

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824

USITC Inv. Nos. 701-TA-____-- __, and 731-TA-____ - ____

Total Pages: 10,479

Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

CBI 15-333

ORIGINAL

DOC# NUMBER
3080
Office of the Secretary Int'l Trade Commission

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

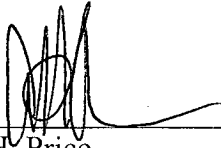
Dear Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), and pursuant to your instructions, we are enclosing herewith the required number of copies of petitions for the imposition of antidumping duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom; and countervailing duties on certain cold-rolled steel flat products from the People's Republic of China, Brazil, India, the Republic of Korea, and Russia (the "Petitions") that are being filed today with the U.S. Department of Commerce (the "Department") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§1671, 1671a(b), 1673 and 1673a(b)).

The enclosed Petitions are divided into multiple volumes. Volume I consists of information relevant to Common Issues and Injury. Volumes II, IV, VI, VIII, IX, XI, XII, and XIV contain country-specific allegations of sales at less-than-fair-value for, respectively, the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom. Volumes III, V, VII, X, and XIII contain information concerning countervailable subsidies provided by, respectively, the People's Republic of China, Brazil, India, the Republic of Korea, and Russia. The requisite certifications, together with designations of and requests for proprietary treatment for the business proprietary information contained in each relevant volume of the Petitions are included with the volume-specific cover letters.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,



Alan H. Price
Daniel B. Pickard
Christopher B. Weld
WILEY REIN LLP
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Washington, D.C. 20006
(202) 719-7000

/s/ Jeffrey D. Gerrish
Robert E. Lighthizer
Jeffrey D. Gerrish
Stephen P. Vaughn
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
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Washington, D.C. 20005
(202) 371-7000

/s/ Roger B. Schagrin
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Paul W. Jameson
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900 7th St N.W. Suite 500
Washington, D.C. 20001
(202) 223-1700

Counsel to Nucor Corporation

Counsel to United States Steel Corporation

Counsel to Steel Dynamics Inc.

/s/ R. Alan Luberda
Paul C. Rosenthal
Kathleen W. Cannon
R. Alan Luberda
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/s/ Stephen A. Jones
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Suite 200
Washington, D.C. 20006
(202) 737-0500

Counsel to ArcelorMittal USA LLC

Counsel to AK Steel Corporation

Enclosures

CERTIFICATION

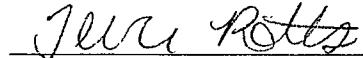
City of Washington)
)
District of Columbia) ss

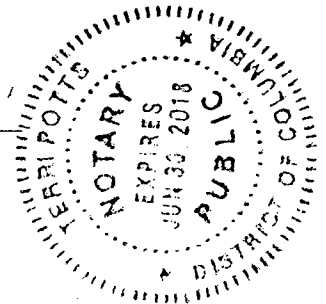
In accordance with section 201.6(b)(3)(iii) of the rules of the U.S. International Trade Commission ("the Commission") (19 C.F.R. § 201.6(b)(3)(iii) (2014)), I, ALAN H. PRICE, counsel to Nucor Corporation ("Nucor"), hereby certify on this 28th day of July 2015, that information substantially identical to that for which proprietary treatment has been requested in the attached submission is not available to the general public.

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a) (2014)), I hereby also certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.


ALAN H. PRICE

Subscribed and sworn to before me on this 28th day of July 2015.


Notary Public

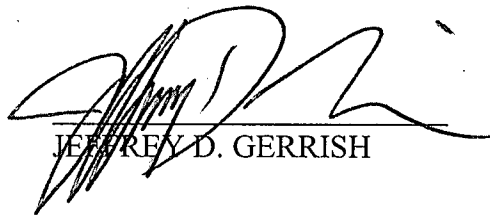


CERTIFICATIONS

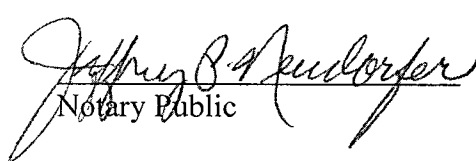
City of Washington)
)
District of Columbia) ss

In accordance with section 201.6 (b)(3)(iii) of the rules of the U.S. International Trade Commission ("the Commission") (19 C.F.R. § 201.6 (b)(3)(iii) (2014)), I, JEFFREY D. GERRISH, counsel to United States Steel Corporation ("U. S. Steel"), hereby certify on this 27th day of July 2015, that information substantially identical to that for which proprietary treatment has been requested in the attached submission is not available to the general public.

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3 (a) (2014)), I hereby also certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.


JEFFREY D. GERRISH

Subscribed and sworn to before me on this 27 day of July 2015.


Notary Public

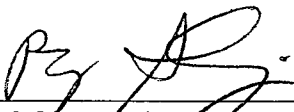


CERTIFICATION

City of Washington)
)
District of Columbia) ss

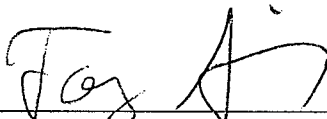
In accordance with section 201.6(b)(3)(iii) of the rules of the U.S. International Trade Commission ("the Commission") (19 C.F.R. § 201.6(b)(3)(iii) (2014)), I, ROGER B. SCHAGRIN, counsel to Steel Dynamics, Inc. ("SDI"), hereby certify on this 28th day of July 2015, that information substantially identical to that for which proprietary treatment has been requested in the attached submission is not available to the general public.

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a) (2014)), I hereby also certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.

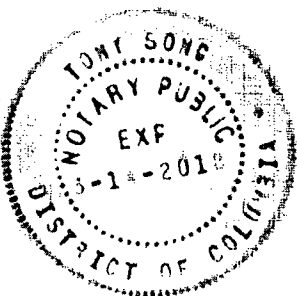


ROGER B. SCHAGRIN

Subscribed and sworn to before me on this 28th day of July 2015.



Notary Public



TONY SONG
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires March 14, 2018

CERTIFICATION

City of Washington)
)
District of Columbia) ss

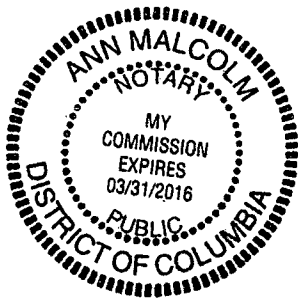
In accordance with section 201.6(b)(3)(iii) of the regulations of the U.S. International Trade Commission ("the Commission") (19 C.F.R. § 201.6(b)(3)(iii) (2014)), I, Kathleen W. Cannon, counsel to ArcelorMittal USA LLC ("AMUSA"), hereby certify on this 28th day of July 2015, that information substantially identical to that for which proprietary treatment has been requested in the attached submission is not available to the general public.

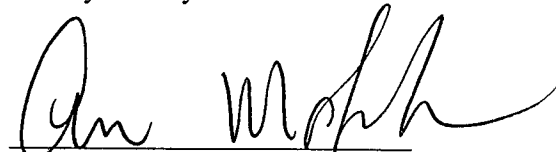
In accordance with section 207.3(a) of the Commission's regulations (19 C.F.R. § 207.3(a) (2014)), I hereby also certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.

In accordance with section 207.10(a) of the Commission's regulations (19 C.F.R. § 207.10(a)), I hereby also certify that on this 28th day of July 2015, copies of this document are being filed with the Department of Commerce and the U.S. International Trade Commission on this date.


KATHLEEN W. CANNON

Subscribed and sworn to before me on this 28th day of July 2015.



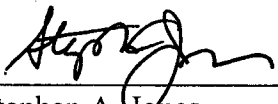

Notary Public

CERTIFICATION

City of Washington)
)
District of Columbia) ss

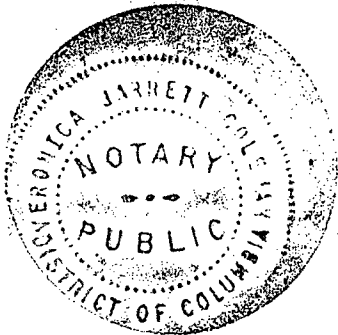
In accordance with section 201.6(b)(3)(iii) of the rules of the U.S. International Trade Commission ("the Commission") (19 C.F.R. § 201.6(b)(3)(iii) (2014)), I, Stephen A. Jones, counsel to AK Steel Corporation, hereby certify on this 27th day of July 2015, that information substantially identical to that for which proprietary treatment has been requested in the attached submission is not available to the general public.

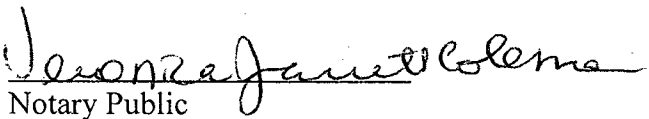
In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a) (2014)), I hereby also certify that the information contained in the attached submission is accurate and complete to the best of my knowledge.



Stephen A. Jones

Subscribed and sworn to before me on this 27th day of July 2015.





Notary Public

VERONICA JARRETT COLEMAN
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 31, 2015

ATTORNEY CERTIFICATION

I, Alan H. Price, with Wiley Rein LLP, counsel or representative to Nucor Corporation, certify that I have read the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, and A-412-824). In my capacity as counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: July 28, 2015_____

CERTIFICATION

I, Jeffrey D. Gerrish, with Skadden, Arps, Slate, Meagher & Flom LLP, counsel or representative to United States Steel Corporation, certify that I have read the attached antidumping and countervailing duty petitions on Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (U.S. Department of Commerce Case Nos. A-570-029, A-351-843, A-533-865, A-588-873, A-580-881, A-421-812, A-821-822, A-412-824, C-570-030, C-351-844, C-533-866, C-580-882, and C-821-823). In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

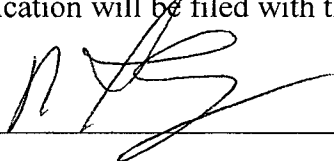
Date: _____

Counsel Certification

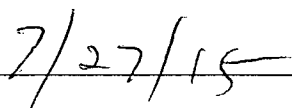
I, Roger B. Schagrin, counsel to Steel Dynamics, Inc., certify that I have prepared or otherwise supervised the preparation of the attached petitions filed on July 28, 2015 pursuant to the antidumping investigations of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, the Netherlands, Russia, and the United Kingdom, investigation numbers A-351-843, A-570-029, A-533-865, A-588-873, A-580-881, A-421-812, A-821-822, and A-412-824, and countervailing duty investigations of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Korea, and Russia, investigation numbers C-351-844, C-570-030, C-533-866, C-580-882, and C-821-823.

In my capacity as counsel of this submission, I certify that the information contained in this petition is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____



Date: _____



ATTORNEY CERTIFICATION

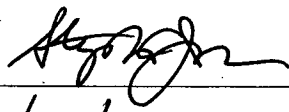
I, Kathleen W. Cannon, with Kelley Drye & Warren LLP, counsel to ArcelorMittal USA LLC, certify that I have read the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, and A-412-824). In my capacity as counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: 

Date: July 28, 2015

ATTORNEY CERTIFICATION

I, Stephen A. Jones, with King & Spalding LLP, counsel or representative to AK Steel Corporation, certify that I have read the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-351-843, C-351-844, A-570-029, C-570-030, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, and A-412-824). In my capacity as counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: 
Date: 7/27/15

COMPANY CERTIFICATION

I, Douglas R. Gunson, Legal Counsel, currently employed by Nucor Corporation, certify that I prepared or otherwise supervised the preparation of the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-822, A-421-812, A-821-822, C-821-823, and A-412-824). I certify that the public information and any business proprietary information of Nucor Corporation contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____



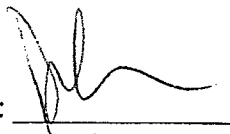
Date: July 28, 2015

CERTIFICATION

I, Debbie L. Shon, Vice President of International Trade and Global Public Policy, currently employed by United States Steel Corporation, certify that I prepared or otherwise supervised the preparation of the attached antidumping and countervailing duty petitions on Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (U.S. Department of Commerce Case Nos. A-570-029, A-351-843, A-533-865, A-588-873, A-580-881, A-421-812, A-821-822, A-412-824, C-570-030, C-351-844, C-533-866, C-580-882, and C-821-823). I certify that the information contained in these petitions is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____



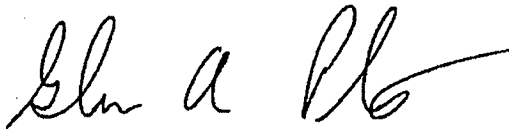
7.25.15

Certification

I, Glenn Pushis, currently employed by Steel Dynamics, Inc., certify that I have prepared or otherwise supervised the preparation of the attached petitions filed on July 28, 2015 pursuant to the antidumping investigations of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, the Netherlands, Russia, and the United Kingdom, investigation numbers A-351-843, A-570-029, A-533-865, A-588-873, A-580-881, A-421-812, A-821-822, and A-412-824, and countervailing duty investigations of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Korea, and Russia, investigation numbers C-351-844, C-570-030, C-533-866, C-580-882, and C-821-823.

I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____



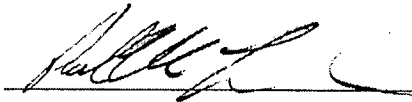
Date: _____

7/27/15

COMPANY CERTIFICATION

I, Paul Liebenson, General Counsel, currently employed by ArcelorMittal USA LLC, certify that I prepared or otherwise supervised the preparation of the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, and A-412-824). I certify that the public information and any business proprietary information of ArcelorMittal USA LLC contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____



Date: July 28, 2015

COMPANY CERTIFICATION

I, Joseph C. Alter, Vice President, General Counsel, and Corporate Secretary of AK Steel Corporation, certify that I prepared or otherwise supervised the preparation of the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on July 28, 2015, pursuant to the antidumping and countervailing duty investigations of *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom* (Case Nos. A-351-843, C-351-844, A-570-029, C-570-030, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, and A-412-824). I certify that the public information and any business proprietary information of AK Steel Corporation contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: July 24, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843,
C-351-844, A-533-865, C-533-866, A-588-873, A-
580-881, C-580-882, A-421-812, A-821-822, C-
821-823, A-412-824

USITC Inv. Nos. 701-TA-xxx and 731-TA-xxx
(Prelim.)

Total Pages: 180

Investigation

Petitioners' Business Proprietary Information has
been removed from pages 3-4, 12, 14-15, 24-28, 30-
37, 39-40, 42-44, and Exhibits I-3 – I-4, and I-9 – I-
15.

PUBLIC VERSION

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

**CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL,
CHINA, INDIA, JAPAN, KOREA, NETHERLANDS, RUSSIA, AND THE UNITED
KINGDOM**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

**VOLUME I
COMMON ISSUES AND INJURY**

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**BEFORE THE
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES AGAINST CERTAIN
COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL, CHINA, INDIA, JAPAN,
KOREA, NETHERLANDS, RUSSIA, AND THE UNITED KINGDOM**

These Petitions are presented on behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively, “Petitioners”). Petitioners allege that certain cold-rolled steel flat products (“cold-rolled steel”) imported from Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom are being or are likely to be sold at less than normal value within the meaning of Section 731 of the Tariff Act of 1930, *as amended* (“the Act”), 19 U.S.C. § 1673. Petitioners further allege that cold-rolled steel imported from Brazil, China, India, Korea, and Russia is subsidized within the meaning of Section 701 of the Act, 19 U.S.C. § 1671. Petitioners also allege that these unfairly traded imports have materially injured the U.S. domestic industry producing cold-rolled steel and threaten to cause further material injury if remedial action is not taken. These Petitions contain information reasonably available to Petitioners in support of these allegations.

Separate volumes regarding the allegations of dumping by producers in each subject country, as well as countervailable subsidies provided to producers from Brazil, China, India, Korea, and Russia, are being filed simultaneously at both the U.S. Department of Commerce (the “Department”) and the U.S. International Trade Commission (the “Commission”). Petitioners request that antidumping (“AD”) and countervailing duties (“CVD”) be imposed to offset the dumping margins and subsidy rates detailed in the specific AD and CVD volumes.

I. COMMON ISSUES

This section contains information required in AD and CVD petitions by 19 C.F.R. §§ 351.202(b)(1) to 351.202(b)(9) and 19 C.F.R. § 207.11.

A. Contact Information for the Petitioners (19 C.F.R. § 351.202(b)(1))

Petitioners consist of companies that produce the domestic like product in the United States. Petitioners are domestic interested parties within the meaning of 19 U.S.C. § 1677(9) and 19 C.F.R. § 351.102(b)(17). Petitioners' contact information is provided in **Exhibit I-1**.

B. Identity of the Industry on Whose Behalf the Petitions Are Filed (19 C.F.R. § 207.11(b)(2)(ii); 19 C.F.R. § 351.202(b)(2))

These Petitions are filed on behalf of the U.S. industry that produces cold-rolled steel. **Exhibit I-1** contains information relating to the Petitioners, while **Exhibit I-2** contains contact information for other domestic cold-rolled steel producers in the United States. According to the best information available to Petitioners, **Exhibits I-1** and **I-2** identify all known producers of the domestic like product in the United States.

C. Information Relating to the Degree of Industry Support for the Petition (19 C.F.R. § 351.202(b)(3))

According to 19 U.S.C. §§ 1671a(c)(4)(A) and 1673a(c)(4)(A), a petition is filed by or on behalf of the domestic industry if: (1) domestic producers who support the petition account for at least 25 percent of the total production of the domestic like product, and (2) domestic producers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. To the best of their knowledge, Petitioners meet both of these requirements with respect to each of the Petitions at issue here.

Petitioners' estimate of total U.S. production of the domestic like product from 2012 to 2014 can be found at **Exhibit I-3**. The volume of Petitioners' production of cold-rolled steel

from 2012 to 2014 can be found at **Exhibit I-4**.¹ Petitioners have estimated the quantity of the domestic like product produced by the entire U.S. domestic industry using shipment data for calendar years 2012 to 2014 as reported by members of the American Iron and Steel Institute (“AISI”) to AISI.² Petitioners believe that the [*Narrative*]. AISI reports only shipment information; it does not report production.

Petitioners have included shipments of cold-rolled steel, corrosion-resistant steel, and tin mill products because a substantial portion of corrosion-resistant steel and tin mill products made in the United States is made from cold-rolled steel produced and consumed internally.³ Shipments reported include exports, so that this figure reflects total shipments of cold-rolled steel produced in the United States, and not just cold-rolled steel shipped domestically.

As some corrosion-resistant steel and tin mill products are produced in the United States from cold-rolled substrate purchased on the merchant market, the inclusion of all corrosion-resistant steel and tin mill products shipments in the total for cold-rolled steel overstates actual U.S. production of cold-rolled steel.

¹ [*Company*] in **Exhibit I-4**. However, [*Narrative*] in **Exhibit I-4** or in Table 1 below.

² See Calculation of Industry Support, attached as **Exhibit I-3**. Data from Petitioners demonstrates that [*Narrative*]. ([*Narrative*].) See Domestic Cold-Rolled Steel Industry Trade Data, attached as **Exhibit I-4**. Thus, Petitioners believe that the AISI shipment data is a reasonable proxy for total domestic production.

³ See *Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (Dec. 2001) (“*Steel*”) vol. I at 42. See also *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 (Sept. 2002) (“*Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*,” USITC Pub. 3536 “”) at 21.

**Business Proprietary Information
Has Been Deleted**

[Source] also publishes information on gross U.S. cold-rolled steel production.⁴ Petitioners have accordingly calculated their share of domestic production using both AISI shipment and [Source] production information. [*Narrative*

]. As Table 1 shows, under either measure, Petitioners' estimated share of U.S. production of cold-rolled steel far exceeded the 50-percent statutory standard during every calendar year from 2012 to 2014.

TABLE 1
PETITIONERS' SHARE OF DOMESTIC PRODUCTION
(Net Tons)⁵

	2012	2013	2014
Total Domestic Shipments (AISI)	[]		
Petitioners' Production	[]		
Petitioners' Share of Domestic Production (AISI)	[]		
U.S. Production ([Source])	[32,000,000]		
Petitioners' Production	[]		
Petitioners' Share of Domestic Production ([])	[]		

D. Previous Requests for Import Relief for the Merchandise (19 C.F.R. § 351.202(b)(4))

1. Litigation Pursuant to Section 201 of the Trade Act of 1974

On June 22, 2001, the Commission instituted a safeguard investigation under Section 201 of the Trade Act of 1974,⁶ following receipt of a request from the United States Trade Representative to determine whether imports of certain steel products, including cold-rolled steel, were being imported into the United States in such increased quantities to be a substantial cause of serious injury, or threat thereof, to domestic industries producing articles like or directly

⁴ Calculation of Industry Support, attached as **Exhibit I-3**.

⁵ Unless otherwise indicated, all quantities reported throughout this Petition are reported as net tons.

⁶ *Steel*, 66 Fed. Reg. 35,267 (Int'l Trade Comm'n July 3, 2001) (institution and scheduling of an investigation under section 202 of the Trade Act of 1974).

competitive with the imported article.⁷ The Commission also received a Senate Finance Committee resolution making a similar request and consolidated the investigation requested by the Committee with the Commission's previously instituted investigation.⁸

On December 20, 2001, the Commission issued its determination and remedy recommendations. The Commission reached an affirmative determination regarding cold-rolled steel.⁹ For purposes of its injury determination, the Commission treated all carbon flat products, including slab, plate, hot-rolled, cold-rolled, and corrosion-resistant steel, as a single like product.¹⁰ With respect to cold-rolled steel, the Commission recommended a four-year period of relief, with the imposition of an additional duty of 20 percent *ad valorem* in the first year of relief, 17 percent in the second year, 14 percent in the third year, and 11 percent in the fourth year.¹¹

On March 5, 2002, President George W. Bush announced safeguard measures to facilitate efforts by various domestic steel industries and their workers to make a positive adjustment to import competition with respect to certain steel products.¹² The President proclaimed relief in the form of additional *ad valorem* duties of 30 percent in the first year of relief, 24 percent in the

⁷ See *Steel* at 28.

⁸ *Steel*, 66 Fed. Reg. 44,158 (Int'l Trade Comm'n Aug. 22, 2001) (consolidation of Senate Finance Committee Resolution requesting a section 201 investigation with the investigation requested by the United States Trade Representative on June 22, 2001).

⁹ *Steel* at 1.

¹⁰ *Id.* at 38.

¹¹ *Id.* at 2.

¹² Proclamation 7529 of March 5, 2002, *to Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products*, 67 Fed. Reg. 10,553, 10,582-83 (Mar. 7, 2002).

second year, and 18 percent in the third year.¹³ However, the President subsequently terminated all relief on December 4, 2003.¹⁴

2. AD/CVD Litigation

Since 1980, the Department and the Commission have conducted 110 AD and CVD investigations of cold-rolled steel, including investigations involving Brazil, India, Japan, Korea, Netherlands and Russia.¹⁵ There are currently no AD or CVD orders on imports of cold-rolled steel.

3. Other Forms of Import Relief

Petitioners have not filed for relief from imports of the subject merchandise under Section 337 of the Act, Section 301 of the Trade Act of 1974, or Section 232 of the Trade Expansion Act of 1962.

E. Scope of the Investigation and a Detailed Description of the Subject Merchandise (19 C.F.R. § 351.202(b)(5))

1. Scope of Investigation

The physical characteristics of the covered products, which define the scope, are as follows:

The products covered by these investigations are certain cold-rolled (cold-reduced), flat-rolled steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered include coils that have a width of 12.7 mm wide or greater, regardless of form of coil

¹³ *Proclamation 7529 of March 5, 2002, to Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products*, 67 Fed. Reg. 10,553, 10,582-83 (Mar. 7, 2002).

¹⁴ *Proclamation 7741 of December 4, 2003, to Provide for the Termination of Action Taken With Regard to Imports of Certain Steel Products*, 68 Fed. Reg. 68,483, 68,484 (Dec. 8, 2003).

¹⁵ See *Steel at I-1; Certain Cold-Rolled Steel Products From Argentina, Brazil, Japan, Russia, South Africa, and Thailand*, Inv. Nos. 701-TA-393 and 731-TA-829-830, 833-834, 836, and 838 (Final), USITC Pub. 3283 (Mar. 2000); *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536; *Certain Cold-Rolled Steel Products From Argentina, Belgium, Brazil, China, France, Germany, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Taiwan, Turkey, and Venezuela*, Inv. Nos. 701-TA-423-425 (Final) and 731-TA-964, 966-970, 973-978, 980, and 982-983 (Final), USITC Pub. 3551 (Nov. 2002).

(e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (e.g., in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of these investigations are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum but do not meet the definition of grain-oriented electrical steel (GOES) or non-oriented electrical steel (NOES).

This scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these investigations unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of these investigations:

- Ball bearing steels, as defined in the HTS;
- Tool steels, as defined in the HTS;
- Silicon-manganese steel, as defined in the HTS;
- Silicon-electrical steels, as defined in the HTS, that are GOES;
- Silicon-electrical steels, as defined in the HTS, that are not grain-oriented and that have a silicon level exceeding 1.00 percent and a surface oxide coating, to which an insulation coating may be applied (NOES); and
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The scope of these investigations is similar to that of the investigations of cold-rolled steel conducted by the Department and the Commission in 2001-2002. The modifications to the scope reflect certain changes in steel making and the types of cold-rolled steel products currently being produced by the domestic industry. Other changes are intended to address certain tactics adopted by foreign producers to evade AD/CVD orders by making minor adjustments to the chemistry or other characteristics of steel products in ways that are sufficient to circumvent the orders but do not affect the suitability of the product for a given application.

2. Technical Characteristics and Uses

Cold-rolled steel represents “a continuum of similar products.”¹⁶ As indicated in the scope, cold-rolled steel products may have a range of chemical compositions, as well as a variety of finishes, tempers, and edges.¹⁷ They are generally produced to SAE or ASTM standards.¹⁸ While a substantial portion of cold-rolled steel production is used “as is,” a majority in the United States is further processed by galvanizing or other forms of coating. Cold-rolled steel is primarily used in appliances, automotive products, containers, and construction.¹⁹

3. Production Methodology

The manufacturing process for cold-rolled steel products is generally as described below.²⁰ Depending upon the specifications of the individual product, a cold-rolled steel product may not undergo all of the steps identified below. There are no significant differences in the production process for cold-rolled steel between the United States and the subject countries.

- *Preparation of hot-rolled steel.* The raw material input for cold-rolled steel is hot-rolled steel. The hot-rolled steel, which will almost always be in coils, is first de-coiled. The hot-rolled steel is then cleaned, or “pickled,” in a bath of sulfuric or hydrochloric acid to remove surface oxide (scale) formed during hot rolling.²¹
- *Cold-rolling.* The cleaned steel is then passed through a cold-rolling mill, which is typically a continuous (or tandem) mill having four to six roll stands, and which reduces the thickness of the hot-rolled material by 30-90 percent.²² However, some

¹⁶ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 5.

¹⁷ See United States Steel, *The Making, Shaping and Treating of Steel* (10th ed., 1985) (“*The Making, Shaping and Treating of Steel*”) at 1100, excerpts attached as **Exhibit I-5**.

¹⁸ Cold-rolled steel was formerly the subject of AISI specifications, but those have been replaced by SAE standards.

¹⁹ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 23.

²⁰ See *id.* at I-18-19; *The Making, Shaping and Treating of Steel* at 1103-1119.

²¹ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at I-18.

²² *Id.*; *The Making, Shaping and Treating of Steel* at 1103.

producers use a reversing mill, which is a single-stand mill that passes the uncoiled strip back and forth several times, rolling the steel until the final thickness is achieved.²³ Cold-rolled steel at this stage of the process is referred to as “full-hard” steel.²⁴ Cold-rolled steel in the full-hard state is often used to make corrosion-resistant steel.²⁵

- *Annealing.* The cold-rolling process hardens steel. To make it more formable, the cold-rolled steel may be subject to annealing. Annealing consists of subjecting the full-hard steel to reheating in an annealing furnace. There are two basic annealing processes: batch and continuous. In a batch annealing process, coils of cold-rolled sheets are stacked on a base. Covers are placed over the stacks to contain the annealing atmosphere, which serves to prevent oxidation of the steel. The annealing furnace is then lowered over the covered stacks. The process involves heating and re-cooling the sheet, which may take as many as five or six days.²⁶
- *Hardening and tempering.* Because annealing softens the steel, it may be necessary to re-harden it. This is done by subjecting the annealed steel to a continuous heat treatment that raises the temperature of the steel to about 1700° F, and then reducing the temperature rapidly. The steel is then tempered by re-heating it to a temperature of approximately 800° F. The purpose of tempering is to improve the ductility of the steel at the expense of some of the strength and hardness produced at the hardening stage.²⁷
- *Temper rolling.* After the steel has been annealed, it is rolled on a temper mill to produce the desired hardness, flatness, and surface quality. Temper rolling of annealed product is required to reduce the tendency of the steel to develop surface distortions during fabrication. Temper rolling involves very slight reduction in thickness and should not be confused with cold rolling.²⁸
- *Coiling or cutting.* The finished cold-rolled steel is then re-coiled. Coils may later be uncoiled and cut to length (sheared), although most cold-rolled steel sold in the merchant market leaves the mill in coiled form.²⁹

²³ *The Making, Shaping and Treating of Steel* at 1108.

²⁴ *Id.* at 1110.

²⁵ *See id.* at 1180.

²⁶ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at I-18; *The Making, Shaping and Treating of Steel* at 1110-18.

²⁷ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at I-18; *The Making, Shaping and Treating of Steel* at 1118.

²⁸ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at I-18; *The Making, Shaping and Treating of Steel* at 1118.

²⁹ *The Making, Shaping and Treating of Steel* at 1118.

4. Tariff Classification

Cold-rolled steel is currently classified under the following Harmonized Tariff Schedule (“HTS”) subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6075, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8015, 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. Subject merchandise may also enter under 7210.90.9000, 7212.50.0000, 7225.19.0000, 7226.19.1000, 7226.19.9000, and 7226.99.0180.

Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive. Excerpts from the current HTS are attached as **Exhibit I-6**. The most favored nation duty rate for imports under these HTS numbers is free. The tariff numbers are provided for the convenience of the U.S. government and do not define the scope of the Petitions.

F. The Names of the Subject Countries and the Name of Any Intermediate Country Through Which the Merchandise Is Transshipped (19 C.F.R. § 351.202(b)(6))

The cold-rolled steel covered by these Petitions is manufactured in and exported to the United States from Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom. Petitioners do not have evidence indicating that the subject merchandise is produced in a country other than that from which it is exported.

G. The Names and Addresses of Each Person Believed to Sell the Merchandise at Less than Normal Value and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(i)(A))

The names and addresses of the entities believed by Petitioners to be producing and exporting cold-rolled steel subject to these Petitions are provided in **Exhibit I-7**. In compiling this exhibit, Petitioners relied primarily upon information from Iron and Steel Works of the World and [*Source*].

Information reasonably available to Petitioners does not allow them to identify the proportion of total exports to the United States accounted for during the most recent 12-month period by the producers listed in these exhibits. Petitioners believe, however, that the companies listed in **Exhibit I-7** account for the vast majority of subject exports.

H. All Factual Information Related to the Calculation of Export Price, the Constructed Export Price of the Subject Merchandise, and the Normal Value of the Foreign Like Product for Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(B))

Volumes IV, VI, VIII, IX, XI, XII, and XIV of these Petitions contain the necessary information concerning the calculation of the normal value of the foreign like product and the export price for merchandise produced and exported from the subject countries that are market economy countries.

I. Factual Information Related to the Calculation of Normal Value of the Foreign Like Product in Non-Market Economy Countries (19 C.F.R. § 351.202(b)(7)(i)(C))

China is the only non-market economy covered by these investigations. Volume II of these Petitions contains the information necessary to substantiate less-than-normal-value allegations and factual information relevant to China.

J. The Names and Addresses of Each Person Believed to Benefit from a Countervailable Subsidy Who Exports the Subject Merchandise to the United States and the Proportion of Total Exports to the United States (19 C.F.R. § 351.202(b)(7)(ii)(A))

Volumes III, V, VII, X, and XIII contain CVD Petitions on imports of cold-rolled steel from the relevant subject countries. The names and addresses of the entities believed by Petitioners to be benefiting from a countervailable subsidy and who have exported the cold-rolled steel subject to these Petitions are provided in **Exhibit I-7**. Information reasonably available to Petitioners does not allow them to identify the proportion of total exports to the United States accounted for during the most recent 12-month period by the producers listed in these exhibits. Petitioners believe, however, that the companies listed in **Exhibit I-7** account for the vast majority of relevant subject exports.

K. The Alleged Countervailable Subsidy and Factual Information Relevant to the Alleged Countervailable Subsidy (19 C.F.R. § 351.202(b)(7)(ii)(B))

Volumes III, V, VII, X, and XIII of these Petitions contain information concerning the alleged countervailable subsidies in the relevant subject countries as well as factual information relevant to the laws, regulations, and decrees under which the subsidies were bestowed, the manner in which the subsidies were granted, and Petitioners' estimation – to the extent practicable – of the value of the subsidies to the subject producers and exporters of cold-rolled steel subject to these Petitions.

L. The Volume and Value of the Merchandise Imported During the Most Recent Two-Year Period (19 C.F.R. § 351.202(b)(8))

The subject imports increased from 772,807 net tons in 2013 to 1,755,438 net tons in 2014.³⁰ By value, imports from subject countries into the United States under the relevant HTS

³⁰ See Import Data, attached as **Exhibit I-8**. Import information was obtained through the Commission's DataWeb service using a query for customs value and first unit of quantity of imports from the subject countries of

numbers increased from \$619,448,000 in 2013 to \$1,237,227,000 in 2014.³¹ These are the best data available to Petitioners.

M. Contact Information for Each Entity the Petitioner Believes Imports or Is Likely to Import the Subject Merchandise (19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9))

Contact information for importers of cold-rolled steel from the subject countries that are known to the Petitioners at this time are listed in **Exhibit I-9**. Petitioners believe, however, that there may be a number of importers of cold-rolled steel from the subject countries that they have been unable to identify. Petitioners respectfully request that the Department obtain this information from U.S. Customs and Border Protection, as Petitioners do not have access to this information.

II. INJURY

A. Introduction

A surge of dumped and subsidized imports of cold-rolled steel from Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom has already caused material injury to the domestic industry – and threatens the domestic industry with even more injury going forward. The volume of subject imports increased by 120 percent between 2012 and 2014, while U.S. demand for cold-rolled steel as expressed in apparent domestic consumption increased [

Trend]. Subject imports captured this increase in demand and more, as domestic shipments fell [*Trend*].³² The result was a doubling of

the HTS numbers identified in Section E.4 above (but not including HTS Nos. in the “may also enter under” category). As noted above, unless otherwise indicated, all tons are reported as net tons. Where original quantities were in metric tons, as with import quantities, they have been converted to net tons by multiplying the metric tons figure by 1.1023.

³¹ See Import Data, attached as **Exhibit I-8**.

³² See Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

the market share of subject imports, while the domestic industry's market share fell sharply. These trends accelerated in the first quarter of 2015, as subject imports reached their highest levels of market penetration in the entire period.

The price effects of subject imports are also significant. Subject imports are interchangeable with the domestic like product, as shown by the fact that subject imports have already taken significant market share from U.S. mills. Information reasonably available to the Petitioners indicates that the surge in import volumes and market share was accomplished through systematic underselling. The combination of underselling from subject imports and an oversupply resulting from the import surge contributed to a decline in pricing over the period of investigation ("POI"). Subject imports suppressed and depressed prices for the domestic like product, even as demand remained relatively stable.

Subject imports have had a significant harmful impact on the domestic industry. The domestic industry has already experienced falling sales, despite demand that remained relatively steady through 2014 and then decreased in the first five months of 2015. Rising subject import levels prevented the domestic cold-rolled steel industry from achieving the level of profitability that would have been possible absent the unfairly-traded imports. The industry [

Narrative *Year*], including significant drops in []. Besides poor financial performance, other indicators, including capacity utilization and employment data, establish that subject imports had a negative impact on the domestic industry. In short, the domestic industry has suffered material injury by reason of subject imports.

Subject imports also threaten the domestic industry with further material injury going forward. Because its financial performance was adversely affected by the subject imports during

the POI, the domestic cold-rolled steel industry is currently vulnerable to injury by imports. The rapid and dramatic increase in both the volume of subject imports and their market share establishes the ability of the subject imports to enter the U.S. market rapidly and in large quantities, even in the face of flat demand. The subject imports have also had demonstrable price effects, as rising volumes of subject imports forced the domestic industry to lower prices in an attempt to maintain production at a time when steady demand should have allowed the domestic industry to maintain prices.

The subject countries have both substantial capacity and substantial excess capacity, and are in the process of adding significant new capacity. This will allow them to increase exports to the United States even further. Their ability to increase exports is heightened by the fact that the subject countries are easily able to move production from other products to the production and export of cold-rolled steel. Taken together, these factors will make it difficult or impossible for the domestic cold-rolled steel industry to generate the levels of profit necessary to fund research and development and to invest in the new facilities needed to remain competitive unless trade relief is granted. Indeed, as shown further below, the statutory factors that the Commission is required to consider show that subject imports threaten the domestic industry with further material injury. In the absence of trade relief, subject imports will continue pouring into this market, causing additional harm to U.S. mills.

B. The Domestic Like Product Consists of Cold-Rolled Steel Covered by the Scope

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission

first defines the domestic like product.³³ The “domestic like product” is defined as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”³⁴ In an investigation, the like product determination is a factual one made on a case-by-case basis.³⁵ The Commission generally considers the following factors: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price.³⁶ In evaluating these factors, the Commission looks for clear dividing lines and disregards minor variations.³⁷

Application of these criteria establishes that cold-rolled steel constitutes a single domestic like product. As explained above, cold-rolled steel covers a range of individual products that can differ in multiple ways, including chemical composition, thickness, edge, finish, and temper. In an earlier investigation, the Commission explained that

In cases such as the present one, where the domestically manufactured merchandise corresponding to the scope comprises a continuum of similar products, the Commission generally does not consider each item of merchandise to be a separate domestic like product that is only “like” its counterpart in the scope, but considers the continuum itself to constitute the domestic like product.³⁸

The merchandise that is the subject of these Petitions is cold-rolled steel, defined as:

certain cold-rolled (cold-reduced), flat-rolled steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated

³³ See *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 382 (Ct. Int’l Trade 1998).

³⁴ 19 U.S.C. § 1677(10).

³⁵ See, e.g., *NEC*, 36 F. Supp. 2d at 383.

³⁶ See *Cleo, Inc. v. United States*, 501 F.3d 1291, 1295 (Fed. Cir. 2007).

³⁷ *Id.*

³⁸ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 5.

with plastics or other non-metallic substances. The products covered include coils that have a width of 12.7 mm wide or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

The current scope is very similar to that considered by the Commission in its 2002 investigations of cold-rolled steel from multiple countries, updated to reflect changes in steelmaking processes and products, as well as to help address the issue of circumvention. It is vital that the scope of these cases prevent the subject producers from circumventing any AD or CVD orders by slightly changing the chemical composition of the product at issue. To account for recent advances in steel production, and to help avoid circumvention, Petitioners have adjusted some of the chemistry definitions that covered so-called micro-alloyed steel in prior cases involving hot-rolled steel and cold-rolled steel.

In its last investigation of cold-rolled steel, the Commission found that all items covered by this scope were part of a single like product.³⁹ The Commission noted in particular that:

{w}hile the record indicates some variations in characteristics and uses, channels of distribution, manufacturing processes, and pricing between and among the above mentioned individual types and grades of cold-rolled steel, more importantly, we find those variations are outweighed by broad similarities. Any differences do not constitute clear dividing lines among individual items, particularly given the spectrum of widely varying products that constitute cold-rolled steel products. Accordingly, we find the domestic like product to be certain cold-rolled steel products, coextensive with the scope of these investigations.⁴⁰

³⁹ *Id.*

⁴⁰ *Id.* at 11.

There have been no significant changes in the uses, channels of distribution, or manufacturing processes of cold-rolled steel since these investigations. As a practical matter, this definition is an updated version of the domestic like product that the Commission found during the early 2000s, and the Commission should again find that all cold-rolled steel within the scope of these investigations constitutes a single domestic like product.

C. There Is a Single Domestic Industry Consisting of All Domestic Producers

Section 771(7)(4) of the Act defines the domestic industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴¹ In the last investigations involving cold-rolled steel, the Commission determined that there was a single domestic industry producing cold-rolled steel.⁴² The Commission should reach the same conclusion in these investigations.

D. Subject Imports Are Causing Material Injury to the Domestic Industry

In determining whether a domestic industry is experiencing present material injury caused by unfairly traded imports, the Commission is directed by law to consider:

- (1) the volume of imports of the subject merchandise,
- (2) the effect of imports of that merchandise on prices in the United States for domestic like products, and
- (3) the impact of imports of such merchandise on domestic producers of domestic like products.⁴³

⁴¹ 19 U.S.C. § 1677(4)(A).

⁴² *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 11.

⁴³ 19 U.S.C. § 1677(7)(B).

As demonstrated below, the evidence bearing upon these factors shows that the domestic cold-rolled steel industry is suffering material injury by reason of subject imports.

1. All Subject Imports Should Be Cumulated

For purposes of evaluating the volume and price effects for a determination of material injury by reason of subject imports, Section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed on the same day, if such imports compete with each other and with the domestic like product in the U.S. market.⁴⁴ In assessing whether subject imports compete with each other and with the domestic like product, the Commission generally has considered four factors:

- (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.⁴⁵

While no single factor is necessarily determinative, and the list of factors is not exhaustive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁴⁶ Only a “reasonable overlap” of competition is required.⁴⁷

⁴⁴ 19 U.S.C. § 1677(7)(G)(i). None of the exceptions to cumulation apply. *See id.* at § 1677(7)(G)(ii).

⁴⁵ *See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff’d*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int’l Trade), *aff’d*, 859 F.2d 915 (Fed. Cir. 1988).

⁴⁶ *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

In these investigations, each of the Commission's usual factors indicates that subject imports compete with each other and with the domestic like product.

a. Imports from All Subject Countries Are Fungible

The record here will show that imports of cold-rolled steel from Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom are generally substitutable with each other and with the domestic like product. Cold-rolled steel imported into the United States, regardless of source, is generally produced in accordance with ASTM or SAE standards. Imports from each of the subject countries are generally made by the same processes on similar equipment, and generally have the same chemical and physical properties, as the domestic like product. While, as noted above, cold-rolled steel represents a continuum of products, all of the subject countries exported the most common cold-rolled product, HTS No. 7209.16.0091.⁴⁸

In its 2002 cold-rolled determinations, the Commission noted that both responding producers and importers reported that imports and U.S. products were generally interchangeable with each other.⁴⁹ As discussed below, subject imports have gained market share at the expense of the domestic industry. Thus, they are not merely substitutable for the domestic like product – they have in many instances been substituted for the domestic like product. U.S. prices have fallen in response to low-priced offers of cold-rolled steel from the subject countries – further evidence that subject imports are interchangeable with U.S. production. In light of these facts,

⁴⁷ The Statement of Administrative Action to the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 (1994) (“SAA”) at 84 expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” See *Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); *Wieland Werke, AG*, 718 F. Supp. at 52 (“Completely overlapping markets are not required”).

⁴⁸ See Applicable HTS Excerpts, attached as **Exhibit I-6**. This product is “other” cold-rolled of a thickness between 1mm and 3mm.

⁴⁹ See *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 11.

the Commission should find that imports from each subject country are generally fungible with one another and with the domestic like product.

b. All Subject Imports Compete in the Same Geographic Markets

The record here will show that imports from each of the subject countries compete with imports from the other subject countries and with the domestic like product throughout the U.S. market. The Commission has found in the past that “{c}old-rolled steel products produced in the United States are shipped nationwide.”⁵⁰ The same is true of subject imports.

c. Subject Imports Are Sold Through the Same Channels of Distribution

A substantial portion of domestically produced cold-rolled steel is used internally to produce corrosion-resistant sheet and other products.⁵¹ Otherwise, the main markets for domestic cold-rolled steel are original equipment manufacturers and, to a lesser extent, distributors.⁵² While Petitioners do not have access to information showing all of the customers who are buying subject imports, Petitioners believe that the subject imports were sold largely to distributors, although some imports may have been sold to original equipment manufacturers.⁵³ Subject imports are taking market share from the domestic industry, which is compelling evidence that some customers have switched from the domestic like product to subject imports. This factor therefore also supports a finding of cumulation.

⁵⁰ *Id.* at 19.

⁵¹ *See id.* at 1-19.

⁵² *Id.*

⁵³ *See id.* at 20.

d. Subject Imports Were Simultaneously Present in the U.S. Market

Exhibit I-8 shows that imports from every subject country except Brazil and Russia entered the United States in each of the 41 months from January 2012 to May 2015 (the latest month for which data is available). Imports from Brazil entered in 38 of the 41 months. Imports from Russia began to enter the U.S. market in substantial quantities in early 2014, and have entered the United States in 15 of the last 18 months. Domestically produced cold-rolled steel has been available in the U.S. market throughout each of those same 41 months. Thus, this factor provides further evidence that subject imports are competing with each other and the domestic like product.

e. Conclusion

Cold-rolled steel is manufactured to a fixed range of standards. The Commission has found in the past that imported and domestically produced cold-rolled steel are substitutable for one another. Imports from all of the subject countries were present in the majority of regions of the United States. Imports from all subject countries were consistently present in the United States from January 2012 – May 2015.⁵⁴ Together, this evidence shows that all subject imports compete with each other and the domestic like product. Thus, the Commission should cumulate subject imports for purposes of its material injury analysis.

2. The Volume of Subject Imports Is Significant

In evaluating the volume of imports, the Commission must “consider whether the volume of imports of the merchandise, or any increase in that volume either in absolute terms or relative to production or consumption in the United States, is significant.”⁵⁵ In these investigations,

⁵⁴ See Import Data, attached as **Exhibit I-8**.

⁵⁵ 19 U.S.C. § 1677(7)(C)(i).

available data show that the volume of subject imports, both in absolute terms and relative to U.S. consumption and production (as estimated by U.S. shipment data), is significant within the meaning of the relevant statutory provision.

a. The Volume of Imports Is Significant in Absolute Terms

The volume of subject imports⁵⁶ is significant in absolute terms. Subject imports totaled 797,955 net tons in 2012.⁵⁷ This total declined slightly in 2013 to 772,807 tons, before skyrocketing in 2014 to 1,755,438 tons.⁵⁸ This represents an increase of *120 percent* over only three years.⁵⁹ While subject imports more than doubled, the domestic industry's total shipments of cold-rolled steel fell [*Percent*] during the same period.⁶⁰

These trends have continued into 2015. In the period January-May 2014, subject imports totaled 548,835 net tons.⁶¹ The total for the same period in 2015 was 790,362 tons, an increase of 44 percent.⁶² If they continue at this rate, subject imports will reach 2.5 million tons this year. The domestic industry's shipments in January – May 2015, [*Percent*

⁵⁶ For purposes of measuring subject import volumes, Petitioners have relied upon data for subject imports entering the United States under the HTS numbers identified in Section I.E.4 above. While Petitioners believe that some imports entering under HTS numbers 7225.50.6000, 7225.50.8015, 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050 may fall outside the scope of this petition, the official import data for these tariff classifications represent the best information available to Petitioners. The import data does not include the six additional categories under which merchandise may enter, as identified in *supra* Part I.E.4.

⁵⁷ To calculate import volumes, Petitioners used imports from the subject countries of the HTS numbers identified above as reported through the Commission's DataWeb service. As explained above with respect to the scope, this case covers cold-rolled steel that would be considered other alloy steel for Customs purposes. It is possible that cold-rolled steel within the scope of these Petitions may enter this market under additional tariff codes that would also include alloy grades not covered by this case. These figures represent the best available information to Petitioners regarding import volumes and market share.

⁵⁸ Import Data, attached as **Exhibit I-8**.

⁵⁹ *Id.* At 127.15 percent, the increase in subject imports from 2013 to 2014 was even greater.

⁶⁰ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

⁶¹ Import Data, attached as **Exhibit I-8**.

⁶² *Id.*

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] than in the same period in 2014.⁶³ In short, there is no question that domestic producers face an extraordinary surge of unfairly traded imports from the subject countries.

b. Subject Imports Have Doubled in Market Share

The volume of subject imports is also significant in relative terms. The market share of subject imports doubled between 2012 and 2014.⁶⁴ Meanwhile, shipments by U.S. mills fell.⁶⁵ Given these facts, it is obvious that subject imports have taken market share from the domestic industry.

The Commission noted in its 2002 cold-rolled steel investigation that domestically produced cold-rolled steel is both sold in the merchant market and consumed internally by the U.S. producers, primarily to produce corrosion-resistant steel, but also tin mill products.⁶⁶ Accordingly, Petitioners are providing information relating to market share in both the merchant market and the overall market (including captive consumption) over the POI.

In 2014, apparent domestic consumption of cold-rolled steel in the merchant market was approximately [11].⁶⁷ As Table 2 shows, subject imports accounted for [percent] of apparent domestic consumption in the merchant market in 2014, compared to [percent] in 2012. Thus, subject import market share grew by [109 percent] between 2012 and 2014, while apparent domestic consumption in the merchant market [].

⁶³ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

⁶⁴ U.S. Market Share Data, attached as **Exhibit I-11**.

⁶⁵ See Domestic Cold-Rolled Steel Industry Trade Data, attached as **Exhibit I-4**.

⁶⁶ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at II-1. Petitioners believe that, in this case, the Commission should apply the captive consumption provision of 19 U.S.C. § 1677(7)(C)(iv), especially in light of recent statutory changes to that provision. See *Trade Preferences Extension Act of 2015*, H.R. Doc. 1295 (2015) at § 503(c).

⁶⁷ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**. U.S. shipments are based on external shipments of cold-rolled steel and black plate, not including exports, as reported by AISI.

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TABLE 2
SUBJECT IMPORTS AND DOMESTIC CONSUMPTION
IN THE MERCHANT MARKET
2012 – 2015 (Net Tons)

	2012	2013	2014	Jan-May 2014	Jan-May 2015
Domestic Shipments	[		8,765,432		]
Total Imports	1,466,670	1,477,340	2,786,731	940,552	1,176,720
Apparent Domestic Consumption	[		5,000,000		]
Subject Imports	797,955	772,807	1,755,438	548,835	790,362
Subject Market Share	[				]
Non-Subject Market Share	[				]
Domestic Market Share	[84		73		]

The increase in subject import market share came directly at the expense of the domestic cold-rolled steel industry. The domestic industry's shipments in the merchant market fell by [] from 2012 to 2014.⁶⁸ Given this drop, it is not surprising that the domestic industry's share of the merchant market fell by more than [percentage] in those three years, from [71].⁶⁹ Subject imports, which doubled their market share during the same period, were the primary cause of the decline in the domestic industry's market share, as the market share of non-subject imports rose only modestly over this period.⁷⁰

Subject imports have continued to take market share from U.S. mills in 2015. Subject imports in January-May 2015 were 44 percent higher than in the same period in 2014,⁷¹ and their market share grew to [Narrative] during the period.⁷² Over the same period,

⁶⁸ U.S. Market Share Data, attached as Exhibit I-11.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Import Data, attached as Exhibit I-8.

⁷² U.S. Market Share Data, attached as Exhibit I-11.

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domestic production declined,⁷³ domestic shipments in the merchant market declined by [percent],⁷⁴ and the domestic industry's share of apparent domestic consumption fell to only [

Narrative] during the period.⁷⁵ These figures establish that both the volume of subject imports and the increase in imports were significant both absolutely and relatively in the merchant market.

As shown in Table 3, the identical trends are evident in the overall U.S. market for cold-rolled steel, which includes both steel sold on the merchant market and steel consumed internally.

**TABLE 3
SUBJECT IMPORTS AND DOMESTIC CONSUMPTION
IN THE OVERALL COLD-ROLLED STEEL MARKET
2012 –2015 (Net Tons)**

	2012	2013	2014	Jan-May 2014	Jan-May 2015
Domestic Shipments (incl. internal consumption)	[		27,000,000		]
Total Imports	1,466,670	1,477,340	2,786,731	940,552	1,176,720
Apparent Domestic Consumption	[				]
Subject Imports	797,955	772,807	1,755,438	548,835	790,362
Subject Market Share	[				]
Non-Subject Market Share	[				]
Domestic Market Share	[		85		]

As in the merchant market, subject imports' market share in the overall U.S. cold-rolled steel market increased sharply, more than doubling from 2012 to 2014.⁷⁶ Subject imports [*Year*], when they accounted

⁷³ See Domestic Cold-Rolled Steel Industry Trade Data, attached as **Exhibit I-4**.

⁷⁴ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

⁷⁵ U.S. Market Share Data, attached as **Exhibit I-11**.

⁷⁶ *Id.*

for [*percent*] of total apparent domestic consumption.⁷⁷ Total domestic shipments fell [

] from 2012 to 2014, so that, with the rise in imports, the domestic industry's market share dropped.⁷⁸ Total domestic shipments were [*percent*] lower in the first five months of 2015 than in the same period in 2014, as the domestic industry [

Narrative

].⁷⁹

c. All Imports Are Non-Negligible or Are Likely to Imminently Exceed the Statutory Threshold

The Commission will consider imports from a subject country to be negligible if they account for less than three percent of total imports of the subject merchandise.⁸⁰ The threshold figure for negligibility in countervailing duty investigations involving developing countries is four percent.⁸¹ The Commission may make its determination using "reasonable estimates on the basis of available statistics."⁸² The Commission may rely on official import statistics, questionnaire data, or some combination of sources.⁸³

In this case, imports from all subject countries other than Netherlands and India are well above the negligibility thresholds. Based on official import statistics for June 2014-May 2015 for the HTS numbers believed to comprise substantially all imports of certain cold-rolled steel, imports from Netherlands are slightly below the three-percent threshold and imports from India

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *See id.*

⁸⁰ 19 U.S.C. §§ 1673b(a)(1); 1673d(b)(1); and 1677(24)(A).

⁸¹ 19 U.S.C. §§ 1671b(a)(1); 1671d(b)(1); and 1677(24)(B).

⁸² *Certain Oil Country Tubular Goods from India, Korea, the Philippines, Taiwan, Thailand, Turkey, Ukraine, and Vietnam*, Inv. Nos. 701-TA-499-500 and 731-TA-1215-1217 and 1219-1223 (Final), USITC Pub. 4489 (Sept. 2014) at 16.

⁸³ *See, e.g., Certain Cold-Rolled Steel Products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand* at 8.

are slightly below the four-percent threshold based on official import statistics for the period June 2014-May 2015. If there is a reasonable indication that data obtained in the Commission's investigation will establish that imports exceed the applicable thresholds, the Commission should determine that the imports are not negligible.⁸⁴ Alternatively, should imports from the Netherlands and India fall below the three-percent and four-percent thresholds, respectively, the Commission should determine, based on past import patterns and other factors, that there is the potential that imports from the Netherlands and India will imminently exceed the applicable thresholds and are not negligible for purposes of a threat determination.⁸⁵

3. The Price Effect of Subject Imports Is Significant

In evaluating the effect of subject imports on prices, the Commission must consider whether "there has been significant price underselling by the imported merchandise," and whether the effect of imports "otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree."⁸⁶ In these investigations, both of the statutory factors indicate that the price effect of subject imports is significant.

a. Subject Imports Have Undersold the Domestic Like Product

Evidence reasonably available to Petitioners indicates that the surge in subject imports coincided with significant underselling by subject imports, which serves as important evidence that the subject imports have had negative price effects. Because cold-rolled steel encompasses a fairly broad range of products with significant differences in values, it is important that price comparisons be made on the basis of comparable products. A standard source for information on

⁸⁴ *Statement of Administrative Action*, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 857 (1994).

⁸⁵ 19 U.S.C. § 1677(24)(A)(iv).

⁸⁶ 19 U.S.C. § 1677(7)(C)(ii).

domestic cold-rolled steel prices is [Source] which has U.S. pricing for cold-rolled steel available for the entire POI, through March 2015.⁸⁷

[Source] cold-rolled prices are for [Narrative
]. [Source] specifies that it [Narrative

].⁸⁸ Accordingly, it would be inappropriate to compare that price to overall average unit values (“AUVs”) of imports of cold-rolled steel, as these imports include products that are of higher grades, with various extras. To ensure the best possible comparison, it is necessary to identify the product, as defined by HTS number, which appears to be most like the products serving as the basis for [Source] domestic prices. The most comparable product defined in the HTS is HTS No. 7209.17.0070, which covers “{f}lat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: In coils, not further worked than cold-rolled (cold reduced): Of a thickness of 0.5 mm or more but not exceeding 1 mm: Other: Annealed.”⁸⁹

Pricing comparisons establish that [

Narrative

] their share of the U.S. market.

The data allowed for [#] monthly comparisons between the AUV for subject imports and the domestic like product. In [#] of those comparisons, the import AUV for the pricing product was [] the domestic price for cold-rolled steel reported by [Source].⁹⁰

⁸⁷ See Pricing Data, attached as **Exhibit I-12**.

⁸⁸ See *id.*

⁸⁹ Applicable HTS Excerpts, attached as **Exhibit I-6**.

⁹⁰ See Pricing Data, attached as **Exhibit I-12**. Prices, which are reported in U.S. dollars/kilogram, have been converted to U.S. dollars/metric ton by multiplying the price by 1000. Because both [] and DataWeb report prices in metric tons, there is no need to convert to net tons.

Petitioners believe that underselling will be further evidenced in the data that the Commission collects on prices of particular products. Pursuant to 19 C.F.R. § 207.11(b)(iv), Petitioners request that the Commission collect pricing data on the following products:

Product 1 – Cold-rolled carbon steel sheet, in coils, commercial quality (ASTM A-1008), not interstitial free, not painted, box annealed and temper rolled, 24” to 48” in width, 0.0120” to 0.0219” in thickness.

Product 2 – Cold-rolled carbon steel sheet, in coils, commercial quality (ASTM A-1008), not interstitial free, not painted, box annealed and temper rolled, 34” to 72” in width, 0.0220” to 0.0849” in thickness.

Product 3 – Cold-rolled carbon steel sheet, in coils, commercial quality (ASTM A-1008), not interstitial free, not painted, box annealed and temper rolled, 34” to 72” in width, 0.0850” to 0.1350” in thickness.

b. Subject Imports Have Caused Price Suppression and Depression

Given the evidence of pervasive underselling by the subject imports, it is not surprising that the imports also suppressed and depressed prices of the domestic like product. Prices for domestic cold-rolled steel, [

Source

Month Year

Month Year

].⁹¹

When subject import volumes surged in the second quarter of 2014, without any concomitant rise in demand, the domestic industry began to lose sales. In an attempt to maintain production, domestic producers responded by cutting prices. Domestic producers were forced to drop prices by [

percent], from May 2014 to May 2015, [

].⁹² [*Source*], another standard source of domestic prices, shows [*trend*

⁹¹ *Id.*

⁹² *Id.*

], over the same period.⁹³ This vividly demonstrates the effect that unfairly low-priced subject imports had in suppressing and depressing prices for the domestic like product. Accordingly, the Commission should find that dumped and subsidized imports from the subject countries have had a significant negative effect on U.S. prices for cold-rolled steel.

4. The Impact of Subject Imports on the Domestic Industry Is Significant

In examining the impact of subject imports on the domestic industry, the Commission is instructed to “evaluate all relevant economic factors which have a bearing on the state of the industry in the United States.”⁹⁴ These factors include, but are not limited to:

- (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
- (II) factors affecting domestic prices,
- (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment,
- (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
- (V) the magnitude of the margin of dumping.⁹⁵

The Commission is directed to evaluate all factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁹⁶

⁹³ *Id.*

⁹⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁹⁵ *Id.*

⁹⁶ *Id.*

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- a. While U.S. Demand for Cold-Rolled Steel Remained Steady over the Period of Investigation, Domestic Shipments Fell

Overall demand for cold-rolled steel in the United States, as reflected in apparent domestic consumption ("ADC"), remained relatively steady [

Year].⁹⁷ ADC in the cold-rolled steel market in 2014 was [*31, 313, 131* *Year*].⁹⁸ Given the relative

steadiness in demand, one would expect domestic shipments to have remained relatively steady as well. Because of the increasing share of consumption captured by subject imports, however, total domestic shipments *fell* by [*Year Year*].⁹⁹ At the same time, subject imports increased by nearly 120 percent.¹⁰⁰ Subject imports took market share from the domestic industry, more than doubling their market share from 2012 to 2014.

Subject imports gained even more market share in the first five months of 2015, as the decline in domestic shipments continued. Demand dropped by [*Percent*] in the first five months of 2015, compared to the same period in 2014.¹⁰¹ At the same time, total shipments by the domestic industry were [*percent*] lower.¹⁰² This substantial decline was the result of subject imports, which increased by another 44 percent during this period in 2015.¹⁰³ Thus, the stark decline in domestic shipments during the POI was the result of the surge of dumped and

⁹⁷ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Import Data, attached as **Exhibit I-8**.

¹⁰¹ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

¹⁰² *Id.*

¹⁰³ Import Data, attached as **Exhibit I-8**.

subsidized subject imports, which distorted the market, drove down prices, and took market share from the U.S. industry.

b. High Levels of Subject Imports Resulted in Declining Financial Performance for the Domestic Industry

As noted above, in assessing the impact of unfairly traded imports, the relevant statute directs the Commission to “evaluate all relevant economic factors . . . within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁰⁴ Thus, in considering the impact of subject imports, the Commission must compare how domestic producers actually performed in comparison to how they would have performed in the absence of unfair trade. The available evidence establishes that, despite generally stable conditions in the U.S. cold-rolled steel market, the surge of subject imports caused the financial performance of the domestic industry to decline.¹⁰⁵

Given the steadiness in demand between 2012 and 2014, one would have expected to see the domestic industry achieve reasonable profits. That it did not do so is the direct result of vastly increased imports from the subject countries. Moreover, the financial performance of the domestic industry [*Year*], as subject imports gained still more market share. The industry’s [*Narrative Year*] greater than in the same period of 2014, while its [*Narrative*].¹⁰⁶ The industry [*Narrative*

¹⁰⁴ 19 U.S.C. § 1677(7)(C)(iii).

¹⁰⁵ Domestic Cold-Rolled Steel Industry Financial Data, attached as **Exhibit I-13**. Petitioners necessarily have access to only their own financial information. However, as noted above, Petitioners account for more than [*percent*] of domestic cold-rolled production. In addition, [*Narrative*] in **Exhibit I-13**. Therefore, Petitioners believe that their financial results are typical of the domestic industry as a whole.

¹⁰⁶ *See id.*

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Has Been Deleted**
].¹⁰⁷ Absent dumped and

subsidized subject imports, the domestic cold-rolled steel industry would have maintained or even increased its shipments and market share.

c. Other Indicators Confirm that Subject Imports Prevented the Domestic Industry from Taking Advantage of Favorable Demand Conditions

The other factors typically considered by the Commission in its material injury analysis further highlight the inability of the domestic industry to take advantage of stable demand conditions as a result of rising volumes of unfairly traded subject imports. Production capacity, capacity utilization, and production [Year Year].¹⁰⁸

However, conditions changed markedly in the first quarter of 2015. Petitioners' production in that quarter was [] lower than in the first quarter of 2014.¹⁰⁹ Capacity utilization fell to [59]¹¹⁰ These decreases in production and capacity utilization were the direct result of the sharp increase in subject imports, at even lower prices, in the first quarter of 2015.¹¹¹

¹⁰⁷ See *id.* The Commission has noted that steel production is capital-intensive. See, e.g., *Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine*, Investigation Nos. 701-TA-405, 406, and 408 & 731-TA-899-901 and 906-908 (Second Review), USITC Pub. 4445 (Jan. 2014) at 29. Depreciation and interest expense are accordingly substantial items for the industry, so that net, rather than operating, profits is a more accurate indicator of the industry's performance. Indeed, the definition of "material injury" under 19 U.S.C. § 1677(7) was recently amended to identify net profits as one factor the Commission must consider in determining whether imports are causing material injury to a domestic industry. *Trade Preferences Extension Act of 2015*, H.R. Doc. No. 1295 (2015) at § 505.

