



28 November 2013

The Director
Operations 2
Anti-Dumping Commission
5 Constitution Avenue
Canberra ACT 2601

Review 229: Countervailable Subsidies

This submission is made on behalf of Capral Ltd, a member of the Australian aluminium extrusions industry, in relation to Review 229 of certain aluminium extrusions exported to Australia from China by Alnan Aluminium Co Ltd (Alnan). We specifically refer to countervailable subsidies and submit that Alnan is in receipt of subsidies additional to those covered by the existing countervailing duty notice.

In the original aluminium extrusions investigation (Investigation 148) Customs investigated 43 alleged subsidy programs and ultimately countervailed 19 of those. We note that Alnan, in its application to Review 229, has admitted to receiving benefits under four of the programs covered by the existing notice. In addition, we submit that Chinese producers of aluminium extrusions, including Alnan, have received benefits under five programs not previously investigated:

- three programs countervailed by the United States (US) in relation to aluminium extrusions subsequent to Investigation 148, and
- two additional programs.

These subsidy programs are analysed in detail below, with references to supporting evidence in the footnotes. A list of the evidence with full citations is contained in the appendix.

Non-Confidential – For Public Record

Subsidy programs countervailed by the US

Policy loans to Chinese aluminium extrusion producers

The US has countervailed preferential lending or ‘policy loans’ in nearly all subsidy cases against China since 2007, including in relation to aluminium extrusions.¹ The US has successfully defended the countervailing of China’s policy loan programs at the WTO.² The European Union (EU) has also countervailed preferential lending programs in both of its successful subsidy cases against China.³ Additionally, as noted in the Commission’s subsidies register, in 2008 Customs preliminarily found preferential lending to encouraged industries to be a countervailable subsidy during the toilet paper investigation.⁴

These cases clearly support the existence of policy loans as countervailable subsidies in the aluminium extrusions industry. The essential elements of the subsidy are outlined as follows.

Financial contribution

- Direct financial contribution in the form of loans from Chinese policy banks and state-owned commercial banks (SOCBs).
- The US has found SOCBs to be ‘public bodies’ (or ‘authorities’ in US terminology) and the WTO upheld this approach in DS379.⁵
- In more recent cases the US noted that the government of China (GOC) has provided no evidence to warrant reconsideration of this finding.⁶

Benefit conferred

- The difference between the amount paid on the loan and the amount that would have been paid on a comparable commercial loan.
- The continued significant intervention of state-owned banks in China's banking sector precludes the use of a benchmark within China because no fully market-determined rates exist. China's banking sector does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the GOC's continued dominant role in the sector.⁷
- The benchmark should be derived using the same methodology applied by the US—based on IMF interest rates (or LIBOR and corporate BB bond rates for foreign currency denominated loans) and World Bank economy groupings with an adjustment for 'governance indicators' and a further adjustment applicable to long-term loans.⁸

¹ Coated paper (US) at I.A; Aluminium extrusions (US) at VII.G

² DS379 at IV-VI

³ Coated paper (EU) at 4.2.1; Coated steel (EU) at 3.3.2

⁴ Toilet paper at Chapter 4

⁵ DS379, pp.134-138

⁶ Frozen shrimp (US) at VI.A.1; Wind towers (US) at Comment 4

⁷ Coated paper (US) at Comment 10; Wind towers (US) at Comment 4

⁸ Frozen shrimp (US) at IV.E

Non-Confidential – For Public Record

- The benchmark must also include an upward adjustment to reflect normal market risk and the unreliability of the creditworthiness of Chinese exporters, as happens in the US and EU.⁹

Specificity

- Preferential treatment by banks in the granting of loans to producers of aluminium extrusions as members of an ‘encouraged’ industry.
- Aluminium extrusions production is an encouraged industry as detailed in the US case,¹⁰ which relied on the same GOC plans and documents that Customs relied upon in its aluminium road wheels (ARWs) dumping and subsidy investigation, particularly the:
 - *Guidelines for Accelerating the Restructuring of the Aluminium Industry*,¹¹ and
 - *Nonferrous Metal Industry Adjustment and Revitalization Plan*¹²

Application to Alnan

- This subsidy has been countervailed by the US in relation to all Chinese producers of aluminium extrusions, including the two exporters that cooperated with the US investigation.
- Alnan’s three largest extrusion presses were purchased within the last three years,¹³ therefore it is highly likely that Alnan has interest costs during the review period to repay loans made to purchases these presses.
- Also, although Alnan claims to have not received a benefit under Program 21 (tariff and VAT exemptions on imported equipment),¹⁴ the Commission should further investigate the purchase of these extrusion presses to verify this claim.

Provision of land-use rights for less than adequate remuneration

The US has countervailed the provision of land-use rights for less than adequate remuneration (LTAR) in most cases against China since 2008, including in relation to aluminium extrusions.¹⁵ The EU has also countervailed the provision of land-use rights in both of its successful subsidy cases against China.¹⁶

These cases clearly support the existence of land-use rights for LTAR as a countervailable subsidy in the aluminium extrusions industry. The subsidy

⁹ *Photovoltaic cells (US)* at VI.A.2 & Comment 17; *Coated steel (EU)* at 3.3.2(h)

¹⁰ *Aluminium extrusions (US)* at VII.G

¹¹ Attachment A1 to the GOC’s questionnaire response in *ARWs* (Referred to in *Aluminium extrusions (US)* as the Aluminium Industry Guidelines and in *ARWs* as the Guidelines)

¹² Attachment A47 to the GOC’s questionnaire response in *ARWs* (Referred to in *Aluminium extrusions (US)* as the Nonferrous Metal Plan and in *ARWs* as the Nonferrous Plan)

¹³ *Alken report*

¹⁴ Alnan application for review, p.7

¹⁵ *Laminated woven sacks (US)* at VI.A.1; *Aluminium extrusions (US)* at VII.T & VII.U

¹⁶ *Coated paper (EU)* at 4.2.5; *Coated steel (EU)* at 3.3.1.2

Non-Confidential – For Public Record

applies generally to all land-use rights across China. The essential elements of the subsidy are outlined as follows.

Financial contribution

- Provision of a good by a provincial or local government authority.¹⁷

Benefit conferred

- The difference between the amount paid for land-use rights and the benchmark price.
- Use of an in-country benchmark is precluded because the purchase of land-use rights in China is not conducted in accordance with market principles—due to the overwhelming presence of government involvement in the land-use rights market and the widespread and documented deviation from the authorised methods of pricing and allocating land.¹⁸ This finding is supported by the fact that the bidding and auction system supposedly in place to ensure competition in the Chinese land market is not being followed in practice.¹⁹
- The benchmark should be derived using the same methodology applied by the US—based on rental rates and rates paid for land purchased in industrial parks outside Bangkok.²⁰

Specificity

- The access to industrial land is by law limited only to companies respecting the industrial policies set by the GOC and only certain transactions are subject to a bidding process, with prices often being set by the authorities.²¹
- Alternatively, the subsidy may be regionally specific—ie the financial contribution is limited to an enterprise or industry or group thereof located within a designated geographical region.²² This approach to regional specificity has been upheld by the WTO.²³

Application to Alnan

- This subsidy has been countervailed by the US in relation to all Chinese producers of aluminium extrusions, including the two exporters that cooperated with the US investigation.

¹⁷ *Laminated woven sacks (US)* at Comment 8

¹⁸ *Laminated woven sacks (US)* at VI.A.1

¹⁹ *Photovoltaic cells (US)* at Comment 11; *Coated steel (EU)* at 3.3.1.2(d)

²⁰ *Photovoltaic cells (US)* at II.E & Comment 11

²¹ *Coated steel (EU)* at 3.3.1.2(e)

²² *Laminated woven sacks (US)* at Comment 9

²³ *DS370*, pp.138-163

Non-Confidential – For Public Record

- Alnan occupies an extremely large site, over 400 Chinese acres²⁴ (approximately 27 hectares), therefore it is highly likely that Alnan has costs for land-use rights.

Provision of electricity for less than adequate remuneration

The US has countervailed the provision of electricity for less than adequate remuneration (LTAR) in most cases against China since 2008, including in relation to aluminium extrusions.²⁵ The EU and Canada have also countervailed the provision of electricity in their most recent subsidy cases against China.²⁶

These cases strongly support the existence of electricity for LTAR as a countervailable subsidy in the aluminium extrusions industry. The subsidy applies generally to all electricity supply in China. The elements of the subsidy are outlined as follows.

Financial contribution

- Provision of a good by a public electricity supply company.²⁷

Benefit conferred

- The difference between the amount paid for electricity and the benchmark price.
- The benchmark should be derived using the same methodology applied by the US, EU and Canada—based on rates set by the GOC that are generally applicable to large industrial users.²⁸

Specificity

- The lower rate of electricity is limited to certain enterprises in certain specified sectors included in a sub-category of industrial users.²⁹
- Alternatively, the subsidy may be regionally specific—ie the financial contribution is limited to an enterprise or industry or group thereof located within a designated geographical region.³⁰

Application to Alnan

- This subsidy has been countervailed by the US in relation to Chinese producers of aluminium extrusions and by the US, EU and Canada in relation to manufacturers in many other key industrial sectors.

