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Antidumping and Countervailing Duty
Investigations

PUBLIC VERSION

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 Iron Mechanical Transfer Drive Components from
Canada and the People's Republic of China

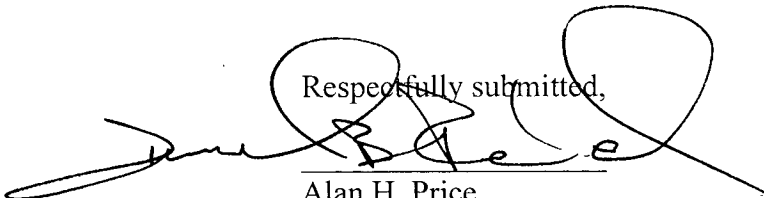
Dear Secretary Barton:

On behalf of TB Wood's Incorporated and pursuant to your instructions, we are enclosing herewith the required number of copies of petitions for the imposition of antidumping duties on certain iron medical transfer drive components from Canada and the People's Republic of China; and countervailing duties on certain iron medical transfer drive components from the People's Republic of China, (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 and III, contain country-specific allegations of sales at less-than-fair-value for, respectively, Canada and the People's Republic of China. Volume IV contains information concerning countervailable subsidies provided by, respectively, the People's Republic of China. 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,

A handwritten signature in black ink, appearing to read 'Alan H. Price', is written over a horizontal line. The signature is fluid and cursive, with the first name 'Alan' being more legible than the last name 'Price'.

Alan H. Price
Daniel B. Pickard
Robert E. DeFrancesco
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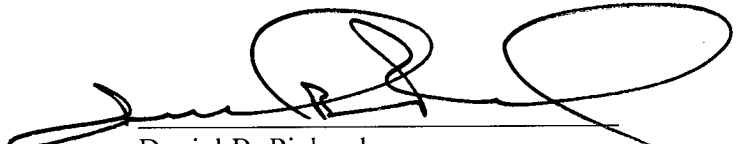
ATTORNEY CERTIFICATION

***Certain Iron Mechanical Transfer Drive Components from Canada
and the People's Republic of China***

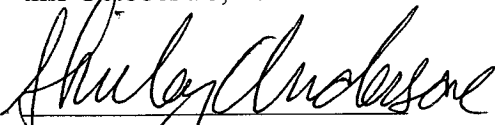
Inv. Nos. 701-TA-__-__ and 731-TA-__-__ (Preliminary)

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a)), I, Daniel B. Pickard, of Wiley Rein LLP, counsel to TB Wood's Incorporated, certify that under penalty of perjury under the laws of the United States of America and pursuant to the Commission's regulations:

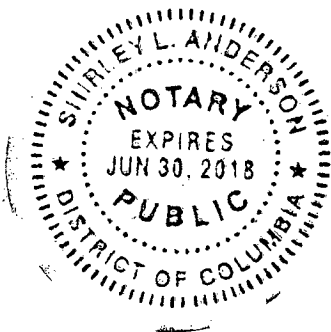
- (1) I have read the foregoing submission in the above referenced case;
- (2) to the best of my knowledge and belief, the information contained therein is accurate and complete; and
- (3) in accordance with section 201.6(b)(3)(iii) of the Commission's rules (19 C.F.R. § 201.6(b)(3)(iii)), information substantially identical to that for which we request confidential treatment is not available to the general public and the public disclosure of such information would cause substantial harm to the persons, firms, and other entities from which the information was obtained.


Daniel B. Pickard

DISTRICT OF COLUMBIA: SS
Sworn and subscribed to before me
this October 28, 2015.



Notary Public

My commission expires: 6/30/18



REPRESENTATIVE CERTIFICATION

I, Daniel B. Pickard, with Wiley Rein LLP, counsel to TB Wood's Incorporated, certify that I have read the attached submission of Petitions for the Imposition of Antidumping and Countervailing Duties, filed on October 28, 2015, pursuant to the antidumping duty investigations of *Certain Iron Mechanical Transfer Drive Components from Canada* (Case No. A-122-856) and *the People's Republic of China* (Case No. A-570-030) and the countervailing duty investigation of *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China* (Case No. C-570-031). 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.

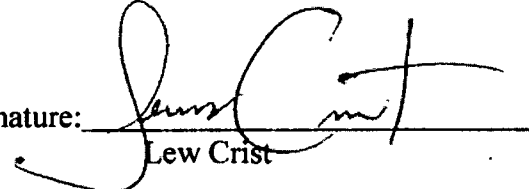
Signature: 

Daniel B. Pickard

Date: October 28, 2015

COMPANY CERTIFICATION

I, Lew Crist, General Manager, Belted Drives, currently employed by T.B. Wood's Incorporated, certify that I prepared or otherwise supervised the preparation of the attached submission of Petition for the Imposition of Antidumping and Countervailing Duties on *Certain Iron Mechanical Transfer Drive Components from Canada and The People's Republic of China* (DOC Case Nos. A-122-856, A-570-⁰³²~~030~~, C-570-031), filed on October 28, 2015. I certify that the public information and any business proprietary information of T.B. Wood's Incorporated 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: 
Lew Crist

Date: 10/27/15

DOC Inv. Nos. A-122-856, A-570-032, C-570-031
USITC Inv. Nos. 701-TA-__ - __ and 731-TA-__ -
__ (Prelim.)
Total Pages: 158
Investigation
Petitioner's Business Proprietary Information has
been removed from pages 3-4, 11, 16-17, 20-21, 23-
24, 26-27, 30, 32, 34-36, 38-40, 43, the Exhibit List,
and Exhibits I-4 – I-7, I-14 – I-16, I-20 – I-23

PUBLIC VERSION

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

**CERTAIN IRON MECHANICAL TRANSFER DRIVE COMPONENTS
FROM CANADA AND 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 I

INFORMATION RELATED TO COMMON ISSUES AND INJURY

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October 28, 2015

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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 IRON MECHANICAL TRANSFER DRIVE COMPONENTS
FROM CANADA AND CHINA**

These Petitions are presented on behalf of TB Wood's Incorporated ("TB Woods" or "Petitioner"). Petitioner alleges that certain iron mechanical transfer drive components ("IMTDC") imported from Canada and the People's Republic of China ("China") are being sold, or are likely to be sold, at less than fair value within the meaning of Section 731 of the Tariff Act of 1930, *as amended* ("the Act"), 19 U.S.C. § 1673. Petitioner also alleges that IMTDC imported from China are subsidized within the meaning of Section 701 of the Act, 19 U.S.C. § 1671. Petitioner further alleges that these unfairly traded imports have materially injured the U.S. industry producing IMTDC and threaten to cause further material injury if remedial action is not taken. These Petitions contain information reasonably available to the Petitioner in support of these allegations.

Separate volumes regarding the allegations of dumping by producers in the subject countries, and of countervailable subsidies provided to Chinese producers and exporters, are being filed simultaneously at both the U.S. Department of Commerce (the "Department") and the U.S. International Trade Commission (the "Commission"). The Petitioner requests 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 Petitioner (19 C.F.R. § 351.202(b)(1))

The Petitioner, TB Woods, is a producer of IMTDC in the United States and is therefore a domestic interested party within the meaning of 19 U.S.C. § 1677(9)(C) and 19 C.F.R. § 351.102(b)(17). TB Woods was founded in 1857. The company has focused on the production and sale of IMTDC since the early 1900s. **Exhibit I-1** provides the requisite contact information.

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 IMTDC. **Exhibit I-2** identifies additional U.S. producers known to the Petitioner. Based on information available to Petitioner, the companies identified in **Exhibit I-2** engage in the type and range of activities that constitute domestic production.

Exhibit I-3 identifies companies known to the Petitioner with U.S. operations limited to finishing (or “finish machining”) of imported unfinished IMTDC. As detailed in **Section II.C.1**, such operations do not, in and of themselves, constitute domestic production.

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. These Petitions meet the necessary requirements for industry support.

1. Measurement of Industry Support

The Petitioner is unaware of any public source quantifying total domestic production of IMTDC. As such, Petitioner has prepared estimates of both total domestic production and, in the alternative, total domestic industry shipments of IMTDC.¹ These estimates rely on Petitioner's actual production and shipment data, supplemented by [*source*

] for other U.S. producers. **Exhibit I-4** contains information regarding Petitioner's [*market intelligence*] by others. **Exhibit I-5** contains []].

2. Degree of Industry Support

Exhibit I-6 provides a calculation of industry support. As detailed therein, TB Woods itself accounted for [*share of production*] in 2014. Further, [*share of production*].

As detailed in **Section II.C.1**, under prior case law and Commission precedent, companies with U.S. operations that are limited to finish-machining of imported, unfinished IMTDC are not U.S. producers of the like product, because they do not engage in the nature or range of activities that constitute U.S. production. Further Petitioner notes that, in reaching its industry support determination, Commerce is authorized to disregard the position of any company that is either: (1) a U.S. importer of the subject merchandise; (2) related to a U.S.

¹ "Where a party to the proceeding establishes that production data ... is unavailable, production levels may be established by reference to alternative data {which is} indicative of production levels." 19 C.F.R. § 351.203(e)(1).

importer of the subject merchandise; or (3) related to a foreign producer or exporter of the subject merchandise.² Those companies whose U.S. operations are limited to finishing unfinished imported IMTDC rely heavily on the subject imports, and can be expected to oppose the Petitions. As such, if Commerce determines to include companies with only U.S. finishing operations in measuring industry support, it should disregard the views of finishers that import or purchase the subject merchandise.³ Similarly, the views of any finisher that is related to an importer, foreign producer, or exporter of the subject merchandise should be disregarded.⁴

Notwithstanding the Petitioner's position regarding companies that perform only finishing operations in the United States, **Exhibit I-7** provides an alternative calculation of industry support that is inclusive of U.S. finishing operations. Under this alternative calculation, the industry support requirements are also satisfied.

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

Neither the Petitioner nor any other U.S. producer or union has previously filed for import relief regarding IMTDC under any of the following: Sections 337, 701, or 731 of the Tariff Act of 1930; Sections 201 or 301 of the Trade Act of 1974; or Section 232 of the Trade Expansion Act of 1962.

² 19 C.F.R. § 351.203(e)(4).

³ In particular, [*company*] See Declaration of [*Source*], attached at Exhibit I-4.

⁴ [*company*] See *id.*

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 this investigation are iron mechanical transfer drive components including sheaves (pulleys), bushings, and flywheels, regardless of diameter, width design, or iron type (*e.g.*, gray, white, or ductile iron), whether or not machined and regardless of the country in which any machining takes place; with or without other non-cast iron attachments or parts; and whether or not entered as a belted drive assembly. When entered as a belted drive assembly, only the iron sheaves (pulleys), bushings, and flywheels are covered merchandise, not the other components in the belted drive assembly (*e.g.*, belt, coupling, shaft).

The products covered by this investigation are iron wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device. The products covered by this investigation also include iron cylinders designed to fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of design elements such as teeth, bolts, or screws (*i.e.*, bushings).

Covered mechanical transfer drive components may be net shape blanks or may be machined to final specification after initial casting, forging or like operations that produce net shape blanks. These machining processes may include cutting, punching, notching, boring, threading, mitering, or chamfering. Covered mechanical transfer drive components remain subject merchandise regardless of where the net shape blanks are machined or subjected to further processing.

Covered mechanical transfer drive components may be imported with non-iron attachments or parts, and remain subject whether or not entered with other mechanical transfer drive components or as part of a mechanical transfer drive assembly.

Iron mechanical transfer drive components are covered regardless of metallurgy, inclusive of white, grey, and ductile iron. For purposes of this investigation, a covered product is of "iron" where the article has a carbon content of 1.5 percent by weight or above, regardless of the presence and amount of additional alloying elements. Non-ferrous mechanical transfer drive components are excluded from the scope.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 8483.30.8090, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90. Covered merchandise may also enter under the following HTSUS subheadings: 8431.39.0010, 8483.50.4000. These HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

2. Technical Characteristics and Uses

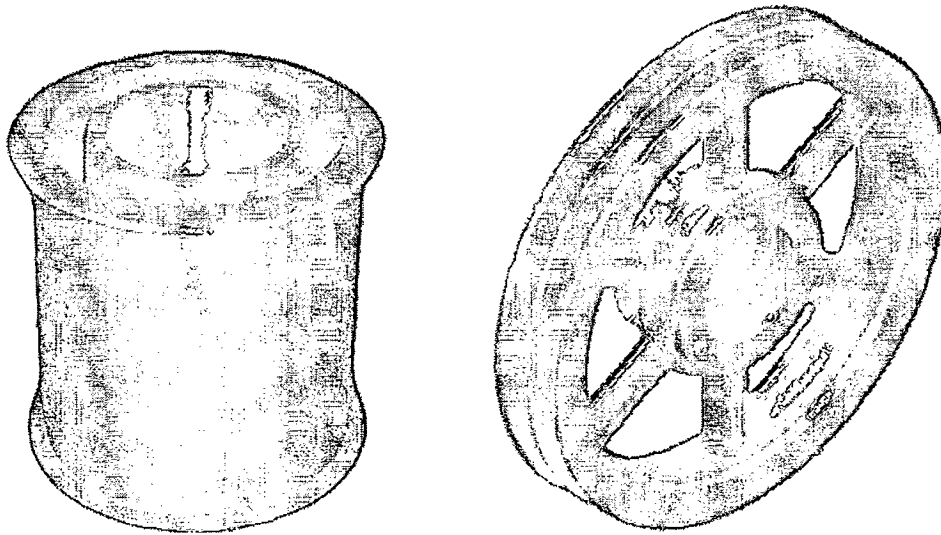
The products covered by these investigations are iron mechanical components that transmit power within machinery. Examples of the types of machines with IMTDC include elevators, conveyers and other material handling equipment. These types of equipment are used in a variety of industrial, agricultural, and construction applications, and are especially common in factories and oilfields applications.

As noted above, the covered IMTDC are manufactured of iron, inclusive of white iron, grey iron, and ductile iron. The covered products comprise items commonly identified as sheaves (pulleys), flywheels, and bushings.

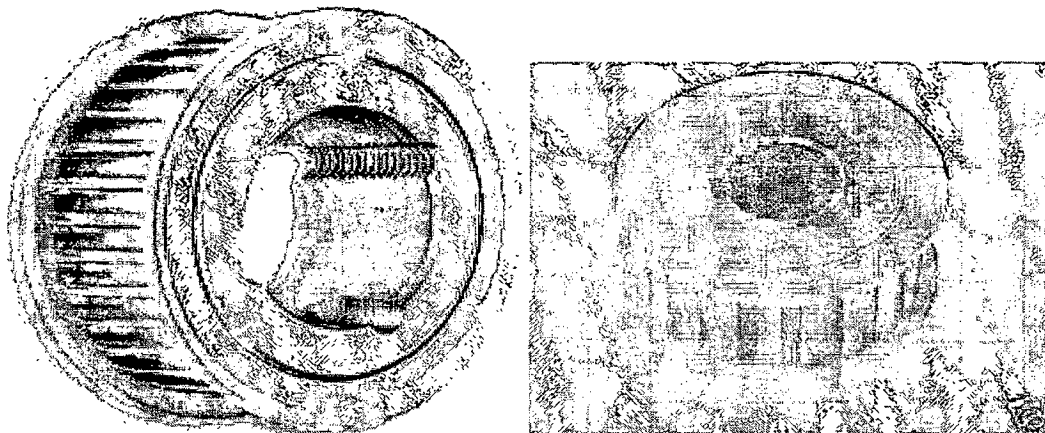
A sheave, also commonly referred to as a pulley, is a IMTDC in the form of a wheel or cylinder with one or more grooves or indentations worked into the outer circumference. Such products also have a center bore hole, into which a bushing (described below) may be inserted in order to attach the product to a drive shaft. Sheaves are designed to engage with industrial belts (as opposed to chains) to transmit power. A standard sheave or pulley is used with a belt; any grooves or indentations in the product accordingly run around the product's outer circumference. A synchronous sheave is meant to accommodate a ribbed or tracked belt; accordingly, the grooves or indentations in the outer circumference run across the product's outer diameter. Flywheels, another type of sheave, have no grooves. They may be used either with or without

belts to store and release energy, and smooth the speed and operation of the drive, compensating for pulsations.

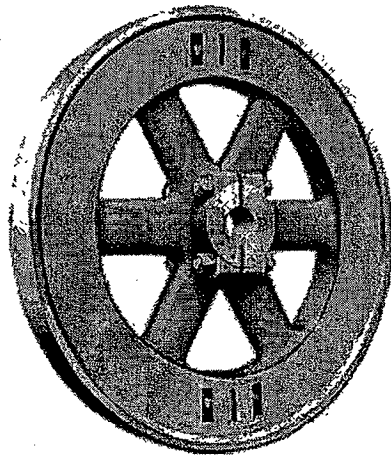
Sheaves vary in design and size depending on end use. The covered sheaves and pulleys are manufactured of iron, inclusive of white iron, grey iron, and ductile iron. Examples of covered “standard” sheaves and pulleys are depicted below:



Examples of covered synchronous sheaves are depicted below:

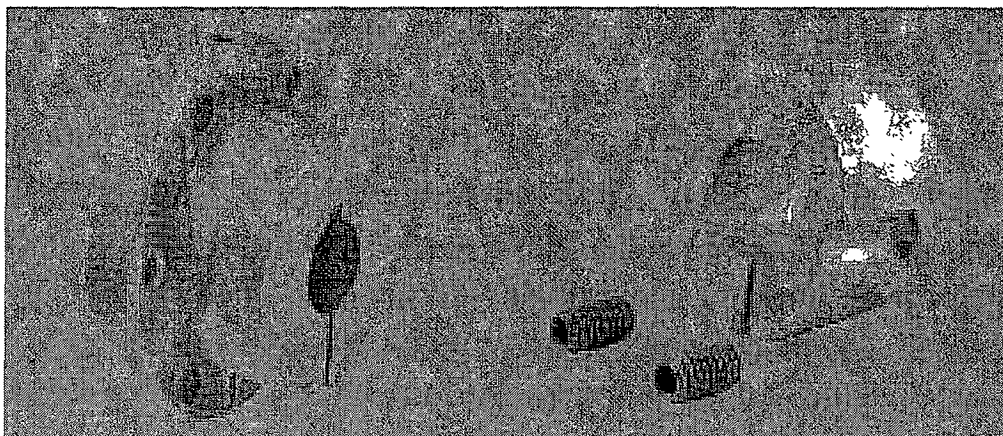


An example of a covered flywheel is depicted below:



Like sheaves, the bushings subject to these Petitions are IMTDC in the general form of a cylinder with a center bore hole. The covered bushings allow drive train components such as sheaves to be mounted onto drive shafts. Covered bushings may be tapered, split, or have lips or other projections. Covered bushings employ a variety of locking elements, such as teeth, screws, or bolts. Bushings, like other IMTDC, vary widely in design and size.

The covered bushings are manufactured of iron, inclusive of white iron, grey iron, and ductile iron. Examples of covered bushings are depicted below:



3. Production Methodology

In both the United States and globally, a common production methodology involves foundry-based casting followed by finish machining. In this process, a combination of pig iron, scrap iron, and ferrous scrap metal is melted in a foundry furnace. Alloying agents are added as needed to ensure proper chemistry of the metal. Because ferrous materials have a relatively high melting point, the furnaces used often are designed for temperatures of at least 1,600 degrees Celsius.

After the ferrous materials are melted, the molten metal is poured into a foundry mold. This is typically an imprinted shape formed by sand that has been compacted. The compacting of the sand creates a cavity that approximates the finished shape of the desired item. This cavity is then filled with the molten metal, in a process known as sand-casting.

Once the molten metal has cooled into a solid, the sand is removed and blasted away. The resulting metal shape, or “casting,” is then freed of any excess iron (known as gates and risers) that is present in the mold.⁵ The casting subsequently undergoes finish machining using standard machine tools to achieve the desired final specifications. Finally, the product may be painted, oil-coated or otherwise surface-treated. Inspection and testing are carried out at different steps throughout the process.⁶

⁵ An alternative to casting for some metal items is forging. Forging begins with heating a piece of solid iron, and then physically shaping the material through pressure, usually applied through a hammer, a die, or both. Once cooled, the forging undergoes finish machining similar to that for a casting. Petitioner is not aware of forging-based production of IMTDC in the United States.

⁶ Other alternative production methods are (1) sintering and (2) direct machining from iron bar or billet. Sintering is a process in which metallic powders are compacted into shape at high temperature. Iron bar or billet may also be machined directly into IMTDC. Both alternative production methods are uncommon for IMTDC.

4. Tariff Classification

The covered IMTDC are classifiable under specific U.S. Harmonized Tariff Schedule (“HTS”) subheadings, as reviewed below. Although the proposed scope language includes certain HTS subheadings, these are provided for convenience and U.S. Customs purposes. The tariff numbers provided do not define the scope of the petitions; rather, written description of the merchandise under investigation is dispositive. **Exhibit I-8** provides relevant excerpts from the current HTS.

The subject merchandise is currently classifiable under HTS subheadings 8483.50 and 8483.90, and most particularly within provisions 8483.50.6000, 8483.50.9040, and 8483.90.8080.⁷ The column 1 duty rate ranges from 2.8 – 5.7 percent *ad valorem* for goods within HTS subheading 8483.50 and ranges from 2.5 – 5.5 percent *ad valorem* for goods within HTS subheading 8483.90.

Note 2(a) to Section XVI of the HTS states that parts named in headings of Chapter 84 must be classified within those headings and not solely as parts of machines classified elsewhere.⁸ Heading 8483 names “pulleys” and “flywheels”; further, U.S. Customs and Border Protection (“CBP”) has classified that bushings that enable transmission elements such as

⁷ Sheaves (pulleys) are currently classifiable under subheading 8483.50, which provides for “flywheels and pulleys.” The Explanatory Notes (“ENs”) for heading 8483 describes pulleys classifiable in that heading as “wheels, sometimes with a grooved rim, which transmit rotary movement ... by means of an endless belt.” World Customs Organization, *Explanatory Notes to the Harmonized Commodity Description and Coding System* (Fifth Ed. 2012) at Vol. 4, XVI-8483-4, relevant excerpts attached at **Exhibit I-9**. While ENs are not binding on U.S. Customs and Border Protection (“CBP”), they are nevertheless used by CBP and its reviewing courts to interpret the HTS. Synchronous sheaves may also enter under subheading 8483.90, which covers other toothed wheels and other transmission elements. Likewise, bushings are also classifiable under this subheading.

⁸ See, e.g., *Nidec Corporation v. United States*, 861 F. Supp. 136 (1995) (Ct. Int’l Trade 1995).

sheaves to be mounted onto drive shafts, are classifiable within heading 8483.⁹ In principle, therefore, the covered products are classified and entered as addressed above.

It is likely, however, that the subject merchandise is also entered as parts of the machinery in which it serves, for example in HTS heading 8431, which covers “parts suitable for use solely or principally with the machinery of headings 8425 to 8430.” Heading 8428 provides for “lifting, handling, loading or unloading machinery (for example, elevators, escalators, conveyors, teleferics)”. Heading 8427 provides for “trucks fitted with lifting and handling equipment.” Headings 8429 and 8430 cover a variety of large construction and other heavy-duty handling and moving machinery (*e.g.*, bulldozers, snowplows, backhoes, and excavating and boring equipment).

The covered products may also be classifiable in heading 8431, for example in statistical item 8431.39.0070, which provides for “parts for use solely or principally with the machinery of headings 8428; parts of conveyers and elevators.” This is just one example; other breakouts within heading 8431 provide for parts of other lifting, handling, and moving machines.

Below, Petitioner discusses tariff classifications applicable to subject merchandise imported in unfinished form, as well as the country of origin for unfinished imports and for the finished IMTDC produced from such imports.

a. Classification of Unfinished Subject Imports

In addition to finished IMTDC, the covered merchandise includes unfinished IMTDC in the form of castings, forgings, and other blanks. Under the HTS, unfinished IMTDC are classifiable under the same tariff provisions as would apply to the finished item. This is

⁹ New York Ruling Letter K87941 (Aug. 17, 2004); New York Ruling Letter D86166 (Jan. 20, 1999). *See* Relevant CBP Rulings, attached at **Exhibit I-10**.

established under the General Rules of Interpretation (“GRI”) for tariff classification. In particular, GRI 2(a) states that:

{A}ny reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article.¹⁰

The Explanatory Notes to Rule 2(a) further state that this rule applies to “blanks” – *i.e.*, an article not ready for direct use, but having the approximate shape or outline of the finished article or part and which can only be used, other than in exceptional cases, for completion into the finished article or part.¹¹ CBP has repeatedly held that blanks in the approximate shape of a final good have the “essential character” of the final good, because the approximate shape significantly limits the uses to which the blank can be put and otherwise predetermines the nature of the finished product.¹²

Casting and forging operations for IMTDC result in a “blank,” *e.g.*, an article having the approximate shape or outline of the finished article or part and which can only be used, other than in exceptional cases, for completion into the finished article or part. Because such a blank predetermine the final good into which the casting or forging may be finished, Rule GRI(2)(a) establishes that unfinished IMTDC are classifiable under the same HTS provisions that cover finished IMTDC.¹³

¹⁰ Harmonized Tariff Schedule of the United States (2015), GRI at 2(a), attached at **Exhibit I-8**.

¹¹ World Customs Organization, *Explanatory Notes to the Harmonized Commodity Description and Coding System* (Fifth Ed. 2012) at Vol. 1, GRI-2, attached at **Exhibit I-9**.

¹² See, *e.g.*, Headquarters Ruling Letter 967908 (Jan. 24, 2006); New York Ruling Letter N022414 (Feb. 7, 2008), attached at **Exhibit-10**. In CBP rulings, such blanks may be referred to as “net shape blanks.” See, *e.g.*, Port Decision F84116 (Mar. 27, 2000), attached at **Exhibit I-10**.

¹³ See also New York Ruling Letter E87734 (Oct. 15, 1999) (noting that the tariff classification of finished and unfinished grooved pulleys is the same), attached at **Exhibit I-10**.

b. Country-of-origin for finished subject imports

Where the blank for an article is made in one country and finished into the final item in another, the country-of-origin of the final product is the country in which the blank was produced, so long as the blank has the approximate shape of the finished article. As noted above, CBP has held, in conformity with GRI 2(a), that blanks in the approximate shape of the finished good have the “essential character” of the finished good.¹⁴ CBP has also repeatedly held that finishing such a blank does not constitute substantial transformation, and that the country of origin for the finished good remains the country where the blank was produced.¹⁵ In illustration, any imported IMTDC that were cast in China and finished in Vietnam would remain of Chinese origin.¹⁶

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 IMTDC covered by these Petitions are manufactured in and exported to the United States from Canada and China. Petitioner believes that some subject merchandise that is cast in China is finished in Canada prior to export to the United States. As noted above, finish machining of the unfinished articles does not confer country-of-origin.

¹⁴ See Headquarters Ruling Letter 967908 (Jan. 24, 2006); New York Ruling Letter N022414 (Feb. 7, 2008), attached at **Exhibit I-10**.

¹⁵ See Headquarters Ruling Letter W968396 (Dec. 21, 2006); Headquarters Ruling Letter 561745 (July 20, 2000); Headquarters Ruling Letter 561498 (Mar. 22, 2000); and Headquarters Ruling Letter 561297 (June 2, 1999), attached at **Exhibit I-10**. While each of these cases and determinations is fact-specific, they are relevant to the unfinished articles subject to these petitions.

¹⁶ The Department has also found that third-country processing does not remove a product from the scope of an investigation or a resulting AD/CVD order. See *Wax and Wax/Resin Thermal Transfer Ribbon from the Republic of Korea*, 69 Fed. Reg. 17,645, 17,647 (Dep’t Commerce Apr. 5, 2004) (final deter. of sales at not less than fair value); *Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 67 Fed. Reg. 70,927, 70928 (Nov. 27, 2002) (initiation of countervailing duty investigation); *Certain Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China*, 59 Fed. Reg. 15,155 (Dep’t. Comm. Mar. 31, 1994) (affirmative final deter. of circumvention of antidumping duty order).

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))

Exhibits I-11 and I-12 provide the names and addresses of the entities believed by the Petitioner to be producing and exporting IMTDC subject to these Petitions. Information reasonably available to Petitioner does not allow for identification of 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. Petitioner believes, however, that the companies listed in **Exhibits I-11 and I-12** account for the vast majority of subject exports from each country.

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))

Volume II of these Petitions contains 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 Canada.

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))

Volume III of these Petitions contains the information necessary to substantiate less-than-fair-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))

Exhibit I-11 provides the names and addresses of the Chinese entities believed by the Petitioner to be benefiting from a countervailable subsidy and who have exported IMTDC subject to these Petitions. Information reasonably available to Petitioner does not allow for identification of the proportion of total exports to the United States from China accounted for

during the most recent 12-month period by the producers listed in these exhibits. Petitioner believes, however, that the companies listed in **Exhibit I-11** account for the vast majority of relevant subject exports from China.

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

Volume IV of these Petitions contains information concerning the alleged countervailable subsidies in China 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 Petitioner's estimation – to the extent practicable – of the value of the subsidies to Chinese producers and exporters of IMTDC.

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 Petitioner is aware of no data, other than official import statistics, that allow for a quantification of the volume and value of imports of subject merchandise. As discussed above, IMTDC likely enter under a variety of HTS provisions. Petitioner relied on data for HTS provisions 8483.50.6000, 8483.50.9040, and 8483.90.8080 in compiling the information presented here. These provisions are the best information available to Petitioner. However, certain non-subject products are covered by the same provisions. Further, subject imports that enter under more general HTS categories are not reflected in the data. That said, the subject import data presented in these Petitions constitute the best information available to the Petitioner.

Exhibit I-13 provides detail from official import statistics for these HTS numbers. As these data show, the value of the imports from Canada increased steadily, from \$103 million in 2012, to \$115 million in 2013, and to \$133 million in 2014. In January-August 2015, the value of the imports from Canada was \$79 million.

The value of the imports from China increased from \$127 million in 2012 to \$138 million in 2014. The value of the Chinese imports reached \$108 million during January-August 2015. Quantity data are not available from official import statistics for the covered products.

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))

Exhibit I-14 provides information regarding U.S. importers of IMTDC from the subject countries. While the Exhibit reflects the importers that are known to Petitioner at this time, there may be a number of importers of IMTDC from the subject countries that Petitioner has been unable to identify. The Petitioner respectfully requests that the Department and the Commission obtain information on such imports from CBP, as Petitioner does not have access to this information.

II. INJURY

A. Introduction

Increasing volumes of unfairly traded IMTDC from Canada and China have already caused material injury to the domestic industry – and threaten the domestic industry with more injury going forward. The subject imports increased between 2012 and 2014, and remained at high levels through the first half of 2015.¹⁷

The market for IMTDC is relatively mature and demand during the period in question was [trend].¹⁸ Rising subject imports therefore [trend] domestic industry shipments.¹⁹

¹⁷ See Import Data, attached at **Exhibit I-13**.

¹⁸ See Apparent Consumption and Market Shares, attached at **Exhibit I-15**.

¹⁹ See *id.* Non-subject imports [trend]. *Id.*

The price effects of the subject imports have also been significant. Subject imports of IMTDC are interchangeable with the domestic like product, as shown by the fact that subject imports have a large and growing U.S. presence. Information reasonably available to the Petitioner indicates that the increase in import volumes [*trend*] was accomplished through systematic underselling. The combination of increased volume and underselling by subject imports has both suppressed and depressed prices for the domestic like product.

Subject imports have had a significant, harmful impact on the domestic industry. U.S. producers have experienced [*performance indicia*]. Financial performance [*trend*]. Other indicators, including lost sales and revenues, establish that subject imports had a negative impact on the domestic industry.²⁰ In short, the domestic industry has suffered material injury by reason of subject imports.

B. The Domestic Like Product Consists of IMTDC 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.²¹ The “domestic like product” is “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”²² In an investigation, the like product determination is a factual one made on a case-by-case basis.²³ The Commission generally considers the following factors:

- (1) physical characteristics and uses;
- (2) interchangeability;

²⁰ See Lost Sales and Revenues, attached at Exhibit I-16.

²¹ See *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 382 (Ct. Int'l Trade 1998).

²² 19 U.S.C. § 1677(10).

²³ See, e.g., *NEC*, 36 F. Supp. 2d at 383.

- (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.²⁴

In evaluating these factors, the Commission looks for clear dividing lines and disregards minor variations.²⁵

In addition, where the scope of the subject merchandise includes both unfinished and finished merchandise, the Commission may apply a semi-finished product analysis in examining the question of whether the like product covers both the unfinished and finished items. The Commission considers the following factors in the semi-finished product analysis:

- (1) whether the upstream (or unfinished) article is dedicated to the production of the downstream article or, alternatively, if the unfinished article has independent uses;
- (2) whether there are perceived to be separate markets for the upstream and downstream articles;
- (3) differences in the physical characteristics and functions of the upstream and downstream articles;
- (4) differences in the costs or value of the vertically differentiated articles; and
- (5) the significance and extent of the processes used to transform the upstream articles into the downstream articles.²⁶

²⁴ See *Cleo, Inc. v. United States*, 501 F.3d 1291, 1295 (Fed. Cir. 2007).

²⁵ *Id.*

²⁶ See, e.g., *Woven Electric Blankets from China*, Inv. No. 731-TA-1163 (Final), USITC Pub. 4177 (Aug. 2010) at 6.

Examination of the like product criteria under either approach establishes that IMTDC constitute a single domestic like product. The Petitioner sets forth below the different bases for the finding of a single like product.

1. IMTDC Share Common Physical Characteristics and Uses

The covered products are components of belted transmission drives. All have a circular/cylindrical profile with a center bore hole. All are manufactured from iron.

Sheaves/pulleys are designed to accommodate industrial belts and rotate around a drive shaft. Flywheels may also accommodate industrial belts; they also rotate around a drive shaft. Bushings are used to lock the covered sheaves, pulleys, and flywheels onto such shafts. As a group and in conjunction with industrial belts, the covered IMTDC serve the common purpose of transmitting power in mechanical transfer drive systems.

