schemes, and other tools aimed at furthering the indigenous innovation goals in government procurement.[263] Subsequently, the GOC released the *Selected Supporting Policies for the 2006-2920 Medium and Long-Term Science and Technology Development Plan* issued in 2006.[264] This plan developed preferences for indigenous innovation products in price-based bidding.[265] 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*").[266] Article 13 of the *Evaluation Measures* provides that indigenous innovation products shall be given preferences of 5-10 percent in the event that price is the sole

[260] *Implementation Regulations on the Government Procurement Law of the People's Republic of China (Draft)* (Jan. 11, 2010). **Exhibit VIII-77**.

[261] U.S.-China Business Council, *Issue Brief: New Developments in China's Domestic Innovation and Procurement Policies* (Jan. 2010) at 1. **Exhibit VIII-78**.

[262] *Id.*

[263] *Id.*

[264] *Id.* at 3.

[265] *Id.*

[266] *Id.*

determining factor, while Article 14 states that indigenous innovation products shall enjoy an additional 4 to 8 percent price preference on technical and price evaluations if comprehensive evaluations methods are used.[267]

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.[268] Petitioner has 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. The pricing preferences inherent in the various government procurement laws and regulations, as well as in the indigenous innovation program – the only information reasonably available to Petitioner – provides sufficient basis for the Department to initiate an investigation on whether GOC procurement of silicon steel, including NOES, may result in a benefit to Chinese producers.

3. Specificity

Article 10 of the *Government Procurement Law* requires the GOC to source goods, construction, and other services from domestic companies.[269] Exceptions to Article 10 may be made only in a limited number of situations – when the goods, construction, or services cannot be purchased on reasonable economic terms, when the procured items are services for use abroad, or when otherwise provided for by other laws or regulations.

---

[267] *Id.*

[268] *See* "Guangdong Legislation Attempts to Solve 'Chronic Problems' in Government Procurement," *Bid Winning Net* (Aug. 12, 2009). **Exhibit VIII-79**. *See also* "Problems in Supply by Agreement and Resolution Strategies," *Ningbo City Government Procurement Net* (Feb. 16, 2009). **Exhibit VIII-80**.

[269] 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. *Government Procurement Law of the People's Republic of China*, Order of the President No. 68 (Jun. 29, 2002). Exhibit VIII-75.

Consequently, as a matter of law, the GOC's government procurement program is contingent upon the use of domestic goods over imported goods**,** and is therefore deemed specific under Section 771(5A)(C) of the Act. Moreover, the GOC's government procurement program is in practice *de facto* specific under Section 771(5A)(C) of the Act, because Baosteel's NOES products "were used to substitute the imported products" used in the construction of the Three Gorges Dam Project.[270]

V. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioner alleges that subsidized imports of NOES from China are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the Commission in **Volume I** of this petition.

VI. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Chinese producers and exporters NOES benefit from massive countervailable subsidies provided by all levels of the GOC. Accordingly, Petitioner requests that the Department initiate a CVD investigation of NOES from China.

[270] 2010 Annual Report of Baoshan Iron & Steel Co., Ltd., at 25. Exhibit VIII-70.