²⁴ *Alnan website*, 'Introduction' page

²⁵ *Thermal paper (US)* at I.N & Comment 11; *Aluminium extrusions (US)* at VI & X.V

²⁶ *Coated steel (EU)* at 3.3.1.4; *Silicon metal (Canada)* at Appendix 3.VI

²⁷ *Photovoltaic cells (US)* at VI.A.5; *Coated steel (EU)* at 3.3.1.4(d)

²⁸ *Photovoltaic cells (US)* at VI.A.5; *Coated steel (EU)* at 3.3.1.4(e); *Silicon metal (Canada)* at Appendix 3.VI

²⁹ *Coated steel (EU)* at 3.3.1.4(f) para.(148)

³⁰ *Coated steel (EU)* at 3.3.1.4(f) para.(149)

Non-Confidential – For Public Record

- The aluminium industry is highlighted as a key industry in the GOC's development plan for Guangxi province.³¹
- Alnan states that it is one of Guangxi's 50 top enterprises and is recognised as a Guangxi famous trademark,³² and notes that it has undertaken investment to conform to the GOC's industrial policy.³³
- Alnan also admits to receiving numerous grants, regional government support and preferential tax treatment whereby it pays only 15% income tax instead of 25%,³⁴ therefore it is likely that Alnan has received electricity at lower rates than those set by GOC authorities.

Additional subsidy programs

Provision of water for less than adequate remuneration

The EU countervailed the provision of water for less than adequate remuneration (LTAR) in its recent coated steel case.³⁵ The subsidy applies generally to all water supply across China and the EU case supports the existence of water for LTAR as a countervailable subsidy for 'encouraged' industries. The aluminium industry is also 'encouraged', particularly in Guangxi province. The elements of the subsidy are outlined as follows.

Financial contribution

- Provision of a good by a public water supply company.³⁶

Benefit conferred

- The difference between the amount paid for water and the benchmark price.
- The benchmark should be derived using the same methodology applied by the EU—based on prices set by the GOC.³⁷

Specificity

- The lower price of water is limited to certain enterprises due to the apparent discretion conferred on local authorities.³⁸

Application to Alnan

- This subsidy has been countervailed by the EU in relation to manufacturers in a key industrial sector.

³¹ *Guangxi plan*, pp.19-23

³² *Alnan website*, 'Introduction' page

³³ *Alnan website*, 'Development project' page at point 3

³⁴ Alnan application for review, pp.6-7

³⁵ *Coated steel (EU)* at 3.3.1.3

³⁶ *Coated steel (EU)* at 3.3.1.3(c)

³⁷ *Coated steel (EU)* at 3.3.1.3(b) & (d)

³⁸ *Coated steel (EU)* at 3.3.1.3(e)

Non-Confidential – For Public Record

- The aluminium industry is highlighted as a key industry in the GOC's development plan for Guangxi province.³⁹
- Alnan states that it is one of Guangxi's 50 top enterprises and is recognised as a Guangxi famous trademark,⁴⁰ and notes that it has undertaken investment to conform to the GOC's industrial policy.⁴¹
- Alnan also admits to receiving numerous grants, regional government support and preferential tax treatment whereby it pays only 15% income tax instead of 25%,⁴² therefore it is highly possible that Alnan has received water at lower prices than those set by GOC authorities.

Currency undervaluation

China's currency is widely regarded as undervalued due to the GOC's intervention in currency markets to limit the appreciation of the renminbi (RMB) against the US dollar (USD) and other currencies, including the Australian dollar (AUD).⁴³ This has a significant impact on current accounts and trade balances and the functioning of the global economy as a whole.⁴⁴

Economists estimate that the RMB is undervalued by as much as 50% against the USD.⁴⁵ Earlier this year the International Monetary Fund (IMF) reported that the RMB is undervalued by 5% to 10% 'compared with the level consistent with medium-term fundamentals and desirable policy settings'.⁴⁶ The same report shows that compared to the AUD, the RMB is undervalued in the range of 10% to 25%.⁴⁷

A number of US industries, including the aluminium extrusions industry, have requested investigation of currency undervaluation by China as a countervailable subsidy. The US has never initiated an investigation, on the basis that these industries failed to support their claim that the subsidy is specific.⁴⁸

In February 2011 a comprehensive legal analysis of the countervailability of China's currency regime was published, which strongly supports the assessment of currency undervaluation as a countervailable subsidy.⁴⁹ In October 2011 the US solar industry included this analysis as supporting evidence with its application for countervailing duties. The US again failed to initiate an investigation on the basis that the applicant did not provide any new information or evidence to address the deficiencies identified in previous cases.⁵⁰ However,

³⁹ *Guangxi plan*, pp.19-23

⁴⁰ *Alnan website*, 'Introduction' page

⁴¹ *Alnan website*, 'Development project' page at point 3

⁴² Alnan application for review, pp.6-7

⁴³ *CRS report*, p.1

⁴⁴ *Peterson*, pp.2-15

⁴⁵ *CRS report*, p.17

⁴⁶ *Bloomberg*

⁴⁷ *IMF report*, p.28

⁴⁸ *US subsidy assessment* at I.I.C, pp.28-29

⁴⁹ *Journal of World Trade*

⁵⁰ *US subsidy assessment* at I.I.C, pp.28-29

Non-Confidential – For Public Record

all of the previous cases were initiated before the new analysis was published, therefore the US did not fully consider the new evidence provided by the solar industry. Unlike in the previous cases, the US did not revisit its decision not to investigate currency undervaluation in its final report.

Draft legislation was recently introduced into the US Congress that would force US authorities to investigate currency undervaluation as a countervailable subsidy.⁵¹ We submit that continued refusal of the US to investigate currency undervaluation is not based on an objective assessment of the evidence, which strongly supports the existence of currency undervaluation as a prohibited export subsidy. The elements of the subsidy are outlined as follows.

Financial contribution

- Direct transfer of funds whereby banks are required to exchange foreign currency for RMB at the GOC's administered exchange rate.⁵²
- The US has found SOCBs to be 'public bodies' (or 'authorities' in US terminology) and the WTO upheld this approach in DS379.⁵³

Benefit conferred

- The difference between the amount of RMB received in exchange for foreign currency (AUD or USD) and the amount of RMB an exporter would have received under a benchmark exchange rate.
- The GOC controls both the RMB and foreign exchange market in China and plays a predominant role in setting and maintaining the AUD-RMB exchange rate, resulting in distorted currency markets in China and globally. "There is no market-determined USD-RMB [or AUD-RMB] exchange rate, free of GOC distortions, in any market in the world".⁵⁴
- GOC policies that result in distortion of foreign currency markets include:
 - the GOC maintains tight capital controls, which limit Chinese companies from freely purchasing and selling foreign currency
 - Chinese exporters are required to trade foreign currency for RMB
 - the GOC places stringent controls on the investment activities of both foreign and domestic companies, and
 - foreign currency is prohibited for circulation and may not be quoted for pricing or settlement in China.⁵⁵
- US Congress is suggesting the benchmark exchange rate be the simple average of benchmark rates calculated under two of the three methods used by the IMF's Consultative Group on Exchange Rates (CGER) and based on IMF or World Bank data.⁵⁶

⁵¹ *US Bill*, s.11(a)

⁵² *Journal of World Trade*, p.195 at 2.2.2 & footnote 40; and p.200

⁵³ *DS379*, pp.134-138

⁵⁴ *Journal of World Trade*, p.205

⁵⁵ *US solar petition*, pp.94-95 & footnotes 359-364

⁵⁶ *US Bill*, s.11(b); *IMF CGER methodology*

Non-Confidential – For Public Record

- The IMF has recently developed the external balance assessment (EBA) methodology as a successor to the CGER methodology and this was the methodology used to calculate the undervaluation of the RMB reported by the IMF earlier this year.⁵⁷

Specificity

- Specificity under Article 2 of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) is not required, as currency undervaluation is a prohibited export subsidy under Article 3.
- Receipt of the subsidy is contingent, in fact, upon export performance. A Chinese manufacturer must export its products in order to receive foreign currency, and in order for that manufacturer to receive the benefit of the subsidy, it must convert that foreign currency into RMB.⁵⁸
- The GOC acknowledges that the purpose of its policy of undervaluation is to encourage, support and develop China's export trade.⁵⁹ It is estimated that exporters account for 70% of China's foreign exchange earnings.⁶⁰
- The fact that foreign investors and tourists also benefit from currency undervaluation does not mean that the benefit received by exporters is not an export subsidy. The WTO has held that even though the same subsidy can be export contingent in one set of circumstances and obtained in another set of circumstances that is not export contingent, "[t]he fact that the subsidies granted in the second set of circumstances might not be export contingent does not dissolve the export contingency arising in the first set of circumstances".⁶¹ Therefore, the fact that the currency undervaluation subsidy can be obtained in circumstances that does not involve the export of goods, the benefit received by exporters is still an export contingent subsidy.
- The draft legislation before the US Congress emphasises this last point.⁶²

Application to Alnan

- Alnan will have received the subsidy if it converted any of the sales revenue for its Australian exports to RMB. It is extremely likely that this has occurred at some point during the 12-month review period.