2. Interchangeability

The products subject to these Petitions comprise components of different sizes, dimensions, and design specifications. In the past, the Commission has commonly found that a group of related products of different sizes and shapes constitutes a continuum without any clear breaking point.²⁷ Petitioner respectfully submits that this should also be the case here.

3. IMTDC Share Common Channels of Distribution

The covered products are sold to both end users and distributors. End users incorporate IMTDC into either subassemblies or final equipment. Distributors resell to end users or into the aftermarket for service and repair. Many of these distributors carry multiple brands and sources of IMTDC, including those of U.S., Chinese, and Canadian origin.

²⁷ See, e.g., *Certain Aluminum Extrusions from China*, Invs. Nos. 701-TA-475 and 731-TA-1177 (Prelim.), USITC Pub. 4153) at 9-10 (June 2010).

4. IMTDC Are Perceived as a Common Product Group by Both Producers and Customers

Both producers and customers recognize the subject merchandise as components of mechanical transfer drives and, as such, as a common product group.

5. IMTDC Are Produced in Common Manufacturing Facilities, Using Common Production Processes and Common Production Employees

Domestic producers manufacture IMTDC in common facilities, using common production processes and common employees. Casting operations for sheaves (pulleys), flywheels, and bushings, for example, involve the same furnaces, the same casting technologies and employees, and the same cleaning processes and equipment. Finish machining operations also involve the same equipment, processes, and employees.

6. IMTDC Prices Fall Within a Similar Range

The prices of IMTDC fall within a similar range. Larger and/or more complex items will tend to have higher per-unit prices. Smaller and/or simpler products will tend to have lower per-unit prices.

7. Unfinished and Finished IMTDC Are Part of the Same Like Product

As reviewed above, CBP has repeatedly held that blanks, such as castings and forgings, that have the approximate shape of a final good also have the “essential character” of the final good, because that approximate shape significantly limits the uses to which the blank can be put and otherwise predetermines the nature of the finished product.²⁸ Production operations for IMTDC typically involve the creation of a “blank,” *e.g.*, an article having the approximate shape or outline of the finished article or part and which can only be used, other than in exceptional

²⁸ See, *e.g.*, Headquarters Ruling Letter 967908 (Jan. 24, 2006); New York Ruling Letter N022414 (Feb. 7, 2008), attached at Exhibit I-10.

cases, for completion into the finished article or part. Blanks for IMTDC have no independent uses. Accordingly, unfinished blanks are dedicated to production of the downstream article.

In the United States, the [*affiliation*

name and supplier

].²⁹ There are, therefore, no

separate commercial markets for the finished and unfinished articles.

There are modest physical differences, and no different functions, for unfinished and finished IMTDC. Key characteristics – chemical composition and general size and shape – are already present in the unfinished good. Casting also accounts for the [] majority of the cost or value of the finished article. Machining, in contrast, represent on average [*percentage*] of production costs.³⁰ Machining operations finish the surface of the casting. Specific operations will vary by product. Various standard machine tools are employed in these processes.

8. Conclusion

The IMTDC covered by the scope of these petitions should be considered to comprise a single domestic like product. Covered IMTDC comprise related products of different sizes and shapes that constitute a continuum without any clear breaking point. They are sold through the same channels of distribution, are perceived by customers as parts of mechanical transfer drives, and are produced in the same production facilities using common production methods, machinery, and employees. Their prices fall within a continuum dictated by size and weight, and both finished and unfinished covered IMTDC have similar physical characteristics, and the same

²⁹ Declaration of [*Sovra*], attached at Exhibit I-4.

³⁰ *Id.*

end function. As such, the Commission should find a single domestic like product coterminous with the products subject to these investigations

C. Definition of the Domestic Industry

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.”³¹ The domestic industry consists of the U.S. producers identified in **Exhibits I-1 and I-2**.

1. Finish Machining Alone Does Not Constitute Domestic Production

Petitioner is aware of certain companies within the United States that perform finishing machining on unfinished IMTDC imported from abroad. These companies’ U.S. operations are limited to finishing imported blanks; they do not produce blanks within the United States.

In determining what constitutes domestic production, the Commission has generally examined six factors:

- (1) the source and extent of a firm’s capital investment;
- (2) technical expertise involved in U.S. production activities;
- (3) value added to the product in the United States;
- (4) employment levels;
- (5) the quantity and type of parts sourced in the United States; and
- (6) any other costs or activities in the United States leading directly to the production of the like product.³²

In several past cases, the Commission’s consideration of these factors has led it to conclude that companies engaged solely in finishing operations do not have sufficient production-related

³¹ 19 U.S.C. § 1677(4)(A).

³² *Multilayered Wood Flooring from China*, Inv. Nos. 701-TA-476 and 731-TA-1179 (Final), USITC Pub. 4278 (Nov. 2011) at 8.

activities to support their inclusion in the domestic industry.³³ Likewise, Petitioner here avers that consideration of traditional factors demonstrates that finishing operations are not, by themselves, domestic production.

a. Source and Extent of Capital Investment

The U.S. operations of firms that do not produce blanks for covered IMTDC in the United States, but which perform finishing operations on imported blanks, typically comprise machine shops performing custom machining of a broad range of parts and components, inclusive of covered IMTDC. The source of individual finishers' capital investment is unknown to the Petitioner.³⁴

A total capital investment of [value

].³⁵ This compares to a capital investment of [value

].³⁶ The capital investment related to

finish machining therefore represents only [percent] of the total capital investment for an integrated (foundry plus finishing) manufacturer.

The extent of any individual finisher's capital investment attributable to finishing covered IMTDC must reflect an allocation of overall investments to only that portion of total output

³³ *Multilayered Wood Flooring from China*, USITC Pub. 4278 at 8-10 ("U.S. Floors merely engages in finishing operations and does not perform sufficient production-related activities to warrant inclusion in the domestic industry"); *Raw Flexible Magnets from China and Taiwan*, Inv. Nos. 701-TA-452 (Final) and 731-TA-1129-1130 (Final), USITC Pub. No. 4030 (Aug. 2008) at 7-9; *Synthetic Indigo from China*, Inv. No. 731-TA-851 (Final), USITC Pub. 3310 (June 2000) at 6-8. *See also Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand*, Inv. Nos. 731-TA-520 and 521 (Final), USITC Pub. 2528 (June 1992) at 2-3 (questioning "whether or not ... shipments of finished pipe fittings made from {unfinished} imports should be classified as 'domestic' shipments.").

³⁴ Petitioner notes that [name and affiliation]. A number of other, smaller finishing operations appear to be privately-held.

³⁵ Declaration of [source], attached at Exhibit I-4.

³⁶ *Id.*

accounted for by the covered IMTDC. It will typically be the case that only a small percentage of the (theoretical) [*value*] capital investment for a machine shop is used to finish blanks for covered IMTDC.

b. Technical Expertise Involved

Finishing of imported blanks for covered IMTDC requires a machine tool operator with [*expertise*].³⁷

c. Value Added in the United States

Value added through finish machining represents, on average, [*percent*] of production costs.³⁸ Thus, finish machining clearly represents a small portion of the total cost of production for finished IMTDC.

d. Employment Levels

As noted above, the entities involved in finishing imported blanks for covered IMTDC are typically machine shops performing custom machining of a broad range of parts and components. [*employment information*].³⁹

e. Quantity and Parts Sourced in the United States

The input material for finishers is primarily imported blanks.⁴⁰ The subject imports are major sources of supply for finishers. [*name supplier*].⁴¹

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ There are rare instances where [*market intelligence*]. Declaration of [*source*], attached at Exhibit I-4.

⁴¹ *Id.*

f. Other Costs or Activities in the United States

Petitioner has limited knowledge as to other costs or activities in the United States by finishers that would be relevant to production of the like product.

g. Conclusion

The foregoing shows that finish machining operations: (1) entail relatively small capital investment; (2) require only modest technical expertise; (3) account for a clear minority of value-added; (4) represent low levels of employment; (5) involve no U.S. parts;⁴² and (6) have limited other related U.S. costs and activities. Therefore, neither Commerce nor the Commission should consider U.S. operations limited to finishing of imported unfinished IMTDC within the purview of the domestic industry.

2. Exclusion of U.S. Producers Under the Related Parties Provision

Pursuant to 19 U.S.C. § 1677(4)(B), a U.S. producer that either imports the subject merchandise, or is related to a producer or importer of the subject merchandise, may be excluded from the domestic industry. The Commission has also found that U.S. producers that are large purchasers of subject imports may be excluded from the domestic industry under the related parties provision.⁴³ In determining whether to exclude a company from the domestic industry as a related party, the Commission has considered such factors as:

⁴² See *Multilayered Wood Flooring from China*, USITC Pub. 4278 (Nov. 2011) at 10 (“U.S. Floors does not source any of its raw materials from the United States”).

⁴³ See *Cut-to-Length Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia*, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Prelim.), USITC Pub. 3181 (Apr. 1999) at 10-12 (unchanged in final); *Certain Brake Drums and Rotors from China*, Inv. Nos. 731-TA-744 (Final), USITC Pub. 3035 (Apr. 1997) at 10, n.50; *Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand*, USITC Pub. 2528 (June 1992) at 12.

- (1) the percentage of domestic production attributable to the importing producer;⁴⁴
- (2) the reason the producer decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTVF sales or subsidies or whether the firm must import in able to enable it to continue production and compete in the U.S. market;⁴⁵
- (3) the position of the related producer vis-à-vis the rest of the industry, *i.e.*, whether the inclusion or exclusion of the party will skew the data for the rest of the industry;⁴⁶
- (4) the ratio of import shipments to U.S. production;⁴⁷ and
- (5) whether the primary interest of the related producer lies in domestic production or importation.⁴⁸

[name

name

location

name

].

As previously noted, Petitioner is aware of companies that finish blanks for covered IMTDC in the United States, but do not produce such blanks here. These companies rely primarily on blanks imported from the subject countries. If the Commission were to conclude

⁴⁴ See *Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir.1993).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See *Allied Mineral Products, Inc. v. United States*, 28 CIT 1861, 1865 (2004).

⁴⁸ *Id.*

that U.S. operations limited to finishing imported blanks for covered IMTDC are sufficient to constitute U.S. production, then Petitioner submits that finishers that import or purchase subject blanks should be excluded from the domestic industry under the related parties provision.⁴⁹ Similarly, finishers that are related to producers or importers of the subject merchandise should be excluded from the domestic industry.⁵⁰

The sourcing of unfairly traded blanks provides a substantial advantage for finishers selling into the U.S. market, and shields them to a significant degree against other subject import suppliers. Finishers' operational results will also benefit from access to unfairly traded blanks and reflect lower costs than would otherwise be the case. If the operational results of finishers were combined with the data of U.S. producers, it may skew the combined results.⁵¹

As detailed elsewhere, and supported by CBP rulings,⁵² the finishing of blanks does not constitute substantial transformation. Thus, U.S.-finished IMTDC of Chinese or Canadian castings/forgings remain Chinese- or Canadian-origin products. Under these circumstances, it would seem anomalous to conclude that U.S. finishing operations, in of themselves, reflect a primary interest in U.S. manufacturing. These facts and circumstances support exclusion from the domestic industry of companies that do not produce blanks themselves in the United States, but which import or purchase subject blanks for finishing in the United States.

⁴⁹ In particular, [name supplier]. See Declaration of [source], attached at Exhibit I-4.

⁵⁰ [name affiliation]. See id.

⁵¹ [name supplier].

⁵² See Headquarters Ruling Letter 967908 (Jan. 24, 2006); New York Ruling Letter N022414 (Feb. 7, 2008); Headquarters Ruling Letter W968396 (Dec. 21, 2006); Headquarters Ruling Letter 561745 (July 20, 2000); Headquarters Ruling Letter 561498 (Mar. 22, 2000); Headquarters Ruling Letter 561297 (June 2, 1999), attached at Exhibit I-10.

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.⁵³

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

1. The Subject Imports Should Be Cumulated

In evaluating the volume and price effects of subject imports, Section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from multiple 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.⁵⁴ 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

⁵³ 19 U.S.C. § 1677(7)(B).

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

(4) whether the subject imports are simultaneously present in the market.⁵⁵

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.⁵⁶ Only a “reasonable overlap” of competition is required.⁵⁷

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 the Subject Countries Are Fungible

Imports of IMTDC from Canada and China are generally substitutable with each other and with the domestic like product. The subject products from both countries are produced and sold in a range of product types and sizes. Imports from both countries are also made by the same or similar processes on the same or similar equipment. Imports from both countries also have the same general range of chemical and physical properties as the domestic like product. While, as noted above, IMTDC comprise various types of components, both of the subject countries export significant volumes of goods to the United States under the identified HTS items.⁵⁸ This factor therefore supports cumulation of the subject imports.

⁵⁵ 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).

⁵⁶ See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁵⁷ The Statement of Administrative Action to the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 (1994) (“SAA”) at 848 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”).

⁵⁸ See Import Data, attached at Exhibit I-13.

b. Imports from the Subject Countries Compete in the Same Geographic Markets

Imports of IMTDC from Canada and China compete with each other and with the domestic like product throughout the U.S. market. The substantial [] of imports from both countries reflect massive sales throughout the United States.

c. Imports from the Subject Countries Are Sold Through Common Channels of Distribution

IMTDC from all sources are sold directly to end users and through distributors.⁵⁹ Relevant distributors are typically focused on the provision of mechanical transfer drive components, such as the sheaves (pulleys), flywheels, and bushings covered by these petitions.⁶⁰ Many distributors carry multiple brands and sources of IMTDCs, including those of U.S., Chinese, and Canadian origin.⁶¹ This factor therefore also supports cumulation of the subject imports.

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

Exhibit I-18 shows that imports from both Canada and China entered the United States in every single month from January 2012 through August 2015 (the latest month for which data are available). Thus, this factor provides further evidence that subject imports are competing with each other and the domestic like product.

e. Conclusion

Canada and China are both large sources of the subject IMTDC sold in the U.S. market. Each country is the source of a broad array of product types and sizes. Imports from both

⁵⁹ See Declaration of [~~source~~], attached at Exhibit I-4.

⁶⁰ *Id.*

⁶¹ *Id.*

countries entered the United States during every month of the POI. Canadian, Chinese and U.S. producers sold the same general range of IMTDC throughout the United States. Thus, the evidence shows that subject imports from both countries compete with each other and the domestic like product. The Commission should therefore 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.”⁶² In these investigations, available data show that the volume of subject imports, both in absolute terms and relative to U.S. consumption and production, is significant within the meaning of the relevant statutory provision.

The best data available to Petitioner show that the value⁶³ of the subject imports⁶⁴ is significant and accounts for a significant share of the U.S. market. Subject imports totaled \$230 million in 2012, \$236 million in 2013, and \$271 million in 2014.⁶⁵ Subject import values reached \$145 million during the first half of 2015.⁶⁶ The subject imports’ market share was also

⁶² 19 U.S.C. § 1677(7)(C)(i).

⁶³ As discussed in **Section I.L** above, the subject imports are quantified on a value basis only. As a result, apparent domestic consumption may also only be quantified on a value basis.

⁶⁴ For purposes of measuring subject import volumes, Petitioner has relied upon data for subject imports entering the United States under the HTS numbers identified in **Section I.E.4** above. While Petitioner believes that some imports entering under these numbers fall outside the scope of this petition, the official import data for these tariff classifications represent the best information available to Petitioner. The import data does not include additional categories under which merchandise may enter, as described in, *supra*, **Section I.E.4**.

⁶⁵ Import Data, attached at **Exhibit I-13**.

⁶⁶ *Id.*

significant throughout the period, reaching [] percent of apparent domestic consumption during the first half of 2015.⁶⁷

3. The Price Effects of The Subject Imports Are 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.”⁶⁸ The information available to Petitioner regarding these statutory factors indicates that the price effects of subject imports are significant.

In particular, Petitioner notes that the covered IMTDC are frequently used in industrial materials handling operations, particularly in factories and in oilfield applications. Demand for covered IMTDC is therefore closely related to demand for manufactured goods and oil and gas. From 2012-2015, demand for manufactured products, inclusive of petrochemical products, was virtually flat.⁶⁹ One would normally expect, then, that U.S. producers’ shipments of IMTDC would also remain flat. [trends

].⁷⁰ The effects of such underselling can be seen [trends

].⁷¹

⁶⁷ Apparent Domestic Consumption and Market Shares, attached at Exhibit I-15.

⁶⁸ 19 U.S.C. § 1677(7)(C)(ii).

⁶⁹ Census Data on Shipments for Manufactured Products, attached at Exhibit I-19.

⁷⁰ See Domestic Production/Shipments Data, attached at Exhibit I-20.

⁷¹ See Domestic Financial Data, attached at Exhibit I-21.

The significant price effects of the subject imports will be further evidenced in the data that the Commission collects on prices of particular products. It is important that price comparisons be made on the basis of comparable products. Pursuant to 19 C.F.R. § 207.11(b)(iv), the Petitioner requests that the Commission collect pricing data on the following products:

- Product 1 – Conventional (or classical) “C” groove sheave, with 24-inch outside diameter and five grooves, suitable for use with Type F bushing
- Product 2 – Conventional (or classical) “C” groove sheave, with a 44-inch outside diameter and six grooves, suitable for use with Type N bushing
- Product 3 – Conventional (or classical) “C” groove sheave, with a 50-inch outside diameter and eight grooves, suitable for use with Type J bushing
- Product 4 – Narrow “V” groove sheave, with a 53-inch outside diameter and six grooves, suitable for use with Type N bushing

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.”⁷² 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,

⁷²

19 U.S.C. § 1677(7)(C)(iii).

(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.⁷³

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.”⁷⁴

a. Rising Subject Imports Have Eroded Domestic Output and Shipments

U.S. production of IMTDC [trends

].⁷⁵

b. Increasing Volumes of Low-Priced Subject Imports Resulted in Declining Financial Performance for the Domestic Industry

Aggressively low pricing from subject imports adversely affected domestic industry performance throughout the period of investigation. [trends

].⁷⁶

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See Domestic Production/Shipments Data, attached at Exhibit I-20. Data for domestic production and shipments represent [source].

⁷⁶ See Domestic Financial Data, attached at Exhibit I-21. Data for domestic financial performance represent [source].

c. Other Indicators Confirm that Subject Imports Prevented the Domestic Industry from Taking Advantage of 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 [+ trends

] as a result of rising volumes of unfairly traded subject imports. Production capacity [+ trends].⁷⁷ However, capacity utilization [

+ trends].⁷⁸

Rising subject imports also negatively affected employment in the U.S. IMTDC industry.

For example, [+ trends].⁷⁹

Further, [+ trends].⁸⁰ [+ trends].⁸¹

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

Given the way in which covered IMTDC are produced and sold, the ability of the domestic industry to identify specific examples of lost sales or lost revenues by reason of subject

⁷⁷ See Domestic Capacity Utilization Data, attached at Exhibit I-22. Data for domestic capacity represent [source].

⁷⁸ Id.

⁷⁹ See Domestic Employment Data, attached at Exhibit I-23. Data for domestic employment represent [source].

⁸⁰ Id.

⁸¹ Id.

imports is limited. Nevertheless, pursuant to 19 C.F.R. § 207.11(b)(v),⁸² Petitioner has identified examples of lost sales and lost revenues; these can be found in **Exhibit I-16**. 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 apparent domestic consumption and U.S. production. Subject imports systematically undersold the domestic product, causing domestic prices to fall even as [*trends*]. The domestic industry [*trends*] over the period. The industry's financial performance [*trends*]. Subject imports also adversely affected [*trends*]. Therefore, the volume, price effects, and impact of subject imports on the U.S. IMTDC 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

As shown above, imports of subject IMTDC from Canada and China have materially injured the domestic industry producing covered IMTDC. In addition, the evidence available to Petitioner also demonstrates that the subject imports threaten the domestic industry with material

⁸² The Commission's regulations ask petitioners to provide "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 IIMTDC industry and thus a full listing is not reasonably available to Petitioner. However, examples of lost sales and revenues are included in Lost Sales and Lost Revenues, attached at **Exhibit I-16**.

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 initial step in the Commission's consideration of threat of injury is to determine whether the subject imports should be cumulated. Cumulation for purposes of the Commission's analysis of the issue of threat of material injury is discretionary, rather than mandatory.⁸³ For threat purposes, the Commission may cumulate imports of the subject merchandise from all countries if (1) the petitions were filed on the same day, and (2) "if such imports compete with each other and with domestic like products in the United States market."⁸⁴ As this petition covers all of the subject countries, the first requirement is clearly met.

In deciding whether imports compete with each other, the Commission will consider the same statutory factors as for material injury.⁸⁵ As demonstrated above, the subject imports all compete with each other and with domestic like products in the U.S. market. Thus, the statutory requirements for cumulation in a threat investigation have been satisfied.

In addition to the statutory factors, the Commission has considered a number of other factors in determining whether to exercise its discretion to cumulate imports for threat purposes. These factors include:

- (1) Trends in import volumes;
- (2) Trends in market shares;
- (3) Evidence of underselling and price effects of imports;

⁸³ *Chlorinated Isocyanurates from China and Japan*, Inv. Nos. 701-TA-501 and 731-TA-1226 (Final), USITC Pub. 4494 (Nov. 2014) at 33; *Seamless Refined Copper Pipe and Tube from China and Mexico*, USITC Pub. 4193, Inv. Nos. 731-TA-1174-1175 (Final) at 15.

⁸⁴ 19 U.S.C. § 1677(7)(H).

⁸⁵ See *Seamless Refined Copper Pipe and Tube from China and Mexico*, USITC Pub. 4193 at 17.

- (4) Capacity in the subject countries; and
- (5) The types of the subject merchandise exported from each country.⁸⁶

A review of these factors confirms that the Commission should determine to cumulate imports from all of the subject countries for purposes of its threat determination. In particular, the value of imports from both countries is substantial and has increased over time.⁸⁷ Imports from both countries have undersold the domestic like product, and have contributed the price effects felt by U.S. producers. While Petitioner is aware of no public source regarding the actual capacity of producers in the subject countries, the number of producers identified in Canada and China,⁸⁸ as well as the substantial and increasing value of their imports,⁸⁹ demonstrates that both countries have significant capacity for the production of covered IMTDC products. Both Canada and China appear to provide the full range of covered IMTDC products, inclusive of sheaves, flywheels and bushings. Further, there is also evidence of common control of certain Chinese and Canadian manufacturing operations.⁹⁰ In sum, the information available to Petitioner supports cumulation for purposes of a threat analysis.

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:

- (1) The nature of any countervailable subsidies;

⁸⁶ See *Chlorinated Isocyanurates from China and Japan*, USITC Pub. 4494 at 33-35; *Seamless Refined Copper Pipe and Tube from China and Mexico*, USITC Pub. 4193 at 17-18.

⁸⁷ Import Data, attached at Exhibit I-13.

⁸⁸ See Chinese Producers/Exporters of MTDC, attached at Exhibit I-11 and Canadian Producers/Exporters of MTDC, attached at Exhibit I-12.

⁸⁹ Import Data, attached at Exhibit I-13.

⁹⁰ [name supplier]. See Declaration of [source], attached at Exhibit I-4.

- (2) Existing unused production capacity or potential increases in production capacity in the exporting country;
- (3) A significant rate of increase of the volume or market penetration of imports of the subject merchandise;
- (4) Price effects of the subject imports;
- (5) Inventories of the subject merchandise; and
- (6) The potential for product-shifting.⁹¹

In this case, these factors weigh in favor of an affirmative threat determination.

a. The Domestic IMTDC 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.⁹² To assess vulnerability, the Commission will consider the various indicators of performance for the industry. The Commission gives special weight to the industry's performance at the end of the period of investigation.⁹³

The domestic industry producing IMTDC is plainly in a vulnerable situation. As explained above, it has incurred [*trends*]. These [*trends*], and has been accompanied by [*trends*]. As such, the Commission should find that the domestic IMTDC industry is currently vulnerable to further subject imports.

⁹¹ 19 U.S.C. § 1677(7)(F)(i).

⁹² *Seamless Refined Copper Pipe and Tube from China and Mexico*, USITC Pub. 4193 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.

⁹³ *Seamless Refined Copper Pipe and Tube from China and Mexico*, USITC Pub. 4193 at 34.

**b. The Subject Imports Have Significantly Increased in Volume
[]**

As discussed above, the volume of subject imports increased substantially over the review period, despite [] for covered IMTDC in the U.S. market.⁹⁴ That imports have increased [] is an indicator of threat.⁹⁵ Further, subject imports have [trends] over the investigation period, while both [trends].⁹⁶

c. The Subject Imports Have Had Demonstrable Price Effects

A second factor the Commission considers in analyzing threat is whether the subject imports have had demonstrable price effects. As stated above, subject imports have increased absolutely and [trends], as a result of their underselling of U.S. IMTDC producers. The evidence in this investigation will demonstrate further price depression and/or price suppression as a result of subject imports.

d. Subject Producers Encourage 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.⁹⁷ Petitioner alleges that IMTDC producers in China have received a wide array of countervailable subsidies. These subsidies encourage the exportation of subject merchandise by encouraging production far

⁹⁴ Apparent Domestic Consumption and Market Shares, attached at Exhibit I-15; Census Data on Shipments of Manufactured Products, attached at Exhibit I-19; *see also* discussion *infra* at II.D.3.

⁹⁵ *Chlorinated Isocyanurates from China and Japan*, USITC Pub. 4494 at 35.

⁹⁶ Apparent Domestic Consumption and Market Shares, attached at Exhibit I-15.

⁹⁷ 19 U.S.C. § 1677(7)(F)(i)(I).

in excess of local demand. Notably, Petitioner has alleged that Chinese producers of covered IMTDC receive export subsidies, such as export credits, direct support to export-focused companies located in certain zones or areas or that achieve a certain value of exports, and export assistance grants.⁹⁸

e. Subject Producers Have Significant Volumes of New and Unused Capacity, which Indicate the Likelihood of Substantially Increased Imports

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.”⁹⁹ The Commission will also consider whether other export markets are available to the foreign producers that could absorb excess production.¹⁰⁰ The availability of capacity for increased exports to the United States weighs heavily in favor of a threat determination.¹⁰¹

Data regarding subject producers’ current capacity utilization is not reasonably available to Petitioner. However, the growing imports of covered IMTDC from Canada and China show that producers in these countries are well able to increase their exports to the United States. Further, their substantial and growing exports to the United States indicate that any alternative export markets are less attractive than the U.S. market. As such, the available information regarding subject producers’ excess capacity weighs in favor of an affirmative threat determination.

⁹⁸ See Volume IV.

⁹⁹ 19 U.S.C. § 1677(7)(F)(i)(II).

¹⁰⁰ 19 U.S.C. § 1677(7)(F)(i)(II).

¹⁰¹ 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 at 25-26 (Apr. 2010).

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

The Commission must consider inventories of the subject merchandise as an indicator of the extent to which subject imports threaten additional material injury to the domestic industry.¹⁰² Petitioners do not have access to data regarding inventories of IMTDC in the subject countries.

g. Facilities in the Subject Countries that Are Currently Being Used to Make Other Products Could Be Used to Produce Covered IMTDC

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.”¹⁰³ In this case, the potential for product-shifting is substantial.

As explained above, the sheaves (pulleys), flywheels, and bushings subject to these investigations are iron products of largely circular or cylindrical cross-section, used to transmit energy in mechanical transfer drive sections. However, they are not the only iron products, or even the only iron products of largely circular or cylindrical cross section, used in mechanical transfer drive systems. Other such products, which are not included in the scope of these Petitions, include sprockets and gears, which can be produced in the same facilities as subject merchandise.¹⁰⁴ Accordingly, it would be quite simple for producers in the subject countries to

¹⁰² 19 U.S.C. § 1677(7)(F)(i)(V).

¹⁰³ 19 U.S.C. § 1677(7)(F)(i)(VI).

¹⁰⁴ Sprockets are toothed wheels meant to engage with chains, rather than belts, in mechanical transfer drive systems. Gears are likewise toothed wheels, but rather than engaging with belts, chains, or like devices, they are used to transfer energy by engaging with other gears.

shift production away from these goods into additional production of covered IMTDC. This significant potential for product-shifting further supports a threat determination here.

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

In assessing the threat to the domestic industry from subject merchandise, 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.”¹⁰⁵ As discussed above with respect to present material injury, the significant presence of subject imports caused the domestic industry to [

trends]. This harm has already compromised domestic producers’ ability to adequately fund their development and production efforts; further imports can only worsen this harm. 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 subject imports have left the domestic industry in a vulnerable condition. Subject imports have increased absolutely [*trends*]. They have depressed and suppressed domestic prices. The subject producers’ significant exports bespeak substantial excess capacity, and subject producers are easily able to shift production from other products, including gears and sprockets, to the covered IMTDC goods. By depriving the domestic industry of the revenues and profits needed to fund future research and development, the subject imports have prevented the

¹⁰⁵ 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. Thus, that provision is not relevant to these investigations.

domestic industry from taking the steps needed to remain competitive. For all of these reasons, the Commission should determine that the subject imports threaten the domestic IMTDC industry with material injury.

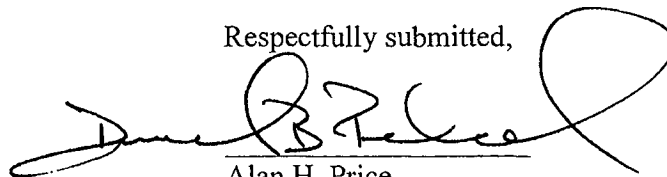
F. Conclusion

All statutory factors support a finding that imports of IMTDC 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.

III. CONCLUSION

For the reasons outlined above and in the companion volumes being filed with the Department and Commission, Petitioner respectfully requests that the agencies initiate injury and less-than-fair-value/subsidy investigations with respect to imports of certain iron IMTDC from Canada and China, and that AD/CVD duties be imposed to offset the dumping margins and subsidy rates detailed in the specific AD and CVD volumes.

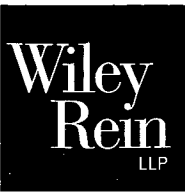
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan H. Price", with a large, stylized loop at the end.

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October 28, 2015

DOC Inv. Nos. **A-122-856**, A-570-032, C-570-031
USITC Inv. Nos. 701-TA-____ -- ____,
and 731-TA-____ - ____
Total Pages: 391
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, 11, 16-17, 20-21, 23-24, 26-27, 30, 32, 34-36, 38-40, 43, the Exhibit List, and Exhibits I-4 – I-7, I-14 – I-16, I-20 – I-23; and Volume II, pages 3-15 and 19, the Exhibit List, and Exhibits II-1-II-4, II-6-II-11, II-14, and II-22

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 Iron Mechanical Transfer Drive Components from
Canada and the People's Republic of China

Dear Secretary Pritzker and Secretary Barton:

On behalf of TB Wood's Incorporated ("Petitioner"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain iron medical transfer drive components from Canada and the People's Republic of China (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 Canada and the People's Republic of China is contained in Volumes II and III, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China is contained in Volumes IV.

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 and III; and the narrative portion of Volume IV (which is a public document). 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, and III; and the narrative portion of Volume IV (which is a public document). 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 Petitioner, 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 Petitioner 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 21; and Exhibit I-4.
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)): Exhibits I-4.
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)): Exhibit I-16.

4. *The names of particular persons from whom business proprietary information was obtained (19 C.F.R. § 351.105(c)(9)): pages 3-4, 21, 23-24, 27, 30, 34-35, 38; and Exhibit I-4.*
5. *The position of a domestic producer or workers regarding a petition (19 C.F.R. § 351.105(c)(10)): Exhibits I-4 – I-5.*
6. *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 11, 16-17, 20, 23-24, 26-27, 30, 32, 34, 35-36, 38-40, 43; and Exhibits I-4, I-6 – I-7, I-14 – I-16, and I-20 – I-23.*

The information in the attached Volume II of these Petitions for which Petitioner 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 13 and 15; and Exhibits II-11 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)): pages 13-15 and 19; and Exhibits II-11, II-14 and II-22.*
3. *Terms of sale (but not terms of sale offered to the public) (19 C.F.R. § 351.105(c)(4)): pages 3-10; and Exhibits II-1, II-2, II-3, II-4, II-6, II-7, II-8, II-9, II-10, and II-22.*
4. *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, 6-7, 10 and 19; and Exhibits II-1, II-6, II-7, II-8, II-9 and II-10.*
5. *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)): page 5; and Exhibits II-1 and II-7.*

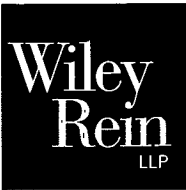
6. *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 3,7, and 10-12; the Exhibit List and Exhibits II-1, II-7 and II-11.
7. *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 10-14; and Exhibits II-1, II-6, II-7, II-10, II-11, II-14 and II-22.

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), Petitioner agrees in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioner, however, reserves 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 Volume IV of the Petitions contains no business proprietary information.



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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan H. Price", written over a horizontal line.

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**Petitioner's Business Proprietary
Information has been removed from
pages 3-15 and 19, in the Exhibit List
and in Exhibits II-1-II-4, II-6-II-11, II-
14, and II-22**
PUBLIC VERSION

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

**CERTAIN IRON MECHANICAL TRANSFER DRIVE COMPONENTS
FROM CANADA AND 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
CANADA – ANTIDUMPING DUTIES**

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October 28, 2015

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I. INTRODUCTION

On behalf of T.B. Wood's, Inc. ("T.B. Wood's" or "Petitioner"), this Petition seeks the imposition of antidumping duties on iron mechanical transfer drive components (hereinafter "IMTDCs"). As discussed below, the application of the Department of Commerce's (hereinafter "the Department") standard dumping methodology shows that producers and/or exporters in Canada sold IMTDCs, or offered them for sale, in the United States at less than normal value.

Petitioner used export price (hereinafter "EP") as the basis for U.S. price, because Canadian producers and/or exporters of subject merchandise typically sell either directly to unrelated purchasers in the United States or through unaffiliated trading companies to unrelated purchasers in the United States. Petitioner first computed the ex-factory export price for each transaction or offer ("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, and where applicable, Petitioner deducted transportation charges from the Canadian manufacturing facilities to the Canadian land ports of exportation, brokerage and handling fees, U.S. inland freight expenses, and U.S. duties and taxes.