¹⁰⁸ See Domestic Cold-Rolled Steel Industry Trade Data, attached as **Exhibit I-4**. While Petitioners have access to industry-wide data for cold-rolled shipments, they do not have such data for industry-wide production, capacity, or capacity utilization, so they must rely on their own data. Because of their share of domestic shipments, Petitioners believe their experience is indicative of the industry as a whole.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ See Import Data, attached as **Exhibit I-8** and Calculation of Industry Support, attached as **Exhibit I-3**.

Rising subject imports also negatively affected employment and wages in the U.S. cold-rolled steel industry, as every indicator associated with labor in the domestic industry declined between 2012 and 2014. For example, the average number of production-related workers and hours worked both dropped [*read*] during this period.¹¹²

d. Subject Imports Have Caused U.S. Producers to Lose Sales and Revenues

As explained above, the vast majority of subject imports are sold in the merchant market through distributors. Accordingly, the ability of the domestic industry to identify specific examples of lost sales or lost revenues by reason of subject imports is limited. Nevertheless, pursuant to 19 C.F.R. § 207.11(b)(v),¹¹³ Petitioners have identified examples of lost sales and lost revenues; these can be found in **Exhibit I-14**. Furthermore, as demonstrated above, the industry-wide data leave no doubt that subject imports took market share from domestic producers and drove down domestic prices for cold-rolled steel, especially in 2014 and the first quarter of 2015. Thus, the Commission should find that subject imports have resulted in lost sales and lost revenues to the domestic industry.

5. Conclusion

All of the indicators of material injury are present in this case. The volume of subject imports was significant both absolutely and relative to ADC and U.S. production, and increased dramatically over the POI. Subject imports more than doubled their market share from 2012 to

¹¹² Domestic Cold-Rolled Steel Industry Trade Data, attached as **Exhibit I-4**.

¹¹³ The regulations ask Petitioners for “a listing of all sales or revenues lost by each petitioning firm by reason of the subject merchandise during the three years preceding filing of the petition.” 19 C.F.R. § 207.11(b)(v). Such detailed information is difficult to provide for the cold-rolled steel industry and thus a full listing is not reasonably available to Petitioners. However, some examples of such lost sales and revenues are included in **Exhibit I-14**. In addition, as discussed in the text, the available information leaves no doubt that domestic producers have suffered significant lost sales and revenues by reason of subject imports.

2014, and reached their highest levels of market penetration in the first five months of 2015.¹¹⁴

Subject imports systematically undersold the domestic product, causing domestic prices to fall even as demand remained stable. The domestic industry [*Narrative*

] over the period. The industry's financial performance [*narrative*

]. Subject imports also adversely affected capacity utilization and labor. Therefore, the volume, price effects, and impact of subject imports on the U.S. cold-rolled steel industry have been both significant and harmful. The Commission should find that subject imports have caused material injury to the domestic industry.

E. Subject Imports Threaten Additional Material Injury to the Domestic Industry

The above discussion establishes that the subject imports have caused material injury to the domestic cold-rolled steel industry. In addition, the evidence available to Petitioners demonstrates that the subject imports threaten the domestic industry with further material injury. In assessing threat, the Commission should cumulate imports from all of the subject countries.

1. The Commission Should Cumulate Subject Imports for Purposes of Its Threat Analysis

The Act provides that in evaluating the threat of material injury, the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which the petitions were filed on the same day, "if such imports compete with each other and with domestic like products in the United States market."¹¹⁵ As these Petitions cover all of the subject countries, the first requirement is met. And as demonstrated above, the subject imports all compete with each other and with the domestic like

¹¹⁴ U.S. Market Share Data, attached as **Exhibit I-11**.

¹¹⁵ 19 U.S.C. § 1677(7)(H).

product in the U.S. market. Thus, the statutory requirements for cumulation in a threat investigation have been satisfied.

2. Subject Imports Threaten Domestic Producers with Additional Material Injury

In determining whether subject imports threaten a domestic industry with material injury, the Commission must consider a number of factors. These factors include

- A significant rate of increase of the volume or market penetration of imports of the subject merchandise;
- Price effects of the subject imports;
- The nature of any countervailable subsidies;
- Existing unused production capacity or potential increases in production capacity in the exporting country;
- Inventories of the subject merchandise; and
- The potential for product-shifting.¹¹⁶

In this case, all of these factors support an affirmative threat determination. The Commission should find that the domestic cold-rolled steel industry is vulnerable, and that the subject imports threaten the domestic industry with material injury.

a. The Domestic Cold-Rolled Steel Industry Is Vulnerable to Material Injury from the Subject Imports

The starting point for the Commission's assessment of threat is the question of whether the domestic industry is vulnerable to material injury by reason of the subject imports.¹¹⁷ To assess vulnerability, the Commission will consider the various indicators of performance for the

¹¹⁶ 19 U.S.C. § 1677(7)(F)(i).

¹¹⁷ See *Seamless Refined Copper and Tube from China and Mexico*, Inv. Nos. 731-TA-1174-1175 (Final) USITC Pub. 4193 (Nov. 2010) at 34; *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China*, Inv. Nos. 701-TA-469 and 731-TA-1168 (Final), USITC Pub. 4190 (Nov. 2010) at 27-28.

industry. The Commission gives special weight to the industry's performance at the end of the POI.¹¹⁸

As discussed above, the subject imports have adversely affected the domestic industry's financial performance. The industry's deteriorating [*Narrative*
Year] is especially significant in this regard. The Commission should accordingly determine that the domestic cold-rolled steel industry is vulnerable to material injury by reason of the subject imports.

b. The Subject Imports Have Significantly Increased in Volume and Market Share

The Act provides that "a significant rate of increase of the volume or market penetration of imports of the subject merchandise" shall be considered in determining whether the domestic industry is threatened with material injury from the subject imports.¹¹⁹ In this case, there were dramatic increases in both the volume and market penetration of subject imports over the POI.

As discussed above, the volume of subject imports doubled over the period. The most significant surge in subject imports began in the second quarter of 2014, and continued through the first quarter of 2015. The Commission will consider increases in import volumes in the context of domestic demand. That imports have increased faster than demand is an indicator of threat.¹²⁰ Subject import volume in the first five months of 2015 was 44 percent higher than in the first five months of 2014, while apparent domestic consumption in the same period for 2015

¹¹⁸ *Seamless Refined Copper and Tube from China and Mexico*, USITC Pub. 4193 at 34.

¹¹⁹ 19 U.S.C. § 1677(7)(F)(i)(III).

¹²⁰ *Chlorinated Isocyanurates from China and Japan*, Inv. Nos. 701-TA-501 and 731-TA-1226 (Final) USITC Pub. 4494 (Nov. 2014) at 35.

was actually [*threat*].¹²¹ This substantial increase in subject imports in the face of declining demand is clear evidence of threat of material injury.

c. The Subject Imports Have Had Demonstrable Price Effects

The Act provides that, in determining whether the domestic industry is threatened with material injury, the Commission should consider “whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports.”¹²² The discussion above shows that subject imports had such effects during the POI and, in the absence of relief, will continue to have such effects in the near future. In particular, the rise in subject imports that accelerated in the second quarter of 2014 led to a sharp decline in prices for the domestic product at the end of 2014 and in the first quarter of 2015.¹²³ Given continuing high levels of subject imports, at prices substantially underselling the domestic like product, it is likely that the fall in domestic prices will continue. Thus, this statutory factor shows that the domestic industry is threatened with additional material injury from subject imports.

d. Subject Countries Encourage the Exportation of Subject Merchandise Through Countervailable Subsidies

As part of its threat analysis, the Commission must consider “if a countervailable subsidy is involved” and, in particular, “whether the countervailable subsidy is a subsidy described in Article 3 or 6.1” of the WTO Agreement on Subsidies and Countervailing Measures.¹²⁴ Article 3 of the WTO Subsidies Agreement describes subsidies that are prohibited because they are

¹²¹ Calculation of Apparent Domestic Consumption, attached as **Exhibit I-10**.

¹²² 19 U.S.C. § 1677(7)(F)(i)(IV).

¹²³ See Pricing Data, attached as **Exhibit I-12**.

¹²⁴ 19 U.S.C. § 1677(7)(F)(i)(I).

contingent upon export performance or upon the use of domestic over imported goods.¹²⁵ As demonstrated in these Petitions, subject producers in Brazil, China, India, Korea, and Russia have received countervailable subsidies, including export subsidies and import substitution subsidies. Among the more significant of these are:

- Export loans provided to cold-rolled steel producers at preferential rates by government authorities where receipt of the financing is contingent upon exporting;
- Preferential income tax treatment for cold-rolled steel producers whose exports constitute a certain portion of other overall sales;
- Land for less than adequate remuneration provided to cold-rolled steel producers located in certain coastal industrial zones in order to promote exports;
- Grants provided to cold-rolled steel producers to assist in the development of export markets or to recognized export performance; and
- Preferential income tax treatment for cold-rolled steel producers that upgrade their manufacturing operations with domestically manufactured equipment.

e. Subject Producers Have Significant New and Unused Capacity, Which Indicates a Likelihood of Substantially Increased Imports

The Act provides that in making a threat determination, the Commission shall consider “any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports.”¹²⁶ The Commission will also consider whether other export markets that could absorb excess

¹²⁵ *Agreement on Subsidies and Countervailing Measures* (Apr. 15, 1994), Marrakesh Agreement Establishing the World Trade Organization, Annex 1, 1867 U.N.T.S. 14 at Art. 3.

¹²⁶ 19 U.S.C. § 1677(7)(F)(i)(II).

production are available to the subject producers.¹²⁷ In this case, the availability of capacity for increased exports to the United States weighs heavily in favor of a threat determination.¹²⁸

According to ~~[Source]~~, the subject countries currently have production capacity for cold-rolled steel of approximately [] net tons.¹²⁹ However, subject producers are currently producing at levels well below this capacity. Table 4 shows the estimated production capacity of the subject countries in 2014, along with their estimated production, the amount of unused capacity, and their excess capacity as a percentage of total capacity.¹³⁰

TABLE 4
PRODUCTION CAPACITY, PRODUCTION, AND EXCESS CAPACITY, 2014
(Millions of Net Tons)

	Capacity	Production	Excess Capacity	% Excess Capacity
Brazil	[]			[]
China	[]			[]
India	[]			[]
Japan	[]			[]
Korea	[]			[]
Russia	[]			[]
United Kingdom	[]			[]
Total	[271]	162	84	[]

As Table 4 shows, the subject countries had excess production capacity in 2014 of approximately [] million net tons. Their total exports to the United States in 2014 were 1.8 million net tons, or only about [] percent of their excess capacity and only [] percent of

¹²⁷ 19 U.S.C. § 1677(7)(F)(i)(II).

¹²⁸ See *Chlorinated Isocyanurates from China and Japan*, USITC Pub. 4494 at 36; *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam*, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Pub. 4144 (Apr. 2010) at 25-26.

¹²⁹ See [*Source*] and Capacity Articles, attached as **Exhibit I-15**.

¹³⁰ *Id.*

their total capacity.¹³¹ Every one of the subject countries has the ability to increase exports to the United States significantly without encountering any capacity restraints.

Despite this amount of excess capacity, several projects in subject countries have been announced that will add several million tons of new capacity over the next few years.¹³² This is further evidence that the subject producers have the ability to maintain and expand their volume of cold-rolled steel exports to the United States in the near future, threatening the domestic industry with further material injury.

f. Inventories of the Subject Merchandise Threaten the Domestic Industry with Additional Material Injury

The Commission must also consider inventories of the subject merchandise as an indicator of the extent to which subject imports threaten additional material injury to the domestic industry.¹³³ At this time, Petitioners do not have access to data regarding inventories of cold-rolled steel in the subject countries.

g. Facilities in the Subject Countries Currently Being Used to Make Other Products Could Be Used to Produce Cold-Rolled Steel

In weighing the threat to the domestic industry, the Commission must consider “the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.”¹³⁴ In this case, the potential for product-shifting is substantial. As explained above in the discussion of the production process, cold-rolled steel is made by re-rolling hot-rolled steel.¹³⁵ By definition, any

¹³¹ See Import Data, attached as **Exhibit I-8**.

¹³² [*Source*] and Capacity Articles, attached as **Exhibit I-15**.

¹³³ 19 U.S.C. § 1677(7)(F)(i)(V).

¹³⁴ 19 U.S.C. § 1677(7)(F)(i)(VI).

¹³⁵ See *supra* at 9-11.

producer of cold-rolled steel that is not a re-roller, *i.e.*, any producer that melts its own steel, can convert hot-rolled steel to cold-rolled steel. Indeed, as cold-rolled steel is a higher-value product, producers may have an economic incentive to shift production from hot-rolled to cold-rolled steel.

Similarly, a substantial portion of cold-rolled steel is galvanized or otherwise further processed to produce corrosion-resistant steel. In times of weak demand for corrosion-resistant steel, however, if cold-rolled and corrosion-resistant prices are relatively close, or if AD/CVD orders or other trade barriers limit the ability to export other corrosion-resistant steel, producers can produce less corrosion-resistant steel and sell more of their production as cold-rolled steel. It is for these reasons that the Commission found in its 2002 determination that foreign producers have the ability to shift production from other products to cold-rolled steel, to increase exports to the United States.¹³⁶ Thus, this factor also supports an affirmative threat determination.

h. Subject Imports Are Hindering the Existing Development and Production Efforts of the Domestic Industry

The Act further provides that, in assessing the threat to the domestic industry from subject imports, the Commission must consider “the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.”¹³⁷ As discussed above with respect to present material injury, the significant presence of subject imports caused the domestic industry to reduce its output and [*Navative*] absent the unfairly traded subject imports. Continuing harm of this type will make it difficult, if not

¹³⁶ *Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand*, USITC Pub. 3536 at 41.

¹³⁷ 19 U.S.C. § 1677(7)(F)(i)(VIII). It should be noted that 19 U.S.C. § 1677(7)(F)(i)(VII) relates to investigations that involve imports of raw agricultural products, which are not relevant to these investigations.

impossible, for domestic producers to adequately fund their development and production efforts. Accordingly, this statutory factor also indicates that the domestic industry is threatened with additional material injury by subject imports.

i. Conclusion

All of the criteria for threat of material injury are present in this case. High and rising levels of unfairly traded subject imports have left the domestic industry in an extremely vulnerable condition. Subject imports rose over the POI, especially at the end of the period. The market share of the subject imports has steadily increased, and reached its highest levels at the very end of the period. These high volumes of subject imports have demonstrably depressed and suppressed domestic prices. The subject producers have substantial excess capacity to produce cold-rolled steel, and are adding more. They also have the capability to shift production from other products, including hot-rolled and corrosion-resistant steel, to the manufacture of cold-rolled steel. By depriving the domestic industry of the revenues and profits needed to fund future research and development, in the absence of relief, the subject imports will prevent the domestic industry from taking the steps needed to remain competitive. For all of these reasons, the Commission should determine that subject imports threaten the domestic cold-rolled steel industry with material injury.

F. Conclusion

All statutory factors support a finding that imports of cold-rolled steel from the subject countries have caused material injury to the domestic industry, and that such imports threaten additional material injury. Thus, the Commission should make affirmative determinations with respect to all subject imports.

Respectfully submitted,



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EXHIBIT LIST

Exhibit No.	Exhibit	Security
I-1	Petitioners' Contact Information	Public
I-2	Other Domestic Producers' Contact Information	Public
I-3	Calculation of Industry Support	BPI
I-4	Domestic Cold-Rolled Steel Industry Trade Data	BPI
I-5	United States Steel, <i>The Making, Shaping and Treating of Steel</i> (10 th ed., 1985) (excerpts)	Public
I-6	Applicable HTS Excerpts	Public
I-7	Foreign Producers/Exporters of Cold-Rolled Steel Products	Public
I-8	Import Data	Public
I-9	Cold-Rolled Steel Importers' Contact Information	BPI
I-10	Calculation of Apparent Domestic Consumption	BPI
I-11	U.S. Market Share Data	BPI
I-12	Pricing Data	BPI
I-13	Domestic Cold-Rolled Steel Industry Financial Data	BPI
I-14	Lost Sales and Lost Revenues Allegations	BPI
I-15	[] and Capacity Articles	BPI

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824

USITC Inv. Nos. 701-TA-____-- ___, and 731-TA-____ - ____

Total Pages: 614

Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

Business Proprietary Information deleted in the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-9 – I-15; and Volume II, pages 6-8, 11-13, and Exhibits II-2, II-5, II-7, II-14, and II-15.

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Import Administration
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, **the People's Republic of China**, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.
- (2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.
- (3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.
- (4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibits I-14 and I-9.

- (5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.
- (6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.
- (7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45 ; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume II of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)): page 8; and Exhibits II-2, II-7, and II-14.
- (2) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit II-14.
- (3) *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)): page 13; and Exhibit II-2.
- (4) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Pages 6-8, 11-13; and Exhibits II-2 and II-7.
- (5) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)): Pages 6-8; 11-13, and Exhibits II-2, II-7, and II-15.
- (6) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Pages 6-8, 11-13; and Exhibit II-2.
- (7) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibits II-2 and II-14.
- (8) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): Exhibits II-2 and II-14.

The single-bracketed business proprietary information in the attached Volumes I and II of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).¹ Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

¹ Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

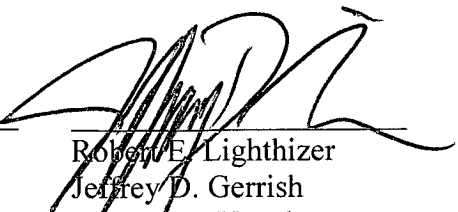
The Honorable Penny S. Pritzker
The Honorable Lisa R. Barton
July 28, 2015
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Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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Public Version

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Investigation

Petitioners Business Proprietary Information deleted
from pages 6-8, 11-13 and Exhibits II-2, II-7, II-14,
and II-15.

PUBLIC VERSION

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

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM THE PEOPLE'S REPUBLIC OF CHINA

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME II

INFORMATION RELATING TO THE PEOPLE'S REPUBLIC OF CHINA – ANTIDUMPING DUTIES

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July 28, 2015

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I. Introduction

As demonstrated below, producers and/or exporters from the People's Republic of China ("China" or the "PRC") sold, or offered for sale, cold-rolled steel flat products ("cold-rolled steel") in the United States at less than fair value. Petitioners demonstrate that cold-rolled steel imported from China is being sold at less than fair value by comparing U.S. price with the normal value for such merchandise in accordance with the statute and the regulations and practice of the Department of Commerce (the "Department"). Petitioners ultimately calculate an overall dumping margin for the subject merchandise.

Petitioners use export price as the basis for U.S. price because Chinese producers typically sell either through unaffiliated trading companies to unrelated distributors or end users in the United States or, less commonly, directly to unrelated distributors or end users in the United States. Petitioners compute the ex-factory export price in U.S. dollars by deducting from the quoted offer price the expenses incident to delivering the merchandise to customers in the United States. Specifically, Petitioners deduct transportation charges from the Chinese manufacturing facilities to the Chinese port of exportation, foreign port charges, foreign brokerage and handling fees, ocean freight expenses, marine insurance, U.S. port charges, and harbor maintenance and merchandise processing fees. Additionally, Petitioners deduct a trading company mark-up.

The method by which normal value is calculated depends upon whether the country under investigation is a market economy or a nonmarket economy ("NME") country.¹ In every previous investigation involving merchandise from China, the Department has concluded that

¹ See 19 U.S.C. § 1677b(c) (2012) (directing the Department, in the case of a NME country, to calculate normal value based on the value of the factors of production in a surrogate market economy country).

China is a NME country.² By statute, once the Department has determined that a foreign country is a NME, that determination remains in effect until affirmatively revoked.³ Because China's status as a NME has not been revoked, Petitioners determine normal value using the Department's NME analysis.

II. Nonmarket Economy Analysis

To determine the normal value of the subject merchandise, the Department normally utilizes a "single surrogate country"⁴ which is "at a level of economic development comparable to that of the nonmarket economy country"⁵ and is a "significant producer {} of comparable merchandise."⁶ In selecting a surrogate country, the Department will also consider the quality and availability of data.⁷ For the reasons discussed below, Petitioners submit that South Africa is the appropriate surrogate country for China.

² See, e.g., Hardwood and Decorative Plywood from the People's Republic of China, 78 Fed. Reg. 58273 (Dep't Commerce Sept. 23, 2013) (final determ.); Xanthan Gum from the People's Republic of China, 78 Fed. Reg. 33351 (Dep't Commerce June 4, 2013) (final determ.).

³ 19 U.S.C. § 1677(18)(C)(i) ("Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.").

⁴ 19 C.F.R. § 351.408(c)(2) (2014) ("{T}he {Department} normally will value all factors in a single surrogate country.").

⁵ 19 U.S.C. § 1677b(c)(4)(A).

⁶ 19 U.S.C. § 1677b(c)(4)(B).

⁷ Issues and Decision Memorandum in Lightweight Thermal Paper from the People's Republic of China, 73 Fed. Reg. 57329 (Dep't Commerce Oct. 2, 2008) ("IDM in LTP from China") (final determ.) at Comment 1.

A. Economic Comparability

The Department's regulations state that in evaluating potential surrogates, the Department "will place primary emphasis on per capita {gross domestic product ("GDP")} as the measure of economic comparability."⁸ In practice, however, the Department relies upon per-capita gross national income ("GNI") statistics as published by the World Bank.⁹ The Department has determined in numerous recent cases that South Africa is at a level of economic development comparable to China.¹⁰ For example, in Aluminum Extrusions from the People's Republic of China, the Department relied on per-capita GNI statistics published by World Bank in December 2014 to determine that Romania, Bulgaria, South Africa, Ecuador, Thailand, and Ukraine are all comparable to China in terms of economic development.¹¹ Of the potential surrogate countries for which there is factor of production data available, South Africa is the closest potential surrogate

⁸ 19 C.F.R. § 351.408(b) (emphasis omitted).

⁹ See Request for List of Surrogate Countries for an Administrative Review on Aluminum Extrusions from the People's Republic of China (Feb. 18, 2015) ("Surrogate Country List for Aluminum Extrusions") at 2, attached hereto as Exhibit II-1(A).

¹⁰ See id.; see also Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal, 80 Fed. Reg. 8608, 8612 (Dep't Commerce Feb. 18, 2015) (not. of init.) (stating that it was appropriate to use South Africa as a surrogate country for China for initiation purposes because it is at a level of economic development comparable to that of China); Preliminary Decision Memorandum in Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China, 80 Fed. Reg. 4250 (Dep't Commerce Jan. 27, 2015) (prelim. determ.) at 10 (identifying South Africa as economically comparable to China).

¹¹ See Surrogate Country List for Aluminum Extrusions at 2, attached hereto as Exhibit II-1(A).

country to China in terms of per capita GNI.¹² Thus, it is clear that South Africa is economically comparable to China.

B. Production of Comparable Merchandise

The second requirement for a surrogate country is that it be a “significant producer{ } of comparable merchandise.”¹³ The Department has discretion under the statute to examine various data sources for determining the best available information regarding national production volumes. Here, complete data are not available for the potential surrogate countries with respect to the production volumes of comparable merchandise. As a proxy for production volumes, the Department examines national export data for comparable merchandise from the Global Trade Atlas (“GTA”) to assess whether a potential surrogate country is a significant producer of comparable merchandise.¹⁴ During the last twelve months for which data are available, South Africa exported 109,899 net tons (“NT”) of cold-rolled steel.¹⁵ Accordingly, there is no question that South Africa is a significant producer of comparable merchandise.

¹² Id.

¹³ 19 U.S.C. § 1677b(c)(4)(B).

¹⁴ See, e.g., Issues and Decision Memorandum in Certain Steel Threaded Rod from the People’s Republic of China, 76 Fed. Reg. 66330 (Dep’t Commerce Nov. 5, 2013) (final results) at 5; Issues and Decision Memorandum in Xanthan Gum from the People’s Republic of China, 78 Fed. Reg. 2252 (Dep’t Commerce Jan. 10, 2013) (prelim. determ.) at 5; Chlorinated Isocyanurates from the People’s Republic of China, 77 Fed. Reg. 41746, 41748 (Dep’t Commerce July 16, 2012) (prelim. results).

¹⁵ See GTA Data re: South African Exports of Cold-Rolled Steel, attached hereto as Exhibit II-1(B).

C. Availability of Information

In choosing an appropriate surrogate, the Department will also consider the availability and quality of data.¹⁶ There are current, publicly available values for the vast majority of South African unit factor costs.¹⁷ Indeed, the Department has repeatedly used South African import data to value factors of production for merchandise manufactured by NME countries, including China.¹⁸ The Department has also recognized the quality and contemporaneity of the publicly available data in South Africa.¹⁹ In addition, there is current financial information for South African producers of comparable merchandise available to calculate the financial ratios used in the normal value analysis.²⁰

¹⁶ See IDM in LTP from China at Comment 1.

¹⁷ See Exhibit II-14(C).

¹⁸ See, e.g., Issues and Decision Memorandum in Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China, 77 Fed. Reg. 76970 (Dep't Commerce Dec. 23, 2014) (final determ.) ("CCSPP from China") at Comment 2; Issues and Decision Memorandum in Ferrovandium from the People's Republic of China, 67 Fed. Reg. 71137 (Dep't Commerce Nov. 29, 2002) (final determ.) at Comment 4; Pure Magnesium from Russia, 66 Fed. Reg. 49347, 49349 (Dep't Commerce Sept. 27, 2001) (final determ.).

¹⁹ See, e.g., Issues and Decision Memorandum in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of China, 79 Fed. Reg. 37715 (July 2, 2014) (final results) at Comment 1 ("After reviewing the South African import data, the Department has determined that the data are official, publicly available, broad market averages, contemporaneous with the period of review. . . , tax exclusive and representative of significant quantities of imports, thus, satisfying critical elements of the Department's criteria for selecting {surrogate values}"); Pure Magnesium from Russia, 66 Fed. Reg. 21319, 21323 (Dep't Commerce Apr. 30, 2001) (prelim. determ.) (same).

²⁰ See Exhibit II-14(H).

D. Conclusion

South Africa is clearly the best surrogate country for China for three reasons. First, it is at a comparable stage of economic development as China. Second, it is a significant producer of comparable merchandise. And third, the information required to calculate unit factor costs and financial ratios in South Africa is readily available. Accordingly, Petitioners use South Africa as the surrogate country here in calculating the normal value for Chinese cold-rolled steel.

III. Calculation of Dumping Margin

A. United States Price

Petitioners have obtained an offer for the sale of cold-rolled steel in the United States from a large Chinese producer – i.e., Handan Iron and Steel Group Co., Ltd. (“Handan”).²¹ Petitioners believe that Handan was among the primary Chinese exporters of cold-rolled steel to the United States during the period of investigation (“POI”) – i.e., January 1, 2015 through June 30, 2015.²² Handan has the capacity to produce at least 1.3 million metric tons (“MT”) of cold-rolled steel at its facilities.²³

An affidavit certifying the terms of the U.S. sales offer from Handan is provided in Exhibit II-2. The offer was made in [] for cold-rolled steel with a grade of [].²⁴ The physical characteristics of this merchandise are commonly found in cold-rolled

²¹ See Affidavit Regarding Offer for Sale of Cold-Rolled Steel Manufactured by Handan (“Affidavit Re: Offer”), attached hereto as Exhibit II-2.

²² See Exhibit II-3 (Import Genius Data) (showing Handan to be among the four or five top Chinese exporters of cold-rolled steel to the United States).

²³ See Handan Company Website: Company Profile, attached hereto as Exhibit II-4.

²⁴ See Affidavit Re: Offer, attached hereto as Exhibit II-2.

steel sold throughout the United States and represent merchandise typically sold or offered for sale in the United States. As the sales offer was to an unrelated U.S. customer for purchase prior to importation, export price is the appropriate basis for U.S. price.²⁵

The cold-rolled product used in the analysis here is clearly representative of Chinese imports. According to the classification criteria of the Harmonized Tariff Schedule (“HTS”), the offer is for a cold-rolled steel product that falls within HTS subheading 7209.16.00.70. The HTS defines products entering under this subheading as:

Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated:

In coils, not further worked than cold-rolled (cold-reduced):

Of a thickness exceeding 1 mm but less than 3 mm:

Other:

Annealed²⁶

During the most recent twelve-month period for which U.S. import data are available (*i.e.*, June 2014 through May 2015), cold-rolled steel imported from China under HTS subheading 7209.16.00.70 totaled 308,321 NT and accounted for 32.52 percent of all cold-rolled steel imports entering the United States from China during this period.²⁷ Accordingly, because the product used as the basis for U.S. price accounts for such a large percentage of subject imports, it is necessarily representative of all such imports.

1. Sales Price

The offer for the sale of cold-rolled steel manufactured in and exported from China by Handan was made by the trading company [] in []

²⁵ See 19 U.S.C. § 1677a(a).

²⁶ See HTS of the United States, attached hereto as Exhibit II-5, p.72-14.

²⁷ See U.S. Imports of Cold-Rolled Steel from China, attached hereto as Exhibit II-6.

Ranged Numbers

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with an expected delivery date of [].²⁸ Additional details regarding the type and dimensions of the product and the price at which it was offered for sale are as follows:²⁹

	Grade	Thickness (inches)	Width (inches)	Price (\$/NT) ³⁰	
[				480	]

Petitioners calculate the export price starting with the offered transaction price.

2. Movement and Other Expenses

The offer described above was made with the delivery terms of [

].³¹ Accordingly, as shown in Exhibit II-7, Petitioners make the following deductions from the offer price to determine the ex-factory U.S. price.

(a) Foreign Inland Freight to the Port

Cold-rolled steel must be shipped from the factory to the port. In Exhibit II-8, Petitioners calculate the expenses incurred in shipping the subject merchandise from Handan's plant to the port in China. Petitioners calculate foreign inland freight based on the distance from Handan's factory to the nearest port multiplied by the unit factor cost on a NT per kilometer ("KM") basis. Petitioners calculate the unit factor cost using data published by the World Bank

²⁸ See Affidavit Re: Offer, attached hereto as Exhibit II-2.

²⁹ Id.

³⁰ The offered price was originally made on the basis of U.S. dollars per hundredweight ("\$/CWT"). See Exhibit II-2. Petitioners have converted the offered price from a \$/CWT basis to a \$/NT basis. See Exhibit II-7.

³¹ See Affidavit Re: Offer, attached hereto as Exhibit II-2.

in *Doing Business in South Africa 2015*.³² These data have been used by the Department in recent antidumping investigations involving China and are the best information reasonably available to Petitioners concerning foreign inland freight charges in South Africa.³³ The costs reported in *Doing Business in South Africa 2015* are based on a company located in Johannesburg.³⁴ Accordingly, Petitioners calculate a per-KM unit cost for inland freight based on the distance from Johannesburg to the nearest seaport – i.e., Durban. The resulting unit cost, expressed in terms of \$/NT/KM, is multiplied by the distance from Handan’s production facility in the city of Handan in the Hebei province of China to the nearest seaport in Huanghua, China to derive a total cost for foreign inland freight from the plant to the port. The resulting value of \$73.94/NT is posted in column C of Exhibit II-7.

(b) Foreign Brokerage and Handling

In shipping the subject merchandise out of the port in China, an exporter will incur brokerage and handling expenses associated with preparing the necessary documentation and obtaining customs clearance.³⁵ In Exhibit II-9, Petitioners calculate brokerage and handling fees using data published by the World Bank in *Doing Business in South Africa 2015*. Petitioners first post the fees for preparing the necessary documentation and the fees for

³² See World Bank in *Doing Business in South Africa 2015*, attached hereto as Exhibit II-8(A).

³³ See, e.g., Preliminary Decision Memorandum in CCSPP from China, 79 Fed. Reg. 44399 (Dep’t Commerce July 31, 2014) (prelim. determ.) at 24.

³⁴ See World Bank in *Doing Business in South Africa 2015*, attached hereto as Exhibit II-8(A).

³⁵ See, e.g., Issues and Decision Memorandum in Certain Polyester Staple Fiber, 80 Fed. Reg. 4542 (Dep’t Commerce Jan. 28, 2015) (final results) at Comment 4.

obtaining customs clearance and handling other technical control matters. Petitioners then calculate the total of these fees. According to the World Bank, these fees are for a 20-foot container with a weight of 10 MT.³⁶ Accordingly, Petitioners convert these charges to a unit value expressed in \$/NT. The resulting value of \$40.45/NT is posted in column D of Exhibit II-7.

(c) Foreign Port Fees

In shipping subject merchandise out of the port in China, the exporter will also incur certain port fees.³⁷ These foreign port fees typically include wharfage, stevedoring, warehousing, and miscellaneous movement expenses. In Exhibit II-9, Petitioners first post the port fees using data published by the World Bank in *Doing Business in South Africa 2015*.³⁸ According to the World Bank, these charges are for a 20-foot container with a weight of 10 MT.³⁹ Accordingly, Petitioners convert these charges to a unit value expressed in US\$/NT. The resulting value of \$25.91/NT is posted in column E of Exhibit II-7.

(d) Ocean Freight

In Exhibit II-10, Petitioners value the ocean freight expenses incurred to ship the subject merchandise from the port in China to the United States using contemporaneous rates reported by Maersk Line Shipping (“Maersk”). Maersk does not publish freight rates for ocean shipments

³⁶ See World Bank in *Doing Business: Trading Across Borders Methodology*, attached hereto as Exhibit II-8(B).

³⁷ See, e.g., Issues and Decision Memorandum in *Wind Towers from Vietnam*, 77 Fed. Reg. 75984 (Dep’t Commerce Dec. 26, 2012) (final determ.) at Comment 11.

³⁸ See World Bank, *Doing Business South Africa 2015*, attached hereto as Exhibit II-8(A).

³⁹ Exhibit II-8(B).

from Huangha, China to [], but it does publish freight rates for ocean shipments from Qingdao, China to Long Beach. Accordingly, the freight rates published by Maersk for ocean shipments from Qingdao to Long Beach represent the best information reasonably available to Petitioners to value the ocean freight expenses incurred to ship the subject merchandise from Huanghua to [].

Petitioners calculate the unit factor expense for ocean freight based on the average for the POI of the basic rates, including any applicable peak season surcharges, quoted by Maersk.⁴⁰ These rates are for a 40-foot open top container with a maximum payload of 28,600 kilograms (“KG”).⁴¹ Accordingly, Petitioners convert these charges to a unit value expressed in \$/NT. Petitioners post the resulting unit value of \$131.01/NT in column F of Exhibit II-7.

(e) Marine Insurance

The gross price shown in Exhibit II-7 is a delivered price, with the merchandise being delivered to []. Accordingly, the price includes marine insurance charges. Petitioners value these charges using rates published by P.A.F Shipping Insurance for basic insurance coverage for international shipments of steel sheets, coils, and bars to the United States.⁴² Petitioners calculate the charges for marine insurance incurred for shipping the subject merchandise from China to the United States by multiplying the applicable rate (i.e., \$2.85 per \$100 value of insurance coverage) by the value of the merchandise. These charges are posted in column G of Exhibit II-7.

⁴⁰ See Maersk Line, Freight Rates, attached hereto as Exhibit II-10(A).

⁴¹ See Maersk Line, Container Specifications, attached hereto as Exhibit II-10(B).

⁴² See P.A.F. Shipping Insurance, online Cargo Insurance Rates at 3, attached hereto as Exhibit II-11.

(f) U.S. Port Fees

All entries going through ports in the United States incur fees for security, wharfage, and the unloading of the merchandise. In Exhibit II-12, Petitioners calculate the port fees incurred in the United States based on data from the World Bank publication, *Doing Business in United States 2015*.⁴³ These data are the best information available to Petitioners and have been accepted by the Department in prior investigations.⁴⁴ *Doing Business in United States 2015* reports port fees for Los Angeles and New York City.⁴⁵ Because Los Angeles is closer to the [] port than New York City, Petitioners calculate port fees based on the reported fees for Los Angeles. Specifically, Petitioners post the ports and terminal handling fees for Los Angeles. According to the World Bank, these charges are for a 20-foot container with a weight of 10 MT.⁴⁶ Accordingly, Petitioners convert these charges to a unit value expressed in US\$/NT. Petitioners post the resulting value of \$43.64/NT in column H of Exhibit II-7.

(g) U.S. Harbor Maintenance and Merchandise Processing Fees

All entries of merchandise into the ports of the United States are subject to a harbor maintenance fee and merchandise processing fee.⁴⁷ The total of these fees is calculated in

⁴³ World Bank in *Doing Business in United States 2015*, attached hereto as Exhibit II-12(A).

⁴⁴ See, e.g., Notice of Initiation in Certain Polyethylene Terephthalate Resin from Canada (Mar. 30, 2015) at 7, attached hereto as Exhibit II-12(B); Notice of Initiation in Certain Polyethylene Terephthalate Resin from the Sultanate of Oman (Mar. 30, 2015) at 7, attached hereto as Exhibit II-12(C).

⁴⁵ World Bank, *Doing Business in United States 2015*, attached hereto as Exhibit II-12(A).

⁴⁶ Exhibit II-8(B).

⁴⁷ See, e.g., Issues and Decision Memorandum in Steel Wheels from the People's Republic of China, 77 Fed. Reg. 17021 (Dep't Commerce Mar. 23, 2012) (final determ.) at

(Continued...)

Exhibit II-13. Petitioners post the rate of the harbor maintenance fee and the rate of the merchandise processing fee. Petitioners then calculate the total of these two fees as a percentage of the value of the subject merchandise – i.e., 0.4714 percent. Petitioners post these fees in column I of Exhibit II-7.

(h) Distributor Mark-Up

A deduction must also be made for the distributor's mark-up. Exhibit II-2 contains an affidavit attesting to the fact that the customary mark-up is [] percent. Petitioners calculate and post the mark-up in column J of Exhibit II-7.

3. Computation of Ex-Factory U.S. Price

Petitioners subtract the calculated expenses for foreign inland freight, foreign brokerage and handling, foreign port fees, ocean freight, marine insurance, U.S. port fees, U.S. harbor maintenance and merchandise processing fees, and the distributor markup from the reported U.S. price to arrive at the ex-factory U.S. price. This value is posted in column K of Exhibit II-7.

B. Normal Value

Pursuant to 19 U.S.C. § 1677b(c), Petitioners calculate normal value based on the factors of production methodology for a NME. A detailed explanation of this methodology is contained in Exhibit II-14. The result is posted to Exhibit II-15, column A.

(...Continued)
Comment 9.

C. Dumping Margin

The dumping margin, based on a comparison of U.S. price and normal value, is shown in Exhibit II-15. This comparison reveals a dumping margin of 265.98 percent for the cold-rolled steel offered for sale during the POI by Handan.

IV. Injury to the Domestic Industry

Petitioners allege that the less-than-fair-value imports of cold-rolled steel from China have caused, are causing, and are threatening to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the International Trade Commission in Volume I of this Petition.

V. Conclusion and Request for Investigation

Petitioners allege a dumping margin of 265.98 percent ad valorem for cold-rolled steel from China. Based on the information presented in this Petition, Petitioners request that the Department initiate an antidumping investigation of cold-rolled steel from China.

List of Exhibits for Volume II

<u>Exhibit</u>	<u>Title</u>
1 (A)	Request for List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on <u>Aluminum Extrusions from the People's Republic of China</u> (Feb. 18. 2015)
(B)	GTA Data Regarding South African Exports of Cold-Rolled Steel
2	Affidavit Regarding Offer for Sale of Cold-Rolled Steel Manufactured by Handan
3	Import Genius Data Regarding U.S. Imports of Cold-Rolled Steel from China
4	Handan Company Website: Company Profile
5	Harmonized Tariff Schedule of the United States
6	U.S. Imports of Cold-Rolled Steel from China
7	Calculation of U.S. Price
8	Foreign Inland Freight
(A)	World Bank, <i>Doing Business in South Africa 2015</i>
(B)	World Bank, <i>Doing Business: Trading Across Borders Methodology</i>
(C)	Conversion Factors
(D)	Google Map Directions from Johannesburg, South Africa to Durban, South Africa
(E)	Google Map Directions from Handan, China to Huanghua, China
9	Brokerage and Handling Fees and Foreign Port Fees
10	Ocean Freight
(A)	Maersk Line, Freight Rates
(B)	Maersk Line, Container Specifications
11	P.A.F. Shipping Insurance, online Cargo Insurance Rates
12	U.S. Port Fees
(A)	World Bank, <i>Doing Business in United States 2015</i>
(B)	Notice of Initiation in <u>Certain Polyethylene Terephthalate Resin from Canada</u> (Mar. 30, 2015)
(C)	Notice of Initiation in <u>Certain Polyethylene Terephthalate Resin from the Sultanate of Oman</u> (Mar. 30, 2015)

- 13 Harbor Maintenance and Merchandise Processing Fees
 - (A) CBP Harbor Maintenance Fees
 - (B) CBP Merchandise Processing Fees
- 14 Calculation of Normal Value
- 15 Calculation of Dumping Margin

July 28, 2015

DOC Inv. Nos. A-570-029, **C-570-030**, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824

USITC Inv. Nos. 701-TA-____ - ___, and 731-TA-____ - ____

Total Pages: 2,732

Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

Business Proprietary Information deleted in the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-9 – I-15

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Import Administration
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and **Countervailing** Duties: Certain Cold-Rolled Steel Flat Products from Brazil, **the People's Republic of China**, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Production costs (but not the identity of the production components unless a particular component is a trade secret) (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.*
- (2) *Terms of sale (but not terms of sale offered to the public) (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.*
- (3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers) (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.*
- (4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name) (19 C.F.R. § 351.105(c)(6)): Exhibits I-9 and I-14.*

- (5) *The names of particular persons from whom business proprietary information was obtained (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.*
- (6) *The position of a domestic producer or workers regarding a petition (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.*
- (7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, and 42-43, 45, and Exhibits I-3, I-10 – I-13, and I-15.*

The single-bracketed business proprietary information in the attached Volumes I and III of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).¹ Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

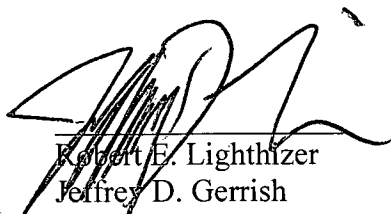
¹ Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions. Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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DOC Investigation No. C-570-030
Total Pages: 2,499
Investigation
Contains No Business Proprietary
Information
PUBLIC DOCUMENT

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

**CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS
FROM THE PEOPLE'S REPUBLIC OF CHINA**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME III

**INFORMATION RELATING TO
THE PEOPLE'S REPUBLIC OF CHINA – COUNTERVAILING DUTIES**

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July 28, 2015

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U.S. Department of Commerce Documents Cited Herein

Short Form	Full Citation
<u>Aluminum Extrusions INV IDM</u>	Issues and Decision Memorandum in <u>Aluminum Extrusions from the People's Republic of China</u> , 76 Fed. Reg. 18521 (Dep't Commerce Apr. 4, 2011) (final determ.)
<u>Calcium Hypochlorite Preliminary Determination</u>	Preliminary Decision Memorandum in <u>Calcium Hypochlorite from the People's Republic of China</u> , 79 Fed. Reg. 30082 (Dep't Commerce May 27, 2014) (prelim. determ.)
<u>Circular Welded Pipe IDM</u>	Issues and Decision Memorandum in <u>Circular Welded Carbon Quality Steel Pipe from the People's Republic of China</u> , 73 Fed. Reg. 31966 (Dep't Commerce June 5, 2008) (final determ.)
<u>Citric Acid IDM</u>	Issues and Decision Memorandum in <u>Citric Acid and Certain Citrate Salts from the People's Republic of China</u> , 76 Fed. Reg. 77206 (Dec. 12, 2011) (final results)
<u>Citric Acid 2014 IDM</u>	Issues and Decision Memorandum in <u>Citric Acid and Certain Citrate Salts from the People's Republic of China</u> , 79 Fed. Reg. 108 (Dep't Commerce Jan. 2, 2014) (final results)
<u>Coated Paper IDM</u>	Issues and Decision Memorandum in <u>Coated Free Sheet Paper from the People's Republic of China</u> , 72 Fed. Reg. 60645 (Dep't Commerce Oct. 25, 2007) (final determ.)
<u>Coated Paper Prelim.</u>	<u>Coated Free Sheet Paper from the People's Republic of China</u> , 72 Fed. Reg. 17484 (Dep't Commerce Apr. 9, 2007) (prelim. determ.)
<u>Crystalline Silicon Photovoltaic Cells IDM</u>	Issues and Decision Memorandum in <u>Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China</u> , 77 Fed. Reg. 63788 (Dep't Commerce Oct. 17, 2012) (final determ.)
<u>CVD Final Rule</u>	<u>Countervailing Duties</u> , 63 Fed. Reg. 65347 (Dep't Commerce Nov. 25, 1998) (final rule)

<u>Drill Pipe IDM</u>	Issues and Decision Memorandum in <u>Drill Pipe from the People's Republic of China</u> , 76 Fed. Reg. 1971 (Dep't Commerce Jan. 11, 2011) (final determ.)
<u>Galvanized Steel Wire IDM</u>	Issues and Decision Memorandum in <u>Galvanized Steel Wire from the People's Republic of China</u> , 77 Fed. Reg. 17418 (Dep't Commerce Mar. 26, 2012) (final determ.)
<u>GOES IDM</u>	Issues and Decision Memorandum in <u>Grain-Oriented Electrical Steel from the People's Republic of China</u> , 79 Fed. Reg. 59221 (Dep't Commerce Oct. 1, 2014) (final determ.)
<u>Laminated Woven Sacks IDM</u>	Issues and Decision Memorandum in <u>Laminated Woven Sacks from the People's Republic of China</u> , 73 Fed. Reg. 35639 (Dep't Commerce June 24, 2008) (final determ.)
<u>Laminated Woven Sacks Preliminary Determination</u>	<u>Laminated Woven Sacks from the People's Republic of China</u> , 72 Fed. Reg. 67893 (Dep't Commerce Dec. 3, 2007) (prelim. determ.)
<u>Lawn Groomers IDM</u>	Issues and Decision Memorandum in <u>Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China</u> , 74 Fed. Reg. 29180 (Dep't Commerce June 19, 2009) (final determ.)
<u>Magnesium from Canada Final</u>	<u>Pure Magnesium and Alloy Magnesium from Canada</u> , 57 Fed. Reg. 30946 (Dep't Commerce July 13, 1992) (final determ.)
<u>NOES Preliminary Determination</u>	Preliminary Decision Memorandum in <u>Non-Oriented Electrical Steel from the People's Republic of China</u> , 79 Fed. Reg. 16293 (Dep't Commerce Mar. 25, 2014) (prelim. determ.)
<u>OCTG IDM</u>	Issues and Decision Memorandum in <u>Certain Oil Country Tubular Goods from the People's Republic of China</u> , 74 Fed. Reg. 64045 (Dep't Commerce Dec. 7, 2009) (final determ.)
<u>OCTG Preliminary Determination</u>	<u>Certain Oil Country Tubular Goods from the People's Republic of China</u> , 74 Fed. Reg. 47210

	(Dep't Commerce Sept. 15, 2009) (prelim. determ.) (attached hereto as Exhibit III-53)
<u>Off-Road Tires IDM</u>	Issues and Decision Memorandum in <u>Certain New Pneumatic Off-the-Road Tires from the People's Republic of China</u> , 73 Fed. Reg. 40480 (Dep't Commerce July 15, 2008) (final determ.)
<u>Off-Road Tires Initiation Notice</u>	<u>Certain New Pneumatic Off-the-Road Tires from the People's Republic of China</u> , 72 Fed. Reg. 44122 (Dep't Commerce Aug. 7, 2007) (notice of init.)
<u>Off-Road Tires Prelim.</u>	<u>Certain New Pneumatic Off-the-Road Tires from the People's Republic of China</u> , 72 Fed. Reg. 71360 (Dep't Commerce Dec. 17, 2007) (prelim. determ.)
<u>Plate from Belgium IDM</u>	Issues and Decision Memorandum in <u>Stainless Steel Plate in Coils from Belgium</u> , 64 Fed. Reg. 15567 (Dep't Commerce Mar. 31, 1999) (final determ.)
<u>Rectangular Pipe IDM</u>	Issues and Decision Memorandum in <u>Light-Walled Rectangular Pipe and Tube from People's Republic of China</u> , 73 Fed. Reg. 35642 (Dep't Commerce June 24, 2008) (final determ.)
<u>Seamless Pipe IDM</u>	Issues and Decision Memorandum in <u>Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China</u> , 75 Fed. Reg. 57444 (Dep't Commerce Sept. 21, 2010) (final determ.)
<u>Stainless Steel Sinks IDM</u>	Issues and Decision Memorandum in <u>Drawn Stainless Steel Sinks from the People's Republic of China</u> , 78 Fed. Reg. 13017 (Dep't Commerce Feb. 26, 2013) (final determ.)
<u>Steel Wire Rod Preliminary Determination</u>	Preliminary Decision Memorandum in <u>Carbon and Alloy Steel Wire Rod from the People's Republic of China</u> , 79 Fed. Reg. 38490 (Dep't Commerce July 8, 2014) (prelim. determ.)
<u>Steel Wire Rod IDM</u>	Issues and Decision Memorandum in <u>Carbon and Certain Alloy Steel Wire Rod from the People's</u>

	<u>Republic of China</u> , 79 Fed. Reg. 68858 (Dep't Commerce Nov. 19, 2014) (final determ.)
<u>Steel Wire Strand IDM</u>	Issues and Decision Memorandum in <u>Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China</u> , 75 Fed. Reg. 28557 (Dep't Commerce May 21, 2010) (final determ.)
<u>Thermal Paper IDM</u>	Issues and Decision Memorandum in <u>Lightweight Thermal Paper from the People's Republic of China</u> , 73 Fed. Reg. 57323 (Dep't Commerce Oct. 2, 2008) (final determ.)
<u>Welded Line Pipe IDM</u>	Issues and Decision Memorandum in <u>Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China</u> , 73 Fed. Reg. 70961 (Dep't Commerce Nov. 24, 2008) (final determ.)
<u>Welded Line Pipe Initiation Notice</u>	<u>Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China</u> , 73 Fed. Reg. 23184 (Dep't Commerce Apr. 29, 2008) (notice of init.)
<u>Welded Line Pipe Prelim.</u>	<u>Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China</u> , 73 Fed. Reg. 52297 (Dep't Commerce Sept. 9, 2008) (prelim. determ.)
<u>Wind Towers IDM</u>	Issues and Decision Memorandum in <u>Utility Scale Wind Towers from the People's Republic of China</u> , 77 Fed. Reg. 75978 (Dep't Commerce Dec. 26, 2012) (final determ.)
<u>Wire Decking IDM</u>	Issues and Decision Memorandum in <u>Wire Decking from the People's Republic of China</u> , 75 Fed. Reg. 32902 (Dep't Commerce June 10, 2010) (final determ.)

I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM CHINA

A. Introduction

This volume of the Petitions presents information reasonably available to Petitioners demonstrating that the production and export of certain cold-rolled steel flat products (“cold-rolled steel”) from the People’s Republic of China (“China”) is benefiting from countervailable subsidies within the meaning of Section 771(5) of the Tariff Act of 1930, as amended (the “Act”).¹ The general information required by Section 351.202 of the regulations of the U.S. Department of Commerce (“Commerce” or the “Department”)² and Section 207.11 of the regulations of the U.S. International Trade Commission³ can be found in Volume I of these Petitions.

Pursuant to Sections 701(a)(1) and (2) of the Act, the Department shall impose a countervailing duty 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 material injury to a domestic industry.⁴ Both of these requirements are plainly satisfied here. Accordingly, Petitioners request that the Department investigate and impose countervailing duties with respect to the countervailable subsidies set forth herein and any other countervailable subsidies discovered in the course of the requested countervailing duty investigation.

¹ 19 U.S.C. § 1677(5) (2012).

² 19 C.F.R. § 351.202 (2015).

³ Id. § 207.11.

⁴ China, as a member of the World Trade Organization (“WTO”), is a “Subsidies Agreement” country as defined by 19 U.S.C. § 1671(b).

B. Chinese Producers And Exporters of Cold-Rolled Steel Benefit from Subsidies Conferred at All Levels of Government Pursuant to China's Industrial Policies

1. Overview

Chinese producers and exporters of cold-rolled steel have been targeted by all levels of government in China for preferential treatment pursuant to various strategic plans that implement China's industrial policy objectives. To channel subsidies to key industries such as the cold-rolled steel industry, the Government of China ("GOC") also prepares industry-specific planning documents in accordance with the government's industrial policy objectives.⁵ In line with these policies and plans, local governments in China (e.g., sub-central governments such as provinces, counties, and cities) implement their own long-term policies to promote the cold-rolled steel industry. As the Department has determined:

In other words, local governments (i.e., provinces and cities) must align their policies with stated central government policies and carry out those policies to the extent that such measures affect their locality. As such, central-level plans should be considered a central government policy or program that local governments adopt and implement through their own five-year plans.⁶

⁵ In July 2005, for example, the GOC issued a comprehensive plan for China's steel industry that reflects a high degree of government direction and decision-making power over the industry. See GOC National Development and Reform Commission, Development Policy for the Iron & Steel Industry (July 8, 2005) ("Steel Policy"), attached hereto as Exhibit III-1. In October 2011, the GOC issued an additional development plan specific to the steel industry – i.e., the Development Plan of the 12th Five-Year Program for the Iron and Steel Industry ("12th FYP Steel Development Plan"). Ministry of Industry and Information Technology, Guoxingui (2011) No. 480, "Notice on Printing and Distribution of the Development Plan of the 12th Five Year Program for the Iron and Steel Industry" (Oct. 24, 2011), attached hereto as Exhibit III-2 (English translation available in Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 3 (12th FYP Steel Development Plan, Gong Xin Gui (2011) No. 480), attached hereto as Exhibit III-3.).

⁶ Off-Road Tires IDM at 13-14.

Similar to the central government's plans and policies, the local governments' planning documents single out specific industries, including the cold-rolled steel industry, for preferential treatment and receipt of subsidies. Local government plans may also identify individual cold-rolled steel producers and exporters as recipients of specific government support.

The scale of the subsidies to China's cold-rolled steel producers and exporters pursuant to these policies is enormous. As a study commissioned by *Reuters* recently revealed, in just the first half of 2014 alone, subsidies provided by the GOC and local governments in China accounted for four-fifths of the profits reported by China's exchange-listed steel companies – including many key cold-rolled steel producers.⁷ Reflective of the massive size of these subsidies, cold-rolled steel producer Chongqing Iron & Steel Group Co. Ltd. (“Chongqing”) by itself reported receiving subsidies valued at more than \$82 million in just the first half of 2014.⁸ Moreover, most if not all of the cold-rolled steel producers examined by *Reuters* would have been in a severe loss position in the first half of 2014 but for the subsidies handed out by government entities in China at all levels.⁹ For example, cold-rolled steel producer Hunan Valin Steel Iron and Steel Group Co. Ltd. (also known as “Hunan Valin” or “Valin Steel”) reported that it swung from a loss in 2013 to a profit in the first half of 2014 solely on the back of nearly 80 million RMB (approximately \$13 million) in subsidies.¹⁰ These subsidies were more than

⁷ “Steel Industry on Subsidy Life-Support as China Economy Slows,” *Reuters* (Sept. 18, 2014), attached hereto as Exhibit III-4.

⁸ Id.

⁹ Id.

¹⁰ Id.

four times the company's earnings, and without them, Hunan Valin would have reported a loss of 61 million RMB over the same period.¹¹

In the remainder of Section I of this CVD Petition, Petitioners provide an overview of the key industrial policies and plans that have resulted in massive subsidies to China's cold-rolled steel industry. In turn, Section II provides the information reasonably available to Petitioners on the use by Chinese cold-rolled steel producers and exporters of the subsidies at issue.

2. The GOC And Local Governments In China Employ A Wide Range Of Government Policies To Direct Countervailable Subsidies To China's Cold-Rolled Steel Producers And Exporters

A fundamental element of China's drive to become a leading international economic power has been the GOC's extensive industrial policies that direct and manage the country's economic and industrial development. The GOC's economic decision-making process, as well as many of its decisions regarding the provision of subsidies, are guided by a comprehensive set of industrial policies at both the national and local level that define which industries, enterprises, and products should be targeted for preferential support and controlled by the government. Significantly, the production and export of cold-rolled steel advances not just one but many of the GOC's industrial policy objectives. Consequently, the cold-rolled steel industry in China is a favored industry that benefits from both subsidies and other governmental support measures granted by all levels of the government.

a. The GOC's Five-Year Plans

China's artificial support of its steel industry has been accomplished primarily through a series of Five-Year Plans ("FYPs"). The FYPs allow the GOC to exert tight control over the country's overall economic development and implement specific measures to support the

¹¹ Id.

restructuring and expansion of particular industries, including steel. The FYPs have repeatedly designated steel as a key industry and blatantly called for significant subsidies to encourage the steel industry's expansion. These plans have gone so far as to designate specific key regional steel enterprises to be targeted with subsidies, to set export goals, and to encourage the development of key high value-added steel production technology. The 12th FYP Steel Development Plan issued in 2011 shows that subsidies for key steel producers and high value-added production will continue for many years to come. The key elements of the FYPs and other GOC policies that have led to the explosive growth of the Chinese steel industry are described in detail below.

i. The Eighth FYP

The Eighth FYP (covering the years 1991-1995) laid the foundation for the Chinese steel industry, focusing on the GOC's desire for rapid economic development in key raw materials and energy industries. In 1993, the 14th Central Committee of the Communist Party of China ("CCP") adjusted the Eighth FYP to promote the "acceleration of energy and key raw materials development" by "expanding production capacity."¹² Four key energy and raw materials industries were identified for development: coal, electricity, oil, and steel.¹³ With regard to steel, the policy stated that "production growth has accelerated in recent years, with steel output reaching 80 million {metric tons} in 1992."¹⁴ But this was not enough: the policy set a 1995 steel output target of 88 million metric tons ("MT"). Further, the policy stated that the steel industry would "focus on improving the quality of products, increasing production of varieties in

¹² Chinese Communist Party Central Committee, "Suggestions on Adjustment of Eighth Five-Year Plan Programs" (Mar. 7, 2003) at Section 4, attached hereto as Exhibit III-5.

¹³ Id.

¹⁴ Id.

shortage,” and further “strive to relatively increase continuous casting and sheet and tube materials.”¹⁵ Each of the four key industries were to “accelerate the pace of technological development” and “attach great importance to technological renovation.”¹⁶ Moreover, China’s “eastern region” was specifically called upon to “vigorously develop an export-oriented economy” and “develop high value-added . . . high technology content . . . products.”¹⁷ The policy set a target rate for export growth of 13 percent annually and called for “rais{ing} the quality and grades . . . and further adjust{ing} the product mix” of exports and increasing “high-technology and high value-added exports.”¹⁸

ii. The Ninth FYP

The Ninth FYP (covering the years 1996-2000) is most remarkable for the way in which it bailed out the bloated and insolvent steel industry created by the Eighth FYP.¹⁹ Despite the GOC’s subsidization of its key industries, at the beginning of the Ninth FYP period, at least one-third of all state-owned enterprises (“SOEs”) were suffering severe losses.²⁰ Often, the GOC ordered banks to fund these loss-making SOEs via loans or would simply cover the losses with a

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at Section 7.

¹⁸ Id. at Section 9.

¹⁹ National People’s Congress, “Outline of the Ninth Five-Year Plan for Economic and Social Development,” (Mar. 17, 1996) (“Ninth FYP Outline”) at 23, attached hereto as Exhibit III-6.

²⁰ Henry W. Yao, “China’s 9th Five-year Plan and Implications for Canadian Business,” Pacific Region Forum on Business and Management Communication (Oct. 24, 1996) at 3, attached hereto as Exhibit III-7.

direct subsidy.²¹ Available financial data from the China Iron and Steel Association (“CISA”) indicate that the SOEs in the steel industry were particularly troubled, suffering from substantial losses and heavy debt burdens.²²

Consequently, during the Ninth FYP period, the GOC carried out a massive SOE reform program. This program was implemented according to the concept of “grasp the large, let go the small” (“抓大放小”), whereby small, non-fundamental SOEs were privatized or shut down, while large, key enterprises – including steel producers – were merged and shaped into even larger, more advanced SOEs.²³ The Ninth FYP itself details how these subsidies were implemented. SOE reform is laid out in part VII, “Deepen Reform of the Economic System,” Chapter 1, “Establish a Modern Enterprise System.”²⁴ Section Four of Chapter 1 addressed “solv{ing} the problem of over-indebtedness of {SOEs}.”²⁵ The plan called for the merger of

²¹ Id.

²² “Current Situation of the Chinese Steel Industry,” OECD (Apr. 4, 2006) at 12, Fig. 13, attached hereto as Exhibit III-8. These Chinese-source data likely understate the problem. The steel industry’s financial data may very well reflect the effects of subsidies provided to cover losses, and the industry’s losses may well have been significantly larger in the absence of those subsidies. Whatever the case may be, the underlying point is undeniable: China’s “key” steel industry SOEs were in dire straits at the end of the 1990s.

²³ State Economic and Trade Commission, “The Three-year Reform and Difficulty Relief Efforts for the SOEs Have Taken a Favorable Turn,” (Jan. 25, 2000), attached hereto as Exhibit III-9.

²⁴ Ninth FYP Outline, attached hereto as Exhibit III-6.

²⁵ Id. at Art. 7.1.4.

SOEs, which meant tying failing key SOEs to more successful ones, offering interest-free loans to key SOEs, and converting the debt of the merged enterprises into state-owned equity.²⁶

A 1995 report on the Ninth FYP issued by the Premier of the People's Republic of China, Li Peng, announced that these reforms would be implemented through the creation of a special state fund:

The State will appropriate a special fund during the ninth Five-Year Plan period to encourage the merging of enterprises, offset debts incurred by bankrupt enterprises, and turn a considerable portion of debts resulting from the switch from appropriations to loans into State capital funds so as to lower the liability-asset ratio of enterprises.²⁷ Further, a research note prepared for the Organization for Economic Cooperation and

Development ("OECD") by an official of the Chinese State Administration of Metallurgical Industry in 1999 (the "Steel Note") indicates that, in conjunction with the Ninth FYP, the GOC developed a comprehensive reform plan specifically directed at the state-owned steel industry.²⁸ The Steel Note stated that "most steel enterprises {are} struggling in curbing the declining of profits," and outlined the fundamental "role of the Government in financing the restructuring of the steel sector."²⁹ According to the Steel Note, the restructuring was to be conducted mainly through debt-to-equity swaps and was to occur in three batches, the first including "about ten" steel enterprises.³⁰ Enterprises selected for government-financed restructuring were those that "built-up" during the seventh through ninth FYP periods (i.e., 1985-2000) and those steel

²⁶ See Li Peng, "Report on the Outline of the Ninth Five-Year Plan (1996-2000) for National Economic and Social Development and the Long-Range Objectives to the Year 2010," (English Version) at 25-27, attached hereto as Exhibit III-10.

²⁷ Id. at 25-26.

²⁸ Lu Zhian, "The Reform of the Chinese Steel Industry," OECD (Oct. 29, 1999) ("Steel Note") at 5, attached hereto as Exhibit III-11.

²⁹ Id.

³⁰ Id.

enterprises on a list of “state-owned important enterprises.”³¹ Significantly, only enterprises “suffering severe difficulties of repayment,” or enterprises “suffering severe losses due to heavy loan burdens,” were selected for restructuring.³²

In sum, the Steel Note disclosed that (1) state-owned steel enterprises in China at the end of the Ninth FYP were in very poor financial condition and (2) the GOC initiated a compulsory overhaul of the Chinese steel industry by subsidizing enterprises suffering losses and converting their debt to equity. Clearly, this entire program constituted a massive government subsidy to China’s most important steel enterprises. Moreover, as further detailed below, the policy of “reform and development” of SOEs begun under the Ninth FYP continues to provide subsidies to Chinese cold-rolled steel producers to this day.

iii. The Tenth FYP

The Tenth FYP (covering the years 2001-2005) continued the Ninth FYP’s policy of “grasp the large, let go the small” and renewed the call for the “establishment of a number of large companies and enterprise groups through stock listing, merging, association and reorganization.”³³ As set forth in Section II below, many major cold-rolled steel producers have benefited from subsidies provided pursuant to this on-going policy.