⁵⁷ *IMF EBA methodology; IMF staff report*, p.23 at Box 6

⁵⁸ *Journal of World Trade*, p.212

⁵⁹ *Journal of World Trade*, pp.212-213 & footnote

⁶⁰ *Journal of World Trade*, pp.214 at footnote 133

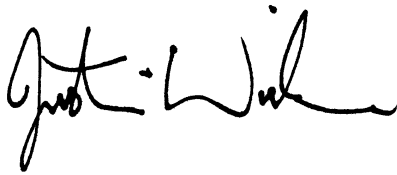
⁶¹ *DS108*, p.37 at para.119

⁶² *US Bill*, s.11(c)

Non-Confidential – For Public Record

Conclusion

There is strong evidence that Chinese producers of aluminium extrusions have received benefits under an additional five subsidy programs not previously investigated. Further evidence suggests that it is highly likely that Alnan is one of the producers that has received benefits under these programs. We therefore submit that the Commission investigate these programs as part of Review 229 and we look forward to participating further in the review.

A handwritten signature in black ink, appearing to read "Justin Wickes". The signature is written in a cursive style with a prominent initial "J" and a long, sweeping underline.

Justin Wickes
Director

List of evidence

Short title	Full title and document location
<i>Alken report</i>	Extract from Alken Aluminium Intelligence Service (Confidential Attachment A)
<i>Alnan website</i>	'Introduction' page http://www.alnan.com/en/aboutus/index.htm 'Development project' page http://www.alnan.com/en/aboutus/gh.htm 'Honour' page http://www.alnan.com/en/aboutus/yy.htm
<i>Aluminium extrusions (US)</i>	Aluminium extrusions from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 28 March 2011 http://enforcement.trade.gov/frn/summary/prc/2011-7926-1.pdf
<i>ARWs</i>	Report to the Minister No. 181: Aluminium road wheels exported from the People's Republic of China, 12 June 2012
<i>Bloomberg</i>	Brendan Murray, 'Yuan's real exchange rate undervalued 5%-10%, IMF report says', <i>Bloomberg.com</i> , 1 August 2013 http://www.bloomberg.com/news/2013-08-01/china-s-real-exchange-rate-undervalued-5-10-imf-report-says.html
<i>Coated paper (EU)</i>	Coated fine paper originating in the People's Republic of China: Council Implementing Regulation (EU) No 452/2011 imposing a definitive anti-subsidy duty, 6 May 2011 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:128:0018:0075:EN:PDF
<i>Coated paper (US)</i>	Coated free sheet paper from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 17 October 2007 http://enforcement.trade.gov/frn/summary/prc/E7-21046-1.pdf
<i>Coated steel (EU)</i>	Certain organic coated steel products originating in the People's Republic of China: Council Implementing Regulation (EU) No 215/2013 imposing a countervailing duty, 11 March 2013 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:073:0016:0097:EN:PDF
<i>CRS report</i>	Congressional Research Service (CRS) report for the US Congress, 'China's currency policy: An analysis of the economic issues', 19 December 2011 https://opencrs.com/document/RS21625/
<i>DS108</i>	<i>United States – Tax Treatment for “Foreign Sales Corporations”: Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS108/AB/RW, Adopted 14 January 2002 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds108_e.htm
<i>DS379</i>	<i>United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China</i> , WT/DS379/AB/R, Adopted 11 March 2011 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds379_e.htm
<i>Frozen shrimp (US)</i>	Certain frozen warmwater shrimp from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 12 August 2013 http://enforcement.trade.gov/frn/summary/prc/2013-20170-1.pdf
<i>Guangxi plan</i>	Guangxi Zhuang Autonomous Region 12 th Five-Year Economic and Social Development Plan, 24 May 2011 (Attachment B – Translated by Google) http://www.gxzf.gov.cn/zwgk/fzgh/ztgh/201105/t20110524_323633.htm

Non-Confidential – For Public Record

Short title	Full title and document location
<i>IMF CGER methodology</i>	International Monetary Fund (IMF) paper on the methodology for CGER exchange rate assessments, 8 November 2006 http://www.imf.org/external/np/pp/eng/2006/110806.pdf
<i>IMF EBA methodology</i>	International Monetary Fund (IMF) technical background paper on the external balance assessment (EBA) methodology, 25 June 2013 http://www.imf.org/external/np/res/eba/pdf/080913.pdf
<i>IMF staff report</i>	International Monetary Fund (IMF) multilateral policy issues staff report on the 2013 pilot external sector report, 1 August 2013 http://www.imf.org/external/np/pp/eng/2013/062013.pdf
<i>Journal of World Trade</i>	Benjamin Blasé Caryl, 'Is China's currency regime a countervailable subsidy?: A legal analysis under the World Trade Organization's SCM Agreement', <i>Journal of World Trade</i> , Volume 45, Issue 1, February 2011 (Attachment C)
<i>Laminated woven sacks (US)</i>	Laminated woven sacks from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 16 June 2008 http://enforcement.trade.gov/frn/summary/prc/E8-14256-1.pdf
<i>Peterson</i>	Peterson Institute for International Economics policy brief, 'Currency manipulation, the US economy, and the global economic order', No. PB12-25, December 2012 http://piie.com/publications/pb/pb12-25.pdf
<i>Photovoltaic cells (US)</i>	Crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 9 October 2012 http://enforcement.trade.gov/frn/summary/prc/2012-25564-1.pdf
<i>Silicon metal (Canada)</i>	Certain silicon metal originating in or exported from the People's Republic of China: Statement of reasons concerning the making of final determinations with respect to the dumping and subsidising, 5 November 2013 http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1400/ad1400-i13-fd-eng.pdf
<i>Thermal paper (US)</i>	Lightweight thermal paper from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 25 September 2008 http://enforcement.trade.gov/frn/summary/prc/E8-23271-1.pdf
<i>Toilet paper</i>	Preliminary report on existence of countervailable subsidies, September 2008 http://www.adcommission.gov.au/cases/documents/142-PreliminaryReportonExistenceofCountervailingSubsidies-GovernmentofthePeoplesRepublicofCh.pdf
<i>US Bill</i>	US Senate Bill: S. 1114: Currency Exchange Rate Oversight Reform Act of 2013, Introduced 7 June 2013 https://www.govtrack.us/congress/bills/113/s1114
<i>US solar petition</i>	Petition from SolarWorld Industries America Inc. to the US government for the imposition of countervailing duties on crystalline silicon photovoltaic cells from the People's Republic of China, 19 October 2011 (Attachment D)
<i>US subsidy assessment</i>	Countervailing duty investigation initiation checklist: Certain crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China, 8 November 2011 (Attachment E)
<i>Wind towers (US)</i>	Utility scale wind towers from the People's Republic of China: Issues and decision memorandum for the final determination in the countervailing duty investigation, 17 December 2012 http://enforcement.trade.gov/frn/summary/prc/2012-30947-1.pdf

Current position: Home >> government affairs >> development planning >> Master Plan

Master Plan

- Guangxi Zhuang Autonomous Region Economic and Social Development Twelfth Five-Year Plan
- Guangxi "second five" development plan for interpretation
- "Twelfth Five-Year Plan" readers learn the preparation phase into focus Reviewers
- Autonomous "second five" key way of special planning approval issued audit
- Autonomous Region Development and Reform Commission held autonomous "Twelfth Five-Year" Plan preparation meeting to learn Reader
- Ma Biao, chairman of the government executive meeting chaired my area "Twelfth Five-Year" Plan implementation to deployment
- "Twelfth Five-Year Plan" for autonomous Eleventh National People's Congress overwhelmingly passed the Fourth Session
- Ma Biao, Chairman of the "second five" Plan draft key indicators made important instructions
- Development and Reform Commission municipalities and autonomous regions actively do with "Twelfth Five Year Plan" convergence work
- Autonomous Region People's Government held a "Twelfth Five-Year" Plan indicators converge Conference
- Chen Wu chaired a forum to listen to the views and suggestions of experts and scholars on the "Outline" and "Report"
- Li Jinzao chaired a forum listening to some NPC deputies and CPPCC members' views and suggestions on the "Outline" and "Report"
- Ma Biao, Chairman chaired a forum to listen to the various democratic parties and personages without party affiliation responsible for the opinions and suggestions "Outline" and "Report"
- Ma Biao, Chairman hear "Twelfth Five-Year" Plan report
- Regional Vice Chairman Yang Daoxi, Lee Kang presided over the draft "Twelfth Five-Year" Plan will be held autonomous comments
- Xu Xianping, deputy director of the National Development and Reform Commission listened to our region, "second five" plan report
- Lin Nian Xiu Vice hear "second five" planning work report

Guangxi Zhuang Autonomous Region Economic and Social Development Twelfth Five-Year Plan

Guangxi Zhuang Autonomous Region People's Government portal www.gxzf.gov.cn 2011-05-24 Source: Guangxi Daily

[Font: big middle small]

Print

Close Window

(Guangxi Zhuang Autonomous Region through the fourth meeting of the Conference of the Eleventh People's Congress, January 21, 2011)

Directory

The first chapter to create a "wealthy and strong Gui" new situation

Economic and social development to a new level Section "Eleventh Five-Year" period