Petitioner calculated the ex-factory normal value (hereinafter "ex-factory NV" or "NV") by subtracting from the quoted home market prices those freight charges, handling charges, and credit costs that were associated with delivering merchandise to customers within Canada – where applicable.

Petitioner next compared the ex-factory U.S. prices with the ex-factory NVs for identical or similar merchandise. Petitioner then subtracted the ex-factory U.S. price from the normal value for each observation, and divided the difference by the ex-factory U.S. price to determine the dumping margin.

Based upon the evidence contained within this volume, Petitioner believes that there is sufficient evidence to support a finding that sales were made at prices lower than the cost of production for Canadian producers. Consequently, Petitioner formally requests that the Department initiate a sales-below-cost investigation.¹ Petitioner's belief is based upon the fact that Petitioner estimated the Canadian producer's cost of production using the production costs and consumption rates of a surrogate U.S. producer (the "Canadian Surrogate") and made adjustments to the calculated cost of production for any known differences in production costs. Petitioner then compared the cost of production with the ex-factory NVs calculated above and found that the ex-factory NVs were sold or offered for sale at prices less than the cost of production for the same or similar products in all instances.

II. EXPORT PRICE ("EP")

A. Sales Price

Canadian producers and exporters of IMTDCs typically sell subject merchandise to unrelated original equipment manufacturers ("OEMs"), trading companies, distributors, and even to some companies that currently or formerly produced subject merchandise in the United States.

Domestic manufacturers of IMTDCs learn of U.S. price offerings by Canadian producers and/or exporters either during the course of negotiating sales prices with their U.S. customers, through market intelligence, or through sales offers received directly from Canadian producers/exporters themselves. In the IMTDC industry, potential U.S. customers typically receive price offerings from Canadian producers and/or exporters directly from the Canadian

¹ See 19 U.S.C. § 1677b(b). Petitioner recognizes that the Tariff Act of 1930 *as amended* (through the passage of the *Trade Preferences Act of 2015*), Pub. Law No: 114-27, no longer requires a formal allegation that a company has made sales below the cost of production. See 19 U.S.C. § 1677b (2015). However, based upon information contained herein, Petitioner believes that such sales have occurred.

producers/exporters, from independent sales representatives or from trading companies seeking to gain business in the United States. Canadian and domestic producers of IMTDCs compete for the same customers on a daily basis.

Domestic and Canadian manufacturers and exporters of IMTDC products price their merchandise on a per piece basis. Pricing per piece is based upon a number of factors, including the type of the particular IMTDC good at issue, the outer diameter and inner diameter of the good (which affects the overall weight of the good), as well as a number of discrete factors (number of of grooves in a sheave, etc.).²

Petitioner obtained the following quoted offers for sales of IMTDCs produced in and exported from Canada by Baldor-Maska (also known as Baldor Electric Company) and sold or offered for sale to customers in the United States.³ Based upon information that is available to Petitioner, Baldor-Maska is one of the few producers of subject merchandise in Canada during the period of investigation (October 1, 2014 through September 30, 2015) (the "POI").⁴ Consequently, Petitioner believes that the pricing proved herein is indicative of the pricing at which Canadian producers/exporters sell or offer for sale subject merchandise.

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Offered Price (US\$)	
				Outer	Inner			
US-201	Baldor-Maska	[Product]
US-202	Baldor-Maska	[#	40			677]
US-203	Baldor-Maska	[]

² See id.

³ See Declaration of [Name], attached at Exhibit II-1.

⁴ See id.

A declaration that establishes the terms of these sales or offers of sales are provided in **Exhibit II-1**.

The products offered for sale by Baldor-Maska represent standard IMTDC products which are sold in the U.S. domestic market on a daily basis.

The prices for OBS US-201 through OBS US-203 are based on goods offered for sale under the following sales and delivery terms: [*Terms* *City*
Shk], and were offered for sale in the [*Date* *Date*].

Petitioner calculated EP for each transaction using the quoted transaction/offer prices as the best information reasonably available.

B. Movement and Related Expenses

In order to calculate the ex-factory U.S. price for sales to the United States, Petitioner deducted the costs associated with exporting and delivering the product to customers in the United States from the quoted transaction prices. These costs normally consist of inland freight charges from the Canadian manufacturing facilities to the U.S. land crossing ports, Canadian and U.S. port and/or handling fees, foreign brokerage and handling fees, and customs duties paid upon entry of the subject merchandise into the United States – where applicable. The following sections describe the calculations performed to derive the ex-factory U.S. Price. Petitioner's calculations of the ex-factory U.S. Price for each sale or offer appear in **Exhibit II-6**.

Canadian imports of IMTDCs are typically transported by truck or rail from the manufacturing facilities to the border port of export, cross the international border, and then continue on to the chosen point of delivery. The exact method of transportation depends on the proximity of the Canadian production factory to rail or road lines, the size of the order, and the

location of the U.S. customer's designated delivery location. As noted above, the price quotes in OBS US-201 through US-203 likely include truck freight (as discussed below) from the Canadian production facility to the U.S. customer.

1. U.S. price adjustments

a. Freight expenses

Because subject merchandise is often shipped in small to medium quantities (often shipments of less than 50 or 100 units), a common carrier is often employed to ship the goods directly from the point of shipment to the customer's location. For example, product [

Weight]. Petitioner obtained price quotes from United Parcel Service ("UPS") to obtain pricing for a shipment of [*product*

product]⁵ - or [*Narrative*]. The goods [

City, Province *City, State*].

The quotes from carriers like [*company*] typically include fuel surcharges, and Canadian border service fees. They do not however include items like customs duties on the dutiable value of the items, or document fees required of a customs broker to enter goods into the United States. These expenses are deducted separately.

Based upon the quoted freight rates, Petitioner calculated a per-piece cost for each product offered for sale in the United States. See **Exhibit II-3**. Petitioner then subtracted the quoted freight rates from the offered U.S. prices as shown in **Exhibit II-6**.

⁵ See U.S. Market and Home Market Freight Quotes, attached at **Exhibit II-2**.

b. Brokerage and handling

In importing goods into the United States, the services of a customhouse broker will be required in order to ensure the proper entry of goods into the country. Petitioner obtained publicly available pricing from a customhouse broker relating to the fees associated with the importation of a single shipment of goods. Petitioner subtracted the flat fee rate from the number of units that would be shipped in a shipment of goods identified in section II.B.1.a, *supra*. Petitioner subtracted this fee from the offered U.S. prices. See **Exhibit II-4** and **Exhibit II-6**.

c. U.S. customs duties

Items such as sheaves, pulleys, and bushings are normally subject to a customs duty of 2.8 percent ad valorem. However, provided that the good qualifies for treatment under the North America Free Trade Agreement ("NAFTA"), the good may enter the United States duty free.⁶ Petitioner has assumed conservatively that the goods in question qualify for the NAFTA preference and have not made downward adjustments to the U.S. prices for these goods.

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

Petitioner subtracted the calculated movement expenses and brokerage and handling expenses from the reported U.S. prices to obtain the following ex-factory U.S. prices for IMTDC products exported from Canada by Baldor-Maska, and offered for sale in the United States:

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Ex-Factory EP (US\$)	
				Outer	Inner			
US-201	Baldor-Maska	[]
US-202	Baldor-Maska	[product #	40			477]

⁶ See Harmonized Tariff Schedule of the United States, excerpts attached at **Exhibit II-5**.

US-203 Baldor-Maska

[#]

*

Detailed calculations of the ex-factory U.S. Prices for imports of the subject merchandise from Canada are provided in **Exhibit II-6**.

III. NORMAL VALUE

The preferred method for determining the normal value 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. Petitioner obtained information on sales or offers of sales in Canada of IMTDC products that are identical or similar to the imported product described above. Petitioner calculated the ex-factory NV based on these home market prices as the best information reasonably available to Petitioner.

Petitioner obtained the following quoted transaction prices for IMTDC products produced by Baldor-Maska and sold or offered for sale to customers in Canada:⁷

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Offered Price (US\$)
				Outer	Inner		
CA-201	Baldor-Maska	[Product					
CA-202	Baldor-Maska	[#	35			800
CA-203	Baldor-Maska	[

The prices were quoted for delivery in [period].⁸ Petitioner calculated the normal value based on these home market prices. Petitioner believes that based on the prevalence of Baldor-Maska in the Canadian market, these sales are indicative of a home market that is viable.

⁷ See Declaration of [Name], attached at Exhibit II-7.

All of the quoted transaction prices for Canadian home market sales [

Terms

]. Additionally, the pricing is inclusive of freight to the customer's location. In order to calculate the ex-factory NV for home market sales, Petitioner deducted from the delivered prices those costs associated with delivering the product to the customers in Canada. These costs consist of inland freight charges (where applicable) from the Baldor-Maska's production facility to its home market customers, local tax, and the credit costs associated with delivering the product to the home market customers, where applicable. These calculations yielded a per piece ex-factory NV for sales or offers of sales of IMTDC products. A detailed description of these calculations appears in **Exhibit II-10**.

Petitioner has reason to believe or suspect that sales or offers of sales of the subject merchandise in Canada by Baldor-Maska have been made over an extended period of time and in substantial quantities, not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. Therefore, Petitioner alleges that home market sales in Canada are at prices less than the cost of production and should be discarded in favor of constructed value. Accordingly, Petitioner calculated the normal value based on constructed value. Petitioner also requests that the Department commence a country-wide cost of production inquiry of Canadian IMTDC producers.⁹ Information supporting this allegation appears below.¹⁰

⁸ *Id.*

⁹ 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.

¹⁰ See *infra* Part IV.

A. Domestic Inland Freight

Canadian producers normally transport IMTDC products by truck from their mills to the home market customer's place of business. Petitioner obtained domestic inland freight pricing from the internet website www.freightcenter.com for shipments of goods that are less than full truckload in quantity. Petitioner based its freight quote upon a [] shipped from Baldor-Maska's facility located in Sainte-Claire, Quebec to [].¹¹ Based upon the quoted freight rates, Petitioner calculated a per-piece cost for each product offered for sale in the United States. See **Exhibit II-8**. Petitioner subtracted the quoted freight rates from the offered home market prices as shown in **Exhibit II-10**.

B. Value Added Tax

Items sold domestically to customers in the [*province*] are subject to a [*] value-added tax [*Tax*].¹² This is true of products such as IMTDCs. In order to calculate the proper ex-factory NVs for subject merchandise sold by Baldor-Maska, Petitioner decreased the offered home market prices (exclusive of freight) by [*]. The calculation of the normal value appears in **Exhibit II-10**.

C. Normal Value Calculation

The calculations described above resulted in the following ex-factory NVs for IMTDC goods produced by Baldor-Maska, and sold or offered for sale in the home market:

¹¹ See U.S. Market and Home Market Freight Quotes, attached at **Exhibit II-2**.

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Ex-Factory NV (US\$)
				Outer	Inner		
CA-201	Baldor-Maska	[<i>Product</i>]					
CA-202	Baldor-Maska	[<i>4</i>	<i>40</i>			
CA-203	Baldor-Maska	[

Detailed calculations of the ex-factory NVs based on home market prices for the subject merchandise are provided in **Exhibit II-10**.

IV. COST OF PRODUCTION

The Department cannot use the price-to-price comparisons described above because the prices charged by Baldor-Maska in the Canadian market are not sufficient to recover the company's costs of production ("COP"). Therefore, the Department's practice requires the use of constructed value to establish the normal value of the merchandise.¹³

A. Methodology

Petitioner used the Department's standard methodology to calculate the cost of production for the subject merchandise produced by Baldor-Maska in Canada. However, Petitioner does not have access to Baldor-Maska's actual production costs. Because information regarding the quantities and values of inputs consumed by Baldor-Maska is not reasonably available to Petitioner, we have used the product-specific production costs and/or consumption rates of [*Company*] – the "Canadian Surrogate."¹⁴ Petitioner used data for the [*period*] because it represents the period of time for which [

¹² See Value Added Tax – Canada, attached at **Exhibit II-9**.

¹³ See 19 U.S.C. § 1677b(b)(1).

] the Baldor-Maska and [

]. Like Baldor-Maska, [*Company*] of IMTDC goods. [

Narrative

] IMTDC products.¹⁵

1. The production process for Subject Merchandise

The manufacturing process for IMTDCs involves multiple steps leading up to the machining process. The production steps are described herein.

a. Iron casting

IMTDC products are produced utilizing cast iron (ductile iron, grey iron, white iron, or other foundry iron product), using a standard foundry process. First, a combination of pig iron and ferrous scrap metal is melted in a foundry furnace. During this process, certain alloying agents are added to ensure proper chemistry. The molten metal is then poured into a foundry mold, typically in the form of sand that has been compacted to produce a cavity of the rough shape of the casting. Once the casting has been poured into the mold and has cooled into a solid, the sand is removed and blasted away – yielding a cast shape. This shape is freed of excess cast iron (known as gates and risers) that is present in the mold, and prepared for machining into a finished IMTDC component.

b. Machining

The iron shape produced by casting is converted to a finished unit of IMTDC through machining operations. Machine tools and saws grind and reduce the shape to the correct

¹⁴ See Declaration of [*Name*], Exhibit II-11.

¹⁵ *Id.*

dimensions – creating grooves, teeth, tap holes, and the like during the process. The product may also be subjected to additional finishing operations, such as shot blasting and sanding.

c. Finishing

A machined IMTDC product will often be painted, oil coated, or primed in order to prevent the buildup of rust. Finished IMTDC goods may then be packed together in cardboard boxes with inserts and then repacked in to master cartons, packed individually into cardboard boxes, or even placed onto a shipping pallet and strapped to the pallet for those items that are large enough to be placed directly onto a pallet.

2. The Canadian Surrogate

These production processes are [*Native*]. The production process for IMTDCs is very similar regardless of whether the product is produced in the United States or in Canada. [

City, State

].

3. Calculation of Normal Value

To calculate NV, Petitioner first calculated the amount (*i.e.*, consumption rate) of each production input that the Canadian Surrogate used to produce one finished IMTDC unit that is similar or identical to the merchandise offered for sale by Baldor-Maska in the United States during the proposed POI. Petitioner used the Canadian Surrogate's actual consumption rates for all direct material inputs [*input*].¹⁶ Petitioner determined the average cost for most of these inputs in Canada, using publicly available information that is most

¹⁶ See *id.*

contemporaneous with the POI for those production steps that are performed within Canada.

Similarly, Petitioner [

Narrative

], and determined the average cost for these inputs in Canada, from publicly available information that is most contemporaneous with the proposed POI. Based on this information, Petitioner calculated Baldor-Maska's normal values.

4. Adjustments for Inflation and Exchange Rates

For certain inputs, Petitioner could not obtain cost figures in Canadian Dollars or for the period for which Petitioner has cost data. Where an input came from a period preceding the POI, the period for which Petitioner has cost data, Petitioner made adjustments for inflation using the consumer price index for Canada as reported by Statistics Canada ("StatCan").¹⁷ Specifically, Petitioner divided the index for the period to which the input price pertained by the index for the proposed POI (October 2014 through September 2015).

Petitioner calculated the entire cost of production in Canadian Dollars as [

Narrative

].

For input prices denominated in U.S. Dollars, Petitioner converted the price into Canadian Dollars using the simple average of the daily U.S. Dollar – Canadian Dollar exchange rate (or third country exchange rate) for the POI reported on the Federal Reserve's Internet website.¹⁸

5. Production Costs – Direct

Using the methodology described above, Petitioner estimated the cost of production for merchandise produced and exported by the Canadian respondents. See **Exhibit II-14**.

¹⁷ See Canadian Consumer Price Index, attached at **Exhibit II-12**.

¹⁸ See U.S. Dollar – Canadian Dollar Exchange Rate, attached at **Exhibit II-13**.

a. Raw materials

Petitioner valued nearly all direct material inputs used to produce IMTDC products using Canadian import statistics. Petitioner obtained import data for Canada from the Global Trade Information Services ("GTIS") database known as Global Trade Atlas ("GTA"). Petitioner used such GTA data for the period October 2014 through August 2015.¹⁹ As many of the inputs are reported on a Canadian Dollars per kilogram basis or dollar per metric ton, Petitioner converted the data to a price per pound basis [*Negative*

]. A summary of all surrogate values pertaining to material inputs appears in **Exhibit II-15**, while the source data pertaining to these production costs appear in **Exhibit II-16**. Per the Department's standard methodology, Petitioner deleted from the calculation of surrogate value any import pricing that was sourced from non-market economies (*e.g.*, China, Vietnam, etc.), from countries that have been found to provide generally available export subsidies (*e.g.*, India, Indonesia, etc.), and from countries that are unidentifiable (*e.g.*, "Other countries, NES").

For certain other inputs, Canadian import statistics reports only the customs value of the imported merchandise and not a measurable quantity (*e.g.*, kilograms, units, or liters). For these inputs, Petitioner utilized U.S. import statistics of the same good. Petitioner obtained U.S. import data from the United States International Trade Commission's *Dataweb* service.²⁰ Petitioner converted the U.S. Dollar denominated pricing to a price in Canadian Dollars utilizing the U.S. Dollar – Canadian Dollar exchange rate in effect during the POI.

¹⁹ At the time of filing, Canadian import data for September 2015 was not yet available.

²⁰ See Material Inputs Calculations and Source Data – U.S., attached at **Exhibit II-17**.

b. Energy

To value electricity, Petitioner used electricity rates in effect in the province of Quebec from a report generated by Hydro Quebec.²¹ To value natural gas, Petitioner utilized pricing data for large users based on tables published by Gazifere – one of two large natural gas distributors in Quebec.²² Both sets of data were reported in Canadian Dollars. Consequently, no currency conversion was required.

c. Labor

The labor expense incurred in producing a finished IMTDC unit includes both the labor expended in actually processing the steel (melting, machining, etc.), as well as the labor time required to prepare the machining equipment to produce a “run” of IMTDC products. For example, in producing [

*Company
Name*

].

To value labor, Petitioner utilized annual data related to “manufacturing” workers in Canada as disseminated by Statistics Canada. The POI-contemporaneous compensation rate appears in **Exhibit II-20**. The labor cost data were reported in Canadian Dollars. Consequently, no currency conversion was required.

6. Production Costs – Other Expenses

Petitioner added all of the total direct manufacturing costs to calculate the total cost of goods sold (“COGS”) net of depreciation and other expenses for IMTDC products.²³ Pursuant to the Tariff Act and the Department’s regulations, Petitioner added additional expenses relating to

²¹ See HydroQuebec Electricity Rates, attached at **Exhibit II-18**.

²² See Gazifere Natural Gas Rates, attached at **Exhibit II-19**.

²³ See Cost of Production Calculations, attached at **Exhibit II-14**.

fixed overhead, selling, general and administrative expenses, interest expenses, and profit. However, Petitioner is not privy to Baldor-Maska's non-operational expenses.

Consequently, to value these expenses, Petitioner sought publicly available financial statements from Canadian entities that are producers of identical or comparable merchandise. Petitioner searched the Toronto Stock Exchange for companies that were involved in foundry production generally or in the production of subject merchandise itself. However, it appears that no publicly traded companies in Canada have these capabilities.

As the best information available, Petitioner is utilizing the fiscal year 2014 financial statements of Essar Algoma Steel ("Algoma").²⁴ Algoma is a Canadian company that produces finished steel mill goods including steel coil, steel sheet, and steel plate and will consume many of the same inputs (steel scrap, ferrous iron units, and ferroalloys) in the production process. This represents the best information that is reasonably available to Petitioner.

a. Fixed overhead

As the best information available, Petitioner obtained information concerning overhead expenses from information published by Algoma for its fiscal year 2014. Petitioner calculated an overhead expense ratio based on data in Algoma's annual report. *See Exhibit II-21.* Petitioner then multiplied cost of goods sold to arrive at the total cost of manufacturing ("COM"). *See Exhibit II-14.*

b. Selling, General, and Administrative Costs ("SG&A") and Interest expenses

As the best information available, Petitioner used SG&A expenses as published by Algoma for the fiscal year 2014. Petitioner calculated the average SG&A rate based on

Algoma's financial data, and then multiplied cost of goods sold plus overhead expenses – COM – by the SG&A expense ratio to arrive at the total cost of production ("COP"). *See Exhibit II-14 and Exhibit II-21.*

Similarly, Petitioner multiplied Baldor-Maska's calculated total cost of manufacturing by Algoma's interest expense ratio as derived from the company's financial statements to arrive at the interest expense for Baldor-Maska. Petitioner added the calculated SG&A expense and the calculated interest expense to the previously calculated total cost of manufacturing to arrive at a total cost of production (excluding profit and packing expenses). *See Exhibit II-14 and Exhibit II-21.*

c. Profit

In normal circumstances, Petitioner would add profit to the cost of production to yield a fully-loaded normal value. However, as is apparent from the 2014 financial statement of Algoma, the company was in a net loss position during the year.²⁵ Consequently, and as a conservative estimation, Petitioner did not add profit to the overall calculation of normal value. This is the best information available to Petitioner at this time.

7. Packing Expenses

The calculation of NV must take into account the costs related to the packing of merchandise to be exported to the United States. The costs incurred in packing are added to normal value after a total cost of production has been calculated. As discussed above, IMTDCs are packed in cardboard boxes or individually on wooden pallets in order to ease the shipment.

²⁴ See Fiscal Year 2014 financial statement – Essar Algoma Steel Ltd., attached at **Exhibit II-21**.

²⁵ *See id.*

Petitioner used Canadian import statistics to value material inputs used in the packaging and shipment of IMTDCs. Petitioner obtained Canadian import data from GTA – using the same methodologies employed for the direct material inputs. Petitioner used GTA data for the period October 2014 through August 2015 as this represents the vast majority of the POI.²⁶ The list of materials used to pack and ship subject merchandise appears in **Exhibit II-15** and Petitioner’s calculation of NV appears in **Exhibit II-14**.

B. Normal Value

Petitioner took the calculated total costs of production and adjusted them for packing expenses, overhead expenses, interest expenses, and estimated profit to yield the constructed value for Baldor-Maska. These constructed values, in turn, represent the normal value for the Canadian producer.²⁷

Petitioner then compared the normal values based upon home market pricing for goods sold in Canada by Baldor-Maska with the estimated cost of production for goods manufactured by the producer.²⁸

²⁶ At the time of filing, Canadian import data for September 2015 was not yet available.

²⁷ See Cost of Production Calculations, attached at **Exhibit II-14**.

²⁸ The Department’s “cost test” compares home market pricing (or third country market pricing) to the cost of production (excluding profit).

Obs. No.	Producer	Ex-Factory NV	Calculated NV	Below Cost?
CA-201	Baldor-Maska	[66.66]	[]	Yes
CA-202	Baldor-Maska	[]	[/066.66]	Yes
CA-203	Baldor-Maska	[]	[56.66]	Yes

Based on this comparison, Baldor-Maska is selling merchandise below the cost of production.²⁹ Accordingly, the Department must use constructed value, rather than home market price, to determine normal value.

V. LESS THAN NORMAL VALUE COMPARISON

In calculating the dumping margins, Petitioner matched each U.S. transaction with the average corresponding normal value for merchandise identical or most similar to it. As normal value is based upon constructed value, Petitioner adjusted the calculated cost of production to account for profit.³⁰

As demonstrated above, the ex-factory NVs for Baldor-Maska are below the company's cost of production.³¹ Therefore, the proper comparison is between the export price and the constructed value, which Petitioner performs below.

Petitioner then compared the United States prices for subject merchandise produced by Baldor-Maska to the normal value (constructed value) for identical products. The comparisons demonstrate that Baldor-Maska sold or offered to sell the subject merchandise in the United States at prices less than normal value. **Exhibit II-22** provides a dumping margin calculation for each transaction using the statutory methodology; specifically, subtracting the ex-factory EP for

²⁹ Compare Cost of Production Calculations, attached at **Exhibit II-14**, with Calculation of Ex-Factory Normal Value, attached at **Exhibit II-10**.

³⁰ See 19 U.S.C. § 1677b(e).

³¹ See *supra* Part IV.B.

each offer from the adjusted constructed value corresponding to the same company and dividing the difference by the ex-factory EP.

The constructed value less than normal value calculations for IMTDCs produced in Canada results in estimated dumping margins of as high as 292.85 percent for Baldor-Maska.³²

VI. CONCLUSION

Petitioner requests that antidumping duties be imposed on imports of Iron Mechanical Transfer Drive Components from Canada in an amount sufficient to offset the unfair pricing described above.

³² See Cost Margin Calculation, attached at **Exhibit II-22**.



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October 28, 2015

DOC Inv. Nos. A-122-856, **A-570-032**, C-570-031
USITC Inv. Nos. 701-TA-____-____,
and 731-TA-____-____
Total Pages: 376
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, 11, 16-17, 20-21, 23-24, 26-27, 30, 32, 34-36, 38-40, 43, the Exhibit List, and Exhibits I-4 – I-7, I-14 – I-16, I-20 – I-23; and Volume III, pages 2-6, 8, 11-13, 15-16, 19-20, the Exhibit List, and Exhibits III-1 – III-4, III-9, III-13, III-15, and III-24

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 Iron Mechanical Transfer Drive Components from
Canada and **the People's Republic of China**

Dear Secretary Pritzker and Secretary Barton:

On behalf of TB Wood's Incorporated ("Petitioner"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain iron medical transfer drive components from Canada and the People's Republic of China (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 Canada and the People's Republic of China is contained in Volumes II and III, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China is contained in Volumes IV.

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 and III; and the narrative portion of Volume IV (which is a public document). 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, and III; and the narrative portion of Volume IV (which is a public document). 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 Petitioner, 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 Petitioner 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 21; and Exhibit I-4.
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)): Exhibits I-4.
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)): Exhibit I-16.

4. *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 3-4, 21, 23-24, 27, 30, 34-35, 38; and Exhibit I-4.
5. *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): Exhibits I-4 – I-5.
6. *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 11, 16-17, 20, 23-24, 26-27, 30, 32, 34, 35-36, 38-40, 43; and Exhibits I-4, I-6 – I-7, I-14 – I-16, and I-20 – I-23.

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

7. *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)): pages 14, 16, and Exhibits III-13 and III-15.
8. *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)): pages 14-17 and Exhibits III-13, III-15, and III-24.
9. *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)): pages 3-4, 8, and Exhibits III-1, III-3 – III-4, III-9, and III-13.
10. *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages 2-8, 19-20, and Exhibits III-1 – III-2, III-9, and III-24.
11. *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 2, 8, and Exhibits III-1, III-9, and III-24.
12. *In an antidumping proceeding, the exact amount of the dumping margin on individual sales* (19 C.F.R. § 351.105(c)(7)): pages 19-20 and Exhibit III-24.

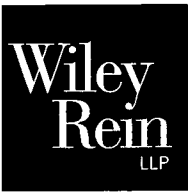
13. *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 1, 4, 6, 11, the Exhibit List and Exhibits III-1 – III-2 and III-13.
14. *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 4, 11-16 and Exhibits III-13 and III-15.

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), Petitioner agrees in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioner, however, reserves 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 Volume IV of the Petitions contains no business proprietary information.



The Honorable Penny S. Pritzker
The Honorable Lisa R. Barton
October 28, 2015
Page 5

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

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Alan H. Price', written over a horizontal line.

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Total Pages: 214
Investigation
Petitioner's Business Proprietary Information
has been removed from pages 2-6, 8, 11-13,
15-16, 19-20, the Exhibit List, and in
Exhibits III-1-III-4, III-9, III-13, III-15, and
III-24
PUBLIC VERSION

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

**CERTAIN IRON MECHANICAL TRANSFER DRIVE COMPONENTS
FROM CANADA AND 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 – ANTIDUMPING DUTIES**

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October 28, 2015

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I. INTRODUCTION

On behalf of T.B. Wood's, Inc. ("T.B. Wood's" or "Petitioner"), this Petition seeks the imposition of antidumping duties on Iron Mechanical Transfer Drive Components (hereinafter "IMTDCs") from the People's Republic of China (hereinafter "China" or "PRC"). As discussed below, the application of the Department of Commerce's (hereinafter "the Department") standard non-market economy ("NME") dumping methodology shows that producers and/or exporters in China sold IMTDCs, or offered them for sale, in the United States at less than normal value.

Petitioner used export price (hereinafter "EP") as the basis for U.S. price, because Chinese producers and/or exporters of subject merchandise typically sell either directly to unrelated purchasers in the United States or through unaffiliated trading companies to unrelated purchasers in the United States. Petitioner first computed the ex-factory export price for each transaction or offer ("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, and where applicable, Petitioner deducted transportation charges from the Chinese manufacturing facilities to the Chinese ports of exportation, foreign brokerage and handling fees, ocean freight and insurance expenses, U.S. port fees, and U.S. duties and taxes.

Because the Department considers the PRC to be a NME, Petitioner calculated normal value ("NV") by valuing the factors of production ("FOP") for subject merchandise based on the cost or value of those factors in a surrogate country: Thailand. Petitioner based FOP consumption rates on the average consumption rates of an IMTDC producer in the United States (hereinafter the "Chinese Surrogate"), for identical or similar merchandise, since public information regarding consumption rates in the PRC was not reasonably available to Petitioner.

Petitioner next compared the ex-factory U.S. Prices with the NVs for identical or similar merchandise. In making these comparisons, Petitioner calculated normal value for each observation in U.S. Dollars, subtracted the ex-factory U.S. price from the normal value for each observation, and divided the difference by the ex-factory U.S. price to determine the dumping margin.

II. EXPORT PRICE ("EP")

A. Sales Price

Chinese producers and exporters of IMTDCs typically sell subject merchandise to unrelated original equipment manufacturers ("OEMs"), trading companies, distributors, and even to some companies that currently or formerly produced subject merchandise in the United States.

Domestic manufacturers of IMTDCs learn of U.S. price offerings by Chinese producers and/or exporters either during the course of negotiating sales prices with their U.S. customers, through market intelligence, or through sales offers received directly from Chinese producers/exporters themselves.¹ In the IMTDC industry, potential U.S. customers typically receive price offerings from Chinese producers and/or exporters directly from the Chinese producers/exporters, from independent sales representatives or from trading companies seeking to gain business in the United States. Chinese and domestic producers of IMTDCs compete for the same customers on a daily basis.

Domestic and Chinese manufacturers and exporters of IMTDC products price their merchandise on a per piece basis. Pricing per piece is based upon a number of factors, including the type of the particular IMTDC good at issue, the outer diameter and inner diameter of the good

¹ See Declaration of [*Name*], attached at Exhibit III-1.

(which affects the overall weight of the good), as well as a number of discrete factors (number of grooves in a sheave, size of the bushing, etc.).²

Petitioner obtained the following quoted offers for sales of IMTDCs produced in and exported from China by two different producers and sold or offered for sale to customers in the United States.³ Based upon information that is available to Petitioner, both producers have sold subject merchandise to the United States during the period of investigation (April 1, 2015 through September 30, 2015) (the "POI").⁴ Consequently, Petitioner believes that the pricing proved herein is indicative of the pricing at which Chinese producers/exporters sell or offer for sale subject merchandise.

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Offered Price
				Outer	Inner		
US-301	Henan Xinda	[Product		55			300
US-302	Powermach	[#				

Declarations and supporting documentation establishing the terms of these sales or offers of sales are provided in **Exhibit III-1**.

The products offered for sale by these two companies represent standard IMTDC goods which are sold in the U.S. domestic market on a daily basis.

The prices for OBS US-301 through OBS US-302 are based on goods offered for sale under the following sales and delivery terms:

² See *id.*

³ See *id.* The two companies are Henan Xinda International Trading Co., Ltd. ("Henan Xinda") and Powermach Import & Export Co., Ltd. ("Powermach"). Each of these companies may have subsidiaries, affiliates or supplier partners that may be supplying these two companies with subject merchandise.

OBS	Producer/Supplier	Product #	Sale Date	Delivery Terms
US-301	Henan Xinda	[<i>Date</i>]
US-302	Powermach	[<i>Terms</i>]

Petitioner calculated EP for each transaction using the quoted transaction/offer prices as the best information reasonably available.

B. Movement and Related Expenses

In order to calculate the ex-factory U.S. price for sales to the United States, Petitioner deducted the costs associated with exporting and delivering the product to customers in the United States from the quoted transaction prices. These costs normally consist of inland and ocean freight charges from the Chinese manufacturing facilities to the U.S. ports, Chinese and U.S. port, wharfage, and/or handling fees, foreign brokerage and handling fees, and customs duties paid upon entry of the subject merchandise into the United States – where applicable. The following sections describe the calculations performed to derive the ex-factory U.S. Price. Petitioner's calculations of the ex-factory U.S. Price for each sale or offer appear in **Exhibit III-9**.

Chinese imports of IMTDCs are typically transported by truck or rail from the manufacturing facilities to the port of export, transported by ocean vessel to the United States in standard shipping containers, and then shipped by truck, barge, or rail to the location of the U.S. customer(s). The exact method of transportation depends on the proximity of the Chinese production factory to the port of exportation, the availability of rail or road lines in conjunction with the factory's location, and the location of the U.S. customer's designated delivery location.

⁴ See [*Source*] data, attached at **Exhibit III-2**.

RANGED DATA

Based upon the location of the two Chinese producers in relation to seaports where these goods would be exported out of China, Petitioner believes that the price quotes in OBS US-301 and US-302 likely include rail freight (as discussed below) from the Chinese production facility to the port of exportation. The price quotes also include foreign port and wharfage fees, and foreign brokerage and handling fees.

1. Country of Manufacture Expenses

a. Foreign inland freight

The Department considers China to be a NME. Consequently, the Tariff Act of 1930, *as amended* (the "Tariff Act"), prohibits the Department from using a Chinese exporter's actual incurred foreign inland freight expenses unless the expense was paid for in a market economy currency and transportation was provided by a fully independent, market economy provider. With respect to the sale and shipment of subject merchandise by Henan Xinda and Powermach, the information reasonably available to Petitioner indicates that [

Narrative] transportation needs as it is highly unlikely that international, market-economy-based entities would be utilized to ship subject merchandise within China itself. As such, the Department cannot use the actual costs incurred by Henan Xinda and Powermach, and must instead use a surrogate value for the foreign inland freight expenses.