The Tenth FYP is also significant for the manner in which it deepened the involvement of lower levels of government in the subsidization of the Chinese steel industry.³⁴ The Tenth FYP

³¹ Id. at 6.

³² Id.

³³ Tenth Five-Year Plan for National Economic and Social Development – People’s Republic of China,” (“Tenth FYP”) at 5, attached hereto as Exhibit III-12.

³⁴ See State Economic and Trade Commission of China, “Tenth Five-Year Plan for the Metallurgical Industry,” (Sept. 5, 2002) (“Steel Plan”) at Para. 3.3.1.1, attached hereto as Exhibit III-13 (discussing policies at the sub-central level for the Northeast region).

for Industrial Structure Adjustment highlighted fourteen key industries, including steel, and provided detailed plans for each.³⁵ Toward these ends, the Steel Plan separated China into five regions and designated a specific key steel enterprise for each region.³⁶ For each region, the Steel Plan noted particular problems and laid out specific goals.

The Steel Plan called on the country's many "taxation departments" at all levels of government to "study" tax issues, specifically including "reducing the iron ore import tariff, implementing full export tax rebates on metallurgical products, {and} levying regulatory taxes on backward products."³⁷ It also ordered the various government tax departments to propose tax "solutions."³⁸ These provisions laid the groundwork for local and provincial government officials to provide preferential tax and regulatory treatment to promote the goals, favored products, and favored enterprises identified in the Steel Plan.

iv. The Eleventh FYP

The Eleventh FYP (covering the years 2006-2010) is notable for its focus on subsidizing favored steel enterprises that produce high value-added products that would be suitable for

³⁵ "Tenth 5-Year Plan of Industrial Structure Adjustment Published," People's Daily (Nov. 19, 2001) ("Tenth FYP Industrial Structure") attached hereto as Exhibit III-14. "Metal manufacturing" was identified as a key industry, with two component parts: the "non-ferrous metallurgical industry" and the "metallurgical industry," i.e., the steel industry. Id.; "Tenth Five-Year Plan for Industry," Xinhua News (Oct. 18, 2001) ("Tenth FYP for Industry") attached hereto as Exhibit III-15 (listing each industry and providing a link to each industry included in the tenth FYP).

³⁶ Steel Plan at Para. 3.3.1, attached hereto as Exhibit III-13.

³⁷ Id. at Para. 5.4.

³⁸ Id.

export.³⁹ Adopted by the National People's Congress in March 2006, the plan called for adjustment of the steel industry's product mix and suggested incentives for steel enterprises that produce high value-added products.⁴⁰ Part 1 of Chapter 13 of the Outline of the Eleventh FYP, which is entitled "Optimize Development of the Metallurgical Industry," called for the GOC and local governments to "encourage . . . the formation of a number of internationally competitive {steel} enterprises."⁴¹ It also explicitly ordered an "increase of steel products grade and quality."⁴² As discussed in further detail below, cold-rolled steel with high strength for automotive applications was among the products targeted for development by these and subsequent GOC policies.

v. The Twelfth FYP

The Twelfth FYP (covering the years 2011-2015) makes clear that China intends to continue managing and supporting its key industries, including its massive steel industry.⁴³ The plan states that China will "{u}phold and improve the basic economic system, with public ownership playing a dominant role."⁴⁴ Chapter 9, which is devoted exclusively to improving and promoting manufacturing, lists the iron and steel industry as a "key field" for further

³⁹ Bank of Tokyo-Mitsubishi UFJ, "11th Five-Year Plan Plots Future Course for the Chinese Economy," Economic Review, Vol. 1, No. 6 (Apr. 2006), attached hereto as Exhibit III-16.

⁴⁰ "Nation Plans to Control Steel Production," China Daily (Dec. 13, 2005) attached hereto as Exhibit III-17.

⁴¹ "Outline of the Eleventh Five-Year Plan for Economic and Social Development," Xinhua News (Mar. 16, 2006) ("Outline of Eleventh FYP"), attached hereto as Exhibit III-18.

⁴² Id.

⁴³ "Twelfth Five-Year Plan for Economic and Social Development," (Mar. 14, 2011) ("Twelfth FYP"), attached hereto as Exhibit III-19.

⁴⁴ Id. at Chapter 45.

development.⁴⁵ The plan calls for the improvement of varieties and qualities of products, optimization of the upstream raw material industries, and promoting the enlargement and enhancement of manufacturing industries such as the steel industry.⁴⁶ The plan also specifically calls for the relocation of steel enterprises to “create a number of advanced manufacturing bases with international competitiveness based on key state projects.”⁴⁷ The end goal is to “{d}evelop a number of modern industry clusters with distinctive characteristics, a prominent brand image and a sound service platform using industry chains as a tie and industrial parks as a medium.”⁴⁸ Significantly, the plan states that China intends not only to maintain its current advantages in exporting but also to “nurture a new competitive advantage for exports” by creating “new advantages based on technology, branding, quality and service.”⁴⁹

b. Other Specific GOC Policies To Promote China’s Cold-Rolled Steel Industry

Beyond the FYPs, the GOC has issued a number of other industrial policies that likewise call for countervailable subsidies to China’s cold-rolled steel producers and exporters. These policies can be divided into several general categories, each of which is summarized below.

i. GOC Steel Policies

To carry forward the goals of the Eleventh FYP, China’s National Development and Reform Commission (“NDRC”) adopted a far-reaching National Steel Policy in July 2005 (the

⁴⁵ Id. at Chapter 9.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id. at Chapter 51, Section 1.

“Steel Policy”).⁵⁰ The Steel Policy provides for governmental management and control of almost every aspect of the steel industry’s development, including resource and equipment utilization, regional output levels, quality improvements, technological innovation, investment management, and consolidation.⁵¹ The Steel Policy also:

- prioritizes government support for development of technologies and techniques used in the production of cold-rolled steel, including steel rolling;⁵²
- mandates direct government subsidization of the steel industry. Article 16, for example, provides for government support in the form of “taxation, interest subsidy and scientific research funds” and other support for major steel projects utilizing newly developed domestic equipment;⁵³
- encourages indirect government support by, among other things, channeling foreign investment to selected areas, requiring that domestic companies have a controlling share of any entity with foreign investment, promoting development of domestic equipment and technology as a substitute for imports, and providing various export credits;⁵⁴ and
- provides that, with respect to new projects of iron making, steel making, and steel rolling, the enterprises at issue need only provide “40% or above” of necessary investment capital.⁵⁵ This suggests that much or all of the remainder of such capital will be supplied by government funds.

The Department has recognized that the Steel Policy (together with similar, steel-specific policies issued by provincial and local governments in China) establishes a broad range of fiscal incentives to support the GOC’s industrial policy objectives and sets forth a comprehensive

⁵⁰ Steel Policy, attached hereto as Exhibit III-1.

⁵¹ For example, Article 20 of the Steel Policy specifically provides for the reorganization of China’s largest steel producers to create an industry with two 30 million-ton steel groups and several 10 million-ton steel groups by 2010. The policy further prescribes the number and size of steel producers, their location, the type and mix of products that are permitted to be produced, and even minute details relating to the technology that will be used (e.g., the size and composition of blast furnaces). *Id.* at Art. 20.

⁵² *Id.* at Arts. 14-15.

⁵³ *Id.* at Art. 16.

⁵⁴ *Id.* at Arts. 23, 24, and 27.

⁵⁵ *Id.* at Art. 23.

policy framework through which the Chinese authorities directly support and influence the business activities of steel producers in China.⁵⁶

In 2009, the GOC issued its “Iron and Steel Industry Adjustment and Revitalization Plan” (“Steel Adjustment Plan”).⁵⁷ This plan meshed with the policy goals of the 2005 Steel Policy and called for continued subsidy support for the Chinese steel industry as a “pillar industry for the national economy.”⁵⁸ Among the goals of the Steel Adjustment Plan are the consolidation of productive capacity and know-how in “several hyper-enterprises” that have an advantage in increasing their in-house technical know-how and “indigenous innovation ability” as part of the the GOC’s on-going policies of import substitution and technology transfer.⁵⁹ The Steel Adjustment Plan also called on the GOC and local governments to marshal state resources to “maintain stability of the domestic {steel} market” and “improve export conditions.”⁶⁰

Cold-rolled steel producers including Baosteel Group Corporation (“Baosteel”), Wuhan Iron & Steel (Group) Corporation (“WISCO”), Hebei Iron & Steel Group Co. Ltd. (“Hebei Steel”), and Shandong Iron & Steel Group (“Shandong Steel”) were specifically targeted as companies to be supported by the state under the Steel Adjustment Plan, as were “high-strength” and “high-intensity” steel used for automobiles, technologies for the production of “cold-rolled wide flat steel,” and key inputs in the cold-rolled steel production process, such as iron ore.⁶¹

⁵⁶ See, e.g., OCTG Preliminary Determination at 29-34.

⁵⁷ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 2, attached hereto as Exhibit III-3.

⁵⁸ Id. at Attachment 2.

⁵⁹ Id. at Attachment 2, p. 3.

⁶⁰ Id.

⁶¹ Id. at 4-6 and 9.

Further, governments across China were directed to “{s}trengthen financial support for backbone steel enterprises” and “{a}void the capital chain rupture of the large-sized backbone {steel} enterprises,” including by making available “loans and discounts.”⁶² The GOC also directed that China’s various “industrial associations” be used to coordinate pricing and defense against foreign antidumping actions while also enlisting them in the GOC’s efforts to ensure that Chinese steel producers are “guided to implement the state’s industry policy and strengthen the self-discipline inside the industry to enhance the overall quality of the industry.”⁶³

ii. Policies To Promote Import Substitution And Exports Of Higher-Value Steel Products

Another important aspect of the GOC’s support for Chinese cold-rolled steel producers are its policies to encourage development of “indigenous” products and technologies that can replace imports and result in increased exports of higher-value products. For example, under the Eleventh FYP (2006-2010), the GOC began implementing a comprehensive science and technology industrial policy that is meant to improve the capability of independent innovation in China.⁶⁴ The Chinese cold-rolled steel industry has benefited under this ambitious plan, which stipulates that “by 2020, China will invest more than 2.5% of its GDP” in research and development (“R&D”), with the contribution of science and technology to economic

⁶² Id. at 7.

⁶³ Id. at 8.

⁶⁴ See “New Policy Stresses Quality of Foreign Investment,” Chinagate.cn (Nov. 9, 2006), attached hereto as Exhibit III-20; “China issues guidelines on sci-tech development program,” gov.cn (Feb. 9, 2006) (“S&T Development Program”), attached hereto as Exhibit III-219; “Changes in Five-Year Plans’ Economic Focus,” attached hereto as Exhibit III-21; “Key Points of the 11th Five-Year Guidelines,” China.org.cn (Mar. 7, 2006) attached hereto as Exhibit III-22.

development “exceeding 60% and with dependence on foreign technologies reduced to below 30%.”⁶⁵

To accomplish these objectives, the GOC has been implementing and playing a leading role in numerous science and technology (“S&T”) support measures.⁶⁶ According to the GOC’s “Guideline for the National Medium and Long Term Science and Technology Development Plan (2006-2020)” (“S&T Development Plan (2006-2020)”), China will advance “into the rank of innovative countries” by centralizing and increasing spending on R&D and by fostering a group of globally-competitive companies with autonomously-controlled intellectual property (“IP”) and well-known brands.⁶⁷ By committing the government to significant expenditures directed at creating market-viable products and enterprises, this S&T development plan reflects a determination by the GOC to increase its involvement in product innovation, reduce dependence on imports, and promote exports.⁶⁸

⁶⁵ See Trade Law Advisory Group, “China’s Industrial Subsidies Study: High Technology,” (Apr. 2007) at 6, attached hereto as Exhibit III-23. Additionally, in the “11th Five-Year Plan on Promoting Trade through Science and Technology,” the GOC explains its plan to improve China’s export structure by implementing various measures, including expanding exports of high-tech products, fostering export innovation bases for high-tech products, and reinforcing independent innovation. *Id.* at 6-7.

⁶⁶ See, e.g., Chinese Ministry of Science and Technology, National Development and Reform Commission, Opinion Regarding Construction and Implementation of Platform for Basic Science and Technology Conditions of the State under the Eleventh FYP (July 18, 2005), attached hereto as Exhibit III-24 (explaining that the GOC will establish important S&T infrastructure platforms to provide effective support for S&T advancement and proprietary innovations in China).

⁶⁷ See S&T Development Program, attached hereto as Exhibit III-219. See also “Changes in Five-Year Plans’ Economic Focus,” attached hereto as Exhibit III-21; “Key Points of the 11th Five-Year Guidelines,” China.org.cn (Mar. 7, 2006) attached hereto as Exhibit III-22.

⁶⁸ See Testimony of Barry Naughton, “China’s State Sector, Industrial Policies in the 11th Five Year Plan,” before the U.S.-China Economic and Security Review Commission

Additionally, the chairman of the GOC's State-owned Assets Supervision and Administration Commission of the State Council ("SASAC") has stated that as part of its S&T policy, the GOC is implementing support measures that ensure that its "SOEs play a better role as the leading force in the national economy."⁶⁹ The measures in question direct government authorities in China to do the following:

- Control the direction of investment and promote structural adjustment to improve the R&D capabilities of SOEs in S&T;
- Adopt "high-technology, advanced, and key technologies and equipment;"
- Enhance SOEs' level of technology and equipment;
- Increase investments in R&D, foster R&D talents, establish and perfect technological centers, and create a vital technological development system;
- Develop China's innovation capacity in dominant products, key technologies, and integrated technologies; and
- Intensify efforts to industrialize R&D.⁷⁰

Cold-rolled steel producers in China have benefited extensively under numerous subsidy programs that carry out China's S&T- and R&D-related policy objectives. Many of these have been implemented by local governments across China at the encouragement and direction of the GOC. For example, the government of Jiangsu Province – home to many cold-rolled steel producers including Jiangsu Shagang Group ("Shagang") and Panhua Group Co. Ltd.

Hearing on the "Extent of the Government's Control of China's Economy, and Implications for the United States" (May 24, 2007), attached hereto as Exhibit III-25.

⁶⁹ See Li Rongrong, "Promoting the Structural Adjustment and the Scientific and Technological Innovation and Enhancing the Core Competitiveness of State-owned Enterprises," (Sept. 8, 2005), attached hereto as Exhibit III-26.

⁷⁰ Id.

(“Panhua”)⁷¹ – emphasized that it would “focus on the development of advanced manufacturing” in line with national plans by improving the value-added and technology levels in Jiangsu’s manufacturing industries, speeding up the development of industrial bases and industrial clusters, and forming larger and more competitive enterprises.⁷² Similarly, Liaoning Province has repeatedly identified cold-rolled steel producer Anshan Iron & Steel (Group) Corporation (“Angang”) as a special target for S&T development subsidies. The province’s Ninth FYP calls for a “focus on technical skills upgrade of Angang ... and other large and middle sized steel and iron enterprises, improv{ing} product quality and increas{ing} product variety.”⁷³ It further states that Angang will continue to upgrade its production capacity for high-quality steel sheet products such as cold-rolled steel.⁷⁴ Liaoning Province’s Eleventh FYP orders that “{t}here will be substantive restructuring in Angang Group headquarter and steel output will be 30 million tons in 2010. The group will adjust product mix, {and} improve product quality and technology.”⁷⁵

iii. Policies To Control And Direct Investment In The Cold-Rolled Steel Industry

The GOC has also implemented a number of key policies to promote the growth of China’s cold-rolled steel industry by encouraging investment and technology transfer from foreign-owned to Chinese-owned firms. Central to this effort over the past decade has been the

⁷¹ See List of Chinese Cold-Rolled Steel Producers and Exporters, attached hereto as Exhibit III-218.

⁷² See Outline of the Jiangsu Province Science and Technology Development Plan Under the “Eleven Five,” (Apr. 18, 2006) attached hereto as Exhibit III-27.

⁷³ Liaoning 9th 5-Year Plan at 12, attached hereto as Exhibit III-214.

⁷⁴ Id.

⁷⁵ Liaoning 11th 5-Year Plan at 6, attached hereto as Exhibit III-215.

GOC's "Decision of the State Council on Promulgating and Implementing the 'Temporary Provisions on Promoting Industrial Structure Adjustment'" (also known as "Decision No. 40").⁷⁶ As the Department has found, Decision No. 40 calls for financing and other government subsidies to encouraged projects to be listed on various "catalogues" to be developed and issued by the GOC.⁷⁷ One such catalogue is the "Directory Catalogue on Readjustment of Industrial Structure." This document identifies encouraged iron and steel products and technologies, including many directly relevant to cold-rolled steel producers, including new mechanical coking ovens, continuous casting of thin slab, and new rolling technologies.⁷⁸ It also specifies that "{d}evelopment and application of cold continuous rolling wide band steel" is a technology to be encouraged by the GOC.⁷⁹ As a result, steel companies, including both integrated and non-integrated cold-rolled steel producers, are eligible for various tax exemptions and reductions.

In addition, the GOC has identified foreign investment projects eligible to benefit from the government's support policies and policies related to Foreign Invested Enterprises ("FIEs"). The "Catalogue for the Guidance of Foreign Investment Industries," for instance, lists "high-precision {steel} strip mill{s}" and precision rolling technologies as one of the industries to be

⁷⁶ Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment," Guo Fa No. 40 (2005) ("Decision No. 40"), attached hereto as Exhibit III-28.

⁷⁷ Id.

⁷⁸ National Development and Reform Commission, "Directory Catalogue on Readjustment of Industrial Structure" (Mar. 2, 2005) at 5, attached hereto as Exhibit III-30.

⁷⁹ Id.

encouraged.⁸⁰ Investors in such encouraged industries are eligible for certain government benefits, including tax reductions and duty waivers.⁸¹

Furthermore, pursuant to Article 5 of the “Provisions on Guiding the Orientation of Foreign Investment,” foreign investment “projects that meet market demands, and can promote the quality of products, enter into new markets or strengthen the competing ability of products in international markets” are considered by the GOC to be “encouraged foreign investment projects.”⁸² Where a “permitted” company has export sales greater than 70 percent of its total sales, Article 10 deems the company eligible for preferential treatment⁸³. Accordingly, Chinese producers that would otherwise not qualify for preferential treatment do so if their export sales are greater than 70 percent of their total sales.

iv. Other GOC Steel Policies Implemented During The Period Of The Twelfth FYP

The GOC has continued to emphasize and support the various policy goals discussed above throughout the Twelfth FYP Period of 2011-2015 by means of additional pronouncements, directives, and plans. A case in point is the Iron and Steel Industry Twelfth Five-Year Development Plan (“12th FYP Steel Development Plan”), which emphasizes the “urgent need to upgrade {steel} varieties and quality” and investment in steel rolling

⁸⁰ See The State Council, “Catalogue for the Guidance of Foreign Investment Industries” (Feb. 21, 2012) at 5, attached hereto as Exhibit III-31.

⁸¹ “Revised Catalogue for the Guidance of Foreign Investment Industries,” tdetrade.com (Jan. 2005), attached hereto as Exhibit III-32.

⁸² See The State Council, “Provisions on Guiding the Orientation of Foreign Investment” (Feb. 11, 2002) at Art. 5, attached hereto as Exhibit III-33.

⁸³ Id. at Art. 10.

technologies.⁸⁴ It also calls for greater self-sufficiency in the production of steel products including cold-rolled steel products such as “cold-rolling . . . sheets for automobiles” and cold-rolled steel with improved surface quality.⁸⁵

The 12th FYP Steel Development Plan leaves no question that the GOC will provide additional subsidies to achieve these goals. In fact, it specifically calls for “resource support” to “ensure the supply of raw materials and fuels, such as iron ore and coal, for the iron and steel industry.”⁸⁶ Further, it makes clear that the GOC intends to “establish and improve a strategic support system for iron ore resources.”⁸⁷ It also calls for government support for “the relocation and renovation or transformation of urban steel plants”⁸⁸ and for “merging and reorganization by iron and steel enterprises with regional superiority.”⁸⁹

Many of the subsidies discussed in the 12th FYP Steel Development Plan are aimed at increasing Chinese exports of steel products, including cold-rolled steel. For example, the plan discusses government support to “create marketing networks, improve the capability and level of domestic iron and steel enterprises in participating in international competition, and create internationalized enterprise groups with powerful international competitive strength.”⁹⁰

⁸⁴ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 3 (Iron and Steel Industry 12th Five-Year Development Plan, Gong Xin Gui (2011) No. 480 at I(II)(1), I(II)(4), and IV(I)), attached hereto as Exhibit III-3.

⁸⁵ Id. at I(II)1, II(IV), III(III)1, IV(I), IV(III), and Tables 1 and 3.

⁸⁶ Id. at III(III)(4).

⁸⁷ Id. at III(II).

⁸⁸ Id. at IV(V).

⁸⁹ Id. at IV(VII).

⁹⁰ Id. at IV(IX).

Specifically identified as taking a “leading role” in this process with government support are cold-rolled steel producers Baosteel, Angang, WISCO (also known as “Wugang”), and Shougang Group (“Shougang”), as well as Hebei Steel, Shandong Steel, and Tangshan Steel.⁹¹

In September 2012, the GOC’s Ministry of Industry and Information Technology issued the Iron and Steel Industry Normative Conditions, which serve as the guiding norms for the steelmaking industry in China. This policy offers specific incentives for compliance with the guiding norms.⁹² For example, qualifying enterprises are entitled to preferential support policies, including bank loans and government grants for technology upgrades.⁹³

In October 2013, China’s State Council issued the Guiding Opinions on Resolving the Problem of Severe Excess Capacity to address excess capacity in certain key industries including the steel industry.⁹⁴ According to the State Council, China’s steel utilization rate in 2012 of only 72 percent, which is significantly lower than the international average steel utilization rate, shows that China’s steel capacity exceeds China’s domestic demand for steel.⁹⁵ One of the strategies described in the measure to resolve the problem of excess capacity is to encourage steel producers to “expand” their sales in international markets.⁹⁶ Moreover, the measure calls

⁹¹ Id. at IV(VII).

⁹² USTR, 2014 Report to Congress On China’s WTO Compliance (2014), attached hereto as Exhibit III-217.

⁹³ Id.

⁹⁴ China State Council, “Guiding Opinions on Resolving the Problem of Severe Excess Capacity” (Oct. 2012), attached hereto as Exhibit III-34.

⁹⁵ “Renewed move to streamline bloated sectors,” China Daily (Oct. 16, 2013), attached hereto as Exhibit III-227.

⁹⁶ Id. and China State Council, “Guiding Opinions on Resolving the Problem of Severe Excess Capacity” (Oct. 2012), attached hereto as Exhibit III-34.

for additional support of China's steel industry by encouraging banks to provide financing for technology upgrades.⁹⁷ The GOC has also issued special lists that include many key cold-rolled steel producers and directed that government support and preferential loans be directed to these producers to encourage the producers to upgrade equipment and product quality under the guise of reducing energy consumption.⁹⁸

During the 12th FYP period of 2011-2015, producers of cold-rolled steel in China have also benefited from subsidies provided pursuant to a fundamental policy guiding China's economic development known as "coordinative development."⁹⁹ Pursuant to that policy, Chinese authorities are directed to (i) reorganize and upgrade the energy and raw materials industries for purposes of "improving their international competitive power and creating conditions for the downstream industries to participate in the international competition," and (ii) "enable the industries in the eastern, the central, and the western regions to develop coordinately."¹⁰⁰

The GOC has further implemented these "coordinative development" policies by manipulating its tax regime to discourage Chinese companies from exporting certain basic raw materials, including inputs used in the production of cold-rolled steel, while subsidizing exports

⁹⁷ Id.

⁹⁸ "China offers steelmakers incentives to cut capacity," Steel Times International (Dec. 4, 2013), attached hereto as Exhibit III-209.

⁹⁹ See "Circular of the State Economy and Trade Commission on the Promulgation of the Guidance of Recent Development in the Industrial Sector," (Sept. 28, 2002) at 2-3, attached hereto as Exhibit III-35.

¹⁰⁰ Id. at 2.

of higher-value steel products like cold-rolled steel.¹⁰¹ These measures, such as export restraints, value added tax (“VAT”) rebates for exports, and the provision of key inputs such as electricity, coal, and hot-rolled steel for less than adequate remuneration (described in detail in Section II of this Petition), encourage Chinese cold-rolled steel producers and exporters to increase their sales of cold-rolled steel in overseas markets.

* * *

In sum, prior to and throughout the period of the Twelfth FYP (2011-2015), the GOC has continued to use massive state subsidies to promote the rapid development and expansion of Chinese cold-rolled steel producers, to substitute Chinese production of cold-rolled steel for imports, and to promote cold-rolled steel exports. These mechanisms are a major part of the GOC’s overall strategy to “{c}hannel state capital into industries pertinent to national security and economy through discretionary and rational capital injection or withdrawal.”¹⁰² This strategy is reflected throughout the policies discussed above and is manifest in the specific subsidies to cold-rolled steel producers and exporters detailed in Section II below.

c. Local Government Policies

In line with the GOC policies discussed above, local governments across China have issued their own policies that direct significant subsidies to favored Chinese cold-rolled steel producers and exporters. Indeed, as the Department has repeatedly found, local policies and five year plans adopted at the provincial, regional, county, and city level follow the GOC’s policies in virtual lock step, using their close relationships and significant influence with policy banks and

¹⁰¹ See, e.g., “Steel makers fall as Beijing scraps exports rebate,” MarketWatch (June 23, 2010), attached hereto as Exhibit III-36.

¹⁰² See Twelfth FYP at Chapter 45, attached hereto as Exhibit III-19.

state owned commercial banks to provide financial resources that make these plans a reality.¹⁰³

These policies have enabled local governments to deepen their already close relationships with individual cold-rolled steel producers and direct state resources to these producers in exchange for continued local employment, development of high-profile local projects (such as new factories and infrastructure), and other developments that enhance local government prestige and help to attract downstream industries.

In 2009, for example, provincial governments across China announced a series of “iron and steel industry adjustment and revitalization plans” that call for all levels of government in each province to direct substantial subsidies to favored cold-rolled steel producers in their respective regions through a variety of mechanisms, including grants, low-priced loans, and tax incentives. Recently, the United States submitted a counter-notification of China’s subsidies to the WTO which included translations of ten such iron and steel industry adjustment and revitalization plans issued by provincial and municipal governments across China. These included the provinces of Anhui, Guangdong, Shandong, Henan, Hunan, and Jiangsu, which are home to multiple major cold-rolled steel producers and exporters.¹⁰⁴ In fact, these plans specifically call for the local governments in each province to provide subsidies to major cold-rolled steel producers and exporters. For example, the Guangdong Province plan targets several cold-rolled steel projects and producers for support, including cold-rolled steel projects undertaken by Guangzhou JFE Steel Sheet Co. Ltd. and Guangdong Shaoguan Group Co., Ltd.

¹⁰³ See, e.g., Coated Paper Prelim., 72 Fed. Reg. at 17492-17493 (finding that the GOC’s five year plans are “a central government policy or program that local governments adopt and implement.”).

¹⁰⁴ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachments 4-13, attached hereto as Exhibit III-3.

(“ShaoSteel” or “Shaogang”) and construction of a “large-scale steel logistics base” to support production and sales of cold-rolled steel made by Shaogang and other cold-rolled steel producers in the province.¹⁰⁵ The Shandong Province plan likewise focuses on promoting cold-rolled steel producer Shaogang and its various affiliates and plants in that province.¹⁰⁶ Similarly, Henan Province’s “Iron and Steel Industry Adjustment Revitalization Plan” calls for development of “{p}roduction technology for cold-rolled sheets and coated sheets for machinery, automobiles, home appliances, and construction.”¹⁰⁷ The “Iron and Steel Industry Adjustment Revitalization Plan” of Anhui Province directs the provincial government to “{s}upport Guangzhou Group, Zibo Fengyang, and other such enterprises in developing more uniform cold-rolled sheets, coated plates, and expanded processing.”¹⁰⁸ And the adjustment and revitalization plan of Jiangsu Province identifies “cold-rolled steel” production technologies as “key technologies” to be developed and calls for expanding the production capacity of steel producers making this product.¹⁰⁹ Additional information on the subsidies provided under these and other provincial adjustment and revitalization plans is set forth in Section II, below.

¹⁰⁵ Id. at Attachment 4 (Guangdong Province Iron and Steel Industry Adjustment and Revitalization Plan, Yue Fu (2009) No. 98 at 1-4, 6-9).

¹⁰⁶ Id. at Attachment 7 (Shandong Provincial People’s Government Notice on the Issuance of the Shandong Province Iron and Steel Industry Adjustment Revitalization Plan, Lu Zheng Fa (2009) No. 45 at 3, 5-9).

¹⁰⁷ Id. at Attachment 5 (Henan Province Iron and Steel Industry Adjustment Revitalization Plan, Yu Zheng (2009) No. 71, at 14).

¹⁰⁸ Id. at Attachment 6 (Anhui Province Iron and Steel Industry Adjustment and Revitalization Plan, Wan Zheng (2009) No. 56 at III(III)).

¹⁰⁹ Id. at Attachment 8 (Jiangsu Province Iron and Steel Industry Adjustment and Revitalization Plan Outline, Su Zheng Fa (2009) No. 81 at Attachment 1).

Continued policy support for cold-rolled steel producers at the provincial level has also been provided through 12th Five Year Development Plans adopted by provincial governments in line with the GOC's own five year plans. For example, the 12th Five Year Development Plan of Shandong Province, home to many cold-rolled steel producers and exporters including Shandong Steel and Qingdao Baosen Steel Co. Ltd., calls for the province to give priority to development of cold-rolled sheets.¹¹⁰ As part of these efforts, the government is directed to "help enterprises expand financing channels and resolve enterprises' financing difficulties by multiple means such as issuing bonds, offering stocks to the public, attracting investment, etc."¹¹¹ Further, financial institutions in the province

should conscientiously implement the financing policy of the central government, expand the scale of credit loans, strengthen loan support for backbone iron and steel enterprises to develop new products and extend industrial chains, and promote enterprises' technological renovation and product structure adjustment. For key projects approved by the state, the government at all levels should be innovative in raising funds, adjust the structure of fund expenditure, and actively provide supporting funds.¹¹²

Similarly, the province of Jiangxi has released its own 12th Five Year Development Plan which calls on local officials to give preferential treatment to major steel projects when deciding allocation of land, applying environmental protection measures, distributing resources, approving projects, and providing development funds and other capital.¹¹³ Jiangxi Province's plan also calls for the construction of "five steel bases" and "six large industrial chains" to further develop the production of various steel products, including "wide, cold-rolled sheets to further improve

¹¹⁰ Shandong Province Iron and Steel Industry 12th Five Year Development Plan, attached hereto as Exhibit III-37.

¹¹¹ Id.

¹¹² Id.

¹¹³ Jiangxi Province Iron & Steel Industry 12th Five Year Development Plan, attached hereto as Exhibit III-38.

and expand the automotive and household steel electrical appliance industry” and “extend the automotive and steel equipment and machinery production chain.”¹¹⁴

The Steel Industry 12th Five Year Development Plan for Shanghai – home to Baosteel and other cold-rolled steel producers – calls for the government to “support, nurture, and develop strategic emerging industries and technological innovation” in the local steel industry.¹¹⁵ To implement this policy, the Shanghai government commits to “{i}ncrease the degree of support and investment on R&D efforts, encourage enterprises to focus on cutting-edge technologies, with regards to key territories and technologies, and formulate targeted financial support programs.”¹¹⁶

The 12th Five Year Development Plan for China’s Western Region emphasizes the need for the government to encourage development of iron and steel resources in the area and provide support for important regional cold-rolled steel producers.¹¹⁷ Among the cold-rolled steel producers specifically mentioned as targets of government support in the Western Region are Panzhihua Iron and Steel (Group) Company Limited (“Pangang”) and Baotou Iron and Steel Group (“Baotou Steel” or “Baogang”).¹¹⁸

Guangdong Province’s Strategic Emerging Industry 12th Five Year Development Plan Notice identifies cold-rolled steel producer Shaogang and “other iron and steel companies” in the

¹¹⁴ Id. at 4(2).

¹¹⁵ Steel Industry 12th Five Year Development Plan for Shanghai at Article 6(2), attached hereto as Exhibit III-39.

¹¹⁶ Id.

¹¹⁷ 12th Five Year Development Plan for China’s Western Region, attached hereto as Exhibit III-40.

¹¹⁸ Id. at Section 26.

province as strategic emerging industries.¹¹⁹ The policy calls for government support for “structural adjustments” that will benefit these producers, including support for “iron and steel industry energy conservation.”¹²⁰

3. Conclusion

As established above, in order to achieve their industrial policy objectives, Chinese authorities have implemented various measures aimed at developing and controlling key sectors of the Chinese economy, including the cold-rolled steel industry. The evidence reasonably available to Petitioners demonstrates conclusively that producers and exporters of cold-rolled steel in China have been targeted for special assistance by the GOC and provincial and local governments pursuant to these policies. As further established in Section II of this volume of the Petitions, such policies have conferred massive countervailable subsidies on China’s cold-rolled steel producers and exporters. Accordingly, there are more than sufficient grounds for the Department to initiate a countervailing duty investigation of cold-rolled steel from China.

C. Petitioners’ Efforts To Obtain Information Regarding The Cold-Rolled Steel Industry In China And Subsidies Conferred On Cold-Rolled Steel Producers And Exporters By Chinese Authorities

Petitioners have conducted extensive research to document subsidies provided to the cold-rolled steel industry by the GOC and provincial and local governments. The sources examined include the following: the financial statements of Chinese cold-rolled steel producers where available; company websites; market and industry research; news sources; reports issued by the WTO, the United States, and the GOC; and recent countervailing duty investigations conducted by the Department with respect to China. While the subsidy allegations presented in

¹¹⁹ Guangdong Province Strategic Emerging Industry 12th Five Year Development Plan (2012), attached hereto as Exhibit III-41.

¹²⁰ Id.

this Petition more than satisfy the requirements of the countervailing duty statute and the Department's regulations, obtaining evidence that would allow Petitioners to identify and quantify the subsidies received by each of China's cold-rolled steel producers has been made extremely difficult and challenging by the general lack of transparency in China. For example, many of China's cold-rolled steel producers do not release financial data, rendering information on the subsidies received by these companies opaque and elusive. This lack of transparency is further reflected in the company names of Chinese cold-rolled steel producers. Many producers have more than one name, with different company names used in public reports, financial reporting, and certifications of compliance with product standards.

The United States Trade Representative ("USTR") has identified this lack of transparency as a major obstacle to the identification and measurement of subsidies in China. As the USTR observed in its 2007 National Trade Estimate Report:

A general lack of transparency makes it difficult to identify and quantify possible ... subsidies provided by the Chinese government. China's subsidy programs are often the result of internal administrative measures and are not publicized. Sometimes they take the form of income tax reductions or exemptions. They can also take a variety of other forms, including mechanisms such as credit allocations, low interest loans, debt forgiveness and reduction of freight charges.¹²¹

In its 2013 Report to Congress On China's WTO Compliance, the USTR found that China continued to have a fundamental problem with its lack of transparency, noting that many of its trade-related measures remained unavailable in English or even in the original Chinese language.¹²²

¹²¹ Office of the United States Trade Representative, National Trade Estimate Report on Foreign Trade Barriers (2007) at 104, attached hereto as Exhibit III-42.

¹²² USTR, 2013 Report to Congress On China's WTO Compliance (Dec. 2013) at 20, attached hereto as Exhibit III-43.

The lack of transparency with respect to the GOC's policies, laws, and regulations only adds to these obstacles. Indeed, the U.S.-China Economic and Security Review Commission has specifically highlighted the "lack of transparency in regulatory processes" of the GOC as an impediment to the identification and measurement of subsidies in China and a violation of the GOC's WTO commitments.¹²³

Nor has the GOC been forthcoming in disclosing the nature and extent of its government subsidies as it is required to do under the WTO Agreement on Subsidies and Countervailing Measures. In fact, until April of 2006, the GOC had failed to make any of its required subsidy notifications since becoming a member of the WTO despite repeated requests by the United States and other WTO members. Moreover, the GOC's April 2006 subsidies notification was deficient in numerous respects. For example, the notification failed to include major categories of subsidies known to be provided by the GOC, including debt-to-equity swaps, policy loans at preferential rates, government direction of credit through state-owned banks, and the forgiveness of debts by state-owned banks. China also failed to report subsidies known to be provided by provincial and local governments in China.¹²⁴

¹²³ U.S.-China Economic and Security Review Commission, 2008 Report to Congress (Nov. 2008) at 42, attached hereto as Exhibit III-44 ("Among the trade-related situations in China that are counter to {its WTO} commitments are . . . sustained use of domestic and export subsidies; lack of transparency in regulatory processes; continued emphasis on implementing policies that protect and promote domestic industries to the disadvantage of foreign competition; import barriers and export preferences; and limitations on foreign investment or ownership in certain sectors of the economy."); See also U.S.-China Economic and Security Review Commission, 2007 Report to Congress (Nov. 2007) at 40 and 226, attached hereto as Exhibit III-45.

¹²⁴ See, e.g., Questions from the United States Regarding the New and Full Notification of China, WTO Committee on Subsidies and Countervailing Measures, G/SCM/Q2/CHN/19 (July 26, 2006), attached hereto as Exhibit III-46.

The United States sought to advance this issue through the filing of a counter-notification under Article 25.10 of the Subsidies Agreement in October 2011.¹²⁵ In its counter-notification, the United States identified 200 unreported subsidy programs that China has maintained since 2004, including many provided by provincial and local government authorities.¹²⁶ Shortly after the United States filed its counter-notification, China submitted a new subsidies notification that, once again, was woefully inadequate.¹²⁷ Not only did China's new notification cover only the period from 2005 to 2008, but it again failed to notify a single subsidy administered by provincial or local governments.¹²⁸ In addition, the new notification's listing of central government subsidies was essentially the same partial listing of subsidies included in China's 2006 notification and only included ten of the more than 200 subsidy programs identified in the U.S. counter notification.¹²⁹

In October 2014, the United States submitted a second counter-notification of Chinese subsidies to the WTO.¹³⁰ This submission vividly highlighted China's continued failure to report its vast and varied subsidy regime, in violation of China's WTO commitments. Indeed, the 2014 counter-notification included over one hundred separate subsidy policies that China had failed to

¹²⁵ USTR, 2013 Report to Congress On China's WTO Compliance (Dec. 2013) at 50, attached hereto as Exhibit III-43.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014), attached hereto as Exhibit III-3.

notify. These included many of the national and local steel subsidy programs for the cold-rolled steel industry that are discussed throughout this petition.

In light of the above, there is overwhelming support for the Department's repeated conclusion that "there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs" in China.¹³¹ As set forth below, Petitioners have nonetheless investigated and documented numerous massive countervailable subsidies provided by the GOC and provincial and local governments to cold-rolled steel producers. Petitioners request that the Department investigate and countervail each of these subsidies and any others discovered during the course of this proceeding.

II. COUNTERVAILABLE SUBSIDY ALLEGATIONS

A. PREFERENTIAL LOANS AND INTEREST RATES

1. Policy Loans To The Cold-Rolled Steel Industry

In several previous CVD investigations, the Department has investigated and countervailed programs by which "policy banks"¹³² and state-owned commercial banks ("SOCBs") provided loans to manufacturers in furtherance of central and local government policies.¹³³ The evidence reasonably available to Petitioners shows that China's policy banks

¹³¹ Lawn Groomers IDM at Section IV.

¹³² The GOC created the policy banks specifically to carry on the "policy-making" functions of the People's Bank of China. "Comparative Performance of Chinese Commercial Banks: Analysis, Findings, and Policy Implications," Review of Quantitative Finance and Accounting, 16, 149-170 (2001) at 151, attached hereto as Exhibit III-47. These banks are known as policy banks because they make loans to sectors of the economy identified as priorities by government policies.

¹³³ See, e.g., Steel Wire Rod Preliminary Determination at 22; Stainless Steel Sinks IDM at 24-25; OCTG IDM at 12; Welded Line Pipe IDM at 26-27; Off-Road Tires IDM at 13-14; Thermal Paper IDM at 11-12; OCTG from China Initiation Checklist at 26-27 (Public Version).

and SOCBs likewise make loans to cold-rolled steel producers at preferential terms as a matter of government policy.

As an initial matter, it is important to emphasize that the Department has determined that policy banks and SOCBs constitute government authorities under Section 771(5)(B) of the Act due to GOC involvement in the banking industry.¹³⁴ Similarly, leading authorities such as the International Monetary Fund “report that SOCBs are required to support the GOC’s industrial policies.”¹³⁵ Thus, the legal question is not whether the GOC “entrusts or directs” the policy banks and SOCBs to provide financial contributions to cold-rolled steel producers under Section 771(5)(B)(iii) of the Act. Rather, because the policy banks and SOCBs are themselves government authorities, the loans in question confer countervailable benefits even if no government statement “directs” the provision of loans to cold-rolled steel producers or entrusts policy banks and SOCBs with making such loans.

As discussed above in Section I, the GOC supports China’s cold-rolled steel producers pursuant to a variety of official policies. Indeed, the GOC’s Commercial Banking Law requires that banks in China provide loans in accordance with “the guidance of the industrial policies of the State.”¹³⁶ The GOC’s Decision No. 40 similarly calls for lending to encouraged projects, including cold-rolled steel projects identified in the GOC’s catalogues of encouraged industries, products, and technologies. As the Department has previously recognized, and as the above discussion of China’s recent provincial-level iron and steel industry development plans

¹³⁴ OCTG IDM at Comment 21; Off-Road Tires IDM at Comment E.2; Coated Paper IDM at Comment 8.

¹³⁵ Off-Road Tires IDM at Comment E.2 (citing International Monetary Fund Working Paper, Progress in China’s Banking Sector Reform at 13 (Mar. 2006)).

¹³⁶ Law of the People’s Republic of China on Commercial Banks (Dec. 27, 2003) at Art. 34, attached hereto as Exhibit III-48.

illustrates, numerous provincial and local governments similarly favor specific steel producers and expressly call for their support in policy documents through government lending.¹³⁷ For example, as part of the GOC's plan to expand access to overseas sources of raw materials, the 12th FYP Steel Development Plan states that by 2015 "{m}ore than 100 million tons of new overseas production capacity of iron ore will be added."¹³⁸ Consistent with this goal, China has continued to provide loans and other financial assistance for the acquisition of iron ore deposits overseas. There is little doubt that cold-rolled steel producers have benefited from this assistance. For example, in 2014, Baosteel Resources announced the \$1 billion acquisition of Australian Aquila Resources for Baosteel to develop Aquila Resource's \$7 billion West Pilbara Iron Ore mine.¹³⁹ As Graeme Hosie, chief executive of London Mining, has explained, Chinese investment in such emerging deposits is only possible because of China's policy of assisting its steel producers in the acquisition of raw materials: "You have Chinese banks that can fund these projects at a low cost of capital, because they are helping state-owned enterprises strategically ensure supply."¹⁴⁰

Pursuant to these and similar policies, policy banks and SOCBs have lent vast sums on favorable terms to China's cold-rolled steel producers and exporters. In fact, China's policy

¹³⁷ OCTG Preliminary Determination at 29-34.

¹³⁸ 12th FYP Steel Development Plan at Art. III(III)4, attached hereto as Exhibit III-2.

¹³⁹ "Aurizon, Baosteel to buy Aquila after raising stake," Reuters (July 8, 2014), attached hereto as Exhibit III-49.

¹⁴⁰ "Chinese money to open new iron ore projects," Financial Times (Apr. 13, 2010), attached hereto as Exhibit III-50.

banks have openly acknowledged that they make loans to further government policies.¹⁴¹ These loans are typically made at low or negative real rates of return.¹⁴² At least two policy banks specifically support the steel industry: the China Development Bank, which provides loans for key state-directed capital investment projects under the direct control of the State Council, and the Export-Import Bank of China, whose job is “to implement the state policies” in industry, foreign trade, and economy and finance “to provide policy financial support so as to promote” exports.¹⁴³

The information reasonably available to Petitioners shows that the cold-rolled steel industry is a major recipient of such policy loans. The experience of cold-rolled steel producer Baosteel and its various affiliates (including Baoshan Iron & Steel Co. Ltd. (“Baoshan”)) exemplifies the massive level of subsidies provided by such loans. In 2005, Baosteel had RMB 10.7 billion worth of short-term loans, mostly unsecured, at interest rates from 4.7 percent to 6.3 percent,¹⁴⁴ well below comparable benchmark interest rates.¹⁴⁵ At the same time, Baosteel reported that it also had RMB 18.5 billion in long-term loans, overwhelmingly from SOCBs, and at even lower rates, plus interest-free loans from its affiliates.¹⁴⁶ In 2005 alone, the company

¹⁴¹ “Comparative Performance of Chinese Commercial Banks: Analysis, Findings, and Policy Implications,” Review of Quantitative Finance and Accounting Vol. 16 (2001) at 151, attached hereto as Exhibit III-47.

¹⁴² Id.

¹⁴³ An Introduction to China Development Bank, attached hereto as Exhibit III-51. Export-Import Bank of China, Introduction, attached hereto as Exhibit III-52.

¹⁴⁴ Baosteel 2005 Annual Report (“Baosteel 2005 Report”) at 101, attached hereto as Exhibit III-53.

¹⁴⁵ Coated Paper IDM at 7 (setting benchmark lending rates of 8.96 percent in 2003, 8.03 percent in 2004, and 7.56 percent in 2005).

¹⁴⁶ Baosteel 2005 Report at 106-109, attached hereto as Exhibit III-53.

quadrupled its long-term loans and quintupled its short-term loans, partly for new projects and acquisitions under the Eleventh Five-Year Plan. Many such loans came from official policy banks.

In 2009, Baosteel was reported to have received an additional RMB 750 million (\$109.65 million) “merger and acquisition loan” to help it finance a majority stake in another cold-rolled steel producer, Ningbo Iron & Steel Co.¹⁴⁷ The loan was provided by China’s Bank of Communications, one of China’s five oldest and largest state-owned and controlled policy banks in accordance with the GOC’s policy of promoting consolidation of Chinese steel producers into larger “national champion” conglomerates.¹⁴⁸ In the recent investigation of non-oriented electrical steel from China, the Department determined that Baoshan received substantial countervailable subsidies in the form of policy loans.¹⁴⁹

The experience of numerous other cold-rolled steel producers is similar to that of Baosteel, with many reporting that they have received preferential loans from policy banks and SOCBs in China for projects aligned with the GOC’s policies for promotion of the cold-rolled steel industry:

- The Export-Import Bank of China has entered into an export credit agreement with cold-rolled steel producer Hunan Valin that provides Hunan Valin with loans worth at least RMB 5 billion (approximately \$625 million).¹⁵⁰

¹⁴⁷ “Baosteel secures M&A loan from BoCom,” Dow Jones Factiva (Mar. 4, 2009), attached hereto as Exhibit III-54.

¹⁴⁸ See id. and “China’s Big State-Owned Banks Saw Rising Defaults, Shrinking Loan Profitability in 2012,” International Business Times (Mar. 28, 2013), attached hereto as Exhibit III-55.

¹⁴⁹ NOES Preliminary Determination at 12.

¹⁵⁰ “Valin Steel gets USD 625 mln credit line,” China Metals Weekly (Dec. 23, 2005), attached hereto as Exhibit III-56.

- In 2005, the China Development Bank signed a financing agreement with cold-rolled steel producer Angang to provide Angang with \$2.23 billion in policy-based loans in support of Angang's overseas expansion and fixed assets investment.¹⁵¹
- In 2006, Angang also received export credit from the Export-Import Bank of China totaling US\$ 1.05 billion for its exports of high-end products and to help the company with overseas investments.¹⁵²
- In 2005, cold-rolled steel producer Pangang received directed credit from the Agricultural Bank of China in the amount of \$739 million to update technology at its mills.¹⁵³ Pangang was also the beneficiary of what amounts to a four-year interest-free loan of RMB 3.15 billion from the China Development Bank.¹⁵⁴
- In 2007, the China Development Bank provided a RMB 20 billion loan to cold-rolled steel producer WISCO. In subsequent years, this loan has facilitated WISCO's growth and consolidation and its acquisition of key steel making resources overseas in accordance with the GOC's "going out" policies.¹⁵⁵
- In 2012, a group of policy banks and SOCBs provided loans worth RMB 14.575 billion (\$2.32 billion) to cold-rolled steel producer Pangang to finance the company's construction of a massive new steel plant in Sichuan Province. Among the products to be produced in the first phase of the project is hot-rolled steel, a key input in the production of cold-rolled steel.¹⁵⁶

¹⁵¹ "Angang Steel gets USD 2.23 bln loan from China Development Bank," China Mining and Metals Newswire (Sept. 22, 2005), attached hereto as Exhibit III-57.

¹⁵² See Hongmei Li, "Anshan Steel Secures 3-Year Funding From China Eximbank," American Metal Market (Mar. 19, 2007), attached hereto as Exhibit III-58.

¹⁵³ "Agricultural Bank of China Gives Pangang Steel USD 739.83 Mln," China Metals Report Weekly (Aug. 19, 2005), attached hereto as Exhibit III-59.

¹⁵⁴ See "Pangang Re-Acquires Shares Valuing USD 380.57 Mln Held By China," China Metals Report Weekly (Nov. 5, 2004), attached hereto as Exhibit III-60. In July 2000, the China Development Bank "agreed to take RMB 3.15 bln ... worth of shares in Pangang as compensation for the debt" of RMB 3.15 billion. In November 2004, Pangang re-acquired the shares for the same RMB 3.15 billion, thus having received what amounts to an interest-free loan with a term of over four years. Id.

¹⁵⁵ "WISCO obtained 80bln-yuan credit from China Development Bank," MetalBiz (Dec. 7, 2009), attached hereto as Exhibit III-61.

¹⁵⁶ "China: Pangang Group inks syndicated loan deal with 6 Chinese financial institutions," TendersInfo (Mar. 2, 2012), attached hereto as Exhibit III-62.

By June 2014, the level of preferential lending by policy banks and SOCBs had grown so large (and the lack of timely repayment of such loans so severe) that *The Wall Street Journal* calculated that the five biggest state-owned policy banks (i.e., Industrial & Commercial Bank of China Ltd., China Construction Bank Corp., Agricultural Bank of China Ltd., Bank of China Ltd., and Bank of Communications Co.) themselves had over RMB 423 billion (approximately \$68.2 billion at current exchange rates) in nonperforming loans.¹⁵⁷ This represented a 21 percent increase from the prior year.¹⁵⁸ Moreover, the policy banks were forced to write-off a total of RMB 46.91 billion (\$7.64 billion) of bad loans in the first half of 2014.¹⁵⁹ Many of the non-performing loans were reportedly transferred to “bad {debt} banks” established by the GOC and local governments for the purpose of housing the non-performing loans.¹⁶⁰ Significantly, the Chinese steel industry (including cold-rolled steel exporter Sinosteel Corporation) was identified as a major source of the non-performing loans and loan write-offs.¹⁶¹

As the above examples show, the GOC has a policy of supporting cold-rolled steel production through the use of loans. Moreover, the evidence that is reasonably available to Petitioners shows that China’s cold-rolled steel producers and exporters have benefited from massive loans provided (and in many cases written-off) pursuant to this GOC policy.

¹⁵⁷ “China State Banks Report Surge in Soured Loans: Bad-Loan Levels Within Industry Remain Low in Terms of Total Portfolios But Are expected to Continue Creeping Upward,” *The Wall Street Journal* (Aug. 29, 2014), attached hereto as Exhibit III-63.

¹⁵⁸ Id.

¹⁵⁹ Id.

¹⁶⁰ Id.

¹⁶¹ Id. See also “Banks' Bad Loans Rise on Troubles in Steel Industry,” *Caixin Online* (Apr. 1, 2014), attached hereto as Exhibit III-64; Sinosteel Corporation, About Us and Steel Products, attached hereto as Exhibit III-65.

a. Financial Contribution

As the Department has repeatedly determined, the provision of loans by state policy banks and SOCBs constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act.¹⁶²

b. Specificity

Policy loans to Chinese cold-rolled steel producers are specific as a matter of law under Section 771(5A)(D)(i) of the Act because, as described above, the GOC has a policy in place to use loans to encourage and support the growth of the steel sector in China, the cold-rolled steel industry, and major named producers of cold-rolled steel. Indeed, as the Department found in the CVD investigation of welded line pipe from China, the preferential loans received under Article 16 of the “Steel Policy” are limited to the iron and steel industry and are thus specific under Section 771(5A)(D)(i) of the Act.¹⁶³ In addition, as set forth in China’s WTO Accession Protocol, loans from Chinese policy banks are by their nature discretionary and, consequently, specific under Section 771(5A)(D)(iii)(IV) of the Act.¹⁶⁴

c. Benefit

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

¹⁶² Steel Wire Rod Preliminary Determination at 25; OCTG IDM at 12; Welded Line Pipe IDM at 26-27; Off-Road Tires IDM at 13-14; Thermal Paper IDM at 11-12.

¹⁶³ Welded Line Pipe IDM at 26.

¹⁶⁴ See Annex 5A to the Protocol on the Accession of the People’s Republic of China to the World Trade Organization at IX, attached hereto as Exhibit III-66.

2. Export Loans

In prior CVD cases involving China, the Department has determined that export loans by the Export-Import Bank of China, GOC policy banks, and SOCBs constitute direct financial contributions from the government, rather than commercial loans, because the Chinese banking system remains under state control and “continues to suffer from the legacies associated with the longstanding pursuit of government objectives.”¹⁶⁵ The Department has further determined that such loans provide countervailable benefits, including to cold-rolled steel producers such as Baoshan.¹⁶⁶ Accordingly, the Department should investigate this subsidy with respect to cold-rolled steel as well.

a. Financial Contribution

Export loans provided by the Export-Import Bank of China, GOC policy banks, and SOCBs in China constitute a direct financial contribution from the government pursuant to Section 771(5)(D)(i) of the Act.¹⁶⁷

b. Specificity

Export loans received by Chinese cold-rolled steel producers are specific under Sections 771(5A)(A) and (B) of the Act because the receipt of the financing is contingent upon exporting.¹⁶⁸

¹⁶⁵ See Welded Line Pipe IDM at 23-24. See also Seamless Pipe IDM at 16-17; OCTG IDM at 12-13.

¹⁶⁶ Calcium Hypochlorite Preliminary Determination at 11; NOES Preliminary Determination at 12 (finding that Baoshan received preferential export loans from the Export-Import Bank of China), unchanged in Non-Oriented Electrical Steel from the People’s Republic of China, 79 Fed. Reg. 61607 (Dep’t Commerce Oct. 14, 2014) (final determ.); Wind Towers IDM at 16; Seamless Pipe IDM at 16-17; OCTG IDM at 12-13; Welded Line Pipe IDM at 23-24.

¹⁶⁷ Wind Towers IDM at 16; Seamless Pipe IDM at 16-17.

c. Benefit

All export loans from the Export-Import Bank of China, GOC policy banks, and SOCBs confer a benefit pursuant to Section 771(5)(E) of the Act to the extent that the interest rate falls below commercial loan benchmarks.¹⁶⁹

3. Treasury Bond Loans

Each year, partly to manage the large in-flow of foreign exchange that China receives from its massive foreign trade surplus, the GOC issues Treasury Bonds.¹⁷⁰ In issuing these bonds, the GOC announces a variety of projects that the GOC considers high priority and that will receive financial support in the form of discounted loans from the Treasury Bond proceeds.¹⁷¹

Chinese cold-rolled steel producers are significant recipients of these discounted Treasury Bond Loans. For example, the Department recently found in the investigation of carbon and certain alloy steel wire rod from China that Heibei Iron and Steel, which also produces cold-rolled steel, received countervailable subsidies in the form of Treasury Bond Loans.¹⁷² Similarly, the Department recently found in the investigation of non-oriented electrical steel

¹⁶⁸ Wind Towers IDM at 16; Seamless Pipe IDM at 16-17.

¹⁶⁹ Wind Towers IDM at 16; Seamless Pipe IDM at 16-17.

¹⁷⁰ “Plans sets for issuing T-bonds,” China Daily (Dec. 3, 2003), attached hereto as Exhibit III-67.

¹⁷¹ “First treasury-bond-supported Sino-foreign JV project,” AsiaPulse News (Oct. 27, 2005), attached hereto as Exhibit III-68.

¹⁷² Steel Wire Rod Preliminary Determination at 37.

from China that cold-rolled steel producer Baoshan received countervailable subsidies in the form of Treasury Bond Loans.¹⁷³

a. Financial contribution

Treasury Bond Loans from the GOC constitute a direct financial contribution from the government pursuant to Section 771(5)(D)(i) of the Act.

b. Specificity

The Treasury Bond Loans are specific under Section 771(5A)(D)(i) of the Act, as the central government designates the specific projects and enterprises that will benefit. Additionally, because government officials exercise great discretion in guiding funds to chosen projects, the subsidy is specific as well under Section 771(5A)(D)(iii)(IV) of the Act.

c. Benefit

Reasonably available evidence shows that Treasury Bond Loans are provided at discounted interest rates.¹⁷⁴ Thus, they provide a benefit as defined by Section 771(5)(E)(ii) of the Act.

4. Preferential Loans For State-Owned Enterprises

In the Off-Road Tires investigation, the Department investigated the granting of preferential loans to SOEs as a separate program, even though it ultimately countervailed loans to the respondents as part of the policy loans program.¹⁷⁵ Extensive evidence exists that government banks have provided low-interest loans to state-owned cold-rolled steel producers, such as the \$3.4 billion in low-interest loans that the Department discussed in its 2000 report to

¹⁷³ NOES Preliminary Determination at 12.

¹⁷⁴ Steel Wire Rod Preliminary Determination at 37; NOES Preliminary Determination at 12.

¹⁷⁵ Off-Road Tires Initiation Notice at 15-17 (Public Version); Off-Road Tires IDM at 13-15.

the President and the loans described above in the discussion of policy loans. Accordingly, the Department should initiate an investigation of loans to state-owned cold-rolled steel producers as a separate subsidy program.

a. Financial Contribution

Preferential loans from state-owned banks to SOEs constitute financial contributions under Section 771(5)(D)(i) of the Act.

b. Specificity

Consistent with China's WTO Accession Protocol, it is the Department's policy to consider SOEs to be a group of enterprises within the meaning of Section 771(5A) of the Act.¹⁷⁶ Accordingly, the preferential loans in question are specific under Section 771(5A)(D)(iii)(I) of the Act, as the recipients are a limited group of enterprises, i.e., SOEs. Additionally, government officials exercise great discretion in guiding funds to chosen projects, and the loans are specific on this basis as well pursuant to Section 771(5A)(D)(iii)(IV) of the Act.

c. Benefit

This program provides 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 Section 771(5)(E)(ii) of the Act.

5. Preferential Loans For Key Projects And Technologies

In prior CVD investigations, the Department has investigated preferential loans provided by the GOC to Chinese steel producers for development and improvement of key steel industry projects and technologies.¹⁷⁷ Information reasonably available to Petitioners indicates that the

¹⁷⁶ Import Administration Policy Bulletin 10.1.

¹⁷⁷ See Welded Line Pipe Initiation Notice at 23186. In the final results of its investigation, the Department found that the two mandatory respondents – neither of which was a SOE

GOC has also provided the Chinese cold-rolled steel industry with significant subsidies in the form of such preferential loans. Specifically, a research report prepared for the OECD by an official of the GOC's State Administration of Metallurgical Industry (i.e., the "Steel Note" discussed in Section I above) discloses that loans at preferential interest rates for technological renovation were a key component of a plan to restructure and revitalize China's steel industry that the GOC implemented in 1999 in conjunction with the Ninth Five Year Plan.¹⁷⁸ According to the report, the GOC planned to use preferential loans to revitalize about thirty steel enterprises, focusing on key large SOEs, steelmakers in the Northeast, and enterprises producing key products.¹⁷⁹ The size of the initial subsidy was substantial – the GOC initially allocated a total of RMB 60 billion (\$7.25 billion) to fund the loans.¹⁸⁰

Additional policies that provide preferential loans for key projects and technologies were established in the period of the 11th Five Year Plan (i.e., 2006-2010). For example, in 2006, the GOC issued the S&T Development Plan (2006-2020).¹⁸¹ The S&T Development Plan (2006-2020) calls for increasing innovation and invention through "fiscal incentives, soft loan facilities including interest discounts and preferential loan provision, governmental investment measures, schemes for the promotion of 're-innovation' by assimilation of foreign technology . . . {and} the

– did not use the program during the period of investigation. See Welded Line Pipe IDM at 30.

¹⁷⁸ Steel Note at 6-7, attached hereto as Exhibit III-11.

¹⁷⁹ Id. at 7.

¹⁸⁰ Id. at 6.

¹⁸¹ "The State-Business Nexus in China's Steel Industry – Chinese Market Distortions in Domestic and International Perspective," European Confederation of Iron and Steel Industries (Jan. 2009) ("EUROFER Study") at 67, attached hereto as Exhibit III-69.

definition and implementation of Chinese industry- and product-standards.”¹⁸² Cold-rolled steel producers were likely recipients of preferential loans pursuant to the S&T Development Plan (2006-2020). Indeed, cold-rolled steel producer Baosteel, which is controlled by the GOC’s SASAC,¹⁸³ was one of the companies specifically required to issue its own plans for achievement of the goals of the S&T Development Plan (2006-2020).¹⁸⁴ According to the GOC, Baosteel’s plan, issued in 2006, is a “strategic plan for Baosteel’s technology innovation for the next 15 years.”¹⁸⁵ The GOC has further reported that during the first year of the plan, Baosteel “made eye-catching achievements” due to “the great support of the national and local governments.”¹⁸⁶

The guidelines for implementation of the S&T Development Plan (2006-2020) issued by the GOC’s Banking Regulatory Commission direct China’s state-owned policy banks to provide preferential loans to “hi-tech industrialization projects, projects on digestion and absorption of brought-in technologies, hi-tech product export projects, and so on.”¹⁸⁷ Jiangsu Shagang Group and the Sutor Group are among the cold-rolled steel producers identified as high-tech enterprises

¹⁸² Id.

¹⁸³ See Baosteel 2005 Report at 7, attached hereto as Exhibit III-53.

¹⁸⁴ EUROFER Study at 67, attached hereto as Exhibit III-69.

¹⁸⁵ GOC Ministry of Science and Technology, “Strengthen the soft power of technology innovation system, promote the building of an innovative enterprise (Baosteel Group Co., Ltd.),” (Feb. 25, 2007), attached hereto as Exhibit III-70.

¹⁸⁶ Id.

¹⁸⁷ China Banking Regulatory Commission, “Notice of China Banking Regulatory Commission on Printing and Distributing the ‘Detailed Rules for Implementation of the Policies on Policy Finance for Supporting Major National Scientific and Technological Projects’” (Dec. 28, 2006) at Articles 1-7, attached hereto as Exhibit III-71.

and thus are eligible to receive preferential loans and other benefits pursuant to the S&T Development Plan (2006-2020).¹⁸⁸

a. Financial Contribution

The GOC's preferential loans for key projects and technologies constitute financial contributions within the meaning of Section 771(5)(D)(i) of the Act.¹⁸⁹

b. Specificity

The preferential loans for key projects and technologies are specific within the meaning of Section 771(5A)(D)(i) of the Act because they are limited by law only to designated high-tech enterprises, key large SOEs, steelmakers in the Northeast, and enterprises producing key products. In addition, there is a reasonable basis to believe or suspect that the recipients of the preferential loans are limited in number to certain key enterprises and industries. Accordingly, the preferential loans are also specific under Section 771(5A)(D)(iii)(I) of the Act.

c. Benefit

The loans in question confer a benefit to the recipients within the meaning of Section 771(5)(E)(ii) of the Act that is equal to the difference between what the recipients paid on the preferential loans and the amount they would have paid on comparable commercial loans.