Section II, "1025" period into a new stage of development across

Section III guidelines

Fourth basic requirements

The main objective of Section V

The second chapter vigorously develop modern industrial

The first billion dollar industry grow

Section enhance the overall quality of industrial

Section accelerate the development of strategic emerging industries

IV vigorously develop energy industry

Section V positive development of the marine industry

The third chapter accelerate the construction of new socialist countryside

Section vigorously develop modern agriculture

Section improve rural production and living conditions

Section strengthen water conservancy construction

IV promote rapid growth of farmers' income continued

Section V improve the institutional mechanisms for rural development

Section VI foster the development of county economy

Chapter IV promote leapfrog development of urbanization

Section accelerate the growth of urban centers

Section foster the development of cities and towns with a population

Section raise the level of urban planning and construction

Section IV strengthen urban management

Chapter comprehensive services to accelerate the development of

Section accelerate the development of producer services

Section actively develop consumer services

Section to develop the financial sector

Accelerate the development of tourism in the fourth quarter

Section V promote economic and social information

Section VI to create a favorable environment for development of service industry

Chapter VI build integrated transport system

Section promote railway modernization

Section accelerate the construction of the road network

Section enhance the comprehensive ability of Guangxi Beibu Gulf Port

Accelerate the construction of the fourth advance Xijiang waterway

Section V positive development of civil aviation

Section VI improve transport services

Chapter VII further promote the "two areas along the" coordinated development

Section promote pioneered the development of Beibu Gulf Economic Zone

Section accelerate the construction of the West River Economic Belt

Section accelerate the development of advantageous resources in western Guangxi

Section IV implementation of the main functional area planning

Chapter VIII strengthen the construction of ecological civilization

Section strengthen energy conservation management

Section enhance resource conservation and management

Section vigorously develop the circular economy

Section IV strengthen environmental protection

Section V strengthening ecological construction

Section VI strengthen disaster prevention and mitigation system

Chapter IX vigorously promote scientific and technological progress and innovation

Section enhance scientific and technological innovation capability

Section perfect technological innovation and institutional mechanisms

Chapter priority to the development of education

Section promote the coordinated development of all types of education

Section efforts to achieve educational equity

Section improving the quality of education

IV deepening education reform

Chapter XI train highly qualified personnel

Section vigorously cultivating innovative talents

Section robust talent development mechanism

Chapter XII establish a sound system of basic public services

Section promote full employment

Section rational income distribution adjustment

Section III sound social security system covering urban and rural residents

IV accelerate the reform and development of health

Section V strengthen the construction of affordable housing

Section VI co-ordinate the work of the population do

VII increase poverty alleviation efforts

Chapter XIII maintain social harmony and stability

Section innovative social management system

Section robust mechanism for safeguarding people's rights

Section strengthen public safety system

IV consolidate and develop national unity

Section V strengthen national defense reserve forces

Chapter XIV promote cultural development and prosperity

Section civilized peoples of the region to improve the quality

Section vigorously promote cultural innovation

Section prosperity and development of cultural undertakings

IV accelerate the development of cultural industries

Chapter XV crucial to speed up the pace of reform

Section deepen economic reform

Section promote administrative reform

Section advance the cause of reform in the field of social

Chapter XVI open deepen cooperation

Section deepening cooperation with ASEAN open-focused

Section expanding domestic multi-regional cooperation

Section to develop an open economy

Section IV accelerate the implementation of the "going out" strategy

Chapter XVII strengthen socialist democracy and legal system

Section developing socialist democratic politics

Section comprehensively strengthen the legal system

Section strengthen anti-corruption

Chapter XVIII grand blueprint to achieve leapfrog development

Section improve planning and implementation mechanisms

Section promote the implementation of major projects

Guangxi Zhuang Autonomous Region Economic and Social Development Twelfth Five-Year (2011-2015) Plan in accordance with "the CPC Guangxi Committee on National Economic and Social Development Twelfth Five-Year Plan" prepared for. "Twelve Five" period of scientific development to accelerate the transformation of economic development and promote the "wealthy and strong Gui," a new leap to make significant deployment is a common program of action for the region's peoples.

The first chapter to create a "wealthy and strong Gui" new situation

"1025" period is my area of scientific development, harmonious development, leapfrog development and accelerate the "wealthy and strong Gui" critical period, is to deepen reform and opening up, accelerate the transformation of economic development in the crucial period, we must adapt to the new situation, seize new the opportunity to complete a new mission, a new leap forward.

Economic and social development to a new level Section "Eleventh Five-Year" period

"Eleventh Five-Year" period is the history of the area, I very unusual year. The face of the rare snow disaster, the international financial crisis rare, rare severe drought disasters, the CPC Central Committee, the correct leadership of the State Council, the regional party committee, government situation, adhere to the development the top priority in governing and rejuvenating the party, science development concept, and resolutely implement the central policies, realities, timely deployment of a series of major decisions, to unite and lead people of all ethnic groups, tough tackling, forge ahead, "Eleventh Five-Year Plan" to determine the objectives and tasks successfully completed, the economic and social development and people's living standards to a new level. "Eleventh Five-Year" period of development in our region to become one of the best period.

- Economic strength has increased markedly. Rapid economic growth, the average annual growth rate of 13.9% to preliminary statistics, the increase into the country, the quality and efficiency improved significantly. Regional GDP, per capita GDP, fiscal revenue, industrial added value, value added services, the total profit of industrial enterprises above designated size, investment in fixed assets, total retail sales of social consumer goods, import and export volume of the whole society, the actual use of

foreign capital, deposits and loans of financial institutions 12 key indicators to double or more.

- Infrastructure support capabilities dramatically. Infrastructure has invested about 800 billion yuan, 29 starts and continued construction of the railway, the local building mileage 3300 km, the new operating mileage of 500 km, with a total mileage of 3,200 kilometers; starts and continued construction of highways 39 3400 km, newly built 1,235 kilometers, built a total mileage of 2,574 kilometers; region added 39,500 km roads, with a total mileage of 101,800 kilometers, the basic realization of prefecture-level city-highway, county road through two or more townships asphalt and village roads. Port handling capacity reached 182 million tons, 122 million tons of which coastal ports. Airport passenger throughput reached 12.01 million passengers, opened nine international routes leading to the ASEAN countries, southwest passage to the sea plays an important role. The total installed capacity of 25.3 million kilowatts power, hydropower installed capacity of 15.1 million kilowatts, becoming the country "west to east" important power base.

- Made significant progress in industrial restructuring. 22.9 : by the three industrial structure adjustment 37.9 39.2 17.6 : : : 35.0 47.4 industrialization rate from 1.39 up to 2.31, the industrial added value rose from 31.7% up to 40.6% into the middle stage of industrialization. Industrial output exceeded one trillion yuan, food, automotive, metallurgy became the first billion dollar industry, SAIC-GM-Wuling became the first automobile production exceeded one million businesses, Liu Gang ranks among the national ten million tons of steel enterprises, independent research and development Intermediate cars and other new products to fill gaps in the region; sugar production accounted for 66% of national output, the country's first mini-cars, wheel loaders, diesel engines and other products, market share, alumina production capacity 6.6 million tons, 1.35 million cars , 90 million tons of cement, oil refining 12 million tons, 12 million tons steel; Liu Gang, SAIC-GM-Wuling's main business revenue exceeded 400 billion yuan, Yuchai more than 30 billion yuan, annual sales income of over 3 billion yuan priority business from 11 to 30, Industrial Park, the annual output value of 10 billion yuan from the 3 to 15, Liuzhou High-tech Industrial Development Zone was upgraded to the national high-tech industrial development zone. Characteristics and advantages of accelerating the development of agriculture, agricultural production capacity significantly improved characteristics of agricultural production of sugar cane, cocoon, cassava, Instant Forest, star anise ranked first in the country, high-quality rice, bananas, citrus, vegetables, mushroom, medicines and other production row the nation, rising standards of quality and safety of agricultural products. Total tourism revenue reached 95.29 billion yuan, an average annual increase of 25.6%. The rapid development of the logistics, finance, information, exhibition and other modern services.

- Urban and Rural Construction remarkable achievement. Accelerating

urbanization, the urbanization rate reached 40.6% of the urban population exceeded 2,000 people, the town built area to 2,197 square kilometers, more than 10,000 km of urban roads, water supply coverage to 92%, more than 90% of the gas penetration, bridges, power, drainage, communications, transportation, municipal sewage and garbage treatment facilities to further improve. New urban centers and industrial parks to synchronize planning and construction, industry, population concentration accelerated significantly improved living environment, further highlighting the charm of the city, radiating capacity is growing. Nanning City won the "National Civilized City" and "UN Habitat Award", Liuzhou won the "National Garden City" and "China Habitat Environment Award", Guilin won the "National Environmental Protection Model City" and "National Model Green City" Beihai City won the "national ecological demonstration zones" and "Chinese historical and cultural city" title. County building speed, forming a group of key towns distinctive. New rural construction achieved gratifying results, 100% administrative villages with electricity, household electricity rate 99.55%, more than 20 villages powered telephone, radio and television, more than 80 percent of administrative villages access to the Internet, the emergence of more than 300 distinctive The new models, the full implementation of the urban and rural sanitation projects and the transformation of urban and rural landscape, greatly improved living conditions in rural areas, urban and rural landscape look.