Thus, to value the inland freight expense for sales made by Henan Xinda and Powermach, Petitioner used surrogate inland rail freight rates as derived from information published by the State Railway of Thailand.⁵ As noted above, Petitioner used a rail freight rate

⁵ See State Railway of Thailand freight rates, attached at **Exhibit III-3**.

RANGED DATA

because the distances involved in shipping goods from Henan Xinda, which is located in Zhengzhou City in Henan province,⁶ and from Powermach, which is located in the city of Chengdu in Sichuan province,⁷ would likely necessitate the utilization of rail freight. While it is possible that these producers/exporters might utilize trucks to move goods to the ports in question, Petitioner has relied upon rail freight as a conservative estimate of the freight expenses involved in moving goods inside of China. The rail freight rate, originally denominated in Thai Baht per 20-foot container over certain fixed distances, was converted to a price in U.S. dollars per pound by first calculating the average price per kilometer for a container to be shipped over a fixed distance. The price per kilometer was then converted to a price per kilometer per kilogram utilizing standard freight container capacities for 20-foot ocean containers.⁸ Once a price per kilometer per kilogram was obtained, Petitioner converted the price to a price per pound utilizing standard metric-imperial conversion units and to U.S. Dollars utilizing the U.S. Dollar – Thai Baht exchange rate in effect during the POI as reported on the Federal Reserve’s Internet website.⁹

Petitioner used the distances from Zhengzhou City to [*City*] and from Chengdu to [*City*] as the distances required to ship goods from Henan Xinda and Powermach, as well as the distance for purposes of calculating the foreign inland freight component of the ex-factory

⁶ According to [*Source*]. See [*Source*] data, attached at Exhibit III-2. According to Google maps, the distance from Zhengzhou City to [*City*]. See Distances from Chinese points to ports of exportation, attached at Exhibit III-4.

⁷ According to [*Source*]. See [*Source*] data, attached at Exhibit III-2. According to Google maps, the distance from Chengdu to [*City*]. See Distances from Chinese points to ports of exportation, attached at Exhibit III-4.

⁸ See Analysis of theoretical container capacities, attached at Exhibit III-5.

export price. Petitioner multiplied the appropriate rail freight rates by the reported distance from these two companies to the relevant ports of exportation to derive the costs incurred in shipping goods in the country of manufacture. *See Exhibit III-3*. Finally, Petitioner subtracted the freight expense from the offered price. *See Exhibit III-9*.

b. Foreign brokerage and handling

In most situations involving sales made on an EP basis, the foreign producer is responsible for brokerage and handling fees associated with documentation required for shipment as well as the physical handling of the merchandise to the point where it is loaded onto an ocean-going vessel. Petitioner obtained information concerning Thai fees for brokerage and handling from the World Bank publication *Doing Business in Thailand 2015*.¹⁰ Petitioner's calculations of the total unit brokerage and handling expenses appear in **Exhibit III-8**, while the adjustment to the ex-factory EP appears in **Exhibit III-9**.

⁹ See U.S. Dollar – Thai Baht currency exchange rates (Federal Reserve), attached at **Exhibit III-6**.

¹⁰ See *Doing Business in Thailand 2015*, excerpts attached at **Exhibit III-7**.

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

Petitioner subtracted the calculated movement expenses and brokerage and handling expenses from the reported U.S. prices to obtain the following ex-factory U.S. prices for IMTDC products exported from China by Chinese producers/exporters, and offered for sale in the United States:

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Ex-Factory EP	
				Outer	Inner			
US-301	Henan Xinda	[Product					295]
US-302	Powermach	[#]

Detailed calculations of the ex-factory U.S. Prices for imports of the subject merchandise from China are provided in **Exhibit III-9**.

III. NORMAL VALUE

Pursuant to Section 773 of the Tariff Act, 19 U.S.C. § 1677b(c)(4), if subject merchandise is exported from a NME, the Department shall determine normal value based on the factors of production used to produce the subject merchandise, as valued in an appropriate surrogate market economy country.¹¹ General expenses, profit, the cost of containers, coverings, and other expenses must be added to this amount.¹² Because the Department has not revoked its designation of Chinese as a NME, Petitioner calculated NV using the values of FOPs from a surrogate country, Thailand.

RANGED DATA

¹¹ Tariff Act § 773(c)(1), 19 U.S.C. § 1677b(c)(4).

¹² 19 U.S.C. § 1677b(c)(3).

A. China is a Non-Market Economy

China is a NME. The Department has treated the PRC as a NME country in every administrative proceeding in which the PRC has been involved, including recently-concluded administrative proceedings.¹³ Consequently, by statute and by Departmental policy, the PRC's NME status remains in effect today.¹⁴

B. Thailand is the Appropriate Surrogate Country for China

Consistent with its practice in many other antidumping proceedings relating to imports from China, including proceedings currently underway,¹⁵ the Department should use Thailand as the surrogate country for the purpose of valuing FOPs for IMTDCs produced in China. The Tariff Act specifies that the Department shall value FOPs in a market economy country that is 1) at a comparable level of development to the non-market economy country, and 2) is a significant producer of comparable merchandise.¹⁶ For the following reasons, Thailand satisfies both requirements with respect to production of IMTDCs.

First, Thailand and the PRC have very similar per capita gross national incomes ("GNI"). Data for 2014 compiled by the World Bank indicate that Thailand's per capita GNI was

¹³ See Issues and Decision Memorandum accompanying *Certain Steel Nails from the People's Republic of China*, 80 Fed. Reg. 53,490 (Dep't Commerce Sept. 4, 2015) (prelim. results of the antidumping duty admin. review and prelim. deter. of no shipments; 2013-2014) ("Nails 2013-14 Prelim. I&D Memo") at 5. See also Issues and Decision Memorandum accompanying *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China*, 80 Fed. Reg. 4,244 (Dep't Commerce Jan. 27, 2015) (final results of the antidumping duty admin. review and final results of the new shipper review; 2012-2013) ("TRBs I&D Memo") at cmt. 3 (referring to the utilization of NME methodology in a proceeding involving China).

¹⁴ See Tariff Act § 771(18)(c)(1), 19 U.S.C. § 1677(18)(c)(i). See also *Multilayered Wood Flooring from the People's Republic of China*, 76 Fed. Reg. 30,656, 30,658 (Dep't Commerce May 26, 2011) (prelim. deter. of sales at less than fair value).

¹⁵ See Nails 2013-14 Prelim. I&D Memo at 32.

¹⁶ Tariff Act § 773(c)(4)(A) – (B), 19 U.S.C. § 1677b(c)(4)(A)–(B). See also U.S. Department of Commerce, Import Administration Policy Bulletin 4.1 – Non-Market Economy Surrogate Country Selection Process.

\$5,410.00, while the PRC's per capita GNI was \$7,380.00.¹⁷ The Department has determined in a number of ongoing and recently concluded investigations and administrative reviews that Thailand is at a level of economic development comparable to China.¹⁸

Second, Thailand is a significant producer and exporter of sheaves and related products. According to data available from Global Trade Information Service's ("GTIS") trade flows database known as Global Trade Atlas ("GTA"), Thailand exported nearly \$50 million worth of pulleys, sheaves, and other products in 2014.¹⁹ The company is also home to several producers of sheaves, pulleys, and bushings.²⁰

In sum, Thailand's position as a significant producer of IMTDCs, and of comparable products is indicative of the country's suitability as a surrogate country. Thailand is also at a comparable level of development as China, and is routinely used by the Department as a surrogate country for China. For all these reasons, Thailand is an appropriate surrogate country for purposes of this Petition.

C. Normal Value Methodology

1. Factors of Production

Because China is a NME, the valuation of the FOPs (*i.e.*, raw materials, energy, and labor) involved in producing Chinese IMTDCs must be based on the values of the FOPs in a surrogate market economy country. The usage rates of those FOPs (*i.e.*, quantities of raw materials consumed, amount of energy consumed, and number of labor hours required) should be

¹⁷ See Memorandum on potential surrogate countries (*CORE from China*) at 2, excerpt attached at **Exhibit III-10**.

¹⁸ See, *e.g.*, Nails 2013-14 Prelim. I&D Memo at 32; TRBs I&D Memo at cmt. 1.

¹⁹ See Thai exports of identical and comparable merchandise, attached at **Exhibit III-11**.

²⁰ See, *e.g.*, Sample of Thai companies producing similar/identical merchandise, attached at **Exhibit III-12**.

based upon the consumption rates of the Chinese manufacturer. However, because information regarding the quantities of inputs consumed by the Chinese producers/exporters is not reasonably available to Petitioner, we have used the product-specific production costs and/or consumption rates of [*Company*] – the “Chinese Surrogate.”²¹ Petitioner used data for the [*period*] because it represents the period of time for which [

Normative] the Chinese respondents, [*Company*], and represents a period in []. Like the Chinese respondents, [*Company*] of IMTDC goods. [*Normative*] IMTDC products.²²

a. The production process for Subject Merchandise

The manufacturing process for IMTDCs involves multiple steps and can follow two tracks leading up to the machining process. The production steps are described herein.

(i) Iron casting or metal processing

IMTDC products are produced utilizing iron (ductile iron, grey iron, white iron or other foundry iron product), using a standard foundry process. First, a combination of pig iron and ferrous scrap metal is melted in a foundry furnace. During this process, certain alloying agents are added to ensure proper chemistry. The molten metal is then poured into a foundry mold, typically in the form of sand that has been compacted to produce a cavity of the rough shape of the casting. Once the casting has been poured into the mold and has cooled into a solid, the sand is removed and blasted away – yielding a cast shape. This shape is freed of excess cast iron

²¹ See Declaration of [*Name*], attached at Exhibit III-13.

RANGED DATA

Business Proprietary Information Deleted

(known as gates and risers) that is present in the mold but is not part of the desired shape, and is then prepared for machining into a finished IMTDC component.

(ii) Machining

The iron shape produced by casting is converted to a finished unit of IMTDC through machining operations. Machine tools, drills, and saws grind and reduce the shape to the correct dimensions – creating grooves, teeth, tap holes, and the like during the process. The product may also be subjected to additional finishing operations, such as shot blasting and sanding.

(iii) Finishing

A machined IMTDC product will often be painted, oil coated, or primed in order to prevent the buildup of rust. Finished IMTDC goods may then be packed together in cardboard boxes with inserts and then repacked in to master cartons, packed individually into cardboard boxes, or even placed onto a shipping pallet and strapped to the pallet for those items that are large enough to be placed directly onto a pallet.

b. The Chinese Surrogate

These production processes are [*Normative*]. The production process for IMTDCs is very similar regardless of whether the product is produced in the United States or in China. [*Company*

City, state

Normative

].

RANGED DATA

2. Calculation of Normal Value

To calculate NV, Petitioner first calculated the amount (*i.e.*, consumption rate) of each production input that the Chinese Surrogate used to produce one finished IMTDC unit that is similar or identical to the merchandise offered for sale by the Chinese respondents in the United States during the proposed POI. Petitioner used the Chinese Surrogate's actual consumption rates for all direct material inputs [*inputs*].²³ Petitioner determined the average cost for most of these inputs in the surrogate country, Thailand, using publicly available information that is most contemporaneous with the POI for those production steps that are performed within China. Similarly, Petitioner [*Normal*], and determined the average cost for these inputs in the surrogate country, Thailand, from publicly available information that is most contemporaneous with the proposed POI. Based on this information, Petitioner calculated the Chinese respondents' normal values.

3. Adjustments for Inflation and Exchange Rates

For certain inputs, Petitioner could not obtain cost figures in U.S. dollars or for the period for which Petitioner has cost data. Where an input came from a period preceding the POI, the period for which Petitioner has cost data, Petitioner made adjustments for inflation using the consumer price index for Thailand as reported by the Bureau of Trade and Economic Indices, Ministry of Commerce of the Government of Thailand.²⁴ Specifically, Petitioner divided the index for the period to which the input price pertained by the index for the proposed POI (April 2015 through September 2015).

²³ See *id.*

RANGED DATA

Petitioner calculated the entire cost of production in U.S. Dollars pursuant to Department practice. For input prices denominated in Thai baht or a third country currency, Petitioner converted the price into U.S. Dollars using the simple average of the daily U.S. Dollar – Thai baht exchange rate (or third country exchange rate) for the POI reported on the Federal Reserve’s Internet website.²⁵

4. Adjustments for Freight

In most circumstances, a Chinese producer of IMTDCs must procure materials from sources outside of the company. Consequently, following the Department’s practice, surrogate material input values must include freight expenses incurred in transporting the goods to the producer. Pursuant to the Court of Appeals for the Federal Circuit’s holding in *Sigma Corp. v. United States*, 117 F.3d 1401 (Fed. Cir. 1997), the distance used to calculate freight costs must be limited to the shorter of the distance from the supplier’s factory to the IMTDC factory or the distance from the Chinese respondents’ facilities to the nearest port of exportation for IMTDCs.²⁶

To value freight, Petitioner used rail freight rates reported by the State Railway of Thailand.²⁷ Petitioner utilized rail freight as a conservative estimate of inland freight costs. Petitioner added the calculated freight rate (as demonstration in section II.B.1., *supra*) to the unit weight of each surrogate value input and added the freight cost to each surrogate value to obtain a fully loaded surrogate input cost.

²⁴ See Thai consumer price index, attached at **Exhibit III-14**.

²⁵ See U.S. Dollar – Thai Baht currency exchange rates (Federal Reserve), attached at **Exhibit III-6**.

²⁶ Petitioner notes that this methodology is relevant only where the surrogate value is based upon import statistics. See Issues and Decision Memorandum accompanying *Certain Lined Paper Products from the People’s Republic of China*, 71 Fed. Reg. 53,079 (Dep’t Commerce Sept. 8, 2006) (notice of final deter. of sales at less than fair value, and affirm. critical circumstances, in part) at cmt. 2.

²⁷ See State Railway of Thailand freight rates, attached at **Exhibit III-3**.

5. Production Costs – Direct

Using the methodology described above, Petitioner estimated the cost of production for merchandise produced and exported by the Chinese respondents. See **Exhibit III-15**.

a. Raw materials

Petitioner valued all direct material inputs used to produce IMTDC products using Thai import statistics. Petitioner obtained import data for Thailand from the GTA database. Petitioner used such GTA data for the period April 2015 through August 2015.²⁸ As many of the inputs are reported on a U.S. Dollars per kilogram basis, Petitioner converted the data to a price per pound basis [*Narrative*]. A summary of all surrogate values pertaining to material inputs appears in **Exhibit III-16**, while the source data pertaining to these production costs appear in **Exhibit III-17**. Per the Department's standard methodology, Petitioner deleted from the calculation of surrogate values any import pricing that was sourced from non-market economies (e.g., China, Vietnam, etc.), from countries that have been found to provide generally available export subsidies (e.g., India, Indonesia, etc.), and from countries that are unidentifiable (e.g., "Other countries, NES").

b. Energy

To value electricity and water, Petitioner used Thai electricity rates for various periods as collected and disseminated by the Thai Board of Investment.²⁹

To value natural gas where used, Petitioner utilized data available from GTA pertaining to imports of liquefied natural gas into Thailand.³⁰ As this data was based upon imports of

²⁸ At the time of filing, Thai import data for September 2015 was not yet available.

²⁹ See Electricity and water rates (Thai Board of Investment), attached at **Exhibit III-18**.

³⁰ See Thai imports of natural gas (Global Trade Information Services), attached at **Exhibit III-19**.

liquefied natural gas which are reported on a price per kilogram basis, Petitioner converted the energy content of the gas to a price per cubic foot basis utilizing published conversion tables.³¹

c. Labor

The labor expense incurred in producing a finished IMTDC unit includes both the labor expended in actually processing the finished good (casting, machining, etc.), as well as the labor time required to prepare the machining equipment to produce a “run” of IMTDC products. For example, in producing [*product Company*
Negative].

To value labor, Petitioner utilized quarterly data (the most recent data available) published by Thailand’s National Statistics Office pertaining to wages and benefits earned by Thai workers engaged in the “manufacturing” sector of the Thai economy. The POI-contemporaneous compensation rate appears in Exhibit **III-21**.

6. Production Costs – Other Expenses

Petitioner added all of the total direct manufacturing costs (materials, labor, and energy) to calculate the total cost of goods sold (“COGS”) net of depreciation for IMTDC products.³² Pursuant to the Tariff Act and the Department’s regulations, Petitioner added additional expenses relating to overhead, selling, general and administrative expenses, and profit to calculate a final normal value.

To value these expenses, Petitioner sought publicly available financial statements from Thai entities that are producers of identical or comparable merchandise. Petitioner searched the Bangkok Stock Exchange for companies that were involved in foundry production generally or in

³¹ See Natural gas conversion table, attached at Exhibit **III-20**.

the production of subject merchandise itself. However, it appears that no publicly traded companies in Thailand have these capabilities. Petitioner identified one publicly traded entity that produced metal sprockets for automotive use (which are similar to IMTDCs). However, this entity incurred a substantial operating loss in fiscal year 2014. Petitioner then sought to identify foundry producers or producers of subject merchandise in other surrogate countries – including Indonesia, Colombia, and Mexico. Again, Petitioner was unsuccessful in its efforts.

As the best information available, Petitioner is utilizing the calendar year 2014 financial statements of Tyrolit Thai Diamond Company Limited (“Tyrolit”). Tyrolit is a Thai company that produces industrial equipment including metal sawblades that are manufactured from steel bar or steel plate.³³ As a manufacturer of downstream fabricated metallic goods, Petitioner believes that, at this time, this is the best available alternative source of surrogate financial ratios.

a. Overhead

As noted above, Petitioner obtained information concerning overhead expenses from information published by Tyrolit for the fiscal year 2014. Petitioner calculated an overhead expense ratio based on data in Tyrolit’s annual report. *See Exhibit III-23.* Petitioner then multiplied cost of goods sold to arrive at the total cost of manufacturing (“COM”). *See Exhibit III-15.*

b. Selling, General, and Administrative Costs (“SG&A”)

As the best information available, Petitioner used SG&A expenses as published by Tyrolit for the fiscal year 2014. Petitioner calculated the average SG&A rate based on Tyrolit’s financial data, and then multiplied cost of goods sold plus overhead expenses – COM – by the

³² *See* Cost of Production calculations, attached at **Exhibit III-15.**

SG&A expense ratio to arrive at the total cost of manufacturing (“COP”). *See Exhibit III-15 and Exhibit III-23.*

c. Profit

Petitioner calculated the average profit rate based on Tyrolit’s financial data, and then multiplied the total cost of production by the profit ratio to arrive at the total cost of production (“COP”) plus profit. *See Exhibit III-15 and Exhibit III-23.* This is the best information available to Petitioner at this time.

7. Packing Expenses

The calculation of NV in the NME context must take into account the costs related to the packing of merchandise to be exported to the United States. The costs incurred in packing are added to normal value after a total cost of production has been calculated. As discussed above, IMTDCs may be packed in cardboard boxes or individually on steel pallets in order to ease the shipment.

Petitioner used Thai import statistics to value material inputs used in the packaging and shipment of IMTDCs. Petitioner obtained Thai import data from the Thai Ministry of Commerce, as disseminated directly by the GTA – using the same methodologies employed for the direct material inputs. Petitioner used GTA data for the period April 2015 through August 2015 as this represents the vast majority of the POI.³⁴ The list of materials used to pack and ship subject merchandise appears in **Exhibit III-16** and Petitioner’s calculation of NV appears in **Exhibit III-15**.

³³ See Profile of Tyrolit Thai Diamond Company Ltd., attached at **Exhibit III-22**.

³⁴ At the time of filing, Thai import data for September 2015 was not yet available.

RANGED DATA

D. Normal Value

The calculations described above result in an FOP-based NV for the following observations.³⁵

OBS	Producer/Supplier	Product	Product #	Diameter		UOM	Calculated NV
				Outer	Inner		
US-301	Henan Xinda	[HT	SS			500
US-302	Powermach	[product				

IV. LESS THAN NORMAL VALUE COMPARISON

In calculating the margins of dumping, Petitioner matched each U.S. transaction offer with its respective NV. Petitioner then subtracted the ex-factory U.S. Price from the normal value, and divided the difference by the export price to determine the dumping margin for the U.S. transaction offer. This yielded a transaction-specific dumping margin.³⁶ Petitioner also calculated a weight-averaged margin where more than one offer was made by a given Chinese producer/exporter.

The comparisons demonstrate that Chinese producers/exporters and sold, or offered to sell, the subject merchandise in the United States at prices that are less than normal value. The calculated *ad valorem* dumping margins are as follows:³⁷

OBS	Producer/Supplier	Product	Product #	Transaction-specific Margin	Weight-averaged Margin
US-301	Henan Xinda	[product]	49.81%

³⁵ See Cost of Production calculations, attached at Exhibit III-15.

³⁶ See Calculation of dumping margins, attached at Exhibit III-24.

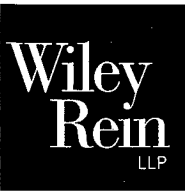
³⁷ See *id.*

US-302	Powermach	[<i>product</i>]	122.42%
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V. CONCLUSION

Petitioner requests that antidumping duties be imposed on imports of Iron Mechanical Transfer Drive Components from the People's Republic of China in an amount sufficient to offset the unfair pricing described above.

RANGED DATA



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October 28, 2015

DOC Inv. Nos. A-122-856, A-570-032, **C-570-031**
USITC Inv. Nos. 701-TA-____-__,
and 731-TA-____-____
Total Pages: 1563
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, 11, 16-17, 20-21, 23-24, 26-27, 30, 32, 34-
36, 38-40, 43, the Exhibit List, and Exhibits I-4 – I-7, I-
14 – I-16, I-20 – I-23

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 Iron Mechanical Transfer Drive Components from
Canada and **the People's Republic of China**

Dear Secretary Pritzker and Secretary Barton:

On behalf of TB Wood's Incorporated ("Petitioner"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain iron medical transfer drive components from Canada and the People's Republic of China (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 Canada and the People's Republic of China is contained in Volumes II and III, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China is contained in Volumes IV.

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 and III; and the narrative portion of Volume IV (which is a public document). 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, and III; and the narrative portion of Volume IV (which is a public document). 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 Petitioner, 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 Petitioner 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 21; and Exhibit I-4.
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)): Exhibits I-4.
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)): Exhibit I-16.

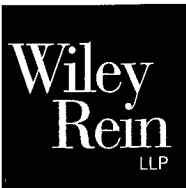
4. *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 3-4, 21, 23-24, 27, 30, 34-35, 38; and Exhibit I-4.
5. *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): Exhibits I-4 – I-5.
6. *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 11, 16-17, 20, 23-24, 26-27, 30, 32, 34, 35-36, 38-40, 43; and Exhibits I-4, I-6 – I-7, I-14 – I-16, and I-20 – I-23.

The single-bracketed business proprietary information in the attached Volume I the 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), Petitioner agrees in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioner, however, reserves 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 Volume IV of the Petitions contains no business proprietary information.



The Honorable Penny S. Pritzker
The Honorable Lisa R. Barton
October 28, 2015
Page 5

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan H. Price", written over a horizontal line.

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DOC Investigation No. C-570-031
Total Pages: 1401
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 IRON MECHANICAL TRANSFER DRIVE COMPONENTS
FROM CANADA AND 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 IV

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

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October 28, 2015

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I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CERTAIN IRON MECHANICAL TRANSFER DRIVE COMPONENTS FROM CHINA

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”) on imported merchandise from a “Subsidies Agreement” country, where (1) producers/exporters of that merchandise benefit from countervailable subsidies, and (2) the imported merchandise materially injures or threatens to injure an industry in the United States. As a member of the World Trade Organization (“WTO”), the People’s Republic of China (“China”) is a “Subsidies Agreement” country under 19 U.S.C. § 1677(8)(A). Petitioner hereby alleges that the Government of China (“GOC”) maintains a complex system of economic programs and policies that have conferred, and continue to confer, massive countervailable subsidies on Chinese producers of certain iron mechanical transfer drive components (“IMTDC”), which are materially injuring the U.S. IMTDC industry.

Petitioner notes at the outset that the U.S. CVD laws apply to China. Indeed, the Department has unambiguously stated that it has “legal authority to apply the CVD law to China. Congress granted the Department the general authority to conduct CVD investigations ... In none of these provisions is the granting of this authority limited only to market economies.”¹

¹ Issues and Decision Memorandum accompanying *Coated Free Sheet Paper from the People’s Republic of China*, 72 Fed. Reg. 60,645 (Dep’t Commerce Oct. 25, 2007) (final affirm. countervailing duty determ.) at 19-20 (“Coated Free Sheet from China I&D Memo”). See *Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China*, 72 Fed. Reg. 63,875, 63,880 (Dep’t Commerce Nov. 13, 2007) (prelim. affirm. countervailing duty determ.; prelim. affirm. determ. of critical circumstances; and alignment of final countervailing duty determ. with final antidumping duty determ.) (“{W}e... do not agree with the GOC that we are precluded from investigating subsidies...”); see also Issues and Decision Memorandum accompanying *Wire Decking from the People’s Republic of China*, 75 Fed. Reg. 32,902 (Dep’t Commerce June 10, 2010) (final affirm. countervailing duty determ.) at 38-43 (“Wire Decking from China I&D Memo”); Issues and Decision Memorandum accompanying *Certain Oil Country Tubular Goods from the People’s Republic of China*, 74 Fed. Reg. 64,045 (Dep’t Commerce Dec. 7, 2009) (final affirm. countervailing duty determ., final negative critical circumstances determ.) at cmt. 1 (“OCTG from China I&D Memo”).

Accordingly, Petitioner requests that the Department apply U.S. CVD laws to the policies and programs outlined in this petition.

II. NAMES AND ADDRESSES OF CHINESE IMTDC PRODUCERS BENEFITING FROM SUBSIDY PROGRAMS

At **Exhibit I-11**, Petitioner has identified the names and addresses of IMTDC producers or exporters in China believed to have benefited from countervailable subsidies and whose products are believed to have been exported to the United States.

III. PRODUCT AND INDUSTRY BACKGROUND

A. The Product

As described further in Volume I of this Petition,² the products covered by these investigations are iron mechanical transfer drive components that transmit power within machinery. Examples of the types of machines with IMTDC include conveyers and other material handling equipment. The covered IMTDC are manufactured of iron, inclusive of white iron, grey iron, and ductile iron, and consist of items commonly identified as sheaves, pulleys, synchronous sheaves, and bushings.

B. Chinese Economic Policies Translate into Subsidies at the Local, National, and Provincial Level That Confer Benefit to Chinese IMTDC Producers

China maintains extensive industrial policies aimed at furthering China's economic growth and development. These industrial policies culminate in subsidy programs that affect every aspect of the Chinese economy, including the production and export of IMTDC.

As an initial matter, subject IMTDC production benefits by reason of industrial policies aimed at iron, and the production and export of iron-consuming products. Indeed, over the past

² See Volume I of this Petition.

three decades, China's iron industry has expanded significantly. As is the case with steel,³ China's support for its iron and iron-consuming industries is significant and pervasive. This support is manifested through industrial policies that call for state control and direction over iron production, for increasing the quality and variety of iron products produced in China, and encouraging iron-consuming industries.⁴ In fact, China's 2005 "Steel and Iron Industry Development Policy" calls for supporting the needs of downstream consumers of iron as well as increasing the development of China's machinery manufacturing industries.⁵ Likewise, the GOC has issued "decisions" that call for all levels of government to provide benefits not only to iron producers, but also to producers of downstream goods.⁶ Similarly, the GOC has issued "catalogues" that list the industries that are to be treated favorably with respect to government investment decisions and projects at all levels. These "catalogues" specifically cover manufacturing that consumes iron.⁷

³ See, e.g., Issues and Decision Memorandum accompanying *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China*, 80 Fed. Reg. 51,775 (Dep't Commerce Aug 26, 2015) (final affirm. countervailing duty determ.) ("Boltless Shelving from China I&D Memo"); Issues and Decision Memorandum accompanying *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China*, 79 Fed. Reg. 68,858 (Dep't Commerce Nov. 19, 2014) (final affirm. countervailing duty determ. and final affirm. critical circumstances determ.) ("Wire Rod from China I&D Memo"); Issues and Decision Memorandum accompanying *Grain-Oriented Electrical Steel*, 79 Fed. Reg. 59,221 (Dep't Commerce Oct. 1, 2014) (final affirm. countervailing duty determ.).

⁴ See, e.g., GOC's Tenth Five Year Plan for National Economic and Social Development, attached at **Exhibit IV-1** (calling for continued state control over strategic enterprises); U.S. Trade Representative, National Trade Estimate (2013) at 92, excerpts attached at **Exhibit IV-2** (noting that China's State-Owned Assets Supervision and Administration Commission ("SASAC") has identified the iron and steel industry as a "pillar" and "backbone" industry).

⁵ See Government of the People's Republic of China, NDRC, *Policies for Development of Iron & Steel Industry* (July 8, 2005) attached at **Exhibit IV-3** (calling for the iron and steel industry to be developed to satisfy "the development requirements of most industries in the national economy such as . . . machinery . . .").

⁶ See Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment," No. 40 (2005), attached at **Exhibit IV-4**.

⁷ See Directory Catalogue on Readjustment of Industrial Structure (Version 2005), China Trade in Services, attached at **Exhibit IV-5**; Catalogue for the Guidance of Foreign Investment Industries (Amended 2011), Ministry of Commerce of the People's Republic of China, attached at **Exhibit IV-6**.

Nor is the support that benefits IMTDC production and export limited to the GOC's own efforts. Rather, through its industrial policies, the GOC directs provincial and local governments to support encouraged industries, including those that produce and consume iron.⁸ As such, provincial five year plans, such as that of Henan Province, where many of the producers identified in **Exhibit I-11** are located, call for supporting the production of iron, and the industrial manufacturing of iron-using products.⁹

This support for the production and export of iron-consuming goods, including IMTDC, manifests itself in a complex and overlapping web of countervailable subsidy programs. These include direct grants, policy lending, specialized tax breaks, export support, and the provision of inputs at less than adequate remuneration, as detailed further herein. Moreover, pervasive government ownership and/or control over iron producers provides all levels of government in China with additional leverage to enable the provision of subsidies to iron-consuming manufacturers, such as IMTDC producers, and exporters of such product.

China's ability to significantly increase its exports of IMTDC is based on its position as the world's largest producer of iron. China has reached this position through government ownership, planned government intervention, and massive subsidies. The effects of this control over the iron industry are not limited to iron-producing companies; it also results in pervasive

⁸ For example, China's Tenth Five Year Plan for the Metallurgical Industry divided China into five distinct metallurgical regions, designating a core steel enterprise for each, and calling on provincial and local governments to "study" tax changes that would advantage metallurgical products. *See* Tenth Five-Year Plan for the Metallurgical Industry at Articles 3.3.1 and 5.4, attached at **Exhibit IV-7**. Likewise, the Twelfth Five Year plan calls for central, provincial and local entities to coordinate with respect to support of the iron and iron-consuming industries, with specific mention of coordination on fiscal policy, taxation policy, finance policy, trade policy, land policy, energy saving policy, and environmental protection policy. *See* Twelfth Five Year Plan (2011-2015) at 1-8, attached at **Exhibit IV-8**.

⁹ Henan Province Iron and Steel Industry Adjustment Revitalization Plan, Henan Provincial People's Government, Yu Zheng No. 71 (Sept. 5, 2009), attached at **Exhibit IV-9**.

subsidization and influence, at all levels of government, over downstream iron product manufacturing, inclusive of the manufacturing and export of IMTDC.

IV. EFFORTS TO OBTAIN INFORMATION

Petitioner has conducted extensive research to document the subsidies that the GOC and Chinese provincial and local authorities provide to the IMTDC industry in China. This research has included a review of the following sources: the financial statements of Chinese IMTDC producers, where available; company websites; market and industry research; news sources; WTO, U.S. government, and Chinese government reports; and recent Department CVD investigations with respect to China.

Much of the information that would allow Petitioner to determine with certainty the type and amount of subsidies received by each of China's IMTDC producers, however, is difficult or impossible to obtain. The United States Trade Representative ("USTR") noted in its 2013 National Trade Estimate Report that:

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.¹⁰

In addition to this documented lack of transparency, the GOC has not been forthcoming in disclosing the nature and extent of the government subsidies it provides, despite its obligations to do so under the WTO Agreement on Subsidies and Countervailing Measures. In fact, China failed to make any of the subsidy notifications required of it as a WTO member until April 2006, and has only made a single notification since then (in October of 2011), despite repeated requests for notification by the United States and other WTO Member countries. Moreover, both the

¹⁰ U.S. Trade Representative, National Trade Estimate (2013) at 79, excerpts attached at **Exhibit IV-2**; see WTO, *Committee on Subsidies and Countervailing Measures: Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/53 (Oct. 19, 2015), attached at **Exhibit IV-10** (identifying approximately 60 specific subsidies for which China failed to submit subsidy notifications).

April 2006 and October 2011 subsidies notifications were deficient in numerous respects. For instance, the notification failed to include a discussion of major subsidy programs provided by the government, including grants, policy lending by state-owned banks, and provision of goods at less than adequate remuneration. China also failed to report subsidies provided by any level of government below the central government.¹¹ As a result, the United States has repeatedly requested that China timely supply its notifications.¹²

Because of China's failure to comply with its WTO requirements and other difficulties inherent in documenting subsidization, Petitioner concurs with the Department that "there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs."¹³ The most accurate and thorough manner in which the type and amount of subsidies may be determined is through administrative investigation and through the issuance of preliminary and final administrative determinations.¹⁴

Despite these difficulties in obtaining information, Petitioner investigated and is providing information demonstrating that the GOC and provincial/local government have granted, and continue to grant, massive amounts of financial assistance to China's IMTDC producers – assistance which constitutes countervailable subsidies under Section 771 of the Tariff Act of 1930 (the "Act").