6. Preferential Lending To Cold-Rolled Steel Producers And Exporters Classified As "Honorable Enterprises"

The GOC encourages certain large-scale enterprises to export by classifying them as "Honorable Enterprises" and providing them with priority access to loans on preferential terms.

¹⁸⁸ See Jiangsu Shagang Group Company Website, attached hereto as Exhibit III-72; Sutor Technology Group Awarded 'High-Tech Enterprise' by Jiangsu Provincial Government, attached hereto as Exhibit III-224.

¹⁸⁹ In Coated Paper, the Department concluded that "loans provided by Policy Banks and SOCBs in the PRC constitute a direct financial contribution from the government." Coated Paper IDM at 49.

Specifically, as set forth in the “Detailed Rules for Reward and Punishment for the Trial Implementation Measures for Appraising Foreign Exchange Receipts for Exports,” “large-scale enterprises” with an annual export volume of over \$200 million may be classified as “Honorable Enterprises” and receive preferential access to foreign trade funds.¹⁹⁰ Lending rates for companies designated as Honorable Enterprises can also be lowered by up to 10 percent based on the lending rates fixed by the People’s Bank of China.¹⁹¹ In addition, Honorable Enterprises are able to retain profits in foreign exchange for twice the normal period of 6 months before they must be repatriated and do not need to provide guarantees to the GOC, thus allowing such companies greater access to capital in the form of foreign exchange that may be used in support of exports and for other purposes.¹⁹² Major cold-rolled steel producers such as Angang and Maanshan Iron & Steel Co. Ltd. (“Maanshan”) had exports in 2013 totaling well over \$200 million, thus qualifying them for classification as Honorable Enterprises.¹⁹³

a. Financial Contribution

The preferential access to foreign trade funds and discount loans constitute financial contributions by the GOC pursuant to Section 771(5)(D)(i) of the Act because the GOC is

¹⁹⁰ “Circular of the People’s Bank of China, the State Administration of Foreign Exchange, the Ministry of Foreign Trade and Economic Cooperation, and the State Administration of Taxation Concerning Printing and Distributing Detailed Rules on Rewarding and Punishment Concerning Provisional Regulations over Examination of Export Collections of Foreign Exchange,” YinFa No. 58 (Feb. 17, 2000) at Arts. 3-5, attached hereto as Exhibit III-73.

¹⁹¹ Id. at Art. 6.

¹⁹² Id. at Art. 7.

¹⁹³ See Angang 2013 Annual Report at 16 (showing Angang had export sales of over RMB 6.8 billion in 2013), attached hereto as Exhibit III-74; Maanshan 2013 Annual Report at 28) (showing Maanshan had export sales of over RMB 4.3 billion in 2013), attached hereto as Exhibit III-75.

providing direct transfers of funds to companies classified as Honorable Enterprises.

Furthermore, the ability of such companies to retain their foreign exchange earnings for twice the normal period constitutes a financial contribution under Section 771(5)(D)(ii) of the Act because the GOC is foregoing or not collecting revenue that would otherwise be due.¹⁹⁴

b. Specificity

The benefits provided to Honorable Enterprises are specific under Sections 771(5A)(A) and 771(5A)(B) of the Act because they are contingent upon export.¹⁹⁵

c. Benefit

The foreign trade funds and loans under the Honorable Enterprises Program are provided on preferential terms. Thus, they provide a benefit under Section 771(5)(E)(ii) of the Act. The retention of foreign exchange also confers a benefit under Section 771(5)(E) of the Act because Honorable Enterprises are able to lower their cost of capital and retain funds they would otherwise have to repatriate.¹⁹⁶

7. Loans And Interest Subsidies Provided Pursuant To The Northeast Revitalization Program

The GOC established the Northeast Revitalization Program in 2003 to revive the “old industrial base” of Dalian City and the three Northeast provinces—Liaoning, Jilin, and Heilongjiang – which together comprise the Northeast Region of China.¹⁹⁷ The Northeast Revitalization Program provides benefits to certain businesses located in or operating out of

¹⁹⁴ Calcium Hypochlorite Preliminary Determination at Attachment I.

¹⁹⁵ Id.

¹⁹⁶ Id.

¹⁹⁷ “China’s Old Industrial Base Eyes Bright Future with Ambitious Plan,” People’s Daily, attached hereto as Exhibit III-76.

Northeast China.¹⁹⁸ Specifically, SASAC, the GOC agency charged with overseeing the country's vast SOEs, has explained that the program is intended as a "strategic restructuring and technical transformation of key enterprises in the areas of oil, petrochemical, iron and steel, automotive, shipbuilding and aircraft products manufacturing sectors in Northeast China in a bid to establish production bases of advantage {sic} industries."¹⁹⁹

To implement the Northeast Revitalization Program, the GOC set up a special purpose bank to fund revitalization efforts, i.e., the Northeast Revitalization Bank ("NRB").²⁰⁰ The NRB's mandate is to "provide financial support for the revitalization of northeastern China's old heavy industrial hub, help local small-and medium-sized enterprises with financing and prompt the renovation and upgrading of regional financial resources."²⁰¹ Control of the NRB is in the hands of China's central government, specifically the State Council.²⁰²

In comments submitted as part of the WTO Transitional Review Mechanism on China's WTO Accession, the United States raised concerns about subsidies provided pursuant to the Northeast Revitalization Program.²⁰³ Among other things, the United States noted that the benefits available under the Northeast Revitalization Program include, *inter alia*, RMB 5 billion

¹⁹⁸ Id.

¹⁹⁹ See WTO Committee on Subsidies and Countervailing Measures, Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China, G/SCM/Q2/CHN/14 (Sept. 29, 2005) at 2, attached hereto as Exhibit III-77.

²⁰⁰ "New Bank Set to Revitalize Northeast China," China Daily (May 31, 2004), attached hereto as Exhibit III-78.

²⁰¹ Id.

²⁰² Id.

²⁰³ See Transitional Review, attached hereto as Exhibit III-77.

in export credits from the Dalian Branch of the Export-Import Bank of China for companies located in the region.²⁰⁴ Moreover, since November 2003, “low-cost credit provided by the bank” is reported to have saved companies in the region RMB 150 million.²⁰⁵

The Department has previously investigated loans and interest subsidies provided pursuant to the Northeast Revitalization Program and has found such loans and interest subsidies to be countervailable.²⁰⁶ There is a reasonable basis to believe or suspect that cold-rolled steel producers located in the Northeast Region have similarly benefited from these subsidies. Indeed, cold-rolled steel producers Angang and Benxi Iron and Steel, among others, are located in the Northeast Region.

a. Financial Contribution

The provision of loans and interest subsidies by GOC-owned banks constitutes a direct transfer of funds within the meaning of Section 771(D)(i) of the Act.

b. Specificity

The Northeast Revitalization Program is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is available only to companies in a limited geographic area under the jurisdiction of the GOC. In addition, the loans and interest subsidies are specific under Section 771(5A)(D)(i) of the Act because the Northeast Revitalization Program is limited to certain specified enterprises and industries. Furthermore, as explained in China’s WTO

²⁰⁴ Id.

²⁰⁵ Id.

²⁰⁶ Circular Welded Pipe IDM at 17-18; Rectangular Pipe IDM at 12-13.

Accession Protocol, loans from Chinese policy banks are also by their nature discretionary and, consequently, specific under Section 771(5A)(D)(iii)(IV) of the Act.²⁰⁷

c. Benefit

The subsidies in question confer a benefit under Section 771(5)(E)(ii) of the Act equal to the difference between what the recipients paid and the amount they would have paid on comparable commercial loans.

B. DEBT-TO-EQUITY SWAPS, EQUITY INFUSIONS, AND LOAN FORGIVENESS

1. Debt-To-Equity Swaps

The GOC and local governments in China have repeatedly intervened to help large cold-rolled steel producers avoid paying their debt, by repaying or forgiving loans in return for equity interests at concessionary terms. For example, the GOC has provided a series of major debt-to-equity swaps for cold-rolled steel producer Baosteel and its affiliates and engineered a 2004 debt-to-equity swap that eliminated cold-rolled steel producer Pangang's debt to the China Development Bank.²⁰⁸ The Department has initiated investigations of these debt-to-equity swaps in prior investigations of the Chinese steel industry.²⁰⁹

Many of the debt-to-equity swaps that have benefited major Chinese cold-rolled steel producers involve the GOC's four "asset management companies" ("AMCs"), which were

²⁰⁷ See Annex 5A to the Protocol on the Accession of the People's Republic of China to the World Trade Organization at IX, attached hereto as Exhibit III-66.

²⁰⁸ Welded Line Pipe Petition at 37-46 & nn.139-192, attached hereto as Exhibit III-79. See also Pangang Converts Its More than 3 Billion Yuan Loans to Equity, attached hereto as Exhibit III-80; Pan-cheng Obtains Loans for Its Relocation Project," Manufacturing Information Portal (Nov. 7, 2004), attached hereto as Exhibit III-81; EUROFER Study at 83-85, attached hereto as Exhibit III-69.

²⁰⁹ See Welded Line Pipe Initiation Checklist at 9-10 (Public Version); OCTG from China Initiation Checklist at 30-32 (Public Version).

created by the GOC specifically to dispose of massive non-performing loans in key industries.²¹⁰ Baosteel Group Shanghai Meishan Corp Ltd is among the major cold-rolled steel producers to have benefited from debt-to-equity swaps.²¹¹ Prior to the GOC's intervention, the company had liabilities of \$1 billion and a liability-to-assets ratio of 76.52 percent.²¹² After a debt-to-equity swap was arranged with China Cinda Asset Management Corp., however, the company's liability-to-assets ratio fell to 38.51 per cent.²¹³ Cold-rolled steel producer Anshan also benefited from a debt-to-equity swap which the Organization for Economic Cooperation and Development described as involving "substantial reductions in debt loads in return for restructuring arrangements."²¹⁴

As the above examples demonstrate, the GOC has provided massive subsidies to cold-rolled steel producers through debt-to-equity swaps. As it has done in prior countervailing duty investigations of steel products from China, the Department should initiate an investigation of these debt-to-equity swaps.

a. Financial Contribution

Provision of equity and forgiveness of debt by government entities constitute financial contributions under Section 771(5)(D)(i) and (ii) of the Act.

²¹⁰ People's Republic of China State Council, "Regulations on Financial Asset Management Companies," Exhibit III-82; EUROFER Study at 83-85, attached hereto as Exhibit III-69.

²¹¹ See "Deal to turn around steel giant," China Daily (Sept. 18, 1999), attached hereto as Exhibit III-83.

²¹² Id.

²¹³ Id.

²¹⁴ Organization for Economic Cooperation and Development, Reforming China's Enterprises, at 78 (2000), attached hereto as Exhibit III-84.

b. Specificity

Debt-to-equity swaps to cold-rolled steel producers are specific under Section 771(5A)(D)(i) and (iii) of the Act as they are only provided to selected entities, a relatively small number of entities receive them, and the award of such financing is highly discretionary.

c. Benefit

Debt-to-equity swaps provide a benefit as defined by Section 771(5)(E)(i) of the Act because they are not consistent with the usual investment practices of private investors. In addition, where GOC-owned institutions pay off the non-performing debt of firms in financial difficulty in exchange for equity, it is tantamount to a grant and confers a benefit within the meaning of Section 771(5)(E) of the Act.

2. Equity Infusions

The Department has previously initiated an investigation of the GOC's equity infusions into cold-rolled steel producer Baosteel.²¹⁵ As discussed below, the information available to Petitioners provides a reasonable basis to believe or suspect that the equity infusions in question also benefit Baosteel's production of cold-rolled steel.

a. Equity Infusions In Baosteel

On April 27, 2005, Baosteel issued five billion new public shares, of which two billion were placed with public investors and three billion were purchased by Baosteel Group, Baosteel's wholly state-owned parent company and majority shareholder.²¹⁶ Of the two billion shares placed with public investors, 1.65 billion were listed on the Shanghai Stock Exchange and

²¹⁵ See Welded Line Pipe Initiation Notice at 23186. Baosteel was not selected as a mandatory respondent in the welded line pipe investigation, and the Department thus did not further investigate or reach a final determination regarding the equity infusions in question. See Welded Line Pipe IDM at 30-31.

²¹⁶ Baosteel 2005 Report at 5, attached hereto as Exhibit III-53.

placed preferentially to current shareholders.²¹⁷ The remaining shares were placed with institutional investors.²¹⁸ The issue price was set at RMB 5.12 per share, yielding funds totaling approximately RMB 25.6 billion (\$3.19 billion).²¹⁹

The new share issuance was intended to fund the subsequent acquisition of certain Baosteel Group assets and equity investments.²²⁰ In particular, Baosteel acquired the assets of the remaining steel businesses of the parent company and its subsidiaries, including the assets of Baosteel Group Shanghai No. 1 Steel Co., Ltd. and Baosteel Group Shanghai No. 5 Steel Co., Ltd. Baosteel also acquired a 74.01 percent stake in Meishan as well as 100 percent of several trading entities, including Shanghai Baosteel International Economic and Trading Co., Ltd. and Baosteel America, Inc.²²¹

This two-part process – the new share issuance and subsequent acquisition of Baosteel Group holdings – provided two separate, substantial subsidies to Baosteel. First, state-owned Baosteel Group likely paid an overvalued price for its three-fifths portion of the new share issuance. Any amount paid over fair market value would constitute a subsidy. Second, Baosteel likely used the funds raised to purchase state-owned Baosteel Group assets and equity investments at below-market prices, thereby receiving a second subsidy.

²¹⁷ Id.

²¹⁸ Id.

²¹⁹ Id. 5 billion shares x 5.12 RMB/share = 25.6 billion RMB. According to Federal Reserve historical data, the exchange rate on the date of issuance, April 27, 2005, was 8.0205 RMB/US\$. See Federal Reserve, Foreign Exchange Rates Historical Data, China Spot Exchange Rate, attached hereto as Exhibit III-85. RMB 25.6 billion ÷ 8.0205 RMB/US\$ = \$3.19 billion.

²²⁰ Baosteel 2005 Report at 32, attached hereto as Exhibit III-53.

²²¹ Id.

Although the price for the shares offered – RMB 5.12 per share – was the same for all investors,²²² this does not mean that the sale of the shares to Baosteel Group did not result in a subsidy to Baosteel. First, the issue price likely would not have been as high as RMB 5.12 if all five billion shares were placed with private investors. The GOC's purchase of three-fifths of the total issuance through Baosteel Group made the private portion of the share issuance a significantly safer investment and thus increased the price private investors were willing to pay.

Moreover, if all five billion shares had been sold to private shareholders, the sheer size of this offering on the Shanghai Stock Exchange would have likely resulted in a lower price for the shares. In 2004, the Shanghai Stock Exchange raised capital (i.e., IPOs and new share issuances) totaling approximately RMB 45.7 billion.²²³ If placed with investors on the exchange, the value of the 2005 Baosteel issuance would have been equal to over half the value of all capital raised on the exchange in 2004.²²⁴ There is little chance that such a massive issuance could have been made at the RMB 5.12 share price if all 5 billion shares were purchased by private investors unrelated to the state.

In addition, the GOC (through Baosteel Group) paid the same price private investors did for its new shares despite the fact that these shares had different rights and prospects than the shares sold to other shareholders on the exchange and were, in reality, worth less. Specifically, prior to August 18, 2005, none of the shares owned by the government were tradable – including

²²² Id. at 5.

²²³ Shanghai Stock Exchange, Brief Introduction at 1, attached hereto as Exhibit III-86.

²²⁴ The share issuance raised RMB 25.6 billion. Baosteel 2005 Report at 5, attached hereto as Exhibit III-53 (showing that Baosteel issued 5 billion shares at RMB 5.12 each; 5 billion shares x 5.12 RMB/share = RMB 25.6 billion). $\text{RMB } 25.6 \text{ billion} \div \text{RMB } 45.7 \text{ billion} = 0.56 = 56 \text{ percent}$.

the new shares issued on April 27, 2005.²²⁵ Those held by private investors, on the other hand, were.²²⁶ Moreover, on August 18, 2005, Baosteel implemented a “non-tradable share reform,” pursuant to which the company paid owners of tradable shares consideration (in the form of call warrants) to obtain trading rights for the government shares, providing additional subsidies as described below.²²⁷ Even then, the trading rights obtained by the government were highly conditional – only certain portions of Baosteel Group’s shares may be traded as per a specified schedule, with further limitations if the trading price falls below a certain level.²²⁸ Nonetheless, Baosteel Group purchased three billion of these limited shares for the same price that private investors paid for tradable shares.

Finally, China International Capital Corporation, Ltd. (“CICC”) was the lead underwriter, bookrunner, manager, and sponsor of the issuance, which was “the largest follow-on offering historically in {the} China A share market.”²²⁹ Significantly, CICC is 51 percent state-owned, held by two wholly state-owned entities. Specifically, 43.35 percent of CICC is controlled by its largest shareholder, state-owned China Jianyin Investment Limited, which acquired its stake in CICC from the China Construction Bank, one of China’s four major state-owned banks.²³⁰ In addition, 7.65 percent of CICC is held by the China National Investment & Guaranty Co., Ltd., a

²²⁵ Id.

²²⁶ Id.

²²⁷ Id.

²²⁸ Id. at 7.

²²⁹ China International Capital Corporation Ltd., “Major Transactions: Equity Offerings,” (2006) at 4, attached hereto as Exhibit III-87.

²³⁰ China International Capital Corporation Ltd., “CICC Shareholders,” (2006) at 1, attached hereto as Exhibit III-88.

guarantee institution jointly established by the GOC's Ministry of Finance and the State Economic and Trade Commission in 1993 to "support the technological progress of business enterprises and promote the development of small and medium-sized enterprises."²³¹ As previously indicated, ownership and control of all large, national SOEs in China ultimately resides with SASAC, the branch of the GOC that also directly owns Baosteel Group.²³² Thus, the issuance of new Baosteel shares was underwritten and managed by CICC, an enterprise ultimately controlled by the same GOC entity that controls Baosteel Group, the purchaser of three-fifths of the offering. These multiple interrelationships strongly suggest that the transaction was not made at arm's length, further evidencing the likelihood of a significant subsidy.

i. Financial Contribution

The equity infusions in Baosteel constitute a financial contribution under Section 771(5)(D) of the Act in the form of a direct transfer of funds from the government.

ii. Specificity

The equity infusions are specific pursuant to Section 771(5A)(D)(i) of the Act because they were provided to a limited number of enterprises pursuant to government policy. Moreover, they are specific under Section 771(5A)(D)(iii)(IV) of the Act because they were provided through the exercise of the government's discretion.

²³¹ Id.

²³² Baosteel 2005 Report at 7, attached hereto as Exhibit III-53.

iii. Benefit

The equity infusions, which were clearly inconsistent with the usual investment practices of private investors, constitute a benefit in the amount of the infusions under Section 771(5)(E)(i) of the Act.

3. Exemptions For SOEs From Distributing Dividends To The State

In Off-Road Tires and Seamless Pipe, the Department investigated the GOC's policy of not requiring SOEs to pay dividends to the government.²³³ Specifically, pursuant to GOC policy, SOEs do not have to pay dividends to the government (i.e., their owner), even where they earn profits.²³⁴ Consequently, SOEs are able to finance massive investments through retained profits.²³⁵ As many cold-rolled steel producers are state-owned, the Department should investigate this program.

a. Financial Contribution

By granting exemptions from distributing dividends to the state, the GOC refrains from collecting revenue that is otherwise due. Accordingly, this program provides a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act.

²³³ The Department found that the respondents in Off-Road Tires had not used the program. Off-Road Tires IDM at 27. The Department found that one respondent in Seamless Pipe had potentially benefited from an exemption of the payment of dividends to the government but that the potential benefit from this program was less than 0.5 percent of the company's sales. Seamless Pipe IDM at 34-35.

²³⁴ "Dividends in China: Can't Pay, Won't Pay," *The Economist* (July 27, 2006), attached hereto as Exhibit III-89.

²³⁵ Id.; "State firms to pay dividends in 2008," *China Economic Review* (Dec. 12, 2007), attached hereto as Exhibit III-90.

b. Specificity

The program is specific under Section 771(5A)(D)(i) of the Act because it applies by law only to a limited group of enterprises, i.e., SOEs.²³⁶

c. Benefit

The language of Section 771(5)(E) of the Act makes clear that the examples of countervailable benefits set forth therein are illustrative, not exclusive. Accordingly, Section 351.503 of the Department's regulations provides that where there is not a specific statutory rule for measurement of the benefit from a subsidy program, the Department "normally will consider a benefit to be conferred where a firm pays less for its inputs (e.g., money, a good, or a service) than it otherwise would pay in the absence of the government program, or receives more revenues than it otherwise would earn."²³⁷

Here, the exemption for SOEs from distributing dividends to the state provides a recurring benefit within the meaning of Section 771(5)(E) of the Act to the extent the government refrains each year from collecting funds that would otherwise be due to it. The amount the government could otherwise obtain is the amount that private investors under the same circumstances could receive. In the case of Baosteel or other companies partly owned by private investors, the benefit therefore is the difference between the dividends paid to private investors and the dividends (if any) paid to state investors. For companies that the government owns completely, the benefit is the difference between the dividend rate taken by public owners and the average dividends paid to private owners in the same industry.²³⁸

²³⁶ Import Administration Policy Bulletin 10.1.

²³⁷ 19 C.F.R. § 351.503.

²³⁸ See 19 C.F.R. §§ 351.503(a) and (b).

4. Loan And Interest Forgiveness For SOEs

In numerous prior investigations, the Department has found that loan and interest forgiveness provided by Chinese policy banks and SOCBs to state-owned respondents constitutes a countervailable subsidy.²³⁹ As discussed above, cold-rolled steel producers and exporters have increasingly been the beneficiaries of significant preferential lending by Chinese policy banks and SOCBs. The evidence that is reasonably available to Petitioners shows that in 2014, these policy banks and SOCBs greatly accelerated the level of loan and interest forgiveness provided to cold-rolled steel producers and exporters – including state-owned cold-rolled steel producers and exporters.²⁴⁰ Accordingly, the Department should investigate the provision of loan and interest forgiveness to state-owned cold-rolled steel producers and exporters.

a. Financial Contribution

As the Department has previously determined, loan and interest forgiveness for SOEs constitutes a financial contribution under Section 771(5)(D)(i) of the Act.

b. Specificity

Loan and interest forgiveness to SOEs is specific under Section 771(5A)(D)(iii)(I) and (IV) of the Act because it is only available to a limited number of enterprises (i.e., SOEs) and government officials exercise great discretion in deciding how such forgiveness is provided.

²³⁹ Calcium Hypochlorite Preliminary Determination at Attachment I; Seamless Pipe IDM at 27-28; OCTG IDM at 22; Off-Road Tires IDM at 18-19.

²⁴⁰ “China State Banks Report Surge in Soured Loans: Bad-Loan Levels Within Industry Remain Low in Terms of Total Portfolios But Are expected to Continue Creeping Upward,” *The Wall Street Journal* (Aug. 29, 2014), attached hereto as Exhibit III-63; “Banks' Bad Loans Rise on Troubles in Steel Industry,” *Caixin Online* (Apr. 1, 2014), attached hereto as Exhibit III-64; Sinosteel Corporation, About Us and Steel Products, attached hereto as Exhibit III-65.

c. Benefit

Pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.508(a), the benefit received by cold-rolled steel producers is equal to the amount of the loans and interest forgiven.

C. INCOME TAX AND OTHER DIRECT TAX SUBSIDIES

1. Income Tax Programs Under The GOC's 2008 Corporate Income Tax Law

In 2008, the GOC issued a new corporate tax law.²⁴¹ As discussed below, this law provides countervailable income tax subsidies to Chinese cold-rolled steel producers and exporters in a number of circumstances.

a. Preferential Income Tax Program For High And New Technology Enterprises

Article 28.2 of the 2008 corporate tax law provides that companies that are designated as high- or new-technology enterprises (“HNTes”) are entitled to a reduced income tax rate of 10 percent instead of the normal national corporate tax rate of 25 percent.²⁴² The Department has previously investigated and found this income tax subsidy to be countervailable.²⁴³ It should do so again in this investigation. Indeed, many of China’s cold-rolled steel producers are designated as HNTes and likely benefit from the subsidy. For example, cold-rolled steel producer Hunan

²⁴¹ See Trade Policy Review Report by the Secretariat: People’s Republic of China, WT/TPR/S/300 (May 27, 2014) at 49, attached hereto as Exhibit III-92.

²⁴² See id. and KPMG, PRC Corporate Income Tax Law (2008), attached hereto as Exhibit III-93.

²⁴³ See, e.g., Citric Acid and Certain Citrate Salts from the People’s Republic of China, 76 Fed. Reg. 77206 (Dec. 12, 2011) (final results).

Valin Lianyuan Iron & Steel Co., Ltd. (“Lianyan Steel”) reports that it was designated as an HNTE in 2013 and would therefore be entitled to the reduced income tax rate.²⁴⁴

i. Financial Contribution

The reduced tax rate for HNTEs under the GOC’s 2008 corporate tax law constitutes a financial contribution in the form of revenue foregone by the GOC within the meaning of Section 771(5)(D)(ii) of the Act.

ii. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to a specific group of enterprises identified by the GOC – i.e., those enterprises designated as HNTEs.

iii. Benefit

The reduced tax rate for HNTEs under the GOC’s 2008 corporate tax law confers a benefit to the recipient in the amount of the tax savings from the program pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

b. Preferential Income Tax Program For High And New Technology Enterprises In Designated Zones

Pursuant to Article 57 of the 2008 corporate tax law and the “Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in the Pudong New District of Shanghai,” the GOC provides that HNTEs “under the powerful support of the state” are exempt from income taxes for the first two years after earning a profit from production and pay only half of the standard tax rate for the next three years if located in a special economic zone (i.e., the Hainan, Shantou,

²⁴⁴ See Hunan Valin Lianyuan Iron & Steel Co., Ltd. Presentation at 12-13, attached hereto as Exhibit III-94.

Shenzhen, Xiamen, Zhuhai special economic zones) or the Pudong New District of Shanghai.²⁴⁵

As set forth above, China's cold-rolled steel industry has been designated as an encouraged industry in the GOC's industrial policies. Consequently, cold-rolled steel producers located in the designated special economic zones are eligible for this subsidy. Among the cold-rolled steel producers located in the designated zones are Guangdong Huamei Co. Ltd. (Shenzhen), Fujian Casey Steel Group Co. Ltd. (Xiamen), and Baosteel Group Corp. (Pudong).²⁴⁶

i. Financial Contribution

The income tax exemptions and reductions for HNTes in designated zones constitute a financial contribution in the form of revenue foregone by the GOC within the meaning of Section 771(5)(D)(ii) of the Act.

ii. Specificity

The income tax exemptions and reductions for HNTes in designated zones are specific under Section 771(5A)(D)(i) of the Act because they are limited by law to a specific group of enterprises identified by the GOC – i.e., those enterprises designated as HNTes that are located in designated zones in China. Moreover, because they are based on a company's location in a designated area under the GOC's jurisdiction, they are also specific under Section 771(5A)(D)(iv) of the Act.

²⁴⁵ See KPMG, PRC Corporate Income Tax Law (2008), attached hereto as Exhibit III-93; Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in the Pudong New District of Shanghai, Guo Fa 2007 No. 40, attached hereto as Exhibit III-95.

²⁴⁶ See List of Chinese Cold-Rolled Steel Producers and Exporters, attached hereto as Exhibit III-218.

iii. Benefit

The income tax exemptions and reductions for HNTes in designated zones provide a benefit to the recipient in the amount of the tax savings from the program pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

c. Preferential Deduction Of R&D Expenses For HNTes

The GOC's 2008 corporate tax law provides that companies that are designated as HNTes may deduct 50 percent of their total R&D expenses from their taxable income.²⁴⁷ Eligible expenses include design costs, expenses for materials and fuel consumed through R&D activities, wages, salaries, and benefits for personnel engaged in R&D activities, depreciation expenses on instruments and equipment, and many other expenses.²⁴⁸ The Department has previously investigated and countervailed this subsidy program.²⁴⁹

As discussed above, many of China's cold-rolled steel producers are designated as HNTes and likely benefit from the subsidy. Moreover, the evidence reasonably available to Petitioners shows that local governments across China have taken steps to encourage use of the R&D tax deductions by cold-rolled steel producers in their jurisdictions. For example, in its "Iron and Steel Industry Adjustment and Revitalization Plan," Henan Province has called for

²⁴⁷ See "China to Offer Incentives to Its High-Tech, Cultural Industries," China Briefing (Dec. 12, 2011), attached hereto as Exhibit III-96; "China Clarifies Pre-Tax Deductions for R&D Expenses of Resident Enterprises," China Briefing (Oct. 14, 2013), attached hereto as Exhibit III-97.

²⁴⁸ "China Clarifies Pre-Tax Deductions for R&D Expenses of Resident Enterprises," China Briefing (Oct. 14, 2013), attached hereto as Exhibit III-97.

²⁴⁹ See Crystalline Silicon Photovoltaic Cells IDM at 17; Wind Towers from China IDM at 18-19.

provincial offices to implement the R&D expense deductions to improve the condition of local steelmakers, including cold-rolled steel producer Angang.²⁵⁰

i. Financial Contribution

The R&D expense deduction for HNTes under the GOC's 2008 corporate tax law constitutes a financial contribution in the form of revenue foregone by the GOC within the meaning of Section 771(5)(D)(ii) of the Act.

ii. Specificity

The R&D expense deduction is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to a specific group of enterprises identified by the GOC – i.e., those enterprises designated as HNTes.

iii. Benefit

The R&D expense deduction under the GOC's 2008 corporate tax law confers a benefit to the recipient in the amount of the tax savings from the program pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

2. Other Countervailable Income Tax Programs

a. Income Tax Credits For Domestically-Owned Companies Purchasing Domestically Produced Equipment

According to China's WTO subsidies notification, the GOC offers preferential income tax policies to domestic enterprises if they upgrade their manufacturing operations with Chinese-made equipment.²⁵¹ The notification provides that domestic enterprises which upgrade

²⁵⁰ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 5 (Henan Province Iron and Steel Industry Adjustment Revitalization Plan, Yu Zheng (2009) No. 71 at 8, 10), attached hereto as Exhibit III-3.

²⁵¹ Chinese Notification Pursuant to Article XVI:1 of the GATT (1994), attached hereto as Exhibit III-98.

technology consistent with the GOC's industrial policies may deduct 40 percent of the purchase price of the domestic equipment from their next year's income tax obligation.²⁵² In those circumstances where the income tax due is less than the 40 percent of the price of the equipment, the remainder of the price may be deducted in subsequent years, for a period of up to five years.²⁵³

Information reasonably available to Petitioners shows that cold-rolled steel producers have benefited from these tax benefits as well. Angang, for example, stated in its financial reports that “{i}n accordance with Guoshuifa (2000) No. 13 issued by the State Administration of Taxation on 17 January 2000, the Company enjoyed tax exemption relating to investment in technical development of domestic-produced machinery amounting to RMB 163 million.”²⁵⁴ Indeed, the company received tax exemptions worth RMB 24 million in 2005 alone.²⁵⁵

The GOC has claimed 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.”²⁵⁶ However, the GOC and company respondents have reported the continued existence and use of this subsidy program in subsequent periods of investigation.²⁵⁷ Accordingly, the Department should examine

²⁵² Id. See also Welded Line Pipe IDM at 25.

²⁵³ Chinese Notification Pursuant to Article XVI:1 of the GATT (1994), attached hereto as Exhibit III-98.

²⁵⁴ Angang Steel Company Limited 2006 Annual Report at 103, attached hereto as Exhibit III-99.

²⁵⁵ Id.

²⁵⁶ See Welded Line Pipe IDM at 25.

²⁵⁷ See, e.g., Certain Steel Wheels From the People's Republic of China, 77 Fed. Reg. 17017 (Dep't Commerce Mar. 23, 2012) (final determ.).

whether benefits under this program have actually terminated or whether benefits continue under a new name. In fact, the Department has determined that even assuming that the program was terminated, benefits provided pursuant to it would continue to be countervailable in subsequent years.²⁵⁸

i. Financial Contribution

The income tax credits in question constitute a financial contribution in the form of revenue foregone by the GOC within the meaning of Section 771(5)(D)(ii) of the Act.

ii. Specificity

Because they are offered contingent upon the use of domestic over imported goods, the income tax credits are specific under Section 771(5A)(C) of the Act.

iii. Benefit

The income tax credits confer a benefit to the recipient in the amount of the tax savings from the program pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

b. Preferential Income Tax Policy For Enterprises In The Northeast Region

The Department has previously investigated Chinese steel producers' receipt of countervailable subsidies pursuant to the GOC's "Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Base in the Northeast" ("Northeast Tax Preference Policy").²⁵⁹ Under the Northeast Tax Preference Policy, enterprises located in the Liaoning, Jilin, and Heilongjiang Provinces and Dalian Municipality (i.e., the "Northeast Region") may:

²⁵⁸ Id. at 79.

²⁵⁹ Welded Line Pipe IDM at 31. The program in question was found not to be used by the two mandatory respondents in the welded line pipe investigation. Id.

- (i) Reduce the depreciation life of fixed assets by up to 40 percent for tax purposes, thereby increasing the annual amount of depreciation expense which may be deducted from the company's income tax;²⁶⁰ and
- (ii) Shorten the period of amortization of intangible assets by up to 40 percent for tax purposes, resulting in a larger annual tax deduction for amortization expense.²⁶¹

As the GOC itself has emphasized, the Northeast Tax Preference Policy significantly reduces an enterprise's tax liability. Indeed, the GOC's official news agency, Xinhua, reported that tax exemptions granted to the first company to receive benefits under the policy equaled 96.84 million RMB for a single quarter alone.²⁶²

Information concerning the income taxes paid and the tax deductions taken by cold-rolled steel producers located in the Northeast Region is not reasonably available to Petitioners. However, it is highly likely that such cold-rolled steel producers benefited under the Northeast Tax Preference Policy. Because they are involved in an industry which requires significant investment in plant and machinery, such producers undoubtedly incur significant depreciation expenses. It would be against such producers' own financial interests for them not to take advantage of the Northeast Tax Preference Policy when it would allow them to use those expenses to offset their tax liabilities.

²⁶⁰ See Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Base in the Northeast, Caishui (2004) No. 153, attached hereto as Exhibit III-100; Notice of the Ministry of Finance and the State Administration of Taxation on the Assets Depreciation and the Implementation Caliber of Amortization Policy in the Northeast Old Industrial Base, Caishui (2005) No. 17 (Feb. 2, 2005) ("Northeast Tax Preference Policy Notice"), attached hereto as Exhibit III-101.

²⁶¹ See Northeast Tax Preference Policy, attached hereto as Exhibit III-100; Northeast Tax Preference Policy Notice, attached hereto as Exhibit III-101.

²⁶² See "Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 Million Yuan of Taxes Waived," Xinhua Northeast Revitalization Net (Oct. 22, 2004), attached hereto as Exhibit III-102.

The experience of cold-rolled steel producer Angang is a perfect example. The company is located in Anshan, Liaoning Province, and is therefore eligible for the Northeast Tax Preference Policy. Angang reported that during 2013, it added fixed assets valued at over RMB 1,393 billion.²⁶³ Under the Northeast Tax Preference Policy, the company would be able to deduct a larger amount of the depreciation expense on those fixed assets than would otherwise be the case, thereby significantly reducing its income tax payable. Angang also reports that it has significant amortization expense every year.²⁶⁴ The Northeast Tax Preference Policy enables the company to deduct a larger amount of such expense, similarly reducing its income tax burden.

i. Financial Contribution

Section 771(5)(D) of the Act provides that a financial contribution may take the form of a direct transfer of funds, the potential direct transfer of funds or liabilities, foregoing or not collecting revenue that is otherwise due, or providing goods or services other than general infrastructure.²⁶⁵ The Northeast Tax Preference Policy provides a financial contribution in the form of revenue foregone. Specifically, the Northeast Tax Preference Policy permits a company in the Northeast Region to deduct a larger amount of depreciation and amortization expenses than it otherwise would, thereby reducing the company's income tax.²⁶⁶

²⁶³ See Angang 2013 Annual Report at 166, attached hereto as Exhibit III-74.

²⁶⁴ See Annual Financials for Angang Steel Co. Ltd., Marketwatch.com, attached hereto as Exhibit III-103.

²⁶⁵ See 19 U.S.C. § 1677(5)(D).

²⁶⁶ See Northeast Tax Preference Policy, attached hereto as Exhibit III-100; Northeast Tax Preference Policy Notice, attached hereto as Exhibit III-101.

ii. Specificity

The subsidies provided by the Northeast Tax Preference Policy are available only to companies located in the Liaoning, Jilin, and Heilongjiang Provinces and Dalian Municipality. As a result, such benefits are limited to a designated geographical region within the jurisdiction of the authority providing the subsidy – i.e., the GOC – and are therefore specific under Section 771(5A)(D)(iv) of the Act.

iii. Benefit

The effect of the Northeast Tax Preference Policy is to lower the tax burden on eligible companies. In this manner, it clearly confers a benefit on the recipient companies within the meaning of Section 771(5)(E) of the Act. This benefit arises on the date on which the recipient firm would otherwise have had to pay the taxes in question.²⁶⁷

c. Forgiveness Of Tax Arrears For Enterprises In The Old Industrial Bases Of Northeast China

Pursuant to the “Notice of the Ministry of Finance and the State Administration of Taxation on Exempting the Tax Arrears of the Enterprises in the Old Industrial Bases of Northeast China” (“Northeast Tax Forgiveness Program”) enacted in June 2006, the GOC has directed provincial and local governments to forgive the tax arrears of enterprises located in the “old industrial bases of Northeast China.”²⁶⁸ Specifically, the Northeast Tax Forgiveness Program forgives all tax liabilities incurred prior to December 31, 1997 that have not been paid by enterprises located in the Liaoning, Jilin, and Heilongjiang Provinces as well as Dalian

²⁶⁷ See CVD Final Rule at 65375-65376; Plate from Belgium IDM at Comments 21 and 22.

²⁶⁸ Ministry of Finance, State Administration of Taxation, “Notice of the Ministry of Finance and the State Administration of Taxation on Exempting the Tax Arrears of the Enterprises in the Old Industrial Bases of Northeast China,” Notice No. 167 (2006), attached hereto as Exhibit III-104.

Municipality.²⁶⁹ The scope of the tax forgiveness also includes “surcharges for overdue tax payment” – e.g., interest and penalties on the overdue taxes.²⁷⁰ Significantly, the tax forgiveness applies to both state-owned and private enterprises alike.²⁷¹ The Department has investigated tax forgiveness for enterprises in the old industrial bases of northeast China in numerous prior cases.²⁷²

Evidence reasonably available to Petitioners shows that cold-rolled steel producers located in the Northeast Region of China are significant beneficiaries of this subsidy. For example, it was announced that Angang had tax arrears of over RMB 200 million (\$28.8 million) forgiven pursuant to the program.²⁷³ According to an expert on the matter, Professor Wu Xudong at China’s Dongbei University of Finance and Economics, the forgiveness of tax arrears for companies like Angang “is equivalent indirectly to an injection of funds” which provides “an enormous benefit to the old industrial bases in the northeastern region.”²⁷⁴ Undoubtedly, other cold-rolled steel producers located in the Northeast Region, such as Benxi and Yingkou Panpan Chaoshuo High-Tech Steel Co. Ltd., have also benefited from this program.

²⁶⁹ Id. at 1-2.

²⁷⁰ Id. at 2.

²⁷¹ Id.

²⁷² See, e.g., Steel Wire Rod Preliminary Determination at 36; Wind Towers IDM at 27; Seamless Pipe IDM at 35. In each of these cases, the Department found that the mandatory respondents did not apply for or receive benefits under this program.

²⁷³ “Lighten the Burden for Enterprises in the Northeastern Region, Ten-Year-Old Tax Arrears Written Off at Once,” China Securities (Jan. 9, 2007), attached hereto as Exhibit III-105. The \$28.8 million figure above was calculated based on the 2008 exchange rate of \$1 = 6.94 RMB. 200 million ÷ 6.94 = 28.8 million.

²⁷⁴ Id.

i. Financial Contribution

Section 771(5)(D) of the Act provides that a financial contribution may take the form of foregoing or not collecting revenue that is otherwise due.²⁷⁵ The Northeast Tax Forgiveness Program provides a financial contribution in the form of revenue foregone because it provides for tax authorities in the Northeast Region to forgive tax arrears that they would otherwise be entitled to collect.

ii. Specificity

The subsidies provided by the Northeast Tax Forgiveness Program are available only to companies located in the Liaoning, Jilin, and Heilongjiang Provinces and Dalian Municipality in Northeast China. As a result, such subsidies are limited to a designated geographical region within the jurisdiction of the authority providing the subsidy – i.e., the GOC – and are therefore specific within the meaning of Section 771(5A)(D)(iv) of the Act.

iii. Benefit

The effect of the Northeast Tax Forgiveness Program is to lower the tax burden on eligible enterprises located in the Northeast Region. In this manner, the exemptions clearly confer a benefit on the recipient companies within the meaning of Section 771(5)(E) of the Act.

d. Reduction In Or Exemption From Fixed Assets Investment Orientation Regulatory Tax

The GOC taxes enterprises that invest in fixed assets pursuant to the “Provisional Regulations on Fixed Assets Investment Orientation Regulatory Tax” (“Fixed Asset Tax Regulations”).²⁷⁶ The tax is levied on the amount of fixed capital investment made in a given

²⁷⁵ See 19 U.S.C. § 1677(5)(D).

²⁷⁶ “Provisional Regulations on Fixed Assets Investment Orientation Regulatory Tax of the People’s Republic of China,” State Council Order No. 82 (Apr. 16, 1991), attached hereto as Exhibit III-106.

year,²⁷⁷ but the actual tax rate paid by an enterprise varies from zero to 30 percent “in accordance with the state industrial policy and in light of the scale of the project” of fixed asset investment.²⁷⁸ For example, a zero-percent tax rate is applied to fixed capital investment in projects urgently needed by the state.²⁷⁹ Additionally, projects encouraged by the state and renewal and transformation projects are subject to preferential tax rates of five and ten percent, respectively.

As established herein, the GOC, as well as provincial and local governments in China, have identified the steel industry, including cold-rolled steel, as a key industry to be supported pursuant to government industrial policies. Accordingly, fixed capital investments by producers of cold-rolled steel – such as Baosteel’s installation of a 680,000 MT cold-rolled coil line at its Zhanjiang Steel subsidiary²⁸⁰ – likely enjoy the preferential tax rates provided under the Fixed Asset Tax Regulations.

i. Financial Contribution

The preferential tax rates offered under the Fixed Asset Tax Regulations constitute a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

²⁷⁷ Id. See also Lu Ding, Prospect of Industrial Policy Regime after the WTO (2000), attached hereto as Exhibit III-107. The tax is also sometimes identified as the “coordinating tax” for direction of fixed capital investment. See id.

²⁷⁸ “Provisional Regulations on Fixed Assets Investment Orientation Regulatory Tax of the People’s Republic of China,” State Council Order No. 82 (Apr. 16, 1991) at 1, attached hereto as Exhibit III-106.

²⁷⁹ See Fixed Assets Investment Orientation Regulation Tax, Beijing Local Taxation Bureau, attached hereto as Exhibit III-108. See also Fixed Asset Tax Regulations at 6, attached hereto as Exhibit III-220 at 6.

²⁸⁰ See Baosteel Press Release, “Build a first class premium project with high efficiency and excellent quality, Zhanjiang Steel 1550 Cold Rolling Pickling Project Starts Construction” (Sept. 2, 2014), attached hereto as Exhibit III-109.

ii. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to a specific group of enterprises identified by the GOC.

iii. Benefit

The Fixed Asset Tax Regulations provide a benefit to cold-rolled steel producers in the amount of taxes reduced or exempted, within the meaning of Section 771(5)(E) of the Act.

e. Preferential Income Tax Subsidies For Foreign Invested Enterprises – “Two Free, Three Half Program”

The Department has investigated and countervailed various preferential income tax programs offered by the GOC and provincial and local governments in China that confer benefits upon FIEs in China.²⁸¹ China’s new tax regime, the Enterprise Income Tax Law of the People’s Republic of China (“EITL 2008”) was scheduled to take effect on January 1, 2008.²⁸² The EITL was intended to eliminate certain discrepancies between the tax rates for domestically-owned companies and the tax rates for FIEs and to shift incentives for foreign investment toward “high technology” and high value-added products.²⁸³ Notwithstanding the new EITL 2008, the subsidies conferred to FIEs under the previous tax regime are still relevant. First, Chinese cold-rolled steel producers have likely taken advantage of one or more of these incentives during the POI, as set forth in detail below. More importantly, the EITL 2008 contains a provision that allows most companies enjoying the previous incentives to continue to receive them for the next

²⁸¹ See, e.g., Steel Wire Rod Preliminary Determination at 36; Seamless Pipe IDM at 35; Welded Line Pipe IDM at 12-13, Coated Paper IDM at 10-13.

²⁸² See EITL 2008, attached hereto as Exhibit III-110.

²⁸³ Id.

five years or longer.²⁸⁴ Furthermore, the implementation of laws in China involves great complexity and ambiguity, and there is a reasonable basis to believe or suspect that FIEs remain able to take advantage of loopholes in the implementation process and continue to receive preferential tax treatment.²⁸⁵ Therefore, the income tax subsidies to FIEs discussed in detail below remain relevant and should be carefully investigated.

The purpose of the GOC's "Foreign Invested Enterprise and Foreign Enterprise Income Tax Law" ("FIE Tax Law") is to encourage foreign businesses to locate in China.²⁸⁶ Under Article 8 of the FIE Tax Law, the normal income tax rate of a FIE or foreign enterprise is 33 percent, with 30 percent reflecting the national rate and 3 percent reflecting the local tax rate.²⁸⁷ FIEs and foreign enterprises classified as "productive" that plan to operate for at least 10 years, however, are exempt from income taxes during their first two years of profitability and pay only half their applicable income tax for the next three years (i.e., "Two Free, Three Half").²⁸⁸ Article 72 of the "Detailed Implementation Rules of the Income Tax Law of the People's Republic of

²⁸⁴ See *id.* at Art. 57. Subsequent government publications indicate that FIEs that qualified for preferential tax treatment under the previous tax law, and that still meet the conditions imposed under that law, remain eligible to receive preferential treatment. See Notice of the State Administration of Taxation about How to Deal with Relevant Matters after Cancellation of Several Former Tax Preferential Policies on Foreign-Funded Enterprises and Foreign Enterprises, Guo Shi Fa No. 23 (Feb. 27, 2008), attached hereto as Exhibit III-111.

²⁸⁵ See, e.g., Measures for Verification and Collection of Enterprise Income Tax (for Trial Implementation) at Art. 3 (Mar. 6, 2008), attached hereto as Exhibit III-112 (explaining that taxpayers of "special industries" or those of a certain scale are "not governed" by the standard measures for verifying enterprise income taxes).

²⁸⁶ See Welded Line Pipe IDM at 12.

²⁸⁷ *Id.* See also Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises ("FIE Tax Law"), attached hereto as Exhibit III-113.

²⁸⁸ Welded Line Pipe IDM at 12-13; FIE Tax Law, attached hereto as Exhibit III-113.

China of Foreign Investment Enterprises and Foreign Enterprises” specifies a list of “productive” enterprises, which includes, among others, light industrial, metallurgical, and machine manufacturing industries.²⁸⁹ Firms in the specified industries, which the Department has found include steel producers, qualify automatically for the exemption.²⁹⁰

Article 57 of the EITL 2008 grandfathered businesses that had been eligible for Two Free, Three Half benefits. Specifically, companies that had already started using their exemptions could continue to do so on schedule, while all those that had not yet started to use their exemptions would begin automatically to do so in 2008, regardless of whether they actually earned a profit that year.²⁹¹

A number of Chinese cold-rolled steel producers are FIEs that began operations prior to March 2007, thus automatically qualifying for the Two Free, Three Half subsidy. For example, Maanshan Iron & Steel Co., Ltd.’s 2013 annual report states that “{c}ertain subsidiaries of the Company were foreign investment enterprises which shall . . . enjoy the ‘Two years exempted and subsequent three years at with a 50% reduction’ tax holiday policy.”²⁹²

i. Financial Contribution

Foregoing tax revenue otherwise due to the government constitutes a financial contribution under Section 771(5)(D)(ii) of the Act.

²⁸⁹ Welded Line Pipe IDM at 12-13; FIE Tax Law, attached hereto as Exhibit III-113; “Detailed Implementation Rules of the Income Tax Law of the People’s Republic of China” (July 1, 1991) (“Implementation Rules”), attached hereto as Exhibit III-121.

²⁹⁰ NOES Preliminary Determination at 12; Stainless Steel Sinks IDM at 16-17; Welded Line Pipe IDM at 12-13.

²⁹¹ See EITL 2008 at Art. 57, attached hereto as Exhibit III-110. See also SBA Stone Forest Corporate Advisory (Shanghai) Co., Ltd., “China Introduces New Corporate Income Tax Law” (“Corporate Tax Summary”), attached hereto as Exhibit III-114.

²⁹² Maanshan 2013 Annual Report at 134, attached hereto as Exhibit III-75.

ii. Specificity

Chinese law states expressly that only FIEs may receive benefits under this program. As the Department has previously found, such enterprises constitute a clearly defined “group of enterprises,” which makes the program specific under Section 771(5A)(D)(i) of the Act.²⁹³

iii. Benefit

The program provides a benefit within the meaning of Section 771(5)(E) of the Act because it reduces an FIE’s tax burden to at least half of what it otherwise would be required to pay.²⁹⁴

f. Preferential Income Tax Subsidies For Foreign Invested Enterprises – “Productive” FIEs

Article 9 of the FIE Tax Law delegates to China’s provincial and local governments the authority to provide exemptions and reductions of local income taxes for “productive” FIEs.²⁹⁵ Eligibility criteria vary by province and the relevant governmental authorities administer the application process.²⁹⁶ Jiangsu Province, for example, exempts FIEs from local income taxes during the period in which they benefit from the “Two Free, Three Half” program, pursuant to

²⁹³ Welded Line Pipe IDM at 12-13.

²⁹⁴ 19 C.F.R. § 351.509(a). See also SBA Stone Forest Corporate Advisory (Shanghai) Co., Ltd., “China Introduces New Corporate Income Tax Law,” attached hereto as Exhibit III-114.

²⁹⁵ This program is provided for under the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, attached hereto as Exhibit III-115. See also Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies to Be Enjoyed by Enterprises with Foreign Investment which Increase Investments (June 1, 2002), attached hereto as Exhibit III-116; Supplementary Circular of the State Administration of Taxation Concerning the Preferential Policy of Enterprise Income Tax for Enterprises with Foreign Investment with Additional Investment (Mar. 28, 2003), attached hereto as Exhibit III-117.

²⁹⁶ Coated Paper Prelim. at 17495.

the Regulations for the Local Income Tax Exemption and Reduction of Jiangsu Province for Enterprises with Foreign Investment. Xuzhou Province also exempts productive FIEs from local income taxes pursuant to its Policies for Encouraging Investments of Xuzhou Economic Development Zone.²⁹⁷ Moreover, in Shandong Province, any productive FIE established outside the coastal economic open area approved by the state with a total investment of more than US\$ 30 million is eligible for an exemption from local income tax.²⁹⁸

The available evidence indicates that cold-rolled steel producers may have benefited from this subsidy program. For example, Jiangying Zongcheng Steel Co. Ltd. is a cold-rolled steel producer with foreign investment that is located in Jiangsu Province and is therefore eligible for benefits under this program.²⁹⁹ Consistent with the Department's final determinations in Coated Paper,³⁰⁰ Thermal Paper,³⁰¹ and Seamless Pipe,³⁰² these local income tax exemptions and reductions constitute countervailable subsidies and should be investigated here.

i. Financial Contribution

The local income tax exemptions and reductions provide a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

²⁹⁷ Policies for Encouraging Investments of Xuzhou Economic Dev. Zone (July 14, 2004), attached hereto as Exhibit III-118.

²⁹⁸ Laminated Woven Sacks Preliminary Determination.

²⁹⁹ Jiangying Zongcheng Steel Co. Ltd., Company Website, attached hereto as Exhibit III-119.

³⁰⁰ Coated Paper IDM.

³⁰¹ Thermal Paper IDM.

³⁰² Seamless Pipe IDM at 26-27.

ii. Specificity

These benefits are specific under Section 771(5A)(D)(i) of the Act because the recipients are limited as a matter of law to certain enterprises – here, productive FIEs. The exemptions and reductions are also specific to the extent that they are limited to enterprises located in designated geographic regions pursuant to Section 771(5A)(D)(iv) of the Act.

iii. Benefit

These programs provide a benefit to the recipient in the amount of the tax savings from the programs pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

g. Preferential Income Tax Subsidies For Foreign Invested Enterprises – High Or New Technology FIEs

According to China's WTO subsidies notification, preferential tax benefits are provided to FIEs that are recognized as high or new technology enterprises and that are established in high or new technology industrial development zones.³⁰³ Under this program, FIEs designated as HNTEs that are established in high or new technology industrial development zones are entitled to a reduced income tax rate of 15 percent.³⁰⁴ Such enterprises are also eligible for additional tax preferences administered by the governments of the development zones themselves.³⁰⁵

Several FIE cold-rolled steel producers have been designated as HNTEs and are located in the designated development zones. For example, FIE Hunan Valin is a HNTE and would therefore be entitled to tax exemptions and reductions under the program.³⁰⁶ According to Hunan Valin's financial statements, at least one of its subsidiaries is also eligible for this

³⁰³ China Subsidies Notification at VIII, pp. 3-4, 9, and IX, attached hereto as Exhibit III-46.

³⁰⁴ Id.

³⁰⁵ Id.

³⁰⁶ Hunan Valin 2005 First Half Report at 28-29, attached hereto as Exhibit III-120.

program. Specifically, such financial statements explain that “Hualing Guangyuan company, which is the high and new technology enterprise admitted by File No. 272, 2001 issued by The Science and Technology Bureau of Hunan Province, is ratified by the High Technology Industry Development Branch of Changsha Regional Revenue Bureau to be waived of enterprise income tax for 2 years from the profit year. After the 2 years period, the company pays the income tax by 15%.”³⁰⁷ Similarly, FIE and cold-rolled steel producer Sutor Technology Group reports that in May 2014, it “received High Tech Enterprise Status for the second time extending its preferred tax rate of 15% through 2015, compared with the normal 25% corporate rate.”³⁰⁸

i. Financial Contribution

These preferential tax benefits provide a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

ii. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because the recipients are limited as a matter of law to certain enterprises, namely FIEs recognized as HNTes. The subsidy is also specific pursuant to Section 771(5A)(D)(iv) of the Act because it is limited to enterprises located in designated geographic regions.

iii. Benefit

This program provides a benefit to the recipient in the amount of the tax savings from the program pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

³⁰⁷ Id.

³⁰⁸ “Sutor Technology Group: Poised for a Major Upward Correction as New Capacity Comes Online,” Seeking Alpha (May 8, 2014), attached hereto as Exhibit III-203.

h. Preferential Income Tax Subsidies For Foreign Invested Enterprises – Export-Oriented FIEs

According to China's subsidies notification to the WTO, a FIE may continue to pay half of its applicable income tax rate following the expiration of "Two Free, Three Half" tax subsidies if exports constitute 70 percent of the company's sales.³⁰⁹ Export-oriented enterprises in specially designated zones already eligible to pay half the standard income tax rate may receive a further rate reduction 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.³¹⁰ As noted above, a number of Chinese cold-rolled steel producers qualify as FIEs and, to the extent that they satisfy the requisite export levels, they likely benefit from this program.

i. Financial Contribution

The reduction of or exemption from income tax provides a financial contribution under Section 771(5)(D)(ii) of the Act in the form of foregone revenue.

ii. Specificity

Because this subsidy program is contingent on export performance, it is specific under Section 771(5A)(A) and (B) of the Act.

³⁰⁹ China Subsidies Notification at II, pp. 2-3, attached hereto as Exhibit III-46; see also Implementation Rules at Arts. 75(7) and (8), attached hereto as Exhibit III-121; "Provisions of the State Council on the Encouragement of Foreign Investment," GuoFa (Oct. 11, 1986) at Arts 8 and 9, attached hereto as Exhibit III-122; "Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises," attached hereto as Exhibit III-115; see also Request for Consultations by the United States, China – Certain Measures Granting Refunds, Reductions, or Exemptions, from Taxes and Other Payments, WT/DS358/1 (Feb. 7, 2007), attached hereto as Exhibit III-123.

³¹⁰ See Implementation Rules at Articles 75(7)-75(8), attached hereto as Exhibit III-121.

iii. Benefit

This program provides a benefit in an amount equal to the taxes saved by the recipients pursuant to Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

i. Income Tax Benefits For Domestically-Owned Enterprises Engaging In Research And Development

According to China's subsidies notification to the WTO, domestic enterprises in certain industries whose research and development expenses increase ten percent or more from the previous year may offset 150 percent of such expenses from their income tax obligation.³¹¹

According to the legislation governing this policy, the income tax subsidy is available to domestically-owned enterprises in the mining, manufacturing, electricity, gas, and water industries only.³¹² It is likely that domestically-owned cold-rolled steel producers receive tax benefits from this subsidy. For example, cold-rolled steel producer Angang has disclosed that in 2011 it was entitled to claim a deduction of RMB 77 million on its income taxes based on costs related to research and development.³¹³

i. Financial Contribution

Income tax benefits for research and development constitute a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC.

ii. Specificity

There is a reasonable basis to believe or suspect that the subsidy is specific under Section 771(5A)(D)(i) and (iii) of the Act because it is limited to a specific group of enterprises

³¹¹ See China Subsidies Notification, attached hereto as Exhibit III-46.

³¹² Id. at 25.

³¹³ Angang Steel Company Limited 2011 Annual Report at 238, attached hereto as Exhibit III-124.

(i.e., domestically-owned enterprises) in a limited number of industries. As set forth in China's subsidy notification to the World Trade Organization, the granting of income tax benefits to Chinese domestic enterprises engaging in research and development is limited by law to enterprises in selected industries, including manufacturing.³¹⁴ There is thus a reasonable basis to believe or suspect that the subsidy is specific within the meaning of Section 771(5A)(D) the Act.

This conclusion is underscored by the provisions of other GOC policies to promote the development of the steel industry in China. For example, Article 14 of the GOC's Iron and Steel Industry Development Policy calls for the GOC to "accelerate the cultivation of independent innovation capacity" for the steel industry and to "support" steel producers in research and development activities.³¹⁵ Further, Article V(IV) of the GOC's Iron and Steel Industry Twelfth Five-Year Development Plan directs GOC authorities at all levels to "{s}trengthen the connection between various policies in taxation . . . and policies for the iron and steel industry."³¹⁶ The GOC has stated its intention to use such measures to "point out the direction for the development of advanced production capability of the iron and steel industry."³¹⁷ Together, this evidence shows that the GOC has in place a policy of providing tax benefits specifically to promote the research and development activities of steel producers in China.

The evidence that is reasonably available to Petitioners also shows that these policies have been enhanced by actions taken by provincial governments in China in line with the GOC's national-level policies. For example, Article V(I) of the Iron and Steel Industry Adjustment

³¹⁴ See Exhibit III-46 hereto.

³¹⁵ See Exhibit III-3 hereto at Attachment 1.

³¹⁶ See Exhibit III-3 hereto at Attachment 3, Article V "Policies and Measures" (IV) "Strengthen Macro Guidance by Policies."

³¹⁷ Id.

Revitalization Plan of Henan Province (home to facilities of cold-rolled steel producers Angang, and WISCO, among others) states that the provincial government will “implement” the GOC’s “national support policies” for the steel industry in China including the “*Provisions on Pre-Tax Withholding of Corporate Research and Development Expenses (Trial Program)*” and will also “improve offsetting standards for enterprises’ research and development expenses, and promote enterprises’ increased investment in research and development” in accordance with the GOC’s national support policies.³¹⁸

As this evidence shows, the GOC has in place a specific set of laws and policies to support the steel industry (including cold-rolled steel producers) in China by providing tax incentives for research and development activities. Accordingly, the Department should initiate an investigation of this subsidy program.

iii. Benefit

This subsidy provides a benefit under Section 771(5)(E) of the Act in the amount of the income tax benefits.

D. INDIRECT TAX PROGRAMS

1. Stamp Exemption On Share Transfers Under Non-Tradable Share Reform

To promote non-tradable share reform in China, the GOC waives the stamp tax that would otherwise be due upon transfers of non-tradable bonus shares. In Off-Road Tires, the Department investigated whether the GOC’s waiver of stamp taxes otherwise due upon the transfer of non-tradable bonus shares was countervailable. In that investigation, neither a GOC-controlled asset management company nor the respondent paid a stamp tax to the PRC tax

³¹⁸ See Exhibit III-3 hereto at Attachment 5, Article V “Policy Measures” (I) “Implement national support policies.”

authority when the GOC-controlled asset management company transferred bonus shares to the respondent's other shareholders.³¹⁹ This was contrary to the normal requirements applicable to share transfers in China.³²⁰ The Department is also currently investigating this subsidy in the investigation of calcium hypochlorite from China.³²¹

The waiver of stamp taxes found in Off-Road Tires can occur upon the transfer of shares of any listed Chinese company with non-tradable shares. Thus, it is likely that cold-rolled steel producers benefited from this subsidy. Indeed, at least one major Chinese cold-rolled steel producer, Baosteel, is listed on the Shanghai Stock Exchange and has non-tradable shares.³²² Accordingly, the Department should investigate whether Baosteel and other Chinese cold-rolled steel producers have benefited from the waiver of stamp taxes.

a. Financial Contribution

Waiver of stamp taxes constitutes a financial contribution in the form of revenue foregone within the meaning of Section 771(5)(D)(ii) of the Act.

b. Specificity

As the Department has previously found, the waiver of stamp taxes is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to certain companies with non-tradable bonus shares.³²³

³¹⁹ Off-Road Tires IDM at 21.

³²⁰ Id.

³²¹ Calcium Hypochlorite Preliminary Determination at Subsidy Rate Chart & Attachment 1.

³²² Baosteel, 2007 Annual Report at 2 and 5, attached hereto as Exhibit III-125.

³²³ Off-Road Tires IDM at 21.

c. Benefit

This program confers a benefit in the form of tax savings to the extent the stamp tax is not paid, pursuant to Section 771(5)(E) of the Act.

2. VAT And Tariff Exemptions For Purchases Of Fixed Assets Under The Foreign Trade Development Fund

The September 14, 2004 “Circular of the Ministry of Finance and State Tax Administration on Printing and Distributing the Regulations on Relevant Issues with Respect to Expansion of VAT Deduction Scope in the Northeast Areas” allows businesses in the Northeast region of China that are engaged in equipment manufacturing, petrochemical, metallurgical, and selected other industries to deduct from the VAT they pay for sales of finished goods the amount they paid in VAT for purchases of fixed assets.³²⁴ The Department has previously determined that steel pipe and tube producers in the Northeast Region received countervailable subsidies pursuant to this program.³²⁵ cold-rolled steel producers Angang and Benxi Iron and Steel, among others, are located in the Northeast Region and also likely receive such benefits. Indeed, Angang recently purchased a large quantity of fixed assets which likely made it eligible for the VAT deductions.³²⁶

a. Financial Contribution

The Department has determined that this program constitutes a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.³²⁷

³²⁴ See Welded Line Pipe IDM at 21.

³²⁵ Id. at 21-22.

³²⁶ See Angang Steel Company Limited 2013 Annual Report at 166, attached hereto as Exhibit III-74.