- **"Two areas along the" coordinated development.** Beibu Gulf Economic Zone in Guangxi rose to national development strategies, planning and implementation of economic development zones and achieved remarkable results, the region's average annual economic growth rate higher than 2.4 percent, the proportion of the region's total economic output accounted for 31.8% of coastal modern heavy industry accelerate the formation of the layout, into the northern Gulf Harbour Yiduntaigang ranks, built Qinzhou Bonded Port Area, Nanning Bonded Logistics Center, Pingxiang Comprehensive Bonded Zone and the North Sea export processing zones and other special customs supervision zone, becoming the nation's fastest-growing, most dynamic, One of the biggest potential new growth areas. Comprehensively promote the construction of the West River golden waterway, built-kiloton Nanning to Guigang, Guigang to Wuzhou two thousand tons of high-grade waterway, inland port handling capacity of 60 million tons, formed along the center of the city automobiles, machinery, metallurgy, building materials and other high-tech industries and layout, to undertake the eastern industrial transfer momentum, driven by the rapid development of the West River Economic Belt. Western Guangxi advantage resource development intensified, aluminum, manganese, non-ferrous metals, water, sugar, red tourism, agro-processing, etc. have a major impact on the country's characteristics and advantages of the industrial base to grow.

- **Major projects made historic achievements.** Total fixed asset investment totaled 2.25 trillion yuan, the whole construction of major projects accumulated 7610, a total

investment of 3.24 trillion yuan, which started in 6867, completed and commissioned in 3814, completed an investment of 1.3 trillion yuan. Qinzhou ten million tons of oil refinery production to fill the gap Southwest no large oil refineries; Fangchenggang red sand nuclear power started to become the region's first nuclear power plant construction in the West; Longtan hydropower production, the country's second largest hydropower operations; Luozhan Railway, rewrite the history of Wuzhou, Hezhou no railways. Nanning-Guangzhou high-speed railway started, marking our region into a new era of railway modernization.

- Ecological Construction fruitful. Accelerate the construction of ecological civilization demonstration area, "five" emission reduction targets assigned by the State and the elimination of backward production capacity task completed, key industries, enterprises and sewage intensity of energy consumption levels decreased substantially. I became the first District 9, the first two western provinces county built sewage treatment facilities, urban sewage treatment rate, life garbage treatment rate increased to 60.6% and 61.2%, respectively, from 8.8%, 32.9%. A new model of economic development of the sugar industry cycle in the nation, the nation's leading comprehensive environmental manganese. The region's forest coverage rate reached 58%, ranked fourth in the nation; New digesters 1,060,000, a total of 3,713,000, farmers home rate of 46.4%, ranking first in the country. Be the first closed using non-grain fuel ethanol vehicle provinces nationwide. Shequchengshi air quality rate of 99% or more, the water quality compliance rate of 100% in key watersheds, nearshore environmental compliance rate of 85%. "Shanqingshuixiu ecological beauty" has become a big advantage and bright brand.

- Cultural soft power to achieve great improvement. Urban and rural communities to establish basic public cultural service system perfect. Guangxi Museum of Nationalities, Guangxi Science and Technology Museum, Guangxi Sports Center Stadium and other landmark projects built using, Guangxi Urban Planning Exhibition Hall, Museum of Guangxi, Guangxi Timbal Museum and other major cultural projects under construction. Cultural projects that benefit fruitful, radio, television coverage of the population, respectively, 95% and 97%. Breakthrough digital radio and television, the first in China to complete the city overall conversion of digital cable TV. Nanning International Folk Song Art Festival, "Impression" and a number of excellent highlighting the culture of Guangxi ethnic style of renowned Chinese and foreign brands, a number of outstanding literary works, stage art productions and broadcast television drama domestic and international awards, Lijiang River School of Fine Arts in China community is unique. Completion of a number of cultural city town street village. Relics and intangible cultural heritage is protected heritage. Minority Traditional Sports activities in depth, sports numerous achievements. Newspaper publishing and strength among the forefront of the western region. The formation of a number of cultural industry groups, to create a number of key cultural industry base. ASEAN focus on expanding international cultural exchange.

- Strengthen social construction. Implementation of the fourth round of technological innovation program achieved remarkable success, capturing a number of major common key technologies, aluminum Prebaked into the world's most advanced control technology, the world's first air hybrid renewable diesel engine, the world's largest mechanical curing machine, China's largest wheel loader successfully developed, among the world's first cloned buffalo subspecies, the first case of frozen embryos cloned buffalo successful cultivation. Patents granted to double, built 36 national and regional level key laboratories, 85 enterprise engineering technology centers, 40 post-doctoral workstations, 126 small talent Heights, established 23 regional-level R & D center billion dollar industry, the introduction of more than 2500 Name overseas high-level talents. Ten key projects and the development of education reform started to implement the ten rural education "two bases" ahead of a crucial goal, the full implementation of the urban and rural compulsory education free, three crucial task successfully completed vocational education, secondary vocational education students to double the size, the scale of higher education students in more than 70 million students from poor families subsidies to achieve full coverage. Urban and rural communities grassroots medical institutions and public health service system of continuous improvement, tackling AIDS, prevention and control of major diseases ability to enhance the prevention and control of thalassemia. Population and family planning services continues to increase. Integration of resources construction of village public service centers breakthrough. Aging, women and children, the disabled, social welfare, charitable and other undertakings made new achievements.

- The people's living standards improved significantly. Levels of financial investment in the region's livelihood areas of education, health, social security and employment, and culture totaled 330.515 billion yuan, an increase of 2.61 times. Poverty alleviation, food for work, relocation of relocation push forward the implementation of the Frontier operations and support national development planning effective population less prominent, Rocky five counties, five counties in western Guangxi, focusing on infrastructure construction such as Assembly Reservoir battle as well as the transformation of three minority villages in northwest Guangxi task completed, Rocky drinking water project construction Conference battle accelerated. Solve the problem of drinking water safety population of 10,637,000, helping 1.14 million rural people out of poverty, and medium-sized reservoirs resettlement support the full implementation of the policy, the transformation of 262,300 rural residents and overseas forestry field of dilapidated buildings, 163,400 urban residents enjoy low-rent housing. A substantial increase in social insurance benefits, pension, medical, unemployment, work injury and maternity insurance number totaled 20.77 million passengers, the new rural cooperative medical farmer participation rate reached 93.1%, more than 220 million rural residents to participate in the new rural pension insurance, built beneficiaries Village 6852, 10 million people concentrated support objects. New rural labor employment 396.45 million, 188.32 million new urban jobs, registered urban unemployment rate within 4.5 percent

per year, 640,000 urban residents and 316 million rural residents to enjoy the minimum living allowance, the basic realization of the cities. Five consecutive years full of tangible things, the vital interests of the people most concerned about the issue to be effectively addressed. Overcome historically rare snow storm, severe drought and severe floods, mass production and living effective disaster recovery. Per capita disposable income of urban residents reached 17,064 yuan, rural per capita net income reached 4,543 yuan, an average annual growth reached 13.9 percent and 12.7 percent. Consumer prices rose 3.2 percent annually, and prices were basically stable.

- To achieve major breakthroughs in reform and opening up. Administrative agencies new round of reform task completed, accelerate the transformation of government functions, focusing on areas of state-owned enterprises, taxation, finance, investment, price, etc. deepening reform and promoting the comprehensive rural reform, Guangxi Beibu Gulf International Port Group, the North Bay and Northern Investment Group Gulf Bank, as well as the Guangxi transport, railways, finance, nonferrous metals, tourism, construction, investment and financing platform Xijiang development and play an important role in the successful formation. Push forward the tax reform, the implementation of autonomous counties in 14 straight county financial management reform. Implementation of major projects focused on joint approval system. Pharmaceutical five key reform comprehensively promote the health system, the steady implementation of national essential drug system. Prices of resource products and environmental protection charge steadily. Fundamental reform of collective forest right system to complete the demarcation of the right to do the task. Yulin City, urban and rural reform pilot smoothly. The proportion of non-public economy of scale total of around 55% of the region's economy and play an important role in promoting employment, increase investment, increase revenue and so on. Successfully hosted the China - ASEAN Expo and Business and Investment Summit, the Pan-Beibu Gulf Economic Cooperation Forum, China - ASEAN Free Trade Area Forum and the Sino-Vietnamese Youth Carnival and other activities, the formation of China - ASEAN cooperation, "Nanning channels." Five ASEAN countries have established consular agencies in Nanning, the Pan-Beibu Gulf, the Greater Mekong, Vietnam "Two Corridors and One Ring" and other sub-regional cooperation and Nanning - Singapore Economic Corridor pragmatic advance, the more cross-border economic cooperation zones, actively promoting. Established 58 pairs of sister cities in 26 countries on five continents with the world, ranking first in the western region. Actively participate in the Shanghai World Expo, showing Guangxi new image. Provinces in mainland China to Taiwan in the first success of large-scale integrated trade and cultural exchange activities, Guangxi and Taiwan to achieve all-round exchanges docking. Gui Hong Kong, Gui-Australian cooperation deepened. Participation in regional and inter-provincial cooperation in the Pan-Pearl River Delta, Southwest, Yangtze River Delta, Bohai outstanding results. Average annual growth rate of 27.8% of total imports and exports with ASEAN trade volume among the national top 10, the actual use of foreign investment with an average

annual growth of 25.6%, the amount of foreign investment in the average annual growth of 85%. Investment funds increased by 8 times. The introduction of the world's top 500 enterprises 35, 40 central enterprises, 500 domestic private enterprises 84; banking financial institutions by the 16 to 27 insurance companies from 10 to 26. Our region has become China - ASEAN Cooperation front and windows open and become a bridge to connect multiple regional exchanges and cooperation platform for international channels.