¹¹ See, e.g., WTO, *Committee on Subsidies and Countervailing Measures: Questions Posed by the United States Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/43 (July 23, 2012), attached at **Exhibit IV-11**; WTO, *Committee on Subsidies and Countervailing Measures: Questions from the United States Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/19 (July 26, 2006), attached at **Exhibit IV-12**.

¹² See, e.g., WTO, *Committee on Subsidies and Countervailing Measures: Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/51 (Oct. 21, 2014), attached at **Exhibit IV-13**; WTO, *Committee on Subsidies and Countervailing Measures - Subsidies – Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/42 (Oct. 11, 2011), attached at **Exhibit IV-14**.

¹³ *Prestressed Concrete Steel Wire Strand from India*, 68 Fed. Reg. 40,629, 40,632 (Dep't Commerce July 8, 2003) (notice of prelim. affirm. countervailing duty determ.).

¹⁴ See *id.*

V. THE DATE FROM WHICH THE DEPARTMENT SHOULD MEASURE SUBSIDIES

For non-recurring subsidies, the Department should measure subsidies based on a 14-year allocation period in accordance with the guidelines of the Internal Revenue Service (“IRS”) for depreciating business or income-producing property placed into service after 1986.¹⁵ In particular, the IRS assigns an average useful life (“AUL”) of 14 years to assets that fall within the scope of the manufacture of foundry products.¹⁶ This classification would appear to include IMTDC. Assuming that the period of investigation (“POI”) is calendar year 2014, Consistent with 19 C.F.R. § 351.524(b), Petitioner respectfully requests that the Department investigate any allocable, non-recurring subsidies granted between 2000 and 2014, and any outstanding loans or recurring subsidies provided during the presumptive POI.

VI. SUBSIDY PROGRAMS

The GOC grants extensive subsidies to its producers of IMTDC, including the following: cash grants; discounted inputs such as pig iron, ferrous scrap, land, water, and electricity; preferential loans and directed credit; special tax rebates and forgiveness for unpaid taxes; and VAT and tariff exemptions. Publicly available evidence indicates that these programs constitute countervailable subsidies under Section 771 of the Act because they are financial contributions, provide a benefit to IMTDC producers, and are specific. Indeed, in its recent investigations involving China, including *Wire Rod from China*, *Boltless Steel Shelves*, *Drawn Stainless Steel Sinks*, *Utility Scale Wind Towers*, *Crystalline Silicon Photovoltaic Cells*, *High Pressure Steel*

¹⁵ See *How to Depreciate Property*, Dep’t Treasury, Internal Revenue Service, Pub. 946 (2014) at 8, excerpts attached at **Exhibit IV-15**.

¹⁶ *Id.* at 104.

Cylinders, and *Aluminum Extrusions*,¹⁷ the Department has investigated many of these subsidy programs and found them to be countervailable.

Provided below is a description of the various countervailable subsidies available to Chinese IMTDC producers.

A. Preferential Loans and Interest Rates

1. Policy Loans to the IMTDC Industry

a. The GOC Provides Policy Loans to the IMTDC Industry

The GOC directly subsidizes its IMTDC industry through policy loans made pursuant to China's numerous central and provincial government policies to develop and modernize the Chinese iron industry and the use of iron in manufacturing. According to Shuoguo Chang, Deputy President of China Development Bank, Guangdong Branch, "{a}s China's largest foreign investment and financing bank, China Development Bank has been implementing national development strategy and providing strong support to strategic plans and social development of the nation."¹⁸

The provision of preferential financing is possible because China's banking system is dominated by state policy banks and state-owned commercial banks ("SOCBs"). Traditionally,

¹⁷ See, e.g., *Wire Rod from China* I&D Memo; *Boltless Shelving from China* I&D Memo; Issues and Decision Memorandum accompanying *Drawn Stainless Steel Sinks from the People's Republic of China*, 78 Fed. Reg. 13,017 (Dep't Commerce Feb. 26, 2013) (final affirm. countervailing duty determ.) ("Stainless Steel Sinks from China I&D Memo"); Issues and Decision Memorandum accompanying *Utility Scale Wind Towers from the People's Republic of China*, 77 Fed. Reg. 75,992 (Dep't Commerce Dec. 26, 2012) (final affirm. countervailing duty determ.) ("Wind Towers from China I&D Memo"); Issues and Decision Memorandum accompanying *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China*, 77 Fed. Reg. 63,788 (Dep't Commerce Oct. 17, 2012) (final affirm. countervailing duty determ. and final affirm. critical circumstances determ.) ("CSPV from China I&D Memo"); Issues and Decision Memorandum accompanying *High Pressure Cylinders from the People's Republic of China*, 77 Fed. Reg. 26,738 (Dep't Commerce May 7, 2012) (final affirm. countervailing duty determ.) ("Steel Cylinders I&D Memo"); Issues and Decision Memorandum accompanying *Aluminum Extrusions from the People's Republic of China*, 76 Fed. Reg. 18,521 (Dep't Commerce Apr. 4, 2011) (final affirm. countervailing duty determ.) ("Aluminum Extrusions from China I&D Memo").

¹⁸ Mark Osborne, *JinkoSolar secures US\$1 billion, five-year finance deal from China Development Bank*, PVTECH (Dec. 7, 2012), attached at **Exhibit IV-16**.

these banks have made loans based on political directives from the central or provincial governments, rather than creditworthiness or other market-based factors.¹⁹ Indeed, the GOC's Commercial Banking Law explicitly requires that banks in China provide loans in accordance with "the guidance of the industrial policies of the state."²⁰ These "policy loans" have generally gone to state-owned enterprises ("SOEs") and to industries favored by the government, which include iron-consuming industries, on preferential, non-commercial terms.²¹

Chinese provincial and local governments have also established policies, in line with the central government's goal of promoting the iron industry, which provide for preferential lending and policy loans to iron-consuming industries. For example, the Henan Province Iron & Steel Industry Adjustment Revitalization Plan encourages the development of iron-consuming "equipment industry{ies}" to promote the consumption of iron products.²² In conjunction with expanding and supporting the iron industry, the Henan Plan calls for "strengthen{ing} loan support to key enterprises and advantaged products."²³ Likewise, the Shandong Province Iron and Steel Industry Adjustment Revitalization Plan calls for the provincial and all local governments to support strategic alliances between iron producers and downstream product

¹⁹ See Junheng Li, *China's So-Called 'Commercial' Banks Are Anything But*, *Forbes* (June 28, 2012), attached at **Exhibit IV-17** ("The country's so-called 'commercial' banks are by no means commercial at all—they lend at the behest of the state and local governments, and doing so effectively gives them control over the economy's capital allocation and pricing. . . Banks immediately poured money into . . . capital intensive industries, like automakers and steel mills, {which} expanded production capacity beyond their respective industry's expected demand for years to come"); see also *Huge Debts Send China's Steel Industry to Verge of Bankruptcy*, *China Times* (Aug. 27, 2013), attached at **Exhibit IV-18** ("Eighty six of China's major medium-and-large steel enterprises incurred more than 3 trillion Yuan (US\$486.4 billion) in total liabilities as of June {2013}").

²⁰ Law of the People's Republic of China on Commercial Banks (Dec. 27, 2003) at Art. 34, attached at **Exhibit IV-19**.

²¹ See, e.g., *Certain Steel Wheels From the People's Republic of China*, 76 Fed. Reg. 55,012, 55,019-21 (Dep't Commerce Sept. 6, 2011) (prelim. affirm. countervailing duty determ. and alignment of final countervailing duty determ. with final antidumping duty determ.).

²² Henan Province Iron and Steel Industry Adjustment Revitalization Plan, Henan Provincial People's Government, Yu Zheng No. 71 (Sept. 5, 2009), attached at **Exhibit IV-9**.

²³ *Id.*

manufacturers and to increase their use of iron manufactured in the province.²⁴ It further calls for all levels of government to “expand financing channels” by “increase{ing} support for lending to priority enterprises and priority product.”²⁵

While Petitioner has been unable to locate publicly available information identifying IMTDC producers that have received benefits through preferential lending and policy loans, given that a number of IMTDC producers are located in provinces that provide preferential lending and policy loans, including Henan Zhiyuan Machinery Sprocket Co., Ltd., Qingdao Dazheng Jin Hao International Trade Co., and Yantai Henry Hardware Co., Ltd., they likely received subsidies under this program during the POI. Consequently, the Department should investigate this program.

b. The GOC’s Provision of Policy Loans to the IMTDC Industry Constitute Countervailable Subsidies

i. Financial Contribution

Policy loans constitute a financial contribution in the form of a direct transfer of funds by the Chinese government within the meaning of Section 771(5)(D)(i) of the Act. It is the Department’s policy to consider loans provided by government policy banks or SOCBs as direct loans from the government, and thus direct financial contributions under the Act.²⁶

ii. Benefit

These loans are administered on preferential, non-commercial terms, which confers a benefit to the recipients within the meaning of Section 771(5)(E)(ii) of the Act that is equal to the

²⁴ Shandong Province Iron and Steel Industry Adjustment Revitalization Plan, Shandong Provincial People’s Government, Lu Zheng Fa No. 45 (Apr. 21, 2009), attached at **Exhibit IV-20**.

²⁵ *Id.*

²⁶ See Issues and Decision Memorandum accompanying *Oil Country Tubular Goods from the People’s Republic of China*, 78 Fed. Reg. 49,475 (Dep’t Commerce Aug. 14, 2013) (final results of countervailing duty admin. rev.; 2011) at 18; Coated Free Sheet from China I&D Memo at 49, 54.

difference between what the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan. In addition, pursuant to China's Accession Protocol, the Department may "use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks."²⁷ Indeed, as the Department has found, because the Chinese government's "intervention in the banking sector creates significant distortions, even restricting and influencing private and foreign banks within {China}... it is appropriate to use an external benchmark" to calculate the comparable commercial loan.²⁸

iii. Specificity

The Chinese government's preferential lending/policy loans are granted on a specific basis for purposes of Section 771(5A)(D) of the Act. China's state-owned banks have generally directed policy loans to industries favored by the government, including industries such as the IMTDC industry. Policy loans to Chinese IMTDC producers are specific in law because the Chinese central and provincial government has policies in place to encourage and support the growth of the iron industry, which encourage the provision of preferential funding to iron-consuming industries, including the IMTDC industry. In addition, as explained in China's WTO Accession Protocol, loans from Chinese policy banks are by nature discretionary, and therefore specific.²⁹

²⁷ See WTO, *Accession of the People's Republic of China*, WT/L/432 (Nov. 23, 2001), ¶115(b) ("China's WTO Accession Protocol"), attached at **Exhibit IV-21**.

²⁸ Coated Free Sheet from China I&D Memo at 5-6.

²⁹ See China's WTO Accession Protocol at Annex 5A ¶IX, attached at **Exhibit IV-21**.

2. Treasury Bond Loans or Grants

a. The GOC Provides Treasury Bond Loans or Grants to the IMTDC Industry

The GOC makes an annual announcement that certain projects will receive financial support through Treasury bond proceeds. In *Pre-Stressed Concrete Steel Wire Strand*, the Department preliminarily found this program, also referred to as the Resource Saving and Environmental Protection Program, to have conferred a countervailable subsidy.³⁰ Although Petitioner has been unable to locate any publicly available financial statements for any IMTDC producers regarding their receipt of benefits under this program, given that the iron-consuming industries are favored under Chinese economic policy and that other favored industries, such as the steel industry, have previously received benefits under this program,³¹ Petitioner reasonably believes that one or more IMTDC producers received benefits under this program during the POI. Accordingly, the Department should investigate this program.

a. The GOC's Provision of Treasury Bond Loans or Grants to the IMTDC Industry Constitute Countervailable Subsidies

i. Financial Contribution

Loans or grants under this program constitute a financial contribution under Section 771 (5)(D)(i) of the Act.

ii. Benefit

Loans provide a benefit to the extent that they are provided on terms better than those available from market sources, and grants provide a benefit in the amount of the grant.

³⁰ *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China*, 74 Fed. Reg. 56,576, 56,590 (Dep't Commerce Nov. 2, 2009) (prelim. affirm. countervailing duty determ.). The Department, however, found that the program had not provided benefits above 0.005 percent ad valorem in that particular case.

³¹ *See id.*

iii. Specificity

The program is *de jure* specific under Section 771(5A)(D)(i) of the Act, because the central government designates projects and enterprises that will benefit from this program, and *de facto* specific under Section 771(5A)(D)(iii)(IV) to the extent that GOC officials exercise discretion in selecting beneficiaries.

3. Preferential Loans for Key Projects and Technologies

a. The GOC Provides Preferential Loans for Key Projects and Technologies to the IMTDC Industry

The Department has previously investigated the GOC's provision of preferential loans for the development and improvement of key projects and technologies. Information reasonably available to Petitioner indicates that the GOC has also provided the Chinese IMTDC industry with significant subsidies in the form of such preferential loans. Specifically, in 2006, the GOC issued the S&T Development Plan (2006-2007),³² which 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 definition and implementation of Chinese industry- and product-standards."³³ The guidelines for implementation of the S&T Development Plan, which are issued by the GOC's Banking Regulatory Commission, direct China's state-owned policy banks to provide preferential loans to

³² European Confederation of Iron and Steel Industries, *The State-Business Nexus in China's Steel Industry – Chinese Market Distortions in Domestic and International Perspective* (Jan. 2009) at 67, attached at **Exhibit IV-22**.

³³ *Id.*

“high-tech industrialization projects, projects on digestion and absorption of brought-in technologies, hi-tech export projects, and so on.”³⁴

A number of IMTDC producers appear to be eligible for benefits under this program. Specifically, Ningbo Blue Machines Co., Ltd. is located in a Hi-Tech Zone and Ningbo Fulong Synchronous Belt Co. Ltd. has been designated as a “hi-tech enterprise.”³⁵ Accordingly, it is likely that one or more IMTDC producers received benefits under this program, which should be investigated.

b. The GOC’s Provision of Preferential Loans for Key Projects and Technologies to the IMTDC Industry

i. Financial Contribution

Loans or grants under this program constitute a financial contribution under Section 771 (5)(D)(i) of the Act.

ii. Benefit

Loans provide a benefit under Section 771(5)(E)(ii) of the Act to the extent that they are provided on terms better than those available from market sources, and grants provide a benefit in the amount of the grant.

iii. 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. Additionally, 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, such that the

³⁴ China Banking Regulatory Commission, Notice of China’s 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 I-7, attached at **Exhibit IV-23**.

³⁵ Ningbo Blue Machines Co., Ltd. website excerpt, attached at **Exhibit IV-24**; Ningbo Fulong Synchronous Belt Co. Ltd. website excerpts, attached at **Exhibit IV-25**.

provision of preferential loans under this program is also specific pursuant to Section 771(5A)(D)(iii)(I) of the Act.

4. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program

a. The GOC Provides Preferential Loans and Interest Subsidies to IMTDC Producers Through the Northeast Revitalization Program

In 2003, the GOC established the Northeast Revitalization Program to revive the Northeast Region, which consists of the “old industrial base” of Dalian City and China’s three Northeast provinces – Liaoning, Jilin, and Heilongjiang.³⁶ Loans provided under this program are intended to provide benefits to businesses located in the Region. Specifically, 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.”³⁷ To implement this program, the GOC established the Northeast Revitalization Bank (“NRB”), whose purpose it 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.” The NRB is controlled by China’s State Council.³⁸

In its comments submitted as part of the WTO Transitional Review Mechanism on China’s WTO Accession, the United States raised concerns that the benefits provided under this

³⁶ *China’s Old Industrial Base Eyes Bright Future with Ambitious Plan*, People’s Online Daily (Feb. 27, 2008), attached at **Exhibit IV-26**.

³⁷ 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 at **Exhibit IV-27**.

³⁸ Wu Yong, *New Bank Set to Revitalize Northeast China*, China Daily (May 31, 2004), attached at **Exhibit IV-28**.

program are significant, including RMB 5 billion in export credits from the Dalian Branch of the Export-Import Bank of China for companies located in the region. Furthermore, since November 2003, “low-cost credit provided by the bank” is reported to have saved regional companies RMB 150 million.³⁹

The Department has previously investigated loans and interest subsidies provided under this program, finding them to be countervailable.⁴⁰ Given that WOT Parts & Machinery Co. Ltd., among others, is located in the Northeast Region,⁴¹ Petitioner reasonably believes that one or more IMTDC producers received benefits under this program. As it has done in prior cases, the Department should investigate this program here.

b. Loans and Interest Subsidies Provided to IMTDC Producers Through the Northeast Revitalization Program

i. Financial Contribution

The GOC’s provision of loans and interest subsidies through its state-owned and -controlled banks constitutes a direct transfer of funds under Section 771(D)(i) of the Act.

ii. 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.

³⁹ 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 at **Exhibit IV-27**.

⁴⁰ See, e.g., Issues and Decision Memorandum accompanying *Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China*, 73 Fed. Reg. 70,961 (Dep’t Commerce Nov. 24, 2008) (final affirm. countervailing duty determ.) at 20-21 (“Welded Line Pipe from China I&D Memo”).

⁴¹ See WOT Parts & Machinery Co. Ltd. website excerpt, attached at **Exhibit IV-29**.

iii. 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. Additionally, the loan and interest subsidies are specific under Section 771(5A)(D)(i) of the Act because beneficiaries under the program are limited to certain specific enterprises and industries, such as those involving iron and iron-consuming industries.

B. Grant Programs

1. Foreign Trade Development Fund Grants

a. The GOC Provides Grants to IMTDC Producers Through the Foreign Trade Development Fund

The Department has previously investigated and countervailed the GOC's provision of grants under the Foreign Trade Development Fund.⁴² Pursuant to this program, the GOC provides grants to support projects undertaken by exporting companies 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."⁴³ Exporting companies that are located in the Northeast Region are eligible to receive benefits under this program.⁴⁴ Given that WOT Parts & Machinery Co. Ltd. is located in the Northeast Region of China, and exports 80 to 90

⁴² See, e.g., Issues and Decision Memorandum accompanying *Calcium Hypochlorite from the People's Republic of China*, 79 Fed. Reg. 74,064 (Dep't Commerce Dec. 15, 2014) (final affirm. countervailing duty determ.) at 17 ("Calcium Hypochlorite I&D Memo"); *Welded Line Pipe from China* I&D Memo at 20, n.16.

⁴³ *Welded Line Pipe from China* I&D Memo at 20.

⁴⁴ *Id.* at 21.

percent of its production, one or more IMTDC producers likely received benefits under this program during the POI.⁴⁵

b. Grants Provided to IMTDC Producers Through the Foreign Trade Development Fund Constitute Countervailable Subsidies

i. Financial Contribution

The Department has previously found that grants provided under this program constitute a financial contribution under Section 771(5)(D)(i) of the Act.⁴⁶ Under this national program, grants are provided to firms that have annual exports of \$1,000,000 to \$5,000,000.⁴⁷ Given the large number of IMTDC producers in China, as well as the increasing exports of Chinese IMTDC to the United States, multiple Chinese IMTDC producers likely received benefits under this program.

ii. Benefit

This program provides a benefit in the form of a grant under Section 771(5)(E) of the Act.⁴⁸

iii. Specificity

This program is contingent upon exports and is therefore specific under Sections 771(5A)(A) and (B) of the Act.⁴⁹

⁴⁵ Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**; WOT Parts & Machinery Co. Ltd. website excerpt, attached at **Exhibit IV-29**; WOT Parts & Machinery Co. Ltd.: Company Profile, ecplaza.com, attached at **Exhibit IV-30**.

⁴⁶ Welded Line Pipe from China I&D Memo at 20-21.

⁴⁷ See, e.g., Calcium Hypochlorite I&D Memo at 17.

⁴⁸ Welded Line Pipe from China I&D Memo at 21.

⁴⁹ *Id.*

2. Export Assistance Grants

a. The GOC Provides Export Assistance Grants to IMTDC Producers

The Department has previously investigated and countervailed the GOC's provision of export assistance grants to Chinese companies.⁵⁰ As the Department concluded in its investigation of *Galvanized Steel Wire from China*, Chinese companies receive Export Assistance Grants to assist in the development of export markets or to recognize export performance.⁵¹ Because IMTDC producers are heavily export-oriented, as it has done in prior cases, the Department should investigate the provision of subsidies under this program to IMTDC producers.

b. The GOC's Provision of Export Assistance Grants to IMTDC Producers Constitutes Countervailable Subsidies

i. Financial Contribution

Consistent with its finding in prior cases, export assistance grants are financial contributions from the GOC under Section 771(5)(D)(i) of the Act.⁵²

ii. 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).⁵³

⁵⁰ See Issues and Decision Memorandum accompanying *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China*, 75 Fed. 57,444 (Dep't Commerce Sept. 21, 2010) (final affirm. countervailing duty determ., final affirm. critical circumstances determ.) at 36 ("Seamless Pipe from China I&D Memo"); Issues and Decision Memorandum accompanying *Galvanized Steel Wire from the People's Republic of China*, 77 Fed. Reg. 17,418 (Dep't Commerce Mar. 26, 2012) (final affirm. countervailing duty determ.) at 17-18 ("Galvanized Steel Wire from China I&D Memo"); Issues and Decision Memorandum Accompanying *Certain Steel Wheels from the People's Republic of China*, 77 Fed. Reg. 17,017 (Dep't Commerce Mar. 23, 2012) (final affirm. countervailing duty determ., final affirm. critical circumstances determ.) at 32 (referencing receipt of various local export assistance grants) ("Steel Wheels from China I&D Memo").

⁵¹ *Galvanized Steel Wire from China I&D Memo* at 17-18.

⁵² See *id.*

⁵³ *Id.* at 17.

iii. Specificity

Export assistance grants are contingent upon export performance and, therefore, are specific under Sections 771(5A)(A) and (B) of the Act.⁵⁴

3. Export Interest Subsidies

a. The GOC Provides Export Interest Subsidies to IMTDC Producers

In prior cases, the Department has investigated and countervailed the provision of export interest subsidies by provincial governments in China, including Guangdong, Zhejiang, and Liaoning Provinces.⁵⁵ For instance, in *Welded Line Pipe from China*, the Department's investigation was initially concentrated on programs implemented by the governments of Guangdong and Zhejiang Provinces.⁵⁶ However, during the course of its investigation, the Department discovered that Liaoning Province also provided export interest subsidies to the two mandatory respondents, concluding that the Liaoning Program was countervailable and that the mandatory respondents had each benefitted from export interest subsidies.⁵⁷ These benefits typically take the form of assistance in paying interest on bank loans.⁵⁸

Given that several IMTDC producers, including WOT Parts & Machinery, Ningbo Fulong Synchronous Belt Co., Ltd., Hangzhou Xingda Machinery Co., Ltd., Ningbo Blue Machines Co., Ltd., Shenzhen Derui Sourcing Co., Ltd., and Shengzhou Xinglong Machinery, are located in one or more of these provinces, Petitioner reasonably believes that IMTDC

⁵⁴ *Id.*

⁵⁵ See *Seamless Pipe from China* I&D Memo at 36; *Galvanized Steel Wire from China* I&D Memo at 22; *Welded Line Pipe from China* I&D Memo at 22-23.

⁵⁶ Initiation Checklist, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China* (DOC Case. No. C-570-936) (Apr. 23, 2008) (PUBLIC VERSION) at 24-25, excerpts attached at **Exhibit IV-31**.

⁵⁷ *Welded Pipe from China* I&D Memo at 22-23; see also Department of Finance of Liaoning Province, Provisional Administrative Measures on Hi-Tech Products and Equipment Manufacturing Products Export Financial Assistance of Liaoning Province (Liaocaiqi 2004 No. 671) (Dec. 16, 2004), attached at **Exhibit IV-32**.

⁵⁸ See *Welded Line Pipe from China* I&D Memo at 22-23.

producers received subsidies under this program during the POI. Accordingly, as it did in *Welded Line Pipe from China*, and more recently in *Oil Country Tubes from China*, the Department should investigate this program here.⁵⁹

b. The GOC's Provision of Export Interest Subsidies to IMTDC Producers Constitutes Countervailable Subsidies

i. 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.⁶⁰

ii. 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.⁶¹

iii. Specificity

Consistent with the Department's prior findings, the receipt of export interest subsidies is contingent upon export performance.⁶² As a result, this program is specific within the meaning of Sections 771(5A)(A) and (B) of the Act.

⁵⁹ Initiation Checklist, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China* (DOC Case No. C-570-936) (Apr. 23, 2008) (PUBLIC VERSION) at 24-25, excerpts attached at **Exhibit IV-31**; Initiation Checklist, *Certain Oil Country Tubular Goods from the People's Republic of China* (DOC Case No. C-570-944) (Apr. 30, 2009) (PUBLIC VERSION) at 50, excerpts attached at **Exhibit IV-33**.

⁶⁰ Welded Line Pipe from China I&D Memo at 23.

⁶¹ *Id.*

⁶² *Id.*

4. Subsidies for Development of “Famous Brands” and China World Top Brands

a. The GOC Provides Grants to IMTDC Producers Through the Famous Brands and China World Top Brands Programs

The General Administration of Quality Supervision, Inspection and Quarantine of the People’s Republic of China (“AQSIQ”), a ministerial administrative body directly under the State Council, is responsible for the organization as well as implementation of state measures and policies on “the promotion . . . strategy of Famous Brand Names.”⁶³ In 1992, the GOC initiated the Famous Brands Program to increase exports.⁶⁴ As USTR has summarized, the Famous Brands and China World Top Brands 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.”⁶⁵ USTR has also stated that because these subsidies are explicitly tied to exports, they constitute prohibited subsidies under the WTO Agreement on Subsidies and Countervailing Measures.⁶⁶ AQSIQ released a “Directory Catalogue” to evaluate “Famous Brands” under the program.⁶⁷ In prior cases, the Department has determined that famous brand awards provide countervailable subsidies.⁶⁸

⁶³ *General Administration of Quality Supervision, Inspection and Quarantine of the People’s Republic of China*, IP Channel, (Feb. 9, 2010), attached at **Exhibit IV-34**.

⁶⁴ *See Opinions about Expeditious Implementation of Famous Brand Strategy of General Administration of Quality Supervision, Inspection and Quarantine of The People’s Republic of China* (June 26, 2006), attached at **Exhibit IV-35**.

⁶⁵ *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives*, 74 Fed. Reg. 7,494 (USTR Feb. 17, 2009) (notice; request for comment).

⁶⁶ *See id.*, 74 Fed. Reg. at 7,496.

⁶⁷ *See China Top Brand Strategy Development Report* (Dec. 2006), attached at **Exhibit IV-36**.

⁶⁸ *See, e.g.*, Issues and Decision Memorandum accompanying *Certain Frozen Warmwater Shrimp from the People’s Republic of China*, 78 Fed. Reg. 50,391 (Dep’t Commerce Aug. 19, 2013) (final affirm. countervailing duty determ.) at 20-21 (“Warmwater Shrimp I&D Memo”); Aluminum Extrusions from China I&D Memo at 18-19; Issues and Decision Memorandum accompanying *Citric Acids and Certain Citrate Salts from the People’s Republic*

Publicly available information indicates that IMTDC producers have received benefits under this program. For instance, both Donghua Chain Group⁶⁹ and Hangzhou Vision Chain Transmission Co., Ltd.⁷⁰ produce Chinese “famous brand” IMTDC. Accordingly, the Department should investigate this program.

b. Grants Provided to IMTDC Producers Through the Famous Brands and China World Top Brands Programs Constitute Countervailable Subsidies

i. Financial Contribution

As the Department has previously determined,⁷¹ funds disbursed under this program constitute financial contributions under Section 771(5)(D)(i) of the Act.

ii. Benefit

The Department has also previously determined that these programs provide a benefit to recipients under Section 771(5)(E) of the Act.⁷² Specifically, the grants and other funds provided by the GOC pursuant to these programs allow Chinese IMTDC producers to increase exports and lower their costs of producing and selling subject merchandise. The benefit is equal to the amount of the grant as defined under 19 C.F.R. § 351.504(a).⁷³

of China, 74 Fed. Reg. 16,836 (Dep’t Commerce Apr. 13, 2009) (final affirm. countervailing duty determ.) (“Citric Acid from China I&D Memo (2009)”) at 13-14.

⁶⁹ See Donghua Chain Group website excerpts, attached at **Exhibit IV-37**.

⁷⁰ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

⁷¹ See, e.g., Warmwater Shrimp I&D Memo at 20-21; Aluminum Extrusions from China I&D Memo at 18; Citric Acid from China I&D Memo (2009) at 13.

⁷² Warmwater Shrimp I&D Memo at 20; Aluminum Extrusions from China I&D Memo at 18.

⁷³ Citric Acid from China I&D Memo (2009) at 13.

iii. Specificity

The Department has previously determined that these subsidy programs are specific under Sections 771(5A)(A) and (B) of the Act, given that grants provided under these programs are contingent on export activity.⁷⁴

5. Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands

a. China's Sub-Central Governments Provide Grants to IMTDC Producers Through the Famous Brands and China World Top Brands Programs

In addition to the central government, a number of “sub-central” (*i.e.*, provincial and local) governments in China have promulgated various policies to implement the goals of the Famous Export Brands and Top Brands programs.⁷⁵ According to USTR, these sub-central programs provide additional financial support to companies with products designated as famous brands.⁷⁶

Chinese provinces have their own famous brand programs under which Chinese IMTDC producers likely received and continue to receive benefits. For example, Shandong Province has a government program to support Famous Export Brands.⁷⁷ Indeed, one of Shandong's largest cities earned the distinction of having spent more money than any other city in the encouragement of famous brands.⁷⁸ Although information on IMTDC producers' receipt of benefits under the Shandong Province famous brand program is not readily available, IMTDC

⁷⁴ See, *e.g.*, Aluminum Extrusions from China I&D Memo at 18-19.

⁷⁵ See *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives*, 74 Fed. Reg. 7,494.

⁷⁶ See *id.*; see also *Committee on Subsidies and Countervailing Measures: Questions from the United States Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/19 (July 26, 2006) at 9-10, attached at **Exhibit IV-12**.

⁷⁷ See *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives*, 74 Fed. Reg. at 7,495-96.

⁷⁸ See *What's in a Name? Everything!*, China Daily (Apr. 28, 2005), attached at **Exhibit IV-39**.

producers Qingdao Dazheng Jin Hao International Trade Co., Ltd. and Yantai Henry Hardware Co., Ltd are both located in Shandong Province, which make them eligible for famous brand support.⁷⁹ Moreover, Chinese IMTDC producer Ningbo Fulong Synchronous Belt Co., Ltd. has “won the title ‘Ningbo famous brand product.’”⁸⁰

Jiangsu Province is another province that has its own program to support Famous Export brands,⁸¹ implementing its Notice Regarding Selection of 2007-2008 “Jiangsu Province Export Brands for Focused Cultivation and Development,” Suwaijingmaomao {2007} No. 122 in 2007.⁸² Changzhou Changjiang Gear Co., Ltd., Changzhou Baoxin Metallurgy Equipment Manufacturing Co. Ltd, Changzhou Gangyou Lifting Equipment Co., Ltd., and Jiangsu Songlin Automobile Parts Co., Ltd., are all located in Jiangsu Province and, therefore, are eligible for benefits under this program.⁸³ Hebei Province also has its own famous brands program.⁸⁴ Several Chinese IMTDC producers are likely located in Hebei Province. As a result, any Chinese IMTDC producers located in this province likely received benefits under this program during the POI. Likewise, Henan Province has a famous brands program. Several Chinese IMTDC producers are located in Henan province, including Henan Zhiyuan Machinery Sprocket Co., Ltd.⁸⁵ As such, it is likely one or more of these IMTDC producers won this award at the provincial level.

⁷⁹ Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

⁸⁰ Ningbo Fulong Synchronous Belt Co. Ltd. website excerpts, attached at **Exhibit IV-25**.

⁸¹ Citric Acid from China I&D Memo (2009) at 13.

⁸² See WTO, *Committee on Subsidies and Countervailing Measures - Subsidies – Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/42 (Oct. 11, 2011) at 6-8, attached at **Exhibit IV-14**.

⁸³ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

⁸⁴ See HBIS, *Provincial Honor Tangshan Iron and Steel Group Co., Ltd. Acquired Over the Years*, attached at **Exhibit IV-40**.

⁸⁵ Henan Zhiyuan Machinery Sprocket Co., Ltd. website excerpts, attached at **Exhibit IV-41**.

To the extent that other Chinese IMTDC producers are also designated as producing famous brands by sub-central governments, they likely received benefits under this program. Accordingly, the Department should investigate this program.

b. Grants Provided to IMTDC Producers Through the Famous Brands and China World Top Brands Programs by Sub-Central Governments Constitute Countervailable Subsidies

i. Financial Contribution

As the Department has previously determined,⁸⁶ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

The Department has also previously determined⁸⁷ that this program confers a benefit to recipients under Section 771(5)(E) of the Act. Specifically, the grants and other funds provided by the Chinese government pursuant to these programs allow Chinese IMTDC producers to increase exports and lower their costs of producing and selling the subject merchandise. The benefit is equal to the amount of the grant as defined under 19 C.F.R. § 351.504(a).

iii. Specificity

Consistent with the Department's prior determinations,⁸⁸ these subsidy programs are specific under Sections 771(5A)(A) and (B) of the Act because the grants provided under these programs are contingent on export activity.⁸⁹

⁸⁶ Warmwater Shrimp I&D Memo at 20.

⁸⁷ *Id.*

⁸⁸ *Id.* at 20-21.

⁸⁹ Aluminum Extrusions from China I&D Memo at 18-19.