³²⁷ Welded Line Pipe IDM at 21-22.

b. Specificity

The program is specific under Section 771(5A)(D)(iv) of the Act because it is available only to enterprises located in a specific region under the authority of the GOC.³²⁸

c. Benefit

The program confers a benefit under Section 771(5)(E) of the Act in the amount of the VAT deductions.³²⁹

3. Import Tariff And VAT Exemptions For FIEs And Certain Domestic Enterprises Using Imported Equipment In Encouraged Industries

The GOC provides a separate subsidy to FIEs and certain domestic enterprises in the form of VAT and import tariff exemptions on imported equipment, including components and parts.³³⁰ The purpose of the subsidy is to encourage foreign investment and to introduce advanced technology, and it is limited to FIEs and domestic enterprises that undertake “encouraged” projects as set forth in the “Catalogue of Industries for Guiding Foreign Investment.”³³¹ The Department has previously determined that such VAT and tariff exemptions on imported equipment constitute countervailable subsidies.³³²

³²⁸ Id.

³²⁹ Id. To the extent that there is evidence that the VAT and tariff exemptions for purchases of fixed assets are provided for, or are tied to, the capital structure or capital assets of the recipient, the benefit may be attributable to the subject merchandise as a non-recurring benefit. See 19 U.S.C. § 351.524.

³³⁰ See “Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment,” GuoFa No. 37 (Dec. 29, 1997) at Art. I(1), attached hereto as Exhibit III-126.

³³¹ See Ministry of Commerce, Order of National Development and Reform Commission and the Ministry of Commerce, Catalogue of Industries for Guiding Foreign Investment (Feb. 21, 2012) (“Catalogue of Industries”), attached hereto as Exhibit III-127.

³³² Coated Paper IDM at 13-14; Off-Road Tires IDM at 22-23.

The information reasonably available to Petitioners shows that these same subsidies are available to cold-rolled steel producers. Indeed, the GOC's "Directory Catalogue on Readjustment of Industrial Structure" specifically lists the "{d}evelopment and application of cold continuous rolling wide band steel" as an "encouraged" project.³³³ Accordingly, the Department should investigate this subsidy program.

a. Financial Contribution

The VAT and import tariff exemptions constitute financial contributions under Section 771(5)(D)(ii) of the Act because they are revenue foregone by the GOC.

b. Specificity

The subsidy is specific under Sections 771(5A)(D)(i) and (iii)(I) of the Act because only certain domestic enterprises and FIEs are eligible to receive it.

c. Benefit

The subsidy provides a benefit under Section 771(5)(E) of the Act in the amount of the exemptions from the VAT and import tariffs.³³⁴

4. Deed Tax Exemption For SOEs Undergoing Mergers Or Restructuring

The GOC imposes a deed tax on transfers of land and real estate. In the context of an ownership transfer accomplished by means of an asset sale, as opposed to a stock sale, a deed tax of 3 to 5 percent is levied on the amount of the purchase price, with the purchaser responsible for

³³³ National Development and Reform Commission, "Directory Catalogue on Readjustment of Industrial Structure" (Mar. 2, 2005) at 5, attached hereto as Exhibit III-30.

³³⁴ To the extent that there is evidence that the VAT and import tariff exemptions on equipment imported by FIEs are provided for, or are tied to, the capital structure or capital assets of the recipient, the benefit may be attributable to the subject merchandise as a non-recurring benefit. See 19 U.S.C. § 351.524.

paying the tax.³³⁵ Pursuant to the Notice of the Ministry of Finance and the State Administration of Taxation on Several Deed Tax Policies Concerning Enterprise Reorganization and Restructuring, however, the deed tax is exempted where the transfer of ownership occurs as part of the restructuring or merger of an SOE.³³⁶

The information reasonably available to Petitioners shows that cold-rolled steel producers benefited from this subsidy. For example, in 2008 state-owned cold-rolled steel producers Baosteel and Wuhan acquired land and real estate as part of mergers directed by the GOC.³³⁷ In 2009, state-owned cold-rolled steel producer Hebei Iron and Steel was formed through the merger of Tangshan Iron & Steel Co. with Handan Iron & Steel and Chengde Xinxin Vanadium & Titanium Co.³³⁸ In 2010, state-owned cold-rolled steel producer Anshan Steel Group was merged with Panzhihua Steel.³³⁹ Any land acquisitions that were made through these mergers should have been assessed deed taxes but undoubtedly were not pursuant to the GOC policy. Furthermore, there is no doubt that cold-rolled steel producers have continued to benefit from this policy given that, in January 2013, the GOC set targets to increase the number of mergers in

³³⁵ See Mergers and Acquisitions – Asian Taxation Guide 2008 (China), PricewaterhouseCoopers (2008), attached hereto as Exhibit III-128.

³³⁶ Notice of the Ministry of Finance and the State Administration of Taxation on Several Deed Tax Policies Concerning Enterprise Reorganization and Restructuring (2003), attached hereto as Exhibit III-129; Ministry of Finance and State Administration of Taxation Notice Regarding Extending the Enforcement Deadline of Certain Deed Tax Policies for Restructured and Reorganized Enterprises, Cai Shui (2006) No. 41, attached hereto as Exhibit III-130.

³³⁷ “China to speed M&A to boost production, competitiveness,” Steel Business Briefing (Mar. 13, 2008), attached hereto as Exhibit III-131.

³³⁸ “CSRC Approves Heibei Steel Merger Plan,” China Daily (Sept. 22, 2009), attached hereto as Exhibit III-132.

³³⁹ “China Approves Anshan Steel Merger with Panzhihua,” Reuters (May 25, 2010), attached hereto as Exhibit III-133.

nine sectors, including the steel industry, “to reshuffle China’s industrial structure and enhance big enterprises’ global competitiveness.”³⁴⁰

a. Financial Contribution

Deed tax exemptions constitute a financial contribution in the form of revenue foregone within the meaning of Section 771(5)(D)(ii) of the Act.

b. Specificity

The exemption of deed taxes is specific under Section 771(5A)(D)(i) of the Act because it is limited to SOEs involved in mergers and restructuring.³⁴¹

c. Benefit

The subsidy confers a benefit within the meaning of Section 771(5)(E) of the Act in the form of tax savings to the extent the deed tax is not paid.

E. GOVERNMENT PROVISION OF GOODS AND SERVICES FOR LESS THAN ADEQUATE REMUNERATION

1. Provision Of Land Use Rights For Less Than Adequate Remuneration

As the Department has previously found, the GOC prohibits private land ownership in China.³⁴² Thus, all land belongs to the government, either the national government, local government, or a “collective” at the township or village level.³⁴³ Government land agencies across China control the allocation of land through the granting of land use rights.³⁴⁴

³⁴⁰ “China unveils merger targets to upgrade industry,” Xinhua News (Jan. 22, 2013), attached hereto as Exhibit III-134.

³⁴¹ Import Administration Policy Bulletin 10.1.

³⁴² Welded Line Pipe IDM at 15.

³⁴³ Id.

³⁴⁴ Off-Road Tires Preliminary Determination, 72 Fed. Reg. at 71368.

China's steel policies and FYPs direct government agencies to provide such land use rights to favored projects and producers, including projects and producers in the cold-rolled steel industry. For example, the GOC's Decision No. 40 calls for "people's governments of all provinces, autonomous regions, and municipalities" to formulate policies on land in order to implement industrial policies, including the policies discussed above aimed at the development of China's cold-rolled steel industry.³⁴⁵ Recent specific examples of policies implemented pursuant to this directive include the Jiangxi Province 12th Five Year Development Plan, which calls on local government officials to give preferential treatment to major steel projects when deciding allocation of land, and the Iron and Steel Industry Adjustment and Revitalization Plan Outline of Jiangsu Province (home to cold-rolled steel producers Shagang and Panhua, among many others), which directs government agencies to "give{} land use priority" to designated iron and steel projects.³⁴⁶

Still other cold-rolled steel producers are eligible to receive land use rights for less than adequate remuneration due to their location in certain industrial zones designated by the GOC and local governments in China. Since the 1980s, the GOC has created such zones in specially designated areas across China. Under the GOC's guidance, provincial and local governments have also implemented their own industrial zones.³⁴⁷ By 2007, the number of such zones was

³⁴⁵ Decision No. 40 at Preamble, attached hereto as Exhibit III-28.

³⁴⁶ Jiangxi Province Iron & Steel Industry 12th Five Year Development Plan, attached hereto as Exhibit III-38; Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 9 (Provincial Government Notice on the Issuance of the Jiangsu Province Iron and Steel Industry Industrial Adjustment and Revitalization Plan Outline, Su Zheng Fa (2009) No. 81 at 5-6), attached hereto as Exhibit III-3.

³⁴⁷ See U.S. Department of Commerce, Commercial Service, Regional Development and Free Trade Zones (June 1, 2007) at 1-4, attached hereto as Exhibit III-221.

estimated to total around 2,000.³⁴⁸ According to the GOC, a chief goal of these industrial zones is to implement “the strategy for the economic development of the coastal areas, to bring{} into full play the advantages of the coastal areas, to actively promot{e} an export-oriented economy, and to boost{} the modernization drive in building socialism in China.”³⁴⁹ In pursuit of these policy goals, the GOC and the provincial and local governments offer discounted land use rights to encourage location of key enterprises and industries in industrial zones and promote their exports. For example, according to a document prepared by China’s Ministry of Commerce (“MOFCOM”), the GOC offers discounted land use rights to industrial companies located in the Caofeidian Industrial Zone.³⁵⁰ These companies include cold-rolled steel producer and exporter Shougang Jingtang United Iron & Steel Co. Ltd., which has constructed massive production and export facilities in the zone.³⁵¹

Numerous other policies of the GOC and provincial governments in China call for the provision of land use rights on favorable terms to promote expansion and relocation of the facilities of cold-rolled steel producers and exporters. For example, the Iron and Steel Industry Adjustment and Revitalization Plan issued by Guangdong Province directs the Guangdong provincial government to encourage “large scale steel” projects, including cold-rolled steel producer Guangzhou JFE Steel Sheet Co. Ltd., to locate in specified areas of the province such

³⁴⁸ Id. at 2.

³⁴⁹ GOC State Council, Development Zones (Mar. 18, 1988), attached hereto as Exhibit III-222.

³⁵⁰ See MOFCOM, Caofeidian Industrial Zone Overview at “Iron & steel industry” and “Charge rates for the right to use land and coast line resources,” attached hereto as Exhibit III-135.

³⁵¹ See id. and “Shougang Transforms Caofeidian,” China.Org.Cn (July 2007), attached hereto as Exhibit III-136.

as the “Guangzhou Steel Base.”³⁵² These policies further call for “land development” support (i.e., preferential land use rights) in accordance with the provincial government’s “Several Opinions on Promoting Domestic Demand Expansion and Supporting Land Development for Modern Industries.”³⁵³

a. Financial Contribution

The provision of land use rights by the GOC and local governments in China constitutes a financial contribution under Section 771(5)(D)(iii) of the Act, as the Department has previously found.³⁵⁴

b. Specificity

There is a reasonable basis to believe or suspect that the subsidy is specific under Sections 771(5A)(D)(i) and (iii) of the Act because land use rights are provided to a limited number of enterprises or industries, and in particular the steel industry. In addition, the subsidy is specific under Section 771(5A)(D)(iv) of the Act where it is provided to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy.³⁵⁵ In addition, land use rights that are granted to promote exports by enterprises and industries located in industrial zones across China are specific within the meaning of Sections 771(5A)(A) and (B) of the Act because they are contingent upon exports.

³⁵² See Exhibit III-3 hereto at Attachment 4, Article IV “Main Tasks” and Exhibit III-218 (Public Document).

³⁵³ See *id.* at Attachment 4, Article V “Policies and Measures (III) “Support the Environment-Friendly Relocation of GuangSteel” (Public Document).

³⁵⁴ Welded Line Pipe IDM at 14.

³⁵⁵ Id.

c. Benefit

The provision of land use rights constitutes a benefit under Section 771(5)(E)(iv) of the Act to the extent the government provides such rights for less than adequate remuneration. The Department's regulations provide that the adequacy of remuneration is to be measured using an actual market-determined price or, if such a price is not available, a world market price.³⁵⁶ In conducting this comparison in CVD investigations involving China, the Department has calculated the amount of benefit from the provision of land use rights by comparing the price paid for such land use rights to comparable land values in a country at a similar stage of economic development reasonably close to China due to distortions in the Chinese market arising from the GOC's ownership and control of all land in China.³⁵⁷ As the Department has repeatedly found, this comparison reveals that the price charged to Chinese steel producers for land use rights is far below the price that would be paid if determined by the market.³⁵⁸

2. Provision Of Land To SOEs For Less Than Adequate Remuneration

The Department has determined in prior investigations that China's state-owned steel producers have benefited from the provision of land to SOEs at less than adequate remuneration.³⁵⁹ Indeed, many SOEs have not only received land for less than adequate remuneration but have actually received it for free from the GOC:

Many Chinese steel mills never had to pay any real prices for the land they are operating their facilities on. During the time of central planning, government agencies simply assigned parcels of land to certain steelworks to set up operations. And when the era of economic reform and opening to the outside

³⁵⁶ 19 C.F.R. § 351.511.

³⁵⁷ See, e.g., Laminated Woven Sacks IDM at 14-18.

³⁵⁸ See, e.g., Welded Line Pipe IDM at 14.

³⁵⁹ See, e.g., NOES Preliminary Determination at 13.

world unfolded, little changes were made with respect to these arrangements. All steelmakers that emerged from under the burden of the central command economy were state-owned enterprises and simply kept what they had. In later years, when expansion projects were planned and more land was needed, government authorities proved exceptionally generous and granted the required space either for free or provided it at reduced costs.³⁶⁰

The Department itself has previously determined that SOEs in China “received a significant portion of their land-use rights free of charge.”³⁶¹

In addition, as the Department has found in prior investigations, SOEs in China can receive “allocated” land use rights, which are transferred from the government to an SOE for a small one-time charge and do not expire (in contrast to other types of land use rights in China such as granted land use rights which may require the payment of additional fees from the land user to the government).³⁶² Further, any fees charged for allocated land use rights are well below anything resembling a market-determined price.³⁶³

The evidence reasonably available to Petitioners shows that state-owned producers of cold-rolled steel have received land at less than adequate remuneration. For example, state-owned cold-rolled steel producer Angang reported that in 2001 it received a “contribution” of at least RMB 226.8 million in land-use rights from the government.³⁶⁴ In 2005, Angang acquired additional steel-making assets from Anshan Iron & Steel Group, its corporate parent. It is likely that the land use rights relating to these assets were also provided to Angang for less than

³⁶⁰ EUROFER Study at 85-86, attached hereto as Exhibit III-69.

³⁶¹ Welded Line Pipe IDM at 16.

³⁶² Off-Road Tires Prelim., 72 Fed. Reg. at 71368.

³⁶³ See id.

³⁶⁴ Angang 2001 Annual Report at 98, attached hereto as Exhibit III-137.

adequate remuneration.³⁶⁵ State-owned cold-rolled steel producers Baosteel and WISCO undertook similar asset acquisitions at the same time as part of the merger policy of the GOC.³⁶⁶ It is likely that these acquisitions also involved the provision of land for less than adequate remuneration. Further, in 2008, Baosteel acquired additional land for construction of “scrap logistics bases” in Chongqing and Jiangdu,³⁶⁷ land that was likely provided for less than adequate remuneration. These examples provide ample reason to believe or suspect that state-owned cold-rolled steel producers throughout China have benefited from the provision of land for less than adequate remuneration. Accordingly, as it has done in Steel Wire Rod and NOES, among other recent CVD investigations, the Department should investigate the provision of land to state-owned cold-rolled steel producers.

a. Financial Contribution

The provision of land by the government constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act, as the Department has found.³⁶⁸

b. Specificity

As the Department has determined, “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.”³⁶⁹

³⁶⁵ “Listed Angang buys assets from parent,” Steel Business Briefing (Jan. 12, 2005), attached hereto as Exhibit III-138.

³⁶⁶ Id.

³⁶⁷ “Baosteel to add two new scrap bases,” Steel Business Briefing (Mar. 10, 2008), attached hereto as Exhibit III-139.

³⁶⁸ See, e.g., Welded Line Pipe IDM at 14.

³⁶⁹ Id.

Furthermore, the enterprises receiving allocated land use rights are limited to a single group – SOEs. Indeed, consistent with China’s WTO Accession Protocol, it is the Department’s policy to consider SOEs to be a specific group of enterprises within the meaning of Section 771(5A) of the Act.³⁷⁰ Accordingly, there is a reasonable basis to believe or suspect that the provision of land to SOEs is also specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act.

c. Benefit

Under Section 771(5)(E) of the Act and 19 C.F.R. § 351.511, a benefit is conferred upon state-owned cold-rolled steel producers to the extent the government provides land for less than adequate remuneration. Given the numerous policies of the GOC and local governments in China calling for land to be provided to favored SOE cold-rolled steel producers on a preferential basis, there is little doubt that such land is provided for less than adequate remuneration. For example, the Iron and Steel Industry Adjustment and Revitalization Plan issued by Guangdong Province directs the Guangdong provincial government to encourage location of “large scale steel” projects in the province, including the “Zhanjiang Steel Base” project (home to facilities of SOE cold-rolled steel producer Baosteel) and the “Guangzhou Steel Base” (containing facilities of Baosteel subsidiary and cold-rolled steel producer Guangdong Iron & Steel Group Co., Ltd. (“GuangSteel”)).³⁷¹ Among other things, these policies direct the provision of preferential land and land use rights in accordance with the provincial government’s “Several Opinions on

³⁷⁰ Import Administration Policy Bulletin 10.1.

³⁷¹ See Exhibit III-3 hereto at Attachment 4, Article IV “Main Tasks” and Exhibit III-218 (Public Document); “Baosteel’s Zhanjiang plant on schedule,” Shanghai Daily (June 30, 2014), attached hereto as Exhibit III-29; Baosteel Group Corporation, Iron & Steel, Industrial Sectors, Primary Operation, Iron & Steel, attached hereto as Exhibit III-91.

Promoting Domestic Demand Expansion and Supporting Land Development for Modern Industries.”³⁷²

3. Provision Of Hot-Rolled Steel For Less Than Adequate Remuneration

As the Department has previously determined, the GOC subsidizes Chinese producers of higher value-added steel products by supplying them with lower value-added inputs such as hot-rolled steel, stainless steel coil, wire rod, or steel billets for less than adequate remuneration.³⁷³ This support certainly extends to producers of cold-rolled steel. In particular, the GOC subsidizes cold-rolled steel producers in China by having state-owned and controlled suppliers provide them with the major input used in the production of cold-rolled steel – i.e., hot-rolled steel – for less than adequate remuneration.

It is clear that many Chinese cold-rolled steel producers are heavily reliant on hot-rolled steel provided by state-owned and controlled suppliers. For example, cold-rolled steel producers that lack their own facilities for the production of hot-rolled steel must obtain that input from other sources. As the Department recently found in Wind Towers, China’s state-owned and controlled suppliers are a major source of this input.³⁷⁴ A case in point is Panhua Group Co.,

³⁷² See Exhibit III-3 hereto at Attachment 4, Article V “Policies and Measures (III) “Support the Environment-Friendly Relocation of GuangSteel” (Public Document).

³⁷³ See Circular Welded Pipe IDM at 9-12 (finding that Chinese producers had benefited from the provision of hot-rolled steel for less than adequate remuneration); Welded Line Pipe IDM at 18-20 (same); Rectangular Pipe IDM at 9-10 (same); Wind Towers IDM at 20-21 (same); Stainless Steel Sinks IDM at 18-21 (finding that Chinese producers had benefited from the provision of stainless steel for less than adequate remuneration); Galvanized Steel Wire IDM at 11-13 (finding that Chinese producers had benefited from the provision of wire rod for less than adequate remuneration); Steel Wire Rod Preliminary Determination at 20-21 (finding that Chinese producers had benefited from the provision of steel billets for less than adequate remuneration); Seamless Pipe IDM at 17-18 (same); OCTG IDM at 13-15 (same).

³⁷⁴ Wind Towers IDM at 11.

Ltd. (“Panhua”), which states that it “purchases hot rolled steel coils . . . as raw materials and carries on production of all kinds of subsequent flat steel in sheets or coils, including cold rolled steel”³⁷⁵ Panhua also states that it has “established strategic alliances with Top 10 state-owned steel mills to achieve mutual beneficial cooperation on stable and qualified {hot-rolled} supply.”³⁷⁶ Likewise, cold-rolled steel producer Sutor states that it sources a significant portion of its hot-rolled steel from state-owned suppliers.³⁷⁷

As this evidence shows, hot-rolled steel supplied by state-owned and controlled suppliers is critically important to cold-rolled steel producers in China.³⁷⁸ Accordingly, as it has done in numerous prior CVD proceedings, the Department should investigate the provision of hot-rolled steel by state-owned and controlled suppliers to cold-rolled steel producers in China for less than adequate remuneration.

a. Financial Contribution

The provision of hot-rolled steel to cold-rolled steel producers by China’s state-owned and controlled suppliers constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act because the GOC, through its state-owned and controlled suppliers, is providing a good (i.e., hot-rolled steel) to the cold-rolled steel producers.³⁷⁹

³⁷⁵ Panhua Company Website, attached hereto as Exhibit III-140.

³⁷⁶ Id.

³⁷⁷ Sutor Technologies Group 10-K at 6, attached hereto as Exhibit III-141.

³⁷⁸ The Department has previously determined that “collectively owned enterprises” are government authorities within the meaning of the countervailing duty statute. See Welded Line Pipe Prelim. at 52306.

³⁷⁹ Wind Towers IDM at 20. China’s state-owned and controlled suppliers of hot-rolled steel unquestionably meet the definition of “authority” as set forth in Section 771(5)(B) of the Act so as to be able to provide a subsidy under the statute. See 19 U.S.C. § 1677(5)(B) (defining “authority” as “a government of a country or any public entity

b. Specificity

As the Department has previously found, the provision of hot-rolled steel by China's state-owned and controlled suppliers is specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act because China's state-owned and controlled steel producers provide the hot-rolled steel to a limited number of enterprises or industries.³⁸⁰ Moreover, cold-rolled steel producers necessarily obtain large quantities of hot-rolled steel from state-owned and controlled suppliers and thus likely constitute the predominant users of this subsidy. Accordingly, there is a reasonable basis to believe or suspect that the subsidy is also specific under Section 771(5A)(D)(iii)(II) of the Act.

c. Benefit

Chinese producers of cold-rolled steel that obtain hot-rolled steel from state-owned and controlled suppliers receive a benefit to the extent that such hot-rolled steel is provided for less than adequate remuneration.³⁸¹ The Department's regulations provide that in measuring the

within the territory of the country"). Indeed, as part of its commitments in its Protocol of Accession to the WTO, the GOC agreed that state-owned and controlled entities should be considered to be governmental entities for purposes of the countervailing duty laws. Specifically, China agreed that "when state-owned enterprises . . . provided financial contributions, they were doing so as government actors within the scope of Article 1.1(a) of the {Subsidies and Countervailing Measures} Agreement." See Report of the Working Party on the Accession of China, WT/MIN(01)/3 (Nov. 10, 2001) at para. 172. In turn, Article 1.1(a)(1) of the SCM Agreement provides that "there is a financial contribution by a government . . . where . . . a government provides goods or services other than general infrastructure." See SCM Agreement at Art. 1.1(a)(1). Moreover, the Department has repeatedly found that China's state-owned and controlled steel producers are government authorities within the meaning of the statute. See Circular Welded Pipe IDM at 11 and Welded Line Pipe IDM at 18.

³⁸⁰ Wind Towers IDM at 20; Circular Welded Pipe IDM at 11; Welded Line Pipe IDM at 18 (making similar determination with respect to hot-rolled steel provided for less than adequate remuneration).

³⁸¹ 19 U.S.C. § 1677(5)(E)(iv).

adequacy of remuneration, the Department should compare the price paid to the government authority to the price charged in actual transactions between private parties, actual imports, or (where such prices do not reflect prices set through actual transactions between private parties, are distorted by government involvement in the market, or are not available) world market prices.³⁸² Here, the specific prices paid by Chinese cold-rolled steel producers for hot-rolled steel supplied by state-owned and controlled suppliers and any actual market or non-distorted import prices are not reasonably available to Petitioners. However, a comparison of Chinese domestic prices and world export prices conducted by industry publication SteelBenchmarker demonstrates that Chinese domestic prices for hot-rolled steel have remained consistently and significantly below the world export price for hot-rolled steel.³⁸³ This price difference confers a substantial benefit on Chinese cold-rolled steel producers who obtain hot-rolled steel from state-owned and controlled suppliers in China.

4. Provision Of Iron Ore For Less Than Adequate Remuneration

The GOC subsidizes Chinese cold-rolled steel producers that produce their own steel (i.e., so-called “integrated” producers) by supplying them with iron ore for less than adequate remuneration. Indeed, providing low-cost iron ore to such producers is a central tenet of the GOC’s steel policies. The GOC’s Steel Policy makes clear that “mineral resources” including iron ore “shall belong to the state” and urges “large-scale iron and steel enterprises” (i.e., China’s

³⁸² 19 C.F.R. § 351.511(a)(2).

³⁸³ See SteelBenchmarker, Price History at 4, attached hereto as Exhibit III-142. Notably, the significant price difference between world export prices and Chinese domestic prices shown in the SteelBenchmarker data is conservative in that the world export prices reported by SteelBenchmarker are F.O.B. port of export and thus do not fully reflect the price that a Chinese producer would pay to import hot-rolled steel. In accordance with Section 351.511 of the Department’s regulations, charges such as ocean freight and import duties, taxes, and fees would need to be added to the world export prices to more accurately reflect the true price difference.

state-owned and controlled iron and steel producers) “to carry out the exploration and development of such resources as iron mines.”³⁸⁴

The GOC’s 2009 Iron and Steel Industry Adjustment and Revitalization Plan calls for directing these resources to China’s large steel producers on a priority basis. As the plan explains, governments across China are to “allocate the iron ore mine{s} with {} reserves of over 50 million {MT} to large- and medium-sized enterprises in China.”³⁸⁵

Similarly, the GOC’s 12th FYP Steel Development Plan calls on governments across China to “optimize the global configuration of iron ore resources” to ensure that Chinese steel producers have access to iron ore.³⁸⁶ Another goal of the 12th FYP Steel Development Plan is to “intensify the effort in exploration of domestic iron ore resources.”³⁸⁷ As *World Steel Dynamics* has reported, the GOC spent \$24 billion on domestic iron ore projects in 2012 and another \$27 billion on such projects in 2013.³⁸⁸ In 2014, it was reported that the GOC plans to restructure China’s iron ore sector between 2016 and 2025 so that “it can play a bigger role in negotiating iron ore prices with more established rivals in the world.”³⁸⁹ Cold-rolled steel producers are

³⁸⁴ Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014) at Attachment 1 (Steel Policy at Chapter VII, Policy of Raw Materials), attached hereto as Exhibit III-3.

³⁸⁵ *Id.* at Attachment 2 (Iron and Steel Industry Adjustment and Revitalization Plan, Guo Fa (2009) No. 6, p. 7).

³⁸⁶ 12th FYP Steel Development Plan at Art. IV(VI), attached hereto as Exhibit III-146; KPMG China, “China’s 12th Five-Year Plan: Iron and Steel” (May 25, 2011) (“KPMG China”) at 5, attached hereto as Exhibit III-147.

³⁸⁷ 12th FYP Steel Development Plan at Art. IV(VI), attached hereto as Exhibit III-2.

³⁸⁸ World Steel Dynamics, “Chinese Steel Hits the Great Wall, Part III” (Feb. 2012) at 24, attached hereto as Exhibit III-148.

³⁸⁹ “China seeks more influence in setting iron ore prices,” China Daily (Mar. 22, 2014), attached hereto as Exhibit III-149.

benefiting from these efforts. For example, as part of these plans, China intends to establish a large mining conglomerate focusing on iron ore extraction and smelting operations led by state-owned cold-rolled steel producer Ansteel which will have an annual iron ore production capacity of 200 million MT.³⁹⁰

As the above evidence shows, the GOC is pursuing a series of policies to make iron ore available to China's cold-rolled steel producers through state-owned and controlled suppliers at prices that are insulated from world market and private transaction prices. Accordingly, the Department should investigate the provision of iron ore to cold-rolled steel producers in China for less than adequate remuneration.

a. Financial Contribution

The provision of iron ore to cold-rolled steel producers by China's state-owned and controlled suppliers constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act, because the GOC, through its state-owned and controlled iron ore suppliers, is providing a good (i.e., iron ore) to the cold-rolled steel producers.³⁹¹

b. Specificity

The provision of iron ore by China's state-owned and controlled suppliers is specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act because China's state-owned and controlled suppliers provide the iron ore to a limited number of enterprises or industries. Moreover, cold-rolled steel producers necessarily obtain large quantities of iron ore from state-owned and controlled suppliers and thus likely constitute the predominant users of this subsidy.

³⁹⁰

Id.

³⁹¹

See Issues and Decision Memorandum in Certain Hot-Rolled Carbon Steel Flat Products from India, 73 Fed. Reg. 40295 (Dep't Commerce July 14, 2008) (final results) (treating the provision of iron ore by government authorities to steel producers in India as a financial contribution).

Accordingly, there is a reasonable basis to believe or suspect that the subsidy is also specific under Section 771(5A)(D)(iii)(II) of the Act.

c. Benefit

Chinese producers of cold-rolled steel which obtain iron ore from state-owned and controlled suppliers receive a benefit to the extent that such iron ore is provided for less than adequate remuneration.³⁹² The evidence above clearly demonstrates that it is the GOC's policy to provide its steel industry – including cold-rolled steel producers – with iron ore at less than adequate remuneration. Indeed, the goal of the GOC's iron ore policies discussed above is to insulate Chinese steel producers from factors influencing world market prices for iron ore while providing them with more favorably-priced supplies from China's own state-owned and controlled iron ore suppliers.

5. Provision Of Steam Coal For Less Than Adequate Remuneration

As with iron ore, coal is a priority state resource in China that is controlled by the GOC.³⁹³ The GOC's national coal policy provides that coal for energy production (i.e., thermal or steam coal) should be provided on a more favorable basis to five specific sectors or industries (including both significant exporters and electricity generators) in compliance with the State's

³⁹² 19 U.S.C. § 1677(5)(E)(iv).

³⁹³ “China: Description of Selected Government Practices and Policies Affecting Decision-Making in the Economy,” United States International Trade Commission, Investigation No. 332-492, Pub. No. 3978 (Dec. 2007) at xxi, 27 (“USITC Report on China”), attached hereto as Exhibit III-150 (“NDRC sets end-user prices for coal, electricity, natural gas, and oil.”); “2005 Minerals Yearbook – China,” U.S. Department of the Interior, U.S. Geological Survey (June 2007) at 9.12-9.13, attached hereto as Exhibit III-151 (“{T}he Government reduced its coal export quota to 80 Mt in 2004, 2005, and 2006.”). Historically the GOC has used export taxes to control the export market for coal. For example, in 2007, the GOC raised the export tax from 5 percent to 15 percent to discourage exports. See “2007 Minerals Yearbook - China Advance Release,” U.S. Department of the Interior, U.S. Geological Survey (Feb. 2009) at 9.11, attached hereto as Exhibit III-152.

industrial policies.³⁹⁴ In addition, the GOC coordinates coal production and preferential supplies of coal to the “prioritized” key industries.³⁹⁵ As set forth below, the GOC has used its control of coal resources in China and its state-owned coal producers to keep the price of steam coal in China artificially low. As a result, the GOC is able to provide steam coal to favored industries such as the cold-rolled steel industry for less than adequate remuneration.

The GOC acknowledged in its WTO accession documents that it provides subsidies for energy inputs to “special industrial sectors.”³⁹⁶ Indeed, according to SASAC, the GOC maintains absolute control over seven key industries and fields which are vital to the national security and national economy, including the coal industry.³⁹⁷ The GOC exercises this control through its SOEs, which together constitute the majority of the Chinese coal industry.³⁹⁸ In fact, key state-owned coal mines alone account for 53 percent of China’s total coal production.³⁹⁹ Furthermore, the GOC considers the coal industry to be “strategic” and maintains “at least a 50

³⁹⁴ See NDRC’s Notice on the Production, Transportation and Demand of Key Coal in 2005, FaGaiYunXing (2004) No. 2786 (Dec. 3, 2004), attached hereto as Exhibit III-153; “The Production and Transportation of Coal Should Be Tied with and Give Priority Considerations to Five Industries Next Year,” People’s Net (Dec. 20, 2004), attached hereto as Exhibit III-154.

³⁹⁵ “The Production and Transportation of Coal Should Be Tied with and Give Priority Considerations to Five Industries Next Year,” People’s Net (Dec. 20, 2004), attached hereto as Exhibit III-154.

³⁹⁶ See Annex 5A to the Protocol on the Accession of the People’s Republic of China to the World Trade Organization at IX, attached hereto as Exhibit III-66.

³⁹⁷ “The SASAC: State-Owned Economy Should Remain Absolute Control over Seven Industries,” GOC website (Dec. 18, 2006), attached hereto as Exhibit III-155.

³⁹⁸ “Li Yizhong’s Speech at the National Conference on the Safety Administration of State-Owned Key Coal Mines,” Shandong Province Coal Supervision Bureau (Oct. 9, 2006), attached hereto as Exhibit III-156.

³⁹⁹ Id.

percent government equity stake in every firm” in the coal industry.⁴⁰⁰ This majority stake allows the GOC to exercise “absolute control” over the coal industry and to set end-user prices for coal.⁴⁰¹

While the price of steam coal is ostensibly “negotiated” between coal producers and purchasers, in actuality the negotiations are conducted under the guidance of the NDRC which recommends changes in price to the State Council.⁴⁰² The result is predictable – steam coal prices in China fail to reflect prices that would be determined through actual market-based transactions between private parties. As the GOC’s State Council itself has openly admitted, the GOC’s “energy pricing mechanism fails to fully reflect the scarcity of resources, its supply and demand, and the environmental cost.”⁴⁰³

⁴⁰⁰ USITC Report on China at 26-27, attached hereto as Exhibit III-150.

⁴⁰¹ “China’s State-Owned Economy Controls Seven Industries,” AsiaInfo Services (Dec. 20, 2006), attached hereto as Exhibit III-157. USITC Report on China at xxi, attached hereto as Exhibit III-150.

⁴⁰² “2008 Minerals Yearbook - China (Advance Release),” U.S. Department of the Interior, U.S. Geological Survey (“USGS 2008 Minerals Yearbook – China”) at 9.13, attached hereto as Exhibit III-158 (“Eventually, under the Government’s guidance, China’s six leading power companies and coal producers agreed that the price of coal would be 10 yuan for every 100 kilocalorie, an increase of about 10% from that of the previous year.”); “China: Chinese thermal coal price may rise 5% to 8% on NDRC intervention,” Tendersinfo (Feb. 11, 2009), attached hereto as Exhibit III-159 (“According to a well informed source, NDRC has documented its survey to the State Council and suggested a 5%-8% power coal price hike from 2008 level. Mr. Zhang Guobao, director of National Energy Administration has acknowledged earlier the legitimacy of enterprises request of a CNY 50 per tonne rise. But officials deny this and say that the NDRC is indeed discussing this issue but has not come to a guiding price. NDRC will lead the two sides to reach an agreement.”).

⁴⁰³ See State Council Report at 10, attached hereto as Exhibit III-160.

Besides its direct control of coal prices, the GOC has also sought to artificially reduce the domestic price of steam coal by imposing export restraints including export taxes and quotas.⁴⁰⁴ These export restraints are an additional mechanism by which the GOC is able to suppress the price of coal in the domestic market.

The GOC's policies discussed above confer a substantial subsidy. As the Department found recently in Citric Acid from China, for example, the provision of steam coal for less than adequate remuneration conferred a subsidy at a rate of 3.17 percent *ad valorem*.⁴⁰⁵

The evidence reasonably available to Petitioners shows that cold-rolled steel producers similarly benefit from the provision of steam coal for less than adequate remuneration. Indeed, China's cold-rolled steel producers are heavy users of domestically-sourced steam coal. The production of steel is energy-intensive and Chinese cold-rolled steel producers are heavily reliant on coal as a source of this energy.⁴⁰⁶ For example, cold-rolled steel producer Baosteel states that "the electricity consumed in the steel manufacturing comes from its own power plant" which produces electricity using steam coal.⁴⁰⁷ To the extent that the price paid by Baosteel and other cold-rolled steel producers for such coal is less than the price it otherwise would pay for coal at an actual market price, the provision of coal constitutes a countervailable subsidy.

⁴⁰⁴ "2005 Minerals Yearbook – China," U.S. Department of the Interior, U.S. Geological Survey at 9.12-9.13, attached hereto as Exhibit III-151 ("the Government reduced its coal export quota to 80 Mt in 2004, 2005, and 2006."). See also USGS 2007 Minerals Yearbook at 9.11, attached hereto as Exhibit III-152.

⁴⁰⁵ Citric Acid 2014 IDM at VII.I.F. Provision of Steam Coal for LTAR.

⁴⁰⁶ See, e.g., Ansteel 2013 Annual Report at 62 (discussing coal as one of the major inputs in the production of steel), attached hereto as Exhibit III-161.

⁴⁰⁷ Baosteel, "Life cycle inventory of Baosteel Power Station," attached hereto as Exhibit III-162.

a. Financial Contribution

The provision of steam coal to cold-rolled steel producers by China's state-owned and controlled suppliers constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act because the GOC is providing a good (i.e., steam coal) to the cold-rolled steel producers.

b. Specificity

The provision of steam coal is specific within the meaning of Sections 771(5A)(D)(i) and (5A)(D)(iii) of the Act. The subsidy is specific under Section 771(5A)(D)(i) of the Act because the GOC's policies seek to "continue to develop its coal resources," provide assistance to key exporting industries, and promote captive electricity production in China, thereby targeting specific enterprises and industries for support.⁴⁰⁸ In addition, the subsidy is specific under Section 771(5A)(D)(iii)(I) of the Act because the recipients of the steam coal are limited in number to enterprises that produce their own electricity from steam coal and key exporting industries in China (including co-generation plants of cold-rolled steel producers). Approximately two-thirds of China's energy is sourced from coal-fired plants,⁴⁰⁹ and those plants account for no less than 50 percent of total coal use.⁴¹⁰ Thus, China's power generators, including cold-rolled steel producers' cogeneration plants, are predominant users of the subsidy, providing a basis to conclude that the subsidy is also specific under Section 771(5A)(D)(iii)(II) of the Act.

⁴⁰⁸ See State Council Report at 12, attached hereto as Exhibit III-160

⁴⁰⁹ See USGS 2008 Minerals Yearbook at 9.12, attached hereto as Exhibit III-158 ("Coal was the primary source of energy – two-thirds of the country's electricity was produced by coal-fired plants.").

⁴¹⁰ See *id.*

c. Benefit

Chinese producers of cold-rolled steel which obtain steam coal from Chinese authorities receive a benefit under Section 771(5)(E)(iv) of the Act to the extent that such steam coal is provided for less than adequate remuneration.⁴¹¹ As the Department recently found in Citric Acid from China, the size of the benefit from the GOC's provision of steam coal is substantial at more than three percent *ad valorem*.⁴¹²

Information that would enable a comparison of market-determined steam coal prices with the prices for steam coal paid by Chinese cold-rolled steel producers during calendar year 2014 is not reasonably available to Petitioners, despite extensive research using the sources discussed above. Nevertheless, steam coal pricing data for calendar year 2013 that was recently obtained by the Department in the ongoing administrative review of the countervailing duty order on Citric Acid and Certain Citrate Salts from China shows that the GOC continues to pursue a policy of providing steam coal to certain favored industries for less than adequate remuneration. The record of that proceeding also contains extensive evidence that the GOC has continued to use its control of the coal industry to direct steam coal to favored industries and enterprises at preferential prices.⁴¹³ Specifically, the Department found that the steam coal provided by the

⁴¹¹ 19 U.S.C. § 1677(5)(E)(iv).

⁴¹² Citric Acid 2014 IDM at VII.I.F. Provision of Steam Coal for LTAR (determining a subsidy rate of 3.17 percent *ad valorem*).

⁴¹³ Indeed, the information provided by the GOC reveals that 90.46% of the total production of the 50 largest steam coal producers in China was accounted for by entities owned and controlled by the GOC. See Calculation of Percentage of Domestic Supply of Steam Coal Controlled by the Government, 2013 Administrative Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China, Case No. C-570-938 (Dep't Commerce June 1, 2015) at Attachment 1 (Public Version).

GOC was provided at prices that were significantly below comparable world market prices, conferring a countervailable subsidy of 3.06% *ad valorem*.⁴¹⁴

Viewed together with the information on GOC policy support set forth above and the Department's repeated findings that the GOC's provision of steam coal confers substantial countervailable subsidies,⁴¹⁵ this evidence provides a reasonable basis to believe or suspect that the GOC's provision of steam coal for less than adequate remuneration conferred a substantial countervailable subsidy to Chinese cold-rolled steel producers during 2014. Indeed, steam coal is a key energy source for cold-rolled steel production in China, and Chinese producers of cold-rolled steel have reported that they are heavily reliant on this input. Accordingly, as it has done in prior cases, the Department should initiate an investigation of this subsidy.

6. Provision Of Coking Coal For Less Than Adequate Remuneration

The Department has previously determined that the Chinese government provides coking coal to steel producers for less than adequate remuneration.⁴¹⁶ Many of these producers are also cold-rolled steel producers. In fact, like integrated steel producers around the world, Chinese cold-rolled steel producers that produce their own steel rely on a steady supply of coking coal and coke to keep their blast furnaces hot.

⁴¹⁴ See Preliminary Calculation Memorandum for Laiwu Taihe Biochemistry Co., Ltd. in the 2013 Administrative Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China, Case No. C-570-938 (Dep't Commerce June 1, 2015) at Attachment 1 (Public Version).

⁴¹⁵ See, e.g., Citric Acid and Certain Citrate Salts From the People's Republic of China, 79 Fed. Reg. 78799 (Dep't Commerce Dec. 31, 2014) (final results); Citric Acid and Certain Citrate Salts From the People's Republic of China, 79 Fed. Reg. 108 (Dep't Commerce Jan. 2, 2014) (final results).

⁴¹⁶ See Seamless Pipe IDM at 30-32.

State-owned mines are the predominant source of the coking coal used by integrated cold-rolled steel producers in China. Indeed, state-owned mines dominate coking coal supplies in the country. For example, in the largest coal producing province, Shanxi Province, state-owned coal mines produced 63 percent of the province's coal in 2004.⁴¹⁷ Coking coal production in Henan province, the second largest source of coal in China, is dominated by two massive state-owned mining companies, Pingdingshan Coal Company ("Pingdingshan") and Hebi Coal Industry Group ("HBCG").⁴¹⁸ Both mining giants were founded in the 1950s, and each is listed as one of the 520 national key SOEs.⁴¹⁹

Moreover, the information reasonably available to Petitioners shows that China's SOEs are the primary source of coking coal for the domestic cold-rolled steel industry. Indeed, there is an abundance of evidence regarding the close relationships between large coking coal producers and cold-rolled steel producers, including the following:

- Under the terms of an agreement with Pingdingshan, "Baosteel will be given priority when buying coal products from Pingdingshan."⁴²⁰
- In 2008, Wugang signed an agreement to become the second largest shareholder of Pingdingshan Coal. The agreement will allow cold-rolled steel producer WISCO to save an estimated 200 RMB for each MT of coking coal that it purchases from Pingdingshan.⁴²¹ Given that WISCO purchases approximately 3 million MT of coking coal per year from Pingdingshan, annual savings could easily surpass 600 million

⁴¹⁷ "State mines in China's Shanxi account for larger slice of output," Asia Pulse (Feb. 8, 2005), attached hereto as Exhibit III-178.

⁴¹⁸ "An outline of coal industry in Henan province," Chinamining.org (Apr. 29, 2008), attached hereto as Exhibit III-179.

⁴¹⁹ Id.

⁴²⁰ "Shanghai Baosteel Forms 2 JVs with Pingdingshan Coal," Business Daily Update (July 12, 2004), attached hereto as Exhibit III-180.

⁴²¹ "Wuhan Iron, Pingdingshan form 2.2M-tonne coking coal venture," American Metal Market (July 1, 2008), attached hereto as Exhibit III-181.

RMB.⁴²² Moreover, “{t}he strategic cooperation of the two is in accord with the national industry policy, and is a win-win cooperation and helps both companies’ sustainable development. Hubei provincial government will support the new company and provide good services.”⁴²³

- According to industry reports, state-owned “Shanxi Coking Coal ha{s} forged strategic co-operative relationships with a number of major local steelmakers for long-term coking coal supplies.”⁴²⁴ The cold-rolled steel producers involved include Baotou, Baosteel, and WISCO.⁴²⁵

The supply of coking coal to China’s integrated cold-rolled steel producers is further ensured by the GOC’s system of export quotas, tariffs, and licensing requirements. Throughout 2014, exports of coking coal were subject to a 10 percent *ad valorem* export tax imposed by the GOC in order to improve domestic supplies for the Chinese steel industry.⁴²⁶

The GOC also limits coking coal exports through export quotas.⁴²⁷ Specifically, exports of both thermal and coking coal are subject to a single quota, although the GOC does not disclose the ratio between the two types of coal under the quota.⁴²⁸ The export quotas in 2008

⁴²² Id.

⁴²³ “Wuhan Pingmei Wisco Joint Coking Company was established,” Chinamining.org (July 2, 2008), attached hereto as Exhibit III-182.

⁴²⁴ “Shanxi Coking Coal strengthens ties with downstream steelmakers,” Platts International Coal Report (October 2, 2006), attached hereto as Exhibit III-183.

⁴²⁵ Id.

⁴²⁶ See “Coal export quota slashed by 24% for this year,” American Metal Market (Mar. 18, 2008), attached hereto as Exhibit III-184; “Beijing lifts coke export duty to 40%,” American Metal Market (Aug. 17, 2008), attached hereto as Exhibit III-185; “China’s coal export tax cut to benefit Asian importers,” Platts (Dec. 17, 2014), attached hereto as Exhibit III-186.

⁴²⁷ Id. See also “Leading domestic steel makers to push for lower coal price in 2006,” China Energy Weekly (Jan 13, 2006), attached hereto as Exhibit III-187.

⁴²⁸ “Leading domestic steel makers to push for lower coal price in 2006,” China Energy Weekly (Jan 13, 2006), attached hereto as Exhibit III-187.

for these two types of coal totaled a combined 53 million MT. These quotas represent a 24 percent decline from 2007 levels and a 34 percent decline from 2006 levels.⁴²⁹

The predictable consequence of these measures has been to artificially increase the quantity of coking coal available to cold-rolled steel producers in China while concurrently lowering the prices that these producers pay. Price and quantity controls on coking coal, combined with extensive government ownership of the coking coal industry, resulted in an estimated benefit of nearly \$14 billion to the Chinese steel industry between 2000 and 2007.⁴³⁰ In 2014, as a result of the export tax and quotas discussed above as well as financial support by local governments to coking coal producers in their regions, Chinese coking coal prices were reported to have declined by 29 percent compared to 2013 levels, while production levels continued at very high levels, guaranteeing ample, low-priced supplies for China's cold-rolled steel producers.⁴³¹

a. Financial Contribution

The provision of coking coal to integrated cold-rolled steel producers constitutes a financial contribution pursuant to Section 771(5)(D)(iii) of the Act because the Chinese government is providing a good to cold-rolled steel producers in China.

b. Specificity

The provision of coking coal to Chinese cold-rolled steel producers is specific because the steel industry consumes the vast majority of coking coal in China. Indeed, as the

⁴²⁹ Id.

⁴³⁰ Shedding Light on Energy Subsidies in China: An Analysis of China's Steel Industry from 2000 – 2007, Alliance for American Manufacturing at 30, attached hereto as Exhibit III-188.

⁴³¹ "Chinese coking coal sector will continue to suffer in 2015," CRU Group (Feb. 17, 2015), attached hereto as Exhibit III-189.

International Energy Agency reports, “{a}lmost all coking coal is transformed into coke oven coke in a coke oven and used in blast furnaces for the production of pig-iron. Pig-iron is subsequently converted to steel in an oxygen furnace.”⁴³² In other words, the recipients of coking coal are limited in number. Accordingly, the subsidy is specific under Section 771(5A)(D)(iii)(I) of the Act. In addition, because integrated steel producers are the predominant users of coking coal, the subsidy is also specific under Section 771(5A)(D)(iii)(II) of the Act.

c. Benefit

Cold-rolled steel producers receive a benefit from coking coal supplied by state-owned and controlled mines in China within the meaning of Section 771(5)(E)(iv) of the Act to the extent that such coking coal is provided for less than adequate remuneration. In the countervailing duty investigation of Seamless Pipe from China, the Department found that the GOC provided steel producers in China with coking coal for less than adequate remuneration, conferring a countervailable subsidy of 5.51 percent *ad valorem*.⁴³³ As explained above, the evidence that is reasonably available to Petitioners shows that the GOC has continued to pursue the same policy with respect to Chinese producers of cold-rolled steel.

Moreover, provincial governments in China have also taken steps to ensure that cold-rolled steel producers in their provinces have access to coking coal on preferential terms. For example, the Iron and Steel Industry Adjustment Revitalization Plan of Henan Province directs the government to “{s}upport the strengthening of strategic cooperation between key iron and

⁴³² International Energy Agency, Coal Information (2008) at I.13, attached hereto as Exhibit III-190.

⁴³³ Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China, 75 Fed. Reg. 57444 (Dep't Commerce Sept. 21, 2010) (final determ.).

steel enterprises and coal and coking enterprises and establish a stable raw materials supply base via equity participation and long-term supply agreements.”⁴³⁴ In other words, suppliers of coal and coking coal are to enter into agreements that favor producers of downstream steel products over the market interests of the coking coal suppliers themselves.⁴³⁵

Any prices set through such arrangements necessarily do not reflect prices set through market mechanisms. Accordingly, this evidence – coupled with the Department’s previous determinations regarding the GOC’s supply of coking coal for less than adequate remuneration to Chinese steel producers – provides a reasonable basis to believe or suspect that the subsidy confers a countervailable benefit and should be investigated in this proceeding.

7. Provision Of Electricity For Less Than Adequate Remuneration

The Department has investigated and countervailed the provision of electricity for less than adequate remuneration in a number of its prior CVD investigations involving China.⁴³⁶ As the Department has determined, the NDRC, rather than individual provinces in China, is responsible for setting provincial electricity rates. Such rates vary significantly by location, including between various provinces in China.⁴³⁷ These facts are critical for specificity purposes, because a subsidy is specific under Section 771(5A)(D)(iv) of the Act where the central government sets rates differently in different administrative areas, even if pricing is applied uniformly within a given area.

⁴³⁴ See id. at Exhibit III-3, Attachment 5, Article IV “Key Tasks” (IV) “Promoting Enterprise Collaboration and Reorganization.”

⁴³⁵ See id.

⁴³⁶ See, e.g., Steel Wire Rod Preliminary Determination at 30-31; Wind Towers IDM at 22; Seamless Pipe IDM at 18-19; Circular Welded Pipe IDM at 16; Laminated Woven Sacks IDM at 26; Off-Road Tires IDM at 24; Welded Line Pipe IDM at 29-30.

⁴³⁷ Galvanized Wire IDM at 9; Drill Pipe IDM at 10-11; Welded Line Pipe IDM at 29.

There is a reasonable basis to believe or suspect that NDRC is using preferential electricity rates as an industrial policy tool. In 2007, the GOC negotiated agreements with 10 major steel-producing provinces to shut down obsolete steel capacity.⁴³⁸ Vice Premier Zeng Peiyan indicated that the central government would enforce this arrangement by offering a “different electricity rate to those outdated production capacities . . . so as to compress the profit-making space for outdated production capacities.”⁴³⁹ In other words, obsolete steel producers would have to pay higher electricity rates than producers that the government wished to encourage. As the largest cold-rolled steel producers are also among the largest and most advanced producers of high-technology steel and have been repeatedly favored and supported by the government, it is likely that they benefit from the preferred rates.

A comprehensive study on the subsidization of electricity in China released in 2008 concludes that energy subsidies to China’s steel industry “shot up sharply in 2004 and later, synchronizing with the buildup in steel capacity in China and the rise in steel exports from China.”⁴⁴⁰ This study calculated that, between 2000 and 2007, total electricity subsidies to the steel industry reached approximately \$916 million.⁴⁴¹ Indeed, the steel industry was built with the help of subsidized electricity costs. Moreover, because much of the electricity is generated by SOEs, the GOC continues to use energy prices as a tool of coercion by rewarding favored

⁴³⁸ “Outdated iron, steel smelting capacity reduced,” Xinhua News Agency (Dec. 28, 2007), attached hereto as Exhibit III-174.

⁴³⁹ “Zeng Paiyan: China Supports Cross-Region Mergers or Acquisitions Among Steel Enterprises,” Shanghai Stocks News (April 28, 2007), attached hereto as Exhibit III-175.

⁴⁴⁰ Shedding Light on Energy Subsidies in China: An Analysis of China’s Steel Industry from 2000-2007, Alliance for American Manufacturing at 41, attached hereto as Exhibit III-176.

⁴⁴¹ Id. at 35.

producers who are in line with stated policies with lower rates and withdrawing preferred rates from those who are not. In fact, the price of non-compliance with certain government directives may be the loss of electricity altogether.⁴⁴²

It is clear that Chinese cold-rolled steel producers are benefitting from preferential electricity rates as described above. For example, in the recent investigation of Carbon and Certain Alloy Steel Wire Rod from China, the Department found that Hebei and Benxi, which both also produce cold-rolled steel, benefited from the receipt of electricity for less than adequate remuneration.⁴⁴³

a. Financial Contribution

The provision of electricity by the government constitutes a financial contribution under Section 771(5)(D)(iii) of the Act.

b. Specificity

The provision of electricity to particular enterprises within an industry at a lower rate than other firms is specific under Section 771(5A)(D)(i) of the Act to the extent that the policy is formally documented. In addition, discriminatory pricing on a regional basis by a central government is a specific regional subsidy under Section 771(5A)(D)(iv) of the Act.

There is also a reasonable basis to believe or suspect that the provision of electricity for less than adequate remuneration is specific to producers of cold-rolled steel under Section 771(5A)(D)(iii)(IV) of the Act because officials use their discretion to administer the discounted rates to a limited group of preferred enterprises and industries. The ITC has acknowledged this, stating that “preferential or negotiated electricity rates are sometimes provided by local officials

⁴⁴² See, e.g., “Polluters Must Pay More,” China Daily (June 27, 2007), attached hereto as Exhibit III-177.

⁴⁴³ Steel Wire Rod IDM at 9.

as an incentive to attract firms to set up production in their locality.”⁴⁴⁴ Furthermore, the Department has found such programs specific in the past:

The Department has consistently taken the position that preference results when different prices are charged to different customers. Regardless of whether price discrimination is considered commercially reasonable in any given circumstance, it still constitutes preferential provision of the good or service.

The Department’s definition of preference does not require that all users pay identical prices. In the case of electricity, where users can be categorized according to different use characteristics, a finding of no preference requires that similarly situated users pay the same rate.⁴⁴⁵

Additionally, a report on energy subsidies in China states that “{i}ndustry accounts for over 70 percent of final energy consumption in China, while residential, commercial and transportation sectors account for 10, 2, and 7 percent, respectively. In 2005, the iron and steel industry accounted for 28 percent of total industrial consumption....”⁴⁴⁶ This indicates that the iron and steel industry accounts for roughly 20 percent of total energy consumption in China – easily surpassing nearly every other sector of the Chinese economy and certainly qualifying as a predominant user and as an industry receiving a disproportionately large amount of the subsidy pursuant to Section 771(5A)(D)(iii)(II) and (III) of the Act.

⁴⁴⁴ China: Description of Selected Government Practices and Policies Affecting Decision-Making in the Economy, USITC Pub. No. 3978 at 55 (Dec. 2007), attached hereto as Exhibit III-170.

⁴⁴⁵ Magnesium from Canada Final at Comment 16.

⁴⁴⁶ Shedding Light on Energy Subsidies in China: An Analysis of China’s Steel Industry from 2000-2007, Alliance for American Manufacturing at 26, attached hereto as Exhibit III-176.

c. Benefit

The provision of electricity for less than adequate remuneration confers a benefit under Section 771(5)(E)(iv) of the Act. As the Department has repeatedly found, the rates charged by the GOC for electricity provided to certain favored industries – including the steel industry – are consistently set below market rates.⁴⁴⁷ Recently, the Department again found that the GOC had provided electricity for less than adequate remuneration in the preliminary results of the 2013 administrative review of Citric Acid from China, calculating a subsidy rate of 2.92% *ad valorem*.⁴⁴⁸

Consistent with these prior proceedings, and in light of the evidence discussed above that the GOC provides electricity to cold-rolled steel producers and exporters for less than adequate remuneration in pursuit of specific government policies to promote the cold-rolled steel industry in China, the Department should again initiate an investigation of this subsidy.

⁴⁴⁷ See, e.g., Drawn Stainless Steel Sinks from the People's Republic of China, 80 Fed. Reg. 26226 (Dep't Commerce May 7, 2015) (prelim. determ.) (finding countervailable subsidy rates from the provision of electricity for less than adequate remuneration of 1.28 percent and 0.87 percent *ad valorem*, respectively, for the 2012 and 2013 periods of review); Melamine From the People's Republic of China, 80 Fed. Reg. 21706 (Dep't Commerce Apr. 20, 2015) (prelim. determ.); Certain Oil Country Tubular Goods From the People's Republic of China, 79 Fed. Reg. 52301 (Dep't Commerce Sept. 3, 2014) (final results); Non-Oriented Electrical Steel From the People's Republic of China, 79 Fed. Reg. 61607 (Dep't Commerce Oct. 14, 2014) (final determ.); Grain-Oriented Electrical Steel from the People's Republic of China, 79 Fed. Reg. 59221 (Dep't Commerce Oct. 1, 2014) (final determ.).

⁴⁴⁸ See Preliminary Calculation Memorandum for Laiwu Taihe Biochemistry Co., Ltd. in the 2013 Administrative Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China, Case No. C-570-938 (Dep't Commerce June 1, 2015) at Attachment 1 (Public Version).

F. GRANT PROGRAMS

1. The State Key Technology Project Fund

In prior CVD investigations, the Department has found that the State Key Technology Project Fund provides a countervailable subsidy to Chinese enterprises.⁴⁴⁹ The State Key Technology Project Fund was created pursuant to state circular Guojingmao Touzi (1999) No. 886 (“Circular No. 886”) and operates under the regulatory guidelines contained therein, including the Measures for the Administration of National Debt Special Fund for National Key Technology Renovation Project (“Special Fund Measures”).⁴⁵⁰ Money from the State Key Technology Project Fund is given to qualifying enterprises to provide:

- (i) technological renovation in key industries, enterprises, and products;
- (ii) facilitation of technology upgrades;
- (iii) improvement of product structure;
- (iv) improvement of quality;
- (v) increase of supply;
- (vi) expansion of domestic demand; and
- (vii) “continuous and healthy” development of the state economy.⁴⁵¹

Recipients of these funds are mainly selected from large SOEs and state holding enterprises among 512 key enterprises, 120 pilot enterprise groups, and the leading enterprises in industries.⁴⁵² Preference in recipient selection is given to the “old industrial bases in north-east,

⁴⁴⁹ Seamless Pipe IDM at 19; Off-Road Tires IDM at 23.

⁴⁵⁰ Guojingmao Touzi (1999) No. 122, Guojingmao Touzi (1999) No. 1038, and state circular Guojingmao Touzi (2000) No. 822. See Coated Paper at 17491.

⁴⁵¹ Id.

⁴⁵² Seamless Pipe IDM at 19; Off-Road Tires IDM at 23.

central and west areas.”⁴⁵³ In 2002, Wang Wanbin, Deputy Director of the State Economic and Trade Commission stated that payments under the fund were being directed to the steel industry for “import substitution of key products.”⁴⁵⁴ Cold-rolled steel producers that have received significant assistance from the fund include Hunan Valin, Angang, and Baosteel.⁴⁵⁵ Indeed, Baosteel has itself disclosed that several of its investments have been designated as State Key Technology Renovation projects.⁴⁵⁶ Accordingly, consistent with the Department’s findings in prior investigations, Petitioners request that the Department investigate the provision of subsidies under this program to cold-rolled steel producers.

a. Financial Contribution

The State Key Technology Project Fund subsidy provides a financial contribution because it represents a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.

b. Specificity

The subsidy 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-size SOEs and large-size state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups, and the leading enterprises in

⁴⁵³ Off-Road Tires IDM at 23.

⁴⁵⁴ “Speech delivered at meeting of the High Tech Industries of the Chinese Academy of Sciences,” (Nov. 11, 2002), attached hereto as Exhibit III-191.

⁴⁵⁵ Notice of Ministry of Finance on Taxation Issues of Imported Equipment for Some Technological Renovation Projects Financed by National Debt Fund, Cai Shui 2003 No. 94 (May 7, 2003), attached hereto as Exhibit III-223.

⁴⁵⁶ See Company Profile of Baosteel Group Shanghai No. 1 Iron & Steel Co., Ltd., attached hereto as Exhibit III-192.

industries. Indeed, the Department's policy is to treat subsidies provided to SOEs in China as specific within the meaning of Section 771(5A) of the Act.⁴⁵⁷

c. Benefit

The State Key Technology Project Fund subsidy provides a benefit in the amount of the grants provided pursuant to Section 771(5)(E) of the Act and 19 C.F.R. §351.504(a).

2. Foreign Trade Development Fund Grants

The Department has previously investigated and countervailed the GOC's Foreign Trade Development Fund.⁴⁵⁸ This program provides grants to support projects undertaken by exporting enterprises to "improve the competitiveness of their exported products, to develop an export processing base, to support the registration of trademarks in foreign countries, to support the training of foreign trade professional, and to explore international markets."⁴⁵⁹ Companies which are located in the Northeast Region of China and export are eligible to receive subsidies under the program.⁴⁶⁰ cold-rolled steel producer Angang, among others, is located in the Northeast Region and likely received subsidies under this program for its exports of cold-rolled steel.

⁴⁵⁷ Import Administration Policy Bulletin 10.1.

⁴⁵⁸ See, e.g., Calcium Hypochlorite Preliminary Determination at Attachment I; Seamless Pipe IDM at 36-39; Welded Line Pipe IDM at 20 & n.16.

⁴⁵⁹ Welded Line Pipe IDM at 20.

⁴⁶⁰ Welded Line Pipe IDM at 21; "China's Old Industrial Base Eyes Bright Future with Ambitious Plan," People's Daily Online, attached hereto as Exhibit III-76.

a. Financial Contribution

The Department has found that grants provided under the Foreign Trade Development Fund constitute a financial contribution from the GOC under Section 771(5)(D)(i) of the Act.⁴⁶¹

b. Specificity

The program is contingent upon exports and is therefore specific under Sections 771(5A)(A) and (B) of the Act.⁴⁶²

c. Benefit

The subsidy confers a benefit in the form of a grant under Section 771(5)(E) of the Act.⁴⁶³

3. Export Assistance Grants

The Department has previously investigated and countervailed export assistance grants received by Chinese steel producers.⁴⁶⁴ As the Department found in Galvanized Steel Wire, Chinese companies receive such grants provided by the GOC to assist in the development of export markets or to recognize export performance.⁴⁶⁵ Accordingly, the Department should investigate the provision of subsidies under this program to cold-rolled steel producers.

⁴⁶¹ Welded Line Pipe IDM at 21.

⁴⁶² Id.

⁴⁶³ Id.

⁴⁶⁴ See Seamless Pipe IDM at 36; Galvanized Steel Wire IDM at 17-18; Circular Welded Pipe IDM at 13.