- Overall social harmony and stability. Socialist democracy and legal construction of spiritual civilization and comprehensively promote the socialist core value system continuously strengthened. Harmonious construction activities in full swing at the grassroots level. Develop "Guangxi Beibu Gulf Economic Zone Regulations" and other local regulations (draft) 44 Government regulations 50. Built the first autonomous region in the country, city, and county government services electronic networking system, government, village, factory-depth manner. Significant improvement in the overall situation of production safety, product quality and food and drug safety supervision remediation new achievements, and constantly improve the public emergency system. National defense education and to further strengthen the national defense reserve forces, border and coastal accelerate the improvement of infrastructure, support work made new achievements. Earnestly petition, people's mediation and administrative mediation. And earnestly safeguard justice. Social security comprehensive management and peace building in Guangxi outstanding results. Major events celebrating the 60th anniversary of founding of new China, the 50th anniversary of the establishment of the autonomous region, to commemorate the 80th anniversary of the Baise Uprising Long states, such as the success of the uprising. Ethnic significant achievements, our region as a model of national unity, to preserve the unity of the model, a model of maintaining stability, ethnic relations, "three inseparable" model.

After the "Eleventh Five-Year" of rapid development, the status of our region in the country overall regional development strategy significantly increased role in the country's

opening-up strategy is more prominent in the country's comprehensive rising influence, and establish the reform and opening up new the image on the journey of building a moderately prosperous society has taken a solid pace.

Box 1: "Eleventh Five-Year" period of growth in key indicators				
Key Indicators	2005	2010 Preliminary statistics	In 2010 more than doubled in 2005	Average annual growth (%)
GDP (million)	3984	9502	1.25	13.9
Per capita GDP (yuan)	8590	19471	1.18	12.8
Revenue (\$ billion)	475	1228	1.37	20.9
Total industrial added value (\$ billion)	1265	3860	1.61	19.4
Value added services (million)	1561	3321	1.09	12.7
Total profits of industrial enterprises above designated size	396	1502	1.93	28.5

(Billion, five-year cumulative)				
Total fixed asset investment (\$ billion)	1769	7859	2.15	34.7
Retail sales (million)	1406	3272	1.22	18.4
Total imports and exports (U.S. \$ billion)	51.8	177	1.77	27.8
The actual use of foreign investment (U.S. \$ billion)	6.4	20	1.64	25.6
Financial deposit balance (billion) agencies	4203	11814	1.49	23.0
Loan balance (billion) financial institutions	3057	8980	1.55	24.1
Per capita disposable income of urban residents (yuan)	8917	17064	0.94	13.9
Rural per capita net income (yuan)	2495	4543	0.86	12.7
Note: GDP, per capita GDP, industrial added value, average annual growth of value added services is calculated at comparable prices.				

Section II, "1025" period into a new stage of development across

Current and future periods, our region faces major development opportunities. Peace, development and cooperation remain the trend of economic globalization and regional economic integration in-depth development, technological innovation and nurture accelerate breakthroughs, the international division of labor adjustment implies new opportunities generally favorable international environment. You can accomplish a great deal of development is still in an important period of strategic opportunities to accelerate the transformation of economic development mode, a huge potential market demand, overall coordinated regional development strategy to further improve the overall social stability, the development of our region is facing good domestic macroeconomic environment. China - ASEAN Free Trade Area fully completed, further promote western development for our region to accelerate the locational advantages, resources and ecological advantages into competitive advantages created extremely favorable conditions. Development of our region presents of new features, speed up economic and social transformation, into the middle stage of industrialization, urbanization, rapid progress, and gradually to develop consumer-type upgrades, investment growth, consumption growth has a vast space, regional and industrial development will form a new growth, development potential. My area is perfectly placed to achieve a new leap in the new starting point.

At the same time, we must be soberly aware that the development of our region is facing serious challenges. Far-reaching impact of the international financial crisis, the external environment has become more complex, the development of China's unbalanced, uncoordinated and unsustainable issues are still outstanding, the increasingly competitive international and domestic, to the development of our region's tremendous pressure. In particular, profound understanding of the development of our region underdeveloped basic situation has not changed, the people's growing material and cultural needs of the contradiction between the backward social production has not changed. mainly: a small economic output. low per capita levels : industrialization and

urbanization level is not high, irrational industrial structure, inadequate infrastructure, technology support is not strong, the lack of innovative talent; lower market, degree of internationalization, institutional barriers constrain scientific development system more; urban and rural residents income level is not high, the gap between urban and rural development is obvious; still extensive mode of economic development, increasing pressure on resources and environmental constraints; social development lag, lack of basic public services support capabilities. Must deepen the basic situation of re-understanding of scientific judgment and accurately grasp the development trend, foster a strong sense of opportunity, and catch up with the sense of crisis awareness, and enhance the sense of urgency and responsibility to accelerate the development, seize the opportunity to promote economic and social development to a new steps, we continue to meet the people live a better life expectations.

Section III guidelines

Hold high the great banner of socialism with Chinese characteristics, take Deng Xiaoping Theory and the important thought of "Three Represents" as guidance, thoroughly implement the scientific concept of development, firmly grasp the important period of strategic opportunities around the realization of "wealthy and strong Gui," a new leap in scientific development as the theme, to accelerate the transformation of economic development as the main line, promote industrialization, urbanization, information technology, marketing, international, in-depth implementation of the western development strategy, promote strategic adjustment of economic structure, deepening reform and opening up, protect and improve people's livelihood, to maintain long-term stable and rapid economic development and social harmony and stability, accelerate the construction of a regional modern logistics base, advanced manufacturing base, specialty agriculture base and information exchange center, build a new high international regional economic cooperation, to build China's coastal economic development of a new pole , to lay the foundation for building a moderately prosperous society of decisive significance.

Scientific development as the theme, the relationship between the reform and opening up and modernization drive. Adhere to scientific development, we must pay more attention to people-oriented, comprehensive, coordinated and sustainable development of more attention, more attention to overall planning, more emphasis on ensuring and improving people's livelihood and promote social fairness and justice.

To accelerate the transformation of economic development as the main line, the only way is to promote scientific development, must be run through the whole process of economic and social development in various fields, so that the real economic growth based on optimizing structure, improving efficiency, reducing consumption, protect the environment, improve people's livelihood on the basis of to achieve sound and rapid economic development.

"Wealthy and strong Gui" embodies the essential requirements of the scientific development concept, and adhere to the scientific development as the theme and accelerate the transformation of economic development as the main line of unity, consistent with the meaning of building a moderately prosperous society is entering a new stage of development in our region inevitable requirement, reflecting the strong desire of the people of all ethnic groups.

"Enriching" is to adhere to the people-oriented, enriching priority road to common prosperity and accelerate the overall well-off to the overall well change significantly increase the income of urban and rural areas, improving the people's level of affluence, significant improvement in quality of life, greatly enrich the cultural life, a more robust public services, promote the comprehensive development of people, improving the people's well-being.

"Strong Gui" is to insist on development is the last word, is the top priority, the liberation and development of the social productive forces, the growing economic output, greatly enhance the soft power, raise the level of ecological civilization, the rise in the forefront of developing the western region, so that our region to become industry developed strong economic zones.

Fourth basic requirements

Adhere to the theme of scientific development and accelerate the transformation of economic development the main line runs through the "wealthy and strong Gui," a new leap in the entire process, ensuring economic growth, people's livelihood, maintaining stability and to maintain and expand the good momentum of economic and social development.

- Must accelerate industrialization and urbanization. Adhere to the dominant direction of industrialization and urbanization, the core strategy, firmly grasp and make good use of major western development opportunities, priority industries, transportation, Beibu Gulf Economic Zone, vigorously develop modern agriculture, accelerate the growth of urban centers, accelerate the construction of a regional modern layout trade logistics base, advanced manufacturing base, specialty agriculture base and information exchange center, promote industrialization, urbanization and informatization leaps and bounds.

- Must be based on expanding domestic demand. Sound long-term mechanism to expand domestic demand, investment plays an important role in expanding domestic demand, maintain rapid growth, adjust and optimize the investment structure, a market-led investment endogenous growth mechanism. The expansion of consumer demand as the strategic focus of expanding domestic demand, strengthen consumer capacity to implement policies to expand consumption, cultivating consumer hot spots, improve consumer expectations and create a good environment for consumption, promoting the

upgrading of consumption structure.

- **Must be more prominent to protect and improve people's livelihood.** Adhere to the people's livelihood priorities, promote rural income growth and economic growth sync, labor compensation and labor productivity improved synchronization, equalization of basic public services, established a relatively complete coverage of urban and rural, sustainable basic public service system, narrow the differences between rural and urban areas of public service gaps.