6. Funds for Outward Expansion of Industries in Guangdong Province

a. Guangdong Province Provides Grants to Chinese IMTDC Producers Through the Funds for Outward Expansion of Industries

Established pursuant to the Implementing Measures of Guangdong Province concerning the Support of Development of Outward Privately-Held Enterprises,⁹⁰ the goal of this program is to provide eligible private enterprises located in the Guangdong Province with special funds to develop their export activities. As the Department has found:

This program supports the development of international trade and economic cooperation through the establishment of different funds to provide payments to enterprises for international market exploration, export credit insurance assistance, the development of trade through science and technology, export product research and development, support for defense expenses in antidumping duty cases, loan interest grants for various export-related loans and development of outward-looking enterprises.⁹¹

The Department previously found this program to provide a countervailable subsidy in *Lightweight Thermal Paper from China*.⁹²

Information concerning the funding that Chinese IMTDC producers have received under this program is not reasonably available to Petitioner. However, at least one Chinese IMTDC producer, Shenzhen Derui Sourcing Co. Ltd., is located in Guangdong Province and likely received benefits under this program.⁹³ Accordingly, the Department should investigate this program.

⁹⁰ Issues and Decision Memorandum accompanying *Lightweight Thermal Paper from the People's Republic of China*, 73 Fed. Reg. 57,323 (Dep't Commerce Oct. 2, 2008) at 19-20 (final affirm. countervailing duty determ.) ("Lightweight Thermal Paper from China I&D Memo").

⁹¹ *Lightweight Thermal Paper from the People's Republic of China*, 73 Fed. Reg. 13,850, 13,860 (Dep't Commerce Mar. 14, 2008) (prelim. affirm. countervailing duty determ. and alignment of final countervailing duty determ. with final antidumping duty determ.).

⁹² Lightweight Thermal Paper from China I&D Memo at 19-20.

⁹³ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

b. Funds Provided Through the Funds for Outward Expansion of Industries Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Lightweight Thermal Paper*,⁹⁴ monies disbursed under this program constitute financial contributions under Section 771(5)(D)(i) of the Act.

ii. Benefit

This program confers a benefit to recipients equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).⁹⁵

iii. Specificity

Consistent with the Department's previous findings, this subsidy program is specific under Section 771(5A)(B) of the Act because it is contingent upon export performance.⁹⁶

7. Provincial Fund for Fiscal and Technological Innovation

a. Guangdong Province Provides Grants Through the Provincial Fund for Fiscal and Technological Innovation

Administered by the Provincial Department of Finance and Economic and Trade Commission of Guangdong Province pursuant to the Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund, this program provides grants to firms with the goal of promoting technological and fiscal innovation.⁹⁷ The Department has previously determined this program to be countervailable in *Aluminum Extrusions*.⁹⁸

Information concerning the grants received by IMTDC producers under the Provincial Fund for Fiscal and Technological Innovation is not reasonably available to Petitioner.

⁹⁴ Lightweight Thermal Paper from China I&D Memo at 19-20.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Aluminum Extrusions from China I&D Memo at 27.

⁹⁸ *Id.*

However, the IMTDC industry is one that is engaged in significant technological innovation. Moreover, at least one Chinese IMTDC producer, Shenzhen Derui Sourcing Co. Ltd., is located in Guangdong Province and likely received benefits under this program.⁹⁹ Accordingly, the Department should investigate this program.

b. Grants Provided Through the Provincial Fund for Fiscal and Technological Innovation Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Aluminum Extrusions*, funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.¹⁰⁰

ii. Benefit

Consistent with the Department's determination in *Aluminum Extrusions*,¹⁰¹ this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

The Provincial Fund for Fiscal and Technological Innovation is administered by the Provincial Department of Finance and Economic and Trade Commission of Guangdong Province pursuant to the Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund ("Provisional Measures").¹⁰² According to Article 10 of the Provisional Measures, this fund provides "special support of structural adjustment on technology reformation

⁹⁹ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹⁰⁰ *Aluminum Extrusions from China I&D Memo* at 27.

¹⁰¹ *Id.*

¹⁰² See Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund (YUECAIQI (2004) No. 140, attached at **Exhibit IV-42**.

specialty, equipment manufacturing{,} special technology reformation and technology innovation projects.”¹⁰³ Such projects include but are not limited to:

- (A) Utilizing high-tech to reform traditional industrial projects;
- (B) Increase the varieties, enhance the quality, save resources, promote the benefit and enhance the competitive projects{;;}
- (C) Industrial common key technology projects, as well as research and development, application and promotion projects in new products and new technologies{;;}
- (D) Equipment manufacturing industry technology progress projects; {and}
- (E) Structural adjustment focus theme projects in this year.¹⁰⁴

As the Department previously determined in *Aluminum Extrusions*, this program is specific.¹⁰⁵ The Provincial Fund for Fiscal and Technological Innovation is specific under Section 771(5A)(D)(iii)(IV) of the Act because the relevant government authorities use their discretion when selecting beneficiaries. Not all applicants are approved by the Guangdong Provincial Government to receive benefits. In fact, each project must be approved by government officials from Guangdong’s Provincial Department of Finance and Economic and Trade Commission.¹⁰⁶ Furthermore, this program is specific under Section 771(5A)(D)(i) of the Act because it is limited by law to select enterprises. This program supports “special technology reformation” and “technology innovation projects” which indicates that the program is limited to high and advanced technology companies. Finally, this program is regionally specific under Section 771(5A)(D)(iv) of the Act because grants provided through this program are limited to

¹⁰³ *Id.* at Article 10.

¹⁰⁴ *Id.*

¹⁰⁵ *Aluminum Extrusions from China* I&D Memo at 27-28; *see also Aluminum Extrusions from the People’s Republic of China*, 75 Fed. Reg. 54,302, 54,315 (Dep’t Commerce Sept. 7, 2010) (prelim. affirm. countervailing duty determ.) (“the GOC failed to provide benefit distribution data for this program. As a result, the Department is applying AFA and assuming that the program is specific under section 771(5A)(D)(iii) of the Act.”).

¹⁰⁶ Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund (YUECAIQI (2004) No. 140, at Article 13, attached at **Exhibit IV-42**.

companies located in a certain geographical location, *i.e.*, Guangdong Province. According to Article 9 of the provisional measures, a company must be “registered in Guangdong Province” to be eligible to receive benefits.¹⁰⁷ Producers of subject merchandise, such as Shenzhen Derui Sourcing Co. Ltd. would be eligible for the program.¹⁰⁸ Therefore, this program is specific under the Act, and the Department should investigate this program.

8. State Special Fund for Promoting Key Industries and Innovation Technologies

a. The NDRC and the Ministry of Industry and Information Technology Grants Through the State Special Fund for Promoting Key Industries and Innovation Technologies

The NDRC and the Ministry of Industry and Information Technology (“MIIT”) provide a special fund for promoting key industries and innovation technologies in the form of a one-time grant intended to assist companies in developing production facilities.¹⁰⁹ To receive this grant, a company must submit an application that includes information regarding its estimated export revenues.¹¹⁰ In previous cases, the Department found that companies producing steel products were eligible for this grant.¹¹¹ Although publicly available information regarding the receipt of benefits under this program by IMTDC producers is lacking, given that companies producing products in favored industries have previously received benefits under this program, it is likely that one or more IMTDC producers received benefits from NDRC and MIIT’s special fund for promoting key industries and innovation technologies during the POI. Accordingly, the Department should investigate this program.

¹⁰⁷ *Id.* at Article 9.

¹⁰⁸ *See* Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹⁰⁹ Steel Wheels from China I&D Memo at 28.

¹¹⁰ *Id.* at 29.

¹¹¹ *See id.* at 28-29.

a. Funds Provided Through State Special Fund for Promoting Key Industries and Innovation Technologies Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Steel Wheels*,¹¹² funds disbursed under this program constitute financial contributions under Section 771(5)(D)(i) of the Act.

ii. Benefit

This program confers a benefit to recipients equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

Consistent with the Department's previous findings in *Steel Wheels*,¹¹³ this subsidy program is specific under Section 771(5A)(B) of the Act because it is contingent upon export performance.

9. Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers

The Special Fund for the Establishment of Key Enterprise Technology was established pursuant to Development Guidelines of Shandong on New Type Industrialization and Opinion on Incubation of One Hundred Key Enterprises' Technical Centers and Improvement of their Initiatives, with distributions occurring under the Interim Measures on the Special Fund for the Establishment of Key Enterprise Technology Centers in Shandong Province.¹¹⁴ The Shandong Finance Department and the Shandong Economic and Trade Commission administer this

¹¹² *Id.* at 28.

¹¹³ *Id.* at 28-29.

¹¹⁴ See Issues and Decision Memorandum accompanying *Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 77,206 (Dep't Commerce Dec. 12, 2011) (final results of countervailing duty admin. rev.) at 20 ("Citric Acid from China 1st Review I&D Memo").

program.¹¹⁵ The fund's purpose is to support the establishment of technical centers by key enterprises by providing funds for the purchase of equipment, training, technical cooperation and communication.¹¹⁶ Pursuant to this program's implementing legislation, there are only 100 recipients, which makes the program specific within the meaning of Section 771(5A)(D)(i) of the Act.¹¹⁷

Publicly available information relating to specific grants provided to IMTDC producers is not reasonably available to Petitioner. However, several IMTDC producers are located in the Shandong Province, including Qingdao Dazheng Jin Hao International Trade Co. Ltd. and Yantai Henry Hardware Co., Ltd., which makes them eligible for benefits.¹¹⁸ As a result, the Department should investigate this program to determine whether any of the IMTDC producers listed above or any other IMTDC producers received benefits under this program.

a. Grants Provided Through the Special Fund for the Establishment of Key Enterprise Technology Centers Constitute Countervailable Subsidies

i. Financial Contribution

Funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

The Special Fund for the Establishment of Key Enterprise Technology confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).¹¹⁹

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 20-21.

¹¹⁷ *Id.* at 21.

¹¹⁸ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹¹⁹ See Citric Acid from China 1st Review I&D Memo at 20-21.

iii. Specificity

This subsidy program is specific under Section 771(5A)(D)(i) of the Act because, as the Department found in *Citric Acid*, the Shandong Province’s Fund for the Establishment of Key Enterprises “is limited to ‘key enterprises,’ with the establishing legislation indicating there would only be 100.”¹²⁰ The objective of this program’s enabling legislation, the Development Guideline of Shandong on New Type Industrialization and Opinion on Incubation of One Hundred Key Enterprise Technical Centers and Improvement of their Initiatives, is to “incubate 100 enterprise technology centers possessing indigenous innovation, relatively strong core competitiveness, and innovative ability that {are} first-rate nationally, to become the core strength of indigenous innovation for {Shandong} Province’s enterprises.”¹²¹ The legislation makes clear that support is limited to “seven industrial chains and six pillar industries,” which includes “metallurgy.”¹²² While it appears that Shandong Province raised additional funds after this fund was established to support “195 provincial key enterprise technology centers,”¹²³ consistent with the Department’s prior determinations, this program is still specific within the meaning of Section 771(5A)(D)(i) of the Act.¹²⁴

10. Grants for Antidumping Investigations

a. The GOC Provides Grants for Antidumping Investigations to IMTDC Producers

¹²⁰ See *id.* at 21.

¹²¹ *Opinion Regarding Incubating 100 Key Enterprise Technology Centers to Quicken the Indigenous Innovation of Enterprises*, attached at **Exhibit IV-43** (emphasis added).

¹²² See *id.*; *New Concepts in the Report: Six Pillar Industries and Seven Industrial Chains*, attached at **Exhibit IV-44** (“Six pillar industries refer to six industries designated for special support from now on, based on the special characteristics and the foundations of development of our province: light engineering, textiles, machinery, chemicals, construction materials, and metallurgy.”).

¹²³ *Shandong Financial Measures Simultaneously To Promote Industrial Structure Optimization and Upgrading*, Xinhuanet News (Nov. 15, 2012), attached at **Exhibit IV-45**.

¹²⁴ *Citric Acid from China* 1st Review I&D Memo at 21.

Several sub-central governments provide grants to Chinese companies to defend foreign antidumping investigations. In *Citric Acid*, the Department determined that this program was countervailable.¹²⁵ For example, Shandong Province provides government grants when its companies are involved in foreign antidumping investigations.¹²⁶ In awarding these grants, the government considers whether the company made export sales and cooperated in the antidumping investigations. Both Qingdao Dazheng Jin Hao International Trade Co., Ltd. and Yantai Henry Hardware Co., Ltd are located in Shandong Province and thus would be eligible to receive benefits under this program.¹²⁷ Accordingly, the Department should investigate the provision of this subsidy to IMTDC producers.

b. Funds Provided For Antidumping Investigations Constitute Countervailable Subsidies

i. Financial Contribution

Funds disbursed under this program constitute financial contributions under Section 771(5)(D)(i) of the Act.

ii. Benefit

This program confers a benefit to recipients equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

Consistent with the Department's previous findings in *Citric Acid*, this subsidy program is specific under Section 771(5A)(B) of the Act because it is contingent upon export performance.¹²⁸

¹²⁵ *Id.* at 22-23.

¹²⁶ *Id.*

¹²⁷ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹²⁸ *Citric Acid from China 1st Review I&D Memo* at 22.

11. Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology

a. The GOC Provides Grants to IMTDC Through Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology

The Award Fund for Industrialization of Key Energy-Saving Technology was established pursuant to the Provisional Measures Shandong Special Fund for Energy and Water Saving, and implemented on November 8, 2007 under the Circular of the Shandong Finance Department and Shandong Economic and Trade Commission establishing Provisional Measures on Shandong Award Fund for Industrialization of Key Energy-saving Technology (Lu Cai Jian {2007} No. 68).¹²⁹ The purpose of the program is to encourage reductions in energy consumption and to accelerate the industrialization of key energy-saving technologies in Shandong Province.¹³⁰ In *Citric Acid*, the Department found that the Shandong Finance Department administers this program.¹³¹

Information relating to specific grants to IMTDC producers is not reasonably available to Petitioner. However, several IMTDC producers are located in Shandong Province, including Qingdao Dazheng Jin Hao International Trade Co., Ltd. and Yantai Henry Hardware Co., Ltd, which makes them eligible for benefits.¹³² As a result, the Department should investigate this program to determine whether any of the IMTDC producers listed above or any other IMTDC producers received benefits under this program.

¹²⁹ *Id.* at 23-24.

¹³⁰ *Id.* at 24.

¹³¹ *Id.*

¹³² See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

b. The GOC's Provision of Grants to IMTDCs Through Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology Constitutes a Countervailable Subsidy

i. Financial Contribution

As the Department determined in *Citric Acid*,¹³³ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

Consistent with the Department's determination in *Citric Acid*,¹³⁴ this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

This subsidy program is specific under Section 771(5A)(D)(iv) of the Act because the actual recipients of the grant are limited to only certain qualifying enterprises that are located within the geographical jurisdiction of the authority of the Shandong Province government.

Specifically, applicants of this program must "apply on the principle of territoriality" which indicates that only companies located in Shandong Province are eligible to receive benefits from this program.¹³⁵ Furthermore, only certain industries that invest heavily in R&D¹³⁶ and have "energy-saving technology" recognized at the provincial level or above are eligible for

¹³³ Citric Acid from China 1st Review I&D Memo at 23. *See also Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219 (Dep't Commerce June 8, 2011) (prelim. results of countervailing duty admin. rev.).

¹³⁴ Citric Acid from China 1st Review I&D Memo at 23. *See also Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219.

¹³⁵ Circular of the Shandong Finance Department and Shandong Economic and Trade Commission on Publishing Provisional Measures on Shandong Award Fund for Industrialization of Key Energy-saving Technology (Lu Cai Jian {2007} No. 68, at Article 7, attached at **Exhibit IV-46**.

¹³⁶ *See id.* at Article 6 ("the R&D investment is not less than 3% of the enterprise's sales revenue.").

this program.¹³⁷ The GOC has directed all levels of government to support industries with “high energy consumption” and “target {those} sectors for saving energy and reducing energy consumption.”¹³⁸ As a result, this subsidy program is specific under Section 771(5A)(D)(iii)(I) and (II) of the Act because the iron industry is a favored industry, has historically benefitted from GOC support, and is a major consumer of energy. Accordingly, there is reason to believe or suspect that Chinese producers of iron products, including IMTDC producers, are predominant beneficiaries of government grants under this program and the recipients of such grants are limited in number.

12. Shandong Province’s Environmental Protection Industry Research and Development Funds

a. The GOC Provides Grants Through the Environmental Protection Industry Research and Development Fund to IMTDC Producers

The Environmental Protection Industry Research and Development Fund was established on September 24, 2007 under the Circular on the Issuance of Administrative Rules on Special Funds for Technology R&D Projects of the Environmental Protection Industry of Shandong Province.¹³⁹ The program is administered by the Shandong Province Finance Department and Shandong Environmental Protection Bureau.¹⁴⁰ The purpose of the program is to promote pollution-preventing technologies and environmental product development, and to strengthen the innovation capability and market competitiveness of the environmental protection industry in Shandong Province.¹⁴¹

¹³⁷ *Id.*

¹³⁸ *All-Round Promotion of Energy Conservation, Govt. White Papers*, www.china.org.cn (last accessed Oct. 20, 2015), attached at **Exhibit IV-47**.

¹³⁹ Citric Acid from China 1st Review I&D Memo at 24.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

Information relating to specific grants to IMTDC producers is not reasonably available to Petitioner. However, several IMTDC producers are located in Shandong Province, including Qingdao Dazheng Jin Hao International Trade Co., Ltd. and Yantai Henry Hardware Co., Ltd, which makes them eligible for benefits.¹⁴² As a result, the Department should investigate this program to determine whether any of the IMTDC producers listed above or any other IMTDC producers received benefits under this program.

b. Grants Provided Through the Environmental Protection Industry Research and Development Fund Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Citric Acid*,¹⁴³ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

Consistent with the Department's determination in *Citric Acid*,¹⁴⁴ this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

The purpose of the program is to promote pollution-preventing technologies and environmental product development, to use the scientific and technical expertise of universities, research institutes, and other technology centers, and to strengthen the efficiency, innovation

¹⁴² See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹⁴³ Citric Acid from China 1st Review I&D Memo at 24. See also *Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219.

¹⁴⁴ Citric Acid from China 1st Review I&D Memo at 24. See also *Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219.

capability, and market competitiveness of the environmental protection industry in Shandong Province.¹⁴⁵ The Special Funds are part of a provincial-level annual budget, and are described as “governmental guidance funds,” grants, “interest subsidies,” and incentives.¹⁴⁶ The Program will provide up to 40 percent of the funding for independent projects and up to 30 percent of the funding for joint Chinese-foreign projects.¹⁴⁷ More importantly, benefits under this program are limited to companies operating in Shandong Province and must be approved by government officials in Shandong Province’s Department of Finance and the Provincial Environmental Protection Bureau.

Information relating to specific grants to IMTDC producers is not reasonably available to Petitioner. The GOC has directed all levels of government to support industries with “high energy consumption” and “target {those} sectors for saving energy and reducing energy consumption.”¹⁴⁸ As a result, this subsidy program is specific under Section 771(5A)(D)(iii)(I) and (II) of the Act because iron and iron-consuming industries are a favored industry, have historically benefitted from the GOC’s support, and are major consumers of energy. Accordingly, there is reason to believe or suspect that Chinese producers of iron products, including IMTDC producers, are predominant beneficiaries of government grants under this program and the recipients of such grants are limited in number. Furthermore, because this program is limited to companies located in Shandong Province and local government officials use their discretion in selecting beneficiaries, this program is regionally specific under Section

¹⁴⁵ Circular on the Issuance of Administrative Rules on Special Funds for Technology R&D Projects of the Environmental Protection Industry of Shandong Province (Sept. 24, 2007), at Article 1, attached at **Exhibit IV-48**.

¹⁴⁶ *Id.* at Articles 2-3.

¹⁴⁷ *See id.* at Article 5.

¹⁴⁸ *All-Round Promotion of Energy Conservation, Govt. White Papers*, www.china.org.cn (last accessed Oct. 20, 2015), attached at **Exhibit IV-47**.

771(5A)(D)(iv) of the Act. As a result, the Department should investigate this program to determine whether Qingdao Dazheng Jin Hao International Trade Co., Ltd., Yantai Henry Hardware Co., Ltd, or any other CASWR producer received benefits under this program.¹⁴⁹

13. Waste Water Treatment Subsidies

a. The GOC Provides Waste Water Treatment Subsidies Constitute to IMTDC Producers

The Department has determined that Chinese companies receive waste water treatment subsidies.¹⁵⁰ Waste water is a serious problem in China.¹⁵¹ According to news reports, Chinese environmental regulators have “designated 48 of China’s major lakes as seriously polluted. One-fourth of the water sampled along China’s two largest rivers—the Yangtze and Yellow—was found to be too polluted even for farm irrigation.”¹⁵² As a result, a number of provinces in China, including Shandong Province, provide waste water treatment subsidies.¹⁵³ Information relating to specific waste water treatment grants from the Shandong Province to IMTDC producers is not reasonably available to Petitioner. However, several IMTDC producers are located in Shandong Province, which makes them eligible for benefits. For example, Qingdao Dazheng Jin Hao International Trade Co., Ltd. and Yantai Henry Hardware Co., Ltd are both located in Shandong Province.¹⁵⁴ Accordingly, the Department should investigate this program

¹⁴⁹ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹⁵⁰ See Citric Acid from China 1st Review I&D Memo at 27-28.

¹⁵¹ See Dexter Roberts, *China Faces a Water Crisis*, Bloomberg Businessweek (Apr. 15, 2009), attached at **Exhibit IV-49**; see also *60% of China’s underground water ‘not fit for human contact’ – Beijing*, RT News (June 5, 2015), attached at **Exhibit IV-50**.

¹⁵² See Dexter Roberts, *China Faces a Water Crisis*, Bloomberg Businessweek (Apr. 15, 2009), attached at **Exhibit IV-49**; see also *60% of China’s underground water ‘not fit for human contact’ – Beijing*, RT News (June 5, 2015), attached at **Exhibit IV-50**.

¹⁵³ See Citric Acid from China 1st Review I&D Memo at 27-28.

¹⁵⁴ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

to determine whether any of the IMTDC producers listed above or any other IMTDC producers received benefits under this program.

**b. Grants Provided Through Waste Water Treatment Subsidies
Constitute Countervailable Subsidies**

i. Financial Contribution

As the Department determined in *Citric Acid*,¹⁵⁵ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

Consistent with the Department's determination in *Citric Acid*,¹⁵⁶ this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

This subsidy program is specific under Section 771(5A)(D)(iv) of the Act because the actual recipients of the grant are limited to only certain qualifying enterprises that are located within the geographical jurisdiction of the authority of the respective provincial government.

14. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises

a. The GOC Provides Funds Under the Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises Program to IMTDC Producers

As the Department has previously determined, Guangdong Province provides grants to support the adoption of e-commerce by foreign trade enterprises.¹⁵⁷ Administered by the

¹⁵⁵ Citric Acid from China 1st Review I&D Memo at 27-28. See also *Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219.

¹⁵⁶ Citric Acid from China 1st Review I&D Memo at 27-28. See also *Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 Fed. Reg. 33,219.

Commission of Economy and Information Technology of Guangdong Province,¹⁵⁸ the fund includes four separate funds: 1) the special fund; 2) fund of provincial strategic new emerging industry; 3) special fund of internet services industry; and 4) special fund for small- and medium-enterprises.¹⁵⁹ Recently, the Department determined that steel fabricators received benefits under this program.¹⁶⁰ As a result of these policies, “the trading volume of e-commerce in Guangzhou this year reached 1.75 trillion Yuan (\$288.2 billion), up 25 percent year-on-year. Online sales have reached 320 billion Yuan with a year-on-year increase of 33 percent.”¹⁶¹

Information relating to specific grants to IMTDC producers is not reasonably available to Petitioner. However, at least one producer, Shenzhen Derui Sourcing Co., Ltd., is located in Guangdong Province, making this company eligible for benefits.¹⁶² As a result, the Department should investigate this program to determine whether Shenzhen Derui Sourcing Co., Ltd. or any other IMTDC producer has received benefits under this program.

¹⁵⁷ Stainless Steel Sinks from China I&D Memo at 28-29.

¹⁵⁸ Liu Zheng, *Local Govt Supports E-Commerce Boom in Guangzhou*, China Daily (Dec. 24, 2013), attached at **Exhibit IV-51**.

¹⁵⁹ *Id.*

¹⁶⁰ See Stainless Steel Sinks from China I&D Memo at 28-29.

¹⁶¹ Liu Zheng, *Local Govt Supports E-Commerce Boom in Guangzhou*, China Daily (Dec. 24, 2013), attached at **Exhibit IV-51**.

¹⁶² See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

b. Grants Provided Through Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Stainless Steel Sinks*,¹⁶³ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.

ii. Benefit

Consistent with the Department's determination in *Stainless Steel Sinks*,¹⁶⁴ this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).

iii. Specificity

This subsidy program is specific under Section 771(5A)(D)(iv) of the Act because the actual recipients of the grant are limited to only certain qualifying enterprises that are located within the geographical jurisdiction of the authority of the Guangdong Province government.

15. Technology to Improve Trade Research and Development Fund

a. The GOC Provides Grants Through the Technology to Improve Trade Research and Development Fund to IMTDC Producers

The Jiangsu Treasury Department provides a special fund to benefit companies' research and development efforts.¹⁶⁵ Established in 2008, the purpose of the fund is to induce research and development activities related to export products.¹⁶⁶ To receive this grant from Jiangsu

¹⁶³ *Stainless Steel Sinks* from China I&D Memo at 28.

¹⁶⁴ *Id.*

¹⁶⁵ See Issues and Decision Memorandum accompanying *Drill Pipe from the People's Republic of China*, 76 Fed. Reg. 1,971 (Dep't Commerce Jan. 11, 2011) (final affirm. countervailing duty determ., final affirm. critical circumstances determ.) at 27 ("Drill Pipe from China I&D Memo").

¹⁶⁶ *Id.*

Province, a company must submit an application that includes information regarding the company's exports or potential exports.¹⁶⁷ The Department has previously found that other favored industries were eligible for this grant.¹⁶⁸

A number of IMTDC producers are located in Jiangsu Province, including Changzhou Xiangjin Precision Machinery Co., Ltd., Changzhou Baoxin Metallurgy Equipment Manufacturing Co. Ltd, Changzhou Gangyou Lifting Equipment Co., Ltd., and Jiangsu Songlin Automobile Parts Co., Ltd.¹⁶⁹ As a result, it is likely that these and other IMTDC producers received benefits from the Jiangsu trade research and development fund during the POI. Accordingly, the Department should investigate this program.

b. Grants Provided Through the Technology to Improve Trade Research and Development Fund Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Drill Pipe from China*, funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under Section 771(5)(D)(i) of the Act.¹⁷⁰

ii. Benefit

Consistent with the Department's determination in *Drill Pipe from China*, this program confers a benefit under Section 771(5)(E) of the Act. The benefit to recipients is equal to the amount of the grant, as defined in 19 C.F.R. § 351.504(a).¹⁷¹

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 30.

¹⁶⁹ See Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

¹⁷⁰ *Drill Pipe from China* I&D Memo at 28.

¹⁷¹ *Id.*

iii. Specificity

The Jiangsu Treasury Department provides a special fund to benefit companies' research and development ("R&D") efforts.¹⁷² Established in 2008, the purpose of the fund was to induce R&D activities related to export products.¹⁷³ To receive this grant from Jiangsu Province, a company must submit an application that includes information regarding the company's exports or potential exports.¹⁷⁴ Furthermore, the GOC has previously recognized in *Drill Pipe* that the Jiangsu Treasury Department considers a company's exports while evaluating an application for benefits.¹⁷⁵ In addition to requiring a company's export data, the application appears to be limited to only national or provincial "high-tech enterprises."¹⁷⁶ As the Department found in *Drill Pipe*,¹⁷⁷ this program is specific because it is contingent upon export performance and, thus, a specific export subsidy within the meaning of Section 771(5A)(B) of the Act. Furthermore, this program is also specific under Section 771(5A)(D)(i) of the Act because only certain companies, namely "high-tech enterprises" located in Jiangsu Province, are eligible for benefits. Accordingly, the Department should investigate this program.¹⁷⁸

¹⁷² *Id.* at 27.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 27-28.

¹⁷⁶ Application Form For R&D Assistance of Export Products, attached at **Exhibit IV-52** (showing that the only options for a company to select regarding its status as a high-tech enterprise are "national" or "provincial"); *see also* *Drill Pipe* from China I&D Memo at 27-28.

¹⁷⁷ *Drill Pipe* from China I&D Memo at 28.

¹⁷⁸ *Id.*

C. Provision of Inputs for Less than Adequate Remuneration

1. The Provision of Pig Iron for Less Than Adequate Remuneration

a. The GOC Provides Pig Iron to IMTDC Producers for Less than Adequate Remuneration

As detailed in Petition Volume I, IMTDC are made from iron. Consequently, pig iron is generally the primary input used in the production of these products. Within China, pig iron is produced primarily by large, state-owned companies.¹⁷⁹ In multiple prior proceedings, the Department has concluded that Chinese consumers of iron and steel products are able to purchase these goods from state-owned producers for less adequate remuneration.¹⁸⁰ The Department does not appear to have previously investigated the provision of pig iron for less than adequate remuneration. However, because pig iron is produced primarily by state-owned steel companies in China, the Department should initiate an investigation of this subsidy.

Petitioner also notes that the Chinese government imposes a tax of 20 percent on exports of pig iron from China.¹⁸¹ This reflects Chinese policy that “the export of such preliminarily processed products as coke, *iron alloy*, *pig iron*, *waste steel* and steel base (ingot) with high energy-consumption and serious pollution shall be restricted and the tax refund for export of

¹⁷⁹ See Metal Bulletin Directories, *Iron & Steel Works of the World Directory 2014*, (2014), at 48-105, excerpts attached at **Exhibit IV-53**.

¹⁸⁰ See, e.g., Issues and Decision Memorandum accompanying *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 Fed. Reg. 31,966 (Dep't Commerce June 5, 2008) (final affirm. countervailing duty determ. and final affirm. determ. of critical circumstances) at 9-12 (“Circular Welded Pipe from China I&D Memo”); Welded Line Pipe from China I&D Memo at 18-20; Issues and Decision Memorandum accompanying *Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 Fed. Reg. 35,642 (Dep't Commerce June 24, 2008) (final affirm. countervailing duty investigation determ.) at 8-9 (“Light-Walled Rectangular Pipe and Tube I&D Memo”); Wind Towers from China I&D Memo at 20-21 (all finding that Chinese producers benefitted from the provision of hot-rolled steel for less than adequate remuneration); Stainless Steel Sinks from China I&D Memo at 18-21 (concluding that Chinese producers benefitted from the provision of stainless steel for less than adequate remuneration); Galvanized Steel Wire from China I&D Memo at 11-13 (determining that Chinese producers benefitted from the provision of wire rod for less than adequate remuneration); Seamless Pipe from China I&D Memo at 17-18; OCTG from China I&D Memo at 13-15 (concluding that Chinese producers had benefitted from the provision of steel billets for less than adequate remuneration).

¹⁸¹ See Chinese Export Tax Chart, attached at **Exhibit IV-54**.

these products shall be decreased or canceled.”¹⁸² The Department has recognized that such export restraints can have the effect of making an input available in China at a lower price than would otherwise be possible.¹⁸³ As the U.S. Trade Representative recently explained:

China continues to deploy a combination of export restraints, including export quotas, export licensing, minimum export prices, export duties and other restrictions, on a number of raw material inputs where it holds the leverage of being among the world’s leading producers. Through these export restraints, it appears that China is able to provide substantial economic advantages to a wide range of downstream producers in China at the expense of foreign downstream producers, while creating pressure on foreign downstream producers to move their operations, technologies and jobs to China.¹⁸⁴

While China has removed export restraints on a number of other steelmaking raw materials,¹⁸⁵ it continues to impose an export tax on pig iron. This measure, combined with the fact that pig iron is produced and sold by the large Chinese state-owned steel producers, indicates that Chinese IMTDC producers are able to purchase pig iron at prices below what would constitute adequate remuneration.

b. The GOC’s Provision of Pig Iron to IMTDC Producers for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

i. Financial Contribution

The GOC’s provision of pig iron through its state-owned steel producers constitutes a financial contribution within the meaning of Section 771(5)(D)(iii).

¹⁸² Government of the People’s Republic of China, NDRC, *Policies for Development of Iron & Steel Industry* (July 8, 2005), at art. 30 (emphasis added), attached at **Exhibit IV-3**.

¹⁸³ See, e.g., Issues and Decision Memorandum accompanying *Aluminum Extrusions from the People’s Republic of China*, 79 Fed. Reg. 106 (Dep’t. Commerce, Jan. 2, 2014) (final results of countervailing duty admin. rev.; 2010 and 2011) (“AE CVD Review I&D Memo”) at 27.

¹⁸⁴ United States Trade Representative, *2014 Report to Congress On China’s WTO Compliance* (2014), at 11, excerpts attached at **Exhibit IV-55**.

¹⁸⁵ *Id.*

ii. Benefit

This program confers a benefit on recipients because a good is being sold for less than adequate remuneration as described in Section 771(5)(E)(iv). Pursuant to its regulations, 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.¹⁸⁶ The specific prices that Chinese IMTDC producers paid for pig iron and the identities of the state-controlled suppliers selling pig iron to them are not reasonably available to Petitioner. However, a comparison of Chinese domestic prices with world export and domestic prices published by SteelFirst confirms that Chinese domestic prices for pig iron are below prices in other markets.¹⁸⁷ This price differential provides a substantial benefit to Chinese IMTDC producers who purchase pig iron from state-owned and -controlled suppliers in China, and who otherwise benefit by reason of the artificially low prices available there.

iii. Specificity

Consistent with the Department's findings on the provision of steel inputs for less than adequate remuneration, this program is specific because pig iron is sold to a limited number of enterprises and industries.¹⁸⁸ Accordingly, the Department should investigate the receipt of benefits by Chinese IMTDC producers under this program pursuant to Section 771(5A)(D)(iii)(I). Furthermore, Chinese IMTDC producers necessarily obtain substantial quantities of pig iron and thus likely constitute the predominant users of this subsidy.

¹⁸⁶ 19 C.F.R. § 351.511(a)(2).

¹⁸⁷ SteelFirst, Pig Iron Prices, attached at **Exhibit IV-56**.

¹⁸⁸ See Circular Welded Pipe from China I&D Memo at 9.