⁴⁶⁵ Galvanized Steel Wire IDM at 17-18.

a. Financial Contribution

In Galvanized Steel Wire and Circular Welded Pipe, the Department determined that export assistance grants are financial contributions from the GOC under Section 771(5)(D)(i) of the Act.⁴⁶⁶

b. Specificity

The Department has determined that export assistance grants are specific because they are contingent upon export performance under Sections 771(5A)(A) and (B) of the Act.⁴⁶⁷

c. Benefit

Export assistance grants provide a benefit in the amount of the grants under Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a).⁴⁶⁸

4. Programs To Rebate Antidumping Legal Fees

The Department has investigated province-specific programs to rebate antidumping legal fees in numerous prior cases.⁴⁶⁹ The Department has determined that, in awarding the grants, the government considers whether the company made export sales and was subject to an antidumping investigation.⁴⁷⁰ There is no question that cold-rolled steel producers in China are benefiting from this program. For example, in the investigation of steel wire rod from China, the Department determined that Benxi – a wire rod producer which also produces cold-rolled steel –

⁴⁶⁶ Galvanized Steel Wire IDM at 17-18; Circular Welded Pipe IDM at 13.

⁴⁶⁷ Galvanized Steel Wire IDM at 17-18; Circular Welded Pipe IDM at 13.

⁴⁶⁸ Galvanized Steel Wire IDM at 17-18; Circular Welded Pipe IDM at 13.

⁴⁶⁹ See, e.g., Wire Rod Preliminary Determination at 27-28; Citric Acid IDM at 22.

⁴⁷⁰ Steel Wire Rod Preliminary Determination at 27-28; Citric Acid IDM at 22.

received funds from this program on October 30, 2013.⁴⁷¹ In addition, the Fair Trade Department of Zhejiang Province “offers professional advice to local enterprises and has helped set up a fund for fighting anti-dumping litigation.”⁴⁷² cold-rolled steel producer Ningbo Iron & Steel Co., Ltd. is located in Zhejiang Province and thus would be eligible to receive benefits under this program.⁴⁷³ Accordingly, the Department should investigate the provision of this subsidy to cold-rolled steel producers.

a. Financial Contribution

The rebate of antidumping legal fees provides a financial contribution because it represents a direct transfer of funds under Section 771(5)(D)(i) of the Act.

b. Specificity

As the Department has determined in prior cases, this program is specific under Sections 771(5A)(A) and (B) of the Act because it is contingent upon export activity.⁴⁷⁴ The grants provided under this program are also specific within the meaning of Section 771(5A)(D)(i) of the Act because they are limited by law to certain enterprises – i.e., those subject to antidumping proceedings.

c. Benefit

This program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. §351.504(a) in the amount of legal fees rebated to exporters.

⁴⁷¹ Steel Wire Rod Preliminary Determination at 27-28, *unchanged in Steel Wire Rod IDM*.

⁴⁷² “China Improves Advice to Enterprises on Anti-Dumping,” Xinhua General News Service (June 5, 2002), attached hereto as Exhibit III-193.

⁴⁷³ See List of Chinese Cold-Rolled Steel Producers and Exporters, attached hereto as Exhibit III-218.

⁴⁷⁴ Steel Wire Rod Preliminary Determination at 27-28; Citric Acid IDM at 22.

5. Subsidies For Development Of Famous Export Brands And China World Top Brands

In December 2008, the United States requested consultations with the GOC at the WTO concerning two GOC central government subsidy programs, i.e., the Famous Export Brand program and the China World Top Brand program.⁴⁷⁵ As summarized by USTR, these programs provide “grants, loans, and other incentives to enterprises in China, apparently in part to implement an industrial policy of promoting the development of global Chinese brand names, and to increase sales of Chinese-branded and other Chinese merchandise around the world.”⁴⁷⁶ Moreover, USTR stated that because these subsidy programs are explicitly tied to exports, they constitute prohibited subsidies under the SCM Agreement.⁴⁷⁷ The Department has likewise found that the GOC measures for administration of the program require applicants to submit export ratios and information concerning the extent to which their products meet international quality standards.⁴⁷⁸ The programs in question are, therefore, countervailable.

It is clear that Chinese cold-rolled steel producers and exporters benefit from countervailable subsidies provided pursuant to the GOC’s Famous Export Brand and World Top Brand programs. Indeed, major Chinese cold-rolled steel producers such as Angang, Baosteel,

⁴⁷⁵ See WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives, 74 Fed. Reg. 7494 (USTR Feb. 17, 2009) (notice and request for comments) (“USTR Notice”), attached hereto as Exhibit III-194.

⁴⁷⁶ Id.

⁴⁷⁷ Id. at 7496.

⁴⁷⁸ See, e.g., Aluminum Extrusions IDM at “GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands”; Steel Wire Strand IDM at “Subsidies for Development of Famous Export Brands and China World Top Brands at Central and Sub-Central Level.”

Handan Zhuoli, Maanshan, Panzhihua, and Wuhan have each been recognized by the GOC as China Famous Export Brands.⁴⁷⁹

a. Financial Contribution

As USTR has noted, the GOC's Famous Export Brand and China World Top Brand programs provide a financial contribution in the form of "grants, loans, and other incentives."⁴⁸⁰ In addition, the Department has found that these financial contributions include grants for research and development, support for technology to strengthen the competitiveness of famous brand exports, assistance for state-level research and development centers, and simplified loan application procedures and easy access to export credit insurance.⁴⁸¹ Thus, the program provides a financial contribution pursuant to Section 771(5)(D) of the Act.

b. Specificity

The GOC's Famous Export Brand program and China World Top Brand program are specific, and thus countervailable. The reason is two-fold. First, they are available only to firms which export.⁴⁸² Thus, as the Department itself has recognized in prior cases, they are contingent

⁴⁷⁹ See "China's Top Ten Famous Brands," Icxo.com (Feb. 28, 2007), attached hereto as Exhibit III-196; Handan Zhuoli Fine Steel Plate Co., Ltd, Company Website, attached hereto as Exhibit III-197.

⁴⁸⁰ USTR Notice, 74 Fed. Reg. at 7494, attached hereto as Exhibit III-194.

⁴⁸¹ See Welded Line Pipe Initiation Checklist at 23-24 (Public Version). See also Questions from the United States Regarding the New and Full Notification of China, WTO Committee on Subsidies and Countervailing Measures, G/SCM/Q2/CHN/19 (July 26, 2006) at 9-10, attached hereto as Exhibit III-46.

⁴⁸² USTR Notice, 74 Fed. Reg. at 7494, attached hereto as Exhibit III-194. See also GOC Administration of Quality Supervision, Inspection and Quarantine ("AQSIQ"), Opinions About Expedient Implementation of Famous Brand Strategy (GuoZhiJianZhi 2006 No. 282) at 2-4, attached hereto as Exhibit III-198; AQSIQ, China Top Brand Strategy Development Report (Dec. 2006), attached hereto as Exhibit III-199 (noting that the purpose of the programs is to "create international famous brands with relatively strong competitiveness").

upon export performance under Sections 771(5A)(A) and (B) of the Act.⁴⁸³ Second, there is a reasonable basis to believe or suspect that the programs are provided to a limited number of enterprises or industries and hence are also specific under Section 771(5A)(D)(i) of the Act.⁴⁸⁴ Indeed, USTR has previously observed that the Famous Export Brands program is limited by law to “190 Chinese famous brands in six industrial fields.”⁴⁸⁵ Accordingly, the GOC’s Famous Export Brand and China World Top Brand programs are clearly specific.

c. Benefit

Chinese cold-rolled steel producers receive a benefit as defined by Section 771(5)(E) of the Act because the grants and other funds provided by the GOC pursuant to the Famous Export Brand program and China World Top Brand program enable the cold-rolled steel producers to increase exports and lower their costs of producing and selling the subject merchandise.

6. Sub-Central Government Programs To Promote Famous Export Brands And China World Top Brands

The United States also requested consultations with the GOC at the WTO regarding programs promulgated by “sub-central” (i.e., provincial and local) governments in China to implement the goals of the GOC’s Famous Export Brand and China World Top Brand programs.⁴⁸⁶ According to USTR, these sub-central programs provide additional financial

⁴⁸³ Aluminum Extrusions IDM at “GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands.”

⁴⁸⁴ See Welded Line Pipe Initiation Checklist at 23-24 (Public Version) (initiating investigation of the Famous Export Brands program on the basis that, *inter alia*, there is a reasonable basis to believe or suspect that the program is specific because it is limited by law to certain enterprises or industries).

⁴⁸⁵ See Questions from the United States Regarding the New and Full Notification of China, WTO Committee on Subsidies and Countervailing Measures, G/SCM/Q2/CHN/19 (July 26, 2006) at 9-10, attached hereto as Exhibit III-46.

⁴⁸⁶ USTR Notice, 74 Fed. Reg. at 7494, attached hereto as Exhibit III-194.

support to companies with products designated as famous brands.⁴⁸⁷ The Department has investigated and countervailed these sub-central programs in numerous prior cases.⁴⁸⁸ Not surprisingly given the GOC's focus on cold-rolled steel as a product eligible for Famous Export Brand and China World Top Brand status, these programs benefit cold-rolled steel producers. For example, USTR has identified a policy of Jiangsu Province as one of the provincial programs that support Famous Export Brands.⁴⁸⁹ There are numerous cold-rolled steel producers located in Jiangsu Province, such as Yieh Phui (China), Wuxi Xindazhong Steel Sheet Co., Ltd., Jiangsu Cold Rolled (Sutor Group), Baosteel Group Shanghai Meishan Co., Ltd., Jiangsu Shagang Group, Zhangjiagang New Gangxing Technology Co., Ltd., and Jiangsu Guoqiang Zinc-Plating Ind Co., Ltd.⁴⁹⁰ Similarly, Baosteel reports that in 2013, its affiliate Bayi Steel Co., Ltd. was awarded Famous Brand status by the government of the Xinjiang Uygur Autonomous Region for several steel products produced by the company, including "cold-rolled steel strip."⁴⁹¹

⁴⁸⁷ Id. See also Questions from the United States Regarding the New and Full Notification of China, WTO Committee on Subsidies and Countervailing Measures, G/SCM/Q2/CHN/19 (July 26, 2006) at 9-10, attached hereto as Exhibit III-46.

⁴⁸⁸ See, e.g., Steel Wire Rod Preliminary Determination at 26-27; Galvanized Steel Wire IDM at 22; OCTG IDM at 24.

⁴⁸⁹ USTR Notice, 74 Fed. Reg. at 7495, number 20, attached hereto as Exhibit III-194 (identifying the "Notice Regarding Selection of 2007-2008 'Jiangsu Province Export Brands for focused Cultivation and Development'" as a provincial Famous Export Brands program).

⁴⁹⁰ See List of Chinese Cold-Rolled Steel Producers and Exporters, attached hereto as Exhibit III-218.

⁴⁹¹ "Ten Major Categories of Steel Products Made By Bayi Steel Co., Ltd. were awarded the title of 'Famous Brand of Xinjiang' in a Row," Baosteel Press Release (July 16, 2013), attached hereto as Exhibit III-195.

a. Financial Contribution

As the Department has recognized, like their central government counterparts, Famous Export Brand and China World Top Brand programs at the sub-central government level provide a financial contribution in the form of grants, loans, and other incentives.⁴⁹² Thus, these programs meet the definition of financial contribution under Section 771(5)(D) of the Act.

b. Specificity

The sub-central programs are specific because they are contingent upon export performance under Sections 771(5A)(A) and (B) of the Act.⁴⁹³ In addition, because the designation of a company as a Famous Export Brand and China World Top Brand is selective, there is a reasonable basis to believe or suspect that the programs at the sub-central level are provided by provincial and local governments to a limited number of enterprises or industries within their jurisdiction and hence are also specific under Sections 771(5A)(D)(i) and 771(5A)(D)(iii)(I) of the Act.

c. Benefit

Chinese cold-rolled steel producers receive a benefit from the sub-central programs under Section 771(5)(E) of the Act because the grants and other funds provided pursuant to these programs enable the cold-rolled steel producers to increase exports and lower their costs of producing and selling the subject merchandise.

7. Grants To Loss-Making SOEs

The GOC has notified to the WTO Subsidies Committee two programs, one local and one national, to subsidize loss-making SOEs with grants and tax benefits. These programs are

⁴⁹² Steel Wire Rod Preliminary Determination at 26-27; OCTG IDM at 24.

⁴⁹³ Steel Wire Rod Preliminary Determination at 26-27; OCTG IDM at 24.

intended to maintain employment.⁴⁹⁴ The Department has initiated an investigation of these programs in numerous prior cases, though it determined that the respondents investigated in those cases had not used them or had not received benefits during the POI.⁴⁹⁵

Information that would enable Petitioners to identify specific state-owned cold-rolled steel producers that operate at a loss is limited, due to the general lack of transparency in China and the fact that many cold-rolled steel producers do not release financial data. However, many state-owned producers of cold-rolled steel likely benefited from this subsidy. Indeed, CISA has reported that the overall profit margin of the Chinese steel industry in 2013 was only 0.13 percent and that 40 percent of Chinese steel producers were operating at a loss.⁴⁹⁶ In addition, CISA reported that for the first five months of 2014, a total of 26 of 88 medium and large-sized steel producers were still in the red, with a combined loss of \$1.43 billion.⁴⁹⁷ It should also be noted that many cold-rolled steel producers were only “profitable” as a result of the subsidies they received.⁴⁹⁸ For example, Maanshan Iron and Steel reported a net profit of 157 million RMB for 2013 but would have reported a net loss if it had not received government subsidies totaling RMB 452 million that year.⁴⁹⁹ In the first half of 2014, subsidies accounted for four-

⁴⁹⁴ Annex 5A to the Protocol on the Accession of the People’s Republic of China to the World Trade Organization at IX, attached hereto as Exhibit III-66.

⁴⁹⁵ See, e.g., Seamless Pipe IDM at 34-36; Citric Acid IDM at 30-33; Circular Welded Pipe IDM at 17.

⁴⁹⁶ “Steeled for growth,” China Daily (May 2, 2014), attached hereto as Exhibit III-200.

⁴⁹⁷ “Steel industry troubles persist despite upturn,” Global Times (July 2, 2014), attached hereto as Exhibit III-201.

⁴⁹⁸ “13 Publicly Traded Steel Producers Received 60% less in subsidy money than usual,” attached hereto as Exhibit III-202.

⁴⁹⁹ Id.

fifths of the profits reported by Chinese steel companies.⁵⁰⁰ cold-rolled steel producer Chongqing Iron and Steel received RMB 509 million in subsidies during the first half of 2014 yet still reported a loss of RMB 945 million.⁵⁰¹ Similarly, cold-rolled steel producer Hunan Valin was only able to report a profit as a result of the receipt of RMB 80 million in subsidies.⁵⁰²

a. Financial Contribution

The grants provided under this program to cold-rolled steel producers constitute a financial contribution pursuant to Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. The program's tax benefits also provide a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC.

b. Specificity

Consistent with China's WTO Accession Protocol, it is the Department's policy to consider SOEs to be a group of enterprises within the meaning of Section 771(5A) of the Act.⁵⁰³ Here, the subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to loss-making SOEs.

c. Benefit

Under Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a), grants to loss-making state-owned cold-rolled steel producers provide a benefit in the amount of the grant. The tax reductions also provide a benefit as defined by Section 771(5)(E) of the Act in the amount of revenue foregone by the GOC.

⁵⁰⁰ "Steel Industry on Subsidy Life-Support as China Economy Slows," Reuters (Sept. 18, 2014), attached hereto as Exhibit III-4.

⁵⁰¹ Id.

⁵⁰² Id.

⁵⁰³ Import Administration Policy Bulletin 10.1.

8. Export Interest Subsidies

In prior cases, the Department has investigated and countervailed the provision of export interest subsidies by provincial governments in China.⁵⁰⁴ For example, in Welded Line Pipe, the Department's investigation was initially focused on programs of the governments of Guangdong and Zhenjiang Provinces, which provided grants to offset interest paid on loans supporting the expansion of exports.⁵⁰⁵ During the course of its investigation, however, the Department discovered that Liaoning Province also provided such export interest subsidies to the two mandatory respondents through its own export interest subsidy program.⁵⁰⁶

It is reasonable to conclude that China's cold-rolled steel producers received benefits under these and other provincial-level export interest subsidy programs. Major cold-rolled steel producers such as Angang, Baosteel, and Benxi have operations in these provinces, are substantial exporters of cold-rolled steel, and likely finance their exports through short-term loans. Thus, as it did in Welded Line Pipe and again recently in OCTG, the Department should investigate subsidies provided under provincial export interest subsidy programs.⁵⁰⁷

⁵⁰⁴ See, e.g., Galvanized Steel Wire IDM at 22; Seamless Pipe IDM at 36; Welded Line Pipe IDM at 22-23.

⁵⁰⁵ Welded Line Pipe Initiation Checklist at 24-25 (Public Version).

⁵⁰⁶ See Welded Line Pipe IDM at 22-23. See also Department of Finance of Liaoning Province, Provisional Administrative Measures on High-Tech Products and Equipment Manufacturing Products Export Financial Interest Assistance of Liaoning Province (Liaocaiqi 2004 No. 671) (Dec. 16, 2004), attached hereto as Exhibit III-203. In Welded Line Pipe, the Department determined that the export interest subsidies provided by the Guangdong and Zhenjiang provincial governments were not used by the respondent companies because neither respondent company was located in those provinces. See Welded Line Pipe IDM at 22-23.

⁵⁰⁷ See Welded Line Pipe Initiation Checklist at 24-25 (Public Version); OCTG Initiation Checklist at 50 (Public Version).

a. Financial Contribution

The Department has previously found that provincial export interest subsidy programs constitute a financial contribution within the meaning of Section 771(5)(D)(i) of the Act because provincial governments in China directly transfer funds to recipients under such programs.⁵⁰⁸

b. Specificity

As the Department has previously found, the receipt of export interest subsidies is contingent upon export performance.⁵⁰⁹ Thus, the program is specific within the meaning of Sections 771(5A)(A) and (B) of the Act.

c. Benefit

Export interest subsidies confer a benefit to the recipients within the meaning of Section 771(5)(E) of the Act equal to the amount of the grant provided by the provincial governments.⁵¹⁰

9. Grants For Energy Conservation And Emission Reduction

In August 2012, the State Council published a Notice on Issuing the 12th Five-Year Plan for Energy Conservation and Emission Reduction.⁵¹¹ The plan calls for “using financial subsidies to promote highly energy-efficient products.”⁵¹² The plan targets specific “key industrial sectors” that include the steel industry.⁵¹³ In 2012, the GOC established a special fund

⁵⁰⁸ See Welded Line Pipe IDM at 23.

⁵⁰⁹ Id.

⁵¹⁰ Id.

⁵¹¹ See State Council Notice on Issuing the 12th Five-Year Plan for Energy Conservation and Emission Reduction, attached hereto as Exhibit III-205.

⁵¹² Id. at (5).

⁵¹³ Id. at Table 2.

of RMB 97.9 billion for energy conservation, emission reduction, and renewable energy.⁵¹⁴ Chinese cold-rolled steel producers have received grants pursuant to this plan. For example, in December 2012, the Valin Group received RMB 200 million for “achievements in environment protection.”⁵¹⁵ In its 2013 annual report, Angang reported a line item of RMB 364 million for “The Energy-saving and Emission-reducing funds transferred by Angang holding.”⁵¹⁶ The Department has previously investigated the receipt of subsidies for energy conservation and emission reduction. For example, in GOES from China, the Department investigated awards to support enterprises that undertake energy-saving reform projects.⁵¹⁷ It should, accordingly, investigate the receipt of such subsidies by cold-rolled steel producers.

a. Financial Contribution

The grants provided under this program to cold-rolled steel producers constitute a financial contribution pursuant to Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to companies within “key industrial sectors” that meet certain requirements for energy conservation and emission reduction.

⁵¹⁴ See “The Lifestrav of Publicly Traded Companies that Suffer from Losses: Energy and Environmental Conservation Subsidies” (Mar. 17, 2014), attached hereto as Exhibit III-206.

⁵¹⁵ Id.

⁵¹⁶ Angang 2013 Annual Report at 176, attached hereto as Exhibit III-74.

⁵¹⁷ See GOES IDM at 17.

c. Benefit

Under Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a), grants to cold-rolled steel producers for achievements in environmental protection provide a benefit in the amount of the grant.

10. Grants For The Retirement Of Capacity

As part of its efforts to conserve energy and reduce emissions, the GOC has also provided subsidies in the form of grants to cold-rolled steel producers that retire steel production facilities that use old and outdated equipment. One of the “basic principles” of the 12th Five-Year Plan for Energy Conservation and Emission Reduction is to “accelerate the elimination of backward production capacity” in certain industrial sectors, including the elimination of 48 million MT of steel production.⁵¹⁸ Consistent with the 12th Five-Year Plan for Steel, the 12th Five-Year Plan for Energy Conservation and Emission Reduction specifically targets for elimination smaller steel production facilities.⁵¹⁹ In October 2013, the State Council issued the Guiding Opinion on Resolving the Problem of Severe Excess Capacity.⁵²⁰ The opinion called for “improve{d} fiscal support policies” to accelerate the elimination of backwards capacity such as establishing “special funds to support it” as well as “expand{ing} the size of {existing} funds to support industries with excess production capacity.”⁵²¹

⁵¹⁸ See State Council Notice on Issuing the 12th Five-Year Plan for Energy Conservation and Emission Reduction at 4, 7-8, attached hereto as Exhibit III-205.

⁵¹⁹ “China’s 12th Five-Year Plan: Iron and Steel” (May 25, 2011) (“KPMG China”) at 2, attached hereto as Exhibit III-147.

⁵²⁰ See State Council, Guiding Opinion on Resolving the Problem of Severe Excess Capacity (Oct. 2013), attached hereto as Exhibit III-208.

⁵²¹ Id.

Cold-rolled steel producers are benefiting from these subsidies. In December 2013, it was announced that the GOC was rewarding steel producers on a list it was publishing that had conformed with its regulations governing environmental protection, energy consumption, and technological equipment by taking measures such as eliminating production capacity.⁵²² Cold-rolled steel producers that appeared on the list included Baosteel, Wuhan, and Angang.⁵²³ It should be noted that many of the steel producers that claimed they were eligible for subsidies for eliminating production capacity had not, in fact, retired any of their old production facilities.⁵²⁴ In fact, in June 2013, China's National Audit Office named 126 companies that had committed fraud in acquiring the obsolete production capacity retirement subsidies, which accounted for more than 36.2 percent of all the companies that had received such subsidies.⁵²⁵ For example, cold-rolled steel producer Chongqing Iron and Steel Co., Ltd. was found to have defrauded the GOC of RMB 7.66 million in capacity retirement subsidies.⁵²⁶ Other steel producers applied for subsidies based on the elimination of steel production facilities that had already been idled a long time ago.⁵²⁷

⁵²² "China offers steelmakers incentives to cut capacity," Steel Times International (Dec. 4, 2013), attached hereto as Exhibit III-209.

⁵²³ Id.; see also Steel Producers Conforming to the "Rules and Regulations for the Steel Industry" (listing additional cold-rolled steel producers that appeared on the list of companies eligible for subsidies), attached hereto as Exhibit III-210.

⁵²⁴ See "The Lifestraw of Publicly Traded Companies that Suffer from Losses: Energy and Environmental Conservation Subsidies" (Mar. 17, 2014), attached hereto as Exhibit III-206.

⁵²⁵ Id.

⁵²⁶ Id.

⁵²⁷ "Handan's Balancing Act," SINA (Nov. 30, 2013), attached hereto as Exhibit III-211.

a. Financial Contribution

The grants provided under this program to cold-rolled steel producers constitute a financial contribution pursuant to Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to certain industrial sectors that meet certain requirements for eliminating production capacity.

c. Benefit

Under Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a), grants to cold-rolled steel producers for eliminating production capacity provide a benefit in the amount of the grant.

11. Grants For Relocating Production Facilities

As part of the 12th FYP Steel Development Plan, China has been relocating urban-based steel producers to locations outside of their current city.⁵²⁸ Most of these steel producers will be relocated to “southeast coastal areas” and interior waterways.⁵²⁹ An official who was involved in drafting the 12th FYP Steel Development Plan stated that China’s goal is to have 40 percent of total steel production come from coastal areas by 2015.⁵³⁰ The 12th Five-Year Plan for Energy Conservation and Emission Reduction similarly calls for the “relocation of heavy polluting

⁵²⁸ 12th FYP Steel Development Plan at Art. III(III)3, attached hereto as Exhibit III-2.

⁵²⁹ Id. at Art. III(II) & IV(V).

⁵³⁰ Zhang Qi, “Steel industry plan forged,” China Daily (Jan. 27, 2011), attached hereto as Exhibit III-212.

enterprises” and for measures to optimize the “regional spatial layout” of “key industries” including the steel industry.⁵³¹

The GOC has provided grants to assist steel producers in implementing this policy of relocating production facilities away from urban areas to other regions of China. For example, in December 2012, cold-rolled steel producer Chongqing received a RMB 500 million “environment protection subsidy” for “relocation related expenses.”⁵³² In addition, cold-rolled steel producer Maanshan Iron and Steel disclosed in its 2013 annual report that it had received RMB 20 million in government subsidies for “Relocation compensation for Transport Company.”⁵³³

a. Financial Contribution

The grants provided under this program to cold-rolled steel producers constitute a financial contribution pursuant to Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

b. Specificity

The subsidy is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to certain industrial sectors that meet certain requirements for relocating their production facilities.

⁵³¹ State Council Notice on Issuing the 12th Five-Year Plan for Energy Conservation and Emission Reduction, attached hereto as Exhibit III-205. See also State Council, Guiding Opinion on Resolving the Problem of Severe Excess Capacity (Sept. 2013), attached hereto as Exhibit III-208.

⁵³² See “The Lifestraw of Publicly Traded Companies that Suffer from Losses: Energy and Environmental Conservation Subsidies” (Mar. 17, 2014), attached hereto as Exhibit III-206.

⁵³³ Maanshan Iron and Steel 2013 Annual Report at 204, attached hereto as Exhibit III-213.

c. Benefit

Under Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a), grants to cold-rolled steel producers for relocating their production facilities provide a benefit in the amount of the grant.

III. INJURY TO THE DOMESTIC INDUSTRY

Petitioners allege that subsidized imports of cold-rolled steel from China have caused, are causing, and are threatening to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the International Trade Commission in Volume I of this Petition.

IV. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Chinese producers and exporters of cold-rolled steel benefit from massive countervailable subsidies provided by the GOC and provincial and local governments in China. Accordingly, Petitioners request that the Department initiate a countervailing duty investigation of cold-rolled steel from China.

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Document</u>
III-1	GOC National Development and Reform Commission, Development Policy for the Iron & Steel Industry (July 8, 2005)
III-2	Ministry of Industry and Information Technology, Guoxingui [2011] No. 480, "Notice on Printing and Distribution of the Development Plan of the 12 th Five Year Program for the Iron and Steel Industry" (Oct. 24, 2011)
III-3	Request from the United States to China Pursuant to Article 25.10 of the Agreement, G/SCM/Q2/CHN/51 (Oct. 21, 2014)
	Attachment 4 (Guangdong Province Iron and Steel Industry Adjustment and Revitalization Plan, Yue Fu (2009) No. 98
	Attachment 7 (Shandong Provincial People's Government Notice on the Issuance of the Shandong Province Iron and Steel Industry Adjustment Revitalization Plan, Lu Zheng Fa (2009) No. 45
III-4	"Steel Industry on Subsidy Life-Support as China Economy Slows," Reuters (Sept. 18, 2014)
III-5	Chinese Communist Party Central Committee, "Suggestions on Adjustment of Eighth Five-Year Plan Programs" (Mar. 7, 2003)
III-6	National People's Congress, "Outline of the Ninth Five-Year Plan for Economic and Social Development," (Mar. 17, 1996)
III-7	Henry W. Yao, "China's 9 th Five-year Plan and Implications for Canadian Business," Pacific Region Forum on Business and Management Communication (Oct. 24, 1996)
III-8	"Current Situation of the Chinese Steel Industry," OECD (Apr. 4, 2006)
III-9	State Economic and Trade Commission, "The Three-year Reform and Difficulty Relief Efforts for the SOEs Have Taken a Favorable Turn" (Jan. 25, 2000)
III-10	Li Peng, "Report on the Outline of the Ninth Five-Year Plan (1996-2000) for National Economic and Social Development and the Long-Range Objectives to the Year 2010," (English Version)

- III-11 Lu Zhian, “The Reform of the Chinese Steel Industry,” OECD (Oct. 29, 1999)
- III-12 Tenth Five-Year Plan for National Economic and Social Development – People’s Republic of China”
- III-13 State Economic and Trade Commission of China, “Tenth Five-Year Plan for the Metallurgical Industry” (Sept. 5, 2002)
- III-14 “Tenth 5-Year Plan of Industrial Structure Adjustment Published,” People’s Daily (Nov. 19, 2001)
- III-15 “Tenth Five-Year Plan for Industry,” Xinhua News (Oct. 18, 2001)
- III-16 Bank of Tokyo-Mitsubishi UFJ, “11th Five-Year Plan Plots Future Course for the Chinese Economy,” Economic Review, Vol. 1, No. 6 (Apr. 2006)
- III-17 “Nation Plans to Control Steel Production,” China Daily (Dec. 13, 2005)
- III-18 “Outline of the Eleventh Five-Year Plan for Economic and Social Development,” Xinhua News (Mar. 16, 2006)
- III-19 “Twelfth Five-Year Plan for Economic and Social Development”(Mar. 14, 2011)
- III-20 “New Policy Stresses Quality of Foreign Investment,” Chinagate.cn (Nov. 9, 2006)
- III-21 “Changes in Five-Year Plans’ Economic Focus,” China.org.cn (Nov. 9, 2005)
- III-22 “Key Points of the 11th Five-Year Guidelines,” China.org.cn (Mar. 7, 2006)
- III-23 Trade Law Advisory Group, “China’s Industrial Subsidies Study: High Technology” (Apr. 2007)
- III-24 Chinese Ministry of Science and Technology, National Development and Reform Commission, Opinion Regarding Construction and Implementation of Platform for Basic Science and Technology Conditions of the State under the Eleventh FYP (July 18, 2005)
- III-25 Testimony of Barry Naughton, “China’s State Sector, Industrial Policies in the 11th Five Year Plan,” before the U.S.-China Economic and Security Review Commission Hearing on the “Extent of the Government’s Control of China’s Economy, and Implications for the United States” (May 24, 2007)

- III-26 Li Rongrong, “Promoting the Structural Adjustment and the Scientific and Technological Innovation and Enhancing the Core Competitiveness of State-owned Enterprises” (Sept. 8, 2005)
- III-27 Outline of the Jiangsu Province Science and Technology Development Plan Under the “Eleven Five” (Apr. 18, 2006)
- III-28 Decision of the State Council on Promulgating and Implementing the “Temporary Provisions on Promoting Industrial Structure Adjustment,” Guo Fa No. 40 (2005)
- III-29 “Baosteel’s Zhanjiang plant on schedule,” Shanghai Daily (June 30, 2014)
- III-30 National Development and Reform Commission, “Directory Catalogue on Readjustment of Industrial Structure” (Mar. 2, 2005)
- III-31 The State Council, “Catalogue for the Guidance of Foreign Investment Industries” (Feb. 21, 2012)
- III-32 “Revised Catalogue for the Guidance of Foreign Investment Industries,” tdetrade.com (Jan. 2005)
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July 28, 2015

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Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-9 – I-15; and Volume IV, pages i, 2-12, 15, and 22, the Exhibit List, and Exhibits IV-1 – IV-4, IV-6, IV-8, IV-10 – IV-12, IV-14, IV-16, IV-18 – IV-19, IV-21, IV-29 – IV-30

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from **Brazil**, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify

that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.
- (2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.
- (3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.
- (4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the*

destination or designation would reveal the name) (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and I-9.

- (5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.
- (6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.
- (7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume IV of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)): pages 12 and 22, and Exhibits IV-19 and IV-21.
- (2) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): page 22 and Exhibits IV-21, IV-29, and IV-30.
- (3) *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)): pages 5-9 and 12, and Exhibits IV-6, IV-8, IV-10, IV-12, IV-14, IV-16, and IV-18.
- (4) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages i and 2-12; and Exhibits IV-4, IV-8, IV-10, IV-11, IV-18, IV-29, and IV-30.
- (5) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 3, 7-8, 12, 15, and 22; and Exhibits IV-4, IV-10 – IV-11, IV-18; IV-29 – IV-30.
- (6) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibits IV-1 – IV-2.

- (7) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 2-4, 6-7, and 11-12; the Volume IV Exhibit List, and Exhibits IV-1, IV-3 – IV-4, IV-11, and IV-19.
- (8) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 7, and 12; the Volume IV Exhibit List, and Exhibits IV-1 – IV-3, IV-11, IV-19, and IV-21.

The single-bracketed business proprietary information in the attached Volumes I and IV of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).¹ Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

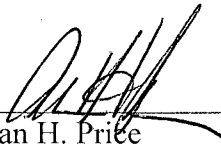
In addition, pursuant to 19 C.F.R. § 351.304(b)(2), Petitioners submit that the information enclosed in double brackets ("[[]]") on pages 7-8 and 11 of Volume IV, the Volume IV Exhibit List, and Exhibit IV-11 is exempt from disclosure under an APO. The information in double brackets in Exhibit IV-11 would permit the identification of the foreign market researcher who obtained the home market prices used in the Petitions. Specifically, this information includes the name of the declarant, the signature line, company information, and biographical details. The release of this information would lead to the disclosure of the foreign market researcher's identity. There is a clear and compelling need to withhold this information from disclosure. Most importantly, it is a matter of protecting the foreign market researcher's personal safety as well as economic security. If the identity of the foreign market researcher is released, it will result in substantial and irreparable harm to the foreign market researcher and there is no way to cure the breach. For these reasons, we submit that the Department should grant Petitioners' request for special protection of the double-bracketed information in Exhibit IV-11.

¹ Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

Should you have any questions regarding these Petitions, please contact the undersigned.

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8, 10-12, 14, 16, 18-19, 21, and 29-30
PUBLIC VERSION

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

**CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS
FROM BRAZIL**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME IV

**INFORMATION RELATING TO BRAZIL –
ANTIDUMPING DUTIES**

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July 28, 2015

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I. INFORMATION RELATING TO DUMPING

The application of the Department of Commerce's ("the Department") standard dumping methodology shows that producers and/or exporters in Brazil sold, or offered for sale, cold-rolled steel flat products ("cold-rolled steel") in the United States at less than normal value.

Petitioners used export price as the basis for U.S. price because Brazilian producers and/or exporters typically sell either directly to unrelated purchasers in the United States or through unaffiliated trading companies to unrelated purchasers in the United States. Petitioners first computed the ex-factory export price ("ex-factory U.S. price" or "ex-factory EP") in U.S. Dollars by deducting from the quoted transaction prices the costs incident to delivering the merchandise to customers in the United States. Specifically, Petitioners deducted transportation charges from the Brazilian manufacturing facilities to the Brazilian ports of exportation, foreign brokerage and handling fees, ocean freight and insurance expenses, U.S. port fees, and U.S. duties and taxes, where applicable.

Petitioners calculated the ex-factory normal value ("ex-factory NV" or "NV") by subtracting from the quoted home market prices the costs associated with delivering the merchandise to customers in Brazil. These fees include inland freight, brokerage and handling expense, and local taxes.

Petitioners next compared each ex-factory EP with the ex-factory NV for identical or similar merchandise. In making these comparisons, Petitioners were required to convert the Brazilian producer's normal values to U.S. Dollars using the U.S. Dollar – Brazilian Real exchange rate in effect during the period of investigation (July 1, 2014 through June 30, 2015) (the "POI"). Petitioners then subtracted the U.S. price from the ex-factory NV and divided the difference by the U.S. price for each observation to determine the dumping margin – on a "price to price" basis.

However, as detailed in this Volume, Petitioners believe that there is sufficient evidence to support a finding that sales of subject merchandise made by the Brazilian producer in the home market were made at prices that were lower than the producer's cost of production. Consequently, Petitioners formally request that the Department initiate and conduct a sales-below-cost investigation.¹ Petitioners' belief is based upon the fact that Petitioners first estimated the Brazilian producer's costs of production using the production costs and consumption rates of a surrogate U.S. producer (the "Brazilian Surrogate"), and made adjustments to the calculated cost of production ("COP") for known differences in production costs. Petitioners then compared the calculated COP with the ex-factory NVs for identical merchandise and found that the ex-factory NVs were less than the COP for the same or similar products in all instances.

II. EXPORT PRICE ("EP")

Brazilian producers of cold-rolled steel typically sell the merchandise directly to end users, service centers, or trading companies located in the United States.² Domestic manufacturers of cold-rolled steel generally learn of Brazilian price offerings in the U.S. market during the course of negotiating sales with their customers, or through intelligence gathered via database services.³ Domestic producers generally price their cold-rolled steel for sale in the U.S. market based on a number of factors, including the type/grade of the steel, the thickness or gauge of the sheet itself, the width of the coil for coiled product (premiums may be charged for extra-wide or extra-narrow

¹ See 19 U.S.C. § 1677b(b).

² In the case of Usinas Siderurgicas de Minas Gerais S.A ("Usiminas"), Petitioners note that the company has sold [*Narrative*], attached as Exhibit IV-1. According to [*Company*], See [*Source*], attached as Exhibit IV-2. [*Company*], See Profile of [*Company*]. It is possible that Usiminas has [*Narrative*] Usiminas' sales are made on a constructed export price ("CEP") basis. However, for purposes of this filing, Petitioners have assumed that Usiminas' sales are made on an EP basis.

³ See Declaration of [*Name*], attached as Exhibit IV-3.

coils), and whether the product has premium features (e.g. deep drawing quality). It is Petitioners' understanding that Brazilian producers take into account similar considerations when selling goods within Brazil and when selling goods to the United States.

A. U.S. Price

Petitioners obtained the following quoted transaction or offered prices for the sale of cold-rolled steel manufactured by Brazilian producer Usinas Siderurgicas de Minas Gerais S.A. ("Usiminas"), and offered for sale in the United States.⁴ Petitioners believe that Usiminas was one of the largest Brazilian manufacturers and exporters of cold-rolled steel to the United States during the POI:⁵

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Offered (NT)	Price Per Net Ton
US-401	[Product]	[]	[]	[]	[]	[]
US-402	[]	[Grade]	[*]	[]	[X]	[\$54]
US-403	[]	[]	[]	[X]	[]	[]

A declaration certifying the terms of these [] are provided in **Exhibit IV-4**. The [] are based on actual offers made to [Month Year Narrative].

As the quoted sales offers are to unrelated U.S. customers for purchase prior to importation, EP is the appropriate basis for U.S. price.⁶ In order to calculate the ex-factory export prices for U.S. sales, Petitioners deducted from the quoted prices the costs associated with exporting and delivering the product to customers in the United States, where such costs were incurred by the foreign

⁴ See Declaration of [Name], attached as **Exhibit IV-4**.

⁵ [Source], attached as **Exhibit IV-1**.

⁶ See 19 U.S.C. § 1677a(c).

producer and the quoted sales prices include such costs.⁷ These costs *normally* consist of foreign inland freight incurred from the Brazilian mill to the port of exportation; country of manufacture brokerage and handling charges; ocean freight and marine insurance incurred from the Brazilian port of exportation to the U.S. port of importation; U.S. port, wharfage, and/or handling fees; and customs duties paid upon entry of the merchandise into the United States. Additionally, because the price quotes are for [

Narrative

Narrative

Narrative

]. The following discussion details the calculation of relevant moving and selling expenses.

B. Movement Expenses and Related Expenses

1. Foreign Inland Freight and Brokerage and Handling

Under normal circumstances, Petitioners would deduct country of manufacture movement expenses such as foreign inland freight (truck or rail or barge), distribution warehouse expenses, brokerage and handling expenses, and port expenses from the quoted transaction prices. However, as is [*Source*], virtually all cold-rolled steel shipped by Usiminas to the United States is shipped from the Port of Santos. Additionally, Usiminas has one of its primary cold-rolled steel production facilities located in Santos,⁸ which is in the state of São Paulo, and appears to have direct access to port facilities that are capable of handling oceangoing vessels.⁹ Given the proximity of the company's facilities to its port

⁷ See Calculation of Ex-Factory U.S. Price, attached as Exhibit IV-10.

⁸ See Usiminas company profile, attached as Exhibit IV-5; see also *Iron and Steel Works of the World* (2014) at 34-35, excerpts attached as Exhibit IV-5.

⁹ See *id.*

operations, Petitioners have, for purposes of the Petition, excluded these costs from its calculation of the ex-factory EPs. This methodology is conservative and may understate the level of dumping.

2. International Ocean Freight and Insurance

With respect to ocean freight and relevant marine insurance expenses, Petitioners obtained from the U.S. International Trade Commission information relating to cold-rolled steel imported into the [

City

Month

Narrative

Narrative

].^{10,11}

Petitioners subtracted the reported Customs values for entries made into [Port] from the reported C.I.F. values for the same port and divided the difference by the quantity of merchandise imported into the port for the same time period.¹² This result was subtracted from the U.S. price quotes as shown in **Exhibit IV-10**. This is the best information available to Petitioners.

3. U.S. Port Expenses

Petitioners made adjustments to Usiminas' offered prices to account for port expenses associated with the delivery of cold-rolled steel to the port of arrival in the United States. Specifically, as the cold-rolled steel was to be delivered to the [Port], Petitioners

¹⁰ See Calculation of ocean freight and marine insurance expenses: U.S. International Trade Commission, *Dataweb*, attached as **Exhibit IV-6**. This is the most current data available to Petitioners.

¹¹ Petitioners note that official U.S. import statistics base movement expense data on reported expenses "incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first port of entry in the United States." See U.S. Customs and Border Protection agency, instructions accompanying CBP form 7501, attached as **Exhibit IV-7**. Based upon this, it is clear that foreign inland freight expenses are not captured in official U.S. import statistics and must be calculated separately. This conclusion is confirmed by the U.S. Customs and Border Protection Agency, which stipulates that freight charges reportable on Customs Form 7501 at Block 32 are to be "port to port" based expenses. See *id.*

¹² See Calculation of ocean freight and marine insurance expenses: U.S. International Trade Commission, *Dataweb*, attached as **Exhibit IV-6**.

obtained the tariff that was in effect during the POI for this port.¹³ Petitioners subtracted these expenses from the U.S. price quotes as shown in **Exhibit IV-10**.

C. [Item]

Sales offers involving goods produced by Usiminas were [*Narrative* *Company*].¹⁴ Petitioners do not have access to the [*Narrative*]. In prior investigations covering ferrous goods, the petitioning party has estimated a [*Narrative*].¹⁵ Consistent with prior practice [*Narrative*], Petitioners have made a conservative [*Narrative*].¹⁶ [] was subtracted from the reported U.S. price offers. See **Exhibit IV-10**.

D. Duties and Taxes

Petitioners deducted from the quoted transaction prices the required Harbor Maintenance Fee (“HMF”) (0.125 percent *ad valorem*) and the Merchandise Processing Fee (“MPF”) (0.3464 percent *ad valorem*) based on the dutiable value of the goods.¹⁷ The dutiable value excludes any importer markup, freight, and brokerage fees. See **Exhibit IV-10**.

¹³ See Port expense calculation, attached as **Exhibit IV-8**.

¹⁴ See Declaration of [*Name*], attached as **Exhibit IV-4**.

¹⁵ See, e.g., *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from the Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 Fed. Reg. 40,274 (Dep’t Commerce July 24, 2007), *Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Germany, Turkey, and the People's Republic of China*, 70 Fed. Reg. 72,781 (Dep’t Commerce Dec. 7, 2005).

¹⁶ See Declaration of [*Name*], attached as **Exhibit IV-4**.

¹⁷ See 19 C.F.R. § 24.23 and 24.24 (2015). See also U.S. Customs and Border Protection Agency: Harbor Maintenance Fee and Merchandise Processing Fee, attached as **Exhibit IV-9**.

E. Computation of Ex-Factory EP

The calculations described above resulted in the following ex-factory export prices for cold-rolled steel offered for sale by Usiminas in the United States:

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Offered (NT)	Ex-Factory EP
US-401	[Product]	[]	[]	[]	[]	[S/O]
US-402	[]	[Grade]	[*]	[]	[*]	[]
US-403	[]	[]	[]	[*]	[]	[]

Detailed calculations of the ex-factory EPs for imports of the subject merchandise from Brazil is provided in **Exhibit IV-10**.

III. EX-FACTORY NORMAL VALUE

The preferred method for determining the NV of imported products is to examine sales or offers of sales of the identical or similar product in the home market of the exporting country. Petitioners obtained information on sales or offers of sales in Brazil of cold-rolled steel that are identical or similar to the goods offered for sale to the United States as described *supra*.¹⁸ Petitioners calculated the ex-factory NV based on these home market prices as the best information reasonably available to Petitioners.

Petitioners obtained the following quoted transaction prices for cold-rolled steel produced by Usiminas and sold or offered for sale to customers in Brazil:¹⁹

¹⁸ See Declaration of [[Name]], attached as Exhibit IV-11.

¹⁹ See *id*.

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Offered	Price Per Metric Ton
BR-401	[Product]	[]	[]	[]	[]	[]
BR-402	[]	[Grade]	[*]	[1333]	[*]	[3,31,333]
BR-403	[]	[]	[]	[]	[]	[]

The prices were quoted for delivery in [].²⁰ Petitioners calculated NV based on these home market prices. The products offered for sale in Brazil are highly comparable to the cold-rolled steel offered for sale in the United States: [

Description

Narrative

Narrative

52

44

Country].²¹

All of the quoted transaction prices for Brazilian home market sales are on a Brazilian Real per metric ton basis.²² Additionally, the pricing is inclusive of freight for [

].²³ In order to calculate the ex-factory NV for home market sales, Petitioners deducted from the delivered price those costs associated with selling and delivering the product to customers in Brazil. These costs consist of inland freight charges (where applicable) from Usiminas' mill to the company's home market customers, brokerage and handling expenses associated with delivering the product to home market customers, and taxes charged in the home market, where applicable. These calculations yielded per metric ton ex-factory NVs for sales or

²⁰ See id.

²¹ Compare id., with Declaration of [None], attached as Exhibit IV-4.

²² See Declaration of [Name], attached as Exhibit IV-11.

²³ See id.

offers of sale of cold-rolled steel. A detailed description of these calculations appears in **Exhibit IV-18**.

Petitioners have reason to believe or suspect that sales or offers of sale of subject merchandise in Brazil by Usiminas have been made over an extended period of time and in substantial quantities at prices that do not permit recovery of all costs within a reasonable period of time in the normal course of trade. Therefore, Petitioners allege that home market sales in Brazil are made at prices that are less than the COP and should be discarded in favor of constructed value (“CV”). Accordingly, Petitioners calculated NV based on CV. Petitioners also request that the Department commence a country-wide COP inquiry of Brazilian cold-rolled steel producers.²⁴ Information supporting this allegation is provided below.²⁵

A. Movement Expenses and Related Expenses

1. Inland Freight

Brazilian producers normally transport cold-rolled steel by truck from their mills to the home market customer’s place of business. Petitioners first calculated the distance from Usiminas’ facility in Santos to a customer’s location/delivery point located in [*City, state*],²⁶ which is approximately [*X*] miles away.²⁷

Having calculated the distance from Usiminas’ facility to the location of its home market customer, Petitioners obtained information regarding Brazilian inland freight costs from the World Bank publication *Doing Business in Brazil – 2015* (“*DBB 2015*”).²⁸ The publication provides

²⁴ See 19 U.S.C. § 1677b(b)(2)(A); see also H.R. Rep. No. 103-316, at 163-64 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4171.

²⁵ See *infra* Part IV.

²⁶ See Google Maps: Distance calculations for various points within Brazil (Home Market Sales), attached as **Exhibit IV-12**.

²⁷ See *id.*

²⁸ See World Bank, *Doing Business in Brazil – 2015*, attached as **Exhibit IV-13.a**.

theoretical freight rates based on the exportation and importation of containerized goods by customers located in São Paulo.²⁹ As the example relates to goods that are shipped in the course of international trade, Petitioners utilized Google Maps to calculate the distance between São Paulo and Rio de Janeiro – the theoretical port for goods exported out of Sao Paulo.³⁰ The distance – 268 miles³¹ – was applied against the average import/export inland freight rate of US\$1,720.00 per shipment to yield a cost per mile.³² That cost was then converted to a cost per mile per kilogram (or per metric ton) by dividing the quoted rate by the standard container load as specified by the methodology outlined in *DBB 2015* – 10 metric tons.³³ Because the price was denominated in U.S. Dollars and the home market offers were quoted in Brazilian Reais, Petitioners converted the value to a Real-denominated price utilizing the currency exchange rate in effect during the period in which the goods were offered for sale to customers in Brazil. Petitioners obtained currency exchange rates from the Federal Reserve.³⁴ The resulting cost per mile (or per metric ton) was multiplied by the calculated distance between Santos and [city], which in turn was subtracted from the offered home market prices.³⁵

2. Home Market Brokerage and Handling

Utilizing *DBB 2015*, Petitioners calculated the country of manufacture brokerage and handling expenses that Usiminas would incur in shipping subject merchandise to a customer in Brazil. According to *DBB 2015*, Brazilian companies are likely to incur up to US\$325.00 in

²⁹ *Id.*; see also Methodologies employed in collecting data for *DBB 2015*, attached as **Exhibit IV-13.b**.

³⁰ See World Bank, *Doing Business in Brazil – 2015*, attached as **Exhibit IV-13.a**.

³¹ See Google Maps: Distance calculations for various points within Brazil (Home Market Sales), attached as **Exhibit IV-12**.

³² See Calculation of country of manufacture inland freight expense scenarios, attached as **Exhibit IV-14**.

³³ See *id.*

³⁴ See Federal Reserve: U.S. Dollar – Real daily exchange rates, attached as **Exhibit IV-15**.

³⁵ See Calculation of Ex-Factory Normal Value, attached as **Exhibit IV-18**.

brokerage and handling fees.³⁶ This rate was converted to a price per kilogram (and then to a price per metric ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in *DBB 2015* – 10 metric tons.³⁷ Petitioner also converted the value to a Real-denominated price utilizing the currency exchange rates in effect during the period in which goods were offered for sale to customers in Brazil. Petitioners obtained currency exchange rates from the Federal Reserve.³⁸ The cost per metric ton was then subtracted from the offered home market prices.³⁹

B. Home Market Taxes

Items sold domestically within Brazil are subject to a variety of tax regimes including the Tax on Industrialized Products (“IPI”), Tax for Operations Relating to the Circulation of Merchandise and Services of Interstate and Intercity Transport and Communication (“ICMS”), Contribution to the Social Integration Program (“PIS”), and Contribution to Social Security Financing (“COFINS”).⁴⁰ This is true for products such as cold-rolled steel. In order to calculate the proper ex-factory NVs for subject merchandise sold by Usiminas, Petitioners decreased the offered home market prices by the tax rates corresponding to those taxes that were applicable to the home market price quote. These taxes include [*Tax, tax*].⁴¹ The calculation of NV appears in **Exhibit IV-18**.

³⁶ See World Bank, *Doing Business in Brazil – 2015*, attached as **Exhibit IV-13.a**.

³⁷ See Methodologies employed in collecting data for *DBB 2015*, attached as **Exhibit IV-13b**.

³⁸ See Calculation of country of manufacture brokerage and handling scenarios, attached as **Exhibit IV-16**.

³⁹ See Calculation of Ex-Factory Normal Value, attached as **Exhibit IV-18**.

⁴⁰ See Deloitte, *Doing Business in Brazil: Taxes and Contributions*, attached as **Exhibit IV-17**.

⁴¹ See Declaration of [[*Name*]], attached as **Exhibit IV-11**.

RANGED DATA

C. Computation of Ex-Factory NV

The calculations described above resulted in the following ex-factory NVs for cold-rolled steel produced by Usiminas, and sold or offered for sale in the home market:

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Offered	Ex-Factory NV (RS/MT)
BR-401	[<i>Product</i>]	[]	[*]	[]	[]	[]
BR-402	[]	[<i>Grade</i>]	[~~1333~~]	[<i>1333</i>]	[]	[<i>2222</i>]
BR-403	[]	[]	[]	[]	[*]	[]

Detailed calculations of the ex-factory NVs based on home market prices for the subject merchandise are provided in **Exhibit IV-18**.

IV. COST OF PRODUCTION

The Department cannot use the price-to-price comparisons described above because the prices charged by Usiminas in the home market are not sufficient to recover the company's COP. Therefore, the Department's practice requires the use of constructed value to establish the NV of the merchandise.⁴²

Petitioners used the Department's standard methodology to calculate the COP for the subject merchandise produced by Usiminas in Brazil. However, Petitioners did not have access to Usiminas' actual production costs. Therefore, as the best information reasonably available, Petitioners used the cold-rolled steel production costs and consumption rates for [*Company*] (the "Brazilian Surrogate") for [].⁴³ Petitioners chose this time period because it encompasses the POI, and provides the most recent information reasonably available to Petitioners. Like Usiminas, the Brazilian Surrogate is an integrated steel mill with capabilities that are similar to those of Usiminas. Further, the Brazilian Surrogate produces cold-rolled steel of varying sizes and

⁴² See 19 U.S.C. § 1677b(b)(1).

⁴³ See Declaration of [*Name*], attached as **Exhibit IV-19**.

grades that include those offered by Usiminas to its U.S. customers. This is the best information reasonably available to Petitioners at this time.

The manufacturing process for cold-rolled steel typically includes six processes, namely: 1) molten iron production (which includes the production of coke), 2) liquid steel production, 3) slab casting, 4) hot strip rolling, 5) pickling and oiling, and 6) cold rolling. A description of each of these processes is set forth below.

In the molten iron production process, molten iron is produced from iron ore in a blast furnace by combining iron ore pellets with coke and coal injection in a high temperature environment. The major direct cost elements for this process are coke and iron ore pellets.

Molten iron from the previous process is combined with scrap and miscellaneous additives in a basic oxygen furnace in the liquid steel production. The metallic charge is converted to steel by the addition of fluxes, such as quicklime and limestone, to absorb impurities, and by blowing oxygen through the molten metal. The steel is then tapped into a ladle refining furnace where precise variations in the metallurgical content of the steel are made. Major cost inputs in this process include the molten iron from the previous process and steel scrap. Additives including aluminum ingots, fused calcium aluminate, ferromolybdenum, ferromanganese, ferrosilicon, silicon carbide, calcium silicon wire, and calcined petroleum coke may also be used in a basic oxygen furnace.

Liquid steel is converted to a solid form in the slab casting stage. During this stage of production, liquid steel is continuously cast into slabs by tapping the liquid steel from the ladle furnace into a continuous caster. The slabs are then shot blasted with abrasive grit or shaved, inspected using non-destructive tests, and surface ground (if necessary) to remove any imperfections.

Semifinished slabs are converted to finished hot-rolled coils in the hot-strip rolling process. In this stage, the semifinished slab is first reheated in a reheat furnace in order to increase its formability. During heating, a scale (oxide layer) forms on the slab surface which must be systematically removed. The slab is then rolled into the required shape, dimension, and surface quality. The output of the hot strip rolling process is hot-rolled steel.

The hot-rolled coil then passes through the pickling and oiling line to produce pickled and oiled sheet. In the continuous pickling and oiling line, the hot-rolled steel is prepared for cold-rolling by passing it through an acidic bath to remove surface contaminants. The surface of the metal is then lightly coated with oil.

Finally, cold rolling is accomplished by processing steel strip through a series of tandem rolling mill stands. Hot-rolled and pickled coils are fed into the cold rolling mill from an entry-end reel and progressively reduced in thickness in each stand to achieve the final desired thickness as the strip exits the last stand. After the last stand, the strip is recoiled. At this point, the strip has been converted to a cold-rolled coil, and these goods are ready for packing and shipment to the customer.

Moving materials among the various production stages incurs additional costs. Internal movement expenses include moving scrap from the scrap yard to the mill, moving slabs from an inventory yard to the reheat furnace area, and moving intermediate hot bands or cold-rolled coils from the various areas to downstream processing areas. In addition to product movement and handling expenses, producers incur some expenses related to bundling and packaging, and subsequent inventory holding, until the finished goods are loaded on the mode of carriage for transportation to the customer. Finally, in producing subject merchandise, certain materials are consumed in the production process, but are not physically incorporated in the finished goods.

Nonetheless, these items are integral to the production process and are consumed at such a rate that they represent a large material cost in the overall production process.

The production costs are for the production of [*Grade*

].⁴⁴ Petitioners first calculated the amount (*i.e.*, consumption rate) and value of each production input used by the Brazilian Surrogate to make cold-rolled steel that is similar or identical to the merchandise that is likely offered for sale by Usiminas in the United States.⁴⁵ Petitioners determined the average cost for most of these inputs in Brazil from the most recent publicly available information. For production inputs for which no Brazilian cost information was publicly available, Petitioners used the actual costs of the Brazilian Surrogate. Based on this information, Petitioners calculated how much it would cost Usiminas to manufacture the subject merchandise in Brazil.

A. Adjustments for Inflation and Exchange Rates

For certain inputs, Petitioners could not obtain cost figures in Brazilian currency or for the period for which Petitioners had cost data. Where an input price was from a period preceding the POI, the period for which Petitioners had cost data, Petitioners adjusted for inflation using the consumer price index (“CPI”) for Brazil as reported by the Instituto Brasileiro de Geografia e Estatística (“IBGE”), a Brazilian government agency that collects and disseminates micro- and macro-economic data in Brazil.⁴⁶ Where the quoted input value was denominated in U.S. Dollars, Petitioners adjusted for inflation using the consumer price index as reported by the United States Department of Labor, Bureau of Labor Statistics (“BLS”).⁴⁷

⁴⁴ See Cost of Production calculations, attached as Exhibit IV-21.

⁴⁵ See *id.*

⁴⁶ See Brazilian consumer price index, attached as Exhibit IV-20.

⁴⁷ See United States consumer price index, attached as Exhibit IV-20.

In order to make appropriate inflation adjustments, Petitioners divided the POI-wide inflation index by the inflation index from the period during which the cost item was obtained, and then multiplied the input price by the index to arrive at an inflation-adjusted price.

Petitioners calculated the entire COP in Brazilian Reais pursuant to Department practice. For input prices denominated in U.S. Dollars, Petitioners converted the price into Reais using the simple average of the daily USD-Real exchange rate for the POI reported and disseminated by the Federal Reserve.⁴⁸

Petitioners' COP calculations for all stages of subject merchandise production are included in **Exhibit IV-21**.

B. Cost of Production Methodology

Petitioners calculated the costs of raw materials, labor, energy, and other expenses to determine the per-metric ton cost of making one metric ton of finished cold-rolled steel. **Exhibit IV-21** provides a detailed calculation of the total costs incurred. **Exhibit IV-22** provides a summary table of all of the inputs used in the production process.

1. Material inputs

In general, Petitioners developed unit factor costs for material inputs using the Brazilian import price for material inputs as reported by the United Nations trade statistics database, which is also known as COMTRADE. Petitioners obtained COMTRADE data for the period July 2014 to May 2015, which represents the most recent time period for which such data are available. A summary of the unit factor costs for material inputs that are calculated based on these COMTRADE data is set forth in **Exhibit IV-22**; the raw source data appears in **Exhibit IV-23**. Consistent with the Department's policy on import data from non-market economies (*e.g.*, China and Vietnam) and

⁴⁸ See Federal Reserve: U.S. Dollar – Real daily exchange rates, attached as **Exhibit IV-15**.

from countries that provide generally available export subsidies (e.g., India, Indonesia, South Korea, and Thailand), Petitioners have excluded data from these countries in their calculation of material costs. These are the best facts reasonably available to Petitioners.

Petitioners were unable to obtain suitable data (e.g., quantifiably significant data was unavailable) for certain inputs used in the production of subject merchandise. In these cases, Petitioners were compelled to rely on alternative sources of data to ensure the most accurate calculation of NV.

With respect to iron ore, Petitioners used Brazilian export statistics for iron ore. Brazil is one of the largest exporters of iron ore in the world, and the volume of imported iron ore is miniscule in comparison to Brazil's exports.⁴⁹ Similarly, the quantity of imported direct reduced iron ("DRI") into Brazil is very small. Petitioners sought to find alternate sources of pricing for DRI (including export data and other market industry publications), but were unable to find a suitable source. As an alternative, Petitioners have obtained Brazilian domestic pricing for another concentrated ferrous metal product – pig iron.⁵⁰ Finally, with respect to steel scrap, Petitioners obtained product specific, domestic pricing for steel scrap from Steel Business Briefing.⁵¹

With respect to nitrogen and oxygen gases, Petitioners sought to find domestic pricing for these items as the import values appeared aberrational. Petitioner sought out domestic Brazilian sources but was unsuccessful in its efforts. Resultantly, Petitioners obtained pricing from a U.S.-based company that offers for sale bulk gases to industrial users. The pricing is based on offers of tanks of gas containing 100 cubic feet of gas. Because the Brazilian Surrogate measures its gas usage on a kilograms per ton basis, Petitioners converted the reported price per 100 cubic feet to a

⁴⁹ Compare Material Inputs cost calculations, attached as **Exhibit IV-23**, with Alternate Material Inputs cost calculations, attached as **Exhibit IV-24**.

⁵⁰ *Id.*

⁵¹ *Id.*

price per kilogram utilizing standard weight conversions for nitrogen and oxygen.⁵² Additionally, because this pricing was denominated in U.S. Dollars, Petitioners converted the value to Brazilian Reals utilizing the currency exchange rate in effect during the POI.

Finally, Petitioners were unable to obtain import statistics, export statistics, or domestic pricing on steam, which is used as a supplemental source of heat. As the best information reasonably available, Petitioners obtained information on the heat content of steam and natural gas.⁵³ Petitioners found that the average energy content for heated steam is approximately 1,188 British Thermal Units (“BTU”) per pound; the energy content of natural gas is approximately 23,000 BTUs per pound. Based on these differences, Petitioners calculated a percentage efficiency for steam of roughly 5.2 percent (a ratio of 19.36:1). Petitioners then divided the published natural gas price available in São Paulo by the ratio to yield a price per mmBTU (1,000,000 BTUs) for steam. This is the best information available to Petitioners.

2. Labor

Petitioners could not obtain data on the amount of labor that Usiminas uses to produce one ton of cold-rolled steel. Therefore, Petitioners used the average number of production hours the Brazilian Surrogate requires to produce one metric ton of cold-rolled steel. Petitioners obtained hourly labor cost information for Brazilian industry workers from the U.S. Department of Labor, U.S. Bureau of Labor Statistics.⁵⁴ Because this data pertains to labor costs denominated in U.S. Dollars that were in effect prior to the POI, Petitioners adjusted the price for inflation using the U.S. consumer price index inflator that is applicable to the period in which the data was obtained – 2012.

See Exhibit IV-25 and Exhibit IV-21.

⁵² *See id.*

⁵³ *See id.*

⁵⁴ *See* Calculation of Brazilian labor costs, attached as **Exhibit IV-25**. This rate includes benefits, bonuses and other costs that an employer must absorb in paying its production-related workers.

Petitioners multiplied the inflation-adjusted labor cost by the Brazilian Surrogate's labor usage rate to calculate the total labor cost to produce metric ton of cold-rolled steel.⁵⁵ These are the best facts reasonably available to Petitioners.

3. Energy

With respect to electricity, Petitioners did not have access to Usiminas' actual energy costs for producing cold-rolled steel. Therefore, Petitioners obtained publicly available electricity tariff rates that customers (including steel producers) in São Paulo state would pay as reported by AES Eletropaulo – a major electrical distributor in the region.⁵⁶ The electricity rate – R\$0.238 per kilowatt as of July 2013 – must be adjusted for inflation to account for costs during the POI. Petitioners adjusted the price for inflation using the Brazilian consumer price index inflator that is applicable to the period in which the data was obtained. *See Exhibits IV-26 and IV-21.*

Petitioners multiplied the average Brazilian electricity rate by the average amount of electricity that the Brazilian Surrogate needs to produce one metric ton of cold-rolled steel.⁵⁷ These are the best facts reasonably available to Petitioners.