- **The need to promote accelerated economic and social transformation.** Depth implementation of strong science and education and talent Gui Gui strategy, adhere to science and technology leading, innovation-driven, speed up innovation Guangxi construction, promote the development of the major scientific and technological progress, improving the quality of workers and innovation in management. Promote green development, improve energy conservation incentive and restraint mechanisms, promote the formation of a resource-saving and environment-friendly production and consumption patterns. Institutional mechanisms for social management innovation, maintain social harmony and stability.

- **Must fully inspire people business innovation vitality.** Adhere to the development of the national innovation and entrepreneurial way, increase policy support, expand market access, reduce and standardize administrative examination and approval, a sound service system, to encourage self-employment, labor rich, diverse forms of ownership to promote fair competition in the market to participate, subject to the same legal protection, the formation of hard work, a good environment for innovation.

- **Must deepen reform and open wider.** Emancipate our minds, seek truth from facts, advance with the times, innovation and reform, opening up and cooperation to deepen and accelerate the implementation of space for time, resources for industry, the

stock exchange incremental strategy to accelerate market-oriented economy, international, accelerate the construction of international and regional economic New Heights cooperation, speed up the building of China's coastal economic development of a new pole.

The main objective of Section V

In accordance with the implementation of a major deployment of the national response to the international financial crisis closely co-ordinated with the objectives and tasks central to the proposed development of Guangxi closely co-ordinated with the 2020 "Gui wealthy and strong," and the goal of building a moderately prosperous society in close convergence requirements, Considering the development trend of the next five years, favorable conditions and constraints presented the main objective of economic and social development, "1025" period:

- Stable and rapid economic development. Average annual GDP growth of 10% average annual revenue growth of 15%, and strive to achieve the doubling of GDP, fiscal revenue, total fixed asset investment, total retail sales of social consumer goods, more than double the total import and export. 190 million new urban jobs, the registered urban unemployment rate within 5%. The overall price level basically stable. The quality and efficiency of economic growth improved significantly.

- Structural adjustment made significant progress. Industrial added value accounted for the proportion of GDP increased by 5 percentage points, the proportion of value added services increased by 2 percentage points, the urbanization rate increased 9.4 percentage points. Infrastructure support capabilities greatly improved coordination of regional development and rural enhancement.

- Significantly accelerate the development of science and technology education. Nine-year compulsory retention rate increased by 8 percentage points, secondary gross enrollment rate increased by 18 percentage points. Research and experimental development expenditures accounted for the proportion of GDP reached 2.2 percent per 10,000 population of invention patent has increased to three.

- The construction of ecological civilization with remarkable results. Amount of cultivated land held in 6316 acres. Water consumption per unit of industrial added value was reduced by 30%, the effective utilization coefficient of irrigation water increased to 0.45. Non-fossil fuels in primary energy consumption to 20%. Ensure the completion of our region's countries splitting the unit GDP energy consumption by region, unit GDP reduce carbon dioxide emissions and chemical oxygen demand, sulfur dioxide, ammonia, nitrogen oxides emission reduction objectives and tasks. Forest coverage increased by 2 percentage points and forest stock volume increased to 650 million cubic meters.

- An overall improvement in people's lives. The region's total population within 5400 people. Per capita disposable income of urban residents increased by 10% annually, the average annual per capita net income of rural residents increased by 11%. Number of towns participating in the basic old-age insurance reached 540 million, three urban and rural medical insurance rate increased to 95%. Urban construction of affordable housing projects 500,000 units, middle-income groups continue to expand significantly reduce poverty.

- Significantly strengthen social construction. Covering urban and rural residents basic public service system and gradually improve. People of all nationalities ideological and moral qualities, scientific and cultural qualities and health quality improved, more robust socialist democracy and legal system, people's rights are effectively protected. Prosperity and development of cultural undertakings and cultural industries to grow and develop. Social security situation further improved, significantly improved the level of

protection of public safety and social management system and continuously improve, social harmony and stability.

- Deepening reform and opening. Key areas of state-owned enterprises, taxation, finance, prices and other factors, and made significant progress in key aspects of the reform, accelerate the transformation of government functions, entrepreneurship and innovation form a new situation, the non-public economy accounts for more substantial increase in the proportion of the national economy. Total imports and exports more than doubled, to further enhance the level of cooperation and opening round.

Through the joint efforts of the peoples of the region, so that changes in the economic development of our region to make substantial progress, the overall economic strength, industrial competitiveness and sustainable development capacity significantly enhanced, more fruits of development to benefit people's livelihood, promote the "wealthy and strong Gui" taken New pace.

Box 2: Key Indicators of economic and social development, "1025" period

Category	Index	2010	2015	Annual Growth (%)	Five years Accumulative	Property
Economic development	GDP (million)	9502	15500	10		Anticipated
	Per capita GDP (yuan)	19471	30390	9		Anticipated
	Revenue (million) of which: general budget revenue (million)	1228 772	2460 1600	15 17		Anticipated
	Total fixed asset investment (\$ billion)	7859	19000	20	60000	Anticipated
	Retail sales (million)	3272	6580	15		Anticipated
	Total imports and exports (U.S. \$ billion) of which: total exports (U.S. \$ billion)	177 96	460 240	21 20		Anticipated
	The proportion of industrial added value (%)	40.6	45.6		5	Anticipated
	The proportion of value added services (%)	35	37		2	Anticipated
	Urbanization rate (%)	40.6	50		9.4	Anticipated
	Nine-year compulsory retention rate (%)	85	93		8	Binding
The secondary gross enrollment rate (%)	69	87		18	Anticipated	

Technology Education	ratio (%)					
	Research and experimental development expenditures accounted for the proportion of GDP (%)	0.9	2.2		1.3	Anticipated
	Patents per million inhabitants ownership (pc)	0.64	3		2.36	Anticipated
Resources and environment	Amount of cultivated land (mu)	6320	6316		-4	Binding
	Reduce water consumption per unit of industrial value added (%)	193 t / RMB 10,000	135 t / RMB 10,000		30	Binding
	Effective utilization coefficient of irrigation water	0.415	0.45		0.035	Anticipated
	Non-fossil fuels in primary energy consumption ratio (%)	17.8	20		2.2	Binding
	Unit GDP energy consumption reduction area (%)					Binding
	GDP of the region to reduce carbon dioxide emissions units (%)					Binding
	COD emission reduction (%)					Binding
	Reduce sulfur dioxide emissions (%)					Binding
	Ammonia emission reduction (%)					Binding
	Reduction in nitrogen oxide emissions (%)					Binding
	Forest coverage rate (%)	58	60		2	Binding
Forest reserves (bcf)	6.04	6.5		0.46	Binding	
				By country splitting the task		
	The region's total population (million)	5152	<5400	9 ‰		Binding
	The registered urban unemployment rate (%)	3.7	<5			Anticipated
	Number of new jobs (people) town				190	Anticipated

People's lives	towns participating in the basic old-age insurance (10 000)	450	540		90	Binding
	Three urban and rural medical insurance rate (%)	80	95		15	Binding
	Urban construction of affordable housing projects (Million units)				50	Binding
	Per capita disposable income of urban residents (yuan)	17064	27480	10		Anticipated
	Per capita net income of rural residents (yuan)	4543	7655	11		Anticipated
Note: GDP, per capita GDP and urban and rural incomes are calculated at 2010 prices, the rate at constant prices; urban and rural medical insurance refers to the three urban basic medical insurance, basic medical insurance for urban residents, the new rural CMS.						

The second chapter vigorously develop modern industrial

Adhere to the new road to industrialization, to meet market demand, restructuring, changes in consumer upgrades and new technological advances in new trends and promote the integration of industrialization and informatization development, accelerate the development of structural optimization, advanced technology, supporting collaboration, clean, safe, high added value, competition strong multi-billion dollar industries and emerging industries, as soon as bigger, stronger industry.