Consequently, 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.

2. The Provision of Ferrous Scrap for Less Than Adequate Remuneration

a. The GOC Provides Chinese IMTDC Producers Ferrous Scrap for Less Than Adequate Remuneration

Another major material input used in the production of subject merchandise is iron and steel scrap (“ferrous scrap”). Ferrous scrap can be produced through several means, including as a by-product of iron and steel production, from industrial processes that use iron or steel (including the production of IMTDC), and through recovery from items made of iron or steel. Such scrap is then used to produce new iron or steel and new iron or steel items. As discussed above, China’s steel industry is dominated by SOEs. As explained above, these SOEs also dominate the production of pig iron in China.

The Chinese steel SOEs maintain large scrap processing facilities.¹⁸⁹ In addition, the Chinese government provides downstream consumers of iron with a subsidy by supplying them, through these SOEs, with iron and steel for less than adequate remuneration.¹⁹⁰ Ferrous scrap is likewise provided, for less than adequate remuneration, through these SOEs.

Moreover, even purchases that are not made through SOEs are subsidized, due to Chinese governmental policies that artificially increase the supply of, and otherwise lower the price of, scrap. First, the Chinese government has artificially inflated the supply of scrap through the provision of subsidies to the ship breaking industry. Indeed, ship recycling is a major source of

¹⁸⁹ See Baosteel Group website excerpts, attached at **Exhibit IV-57**.

¹⁹⁰ See, e.g., OCTG from China I&D Memo at 15; Steel Cylinders I&D Memo at 21.

steel scrap in China.¹⁹¹ Since 2013, China has provided Chinese shipping companies with a subsidy of 1,500 yuan per gross ton to replace old ships registered in China with new ones.¹⁹² This program was recently extended until at least 2017.¹⁹³ The ship building and breaking sector in China is largely state-owned, with the two largest ship builders in China, the China State Shipbuilding Corporation and the China Shipbuilding Industry Corporation, both owned by the government.¹⁹⁴

This program encourages the “breaking” of old ships in China rather than elsewhere.¹⁹⁵ The effect of the program has been to increase the supply of steel scrap in China, which, in turn, has helped move scrap prices downward.¹⁹⁶ In this way, the shipbreaking subsidy decreases the cost of steel scrap for China’s IMTDC producers.

In addition, the Chinese government imposes an export tax of 40 percent on exports of ferrous scrap from China.¹⁹⁷ The Department has recognized that such export restraints can have the effect of making an input available in China at a lower price than would otherwise be available.¹⁹⁸ Taken together, these facts establish that Chinese IMTDC producers are able to purchase scrap in China at unduly low prices. Consequently, this subsidy should be investigated.

¹⁹¹ Zhong Nan, *Weak scrap demand hits China’s ship recycling business*, China Daily USA (Feb. 19, 2014), attached at **Exhibit IV-58**.

¹⁹² Joanne Chiu, *China Unveils Subsidy Program for Scrapping Old Ships*, The Wall Street Journal (Dec. 9, 2013), attached at **Exhibit IV-59**.

¹⁹³ *UPDATE 1 - China extends ship scrapping subsidy programme to end-2017*, Reuters (June 23, 2015), attached at **Exhibit IV-60**.

¹⁹⁴ About China Shipbuilding Industry Corporation, attached at **Exhibit IV-61**; China State Shipbuilding Corporation Groups Profile, attached at **Exhibit IV-62**.

¹⁹⁵ Wendy Laursen, *Chinese Subsidies Spark Shipbreaking Debate*, The Maritime Executive (Apr. 12, 2015), attached at **Exhibit IV-63**.

¹⁹⁶ *See China’s ship breakers face another year of losses, says industry body*, Platts (Mar. 25, 2014), attached at **Exhibit IV-64**.

¹⁹⁷ *See* Chinese Export Tax Chart, attached at **Exhibit IV-54**.

¹⁹⁸ *See, e.g.*, AE CVD Review I&D Memo at 27.

b. The GOC's Provision of Ferrous Scrap to IMTDC Producers for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

i. Financial Contribution

The GOC's provision of ferrous scrap through its state-owned steel producers constitutes a financial contribution within the meaning of Section 771(5)(D)(iii).

ii. Benefit

This program confers a benefit on recipients because a good is being sold for less than adequate remuneration as described in Section 771(5)(E)(iv). Pursuant to its regulations, 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.¹⁹⁹ The specific prices that Chinese IMTDC producers paid for ferrous scrap and the identities of the state-controlled suppliers selling this critical input to them are not reasonably available to Petitioner. However, a comparison of Chinese domestic prices with world export prices confirms that Chinese domestic prices for ferrous scrap are below prices in other markets.²⁰⁰

To this end, on the one occasion where a scrap subsidy was previously alleged, the Department declined to initiate on the grounds that the petitioners in that case had not provided adequate pricing information for scrap, and had not shown that export restraints in fact resulted in lower prices.²⁰¹ Accordingly, Petitioner is including information on scrap prices in China,

¹⁹⁹ 19 C.F.R. § 351.511(a)(2).

²⁰⁰ SteelFirst, Scrap Iron Prices, attached at **Exhibit IV-65**.

²⁰¹ *Certain Oil Country Tubular Goods from the People's Republic of China*, 74 Fed. Reg. 20,678, 20,680 (Dep't. Commerce, May 5, 2009) (initiation of countervailing duty investigation).

Taiwan, and Turkey (the largest importer of scrap in the world).²⁰² A review of these prices shows that, historically, Chinese scrap prices were higher than those in other countries. However, as a result of the aforementioned government policies, Chinese prices have fallen and are currently below those of India and very close to those of Turkey. This is evidence that the policies described above have had the effect of lowering scrap prices in China. Accordingly, the Department should initiate an investigation of this allegation.

iii. Specificity

Consistent with the Department's findings on the provision of steel inputs for less than adequate remuneration,²⁰³ this program is specific because ferrous scrap is sold to a limited number of enterprises and industries. Accordingly, the Department should investigate the receipt of benefits by Chinese IMTDC producers under this program pursuant to Section 771(5A)(D)(iii)(I). Furthermore, IMTDC producers necessarily obtain substantial quantities of ferrous scrap and, thus, likely constitute the predominant users of this subsidy. Consequently, 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.

3. Provision of Electricity for Less Than Adequate Remuneration

a. Chinese IMTDC Producers Receive Electricity for Less Than Adequate Remuneration

Like many of the direct subsidies granted to Chinese industries, it is widely known that particular industries are eligible for discounted electricity rates in an effort to promote production.²⁰⁴ The Department should investigate this program for the reasons detailed below.

²⁰² SteelFirst, Scrap Prices, attached at **Exhibit IV-65**.

²⁰³ See Circular Welded Pipe from China I&D Memo at 9.

²⁰⁴ In 2004, Commerce Secretary Donald Evans cited Chinese utility subsidies as an unfair trade advantage. See Peter Navarro, *Report of 'The China Price Project,'* Merage School of Business, University of California-Irvine (Jan. 2007) at 12, attached at **Exhibit IV-66**.

The Department has previously determined that electricity rates differ across regions, and has indicated that it would continue to investigate the provision of electricity at preferential rates.²⁰⁵ In *Line Pipe from China*, it was not until verification that the Department discovered that the NDRC establishes electricity rates for the provinces and that the individual provinces do not establish these rates by themselves.²⁰⁶ As the Department stated, “{b}ecause this key aspect of our understanding of the level of government setting electricity rates came to light only at verification, we did not have the opportunity to seek additional information on the NDRC’s price-setting methodology or its costs for electricity.”²⁰⁷ This development is especially important with regard to specificity. Indeed, if the central government is establishing different rates for different provinces, then the subsidy is regionally specific even if prices are uniformly applied within each province. Following the Department’s discovery in *Line Pipe from China* regarding electricity rates, it made clear that in “any future administrative review of this proceeding as well as in other China CVD proceedings (where relevant and practicable), we intend to investigate and analyze further the electricity rate-setting authority in China and the considerations that go into setting those rates to determine whether a countervailable benefit is provided by the administering authority.”²⁰⁸ Indeed, most recently, in *Boltless Steel Shelving*, the Department specifically requested province-by-province information from the GOC on:

(1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses and transmission, and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price

²⁰⁵ See Issues and Decision Memorandum accompanying *Laminated Woven Sacks from the People’s Republic of China*, 73 Fed. Reg. 35, 639 (Dep’t Commerce June 24, 2008) (final affirm. countervailing duty determ. and final affirm. determ., in part, of critical circumstances) at 26-27 (“Laminated Woven Sacks I&D Memo”).

²⁰⁶ Welded Line Pipe from China I&D Memo at 29.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

proposals and the final price increases were allocated across the province and across tariff end-user categories.²⁰⁹

Petitioner has reason to believe that the NDRC employs preferential electricity rates as a policy tool to promote and encourage the development of China's IMTDC industry. Subsidies, including subsidized energy, "exist in all industries that the Chinese state and provincial governments consider economically or strategically important,"²¹⁰ such as iron and iron-consuming industries. In addition, because much of the electricity is generated by SOEs, the Chinese government continues to use energy prices as a tool of coercion by rewarding favored producers who are in line with stated policies with lower rates, and withdrawing preferred rates from those who are not. Reports indicate that the price of non-compliance with certain government directives may be the loss of electricity altogether.²¹¹

Aside from the central government, many provinces and local governments in China have established policies that provide preferential electricity rates to attract investment to their respective areas. In particular, provincial and local governments have created special economic areas that offer numerous incentives to investors. In addition to tax incentives, investors often also receive additional concessions, including fee waivers for facilities, such as electricity.²¹²

While data on the actual rates given to individual companies are unavailable, Petitioner reasonably believes that Chinese IMTDC producers benefitted from electricity at no cost or at rates well below market value during the POI, given China's industrial policies favoring its iron and iron-consuming industries. Accordingly, the Department should investigate this program.

²⁰⁹ Boltless Shelving from China I&D Memo at 7. The GOC did not provide the requested data.

²¹⁰ See *China's WTO Compliance and Industrial Subsidies: Hearing Before the U.S.-China Economic and Security Review Comm'n*, 109th Congress (Apr. 4, 2006) at 47 (statement of Dr. Usha C.V. Haley, Director, Global Business Center, University of New Haven), excerpts attached at **Exhibit IV-67**.

²¹¹ See, e.g., *Polluters Will Be Forced to Pay More*, People's Daily Online (June 27, 2007), attached at **Exhibit IV-68**.

²¹² See *Foreign Direct Investment in China: What the Figures Don't Tell Us*, attached at **Exhibit IV-69**.

b. Chinese IMTDC Producers' Receipt of Electricity for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

i. Financial Contribution

As the Department has previously determined,²¹³ the provision of electricity at discounted prices is a financial contribution because the GOC is “providing goods or services” under Section 771(5)(D)(iii) of the Act.

ii. Benefit

Because the various levels of the Chinese government provide discounted electricity to Chinese IMTDC producers, they are providing a good or service “for less than adequate remuneration” under Section 771(5)(E) of the Act. Consistent with Section 771(5)(E) of the Act, the Department should determine the benefit to subject producers by evaluating the “price, quality, availability, marketability, transportation, and other conditions of purchase” in relation to the conditions available to other users of electricity in China and/or market principles. Petitioner also notes that Article 15 of China’s WTO Accession Protocol allows the Department to “use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks.”²¹⁴

iii. Specificity

Under Section 771(5A)(D)(iii) of the Act, the provision of discounted electricity is *de facto* specific because officials use their discretion to administer the discounted rates to a limited

²¹³ See *Boltless Shelving from China* I&D Memo at 15-16; Issues and Decision Memorandum accompanying *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China*, 78 Fed. Reg. 63,166 (Dep’t Commerce Oct. 23, 2013) (countervailing duty admin. rev.; 2011) at 10-11; see 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 affirm. countervailing duty determ.) at 5-6, 13 (“Kitchen Shelving and Racks I&D Memo”).

²¹⁴ China’s WTO Accession Protocol ¶15(b), attached at **Exhibit IV-21**.

group of preferred enterprises and industries, specifically, priority industries such as the IMTDC industry. Petitioner believes that these decisions are made pursuant to policy directives and measures issued by the central and provincial governments. It is also Petitioner's belief that China's provincial and local governments provide industries (including the IMTDC industry) located in certain special economic areas with electricity at preferential rates. Accordingly, this program is also specific pursuant to Section 771(5A)(D)(iv) of the Act because discriminatory pricing on a regional basis by a central government is specific under the statute.

4. The Provision of Water for Less Than Adequate Remuneration

a. Chinese IMTDC Producers Receive Water for Less Than Adequate Remuneration

Based on reasonably available information, Petitioner believes that Chinese IMTDC producers benefit from preferential water rates and usage restrictions. Reports indicate that the Chinese government continues to provide large subsidies for water,²¹⁵ which is a scarce commodity in China.²¹⁶ Given that China's iron and iron-consuming industries are priority industries that receive significant financial benefits from the government, together with the fact that significant quantities of water are involved in IMTDC production, it is likely that Chinese IMTDC producers receive benefits under this program. Moreover, aside from the central government, many provincial and local governments in China have established policies that provide preferential treatment to attract investment to their respective areas. In particular, provincial and local governments have created special economic areas that offer numerous incentives to investors.

²¹⁵ Dexter Roberts, *China Faces a Water Crisis*, Bloomberg Businessweek (Apr. 15, 2009), attached at **Exhibit IV-49**.

²¹⁶ Dexter Roberts, *China Faces a Water Crisis*, Bloomberg Businessweek (Apr. 15, 2009), attached at **Exhibit IV-49**; Michael Kitchen, *China Faces Its Worst Economic Crisis: Water*, Market Watch (Jul. 31, 2013), attached at **Exhibit IV-70**.

For example, Jiangsu Province gives preferences to foreign invested companies for access to water supply. Indeed, according to the authorized government portal site to China, china.org.cn²¹⁷

{w}ater and electricity required in production by foreign-invested enterprises, shall be included in supply plans established by each city, and these enterprises will be guaranteed priority in their supply. For export-oriented and technologically advanced enterprises with foreign investment, cost of water and electricity will be charged at the planning price; other foreign-invested enterprise will have their charges calculated on the same basis and be charged at the same price paid by local state-owned enterprises.

Foreign-invested enterprises would be exempt from additional complimentary charges for water and electricity construction and capacity enlargement.²¹⁸

Because there are a number of IMTDC producers located in Jiangsu Province, several of which may be FIEs, it is likely that Chinese IMTDC producers receive preferential water rates and tax incentives.²¹⁹ In addition to tax incentives, it is Petitioner's belief that many of these provinces likely provide preferential water rates and usage restrictions.

For these reasons, and as it did in *Light-Walled Rectangular Pipe and Tube*, the Department should initiate and investigate this subsidy program.²²⁰

b. Chinese IMTDC Producers' Receipt of Water for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

i. Financial Contribution

The provision of water at discounted prices is a financial contribution because the GOC is "providing goods or services" under Section 771(5)(D)(iii) of the Act.

²¹⁷ *About Us: China Internet Information Center*, China.org.cn, attached at **Exhibit IV-71**.

²¹⁸ *Taxation Regulation and Tax Incentives*, China.org.cn, attached at **Exhibit IV-72**.

²¹⁹ Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

²²⁰ See *Light-Walled Rectangular Pipe and Tube I&D Memo* at 11.

ii. Benefit

Because the central, local and provincial governments provide discounted water to IMTDC producers, they are providing a good or service “for less than adequate remuneration” under Section 771(5)(E) of the Act. In calculating “prevailing market conditions for the good or service being provided,” Article 15 of China’s WTO Accession Protocol allows the Department to “use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks.”²²¹

iii. Specificity

Under Section 771(5A)(D)(iii) of the Act, the provision of preferential water rates and usage restrictions is *de facto* specific because officials use their discretion to administer the benefits to a limited group of preferred enterprises and industries, specifically, encouraged industries such as the iron and iron-consuming industries. Petitioner believes that these decisions are made pursuant to policy directives and measures issued by the central and provincial governments. It is also Petitioner’s belief that China’s provincial and local governments provide industries (including the IMTDC industry) located in certain special economic areas and provinces, such as Jiangsu Province, with preferential water rates and usage restrictions. Accordingly, this program is also specific pursuant to Section 771(5A)(D)(iv) of the Act because discriminatory pricing on a regional basis by a provincial or local government is specific under the statute. Accordingly, as it did in *Light-walled Rectangular Pipe and Tube*, the Department should investigate this program.

²²¹ China’s WTO Accession Protocol ¶I 15(b), attached at **Exhibit IV-21**.

D. Provision of Land for Less Than Adequate Remuneration

1. Provision of Land-Use Rights by the GOC for Less Than Adequate Remuneration

a. Chinese IMTDC Producers Receive Land-Use Rights from the GOC for Less Than Adequate Remuneration

As the Department has previously concluded, the Chinese government, “either at the national or local level, is the ultimate owner of all land in China.”²²² Private companies may purchase land-use rights, either from a government or from another holder of land-use rights, but the national and local governments do not provide the rights consistent with market principles.²²³ Instead, Chinese national or local governments often take land from farmers without fair compensation and transfer the land to industrial users.²²⁴

Information relating to specific land-use rights by Chinese IMTDC producers is not reasonably available to Petitioner. However, publicly available information indicates that IMTDC producers use land that would have been acquired through the corrupt, opaque, and preferential land sale process prevalent in China. Specifically, China’s iron policies instruct government agencies to provide such land-use rights to favored projects and producers, including iron projects and producers in the IMTDC industry. For instance, the GOC’s Decision No. 4 instructs “people’s governments of all provinces, autonomous regions, and municipalities” to formulate policies on land in order to implement industrial policies, including those aimed at buttressing China’s IMTDC industry.²²⁵ Recent policies implemented pursuant to this directive include the Iron and Steel Industry Adjustment and Revitalization Plan Outline of Jiangsu

²²² *Certain New Pneumatic Off-The-Road-Tires from the People’s Republic of China*, 72 Fed. Reg. 71,360, 71,369 (Dep’t Commerce Dec. 17, 2007) (prelim. affirm. countervailing duty determ.).

²²³ Welded Line Pipe from China I&D Memo at 16.

²²⁴ *Id.*

²²⁵ Decision of the State Council on Promulgating and Implementing the “Temporary Provisions on Promoting Industrial Structure Adjustment,” No. 40 (2005), at Preamble, attached at **Exhibit IV-4**.

Province (home to a number of IMTDC producers, including Changzhou Changjiang Gear Co., Ltd., Changzhou Baoxin Metallurgy Equipment Manufacturing Co. Ltd., and Changzhou Gangyou Lifting Equipment Co., Ltd.), which directs government agencies to “give{} land use priority” to designated iron projects.²²⁶

Moreover, other IMTDC producers are eligible to receive discounted or free land-use rights due to their location in certain industrial zones. According to the GOC, a primary 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{} an export-oriented economy, and to boost{} the modernization drive in building socialism in China.”²²⁷ In furtherance of these objectives, the GOC as well as China’s provincial and local governments provide discounted land use rights to encourage key enterprises and industries to locate themselves in industrial zones and to promote their exports. For instance, according to a document prepared by China’s MOFCOM, the GOC offers discounted land use rights to industrial companies located in the Caofeidian Industrial Zone.²²⁸ As detailed in **Exhibit I-11**, several Chinese IMTDC producers are located in industrial zones and, consequently, likely received land-use rights for less than adequate remuneration.

Additionally, as the Department has previously determined, SOEs typically receive land for free.²²⁹ According to news reports, “state companies get low-cost or even free land from the

²²⁶ Provincial Government Notice on the Issuance of the Jiangsu Province Iron and Steel Industry Industrial Adjustment and Revitalization Plan Outline, Su Zheng Fa, No. 81 (May 20, 2009) at 5-6, attached at **Exhibit IV-73**.

²²⁷ GOC State Council, Development Zones (Mar. 18, 1988), attached at **Exhibit IV-74**.

²²⁸ MOFCOM, Caofedian Industrial Zone Overview, at “Iron & steel industry” and “Charge rates for the right to use land and coast line resources”, attached at **Exhibit IV-75**.

²²⁹ See Welded Line Pipe from China I&D Memo at 16.

government. . . .”²³⁰ Indeed, according to the Unirule Institute of Economics, an independent Chinese think tank, SOEs as a whole were unprofitable between 2001 and 2009 taking into account subsidies such as “unpaid rent for using public land. . . .”²³¹ There are two types of land use rights for state-owned property – “allocated” (*i.e.*, for SOEs), and “granted” (*i.e.*, for private entities). According to the World Bank, “the allocated land use right is usually given for free with no time limit”²³² However, only government entities such as SOEs are eligible to receive allocated land use rights. Private entities or foreign investors are ineligible to own or occupy allocated land.²³³

Even SOEs that have been partially privatized receive land for free or on a discounted basis.²³⁴ Recently privatized SOEs are permitted to keep the free land appropriations that they received previously, which allow them to continue to use the land “free of charge.”²³⁵ As a result, the GOC has implemented a land tenure system that provides preferences to SOEs. This preferential basis that the GOC grants land to SOEs continues even through privatization or government-mandated mergers. While ownership information on Chinese IMTDC producers is not readily available, Petitioner has reason to believe that one or more are SOEs or have only been partially privatized, and therefore likely received free or highly-discounted land.

²³⁰ Dexter Roberts, *How China May Lose A Chance For Reform*, Bloomberg BusinessWeek (Oct. 11, 2013), attached at **Exhibit IV-76**.

²³¹ Duanjie Chen, *China’s State-Owned Enterprises: How Much Do We Know? From CNOOC To Its Siblings*, 6 Univ. Calgary 19 at 6 (June 2013), excerpt attached at **Exhibit IV-77**.

²³² World Bank, *Doing Business: Registering Property In China*, attached at **Exhibit IV-78**.

²³³ *Id.*

²³⁴ Belton M. Fleisher, *Policy Reform and Chinese Markets: Progress and Challenges*, at 54-56, excerpts attached at **Exhibit IV-79**.

²³⁵ *Id.*

As it did in *Laminated Woven Sacks*²³⁶ and *Line Pipe*,²³⁷ the Department should investigate the provision of land to Chinese companies, as it constitutes a countervailable subsidy in the form of land-use rights provided for less than adequate remuneration.

b. The Receipt of Land-Use Rights for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

i. Financial Contribution

The provision of land to IMTDC producers by the Chinese government at a discounted rate, or for free, is a financial contribution under Section 771(5)(D)(iii) of the Act because the government is providing a good or service for less than adequate remuneration.

ii. Benefit

Consistent with the Department's findings in prior cases,²³⁸ because the government provides land to IMTDC producers at discounted rates, or even for free, the government is providing a good or service "for less than adequate remuneration," under Section 771(5)(E) of the Act. Petitioner also notes that, Article 15 of China's WTO Accession Protocol allows the Department to "use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks."²³⁹

iii. Specificity

Petitioner has a reasonable basis to believe that the land-use policies are administered on a specific basis for purposes of Section 771(5A)(D)(iii) of the Act because land use rights are provided to a limited number of enterprises or industries, and in particular the iron and iron-

²³⁶ See *Laminated Woven Sacks* I&D Memo at 14-18.

²³⁷ *Welded Line Pipe from China* I&D Memo at 13-18.

²³⁸ See, e.g., *id.* at 14; *Laminated Woven Sacks* I&D Memo at 14-18.

²³⁹ China's WTO Accession Protocol ¶15(b), attached at **Exhibit IV-21**.

consuming industries. The GOC limits access to this program to certain SOEs, which indicates specificity under Section 771(5A)(D)(i). Furthermore, 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. Additionally, land use rights that are granted to promote exports to enterprises and industries located in China's industrial zones are specific within the meaning of Sections 771(5A)(A) and (B) of the Act because they are contingent upon export.

E. Tax Benefit Programs

The local, provincial, and central Chinese governments provide a variety of tax exemptions, reductions, and credits that directly benefit China's IMTDC producers. These programs, detailed below, have provided and continue to provide a financial contribution to IMTDC producers in the form of revenue foregone by the Chinese government, and are countervailable subsidies under Section 771 of the Act.

1. Income Tax Reductions under Article 28 of the Enterprise Income Tax

a. The GOC Provides Tax Benefits Under Article 28 of the EIT to IMTDC Producers

The Enterprise Income Tax Law of the People's Republic of China ("EIT") was adopted on March 16, 2007 by the 5th Session of the 10th National People's Congress of the People's Republic of China and came into effect on January 1, 2008.²⁴⁰ The EIT allows for certain enterprises to reduce their tax liability by up to 10 percent.²⁴¹ According to Article 28 of the EIT, "{e}nterprise income tax for State-encouraged high and new technology enterprises shall be

²⁴⁰ *Enterprise Income Tax Law of the People's Republic of China*, No. 63 (Mar. 16, 2007), attached at **Exhibit IV-80**.

²⁴¹ *See id.*

levied at a reduced rate of 15%.”²⁴² The standard corporate tax rate in China is 25 percent.²⁴³

“Under this program, an enterprise must undergo an application, designation and certification process, and upon approval by the relevant authorities, is then issued a High and New Tech Enterprise Certificate, before it can claim the tax benefits under Article 28.”²⁴⁴

Publicly available evidence regarding IMTDC producers’ receipt of benefits under this program is lacking. That said, the GOC has previously designated producers in favored industries as “High and New Tech Enterprises.”²⁴⁵ Moreover, the English language websites of several IMTDC producers indicate that they may be “High and New Tech Enterprises.” For instance, Changzhou Chengwei Foundry Limited has been identified as a “private science and technology enterprise” in both the Changzhou and Jiangsu provinces.²⁴⁶ Furthermore, Ningbo Blue Machines Co., Ltd. is located in a Hi-Tech Zone and Ningbo Fulong Synchronous Belt Co. Ltd has been designated as a “hi-tech enterprise.”²⁴⁷ For these reasons, it is likely that one or more IMTDC producers qualify as “High and New Tech Enterprises” that has received benefits under this program. Accordingly, as it has done in prior cases, the Department should investigate this program.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ Steel Wheels from China I&D Memo at 34.

²⁴⁵ *Id.*

²⁴⁶ Changzhou Chengwei Foundry Limited Company website excerpt, attached at **Exhibit IV-81**.

²⁴⁷ Ningbo Blue Machines Co., Ltd. website excerpt, attached at **Exhibit IV-24**; Ningbo Fulong Synchronous Belt Co. Ltd. website excerpts, attached at **Exhibit IV-25**.

b. Tax Benefits Under Article 28 of the EIT Constitute Countervailable Subsidies

i. Financial Contribution

These preferential tax benefits provide a financial contribution in the form of revenue foregone by the Chinese government, pursuant to Section 771(5)(D)(ii) of the Act.

ii. Benefit

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

iii. 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, namely, firms designated as important high- and new-technology enterprises that are necessary to be supported by the state.²⁴⁸

2. Tax Offsets for Research and Development under the EIT

a. The GOC Provides Tax Offsets for Research and Development under the EIT

As the Department recently found, Article 30 of the EIT created a new program regarding the deduction of research and development (“R&D”) expenses by companies, which allows enterprises to deduct, through tax deductions, research expenditures incurred in the development of new technologies, products, and processes.²⁴⁹ Article 95 of Regulation 512 provides that, if eligible research expenditures do not “form part of the intangible assets value,” an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.²⁵⁰ Where these expenditures form the value of certain intangible assets, the expenditures may be

²⁴⁸ See *Enterprise Income Tax Law of the People’s Republic of China*, No. 63 (Mar. 16, 2007), at arts. 25, 28, attached at **Exhibit IV-80**.

²⁴⁹ See *id.*; see also CSPV from China I&D Memo at 17; Wind Towers from China &D Memo at 18-19.

²⁵⁰ See CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

amortized based on 150 percent of the intangible assets costs.²⁵¹ The Department has found that this program is specific because it is limited to research and development in eligible high-technology sectors.²⁵²

Publicly available evidence regarding IMTDC producers' receipt of benefits under this program is lacking. That said, the Department has previously found that the companies involved in China's favored industries, have received benefits under this program.²⁵³ Moreover, the English language websites of several IMTDC producers indicate that they are hi-tech enterprises that qualify for benefits under this program. For instance, Changzhou Chengwei Foundry Limited has been identified as a "private science and technology enterprise" in both Changzhou and Jiangsu provinces.²⁵⁴ Furthermore, Ningbo Blue Machines Co., Ltd. is located in a Hi-Tech Zone and Ningbo Fulong Synchronous Belt Co. Ltd has been designated as a "hi-tech enterprise."²⁵⁵ As a result, Petitioner has reason to believe that one or more IMTDC producers have received benefits under this program. Therefore, consistent with its past practice, the Department should investigate this program.

²⁵¹ CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

²⁵² CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

²⁵³ See Wind Towers from China I&D Memo at 18-19. As the Department has repeatedly found, the steel industry is a favored industry in China. See *supra* Part III.B.

²⁵⁴ Changzhou Chengwei Foundry Limited Company website excerpt, attached at **Exhibit IV-81**.

²⁵⁵ Ningbo Blue Machines Co., Ltd. website excerpt, attached at **Exhibit IV-24**; Ningbo Fulong Synchronous Belt Co. Ltd. website excerpts, attached at **Exhibit IV-25**.

b. Tax Offsets for Research and Development under the EIT Constitute Countervailable Subsidies

i. Financial Contribution

Consistent with the Department's prior determinations, tax offsets for research and development provide a financial contribution in the form of revenue foregone by the Chinese government, pursuant to Section 771(5)(D)(ii) of the Act.²⁵⁶

ii. Benefit

This program provides a benefit to the recipient in the amount of the tax savings from the program, pursuant to 19 C.F.R. § 351.509(a)(1).²⁵⁷

iii. Specificity

As the Department recently concluded, 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, namely those with R&D in eligible high-technology sectors.²⁵⁸

3. The Two Free/Three Half Program for Foreign-Invested Enterprises

a. The Two Free/Three Half Program for Foreign-Invested Enterprises Provides a Tax Subsidy for Chinese IMTDC Producers

In an effort to encourage foreign investment in China, the Chinese government enacted the Foreign Invested Enterprise and Foreign Enterprise Income Tax Law ("FIE Tax Law") in 1991.²⁵⁹ A company with foreign investment is called a Foreign-Invested Enterprise ("FIE") and, as such, becomes eligible for a number of tax subsidies.

²⁵⁶ See CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

²⁵⁷ CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

²⁵⁸ CSPV from China I&D Memo at 17; Wind Towers from China I&D Memo at 18.

²⁵⁹ See Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, No. 45 (Apr. 9, 1999), attached at **Exhibit IV-82**. See Coated Free Sheet from China I&D Memo at 10.

One such subsidy is provided under the “Two Free/Three Half” Program. According to Article 8 of the FIE Tax Law, FIEs that are profitable and scheduled to operate for not less than ten years are exempt from income tax in their first two profitable years and pay only half of the applicable tax rate for the following three years.²⁶⁰ China implemented a new tax regime on January 1, 2008, intended to eliminate discrepancies between tax rates for domestically-owned companies and FIEs. Article 57 of the new EIT grandfathered benefits for FIEs that were entitled to special tax rates under the previous regime.²⁶¹ Specifically, the Announcement Regarding Transitional Favourable Policies in Implementing the Law of Corporate Income Tax, issued on December 29, 2007, provides that companies registered with the Administration of Commerce and Industry before March 16, 2007 would continue to be entitled to receive the following:

{P}revious low tax rates {which} will be phased into the {new} statutory tax rates over five years after the implementation of the New Tax Law. Companies with {a} 15% corporate tax rate will be subject to a tax rate of 18% in 2008, 20% in 2009, 22% in 2010, 24% in 2011, and 25% in 2012.²⁶²

The standard corporate income tax rate in China (absent incentives) is now 25 percent.²⁶³ Tax incentives are “two years of tax free followed by three years of 50%” (*i.e.*, the ‘Two Free/Three Half’ Program discussed above).²⁶⁴ Companies receiving these incentives will be permitted to continue to receive them until the incentives expire as provided under prior tax laws and

²⁶⁰ Coated Free Sheet from China I&D Memo at 10-11.

²⁶¹ See *Enterprise Income Tax Law of the People’s Republic of China*, No. 63 (Mar. 16, 2007), attached at **Exhibit IV-80**.

²⁶² *Announcement Regarding Transitional Favourable Policies in Implementing The Law of Corporate Income Tax* (Dec. 29, 2007), attached at **Exhibit IV-83**.

²⁶³ *China Enacts New Corporate Income Tax Law*, Industry Week (July 11, 2007), attached at **Exhibit IV-84**.

²⁶⁴ *Announcement Regarding Transitional Favourable Policies in Implementing The Law of Corporate Income Tax* (Dec. 29, 2007), attached at **Exhibit IV-83**.

regulations. Furthermore, those companies which were approved but which had not yet made a profit will start receiving tax incentives beginning in 2008.²⁶⁵ The benefits of this program, therefore, have remained available throughout the POI.

Based on publicly available information, Petitioner believes that a number of Chinese IMTDC producers likely benefited from the “Two Free/Three Half” program. At least one IMTDC producer, Hangzhou Vision Chain Transmission Co., Ltd.,²⁶⁶ is an FIE, and therefore automatically qualifies for benefits under this program. However, IMTDC producers that are FIEs are by no means limited to this one company and likely include many more, given that there are currently more than 400,000 registered FIEs in China.²⁶⁷ Pursuant to China’s Income Tax Law of the People’s Republic of China Enterprises with Foreign Investment and Foreign Enterprises, an “enterprise with foreign investment” includes Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures, and foreign capital enterprises that are established in China.²⁶⁸ However, given the general lack of transparency and the opaque nature of many Chinese enterprises’ ownership structures, together with the Chinese government’s apparent discretion in determining which enterprises constitute FIEs, Petitioner has been unable to definitively identify additional FIEs. Accordingly, Petitioner respectfully requests that the Department further investigate which Chinese IMTDC producers are FIEs, as they have likely benefitted from this and other tax benefit programs for FIEs.

²⁶⁵ *Id.*

²⁶⁶ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

²⁶⁷ *China Foreign Invested Enterprises (FIEs)*, China Glocal, attached at **Exhibit IV-85**.