Petitioners did not have access to Usiminas' actual natural gas costs. As a result, Petitioners obtained industrial natural gas costs in Brazil from Comgas – the largest distributor of natural gas in Brazil.⁵⁸ These costs are reported per cubic meter in Brazilian Reais.⁵⁹ This pricing was in effect as of May 31, 2015 (*i.e.*, contemporaneous with the POI). However, as the Brazilian Surrogate reports costs in million BTUs (“mmBTUs”), Petitioners were required to convert the relevant price per cubic meter mmBTU by dividing the cubic meter denominated rate by 0.0353 to obtain a rate in

⁵⁵ *See* Consumer price indices, attached as **Exhibit IV-20**.

⁵⁶ *See* Calculation of Brazilian electricity costs, attached as **Exhibit IV-26**.

⁵⁷ *See* Cost of Production calculations, attached as **Exhibit IV-21**.

⁵⁸ *See* Calculation of Brazilian natural gas costs, attached as **Exhibit IV-27**.

⁵⁹ *See* Calculation of Brazilian natural gas costs, attached as **Exhibit IV-27**.

Brazilian Reais per mmBTU. Finally, Petitioners multiplied the average Brazilian industrial natural gas cost by the average amount of natural gas that the Brazilian Surrogate needs to produce one metric ton of semi-finished steel.⁶⁰ These are the best facts reasonably available to Petitioners.

C. Total Cost of Production

Petitioners added the total production costs from each stage of the production process to yield a total cost of goods sold (“COGS”) net of depreciation.⁶¹ Per the Department’s regulations and the statute, Petitioners added additional expenses relating to overhead, selling, general and administrative (“SG&A”) expenses, and profit. The calculations are described herein.

1. Overhead

In order to calculate the financial ratios for manufacturing cold-rolled steel, Petitioners relied on the audited, unconsolidated 2014 financial statement of Usiminas, which are publicly available online.⁶² Petitioners multiplied the Brazilian Surrogate’s calculated COGS (“Total Materials, Energy & Labor”) by Usiminas’ fixed overhead ratio as derived from the company’s financial statements to arrive at the fixed overhead expense.⁶³ Petitioners added this expense to the calculated cost of goods sold to arrive at the total cost of manufacturing (“COM”) for Usiminas.⁶⁴

2. SG&A and Interest Expenses

As with overhead, Petitioners are not privy to Usiminas’ actual SG&A and interest expenses for the production and sale of cold-rolled steel. As an alternative, Petitioners calculated expected

⁶⁰ See Cost of Production calculations, attached as **Exhibit IV-21**.

⁶¹ See *id.*

⁶² See Fiscal year 2014 financial statements of Usiminas and calculation of financial ratios, attached as **Exhibit IV-28**.

⁶³ See Cost of Production calculations, attached as **Exhibit IV-21**.

⁶⁴ See *id.*

expenses based on the unconsolidated financial experience of Usiminas.⁶⁵ With respect to SG&A, Petitioners multiplied the Brazilian Surrogate's calculated total COM by Usiminas' SG&A ratio as derived from the company's financial statements to arrive at Usiminas' SG&A expense.⁶⁶ Petitioners multiplied the Brazilian Surrogate's calculated total COM by Usiminas' company-wide interest expense ratio as derived from the company's financial statements to arrive at the interest expense for Usiminas.⁶⁷ Petitioners added the calculated SG&A expense and interest expense for Usiminas to the previously calculated total COM to arrive at a total COP (excluding profit and packing expenses) for Usiminas.⁶⁸

3. Profit

In order to establish the profit ratios for manufacturing cold-rolled steel, Petitioners again relied on the 2014 financial statements of Usiminas.⁶⁹ Petitioners multiplied Usiminas' company-wide reported profit for calendar year 2014 (profit before tax) by the total COP calculated to yield a fully loaded NV.⁷⁰

D. Final Constructed Value and Normal Value

As noted above, Petitioners took the calculated total COP and adjusted it for selling expenses, overhead expenses, interest expenses, and estimated profit to yield CVs for Usiminas. These CVs, in turn, represent the NVs for Usiminas.⁷¹

⁶⁵ See Fiscal year 2014 financial statements of Usiminas and calculation of financial ratios, attached as **Exhibit IV-28**.

⁶⁶ See Cost of Production calculations, attached as **Exhibit IV-21**.

⁶⁷ See *id.*

⁶⁸ *Id.*

⁶⁹ See Fiscal year 2014 financial statements of Usiminas and calculation of financial ratios, attached as **Exhibit IV-28**.

⁷⁰ See Cost of Production calculations, attached as **Exhibit IV-21**.

⁷¹ See *id.*

RANGED DATA

Petitioners then compared these NVs based on the home market price for cold-rolled steel sold in Brazil by Usiminas to the estimated COP for goods manufactured by the producer.⁷²

Observation No.	Producer	Ex-Factory NV	Calculated NV	Below Cost?
BR-401	Usiminas	[]	[]	Yes
BR-402	Usiminas	[]	[]	Yes
BR-403	Usiminas	[~~2,300.00~~]	[~~2500.00~~]	Yes

Based on these comparisons, Usiminas is selling merchandise below its COP.⁷³ Accordingly, the Department must use CV, rather than home market price, to determine NV.

V. LESS THAN NORMAL VALUE COMPARISON (“DUMPING MARGINS”)

In calculating dumping margins for Brazil, Petitioners matched each U.S. transaction with the average corresponding NV for merchandise identical or most similar to it. As demonstrated above, the ex-factory NVs for Usiminas are below the company’s COP.⁷⁴ Therefore, the proper comparison is between the export price and the CV, which Petitioners perform below. As NV is based on CV, Petitioners adjusted the calculated COP to account for profit.⁷⁵

Petitioners first determined the U.S. Dollar value of the calculated NV for each foreign producer utilizing the U.S. Dollar–Brazilian Real exchange rates in effect during the POI.⁷⁶ Petitioners then converted the calculated CVs to a price per net ton as the CVs were calculated on a cost per metric ton basis. Finally, Petitioners compared the U.S. prices for cold-rolled steel produced by Usiminas to the NV (CV) for identical products. The comparisons demonstrate that Usiminas sold or offered to sell subject merchandise in the United States for less than NV. **Exhibit**

⁷² The Department’s “cost test” compares home market pricing (or third country market pricing) to the cost of production (excluding profit).

⁷³ Compare Cost of Production calculations, attached as **Exhibit IV-21**, with Calculation of Ex-Factory Normal Value attached as **Exhibit IV-18**. See also Assessment of Below-Cost sales, attached as **Exhibit IV-29**.

⁷⁴ See *supra* Part IV.D.

⁷⁵ See 19 U.S.C. § 1677b(e) (2010).

⁷⁶ See Federal Reserve: U.S. Dollar – Real daily exchange rates, attached as **Exhibit IV-15**.

IV-30 provides a dumping margin calculation for each transaction using the statutory methodology, specifically, by subtracting the ex-factory EP for each offer from the adjusted CV corresponding to the same company and dividing the difference by the ex-factory EP. These calculations resulted in estimated dumping margins of as high as 59.74 percent for Usiminas.⁷⁷

VI. CONCLUSION

Petitioners request that antidumping duties be imposed on imports of cold-rolled steel from Brazil in an amount sufficient to offset the unfair pricing described above.

⁷⁷ See Calculation of Dumping Margins: Constructed Value, attached as **Exhibit IV-30**.

VOLUME IV EXHIBITS

Exhibit No.	Title	Status
IV-1	[<i>Source</i>]	BPI
IV-2	Profile of [<i>Company</i>]	BPI
IV-3	Declaration of [<i>Name</i>]	BPI
IV-4	Declaration of [<i>Name</i>]	BPI
IV-5	Company profile of Usinas Siderurgicas de Minas Gerais S.A. • Usiminas Internet website excerpts • <i>Iron and Steel Works of the World Directory 2014</i> excerpts	Public
IV-6	Calculation of ocean freight and marine insurance expenses: U.S. International Trade Commission, <i>Dataweb</i>	BPI
IV-7	U.S. Customs and Border Protection agency, instructions accompanying CBP form 7501	Public
IV-8	Port expense calculation • Calculation of U.S. port expenses • [<i>Port</i>]	BPI
IV-9	U.S. Customs and Border Protection agency • Harbor Maintenance Fee • Merchandise Processing Fee	Public
IV-10	Calculation of Ex-Factory U.S. Price	BPI
IV-11	Declaration of [[<i>Name</i>]]	BPI
IV-12	Google Maps: Distance calculations for various points within Brazil (Home Market Sales)	BPI
IV-13	a World Bank, <i>Doing Business in Brazil – 2015</i> b. Methodologies employed in collecting data for <i>DBB 2015</i>	Public
IV-14	Calculation of country of manufacture inland freight expense scenarios	BPI
IV-15	Federal Reserve: U.S. Dollar – Real daily exchange rates	Public
IV-16	Calculation of country of manufacture brokerage and handling scenarios	BPI

IV-17	Deloitte, <i>About Doing Business in Brazil</i> , Taxes and Contributions	Public
IV-18	Calculation of Ex-Factory Normal Value	BPI
IV-19	Declaration of [<i>Name</i>]	BPI
IV-20	Consumer price indices • Brazil • United States	Public
IV-21	Cost of Production calculations	BPI
IV-22	Material Inputs Summary Worksheet	Public
IV-23	Material Inputs cost calculations • Global Trade Information Services data	Public
IV-24	Alternate Material Inputs cost calculations • Iron ore • Pig iron/DRI • Ferrous scrap • Oxygen/Nitrogen • Steam	Public
IV-25	Calculation of Brazilian labor costs	Public
IV-26	Calculation of Brazilian electricity costs	Public
IV-27	Calculation of Brazilian natural gas costs	Public
IV-28	Fiscal year 2014 financial statements of Usiminas and calculation of financial ratios	Public
IV-29	Assessment of Below-Cost sales	BPI
IV-30	Calculation of Dumping Margins: Constructed Value	BPI

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, **C-351-844**, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824

USITC Inv. Nos. 701-TA-____ - ___, and 731-TA-____ - ____

Total Pages: 820

Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-9 – I-15

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and **Countervailing** Duties: Certain Cold-Rolled Steel Flat Products from **Brazil**, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.
- (2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.
- (3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.
- (4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and I-9.

- (5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.
- (6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.
- (7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The single-bracketed business proprietary information in the attached Volume I of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).¹ Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

¹ Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,



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DOC Investigation No. C-351-844
Total Pages: 621
Investigation
Contains No Business Proprietary Information
PUBLIC DOCUMENT

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

**CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS
FROM BRAZIL**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME V

**INFORMATION RELATING TO BRAZIL –
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July 28, 2015

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I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL

Pursuant to 19 U.S.C. §§ 1671(a)(1) and (2), the Department of Commerce (the “Department”) is required to impose a countervailing duty (“CVD”) when a “Subsidies Agreement” country is found to provide countervailable subsidies to manufacturers that sell or import merchandise into the United States that materially injures or threatens to injure an industry in the United States. As a member of the World Trade Organization (“WTO”), Brazil is considered to be a “Subsidies Agreement” country under 19 U.S.C. § 1677(b). Petitioners allege that the Government of Brazil (“GOB”) maintains various economic programs and policies that have conferred countervailable subsidies on Brazilian producers of certain cold-rolled steel flat products (“cold-rolled steel”), and that these subsidized subject imports are materially injuring the U.S. cold-rolled steel industry. Accordingly, Petitioners request that the Department apply U.S. CVD laws to the policies and programs outlined in this Petition.

II. 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 Brazil.

III. NAMES AND ADDRESSES OF BRAZILIAN COLD-ROLLED STEEL PRODUCERS AND EXPORTERS BELIEVED TO BENEFIT FROM COUNTERVAILABLE SUBSIDIES

Petitioners have identified numerous Brazilian producers or exporters of cold-rolled steel that are believed to benefit from countervailable subsidies provided by all levels of the Brazilian government. The names and contact information for Brazilian cold-rolled steel producers and exporters are listed in **Volume I: Exhibit I-7**. The information provided in this exhibit represents the best information reasonably available to Petitioners.

IV. EFFORTS TO OBTAIN INFORMATION

Petitioners have conducted extensive research to document Brazilian government subsidies to the cold-rolled steel industry in Brazil, including a review of the following sources: financial statements of Brazilian cold-rolled steel producers, where available; company websites; market and industry research; news sources; WTO, U.S. government, and Brazilian government reports; and recent Department CVD investigations and administrative reviews with respect to Brazil.

However, much of the information that would allow Petitioners to determine with certainty the types and amounts of subsidies received by each of Brazil's cold-rolled steel producers is difficult or impossible to obtain. Given the difficulties inherent in documenting subsidization, Petitioners concur with the Department that "there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs."¹ The most accurate and thorough manner in which the type and amount of subsidies may be determined is through investigations and administrative reviews.²

Despite the difficulties in obtaining information, Petitioners investigated and are providing information demonstrating that the GOB has granted, and continues to grant, financial assistance to Brazil's cold-rolled steel producers – assistance that constitutes countervailable subsidies under Section 771 of the Tariff Act of 1930, as amended (the "Act").

¹ *Prestressed Concrete Steel Wire Strand from India*, 68 Fed. Reg. 40,629, 40,632 (Dep't Commerce July 8, 2003) (notice of preliminary affirmative countervailing duty deter.).

² *See id.*, 68 Fed. Reg. at 40,632.

V. **BRAZILIAN COLD-ROLLED STEEL PRODUCERS BENEFIT FROM COUNTERVAILABLE SUBSIDIES**

The GOB, including state governments and government-owned or -controlled entities, provides countervailable subsidies to producers and exporters of cold-rolled steel as described on a program-by-program basis below. These programs include:

- Tax benefits;
- Export subsidies;
- Regional subsidies;
- Loans; and
- Research and development incentives.

Each of these programs meets the elements of a countervailable subsidy within the meaning of Section 771(5) of the Act. The general information required by Section 351.202(b) of the Department's regulations is provided in **Volume I** of this Petition.

The Department has found several of the programs below to provide countervailable subsidies in prior investigations and reviews. Many are subsidy programs on their face and have been identified as such by the GOB. All of these programs are specific to an enterprise or industry, including the Brazilian cold-rolled steel industry, or are contingent on export performance.

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.³ Accordingly, assuming that the period of investigation ("POI") is calendar year 2014, Petitioners respectfully request that the Department investigate any allocable, non-recurring subsidies granted during 1999 to 2014, and any outstanding loans or recurring subsidies provided during the presumptive POI.

³ See Internal Revenue Service, Pub. 946 "How to Depreciate Property" (2013), attached as **Exhibit V-1**.

A. Background

In recent years, the GOB has implemented a number of industrial policies that benefit Brazil's steel industry, including the cold-rolled steel industry. These policies include the Productive Development Policy (2008-2010), Plano Brasil Maior (2011-2014), and Brazil's Microeconomic Competition Reforms Package (2014 to present) and provide the framework for many of the countervailable subsidies described herein.

1. **Productive Development Policy**

In May 2008, the GOB implemented the Productive Development Policy ("PDP") as a framework policy for Brazil's manufacturing sector.⁴ This policy established four macroeconomic targets for 2010:

- To increase the participation of fixed investment in GDP from 17.4% (in 2007) to 21%;
- To increase Brazil's share in world exports from 1.18% to 1.25%;
- To raise corporate spending on R&D from 0.51% to 0.65% of GDP; and
- To increase by 10% the number of small and medium enterprises engaged in exports.⁵

In order to satisfy these objectives, the GOB implemented a variety of subsidy programs involving the provision of fiscal incentives to manufacturers, and the provision of credit and technical assistance to exporters.⁶

2. **Plano Brasil Maior**

In 2011, Brazilian President Dilma Rousseff implemented a comprehensive nationwide industrial plan entitled Plano Brasil Maior to strengthen Brazil's manufacturing sector and

⁴ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 133, excerpts attached as **Exhibit V-2**.

⁵ *Id.*

⁶ *Id.*

address competition in domestic and international markets.⁷ The plan's priorities were to: build and strengthen critical competencies in the national economy; enhance productivity and density within value chains; expand the domestic and external markets of Brazilian companies; and ensure socially inclusive and environmentally sustainable growth.⁸

Under the plan, nineteen sectors, one of which is "metallurgy," were elected to receive special incentives.⁹ The special incentives for the steel sector included "financial resources to implement priority projects of the technological agenda" of the industry.¹⁰ The "guidelines" for this and other sectoral programs were as follows:

- To diversify exports (markets and products) and promote both the internationalization and R&D of Brazilian companies;
- To strength production chains;
- To enhance and build new technological and business competencies;
- To develop energy supply chains; and
- To strengthen innovation.¹¹

The GOB implemented a number of subsidy programs, including tax relief and financing for investment, innovation, and export promotion, to meet these goals.¹² All of these programs benefitted Brazilian cold-rolled steel producers during the POI and are discussed below.

3. Microeconomic Competition Reforms Package

Announced on June 18, 2014, the Brazilian Microeconomic Competition Reforms Package "aims to strengthen manufacturing industrial sectors in the new cycle of development of

⁷ See *id.*; see also *Plano Brasil Maior 2011/2014*, Governo Federal Brasil, attached as **Exhibit V-3**.

⁸ *Plano Brasil Maior 2011/2014*, Governo Federal Brasil, attached as **Exhibit V-3**.

⁹ See *id.*

¹⁰ *Follow-up Report of the Strategic Sectors Agenda*, Brasil Maior (Nov. 2014) at 67, excerpts attached as **Exhibit V-4**.

¹¹ *Plano Brasil Maior 2011/2014*, Governo Federal Brasil, attached as **Exhibit V-3**. With respect to the diversification and promotion of Brazilian exports, the plan seeks to increase Brazil's share of international trade from 1.36 percent to 1.6 percent. *Id.*

¹² *Plano Brasil Maior 2011/2014*, Governo Federal Brasil, attached as **Exhibit V-3**.

manufactured goods.”¹³ In order to achieve these goals, the Package focuses on the following programs:

- Technological innovation;
- Permanent payroll tax exemption for companies in 56 sectors;
- Cost reduction of capital invested;
- New rules for government procurement;
- Reimbursement of taxes for exporters (“Reintegra”); and
- Provision of investment credit, with reduced interest rates.¹⁴

According to the GOB, progress under the Microeconomic Competition Reforms Package “will be measured by indicators of gains in: productivity of the manufacturing industry; competitiveness of the exports of manufactured goods; innovation by enterprises; the market share in the global exports of manufactured goods; and wages and employment in the manufacturing industry.”¹⁵ As detailed below, one or more Brazilian cold-rolled steel producers likely benefitted from each of these subsidy programs during the POI.

B. Tax Benefits

Brazil imposes a number of federal, state, and, in certain cases, municipal taxes on imported goods and services, including the following: Tax on Industrialized Products (“IPI”) (a federal type of Value Added Tax (“VAT”) with rates between 10 percent and 20 percent); Import Tax (II) (an import tariff rate ranging from zero to 35 percent depending on the product that helps form the basis for calculating the value of the IPI); Tax for Operations Relating to the Circulation of Merchandise and Services of Interstate and Intercity Transport and Communication (“ICMS”) (a state VAT program, with rates generally varying between 17

¹³ *Comprehensive Growth Strategy: Brazil*, Australia 2014 (Oct. 2014) at Annex 2, attached as **Exhibit V-5**.

¹⁴ *Id.*

¹⁵ *Id.*

percent and 19 percent); Contribution to the Social Integration Program (“PIS”)/Contribution to Social Security Financing (“COFINS”) (federal taxes imposed on imports at a combined rate of 9.25 percent); and Merchant Marine Renewal Tax (“AFRMM”) (federal social contribution tax that applies to imports by sea).¹⁶ Export revenues are generally tax exempt in Brazil, as the GOB provides a credit mechanism for taxes (IPI, ICMS, PIS, and COFINS) paid on inputs that are used in the manufacture of exported goods.¹⁷ Aside from import and export taxes, Brazilian enterprises are also subject to a payroll tax, which takes the form of contributions to the National Social Security Institute (“INSS”).¹⁸

Consistent with Brazil’s recent industrial policies, its cold-rolled steel producers likely received a number of the countervailable tax incentives that are available to Brazilian exporters and manufacturers during the POI.¹⁹

1. Reduction of IPI for Machines and Equipment

a. The GOB Provides a Subsidy to Brazilian Cold-Rolled Steel Producers by Reducing IPI Taxes on Machines and Equipment

As noted above, the IPI tax rate in Brazil generally ranges from between 10 and 20 percent. Pursuant to Decree No. 7.660 (Dec. 23, 2011), as amended by Decree Nos. 8.279 and 8.280 (June 30, 2014), this program reduces the IPI rate for a large number of industrial goods to zero.²⁰ Qualified companies under this program are “industrial companies, users of capital

¹⁶ *Doing Business in Brazil*, UHY Moreira (Apr. 2015) at 18-19, excerpts attached as **Exhibit V-6**; *AAFRMM: What is AFRMM*, Log-In Logistics website excerpt, attached as **Exhibit V-7**; Rosaliene Bacchus, *Understanding Brazil’s Taxes on Imports*, attached as **Exhibit V-8**.

¹⁷ *Doing Business in Brazil*, UHY Moreira (Apr. 2015) at 18, excerpts attached as **Exhibit V-6**.

¹⁸ See *infra* Part V.B.3.

¹⁹ See *Doing Business in Brazil*, UHY Moreira (Apr. 2015) at 18-19, excerpts attached as **Exhibit V-6**.

²⁰ *Instruments Established by the Federal Government to Stimulate Productive Investment*, Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014), at 2, attached as **Exhibit V-9**.

goods.”²¹ Under Decree No. 7.217 (June 15, 2010), which regulates the collection, control and administration of the IPI:

{t}he producer and exporter of domestic goods shall be entitled to {a} presumed tax credit as reimbursement of contributions {under} Laws number 7 of 1970, number 8 of 1970, and number 70 of 1991 {} on such acquisitions in the domestic market, of raw materials, intermediate product and packaging material, for use in the production process (Law No. 9363, of December 13, 1996, art. 1.).²²

This subsidy applies “in cases of sales {made} to exporting companies with the specific purpose of exporting abroad.”²³ Given that this program benefits exporters who are “industrial companies, users of capital good{s},” it is likely that one or more Brazilian cold-rolled steel producers benefitted from this program during the POI. Indeed, Usinas Siderurgicas de Minas Gerais SA’s (“Usiminas”) Fiscal Year 2014 Financial Statement indicates that the company received benefits under this program in 2014.²⁴

b. The GOB’s Provision of Tax Incentives Through a Reduction of IPI on Machines and Equipment Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This tax program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

²¹ *Id.*

²² Decree No. 7.212 (June 15, 2010), Regulates the collection, control and administration of the Tax on Industrialized Products – IPI, attached as **Exhibit V-10**.

²³ *Id.*

²⁴ Usiminas’ FY 2014 Financial Statement at 39, excerpts attached as **Exhibit V-11**.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(l) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient absent the program.

(3) Specificity

This program is specific pursuant to Section 771(5A)(B) of the Act because the provision of tax incentives under this program appears to be contingent in law on export performance. In addition, this program is specific under Section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy are limited in number, namely those companies that are “industrial companies, users of capital goods.”²⁵

2. Ex-Tarifário**a. The GOB Provides Brazilian Cold-Rolled Steel Producers Tax Benefits Under Ex-Tarifário**

The Ex-Tarifário program provides for the deferral of import duties on domestically produced capital goods.²⁶ The purpose of this program is to: enable increased investment in capital goods; provide increased innovation by companies from different sectors of the Brazilian economy; and stimulate employment. The steel sector is one of the primary recipients of benefits under this program. From 2001 to May 2013, for example, Brazilian steel producers received import tax deferment on almost 2,000 items, with an FOB value totaling more than \$6 billion dollars.²⁷ Indeed, the steel industry was the second largest beneficiary in terms of FOB value in from 2001 to 2013.²⁸

²⁵ See *Instruments Established by the Federal Government to Stimulate Productive Investment*, Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014), at 2, attached as **Exhibit V-9**.

²⁶ *Ex-Tarifário*, Ministério de Desenvolvimento, Indústria e Comércio Exterior, attached as **Exhibit V-12**.

²⁷ Brasil Maior Executive Report-2 years (Aug. 2013), excerpt attached as **Exhibit V-13**.

²⁸ *Id.*

b. The GOB's Provision of Tax Benefits Under Ex-Tarifário Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This tax reduction program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is specific under Sections 771(5A)(D)(iii)(II) and (III) of the Act because the Brazilian steel industry, including the cold-rolled steel industry, is a predominant user of the subsidy and receives a disproportionately large amount of this subsidy.

3. Exemption of Payroll

a. The GOB Exempts Brazilian Cold-Rolled Steel Producers from Payroll Taxes

Pursuant to Provisional Measure No. 651 (July 9, 2014), this program permanently exempts eligible companies from paying the majority of INSS payroll taxes.²⁹ In general, employers must pay a contribution rate of 20 percent on gross salaries as INSS.³⁰ However, companies that qualify for benefits under this program have to pay only one percent on gross

²⁹ *Instruments Established by the Federal Government to Stimulate Productive Investment*, Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014), at 2, attached as **Exhibit V-9**.

³⁰ Thiago Resende, Edna Simao and Eduardo Campos, *Government Announces Exemption of 25 New Sectors*, Valor Economico (Sept. 13, 2012), attached as **Exhibit V-14**; *Doing Business in Brazil*, UHY Moreira (Apr. 2015) at 44, excerpts attached as **Exhibit V-6**.

sales as INSS.³¹ Implemented as part of Brazil's Microeconomic Competition Reforms Package to stimulate industry,³² this program benefits 56 sectors of the Brazilian economy,³³ one of which is "forged steel."³⁴ Export companies are also specifically targeted under this program.³⁵ Notably, as of May 2014, Brazil's steel industry was the fifth largest net exporter of steel in the world.³⁶

It is unclear how the Brazilian government defines "forged steel." However, public sources have indicated that this program benefits the steel industry more generally.³⁷ In addition, the steel industry is a priority sector in Brazil, with the government implementing recent industrial policies to benefit this industry, among others.³⁸ Because Brazil's cold-rolled steel producers are heavily export-oriented, and given evidence that this program may benefit the cold-rolled steel industry, Petitioners have a reasonable basis to believe that this program benefitted Brazilian cold-rolled steel producers during the POI.

b. The Exemption of Payroll Taxes Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

³¹ Thiago Resende, Edna Simao and Eduardo Campos, *Government Announces Exemption of 25 New Sectors*, Valor Economico (Sept. 13, 2012), attached as **Exhibit V-14**.

³² *Comprehensive Growth Strategy: Brazil*, Australia 2014 (Oct. 2014) at Annex 2, attached as **Exhibit V-5**.

³³ *Instruments Established by the Federal Government to Stimulate Productive Investment*, Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014), at 2, attached as **Exhibit V-9**.

³⁴ Thiago Resende, Edna Simao and Eduardo Campos, *Government Announces Exemption of 25 New Sectors*, Valor Economico (Sept. 13, 2012), attached as **Exhibit V-14**.

³⁵ *Apresentação do ministro Guido Mantega sobre as Medidas de Política Industrial* (June 18, 2014), excerpt attached as **Exhibit V-15**.

³⁶ Igor Utsumi, *Brazilian Steel Industry*, The Brazil Business (May 19, 2014), attached as **Exhibit V-16**.

³⁷ *Revista Brasileira do Aço (Brazilian Steel Magazine)*, No. 145, November 2012, excerpts attached as **Exhibit V-17**.

³⁸ See *supra* Parts V.A.1-V.A.3.

(1) Financial Contribution

This tax program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is specific under Section 771(5A)(D)(i) of the Act because eligibility appears to be limited by law to specific industries, including the steel industry. This program is also specific pursuant to Section 771(5A)(B) of the Act to the extent that the provision of tax incentives under this program is contingent on law upon export performance.

4. Regime Tributário para Incentivo à Modernização e à Ampliação da Estrutura Portuária (“REPORTO”)

a. The GOB Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers that Own or Operate Ports

REPORTO is a special subsidy regime aimed at fostering increased investment in the modernization and enlargement of port facilities by port operators, port concessionaries, public use port lessees, companies authorized to operate public and private port facilities, and dredging companies.³⁹ This regime suspends the payment of import duties, IPI, PIS, and COFINS upon these entities’ acquisition of certain machinery, equipment, spare parts, and other goods for use in port facility operations.⁴⁰

³⁹ REPORTO, attached as Exhibit V-18.

⁴⁰ *Id.*

Several Brazilian cold-rolled steel producers own and operate port facilities in Brazil to facilitate their transportation of cold-rolled steel and other steel products to the United States and other export destinations. Companhia Siderúrgica Nacional (“CSN”) operates two terminals at the Port of Itaguaí in Rio de Janeiro— the bulk solids terminal (Tear) and a container terminal (Sepetiba Tecon).⁴¹ As CSN has made clear, logistics efficiency “is a determining factor for the good financial performance of the Company’s activities, especially in the mining and steel industry.”⁴² Usiminas has an ownership stake in MRS Logística and two marine terminals.⁴³ One of Usiminas’ terminals is located in Cubatão; the second is next to the Port of Vitória, which is operated by a consortium consisting of Usiminas, ArcelorMittal Tubarão, and Gerdau Açominas.⁴⁴ Given their ownership of port facilities, it is likely that CSN, Usiminas, and ArcelorMittal Tubarão received benefits under this program during the POI.

b. The GOB’s Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers that Own or Operate Ports Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit to Brazilian cold-rolled steel producers under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the

⁴¹ *Logistics*, CSN, attached as **Exhibit V-19**.

⁴² *Id.*

⁴³ *See* Port Information, attached as **Exhibit V-20**.

⁴⁴ *See id.*

taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program. By reducing the cost to transport cold-rolled steel and other steel products to the U.S. market, this program directly benefits the cold-rolled steel operations of CSN, Usiminas, and ArcelorMittal Tubarão.

(3) Specificity

Given that only a limited number of enterprises in Brazil own or operate ports, several of which are cold-rolled steel producers, Petitioners have reason to believe that the actual recipients of this subsidy are limited in number under Section 771(5A)(D)(iii)(I) of the Act, and/or that the steel industry, including the Brazilian cold-rolled steel industry, is a predominant user of the subsidy under Section 771(5A)(D)(iii)(II) of the Act.

C. Export Incentives

1. Brazil's Export Financing Program ("PROEX")

a. Banco do Brasil Provides Export Financing to Brazilian Cold-Rolled Steel Producers through PROEX

PROEX is a federal government program administered by Banco do Brasil S.A. ("Banco do Brasil"), which is the largest financial institution in Brazil⁴⁵ and majority-owned by the National Treasury.⁴⁶ PROEX is one of the most important support schemes available for Brazilian exporters, providing companies with more favorable export financing than would otherwise be available in the domestic market.⁴⁷ The program's administrator, the Export Financing and Guarantee Committee ("COFIG"), was created in early 2004 by Decree No. 4.993

⁴⁵ History, Banco do Brasil, attached as **Exhibit V-21**.

⁴⁶ Banco do Brasil's shareholders are as follows: National Treasury (50.73%); Previ (10.38%); Inves. and Stabilization Fund (3.86%); National Const. Guarantee Fund (3.05%); Treasury Shares (2.42%); Investment Guarantee Fund (0.26%); and Free Float (29.30%). Banco do Brasil Conglomerate Shareholding Configuration, attached as **Exhibit V-22**.

⁴⁷ See Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 75, excerpts attached as **Exhibit V-2**.

and is tasked with establishing the parameters and conditions for granting financial assistance.⁴⁸ COFIG, in turn, is headed by a representative of Brazil's Ministry of Development, Industry, and Foreign Trade ("MDIC") and is further comprised of other government representatives from agencies such as the Ministries of Finance and External Relations.⁴⁹

PROEX has two main components or modalities. The first, PROEX Financing, provides direct financing to Brazilian exporters through Banco do Brasil using funds from the Brazilian Treasury.⁵⁰ The financing provided to exporters is offered at below-market interest rates.⁵¹ For transactions with a financing period of two to ten years, PROEX Financing finances up to 85 percent of the export transaction. The remainder must be supplied by the importer, on demand, or be financed by an offshore bank.⁵² For transactions with terms of two years or less, up to 100 percent of the value can be provided through PROEX Financing.⁵³

The second component of PROEX, PROEX Equalization, serves to "equalize" interest rates available to users of the program with those that are available in the international market.⁵⁴ PROEX Equalization can be used by Brazilian exporters that have obtained funding from a financial institution. These firms' exports may be financed for up to 100 percent of their value. The equalization period can vary from 60 days to 15 years, depending on the value of the exports at issue and the complexity of the services rendered by the financing institutions.⁵⁵ While the

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*; *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 15-16, excerpts attached as **Exhibit V-23**.

⁵¹ *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 15, excerpts attached as **Exhibit V-23**.

⁵² *Id.* at 16, excerpts attached as **Exhibit V-23**.

⁵³ *Id.*; see Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 75-76, excerpts attached as **Exhibit V-2**.

⁵⁴ *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 16, excerpts attached as **Exhibit V-23**; see Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 76, excerpts attached as **Exhibit V-2**.

⁵⁵ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 76, excerpts attached as **Exhibit V-2**.

financing conditions are negotiated between the banks and the exporter, the equalization is paid directly to the banks granting the credit through the use of National Treasury Notes.⁵⁶ This process allows exporters to access financing conditions that are similar to those available to exporters on the international market and to increase the competitiveness of Brazilian exports globally.⁵⁷

PROEX has been changed and updated multiple times under Plano Brasil Maior in order to increase its accessibility to exporters and its range of benefits offered.⁵⁸ To this end, in December of 2011, PROEX was extended to cover export transactions made through Brazil's simplified export declaration, thereby facilitating access to the program.⁵⁹ In April 2012, as part of Plano Brasil Maior, the GOB increased the resources allocated to the program and made additional changes to improve its implementation.⁶⁰ The GOB also increased the maximum period of equalization available under PROEX Equalization from 10 to 15 years and the percentage of an export transaction's value eligible for equalization from 85 percent to 100 percent.⁶¹ Additionally, the restrictions on the use of PROEX Financing were loosened to allow companies with a turnover of up to R\$3.6 million to provide their own credit guarantees for export transactions of less than US\$50,000.⁶²

In 2012, export transactions benefitting from the PROEX program totaled US\$4.88 billion, US\$495.4 million of which was distributed through PROEX Financing and US\$4.39

⁵⁶ *Id.*

⁵⁷ *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 16, excerpts attached as **Exhibit V-23**.

⁵⁸ See Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 75-76, excerpts attached as **Exhibit V-2**.

⁵⁹ *Id.* at 76, excerpts attached as **Exhibit V-2**.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

billion of which was distributed under PROEX Equalization.⁶³ That same year, PROEX Financing was used in nearly 900 transactions made by more than 200 Brazilian exporters.⁶⁴ PROEX Equalization was used in more than 2,000 transactions conducted by nearly 40 Brazilian exporters.⁶⁵ In 2014, the GOB provided US\$200 million in additional funding to finance exports under this program.⁶⁶

b. Banco do Brasil's Provision of Export Financing Constitutes a Countervailable Subsidy

The Department has previously determined that the provision of export financing under this program is countervailable and should continue to do so here.⁶⁷

(1) Financial Contribution

The Act defines “authority” as “a government of a country or any public entity within the territory of the country.”⁶⁸ While the statute does not define “public entity,” the agency’s “longstanding practice” is to “{treat} most government-owned corporations as the government itself.”⁶⁹ The Department may consider a variety of factors in determining whether an entity is a “public entity” under the countervailing duty laws, but “{i}n most instances, majority government ownership alone indicates that a firm is an authority.”⁷⁰ As a state-owned entity, Banco do Brasil is an “authority” within the meaning of the Act. Through this program, Banco

⁶³ *Id.* at 75, excerpts attached as **Exhibit V-2**.

⁶⁴ *See id.* at 75-76, excerpts attached as **Exhibit V-2**.

⁶⁵ *See id.* at 76, excerpts attached as **Exhibit V-2**.

⁶⁶ *Government raises Reintegra rate from 0.3% to 3%, from October* (Sept. 30, 2014), attached as **Exhibit V-24**.

⁶⁷ Issues and Decision Memorandum accompanying *Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 Fed. Reg. 55,805 (Dep’t Commerce Aug. 30, 2002) (final affirm. countervailing duty determ. and final neg. critical circumstances determ.) at cmt. 10 (“Wire Rod I&D Memo”).

⁶⁸ 19 U.S.C. § 1677(5)(B).

⁶⁹ *Countervailing Duties*, 63 Fed. Reg. 65,348, 65,402 (Dep’t Commerce Nov. 25, 1998) (final rule).

⁷⁰ Issues and Decision Memorandum accompanying *Certain Kitchen Shelving and Racks from the People’s Republic of China*, 74 Fed. Reg. 37,012 (Dep’t Commerce July 27, 2009) (final affirmative countervailing duty deter.) at 43.

do Brasil provides a direct transfer of funds to exporters and, consequently, constitutes a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the loans as compared to what it would pay on a comparable commercial loan.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the provision of export financing is contingent in law on export performance.

2. Reintegra

a. The GOB Provides Tax Credits to Brazilian Cold-Rolled Steel Producers Through Reintegra

Pursuant to Provisional Measure No. 540 (2011), which subsequently became Law No. 12,546 (Dec. 14, 2011), under Plano Brasil Maior, Reintegra allows exporters of manufactured goods to recover residual indirect tax costs levied on the production chain, such as the Tax on Services (“ISS”), the financial transaction tax (“IOF”), and the royalty tax (“CIDE”).⁷¹ Companies that export goods produced in Brazil are eligible for a refund of up to three percent of their gross receipts from exports, to be used either as a credit against federal tax liabilities or as a cash payment.⁷² Credits can be refunded in cash or used as an offset against federal taxes and contributions (either past due or future) as administered by the Brazilian tax authority.⁷³ “The

⁷¹ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 71, excerpts attached as **Exhibit V-2**; Ricardo Marletti Debatin da Silveira and Sergio Villanova Vasconcelos, *Reintegra: Re-establishment of the Brazilian special regime for the reinstatement of taxes for exporters*, International Tax Review (Aug. 1, 2014), attached as **Exhibit V-25**.

⁷² Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 71, excerpts attached as **Exhibit V-2**.

⁷³ *Brazil – Tax-credit program for exports is extended*, KPMG, attached as **Exhibit V-26**.

credit amount will be tax exempted, and will not be included in the computation of PIS/COFINS (*i.e.*, the taxes on gross revenue) and IRPJ/CSLL (corporate income taxes).⁷⁴

In order to qualify for Reintegra benefits: (1) manufactured products must be included in the IPI Table; and (2) the cost of the imported content of the goods must not exceed 40 percent of their export price (for high-tech goods, this percentage increases to 65 percent).⁷⁵ Eligible exports include direct sales of goods overseas and sales to qualified domestic trading companies.⁷⁶ Though the program expired on December 31, 2012,⁷⁷ the program was reestablished on a permanent basis pursuant to Provisional Measure No. 651 (2014) as part of the Microeconomic Competition Reforms Package.⁷⁸

Usiminas' Third Quarter 2014 Financial Statement indicates that the company received benefits under this program during the POI.⁷⁹ Given that steel is specifically listed on the IPI Table⁸⁰ and each of the Brazilian cold-rolled steel producers is heavily export-oriented, it is likely that additional Brazilian cold-rolled steel producers received benefits under this program during the period.

⁷⁴ *Id.*

⁷⁵ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 71-72, excerpts attached as **Exhibit V-2**.

⁷⁶ *Id.* at 72, excerpts attached as **Exhibit V-2**.

⁷⁷ *Id.*

⁷⁸ Ricardo Marletti Debatin da Silveira and Sergio Villanova Vasconcelos, *Reintegra: Re-establishment of the Brazilian special regime for the reinstatement of taxes for exporters*, *International Tax Review* (Aug. 1, 2014), attached as **Exhibit V-25**; *Comprehensive Growth Strategy: Brazil*, Australia 2014 (Oct. 2014) at Annex 2, attached as **Exhibit V-5**.

⁷⁹ Quarterly Information – ITR, Usinas Siderúrgica de Minas Gerais S.A. – USIMINAS: Report (Sept. 30, 2014) at 28-29, excerpts attached as **Exhibit V-27**.

⁸⁰ Tabela de Incidencia do Imposto Sobre Produtos Industrializados (Versao 2012), attached as **Exhibit V-28**.

b. The Provision of Tax Credits to Brazilian Cold-Rolled Steel Producers Through Reintegra Constitutes a Countervailable Subsidy

The Department has previously determined that the provision of tax credits under similar programs is countervailable.⁸¹ For the reasons detailed below, the Department should find that Reintegra provides countervailable subsidies to Brazilian cold-rolled steel producers.

(1) Financial Contribution

This program constitutes a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the provision of export credits is contingent in law on export performance.

3. Special Regime for the Acquisition of Capital Goods for Export Companies ("RECAP")

a. The GOB Provides Tax Incentives to Brazilian Cold-Rolled Exporters Through RECAP

RECAP suspends PIS and COFINS on new machines, instruments, and equipment imported by companies: (1) that commit, for a period of at least two years, to export goods and services; and (2) whose exports account for at least 50 percent of their overall gross income for

⁸¹ See, e.g., Wire Rod I&D Memo at 16-17; Issues and Decision Memorandum accompanying *Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 Fed. Reg. 62,128 (Dep't Commerce Oct. 3, 2002) (final affirm. countervailing duty determ.) at 15-16 ("Cold-Rolled Steel I&D Memo").

the previous calendar year.⁸² As of February 2012, 265 companies benefitted from RECAP.⁸³ Pursuant to Brazil's Microeconomic Competition Reforms Package, this program is intended to strengthen the "competitiveness of {Brazil's} exports of manufactured goods."⁸⁴

Reasonably available evidence indicates that Brazilian cold-rolled steel producers benefitted from this program during the POI. For instance, Usiminas' Fiscal Year 2014 Financial Statement indicates that the company may have received benefits under this program during the POI.⁸⁵ Moreover, Brazilian cold-rolled steel producers are heavily export-oriented.

b. The GOB's Suspension of Taxes for Brazilian Cold-Rolled Steel Producers through RECAP Constitutes a Countervailable Subsidy

The Department has previously determined that the provision of tax benefits under similar programs is countervailable and should make the same finding here.⁸⁶

(1) Financial Contribution

This program constitutes a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient absent this program.

⁸² Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 73, excerpts attached as **Exhibit V-2**.

⁸³ *National Trade Estimate Report on Foreign Trade Barriers: Brazil*, Office of the United States Trade Representative (2012), at 42, attached as **Exhibit V-29**.

⁸⁴ *Comprehensive Growth Strategy: Brazil*, Australia 2014 (Oct. 2014) at Annex 2, attached as **Exhibit V-5**.

⁸⁵ See Usiminas' FY 2014 Financial Statement at 39, excerpts attached as **Exhibit V-11**.

⁸⁶ See, e.g., Cold-Rolled Steel I&D Memo at 15-18.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the suspension of taxes is contingent in law on export performance.

4. Integrated Drawback Scheme

a. The GOB Suspends Taxes for Brazilian Cold-Rolled Steel Producers Through its Integrated Drawback Scheme

Pursuant to RFP/SECEX No. 467, which was published on March 25, 2010 by Brazil's Federal Revenue and Secretariat of Foreign Trade ("SECEX"), Brazil's drawback scheme provides for the suspension of tariffs and indirect taxes, including IPI, PIS, COFINS, ICMS, and AFRMM, which are imposed on local or imported inputs and parts used to produce goods for export.⁸⁷ This measure also provides benefits to enterprises that purchase local or imported goods to produce intermediate goods for use by another enterprise in the production of a final product for export (*i.e.*, intermediate drawback).

This program has two primary modalities – suspension and exemption:

Both modalities are operated by SECEX through the SISCOMEX system. The suspension modality consists in deferring payment of import duties and federal indirect taxes on imported goods and/or local goods to be exported after transformation, assembly, improvement or renovation. The suspension is granted for one year, renewable for an equal period. Moreover, the suspension may be extended up to a maximum of five years, when the imported and/or local inputs are used to produce capital goods with a long production cycle. Between 2006 and 2010, exports under the suspension modality of the drawback scheme represented over a quarter of total exports. The authorities indicated that exports under this scheme totaled more than US\$45 billion in 2010, US\$59 billion in 2011, and US\$48.6 billion in 2012.⁸⁸

On July 27, 2010, the scope of the program was expanded to include the "exemption" modality, which provides for the rebuilding of stocks, free of import duties and indirect taxes, of both

⁸⁷ See Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 72, excerpts attached as **Exhibit V-2**; see also Rosaliene Bacchus, *Understanding Brazil's Taxes on Imports*, attached as **Exhibit V-8**.

⁸⁸ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 72, excerpts attached as **Exhibit V-2**. (citation omitted)

imported and local inputs, in a quantity and quality equivalent to those used in the manufacture of a product already exported.⁸⁹ According to the GOB, between 2008 and 2011, the revenue foregone under the drawback suspension modality amounted to R\$5.4 billion; for the exemption modality, the total was R\$256.9 million.⁹⁰

Given that users of the integrated drawback regime include industrial enterprises engaged in foreign trade, it is likely that one or more Brazilian cold-rolled steel producers received benefits under this program during the POI. Indeed, Usiminas' Fiscal Year 2014 Financial Statement indicates that the company may have received benefits under this program during the POI.⁹¹

b. The GOB's Suspension of Taxes Through its Integrated Drawback Scheme Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

⁸⁹ *Id.*

⁹⁰ *Id.* at 73, excerpts attached as **Exhibit V-2**.

⁹¹ Although Usiminas' financial statement indicates that it recovered several import taxes during the POI, it is unclear whether it did so under this program. *See, e.g.*, Usiminas' FY 2014 Financial Statement at 39, excerpts attached as **Exhibit V-11**.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the suspension of and/or exemption from taxes is contingent in law on export performance.

5. Export Credit Insurance and Guarantees

a. The GOB Provides Brazilian Cold-Rolled Steel Producers Export Credit Insurance and Guarantees

The federal government provides Brazilian exporters and financial institutions export credit insurance through the Seguradora Brasileira Credito a Exportacao (“SCBE”).⁹² The SCBE protects export credit transactions against commercial, political, and extraordinary risks that may affect Brazilian exports and/or the production of goods or provision of services related to Brazilian exports.⁹³ The export credit insurance provided by SCBE may be covered by the Export Guaranty Fund, an accounting-type fund within the Ministry of Finance, thereby providing “greater competitiveness to Brazilian exports.”⁹⁴ This insurance is also used as guarantees for export financing.⁹⁵

The SCBE has the following shareholders: Banco do Brasil; Banco Nacional de Desenvolvimento Econômico e Social (“BNDES”), and Compagnie Francaise d’Assurance pour le Commerce Extérieur (“Coface”).⁹⁶ Both Banco do Brasil and BNDES are government-owned and -controlled entities. Banco do Brasil is state-owned and Brazil’s largest financial institution.⁹⁷ As described in more detail below, BNDES is a wholly government-owned policy

⁹² *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 17, excerpts attached as **Exhibit V-23**; see also Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 79-80, excerpts attached as **Exhibit V-2**.

⁹³ *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 17, excerpts attached as **Exhibit V-23**.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Fernando Augusto Coimbra Gomes, *Export Credit Insurance: Comparing the Brazilian and American Models*, The George Washington University (Spring 2004), excerpt attached as **Exhibit V-30**.

⁹⁷ See *History*, Banco do Brasil, attached as **Exhibit V-21**; Banco do Brasil Conglomerate Shareholding Configuration, attached as **Exhibit V-22**.

bank that acts as the primary financing agent for stimulating the expansion of industry and infrastructure in Brazil.⁹⁸ SBCE acts “either on its own or on behalf of the federal government in the latter case through a public bidding process.”⁹⁹ Given that Brazilian cold-rolled steel producers are heavily export-oriented, one or more producers likely received benefits under this program during the POI.

b. The GOB’s Provision of Export Credit Insurance and Guarantees Constitutes a Countervailable Subsidy

The Department has previously determined that the provision of export credit insurance and guarantees under similar programs in other countries is countervailable and should make the same finding here.¹⁰⁰

(1) Financial Contribution

The provision of short-term export insurance and guarantees is a financial contribution in the form of a potential direct transfer of funds or liabilities within the meaning of Section 771(5)(D)(i) of the Act.

(2) Benefit

With respect to the export insurance, a benefit within the meaning of Section 771(5)(E) of the Act is conferred on the recipient to the extent that the insurance premiums charged by SCBE fail to adequately cover the operating losses and long-term costs of the program. In terms

⁹⁸ *The BNDES*, The Brazilian Development Bank, attached as **Exhibit V-31**; *Management Report – BNDES System*, BNDES (December 31, 2014), at 18, attached as **Exhibit V-32**. The BNDES System includes BNDES as well as three subsidiaries: BNDES Participações S.A. (BNDESPAR), the Special Agency for Industrial Financing (FINAME), and BNDES PLC. See *The BNDES System*, The Brazilian Development Bank, attached as **Exhibit V-33**.

⁹⁹ *Legal Aspects of Doing Business in Brazil: A Summary* (Jan. 2014), Demarest Advogados, at 17, excerpts attached as **Exhibit V-23**.

¹⁰⁰ See, e.g., Issues and Decision Memorandum accompanying *Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 Fed. Reg. 37,122 (Dep’t Commerce June 23, 2003) (final affirmative countervailing duty determ.) at 36; Issues and Decision Memorandum accompanying *Certain Steel Nails From the Republic of Korea*, 79 Fed. Reg. 65,187 (Dep’t Commerce Nov. 3, 2014) (prelim. negative countervailing duty determ. and alignment of final countervailing duty determ. with final antidumping duty determ.) at 10-11 (“Steel Nails I&D Memo”).

of export guarantees, a benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower interest rate on the loan than it would otherwise pay on a comparable commercial loan in the absence of the guarantee.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the provision of export insurance and guarantees is contingent in law on export performance.

6. Export Guarantee Fund

a. The GOB Provides Brazilian Cold-Rolled Steel Producers Export Guarantees Through the Export Guarantee Fund

The Export Guarantee Fund (“FGE”), which was created by Law No. 9.818 (Aug. 23, 1999), provides export guarantees to Brazilian enterprises.¹⁰¹ The FGE is administered by BNDES; Brazil’s Chamber of Foreign Trade (“CAMEX”) is tasked with determining the concessions for FGE-based insurance. Funding under the program is provided by the federal government and the FGE’s own financial operations and activities.¹⁰² Coverage guarantee under the FGE is up to 95 percent for commercial risks, and up to 100 percent for extraordinary risks and commercial risks in operations supported by a bank guarantee.¹⁰³ Insurance policies are divided into supplier’s credit, which is issued on behalf of the exporter, and buyer’s credit, which is issued on behalf of the bank.¹⁰⁴ As part of Plano Brasil Maior, Law No. 12.712 (Aug. 13, 2012) authorized the creation of a new government agency, the Agencia Brasileira Gestora de Fundos Gaurantidores et Garantias (“ABGF”), to manage funds and guarantees, and to centralize the administration of the FGE and other funds.¹⁰⁵ Law No. 12.712 also allowed the Federal

¹⁰¹ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 79, excerpts attached as **Exhibit V-2.**

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Government to participate in funds intended to guarantee foreign trade operations and large infrastructure projects.¹⁰⁶ Because Brazilian cold-rolled steel producers are heavily export-oriented, one or more producers likely received benefits under this program during the POI.

b. The GOB's Provision of Export Guarantees Constitutes a Countervailable Subsidy

The Department has previously determined that the provision of export guarantees under similar programs is countervailable and should make the same finding here.¹⁰⁷

(1) Financial Contribution

The provision of export guarantees is a financial contribution in the form of a potential direct transfer of funds or liabilities within the meaning of Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower interest rate on the loan than it would otherwise pay on a comparable commercial loan in the absence of the guarantee.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the provision of export guarantees is contingent in law on export performance.

7. Export Promotion and Marketing Assistance

a. The GOB Provides Preferential Financing for Export Promotion and Marketing to Brazilian Cold-Rolled Steel Producers

Brazilian government authorities provide a host of promotional and marketing benefits and services to encourage exports, including exports of cold-rolled steel. The Brazilian Trade and Investment Promotion Agency ("APEX-Brasil"), which was created in 2003 and is

¹⁰⁶

Id.

¹⁰⁷

See, e.g., Steel Nails I&D Memo at 10-11.

supervised by the MDIC, primarily coordinates and implements these export promotion policies.¹⁰⁸ In this regard, the “agency’s strategic objectives are to expand and diversify Brazilian exports, increasing their valued added, foster the competitiveness of Brazilian companies by promoting their insertion in the international economy, and to attract FDI.”¹⁰⁹

APEX-Brasil provides market intelligence, capacity building, trade promotion (*e.g.*, trade missions and fairs, visits by foreign buyers, etc.), international strategy guidance, and other services.¹¹⁰ It works with associations that represent 81 manufacturing, commerce, and services sectors and supports projects in specific sectors, including machinery and equipment, technology, and housing and civil construction, among others.¹¹¹ To promote exports, APEX-Brasil co-finances up to 85 percent of the total value of the sectoral support projects.¹¹² As of September 2012, APEX-Brasil had provided financial and other support to approximately 12,400 companies accounting for 15 percent of Brazil’s total exports.¹¹³ Given that Brazilian cold-rolled steel producers are heavily export-oriented, one or more producers likely received benefits under this program during the POI.

b. The GOB’s Provision of Preferential Financing for Export Promotion and Marketing Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

¹⁰⁸ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283 (May 17, 2013) at para. 3.156, excerpts attached as **Exhibit V-34**.

¹⁰⁹ *Id.* The Deliberative Council, which is APEX-Brasil’s management body, consists of representatives from MDIC, the Ministry of External Relations, the Chamber of Foreign Trade (“CAMEX”), the National Development Bank (“BNDES”), and the private sector. *Id.*

¹¹⁰ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283 (May 17, 2013) at para. 3.156, excerpts attached as **Exhibit V-34**.

¹¹¹ *Id.* at para. 3.157, excerpts attached as **Exhibit V-34**.

¹¹² *Id.* at para. 3.156, excerpts attached as **Exhibit V-34**.

¹¹³ *Id.*; see also *Apex-Brasil Trade Sectors Projects*, ApexBrasil, attached as **Exhibit V-35**.

(1) Financial Contribution

The provision of export promotion and marketing financing is a financial contribution in the form of a potential direct transfer of funds or liabilities within the meaning of Section 771(5)(D)(i) of the Act.

(2) Benefit

The GOB's provision of export promotion and marketing financing provides a benefit within the meaning of Section 771(5)(E)(ii) of the Act to the extent that the recipient pays a lower interest rate on the APEX-Brazil loan than it would otherwise pay on a comparable commercial loan absent the program.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the provision of financing for export promotion and marketing is contingent in law on export performance.

D. Regional Subsidies**1. RIOInvest****a. The State of Rio De Janeiro Provides Preferential Financing and Tax Benefits to Brazilian Cold-Rolled Steel Producers Through RIOInvest**

Regulated pursuant to Law 23.012 (March 25, 1997), the RIOInvest program provides both financing and tax benefits to Brazilian companies located in Rio de Janeiro.¹¹⁴ On September 29, 2003, Law No. 4.172 was implemented to provide Brazilian cold-rolled steel producer CSN RIOInvest benefits for the company's expansion of its Presidente Vargas steel

¹¹⁴ Law No. 4.172 (Sept. 29, 2003), attached as Exhibit V-36.

mill.¹¹⁵ CSN's Itaguai mine, which produces iron ore, was added to the program pursuant to Law No. 4.171.¹¹⁶

This program has provided CSN R\$1.65 billion in preferential financing from the Economic and Social Development Fund ("FUNDES") for the company's Presidente Vargas mill.¹¹⁷ FUNDES, a government incentive program in Rio that is aimed at "financing the working capital of new businesses or the expansion of projects already installed," grants funding at reduced interest rates that is equivalent to a percentage of the incremental revenue generated from the implementation of a project.¹¹⁸ Under the RIOInvest program, FUNDES funds are provided for 156 months at a preferential interest rate of 3 to 4 percent, depending on the percentage of purchases that CSN makes in Rio de Janeiro during the mill's expansion.¹¹⁹ Releases are provided in monthly installments of up to 5 percent of CSN's incremental (monthly) revenue, limited to 70 percent of the incremental ICMS for the corresponding month.¹²⁰ Aside from low-interest financing, the program also provides for the deferral of ICMS or a replacement tax for the Presidente Vargas mill expansion.¹²¹

For its iron ore mine, this program has provided CSN with FUNDES financing totaling R\$884 million for 156 months at an attractive interest rate of 6 to 7 percent, depending on the percentage of purchases that CSN makes in Rio de Janeiro during the project's implementation.¹²² As with the Presidente Vargas mill expansion, releases are provided in monthly installments of up to 5 percent of CSN's incremental (monthly) revenue, limited to 70

¹¹⁵

Id.

¹¹⁶ Law No. 4.171 (Sept. 29, 2003), attached as **Exhibit V-37**.

¹¹⁷ Law No. 4.172 (Sept. 29, 2003), attached as **Exhibit V-36**.

¹¹⁸ *Economic Development: Incentives and Tax Benefits*, Rio de Janeiro Government website excerpt, attaches as **Exhibit V-38**.

¹¹⁹ See Law No. 4.172 (Sept. 29, 2003), attached as **Exhibit V-36**.

¹²⁰ Law No. 4.172 (Sept. 29, 2003), attached as **Exhibit V-36**.

¹²¹ *Id.*

¹²² Law No. 4.171 (Sept. 29, 2003), attached as **Exhibit V-37**.

percent of the incremental ICMS for the corresponding month.¹²³ This program also provides for the deferral of ICMS or a replacement tax for the Itagauí mine.¹²⁴

b. The State of Rio De Janeiro's Provision of Preferential Financing and Tax Benefits to Brazilian Cold-Rolled Steel Producers Through RIOInvest Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a potential direct transfer of funds under Section 771(5)(D)(i) of the Act and government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan. This program also confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities that have invested in the state of Rio de Janeiro. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

¹²³ *Id.*

¹²⁴ *Id.*

2. Program to Induce Industrial Modernization of the State of Minas Gerais

a. The State of Minas Gerais Provides Preferential Financing to Brazilian Cold-Rolled Steel Producers Through PROIM

The Program to Induce Industrial Modernization of the state of Minas Gerais (“PROIM”) was created to promote the development and modernization of industry in the state of Minas Gerais through the provision of preferential financing.¹²⁵ The PROIM program provides loans for up to eight years to qualifying companies located in Minas Gerais.¹²⁶ This program is funded by the state treasury of Minas Gerais and administered by the Banco de Desenvolvimento de Minas Gerais (“BDMG”).¹²⁷ BDMG is a financial institution controlled by the state of Minas Gerais that is “focused on promoting the economic and social development of the State.”¹²⁸ BDMG operates with its own resources and acts as a financial agent of BNDES, Banco do Nordeste do Brasil, and Caixa Economica Federal.¹²⁹ The bank is also the finance agent of the state development funds.¹³⁰

To obtain funding, a company files a request, and BDMG analyzes whether funds are available to finance the project.¹³¹ Companies can receive PROIM financing benefits if they invest in one of the following: (1) creation, expansion or modernization of an industrial unit; (2) recovery of an industrial unit considered a priority for the state; or (3) other initiatives that contribute to the expansion or modernization of an industrial unit located in the state.¹³² Among the criteria considered in awarding funds under this program are: (1) the relevance of direct and

¹²⁵ Decree No. 44.072 (July 14, 2005), attached as **Exhibit V-39**.

¹²⁶ Cold-Rolled Steel I&D Memo at 27.

¹²⁷ *Id.*

¹²⁸ BDMG – The Development Bank of Minas Gerais: Presentation of Results-2013, at 9, attached as **Exhibit V-40**.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Cold-Rolled Steel I&D Memo at 27.

¹³² Decree No. 44.072 (July 14, 2005), attached as **Exhibit V-39**.

indirect intra-regional effects; (2) the creation of direct and indirect jobs in the state; (3) the project's impact on the company's share of national production and foreign trade; (4) the project's contribution to the increased use of raw materials and inputs produced in the state; (5) the project's contribution to the replacement of imports by the state; and (6) the project's contribution to increasing the added value of its products.¹³³

A number of cold-rolled steel producers are located in Minas Gerais, including Usiminas and Aperam South American,¹³⁴ and, as such, likely benefitted from this program during the POI.

b. The State of Minas Gerais' Provision of Preferential Financing to Brazilian Cold-Rolled Steel Producers Through PROIM Constitutes a Countervailable Subsidy

The Department has investigated this program in prior cases and should continue to do so here.¹³⁵

(1) Financial Contribution

This program constitutes a financial contribution in the form of a direct transfer of funds by a government authority under Section 771(5)(D)(i) of the Act. As a financial institution controlled by the state of Minas Gerais that is "focused on promoting the economic and social development of the State,"¹³⁶ BDMG is a government authority within the meaning of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan.

¹³³

Id.

¹³⁴

Brazil: Cold-Rolled Steel Producers and Exporters, attached as **Exhibit I-7**.

¹³⁵

Although this program was investigated, the Department ultimately determined that it was not used during the POI at issue in the 2002 investigation of cold-rolled from Brazil. *See* Cold-Rolled Steel I&D Memo at 27.

¹³⁶

BDMG – The Development Bank of Minas Gerais: Presentation of Results-2013, at 9, attached as **Exhibit V-40**.

(3) Specificity

This program is only available to entities that have invested in the state of Minas Gerais. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

3. Pro-Industria

a. The State of Minas Gerais Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers Through Pro-Industria

Pro-Industria is a tax-deferral program administered by BDMG that is intended to: (1) increase ICMS, a source of value-added tax revenue refunded to program recipients; and (2) encourage all industries in the state of Minas Gerais to expand their current production facilities.¹³⁷ Under the program, BDMG pays back 50 percent of increased ICMS monthly VAT payments resulting from the expansion of production facilities, minus a processing fee.¹³⁸ In the same month of the following year, the company pays this deferred amount back to BDMG.¹³⁹ This program can be used by a company for up to 60 months.¹⁴⁰

A number of cold-rolled steel producers are located in Minas Gerais, including Usiminas and Aperam South American.¹⁴¹ Furthermore, Usiminas' September 30, 2014 Quarterly Financial Statement indicates that the company received over R\$87 million in tax credits under this program in the first three quarters of 2014 alone.¹⁴²

¹³⁷ Cold-Rolled Steel I&D Memo at 23.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Brazil: Cold-Rolled Steel Producers and Exporters, attached as **Exhibit I-7**.

¹⁴² Quarterly Information – ITR, Usinas Siderúrgica de Minas Gerais S.A. – USIMINAS: Report (Sept. 30, 2014), at 27, excerpts attached as **Exhibit V-27**.

b. The State of Minas Gerais' Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Through Pro-Industria Constitutes a Countervailable Subsidy

The Department has previously found that this program provides countervailable benefits and should continue to do so here.¹⁴³

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone by a government authority under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities that have invested in the state of Minas Gerais. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

4. Tax Benefits in the State of Espírito Santo

a. The State of Espírito Santo Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Development Fund of Port Activities and Invest-ES

The Development Fund of Port Activities ("FUNDAP") is a funding mechanism that "supports enterprises located in Espírito Santo"¹⁴⁴ and promotes regional development by increasing imports into the state.¹⁴⁵ Benefits under the program include:

- Exemption from ICMS on the entry of imported goods;
- Deferred payment of ICMS; and

¹⁴³ See, e.g., Cold-Rolled Steel I&D Memo at 23-24.

¹⁴⁴ *What is Fundap?*, Soimpex, attached as **Exhibit V-41**.

¹⁴⁵ *Fundap-Institutional*, Evix, attached as **Exhibit V-42**; *Benefits of FUNDAP System*, Brazil Explorer, attached as **Exhibit V-43**.

- Reduction in the maximum amount of ICMS from 18 percent to 12 percent.¹⁴⁶

In order to qualify, “{o}perations shall be performed by enterprises with headquarters in Espírito Santo; the payment of the ICMS FUNDAP shall be made to the State of Espírito Santo; {and} the customs clearance has to be performed in the State of Espírito Santo.”¹⁴⁷

Invest-ES is a tax incentive program that is operated by the Development Bank of Espírito Santo (“BANDES”), which is intended to facilitate the expansion, modernization, and diversification of Espírito Santo’s productive sectors.¹⁴⁸ The program also aims to encourage investments and technological advancement, and increase state competitiveness, with an emphasis on generating employment and income as well as reducing social and regional imbalances.¹⁴⁹ Companies that implement projects that are in the interest of the state’s economic development are eligible for the following benefits under this program:

- (1) - Deferment of ICMS payment (VAT) levied on purchases of machinery and equipment for integration into the fixed assets in the property and levied on import operations of supplies and raw materials intended exclusively for the industrial establishment importer;
- (2) - Credit presumed, in interstate operations, up to seventy percent of the amount of monthly tax payable;
- (3) - Reduction {in the calculation} basis, internal operations, of up to seventy percent of its value;
- (4) - Other types of tax benefits, provided they comply with the limits and conditions stipulated in the benefits mentioned above.¹⁵⁰

¹⁴⁶ *Fundap-Institutional*, Evix, attached as **Exhibit V-42**; *Advantages of FUNDAP System: Modalities and Qualification*, HC Comercio Exterior, attached as **Exhibit V-44**.

¹⁴⁷ *What is Fundap?*, Soimpex, attached as **Exhibit V-41**.

¹⁴⁸ *Fundos e Programas: Invest-ES, BANDES*, attached as **Exhibit V-45**.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

Brazilian cold-rolled steel producer ArcelorMittal Tubarão is headquartered in Espírito Santo.¹⁵¹ As a result, it is likely that the company benefitted from these tax programs during the POI.

b. The State of Espírito Santo's Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Through FUNDAP and Invest-ES Constitutes a Countervailable Subsidy

This program provides countervailable subsidies to Brazilian cold-rolled steel producers for the reasons detailed below.

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone by a government authority under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities that have invested in the state of Espírito Santo. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

5. Development and Participation of Espírito Santo

a. The State of Espírito Santo Provides Preferential Financing to Brazilian Cold-Rolled Steel Producers Through Development and Participation of Espírito Santo

Development and Participation of Espírito Santo ("FUNDEPAR") was implemented to attract new productive investments to Espírito Santo.¹⁵² Established by the state government through Law No. 9.905 (Sept. 12, 2012), this program provides Brazilian companies BANDES

¹⁵¹ Brazil: Cold-Rolled Steel Producers and Exporters, attached as **Exhibit I-7**.

¹⁵² *Fundos e Programas*: FUNDEPAR, BANDES, attached as **Exhibit V-46**.

financing for new investments in Espírito Santo.¹⁵³ Brazilian cold-rolled steel producer ArcelorMittal Tubarão is headquartered in Espírito Santo and, as a result, likely benefitted from subsidies under this program during the POI.¹⁵⁴

b. The State of Espírito Santo's Provision of Preferential Financing to Brazilian Cold-Rolled Steel Producers Through FUNDEPAR Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a direct transfer of funds from a government authority under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan.

(3) Specificity

This program is only available to entities that have invested in the state of Espírito Santo. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

6. Northeast Region Development Authority Incentives

a. The Northeast Region Development Authority Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers

Regulated by Law No. 9.532 (1997), Provisional Measure No. 2.199 (2001), and Supplementary Law Nos. 124 and 125 (Jan. 3, 2007), the Northeast Region Development Authority ("SUDENE") grants tax incentives to firms with qualifying projects in the northeast

¹⁵³

Id.

¹⁵⁴

Brazil: Cold-Rolled Steel Producers and Exporters, attached as **Exhibit I-7**.

region¹⁵⁵ in order to reduce the economic and social imbalance between this and other regions in Brazil.¹⁵⁶ To achieve this goal, the program provides: (1) a 75 percent income tax reduction for industrial firms that are “of interest to regional development,” for 10 years starting from the year after the enterprise begins operations; (2) after the ten year period, an income tax reduction of 12.5 percent for enterprises meeting the conditions of interest to regional development; and (3) reinvestment of income tax for activities of interest to regional development, requiring firms to deposit 30 percent of the income tax due, plus 50 percent of their own resources, on an annual basis, in the Banco do Nordeste do Brasil (“BNB”), to be used for activities linked to capacity modernization or expansion in the northeast.¹⁵⁷ Founded in 1954, BNB is a regional development bank that operates as the government’s primary financing agent in the region.¹⁵⁸

While companies were allowed to submit projects up until December 31, 2013 under the program, the income tax reduction benefit can last up to 10 years from the date an enterprise begins operating.¹⁵⁹ Over R\$13.7 billion was granted under this program between 2007 and 2011. ArcelorMittal Brasil S.A.’s (“ArcelorMittal Brasil”) 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.¹⁶⁰ As a result, there is reason to believe that ArcelorMittal Brasil received benefits under this program during the POI.

¹⁵⁵ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 88, excerpts attached as **Exhibit V-2**.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Banco do Nordeste do Brasil S.A.*, BnAmericas, attached as **Exhibit V-47**.

¹⁵⁹ See Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 88, excerpts attached as **Exhibit V-2**.

¹⁶⁰ Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as **Exhibit V-48**.

b. The Northeast Region Development Authority's Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

The Department has previously determined that this program provides countervailable benefits and should continue to do so here.¹⁶¹

(1) Financial Contribution

These tax incentives constitute a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

These incentives confer a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities that are located in Northeast Brazil. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

7. Northeast Investment Fund

a. The GOB Provides Risk Capital Investment and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through the Northeast Investment Fund

The Northeast Investment Fund ("FINOR"), which is regulated by Law No. 9.532 (Dec. 1997), aims to reduce economic and social imbalances between regions through compensatory mechanisms to develop the northeast region.¹⁶² Brazil's Department of Investment Fund Management, which is under the Ministry of National Integration, is responsible for the program

¹⁶¹ Wire Rod I&D Memo at 11-12.

¹⁶² Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 89-90, excerpts attached as **Exhibit V-2**.

in accordance with Decree No. 5.847 (July 14, 2006), while BNB acts as its financial agent.¹⁶³ Benefits under the program totaled R\$200.5 million in 2011, up from R\$49.7 million and R\$164.8 million in 2009 and 2010, respectively.¹⁶⁴ The beneficiaries of the program are companies that implement projects that generate jobs and income, and promote regional or local development.¹⁶⁵ The program provides financial support in the form of risk capital investment by BNB, with funding drawn from FINOR.¹⁶⁶ The “investments made are matched with primary debenture issues convertible into stock, which occurs only after the project is implemented; the shares are nonvoting.”¹⁶⁷ In addition, the program provides for income tax deductions.¹⁶⁸

Notwithstanding reports indicating that the program was set to expire at the end of December 2013,¹⁶⁹ ArcelorMittal Brasil’s Fiscal Year 2014 Financial Statement indicates that it received benefits under this program during the POI.¹⁷⁰ CSN’s 2014 Management Report also reveals that the company received FINOR benefits in 2014.¹⁷¹

b. The GOB’s Provision of Risk Capital Investment and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through the Northeast Investment Fund Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

¹⁶³ *Id.* at 90, excerpts attached as **Exhibit V-2**.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *See id.*

¹⁷⁰ ArcelorMittal Brasil S.A.’s FY 2014 financial statement, excerpts attached as **Exhibit V-49**.

¹⁷¹ CSN’s 2014 Management Report, at 36-37, excerpts attached as **Exhibit V-50**.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a direct transfer of funds from a government authority and government revenue foregone under Sections 771(5)(D)(i) and (ii) of the Act, respectively.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(i) of the Act is conferred on the recipient in the form of an equity infusion to the extent that the risk capital investment is inconsistent with the usual investment practice of private investors. This program also provides a benefit under Section 771(5)(E)(ii) in the form of a loan to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan. In addition, this program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in the northeast region. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

8. Amazon Investment Fund**a. The GOB Provides Risk Capital Investment and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through the Amazon Investment Fund**

The Amazon Investment Fund (“FINAM”), which is regulated by Law No. 8.167 (Jan. 1991), aims to reduce economic and social imbalances between regions through compensatory mechanisms to develop the Amazon region.¹⁷² Brazil’s Department of Investment Fund

¹⁷² Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 89-90, excerpts attached as **Exhibit V-2**.

Management, which is under the Ministry of National Integration, is responsible for the program in accordance with Decree No. 5.847 (July 14, 2006), while Banco do Amazonia (“BASA”) acts as its financial agent.¹⁷³ Founded in 1942, BASA is controlled by the Brazilian National Treasury and has ties to various government agencies.¹⁷⁴ Benefits under the program totaled R\$20.1 million in 2011.¹⁷⁵

The beneficiaries of the program are companies with projects that generate jobs and income, and promote regional or local development.¹⁷⁶ The program provides financial support in the form of risk capital investment administered by BASA, with funding drawn from FINAM.¹⁷⁷ The “investments made are matched with primary debenture issues convertible into stock, which occurs only after the project is implemented; the shares are nonvoting.”¹⁷⁸ The program also provides for income tax deductions.¹⁷⁹

Notwithstanding reports indicating that the program was set to expire at the end of December 2013 for new projects,¹⁸⁰ it appears that benefits under this program have been extended until December 2017 pursuant to Law No. 12.995 (June 18, 2014).¹⁸¹ ArcelorMittal Brasil’s Fiscal Year 2014 Financial Statement indicates that it received benefits under this program during the POI.¹⁸² Reasonably available evidence also indicates that Usiminas has received benefits under this program.¹⁸³

¹⁷³ *Id.* at 90, excerpts attached as **Exhibit V-2**.

¹⁷⁴ *Banco da Amazonia S.A.*, BnAmericas, attached as **Exhibit V-51**.

¹⁷⁵ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 90, excerpts attached as **Exhibit V-2**.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *See id.*

¹⁸¹ Law No. 12.995 (June 18, 2014), attached as **Exhibit V-52**.

¹⁸² ArcelorMittal Brasil S.A.’s FY 2014 financial statement, excerpts attached as **Exhibit V-49**.

¹⁸³ *What is FINAM?*, amazonialegal, attached as **Exhibit V-53**.

b. The GOB's Provision of Risk Capital Investment and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through the Amazon Investment Fund Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a direct transfer of funds from a government authority and government revenue foregone under Sections 771(5)(D)(i) and (ii) of the Act, respectively.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(i) or (ii) of the Act is conferred on the recipient in the form of an equity infusion, to the extent that the risk capital investment is inconsistent with the usual investment practice of private investors, or a loan, to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan. This program also confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in the Amazon. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

9. Federal District Development Program

a. The Federal District Provides Preferential Financing and Tax Benefits to Cold-Rolled Steel Producers

The Federal District Development Program “aims to promote integrated and sustainable economic development of the Federal District, through construction, expansion, modernization and reactivation of productive enterprises of economic sectors that meet the criteria established in this {PRODF} law and regulations.”¹⁸⁴ PRODF provides the following incentives to productive projects capable of generating employment opportunities: credit incentives; fiscal and tax incentives; economic and infrastructure benefits; tariff benefits; benefits for business and professional training; and incentives for the implementation of Environmental Management Systems – EMS.¹⁸⁵ Companies that receive benefits under PRODF can chose to participate in PRODF II, which aims to “increase the capacity of the local economy producing goods and services and the effective creation of jobs, income, {and} tax revenue and promote economic and social development” in the Federal District.¹⁸⁶ The benefits under PRODF II include special financing for development, tax benefits, support for the recovery of environmental preservation, and support for development of social responsibility programs.¹⁸⁷

ArcelorMittal Brasil’s 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.¹⁸⁸ As a result, there is reason to believe that ArcelorMittal Brasil received benefits under this program during the POI.

¹⁸⁴ Federal District Development Program, attached as **Exhibit V-54**.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as **Exhibit V-48**.

b. The Federal District's Provision of Preferential Financing and Tax Incentives to Brazilian Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a potential direct transfer of funds under Section 771(5)(D)(i) of the Act and government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan. This program also confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in the Federal District. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

10. Ceará Industrial Fund

a. The State of Ceará Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Ceará Industrial Fund

Under Law No. 10.367 (Dec. 10, 1979), as amended, the Ceará Industrial Fund ("FDI") program "seeks to encourage and stimulate industrial development by providing fiscal and

financial benefits.”¹⁸⁹ The benefits provided to industrial enterprises located in Ceará include the reduction of ICMS and deferment of ICMS on raw material imports as well as on secondary and packaging materials used in the production of goods that are encouraged under the program.¹⁹⁰ As an important sector in the state of Ceará, the steel industry is a major beneficiary of benefits under this program.¹⁹¹

ArcelorMittal Brasil’s 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.¹⁹² As a result, there is reason to believe that ArcelorMittal Brasil received benefits under this program during the POI.

b. The Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Ceará Industrial Fund Program Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

¹⁸⁹ *Ceara: Socioeconomic Aspects of Ceara*, Ministry of External Relations, Department of Trade and Investment Promotion, at 9, attached as **Exhibit V-55**.

¹⁹⁰ *Id.* at 10, attached as **Exhibit V-55**.

¹⁹¹ *See Ceara: Socioeconomic Aspects of Ceara*, Ministry of External Relations, Department of Trade and Investment Promotion, attached as **Exhibit V-55**.

¹⁹² Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as **Exhibit V-48**.

(3) Specificity

This program is only available to entities located in Ceará. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

11. Bahia State Industrial Development and Economic Integration Program

a. The State of Bahia Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Bahia State Industrial Development and Economic Integration Program

The Bahia State Industrial Development and Economic Integration Program (“Desenvolve”) is an incentive program for the establishment of new industrial enterprises in the state of Bahia, and the expansion, reactivation, or modernization of existing industrial enterprises.¹⁹³ Regulated pursuant to Law No. 7.980 (2001) and Decree No. 8.205 (2002), this program provides eligible companies in Bahia the following incentives:¹⁹⁴

- A grace period of up to 72 months for the payment of up to 90% of the ICMS monthly debit balance relative to {a company’s} own operations, generated through investments in approved projects;
- Payment of 10%, 20% or 30% of the selected ICMS value, depending on the class of the project;
- A grace period of up to six years of the portion corresponding to the difference between the selected tax and the paid tax;
- Monetary indexing, which corresponds to a percentage of the Brazilian long-term interest rate (TJLP) (minimum of 50%), capitalized throughout the year, incident on the portion resulting from the grace period;
- Single tax payment at the end of the grace period; and
- To encourage early payments of the due amount (differed portion + correction) progressive discount can be up to 90%.¹⁹⁵

“Metallurgy” is one of the nine industries listed as a beneficiary of this program.¹⁹⁶

¹⁹³ Industrial Development Program and Economic Integration - Desenvolve, attached as **Exhibit V-56**.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

ArcelorMittal Brasil's 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.¹⁹⁷ As a result, there is reason to believe that ArcelorMittal Brasil received benefits under this program during the POI.

b. The State of Bahia's Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in Bahia. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

12. Pernambuco Development Program

a. The State of Pernambuco Provides Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Pernambuco Development Program

The Pernambuco Development Program ("PRODEPE") is the primary tax incentive program offered by the state of Pernambuco. Regulated by Law No. 11.675 (1999) and Decree No. 21.959 (1999), this program grants presumed tax credits to companies classified in priority

¹⁹⁶

Id.

¹⁹⁷

Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as Exhibit V-48.

industrial and special industrial clusters, as well as companies classified in activities of strategic importance.¹⁹⁸ Both “steel and aluminum production” and “metallurgical” (from July 1, 2014) are explicitly listed as special industrial clusters.¹⁹⁹ Companies that fall within these categories are eligible for a 95 percent reduction of ICSM.²⁰⁰

ArcelorMittal Brasil’s 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.²⁰¹ As a result, there is reason to believe that ArcelorMittal Brasil received benefits under this program during the POI.

b. The Provision of Tax Benefits to Brazilian Cold-Rolled Steel Producers Through the Pernambuco Development Program Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in Pernambuco. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

¹⁹⁸ See José da Cruz Lima Júnior, *The Fiscal Policy to Attract Investments to the State of Pernambuco – Socioeconomic Impacts*, The George Washington University (Apr. 2014) at 21-23, excerpts attached as **Exhibit V-57**.

¹⁹⁹ *Id.* at 23, excerpts attached as **Exhibit V-57**.

²⁰⁰ *Id.*

²⁰¹ Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as **Exhibit V-48**.

13. Program for the Development of Santa Catarina's Business ("PRODEC")

a. Santa Catarina Provides Preferential Financing and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through PRODEC

Pursuant to Law 13.342 (March 10, 2005), PRODEC "aims to promote the Santa Catarina socio-economic development, through the provision of funding to encourage investment and operation or ownership interests in companies based in Santa Catarina."²⁰² In order to qualify for these incentives, industrial projects must meet, in whole or in part, the following requirements: (1) generate employment and income in Santa Catarina; (2) enhance technology and competitiveness; (3) contribute to sustainable development of the environment; (4) involve infrastructure projects in Santa Catarina; and (5) integrate supply chains at the local and regional level, characterized as Local Productive Arrangements.²⁰³ Priority projects under this program include those that are characterized by high economic impact, have high rates of labor absorption, and increase the technological levels of production activities.²⁰⁴ Brazil's steel industry is referenced explicitly in the law.²⁰⁵ Eligible projects under the program benefit from a 75 percent reduction in ICMS and favorable financing terms.²⁰⁶

ArcelorMittal Vega is located in Santa Catarina. Moreover, ArcelorMittal Brasil's 2013 Brasil Corporate Responsibility Report indicates that the company received benefits under this program as recently as 2013.²⁰⁷ As a result, it is likely that the company received benefits under this program during the POI.

²⁰² Program for Development of Santa Catarina's Business, Law 13.342 (March 10, 2005), attached as **Exhibit V-58**.

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Brasil Corporate Responsibility Report, ArcelorMittal (2013), at 24, excerpt attached as **Exhibit V-48**.

b. Santa Catarina's Provision of Preferential Financing and Tax Incentives to Brazilian Cold-Rolled Steel Producers Through PRODEC Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program constitutes a financial contribution in the form of a potential direct transfer of funds under Section 771(5)(D)(i) of the Act and government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable commercial loan. This program also confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

This program is only available to entities located in Santa Catarina. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.

E. BNDES Financing

1. BNDES Provides Preferential Financing to Brazilian Cold-Rolled Steel Producers

BNDES is a wholly government-owned policy bank that acts as the primary financing agent for stimulating the expansion of industry and infrastructure in Brazil.²⁰⁸ Established in

²⁰⁸ The BNDES, The Brazilian Development Bank, attached as **Exhibit V-31; Management Report – BNDES System**, BNDES (December 31, 2014), at 18, attached as **Exhibit V-32**. The BNDES System includes BNDES as

1952 as a government agency under Law No. 1.628 to create and implement national economic development policies, BNDES was converted into a state-owned company under private law in 1971 pursuant to Law No. 5.662.²⁰⁹ BNDES currently operates under the supervision of Brazil's Minister of State for Development, Industry and Foreign Trade²¹⁰ and reports to the Ministry of Finance, the Ministry of Planning and Budgeting, the Central Bank, the National Congress, the Office of the Comptroller General, and the Federal Court of Accounts.²¹¹

Among its initiatives, BNDES provides “support for exports, technological innovation, {and} sustainable socio-environmental development” through a host of financial support mechanisms.²¹² Consistent with its bylaws,²¹³ BNDES’ support includes “financing exports of Brazilian goods and services” to support Brazilian growth.²¹⁴ In 2013, BNDES disbursed approximately R\$ 17 billion to basic industry, including metallurgy, to strengthen “companies’ strategic positioning in order to reduce the pressure on Brazil’s trade balance.”²¹⁵ Furthermore, in 2014, BNDES issued a new operational policy designed to promote investments, including “in priority sectors” such as “capital goods, engineering and knowledge-intensive sectors . . . as well as export support operations.”²¹⁶

well as three subsidiaries: BNDES Participações S.A. (BNDESPAR), the Special Agency for Industrial Financing (FINAME), and BNDES PLC. See *The BNDES System*, The Brazilian Development Bank, attached as **Exhibit V-33**.

²⁰⁹ *History*, The Brazilian Economic Development Bank, attached as **Exhibit V-59**.

²¹⁰ *Legislation*, The Brazilian Economic Development Bank, at Chapter 1, Art. 1, attached as **Exhibit V-60**.

²¹¹ BNDES 2013 Annual Report at 6, excerpts attached as **Exhibit V-61**.

²¹² *The BNDES*, The Brazilian Development Bank, attached as **Exhibit V-31**.

²¹³ *Legislation*, The Brazilian Economic Development Bank at Art. 9, attached as **Exhibit V-60**.

²¹⁴ *The BNDES*, The Brazilian Development Bank, attached as **Exhibit V-31**; see also *Mission, Vision and Values*, The Brazilian Economic Development Bank, attached as **Exhibit V-62** (noting that BNDES’ mission is “{t}o foster sustainable and competitive development in the Brazilian economy, generating employment while reducing social and regional inequalities.”).

²¹⁵ BNDES 2013 Annual Report at 28, excerpts attached as **Exhibit V-61**.

²¹⁶ *Management Report – BNDES System*, BNDES (December 31, 2014), at 3, attached as **Exhibit V-32**.

The steel industry has been a major recipient of BNDES financing in recent years.²¹⁷ BNDES approved a credit line of R\$319 million for Usiminas in 2011 to modernize and expand the capacity of its Cubatão, Ipatinga, and Rio de Janeiro mills between 2011 and 2016.²¹⁸ BNDES has also provided significant funding to CSN and ArcelorMittal Brasil SA.²¹⁹ In 2014, Brazil's "metallurgy and products" industry was the fifth largest industrial recipient of BNDES financing.²²⁰ Between March 2014 and March 2015, BNDES invested R\$3.6 billion in "metallurgy and products."²²¹ As President Rousseff recently announced:

In the case of the industrial policy, I think it is absolutely justified that our country practice an investment expansion policy. The PSI (Program for Sustainable Investment) is to stimulate first the renovation of the industry {and} it is also to stimulate the expansion of the investment.

I believe that it is very important to have private banks doing this too, but while the private banks don't do it within the same conditions as the public banks do, I see no justification to remove the public banks from this activity. I see no justification.

I think it is very important that BNDES fills this role of industrial and agricultural activity, as the case may be, such as in the areas of intermediate goods like cellulose, *steel mills*, etc.²²²

BNDES' operations continue to evolve to address specific challenges in Brazil, and it serves an important role assisting Brazilian companies expand internationally,²²³ particularly steel companies.

²¹⁷ See *New Operational Policy and Performance*, BNDES (Dec. 23, 2014), at 11, excerpts attached as **Exhibit V-63**.

²¹⁸ *BNDES Confirms Funding About R \$ 2 billion for Usiminas*, Instituto Aco Brasil (Oct. 31, 2011), attached as **Exhibit V-64**.

²¹⁹ CSN's 2014 Management Report, at 52, excerpts attached as **Exhibit V-50**; ArcelorMittal Brasil S.A.'s FY 2014 financial statement, attached as **Exhibit V-49**.

²²⁰ See *New Operational Policy and Performance*, BNDES (Dec. 23, 2014), at 11, excerpts attached as **Exhibit V-63**.

²²¹ *Id.* at BNDES Performance by Sector, excerpts attached as **Exhibit V-63**.

²²² Speech by President Dilma Rousseff (Sept. 3, 2014), attached as **Exhibit V-65**. (emphasis added).

²²³ See *The BNDES*, The Brazilian Development Bank, attached as **Exhibit V-31**.

As detailed below, BNDES provides various forms of preferential financing to Brazilian cold-rolled steel producers: (1) Support Program to Strengthen Employment and Income Generation (“BNDES PROGEREN”); (2) ExIm loans; (3) Special Agency for Industrial Financing (“FINAME”) loans; (iv) FINEM loans; (v) BNDESPAR loans; (vi) Investment Maintenance Program ; (vii) Automatic BNDES; and (viii) BNDES Technology Fund (“BNDES Funtec”). Each loan program constitutes a countervailable subsidy and should be investigated by the Department.

a. BNDES PROGEREN

In order to stimulate investment in the Brazilian economy under Plano Brasil Maior, BNDES has reduced interest rates and expanded the scope of its program to finance working capital.²²⁴ In this regard, BNDES PROGEREN is aimed at increasing production, employment, and salaries by providing attractive interest rates.²²⁵ For medium-large and large companies, interest rates were reduced from 10 to 8 percent,²²⁶ and the program is restricted to those that operate in only a few industries, including flat-rolled steel such as cold-rolled.²²⁷ The program expired on December 31, 2014,²²⁸ with a 60-month total term of operation.²²⁹ The program was reinstated in 2015.²³⁰ Given that this financing program specifically targets the flat-rolled steel industry among other industries, it is likely that one or more Brazilian cold-rolled steel producers received benefits under this program during the POI.

²²⁴ *BNDES reduces interest on working capital to 6% per year*, BNDES (June 5, 2012), attached as **Exhibit V-**

66.

²²⁵ *See* BNDES Progeren, attached as **Exhibit V-67**.

²²⁶ *BNDES reduces interest on working capital to 6% per year*, BNDES (June 5, 2012), attached as **Exhibit V-**

66.

²²⁷ BNDES Progeren, attached as **Exhibit V-67**.

²²⁸ *Instruments Established by the Federal Government to Stimulate Productive Investment*, Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014), at 8, attached as **Exhibit V-9**.

²²⁹ BNDES Progeren, attached as **Exhibit V-67**.

²³⁰ *Id.*

b. ExIm Loans

BNDES provides three types of ExIm financing to support the production and commercialization of exports. First, BNDES provides pre-shipment financing, which is a working capital loan for the production of goods for a term of up to 12 years.²³¹ Second, BNDES provides special pre-shipment financing to commercialize products that have already been produced. These loans can be granted for a term of up to 30 months.²³² Finally, BNDES provides post-shipment financing in the form of a buyer's or supplier's credit for a term of up to 30 months. These loans are provided through an agent bank, but both the agent bank and BNDES are responsible for determining eligibility for financing under the program.²³³ The Department has found that Brazilian cold-rolled steel producers received benefits under this program in prior cases.²³⁴ Accordingly, it is likely that one or more Brazilian cold-rolled steel producers received ExIm financing during the POI.

c. FINAME Loans

BNDES provides FINAME loans indirectly through agent banks to finance the purchase of machinery and equipment.²³⁵ Except for terms that apply only to micro, small, or medium-sized Brazilian companies, the nature of the financing depends on whether the equipment is imported or manufactured in Brazil, and is only available for imported equipment if such equipment is not available in Brazil.²³⁶ For equipment manufactured in Brazil, FINAME finances up to 90 percent of the purchase for small businesses and up to 80 percent for large companies.²³⁷ If the equipment is imported or contains less than 60 percent Brazilian content, a

²³¹ Cold-Rolled Steel I&D Memo at 21.

²³² *Id.*

²³³ *Id.*

²³⁴ *See, e.g., id.*

²³⁵ *Id.* at 19.

²³⁶ *Id.*

²³⁷ *Id.* at 20.

maximum financing term of five years applies.²³⁸ Small businesses are eligible for financing of 85 percent of the cost of imported equipment, and other businesses are eligible for financing of 80 percent of the cost.²³⁹ Large enterprises, however, may only obtain financing for imported equipment when the equipment being purchased is not available in Brazil.²⁴⁰ In practice, nearly all financing is provided for equipment manufactured in Brazil.²⁴¹ According to BNDES' 2013 Annual Report, BNDES provided R\$58.1 billion in assistance under this program in 2013.²⁴² CSN's 2014 Management Report indicates that it received significant BNDES FINAME financing during the POI.²⁴³

d. FINEM Loans

FINEM is a loan program administered by BNDES to support fixed asset investments for industrial or agricultural projects in excess of R\$7 million.²⁴⁴ Projects supported under this program include construction projects, engineering projects, projects for the acquisition of equipment, studies of special projects, and working capital projects.²⁴⁵ To be eligible, the project must be new or an expansion of an existing project.²⁴⁶ Because of the large amounts of financing involved, the credit risk for each potential project is determined by the BNDES Board of Directors.²⁴⁷ BNDES may also undertake a separate evaluation of the potential project's effects on the market, its expected benefits, the number of jobs that will be created, and the amount of

²³⁸

Id.

²³⁹

Id.

²⁴⁰

Issues and Decision Memorandum accompanying *Carbon and Certain Alloy Steel Wire Rod from Brazil*, 78 Fed. Reg. 60,850 (Dep't Commerce Oct. 2, 2013) (final results of the expedited second sunset review of the countervailing duty order) at 9-10.

²⁴¹

Id.

²⁴²

BNDES 2013 Annual Report at 11, excerpts attached as **Exhibit V-61**.

²⁴³

CSN's 2014 Management Report, at 52, excerpts attached as **Exhibit V-50**.

²⁴⁴

Cold-Rolled Steel I&D Memo at 25.

²⁴⁵

Id.

²⁴⁶

Id.

²⁴⁷

Id.

financing required.²⁴⁸ The Department has found that Brazilian cold-rolled steel producers received benefits under this program in prior cases.²⁴⁹ Accordingly, it is likely that one or more Brazilian cold-rolled steel producers received FINEM loans during the POI.

e. BNDESPAR Loans

As part of Brazil's National Privatization Program ("NPP"), BNDES established BNDESPAR to develop and promote the Brazilian capital markets and to encourage the sale of BNDES convertible debentures and shares (including privatization currencies) in public companies to outside investors.²⁵⁰ BNDES assets were sold to third-party investors in Brazil; to legal entities directly or indirectly controlled by individuals residing in Brazil; to closed, private security foundations constituted in Brazil; or to security investment funds managed in Brazil whose "quota-holders" also reside in Brazil.²⁵¹ Under the NPP, BNDES authorized financial agents to acquire and resell these privatization currencies to themselves and/or their clients via installment payments through individual or collective financing facilities provided by BNDES.²⁵² BNDESPAR was responsible for administering and implementing procedures associated with all transactions occurring within this program, while transactions involving the transfer or assigning of assets to another party required the approval of BNDES.²⁵³ The Department has found that Brazilian cold-rolled steel producers received benefits under this program in prior cases.²⁵⁴ Accordingly, it is likely that one or more Brazilian cold-rolled steel producers received funding from BNDESPAR during the POI.

²⁴⁸

Id.

²⁴⁹

See, e.g., id.

²⁵⁰

Id. at 21-22.

²⁵¹

Id. at 22.

²⁵²

Id.

²⁵³

Id.

²⁵⁴

See, e.g., id.

f. Investment Maintenance Program

BNDES' Investment Maintenance Program provides long-term financing for Brazilian industries, including Brazilian steel producers, to fund machinery and equipment.²⁵⁵ Interest rates charged on financing under this program are substantially lower than the prevailing market interest rates for commercial financing.²⁵⁶ BNDES renewed this program at the end of 2013 and recently implemented new program rules that "are in compliance with the Bank's main guidelines, which aim at boosting investment" and "foster{ing} synergy with the government's priorities."²⁵⁷ For large companies, the BNDES financing rate under this program is 6 percent, with an 80 percent participation rate.²⁵⁸ Priority sectors, which include export support operations²⁵⁹ and the steel sector,²⁶⁰ "have lower financial costs and have higher levels of the Bank's participation."²⁶¹

g. Automatic BNDES

BNDES offers Automatic BNDES financing of up to R\$10 million for the implementation, expansion, modernization or company relocation projects, including the acquisition of new machinery and equipment of domestic manufacture, accredited by the BNDES, and associated working capital.²⁶² Financing under this program is limited to 80 percent for large, domestically-controlled enterprises and companies with foreign-controlled capital. Products with a domestic content of at least 60 percent by value, are automatically

²⁵⁵ See *BNDES reduces rates and extends loans terms to encourage investment*, BNDES (Aug. 3, 2012), attached as **Exhibit V-68**.

²⁵⁶ *National Trade Estimate Report on Foreign Trade Barriers: Brazil*, Office of the United States Trade Representative (2014), at 3, attached as **Exhibit V-69**.

²⁵⁷ *BNDES' new operational policies boost investment*, BNDES (Dec. 18, 2013), attached as **Exhibit V-70**.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ Speech by President Dilma Rousseff (Sept. 3, 2014), attached as **Exhibit V-65**.

²⁶¹ *BNDES' new operational policies boost investment*, BNDES (Dec. 18, 2013), attached as **Exhibit V-70**.

²⁶² Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 97, excerpts attached as **Exhibit V-2**.

eligible for financing, while products with local content below the threshold are subject to a non-automatic analysis procedure.²⁶³ Disbursements under Automatic BNDES almost tripled between 2008 and 2012, increasing from R\$5.5 million to R\$16.4 million.²⁶⁴ Given that Brazil's cold-rolled steel industry has been actively engaged in expansion and modernization projects in recent years, it is likely that one or more Brazilian cold-rolled steel producers received Automatic BNDES financing during the POI.

h. BNDES Funtec

BNDES Funtec is "intended to financially support projects aimed at stimulating technological development and innovation of strategic interest for the country, in accordance with the programs and policies of the Federal Government, pursuant to the guidelines established for each type of performance."²⁶⁵ The planning and operations of BNDES Funtec must comply with the following guidelines:

- {A}ccelerate the search for solutions to bottlenecks and technological opportunities for sustainable development of the country;
- {F}ocus efforts and resources on specific issues ... in which Brazilian companies are likely to take a prominent role or even leadership on the world stage, avoiding {wasting} of resources;
- {E}nsure the continuity of efforts on selected areas, aiming to accelerate the delivery of research results and combine Research Institute efforts and businesses through the use of BNDES' {} ability to schedule and anticipate partners;
- {S}upport projects that contain mechanisms that provide for the effective introduction of innovations into the market;
- {F}oster closer ties between Technological Institutions and companies, promoting the application of knowledge generated in academia to the productive sector; and

²⁶³

Id.

²⁶⁴

Id. at 98, excerpts attached as **Exhibit V-2**.

²⁶⁵

BNDES Technological Fund – BNDES Funtec, BNDES, attached as **Exhibit V-71**.

- {E}ncourage the structuring of projects which combine various support tools (other products, credit lines and programs provided in the Operational Policies of BNDES) with BNDES funds Funtec.²⁶⁶

BNDES Funtec applies the following criteria for prioritizing projects:

- {T}he technological challenges involved;
- {T}he degree of novelty;
- {T}he potential application of the technology in other sectors; {and}
- {T}he degree of credibility of the institution and the team.²⁶⁷

Given that Brazil's cold-rolled steel industry is actively involved in developing new technologies, it is likely that one or more Brazilian cold-rolled steel producers received Automatic BNDES financing during the POI.

2. **BNDES' Provision of Preferential Financing to Brazilian Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy**

The Department has previously determined that financing provided by BNDES constitutes a countervailable subsidy.²⁶⁸ As detailed below, the Department should continue to find that BNDES financing is countervailable.

a. **Financial Contribution**

As previously indicated, BNDES is a wholly government-owned policy bank that acts as the primary financing agent for stimulating the expansion of industry and infrastructure in Brazil.²⁶⁹ Therefore, consistent with the Department's prior determinations,²⁷⁰ the provision of

²⁶⁶

Id.

²⁶⁷

Id.

²⁶⁸

See, e.g., Cold-Rolled Steel I&D Memo at 18-23.

²⁶⁹

The BNDES, The Brazilian Development Bank, attached as **Exhibit V-31**; *Management Report – BNDES System*, BNDES (December 31, 2014), at 18, attached as **Exhibit V-32**. The BNDES System includes BNDES as well as three subsidiaries: BNDES Participações S.A. (BNDESPAR), the Special Agency for Industrial Financing (FINAME), and BNDES PLC. *See The BNDES System*, The Brazilian Development Bank, attached as **Exhibit V-33**.

²⁷⁰

See Cold-Rolled Steel I&D Memo at 20.

BNDES financing constitutes a financial contribution in the form of a potential direct transfer of funds from a government authority within the meaning of Section 771(5)(D)(i) of the Act.

b. Benefit

BNDES financing provides a benefit within the meaning of Section 771(5)(E)(ii) of the Act to the extent that the recipient pays a lower interest rate on the loan than it would otherwise pay on a comparable commercial loan absent the program.²⁷¹

c. Specificity

The Department has previously found the provision of BNDES financing to Brazilian steel producers to be specific as defined in the Act,²⁷² and should continue to do so here. As discussed above, the steel industry has been a major recipient of BNDES financing.²⁷³ In 2014, Brazil's "metallurgy and products" industry was the fifth largest industrial recipient of BNDES financing,²⁷⁴ and between March 2014 and March 2015, BNDES invested R\$3.6 billion in "metallurgy and products."²⁷⁵ Because the Brazilian steel industry, including the cold-rolled steel industry, appears to be a predominant user of the subsidy and receive a disproportionately large amount of BNDES financing, this program is specific under Sections 771(5A)(D)(iii)(II) and (III) of the Act. In addition, the FINAME program is *de jure* specific as an import substitution program under Section 771(5A)(C) of the Act because it is only available to finance the purchase of domestically-produced equipment,²⁷⁶ and the BNDES ExIm financing program is

²⁷¹ See *id.* at 21.

²⁷² See *id.* at 18-23.

²⁷³ See *New Operational Policy and Performance*, BNDES (Dec. 23, 2014), at 11, excerpts attached as **Exhibit V-63**.

²⁷⁴ See *id.*

²⁷⁵ *Id.* at BNDES Performance by Sector, excerpts attached as **Exhibit V-63**.

²⁷⁶ Issues and Decision Memorandum accompanying *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 76 Fed. Reg. 22,868 (Dep't Commerce Apr. 25, 2011) (final results of countervailing duty admin. rev.) at 8; Cold-Rolled Steel I&D Memo at 20.

de jure specific in accordance with Section 771(5A)(B) of the Act because eligibility for the financing is contingent upon export performance.²⁷⁷

F. Research and Development Incentives

1. INOVA Brasil Program

a. The GOB Provides Preferential Funding for Research and Development Expenditures to Brazilian Cold-Rolled Steel Producers

The Financiadora de Estudos e Projetos (“FINEP”) is a public enterprise created in 1967 that is linked to the Government’s Ministry of Science, Technology and Innovation (“MCTI”).²⁷⁸ One of FINEP’s most significant reimbursable financing programs is the Programa de Incentivo a Inovacao nas Empresas Brasileiras (“INOVA Brasil Programme”), which aims to support strategic, innovative investments made by Brazilian companies.²⁷⁹ The program’s guidelines are set forth in the Plano Brasil Maior and are as follows:

(i) increased national and international competitiveness; (ii) increased R&D activities carried out in the country with investments consistent with the technological dynamics of the sectors in which they operate; and (iii) innovation with regional relevance or inserted in MCTI’s program objectives.²⁸⁰

Eligible recipients of benefits under this program are domestic companies under domestic capital control and those under foreign capital control whose activities are specified in Decree No. 2.233 (May 23, 1997), as amended.²⁸¹

The FINEP grants repayable financing for all stages of the scientific and technological development cycle: basic research, applied research, innovation and development of products,

²⁷⁷ Cold-Rolled Steel I&D Memo at 21.

²⁷⁸ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 94, excerpts attached as **Exhibit V-2**.

²⁷⁹ *Id.* at 95, excerpts attached as **Exhibit V-2**.

²⁸⁰ *Id.*

²⁸¹ *Id.*

and services and processes.²⁸² The FINEP also supports the development of technology-based companies; the establishment of technological parks; and the implementation of research, development, and innovation processes in established companies.²⁸³ Moreover, since 2012, the FINEP began offering support for a company's establishment of its first industrial unit, incorporations, mergers, and joint ventures.²⁸⁴ Repayable loans are financed with the FINEP's own resources or from transfers from other sources.²⁸⁵ FINEP provides funding for a limited number of projects, including development of new products, processes, and services, and basic industrial technology.²⁸⁶ Qualified projects are eligible for up to 90 percent of a total project's costs.²⁸⁷

In furtherance of its efforts to bolster the country's metallurgy sector, the GOB has made clear that one of Plano Brasil Maior's initiatives is to obtain "financial resources to implement priority projects of the technological agenda" of the steel sector.²⁸⁸ Because the INOVA Brasil Program is an important component of Plano Brasil Maior, which is intended to strengthen the Brazilian steel sector, it is likely that one or more Brazilian cold-rolled steel producers benefitted from this program during the POI.

b. The GOB's Provision of Preferential Funding for Research and Development Expenditures Through the INOVA Brasil Program Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

²⁸²

Id.

²⁸³

Id. at 94, excerpts attached as **Exhibit V-2**.

²⁸⁴

Id.

²⁸⁵

Id.

²⁸⁶

FINEP Program, attached as **Exhibit V-72**.

²⁸⁷

Worldwide R&D incentives reference guide (2013-2014) at 27-28, excerpts attached as **Exhibit V-73**.

²⁸⁸

Follow-up Report of the Strategic Sectors Agenda, Brasil Maior (Nov. 2014) at 67, excerpts attached as **Exhibit V-4**.

(1) Financial Contribution

The provision of preferential funding for research and development expenditures constitutes a financial contribution in the form of a potential direct transfer of funds or liabilities within the meaning of Section 771(5)(D)(i) of the Act.

(2) Benefit

The GOB's provision of such funding provides a benefit within the meaning of Section 771(5)(E)(ii) of the Act to the extent that the recipient pays a lower interest rate on the FINEP loan than it would otherwise pay on a comparable commercial loan absent the program.

(3) Specificity

The steel sector is one of the primary industrial sectors targeted under Plano Brasil Maior. Because the INOVA Brasil Program is an important component of Plano Brasil Maior, Petitioners have reason to believe that the Brazilian steel industry, including the cold-rolled steel industry, is a predominant user of the subsidy and receives a disproportionately large amount of this subsidy. As such, this program is specific within the meaning of Sections 771(5A)(D)(iii)(II) and (III) of the Act.

2. Economic Subvention to National Innovation Program**a. The GOB Provides Tax Benefits for Research and Development Expenditures Incurred by Brazilian Cold-Rolled Steel Producers**

The purpose of the Economic Subvention to National Innovation Program (Programa de Subvenção Econômica à Inovação Nacional) is to promote “innovation and productivity enhancement among Brazilian companies.”²⁸⁹ The program's regulatory framework is contained

²⁸⁹ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 96, excerpts attached as Exhibit V-2.

in Law No. 10.973 (Dec. 2, 2004), regulated by Decree No. 5.563 (Oct. 11, 2005) (Innovation Law), and in Law No. 11.196 (Nov. 21, 2005), regulated by Decree No. 5,798 (June 7, 2006).²⁹⁰

Pursuant to this program, the Brazilian government offers Brazilian companies a “super {tax} deduction” of 160 to 200 percent of eligible expenses.²⁹¹ If a company registers intellectual property in Brazil, an additional 20 percent deduction is available.²⁹² Taxpayers can also obtain a “reduction on IPI, Imposto sobre Produtos Industrializados (federal excise tax), for eligible R&D activities.”²⁹³ The IPI reduction allows for a 50 percent reduction of the tax imposed on instruments, equipment, machinery, apparatus, and tools that are imported by Brazilian companies or dedicated to R&D activities performed in Brazil, provided that the incentive is claimed upon requesting the acquisition.²⁹⁴ In addition to an R&D deduction, the program also permits Brazilian companies to accelerate the depreciation on R&D assets for tax purposes only.²⁹⁵ In 2011, approved projects under this program totaled R\$239.6 million.²⁹⁶

Although eligibility is not limited to a specific industry, the program is restricted to projects involving “technological innovation,” which is defined as “the conception of a new production or production process, as well as the inclusion of new functionalities or characteristics in the product or process resulting in additional improvements, effective quality or productivity increase, as well as competitiveness increase in the market.”²⁹⁷ Given that the Brazilian cold-rolled steel industry is actively engaged in developing new products and

²⁹⁰

Id.

²⁹¹ *Worldwide R&D incentives reference guide* (2013-2014) at 27, excerpts attached as **Exhibit V-73**.

²⁹²

Id.

²⁹³

Id.

²⁹⁴

Id.

²⁹⁵

Id.

²⁹⁶ Report by the Secretariat, *Brazil – Trade Policy Review*, WT/TPR/S/283/Rev.1 (July 26, 2013) at 96, excerpts attached as **Exhibit V-2**.

²⁹⁷ *Worldwide R&D incentives reference guide* (2013-2014) at 28, excerpts attached as **Exhibit V-73**.

processes, Petitioners reasonably believe that Brazilian cold-rolled steel producers benefitted from this program during the POI.

b. The GOB's Provision of Tax Benefits for Research and Development Expenditures Constitutes a Countervailable Subsidy

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

The provision of tax incentives under this program constitutes a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program provides a benefit under Section 771(5)(E)(ii) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program.

(3) Specificity

Given that this program is limited to projects involving “technological innovation,” which is defined as the conception of a new product or production process, Petitioners have reason to believe that the Brazilian steel industry, including the cold-rolled industry, is a predominant user of the subsidy and receives a disproportionately large amount of this subsidy. As such, this program is specific within the meaning of Sections 771(5A)(D)(iii)(II) and (III) of the Act.

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

Petitioners allege that subsidized imports of cold-rolled steel from Brazil 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 International Trade Commission in **Volume I** of these Petitions.

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Brazilian producers and exporters of cold-rolled steel benefit from countervailable subsidies. Accordingly, Petitioners request that the Department initiate a CVD investigation of cold-rolled steel from Brazil.

EXHIBIT LIST

Exhibit No.	Exhibit	Security
V-1	Internal Revenue Service, Pub. 946 “How to Depreciate Property” (2013) (excerpt)	Public
V-2	Report by the Secretariat, <i>Brazil – Trade Policy Review</i> , WT/TPR/S/283/Rev.1 (July 26, 2013) (excerpts)	Public
V-3	<i>Plano Brasil Maior 2011/2014</i> , Governo Federal Brasil	Public
V-4	<i>Follow-up Report of the Strategic Sectors Agenda</i> , Brasil Maior (Nov. 2014) (excerpts)	Public
V-5	<i>Comprehensive Growth Strategy: Brazil</i> , Australia 2014 (Oct. 2014)	Public
V-6	<i>Doing Business in Brazil</i> , UHY Moreira (Apr. 2015) (excerpts)	Public
V-7	<i>AAFRMM: What is AFRMM</i> , Log-In Logistics website excerpt	Public
V-8	Rosalie Bacchus, <i>Understanding Brazil's Taxes on Imports</i>	Public
V-9	<i>Instruments Established by the Federal Government to Stimulate Productive Investment</i> , Ministry of Development, Industry and Foreign Trade of Brazil – MDIC, Secretariat of Production and Development – SDP, and Brazilian Investment Information Network – RENAI (Last Update: August 2014)	Public
V-10	Decree No. 7.212 (June 15, 2010), Regulates the collection, control and administration of the Tax on Industrialized Products – IPI	Public
V-11	Usiminas' FY 2014 Financial Statement	Public
V-12	<i>Ex-Tarifário</i> , Ministerio de Desenvolvimento, Indústria e Comércio Exterior	Public
V-13	Brasil Maior Executive Report-2 years (Aug. 2013) (excerpt)	Public
V-14	Thiago Resende, Edna Simao and Eduardo Campos, <i>Government Announces Exemption of 25 New Sectors</i> , Valor Economico (Sept. 13, 2012)	Public

Exhibit No.	Exhibit	Security
V-15	<i>Apresentação do ministro Guido Mantega sobre as Medidas de Política Industrial</i> (June 18, 2014) (excerpt)	Public
V-16	Igor Utsumi, <i>Brazilian Steel Industry</i> , The Brazil Business (May 19, 2014)	Public
V-17	<i>Revista Brasileira do Aço (Brazilian Steel Magazine)</i> , No. 145 (Nov. 2012) (excerpts)	Public
V-18	REPORTO	Public
V-19	<i>Logistics</i> , CSN	Public
V-20	Port Information	Public
V-21	<i>History</i> , Banco do Brasil	Public
V-22	Banco do Brasil Conglomerate Shareholding Configuration	Public
V-23	<i>Legal Aspects of Doing Business in Brazil: A Summary</i> (Jan. 2014), Demarest Advogados (excerpts)	Public
V-24	<i>Government raises Reintegra rate from 0.3% to 3%, from October</i> (Sept. 30, 2014)	Public
V-25	Ricardo Marletti Debatin da Silveira and Sergio Villanova Vasconcelos, <i>Reintegra: Re-establishment of the Brazilian special regime for the reinstatement of taxes for exporters</i> , International Tax Review (Aug. 1, 2014)	Public
V-26	<i>Brazil – Tax-credit program for exports is extended</i> , KPMG	Public
V-27	Quarterly Information – ITR, Usinas Siderúrgica de Minas Gerais S.A. – USIMINAS: Report (Sept. 30, 2014) (excerpts)	Public
V-28	Tabela de Incidência do Imposto Sobre Produtos Industrializados (Versão 2012)	Public
V-29	<i>National Trade Estimate Report on Foreign Trade Barriers: Brazil</i> , Office of the United States Trade Representative (2012)	Public

Exhibit No.	Exhibit	Security
V-30	Fernando Augusto Coimbra Gomes, <i>Export Credit Insurance: Comparing the Brazilian and American Models</i> , The George Washington University (Spring 2004) (excerpt)	Public
V-31	<i>The BNDES</i> , The Brazilian Development Bank	Public
V-32	<i>Management Report – BNDES System</i> , BNDES (December 31, 2014)	Public
V-33	<i>The BNDES System</i> , The Brazilian Development Bank	Public
V-34	Report by the Secretariat, <i>Brazil – Trade Policy Review</i> , WT/TPR/S/283 (May 17, 2013) (excerpts)	Public
V-35	<i>Apex-Brasil Trade Sectors Projects</i> , ApexBrasil	Public
V-36	Law No. 4.172 (Sept. 29, 2003)	Public
V-37	Law No. 4.171 (Sept. 29, 2003)	Public
V-38	<i>Economic Development: Incentives and Tax Benefits</i> , Rio de Janeiro Government website excerpt	Public
V-39	Decree No. 44.072 (July 14, 2005)	Public
V-40	BDMG – The Development Bank of Minas Gerais: Presentation of Results-2013	Public
V-41	<i>What is Fundap?</i> , Soimpex	Public
V-42	<i>Fundap-Institutional</i> , Evix	Public
V-43	<i>Benefits of FUNDAP System</i> , Brazil Explorer	Public
V-44	<i>Advantages of FUNDAP System: Modalities and Qualification</i> , HC Comercio Exterior	Public
V-45	<i>Fundos e Programas: Invest-ES</i> , BANDES	Public
V-46	<i>Fundos e Programas: FUNDEPAR</i> , BANDES	Public
V-47	<i>Banco do Nordeste do Brasil S.A.</i> , BnAmericas	Public

Exhibit No.	Exhibit	Security
V-48	Brasil Corporate Responsibility Report, ArcelorMittal (2013) (excerpt)	Public
V-49	ArcelorMittal Brasil S.A.'s FY 2014 financial statement (excerpts)	Public
V-50	CSN's 2014 Management Report (excerpts)	Public
V-51	<i>Banco da Amazonia S.A.</i> , BnAmericas	Public
V-52	Law No. 12.995 (June 18, 2014)	Public
V-53	<i>What is FINAM?</i> , amazonialegal	Public
V-54	Federal District Development Program	Public
V-55	<i>Ceara: Socioeconomic Aspects of Ceara</i> , Ministry of External Relations, Department of Trade and Investment Promotion	Public
V-56	Industrial Development Program and Economic Integration – Desenvolve	Public
V-57	José da Cruz Lima Júnior, <i>The Fiscal Policy to Attract Investments to the State of Pernambuco – Socioeconomic Impacts</i> , The George Washington University (Apr. 2014) (excerpts)	Public
V-58	Program for Development of Santa Catarina's Business, Law 13.342 (March 10, 2005)	Public
V-59	<i>History</i> , The Brazilian Economic Development Bank	Public
V-60	<i>Legislation</i> , The Brazilian Development Bank	Public
V-61	BNDES 2013 Annual Report (excerpts)	Public
V-62	<i>Mission, Vision and Values</i> , The Brazilian Economic Development Bank	Public
V-63	<i>New Operational Policy and Performance</i> , BNDES (Dec. 23, 2014) (excerpts)	Public
V-64	<i>BNDES Confirms Funding About R \$ 2 billion for Usiminas</i> , Instituto Aco Brasil (Oct. 31, 2011)	Public

Exhibit No.	Exhibit	Security
V-65	Speech by President Dilma Rousseff (Sept. 3, 2014)	Public
V-66	<i>BNDES reduces interest on working capital to 6% per year</i> , BNDES (June 5, 2012)	Public
V-67	BNDES Progeren	Public
V-68	<i>BNDES reduces rates and extends loans terms to encourage investment</i> , BNDES (Aug. 3, 2012)	Public
V-69	<i>National Trade Estimate Report on Foreign Trade Barriers: Brazil</i> , Office of the United States Trade Representative (2014)	Public
V-70	<i>BNDES' new operational policies boost investment</i> , BNDES (Dec. 18, 2013)	Public
V-71	<i>BNDES Technological Fund – BNDES Funtec</i> , BNDES	Public
V-72	FINEP Program	Public
V-73	<i>Worldwide R&D incentives reference guide</i> (2013-2014)	Public

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, **A-533-865**, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824

USITC Inv. Nos. 701-TA-____-- __, and 731-TA-____ - ____

Total Pages: 231

Antidumping and Countervailing Duty Investigations

PUBLIC VERSION

Business Proprietary Information Removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45, the Exhibit List, and Exhibits I-3, I-4, and I-9 – 1-15; and Volume VI, pages 1 and 4-6, and Exhibits VI-1, VI-2, VI-3, and VI-5

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement & Compliance
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U.S. Department of Commerce
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Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, **India**, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.
- (2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.
- (3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.
- (4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-9 and I-14.

- (5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.
- (6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.
- (7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume IV of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

- (1) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages 1 and 4-6; and Exhibits VI-1, VI-2, VI-3, and VI-5.
- (2) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 1, 4-6; and Exhibits VI-1, VI-2, VI-3 and VI-5.
- (3) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): pages 1, 4-6; and Exhibits VI-1, VI-2, VI-3 and VI-5.
- (4) *In an antidumping proceeding, the exact amount of the dumping margin on individual sales* (19 C.F.R. § 351.105(c)(7)): page 6.
- (5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): page 1; and Exhibits VI-1 and VI-5.

The single-bracketed business proprietary information in the attached Volumes I and VI of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).¹ Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not

¹ Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

The Honorable Penny S. Pritzker
The Honorable Lisa R. Barton
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available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

In addition, pursuant to 19 C.F.R. § 351.304(b)(2), Petitioners submit that the information enclosed in double brackets ("[[]]") in Exhibit VI-5 is exempt from disclosure under an APO. The information in double brackets in Exhibit VI-5 would permit the identification of the foreign market researcher who obtained the home market prices used in the Petitions. Specifically, this information includes the name of the declarant, the signature line, company information, and biographical details. There is a clear and compelling need to withhold this information from disclosure. Most importantly, it is a matter of protecting the foreign market researcher's personal safety as well as economic security. If the identity of the foreign market researcher is released, it will result in substantial and irreparable harm to the foreign market researcher and there would be no way to cure the breach. For these reasons, we submit that the Department should grant Petitioners' request for special protection of the double-bracketed information in Exhibit VI-5.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

The Honorable Penny S. Pritzker
The Honorable Lisa R. Barton
July 28, 2015
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Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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Total Pages: 36
Investigation
Petitioners' Business Proprietary Information
Removed from Pages 1 and 4-6, and Exhibits VI-1,
VI-2, VI-3, and VI-5
PUBLIC VERSION

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

**CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM
BRAZIL, CHINA, INDIA, JAPAN, KOREA, NETHERLANDS,
RUSSIA, AND THE UNITED KINGDOM**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME VI

INFORMATION RELATED TO INDIA – ANTIDUMPING DUTIES

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July 28, 2015

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I. Introduction

As demonstrated below, producers and/or exporters from India sold, or offered for sale, certain cold-rolled steel flat products (“cold-rolled steel”) in the United States at less than fair value. Petitioners demonstrate that cold-rolled steel imported from India is being sold or offered for sale at less than the fair value by comparing the U.S. price (“USP”) with the normal value (“NV”) for such merchandise in accordance with the Tariff Act of 1930, as amended (the “Act”), and the regulations and practice of the Department of Commerce (the “Department”). Petitioners ultimately calculate an overall dumping margin for the subject merchandise.

Petitioners use export price (“EP”) as the basis for USP in accordance with the statute. Petitioners compute the ex-factory EP in U.S. dollars by deducting from the quoted selling price the expenses incident to delivering the merchandise to customers in the United States. Specifically, petitioners deduct Indian inland freight, CIF charges, and importer’s markup.

Petitioners first calculate NV using a domestic offer for the sale of cold-rolled steel in India, *i.e.*, home market price. Petitioners calculate a dumping margin for the subject merchandise based on a comparison of the ex-factory EP to the ex-factory home market price.

The foreign producer that is the source of the offer in the United States is also the source of the offer in India.

II. Information Relating to India

A. Export Price

Petitioners have received the following price from a customer who was offered cold-rolled steel:

Grade	Sheet Thickness	Width	Qty. Offered (Net Tons)	Base Price Per Net Ton
[]	[]	[]	[]	[]

A declaration in support of this price is at Exhibit VI-1. Petitioners use the quoted price as the basis for EP. This price represents the information reasonably available to Petitioners.

Petitioners provide a worksheet at Exhibit VI-2 demonstrating the calculation of the ex-factory EP. The following sections describe Petitioners' deductions from the gross price to arrive at the ex-factory EP.

1. Movement and Other Expenses

In order to calculate the ex-factory EP for sales to the United States, Petitioners deducted from the quoted price the expenses associated with exporting and delivering the product to the customer in the United States. These expenses include foreign inland freight from the Indian mills to the port of export, Indian brokerage and handling, Indian port fees, ocean freight to the U.S. port, marine insurance, U.S. port fees, and U.S. harbor maintenance and merchandise processing fees, where applicable.¹ The petitions for the other countries used information from Maersk Lines to calculate ocean freight. In the case of India, however, suitable information on shipping from India from Maersk was not available. Therefore, for this petition, Petitioners used the calculation of CIF charges from official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) to calculate most of the movement charges and fees. *See* Exhibit VI-3.

2. Foreign Inland Freight

Petitioners calculated the distance from the Indian cold-rolled steel producer's facilities in which cold-rolled steel is produced to the most likely port using Google Maps. *See* Exhibit VI-3. Inland freight was calculated by using the tables developed by the Department in the recent *Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam* (A-552-

¹ Cold-rolled from India is imported into the United States duty free. Consequently, no adjustment to EP for customs duties is necessary.

814) (Period of Review: 02/13/13- 01/31/14). *See* Exhibit VI-3. The inflator used in that review was updated to cover the period of investigation for this petition. *See* Exhibit VI-3. The resulting calculation of inland freight is included in the calculation of EP in Exhibit VI-2.

3. Indian Brokerage and Handling and Indian Port Fees

In shipping subject merchandise out of India, the exporter will incur certain port fees and brokerage and handling charges. Petitioners conservatively assume that the CIF charges reported in the official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) include these fees and charges. *See* Exhibit VI-4.

4. Ocean Freight

Petitioners assume that the CIF charges reported in the official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) include ocean freight costs. *See* Exhibit VI-4.

5. Marine Insurance

Petitioners assume that the CIF charges reported in the official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) include marine insurance costs. *See* Exhibit VI-4.

6. U.S. Port Fees

Petitioners assume that the CIF charges reported in the official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) include U.S. port fees. *See* Exhibit VI-4.

7. U.S. Harbor Maintenance and Merchandise Processing Fees

Petitioners assume that the CIF charges reported in the official U.S. Census Bureau import statistics (as compiled in the USITC DataWeb) include U.S. harbor maintenance and merchandise processing fees. *See* Exhibit VI-4.

8. U.S. Inland Freight

Petitioners do not have information on the cost of inland freight and have conservatively not deducted any amount for this cost.

9. Packing Costs

The packing costs for cold-rolled steel are relatively minimal, consisting of steel straps around the coil (*see* Exhibit VI-7), and are the same for either the Indian or U.S. market.

Petitioners therefore do not make an adjustment for packing costs.

10. Distributor Markup

The sale described in Exhibit VI-1 was, to Petitioners' knowledge, from a U.S. distributor to one of Petitioners' customers. Petitioners have therefore deducted a [] percent markup from the quoted price. *See* Exhibit VI-1.

B. Normal Value

1. Home Market Price

To calculate normal value, Petitioners engaged a market research firm to obtain home market price quotes for specified products from a distributor of Indian cold-rolled steel.²

The researcher was requested to obtain a quote for the following product: [

]. The price quote, dated [

], from [] was as follows:

[

]

² The Declaration in support of the price quotes is attached as Exhibit VI-5.

The petitioners believe that any difference between what was requested to be quoted and the quote received are not material in terms of generating a per ton price quote. The product for which the quote was requested is a standard grade and size, []].

The difference in thicknesses (*i.e.*, []) would not have a material impact on the per ton quote.

The exchange rate was calculated as an average from the Department (for July 2014 through March 2015) and the Federal Reserve (for April through June 2015). At the POI average exchange rate of \$0.016139 per Rupee, the quote of RS[] per ton translates to \$[].

The price quote obtained by market research was from a distributor, rather than directly from the producer [], so Petitioners have conservatively deducted five percent as a distributor mark-up from the quoted price. Petitioners have no direct knowledge of the size of the distributor mark-up in India. Instead, petitioners have relied on a general knowledge of how much distributors worldwide tend to mark up sales when they are simply the middleman transferring orders from the mill to the customer. If the Department does not regard the mark-up as sufficiently supported, petitioners would not object to the mark-up, which was conservatively added, being removed from the margin calculation for purposes of initiation.

This deduction results in a normal value of \$[] per metric ton, or \$[] per net ton.

2. Cost of Production

Pursuant to the amendments to section 773(b)(2) under section 505(a) of the American Trade Enforcement Effectiveness Act (P.L. 114-27), upon initiation of the investigation the

Department is to automatically request information necessary to calculate constructed value and cost of production.

C. Calculation of Dumping Margin

Petitioners have calculated a dumping margin as follows:

Dumping Margin Calculation	
	Cold-Rolled Coil
Producer ¹	[]
Home Market Price (\$/MT)	[]
Home Market Price (\$/NT) ²	[]
US Price (\$/NT) ³	[]
Dumping Margin	42.28%
Note: Normal Value and US Price above are rounded to nearest dollar. Dumping margin calculated from unrounded numbers.	
¹ See page 4 supra	
² Converted at rate of 1.10231131 NT per MT	
³ Exhibit VI-2	

D. Injury to Domestic Industry

Petitioners allege that the less-than-fair-value imports of cold-rolled steel from India have caused, are causing, and are threatening to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the International Trade Commission in Volume I of this Petition.

E. Conclusion and Request for Investigation

Based on the information presented in this petition, Petitioners request that the Department initiate an antidumping investigation of cold-rolled steel from India.

EXHIBIT LIST

Exhibit #	Description	BPI?
VI-1	Declaration in Support of U.S. Price	Yes
VI-2	Calculation of U.S. Price	Yes
VI-3	Calculation of Indian Inland Freight	Yes
VI-4	Calculation of CIF Charges	No
VI-5	Declaration in Support of India Market Price Quotes	Yes
VI-6	Indian/U.S. Exchange Rate	No
VI-7	Packing for cold-rolled steel	No