²⁶⁸ *See* Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, No. 45 (Apr. 9, 1999) at art. 2, attached at **Exhibit IV-82**.

b. The Two Free/Three Half Program for Foreign-Invested Enterprises Constitutes a Countervailable Subsidy

i. Financial Contribution

Consistent with its findings in *Aluminum Extrusions*,²⁶⁹ *Wire Decking*,²⁷⁰ *Coated Free Sheet Paper*²⁷¹ and *Certain Coated Paper Suitable for High-Quality Print Graphics*,²⁷² the tax exemptions and reductions disbursed under the “Two Free/Three Half” program constitute financial contributions in the form of revenue foregone by the GOC consistent with Section 771(5)(D)(ii) of the Act.

ii. Benefit

This program provides a benefit under Section 771(5)(E).²⁷³ The benefit conferred is equal to the taxes saved by the recipients, under 19 C.F.R. § 351.509(a)(1).

iii. Specificity

Consistent with the Department’s determination in *Coated Free Sheet*, the “Two Free/Three Half” program is specific under Section 771(5A)(D)(i) because it is “limited as a matter of law to certain enterprises” (*i.e.*, ‘productive’ FIEs).²⁷⁴

4. Income Tax Reductions for Export-Oriented FIEs

a. The GOC Provides Income Tax Reductions for Export-Oriented FIEs

According to China’s subsidies notification, an FIE may continue to pay half of its applicable income tax rate following the expiration of the “Two Free/Three Half Program” if

²⁶⁹ See *Aluminum Extrusions* from China I&D Memo at 19.

²⁷⁰ See *Wire Decking* from China I&D Memo at 23.

²⁷¹ See *Coated Free Sheet* from China I&D Memo at 10-11.

²⁷² See Issues & Decision Memorandum accompanying *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China*, 75 Fed. Reg. 59,212 (Dep’t Commerce Sept. 27, 2010) (final affirm. countervailing duty determ.) at 13-14 (“Print Graphics I&D Memo”).

²⁷³ See *Wire Decking* from China I&D Memo at 23.

²⁷⁴ *Coated Free Sheet* from China I&D Memo at 11; see *OCTG* from China I&D Memo at 16.

exports constitute 70 percent of the company's sales.²⁷⁵ 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 for Enterprises with Foreign Investment and Foreign Enterprises.²⁷⁶

As noted above, at least one Chinese IMTDC producer appears to qualify as an FIE and likely many more. Accordingly, to the extent that this FIE satisfies the requisite export levels, it has likely benefitted from this program. Evidence indicates that many Chinese IMTDC producers are heavily export-oriented. For instance, the majority – 75 percent – of Hangzhou Vision Chain Transmission Co., Ltd.'s revenue comes from overseas markets.²⁷⁷ To the extent that these IMTDC producers are also FIEs, it is likely that they received benefits under this program. Accordingly, as it has done in past cases, the Department should investigate this program.

b. Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises Constitute a Countervailable Subsidy

i. Financial Contribution

The reduction or exemption of income tax provides a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the Chinese government.

ii. Benefit

This program provides a benefit in an amount equal to the taxes saved by the recipients, pursuant to 19 C.F.R. § 351.509(a)(1).

²⁷⁵ WTO, Committee on Subsidies and Countervailing Measures: *Subsidies - New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement*, G/SCM/N/123/CHN, § II (Apr. 13, 2006), (“China Subsidies Notification”), attached at **Exhibit IV-86**.

²⁷⁶ See Rules for the Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, Decree {1991} of the State Council, No. 85 (June 30, 1991), attached at **Exhibit IV-87**.

²⁷⁷ See Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

iii. Specificity

Because this subsidy program is contingent on both foreign investment and export performance, it is specific under Section 771(5A)(B) of the Act.

5. Income Tax Benefits for FIEs Based on Geographic Locations

a. The GOC Provides Income Tax Benefits for FIEs in Certain Geographic Locations

The Chinese central and provincial governments provide a complex set of tax benefits to FIEs operating in Special Economic Areas (“SEAs”). SEAs include coastal economic zones, special economic zones, export processing zones, and economic and technological development zones. These programs, which benefit IMTDC producers, constitute countervailable subsidies under Section 771 of the Act and have been found to be countervailable by the Department in previous cases.²⁷⁸

One such program was created in 1988 by the Provisional Rules on Exemption and Reduction of Corporate Income Tax and Business Tax of FIEs in Coastal Economic Zone (also part of the FIE Tax Law).²⁷⁹ Under this program, which is administered under Article 7 of the FIE Tax Law and Article 71 of Decree 85, “productive” FIEs located in a coastal economic development zone, special economic zone or economic technology development zone receive preferential tax rates of either 15 or 24 percent, as opposed to the standard 25 percent rate.²⁸⁰ FIEs in the iron and iron-consuming industries are considered “productive” FIEs.²⁸¹ Productive

²⁷⁸ See Issues and Decision Memorandum accompanying *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China*, 75 Fed. Reg. 28,557 (Dep’t. Commerce May 21, 2010) (final affirm. countervailing duty determ.) at 30-31; *Lightweight Thermal Paper from China* I&D Memo at 15.

²⁷⁹ See *Coated Free Sheet from China* I&D Memo at 11.

²⁸⁰ *Id.*; *Wire Decking from China* I&D Memo at 24. In its 2006 notification to the WTO, China acknowledged that this program was a subsidy. See *China Subsidies Notification* at § I, attached at **Exhibit IV-86**.

²⁸¹ See *Coated Free Sheet from China* I&D Memo at 10 (noting that “productive” FIEs include those in the metallurgical industry).

FIEs are eligible for further income tax reductions if they are located in designated “old urban districts” or coastal economic zones and are engaged in (i) technology- or knowledge-intensive projects, (ii) long-term projects with foreign investment, or (iii) energy resource development, transportation and port construction projects.²⁸²

A number of Chinese IMTDC producers are located in SEAs. For example, Hangzhou Chain Group Co., Ltd, are located in the Yuhang Economic Development Zone.²⁸³ Shengzhou Xinglong Machinery Co., Ltd. is located in the Sanjie Industrial Zone,²⁸⁴ while Sichuan Reach Jiayuan Machinery Co. Ltd. is located in the Danleng East Industrial Zone.²⁸⁵ Furthermore, Ningbo Blue Machines Co., Ltd. is located in a Hi-Tech Zone.²⁸⁶ A full list of Chinese IMTDC producers located in these zones is provided at **Exhibit I-11**.²⁸⁷ Given the lack of transparency in China, Petitioner has identified only one Chinese IMTDC producer – Hangzhou Vision Chain Transmission Co., Ltd. – that is an FIE. However, as discussed above, there are likely many more Chinese IMTDC producers that are FIEs, given that there are currently more than 400,000 registered FIEs in China.²⁸⁸

Article 57 of the new EIT grandfathered benefits for FIEs that were entitled to special tax rates under the previous regime.²⁸⁹ Furthermore, the GOC issued separate rules clarifying how it would continue to provide the tax breaks, notwithstanding the new law. These rules provide that

²⁸² *China Subsidies Notification* § X, attached at **Exhibit IV-86**. FIEs that are eligible under this program because they are located in “old urban districts” or coastal economic zones already pay income tax at a reduced rate of 24 percent. *Id.*

²⁸³ Donghua Chain Group website excerpts, attached at **Exhibit IV-37**.

²⁸⁴ Shengzhou Xinglong Machinery Co., Ltd. website excerpt, attached at **Exhibit IV-88**.

²⁸⁵ *See* Chinese Producers/Exporters of IMTDC, attached at **Exhibit I-11**.

²⁸⁶ *See id.*

²⁸⁷ *See id.*

²⁸⁸ *China Foreign Invested Enterprises (FIEs)*, China Global, attached at **Exhibit IV-85**.

²⁸⁹ *Enterprise Income Tax Law of the People’s Republic of China*, No. 63 (Mar. 16, 2007), attached at **Exhibit IV-80**.

enterprises that have enjoyed preferential tax rates shall be taxed at rates to be increased from the current rate to the full rate under the Enterprise Income Tax Law within a period of 5 years.²⁹⁰ Among others, the enterprises that have been taxed at 15 percent shall be taxed at 18% in 2008, 20% in 2009, 22% in 2010, 24% in 2011, and 25% in 2012; the enterprises that have been taxed at 24% under the old income tax law shall be taxed at 25% as from 2008.²⁹¹ The benefits of this program, therefore, have remained available throughout the POI. Accordingly, to the extent that these productive enterprises are also FIEs, they likely benefitted from the programs outlined above, and the Department should investigate this program.

**b. Income Tax Benefits for FIEs Based on Geographic Location
Constitute a Countervailable Subsidy**

i. Financial Contribution

As the Department has previously determined, the income tax reductions granted to FIEs based on geographic location constitute financial contributions in the form of revenue foregone by the Chinese government, consistent with Section 771(5)(D)(ii) of the Act.²⁹²

ii. Benefit

Consistent with the Department's prior findings, the benefit conferred is in an amount equal to the taxes saved by the recipients, under 19 C.F.R. § 351.509(a)(1).²⁹³

²⁹⁰ Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa {2007}, No. 39, attached at **Exhibit IV-89**.

²⁹¹ *Id.*

²⁹² Wire Decking from China I&D Memo at 24; Coated Free Sheet from China I&D Memo at 11-12; see Issues and Decision Memorandum accompanying *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 73 Fed. Reg. 40,480 (Dep't Commerce July 15, 2008) (final affirm. countervailing duty determ. and final negative determ. of critical circumstances) at 22 ("Certain New Pneumatic Off-The-Road Tires I&D Memo"); Light-Walled Rectangular Pipe and Tube I&D Memo at 10-11.

²⁹³ Coated Free Sheet from China I&D Memo at 12.

iii. Specificity

As the Department has concluded, “the exemption/reduction is limited to enterprises located in designated geographical regions and, hence, is specific under Section 771(5A)(D)(iv) of the Act.”²⁹⁴

6. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs

a. The GOC Provides Local Income Tax Exemptions and Reductions for “Productive” FIEs

Pursuant to Article 9 of China’s FIE Tax Law and Article 71 of Decree 85 of the Council of 1991, “local provinces can establish eligibility criteria and administer the application process for local income tax reductions or exemptions for FIEs, effectively extending the tax exemptions or reductions that are allowed to FIEs by the national Two Free, Three Half program.”²⁹⁵

Local governments appear to have utilized heavily this program by implementing tax exemptions and reductions for productive FIEs in their localities. For example, Jiangsu Province exempts FIEs from local income taxes during the period in which they benefit from the “Two Free, Three Half” program, pursuant to the Regulations for the Local Income Tax Exemption and Reduction of Jiangsu Province for Enterprises with Foreign Investment.²⁹⁶ Additionally, in Shandong Province, any productive FIE established outside the coastal economic open area approved by the state with a total investment of more than \$30 million is eligible for an exemption from local income tax.²⁹⁷

²⁹⁴ *Id.*; see Certain New Pneumatic Off-The-Road Tires I&D Memo at 22; Light-Walled Rectangular Pipe and Tube I&D Memo at 10-11; Wire Decking from China I&D Memo at 24.

²⁹⁵ *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China*, 72 Fed. Reg. 71,360, 71,371 (Dep’t Commerce Dec. 17, 2007) (prelim. affirm. countervailing duty determ.).

²⁹⁶ *See Laminated Woven Sacks From the People’s Republic of China*, 72 Fed. Reg. 67,893, 67,903-904 (Dep’t Commerce Dec. 3, 2007) (prelim. affirm. countervailing duty determ.; prelim. affirm. determ. of critical circumstances, in part; and alignment of final countervailing duty determ. with final antidumping duty determ.).

²⁹⁷ *Id.*, 72 Fed. Reg. at 67,904.

As previously noted, iron and iron-consuming industries fall within the scope of a “productive industry” in China. The Department found this program to be countervailable in prior cases²⁹⁸ and should make the same finding here. Moreover, though Petitioner has identified only one Chinese IMTDC producer – Hangzhou Vision Chain Transmission Co., Ltd. – that is an FIE,²⁹⁹ as previously mentioned, there are likely many more Chinese IMTDC producers that are FIEs.³⁰⁰ As a result, as it has done in the past, the Department should investigate this program.

b. Local Income Tax Exemptions and Reductions for “Productive” FIEs Constitute Countervailable Subsidies

i. Financial Contribution

As the Department determined in *Off-the-Road Tires*,³⁰¹ pursuant to Section 771(5)(D)(ii) of the Act, these local income tax benefits provide a financial contribution in the form of revenue foregone by the Chinese government.

ii. Benefit

This program provides a benefit to the recipient in the amount of the tax savings received under the program, pursuant to 19 C.F.R. § 351.509(a)(1).³⁰²

iii. Specificity

Because this program is limited to “productive” FIEs, it is specific as a matter of law, under Section 771(5A)(D)(i) of the Act.

²⁹⁸ Certain New Pneumatic Off-The-Road Tires I&D Memo at 22; *see also* Kitchen Shelving and Racks I&D Memo at 12-13.

²⁹⁹ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

³⁰⁰ *China Foreign Invested Enterprises (FIEs)*, China Global, attached at **Exhibit IV-85**.

³⁰¹ *See* Certain New Pneumatic Off-The-Road Tires I&D Memo at 22.

³⁰² *Id.*

7. Tax Offsets for Research and Development by FIEs

a. The GOC Provides Tax Offsets for Research and Development By FIEs

As identified in its 2006 subsidies notification to the WTO, the Chinese government maintains preferential tax policies for research and development by FIEs. These benefits are administered by the Ministry of Finance and the State Administration of Taxation, and implemented pursuant to the SAT Circular Guo Shui Fa No.173 of 1999.³⁰³ Designed to encourage the research and development of enterprises, this tax offset permits “the actual expenses of foreign-invested enterprises on research and development conducted in China, which have increased ten percent or more from the previous year,” to be “offset by 150 percent from the taxable income of the year.”³⁰⁴ The Department has previously determined this program to be countervailable in *Aluminum Extrusions*.³⁰⁵

Petitioner believes that one or more Chinese IMTDC producers may have benefited from this program, including Hangzhou Vision Chain Transmission Co., Ltd., as it is an FIE that is likely engaged in significant research and development,³⁰⁶ and therefore appears to be eligible for benefits.

b. Tax Offsets for Research and Development by FIEs Constitute Countervailable Subsidies

i. Financial Contribution

Tax offsets for research and development by FIEs provide a financial contribution in the form of revenue foregone by the Chinese government, pursuant to Section 771(5)(D)(ii) of the Act.

³⁰³ *China Subsidies Notification* § XXVII, attached at **Exhibit IV-86**.

³⁰⁴ *Id.* § XXVI.

³⁰⁵ See *Aluminum Extrusions* from China I&D Memo at 30-31; see also *Print Graphics I&D Memo* at 17.

³⁰⁶ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

ii. Benefit

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

iii. 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, namely those that are FIEs and that engage in research and development in China.

8. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises

a. The GOC Provides Tax Refunds of FIE Profits in Export-Oriented Enterprises

Pursuant to the 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 Investments³⁰⁷ and the Supplementary Circular of the State Administration of Taxation Concerning the Preferential Policy of Enterprise Income Tax for Enterprises with Foreign Investment with Additional Investment,³⁰⁸ FIEs that use profits to establish another FIE (or high technology company) or that reinvest those profits into the same FIE, can receive complete refunds of the corporate income tax already paid on the invested amount. To be eligible for the refund, the recipient of the investment must be export-oriented and scheduled to operate for at least five years.³⁰⁹

³⁰⁷ See *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*, Cai Shui {2002} No. 56 (June 1, 2002) (“Circular on Preferential Policies”), attached at **Exhibit IV-90**.

³⁰⁸ See *Supplementary Circular of the State Administration of Taxation Concerning the Preferential Policy of Enterprise Income Tax for Enterprises with Foreign Investment with Additional Investment*, Guo Shui Han {2003} No. 368 (Mar. 28, 2003), attached at **Exhibit IV-91**.

³⁰⁹ Circular on Preferential Policies, attached at **Exhibit IV-90**.

Chinese producers of IMTDC with foreign investment, such as Hangzhou Donghua Chain Group Co., Ltd., are eligible for this program, provided they meet the export threshold. Evidence indicates that a number of Chinese IMTDC producers are significantly export-oriented and likely qualify for this tax refund. For instance, the majority – 75 percent – of Hangzhou Vision Chain Transmission Co., Ltd.’s revenue comes from overseas markets.³¹⁰

b. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises Constitute Countervailable Subsidies

i. Financial Contribution

Income tax exemptions or refunds constitute financial contributions in the form of revenue foregone by the GOC, consistent with Section 771(5)(D)(ii) of the Act.

ii. Benefit

The benefits conferred are in an amount equal to the taxes saved by or refunded to the recipients, pursuant to 19 C.F.R. § 351.509(a)(1).

iii. Specificity

The benefits conferred under this program are specific as described in Section 771(5A)(D)(i) of the Act, because they are limited to certain enterprises, *i.e.*, FIEs that reinvest profits into the FIE or another FIE. Additionally, this benefit is specific because it is contingent upon export performance.

9. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises

a. The GOC Provides Tax Benefits for FIEs Recognized as High or New Technology Enterprises

The GOC also provides preferential tax benefits to enterprises with foreign investment that are recognized as “high” or “new” technology enterprises or are established in “high” or

³¹⁰ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at Exhibit IV-38.

“new” technology industrial development zones. Additionally, high or new technology enterprises are eligible for additional tax preferences administered by the governments of the development zones themselves. This program has been in effect since 1991, with the aim of encouraging “high and new technology industrial development and enhance the technology progress.”³¹¹ The Department has previously found that the provision of preferential tax benefits for FIEs recognized as high or new technologies constitutes a countervailable subsidy.³¹²

At least one Chinese IMTDC producer has been designated as having high or new technology and likely received benefits pursuant to this subsidy program during the POI, notwithstanding changes to China’s tax regime. As previously indicated, Hangzhou Vision Chain Transmission Co., Ltd. is an FIE that appears to be recognized as a new technology company.³¹³ Accordingly, the Department should investigate this program.

b. Tax Benefits for High or New Technology FIEs Constitute Countervailable Subsidies

i. Financial Contribution

These preferential tax benefits provide a financial contribution in the form of revenue foregone by the Chinese government, pursuant to Section 771(5)(D)(ii) of the Act.

ii. Benefit

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

³¹¹ *China Subsidies Notification* at § VIII, attached at **Exhibit IV-86**.

³¹² *See, e.g.,* Aluminum Extrusions from China I&D Memo at VII.F.

³¹³ Hangzhou Vision Chain Transmission Co., Ltd. website excerpts, attached at **Exhibit IV-38**.

iii. 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, namely, those that have been designated as having high or new technology.

10. Preferential Income Tax Policy for Enterprises in the Northeast Region

a. The GOC Provides Tax Benefits to Enterprises in the Northeast Region

Under the Northeast Tax Preference Policy, enterprises located in the Liaoning, Jilin and Heilongjiang provinces (*i.e.*, the “Northeast Region”) may: (1) reduce the depreciation life of fixed assets by up to 40 percent for tax purposes, thereby increasing the annual amount of depreciation expense that may be deducted from the company’s income tax;³¹⁴ and (2) lessen 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.³¹⁵ As the GOC acknowledges, the Northeast Tax Preference Policy significantly reduces a company’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 RMB 96.84 million for a single quarter alone.³¹⁶

Specific information concerning the income taxes paid and the tax deductions taken by IMTDC producers located in the Northeast Region, which include WOT Parts & Machinery Co.

³¹⁴ See *Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region* by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004), (“Northeast Tax Preference Policy”), attached at **Exhibit IV-92**; see also *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 at **Exhibit IV-93**.

³¹⁵ See Northeast Tax Preference Policy, attached at **Exhibit IV-92**; see also Northeast Tax Preference Policy Notice, attached at **Exhibit IV-93**.

³¹⁶ See *Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 Million Yuan of Taxes Waived*, Xinhua (Oct. 22, 2004), attached at **Exhibit IV-94**.

Ltd., is not reasonably available to Petitioner. However, to the extent that Chinese IMTDC producers are located in the Liaoning, Jilin and Heilongjiang provinces, it is likely that they benefitted from this program.

**b. Tax Benefits for Enterprises in the Northeast Region
Constitute a Countervailable Subsidy**

i. Financial Contribution

The Northeast Tax Preference Policy provides a financial contribution in the form of revenue foregone by the GOC, under Section 771(5)(D) of the Act. Specifically, the Northeast Tax Preference Policy permits a company in the Northeast Region to deduct a larger amount of depreciation and amortization expenses, thereby reducing the company's income tax.³¹⁷

ii. Benefit

The effect of the Northeast Tax Preference Policy is to lower the tax burden on eligible companies. Accordingly, it clearly confers a benefit on the recipient companies within the meaning of Section 771(5)(E) of the Act. Such benefit arises on the date on which the recipient firm would otherwise have had to pay the taxes in question.³¹⁸

iii. Specificity

The subsidies provided by the Northeast Tax Preference Policy are available only to companies located in the Liaoning, Jilin and Heilongjiang provinces.³¹⁹ As a result, such benefits are limited to a designated geographical region within the jurisdiction of the GOC and are therefore specific under Section 771(5A)(D)(iv) of the Act.

³¹⁷ See Northeast Tax Preference Policy, attached at **Exhibit IV-92**; Northeast Tax Preference Policy Notice, attached at **Exhibit IV-93**.

³¹⁸ See *Countervailing Duties*, 63 Fed. Reg. 65,348, 65,375-65,376 (Dep't Commerce Nov. 25, 1998) (final rule); see also Issues and Decision Memorandum accompanying *Stainless Steel Plate in Coils from Belgium*, 64 Fed. Reg. 15,567 (Dep't Commerce Mar. 31, 1999) (final affirm. countervailing duty determ.) at cmts. 21-22.

³¹⁹ See Northeast Tax Preference Policy, attached at **Exhibit IV-92**; Northeast Tax Preference Policy Notice, attached at **Exhibit IV-93**.

11. Forgiveness of Tax Arrears For Enterprises Located in the Old Industrial Bases of Northeast China

a. The GOC Forgives Tax Arrears for Enterprises Located 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 “{o}ld {i}ndustrial {b}ases of Northeast China.”³²⁰ 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.³²¹ The scope of the tax forgiveness also includes “surcharges for overdue tax payment” – *e.g.*, interest and penalties on the overdue taxes.³²² Significantly, the tax forgiveness applies to both state-owned and private enterprises alike.

Certain Chinese IMTDC producers are eligible for this program based on their location. For example, WOT Parts & Machinery Co. Ltd. is located in Liaoning Province, and is therefore eligible for, and likely benefitted from, this program.

³²⁰ 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, No. 167 (Dec. 16, 2006), attached at **Exhibit IV-95**.

³²¹ *Id.* at 1-2.

³²² *Id.* at 2.

b. The GOC Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China Constitutes a Countervailable Subsidy

i. Financial Contribution

The tax exemptions and reductions provided under this program constitute financial contributions in the form of revenue foregone by the GOC consistent with Section 771(5)(D)(ii).

ii. Benefit

The effect of the Northeast Tax Forgiveness Program is to lower the tax burden on eligible enterprises located in the Northeast Region. The program, therefore, provides a benefit to the recipient in the amount equal to the taxes saved by the recipients under 19 C.F.R. § 351.509(a)(1).

iii. 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, *i.e.*, those enterprises that are located in the Liaoning, Jilin, and Heilongjiang provinces in Northeast China.

12. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment

a. The GOC Provides Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment

Pursuant to China's WTO subsidies notification, the GOC offers preferential tax policies to domestic enterprises if they upgrade their manufacturing operations with Chinese-made equipment.³²³ The notification provides that domestic enterprises which upgrade technology consistent with the GOC's industrial policies may deduct 40 percent of the purchase price of the

³²³ *China Subsidies Notification*, attached at Exhibit IV-86.

domestic equipment from their next year's income tax obligation.³²⁴ In those circumstances where the income tax due is less than 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.³²⁵ Although information on the ownership of Chinese IMTDC producers is not publicly available, Petitioner reasonably believes that at least several are domestically-owned companies that likely purchase domestically-produced equipment.

Petitioner notes that 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."³²⁶ However, the Department should examine whether benefits under this program have actually terminated or whether benefits continue under a new name. To this end, 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.³²⁷

b. The Income Tax Credits for Domestically-Owned Companies Purchasing Domestically Produced Equipment Constitutes Countervailable Subsidies

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. 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).

³²⁴ *Id.*; see also Welded Line Pipe from China I&D Memo at 25.

³²⁵ *China Subsidies Notification*, attached at Exhibit IV-86.

³²⁶ Welded Line Pipe from China I&D Memo at 25.

³²⁷ *Id.* at 78-79.

iii. 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.

F. VAT Programs

1. VAT and Import Duty Exemptions for Use of Imported Equipment

a. The Chinese Government Provides VAT and Import Duty Exemptions for Use of Imported Equipment

The GOC operates a VAT and tariff exemption program on imported equipment that confers a countervailable subsidy on Chinese IMTDC producers. The Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import³²⁸ exempts FIEs and certain domestic enterprises in encouraged industries from paying VAT and tariffs on imported equipment used in their production and not intended for resale.³²⁹ The program is administered by the NDRC and the General Administration of Customs, and is intended to encourage foreign investment, introduce foreign advanced equipment into China and upgrade industrial technology. The program was enacted in 1997³³⁰ and included in the GOC's subsidy notification to the WTO.³³¹ The Department has previously found this program to provide a countervailable subsidy and has imposed countervailing duties on companies benefitting from this program.³³²

³²⁸ See *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, GuoFa {1997} No. 37 (Dec. 29, 1997), attached at **Exhibit IV-96**.

³²⁹ *Id.*; see also *Coated Free Sheet Paper from the People's Republic of China*, 72 Fed. Reg. 17,484, 17,496 (Dep't Commerce Apr. 9, 2007) (amended prelim. affirm. countervailing duty determ.).

³³⁰ See *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, GuoFa {1997} No. 37 (Dec. 29, 1997), attached at **Exhibit IV-96**.

³³¹ See *China Subsidies Notification* at 68-69, attached at **Exhibit IV-86**.

³³² See, e.g., *Aluminum Extrusions from China* I&D Memo at Part VII.D.; *Wire Decking from China* I&D Memo at 25-26; *Coated Free Sheet from China* I&D Memo at 13-14; *Certain New Pneumatic Off-The-Road Tires* I&D Memo at 22-23.

The GOC's Catalogue for the Guidance of Industrial Structure Adjustment,³³³ which replaced the Catalogue of the Industries, Products and Technologies Particularly Encouraged by the State,³³⁴ identifies iron as an encouraged industry. Information reasonably available to Petitioner indicates that a number of IMTDC producers have purchased imported equipment and thus would qualify for benefits under this program. For example, Ningbo Fulong Synchronous Belt Co., Ltd. advertises that its main raw materials and accessories are imported from Japan, England, and Germany.³³⁵ Given that many Chinese IMTDC producers likely use imported equipment in their production of IMTDC, they have likely received benefits under this program.

b. VAT and Import Duty Exemptions Provided by the GOC Constitute Countervailable Subsidies

i. Financial Contribution

Consistent with the Department's findings in *Aluminum Extrusions* and *Wire Decking*, the VAT exemptions are a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC.³³⁶

ii. Benefit

Consistent with 19 C.F.R. § 351.509(a)(1), the benefit conferred is equal to the amount of VAT and tariff savings. However, when a VAT exemption is provided for, or tied to, the capital

³³³ See GOC's Catalogue for the Guidance of Industrial Structure Adjustment (2011 Version), effective June 1, 2011, attached at **Exhibit IV-97**.

³³⁴ WTO, Committee on Subsidies and Countervailing Measures, *Subsidies – Replies to the Questions Posed by Turkey Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/29 at 1 (Sept. 14, 2007), attached at **Exhibit IV-98**.

³³⁵ See Ningbo Fulong Synchronous Belt Co. Ltd. website excerpts, attached at **Exhibit IV-25**.

³³⁶ Aluminum Extrusions from China I&D Memo at Part VII.D.; see Wire Decking from China I&D Memo at cmt. 19.

structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit to the firm over the AUL, which is 14 years.³³⁷

iii. Specificity

Consistent with the Department's finding in *Wire Decking*, the VAT and tariff exemptions under this program are specific under Section 771(5A)(D)(iii)(I) of the Act because the program is limited to certain enterprises, *i.e.*, only FIEs and certain domestic enterprises.³³⁸

2. VAT Rebate Exemptions on FIE Purchases of Chinese-Made Equipment

a. The Chinese Government Provides VAT Rebates on FIE Purchases of Chinese-Made Equipment

Under the Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refund to Enterprises with Foreign Investment for Their Domestic Equipment Purchases, the Chinese government refunds the VAT on FIE purchases of certain domestically-produced equipment. This program is limited to FIEs,³³⁹ and covers equipment falling under the "Encouraged" and "Restricted B" categories listed in the Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment and equipment for projects listed in the Current Catalogue of Key Industries, Products and Technologies the Development of Which Is Encouraged by the State.³⁴⁰ These VAT rebates are provided upon the presentation of documents demonstrating FIE status.

³³⁷ See 19 C.F.R. § 351.524(c)(2)(iii); 19 C.F.R. § 351.524(d)(2); *see also* Warmwater Shrimp I&D Memo at 24-25; *How to Depreciate Property*, Dep't Treasury, Internal Revenue Service, Pub. 946 (2014) at 104, excerpts attached at **Exhibit IV-15**.

³³⁸ *Wire Decking* from China I&D Memo at 26.

³³⁹ *Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refund to Enterprises with Foreign Investment for Their Domestic Equipment Purchases*, GuoShuiFa {1999} No. 171 (Sept. 20, 1999), at art. 3, attached at **Exhibit IV-99**.

³⁴⁰ *Id.*; *see also* *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, GuoFa {1997} No. 37 (Dec. 29, 1997), attached at **Exhibit IV-96**. *See also* *Current Catalogue of Key*

As previously mentioned, at least one Chinese IMTDC producer qualifies as an FIE, and has likely purchased Chinese-made equipment. Because this and other FIEs in the IMTDC industry are likely to have purchased machinery used to manufacture subject merchandise from domestic sources in China, there is a reasonable basis to believe that some producers of IMTDC have benefited from this VAT rebate program. Accordingly, the Department should initiate an investigation of this program.

b. VAT Rebates on FIE Purchases of Chinese-Made Equipment Constitute Countervailable Subsidies

i. Financial Contribution

The VAT rebate program qualifies as a financial contribution pursuant to Section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC.

ii. Benefit

Consistent with 19 C.F.R. § 351.509(a)(1), the benefit conferred is equal to the amount of VAT rebates. However, when a VAT exemption is provided for, or tied to, the capital structure or capital assets of a firm, the Department may treat it as a non-recurring benefit and allocate the benefit to the firm over the AUL, which is 14 years.³⁴¹

iii. Specificity

Consistent with the Department's determination in *Wire Decking*, this program is specific under Section 771(5A)(C) of the Act because the VAT rebates are contingent upon the use of

Industries, Products and Technologies the Development of Which Is Encouraged by the State (Provisional) (Dec. 31, 1997), attached at **Exhibit IV-100**.

³⁴¹ See 19 C.F.R. § 351.524(c)(2)(iii); 19 C.F.R. § 351.524(d)(2); see also Warmwater Shrimp I&D Memo at 24-25; *How to Depreciate Property*, Dep't Treasury, Internal Revenue Service, Pub. 946 (2014) at 104, excerpts attached at **Exhibit IV-15**.

domestic over imported goods.³⁴² Additionally, this program is specific under Section 771(5A)(D)(iii)(I) of the Act because it is limited to certain enterprises, specifically FIEs.

3. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program

a. The Chinese Government Provides VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program

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 Areas³⁴³ allows businesses in northeast China in the high-tech, equipment manufacturing, petrochemical, metallurgical and selected other industries to deduct VAT for purchases of fixed assets from the VAT for sales of finished goods.³⁴⁴ As an industry involved in the metallurgical industry, the IMTDC industry clearly falls within the scope of these industries.

In prior investigations, the Department has found this program to be countervailable.³⁴⁵ Information concerning the grants received by IMTDC producers under this preferential tax program is not reasonably available to Petitioner. However, WOT Parts & Machinery is located in the northeastern Liaoning Province and most likely benefited from this program.³⁴⁶ Therefore, as it has done in prior cases, the Department should initiate an investigation of this program.

³⁴² Wire Decking from China I&D Memo at 27-28.

³⁴³ *See Circular of the State Administration of Taxation on Printing and Distributing the Provisional Measures for Expansion of the VAT Deduction Scope*, GuoShuiFa {2007} (May 28, 2007) No. 62, attached at **Exhibit IV-101**.

³⁴⁴ Welded Line Pipe from China I&D Memo at 21-22.

³⁴⁵ *See id.*

³⁴⁶ *See Chinese Producers/Exporters of IMTDC*, attached at **Exhibit I-11**.

b. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program Constitute Countervailable Subsidies

i. Financial Contribution

The Department has found that this program constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue forgone by the GOC.³⁴⁷

ii. Benefit

The Department has found that this program confers a benefit under Section 771(5)(E) of the Act in the amount equal to the amount of the VAT refund.³⁴⁸

iii. Specificity

Consistent with the Department's prior findings, this program is regionally specific under Section 771(5A)(D)(iv) of the Act because refunds provided under this program are limited to companies located in a certain geographical location, *i.e.*, northeast China.³⁴⁹

VII. CONCLUSION

As described above, Chinese IMTDC producers are benefiting from enormous countervailable subsidies, which are causing material injury to the domestic IMTDC industry. Petitioner therefore requests that the Department initiate a countervailing duty investigation on imports of IMTDC from China, that the Department make affirmative determinations of countervailable subsidies, and that the Commission make an affirmative determination of material injury by reason of such unfairly traded imports.

³⁴⁷ Welded Line Pipe from China I&D Memo at 21-22.

³⁴⁸ *Id.*

³⁴⁹ *Id.* at 22.