The first billion dollar industry grow

In-depth implementation of key industry restructuring and revitalization plan, the full implementation of supporting policies, increase technological innovation, eliminate backward production capacity, construction of major industrial projects, encourage enterprises in R & D, process control, business management, marketing, logistics, human resources development and other aspects of integration application of information technology to accelerate the achievement of the Millennium Development Goals billion dollar industry. Food industry, focus on improving the level of deep processing and comprehensive utilization, improve food safety and quality systems, enhance the status of an important base for the country's sugar. Automotive industry, relying on large enterprise, focusing on the development of mid-sized sedan led passenger cars, mini-cars in the domestic market to consolidate lead, support and expand market share in the commercial vehicle, automotive products forming system with strong competitiveness, develop auto parts, accelerate the construction of Liuzhou Motor City. Petrochemical industry, according to the integrated refining requirements, focusing on the development

of ethylene, propylene, aromatics and other petrochemical products, construction of the country's major petrochemical base. Power industry, focusing on the development of clean energy, to create diverse, stable, economical, clean, safe, modern electric power industry. Non-ferrous metal industry, focusing on the extension of aluminum, copper, nickel and other industrial chain, the implementation of a combination of aluminum electric promote copper, tin, antimony, tungsten, lead, zinc, indium and rare earth deep processing, accelerate the development of eco-aluminum Baise, Nanning and guests aluminum deep processing, Hechi and Liuzhou Nonferrous Metal Materials, Fangchenggang nickel-copper and other industries, the construction of the country's major non-ferrous metal industry base. Metallurgy industry, focusing on the development of a series of fine steel and manganese, nickel-based alloys and other related products, building the country's major manganese steel base and deep processing base. Machinery industry, focusing on the development of mechatronics, digital, intelligent products, machinery and equipment, construction of regional production and export base. Building materials industry, focusing on the development of solar photovoltaic glass, high-quality float glass and sanitary ceramics and other products, and vigorously develop new green building materials. Paper and wood processing industry, focusing on the development of integrated pulp and paper processing products, the positive development of environmentally friendly chemicals and deep processing of timber forest products. Electronic information industry, focusing on the development of electronic terminals, software, new materials, such as electronic components and electronic products, construction Beihai, Nanning, Guilin, Yulin, Qinzhou and other electronic information industry base. Pharmaceutical manufacturing industry, focusing on the development of modern medicine, and to focus on drug Zhuang Yao ethnic medicine, to develop detection, diagnosis, treatment, and other medical equipment. Textile and garment and leather industries, focusing on the development of silk and cocoon processing and eco-friendly clothing line leather products, textile pulp integrated forest industry development. Biotechnology industry, focusing on the development of bio-medicine, bio-breeding, bio-fertilizers, bio-technology and products, accelerate the construction of Nanning National High-tech bio-industry base. Shipbuilding and repair industry, focusing on the development of shipbuilding and related industries, construction, coastal and Xijiang shipbuilding base. By 2015, the food industry and strive to exceed 300 billion yuan in sales revenue, automobile, petrochemical, power, metallurgy, machinery, non-ferrous metal industry surpassed 200 billion yuan, building materials, paper and wood processing, electronic information, bio-industry surpassed 100 billion Yuan, pharmaceutical manufacturing, textile and garment and leather, ship repair and marine engineering equipment industry surpassed 50 billion yuan.

Box 3: one hundred billion yuan industrial construction

Food industry: focus on building a number of deep processing and comprehensive utilization of sugar, grain and feed, edible vegetable oil deep processing and comprehensive utilization, structural upgrading

cigarette products, and other characteristics of six Fort tea deep processing of agricultural projects.

Automotive Industry: SAIC-GM-Wuling focus on building passenger cars, commercial vehicles, Dongfeng Liuzhou Automobile, FAW Liu Teka car, Gui-off group of high-grade large buses and electric buses, special vehicles Liuzhou capacity, as well as engine, transmission, drive axle, tires, wheels and other parts products. Support Liuzhou Wuling Group, set up large parts Fang Sheng Industrial Group, Guilin parts production bases.

Petrochemical industry: focus on the construction of two oil Qinzhou refinery integration, integrated refining and petrochemical Tieshan'gang wide dimensional bio-chemical VAE floating liquid two, Yulin Longtan heavy traffic asphalt and fine chemical engineering.

Electricity Industry: focus on building clean energy, high-capacity coal-fired units and grid works.

Non-ferrous metal industry: key construction Pingguo aluminum structural adjustment, Jinchuan Nonferrous Metal Fangchenggang deep processing of raw materials, renewable HNG Wuzhou 300,000 tons of copper and 300,000 tons of recycled aluminum, aluminum deep processing base in Guangxi Baise new industrial park Shanlv aluminum deep processing industry group, restructuring Huayin Aluminium, South-South high-performance large-sized aluminum alloy plate with profiles, Guidong electronic aluminum foils, Hechi Nanfang Non-ferrous lead and zinc smelting, Hechi Jinshan more than one million tons of metal recycling and other projects.

Metallurgical industry: key construction Fangchenggang steel deep processing of CDH and Chongzuo manganese, ferroalloys guests circular economy demonstration, and Longtan magnesium and other deep processing projects.

Machinery industry: key construction Liugong construction machinery and equipment manufacturing, a new generation of energy efficient Yuchai diesel engine series, Guilin CNC machine tools and castings and forgings, SAIC-GM-Wuling energy efficient small-displacement gasoline engine, multi-functional series forestry machinery Guilin, Wuzhou marine crane machinery, Guigang ship machinery and equipment manufacturing and other projects.

Building Materials Industry: Key Construction Resources, conch, TCC, Yufeng and other dry cement production line, HAPPY kaolin processing, deep processing of talc Guilin, north ceramics, architectural ceramics Wuzhou, Hezhou modified and new building materials, such as ultra-fine powder works.

Paper and wood processing industry: focus on building the North Hailin pulp, pulp and paper two Jin Guilin, Wuzhou, pulp and paper, pulp and paper Hezhou, Liuzhou bamboo pulp and paper processing, environmental protection of forests and deep processing of timber and other projects.

Electronic information industry: focus on building electronic information industrial park Beihai, Nanning Software Park, Nanning Foxconn Electronics Industrial Park, Guilin National Hi-tech Zone Information Industry Park, Liuzhou Information Industrial Park, Industrial Park in Qinzhou electronics, optoelectronics industry in Wuzhou Park. Hezhou electronics industrial park works.

Pharmaceutical manufacturing industry: focus on building national essential drugs pharmaceutical raw materials base project of major diseases, as well as traditional Chinese medicine, Zhuang Yao medicine, chemical medicine, Chinese herbal medicine processing and other engineering specialties.

Textile and garment and leather industry: key construction cocoon silk, spun-pulp, cotton, sisal products, clothing, feather, household and industrial textiles, leather and other projects.

Biological Industry: focus on building bio-energy, bio-materials, bio-agriculture, bio-environmental protection projects.

Ship repair and marine engineering equipment industry: focus on building coastal and Xijiang shipbuilding base, and offshore oil and gas, chemical and other marine equipment, marine engineering.

Section enhance the overall quality of industrial

The focus on the automotive, machinery, petrochemical, metallurgy, nonferrous metals and other industrial areas of the backbone enterprises, accelerate the pace of technological progress, strengthen the quality and technical standards, and promote the upgrading of products, encourage brands to create, implement manufacturing information service efficiency projects to promote business combination, cross-regional mergers and acquisitions, foreign mergers and acquisitions and investment cooperation, improve industrial concentration, as soon as the SAIC-GM-Wuling, Yuchai Group, Liugong Group, Qinzhou refinery, such as sales training to become a strong priority over one hundred billion yuan business. The focus on national and regional level industrial parks, improve infrastructure, improve the investment strength, increase investment, and innovation management mechanism to speed up project admission gather, to form a chain as a link, the distinctive characteristics of industrial clusters professional as soon as possible to Nanning , Liuzhou, Guilin and Liuzhou Automobile High-tech Industrial Development Zone, the city park, Qinzhou Port Economic Development Zone, Tieshangang industrial zone, Yuchai Industrial Park, Wuzhou import and processing of renewable resources, such as training to become the park over one hundred billion yuan output value of industry Park. Focus on "specialized, sophisticated, special, new" implementation of the "one thousand SME Growth" project, perfect service system for SMEs, and promote the development of SMEs in innovation and transformation, improve the level of specialized division of labor, cultivating a group of over a hundred million sales soon and over 10 billion of outstanding enterprises.

Box 4: Industrial Upgrading

Major scientific and technological projects: aluminum deep processing, new energy vehicles, non-food biomass, sugar, engineering machinery, electronic information, food security, mulberry silk cocoon, characteristics and advantages of fruits, tilapia, livestock safety, eucalyptus, energy conservation, modernization of Chinese medicine, marine industry, Jianghai ecology, metal tailings integrated resource management, prevention and control of major diseases, such as research and development and demonstration of key technologies.

Public testing platform: around one hundred billion yuan industry, focusing on industrial parks, construction of 18 national quality inspection center and 30 regional-level quality inspection centers.

Key industrial park: Nanning, Guilin, Liuzhou Tech Industrial Development Zone and the North Sea High-Tech Industrial Park, Economic and Technological Development Zone of Nanning, Nanning - ASEAN Economic Development Zone, Nanning six King Industrial Park, Ming Yang Industrial Zone, CSR Industrial Park, Liuzhou Motor City Park, Liuzhou Yang and industrial parks, Liuzhou Hexi Machinery Industrial Park, Guilin Su Bridge Industrial Park, Economic Development Zone in Guilin Xicheng, ceramics industrial park Wuzhou Wuzhou imported renewable resources processing zone, industrial zone Tieshan'gang, Beihai Industrial Park, Fangchenggang Southwest Harbor Industrial Park, Fangchenggang enterprises sand industrial zone, Qinzhou Bonded Port Area, Qinzhou integrated logistics processing zone, Qinzhou Port Economic Development Zone, Guigang (Taiwan) Industrial Park, Guigang Jiangnan Industrial Park, Yuchai Industrial Park, Yulin Longtan Industrial Park, tiandong Petrochemical Industrial Park, the new Bose Shanlv Industries Demonstration Zone, Hezhou Wang high industrial park, new materials and processing non-ferrous Hechi Nandan Park, Laibin industrial zones, industrial zones Chongzuo City, Pingxiang Comprehensive Bonded Zone and so on.

Industrial clusters: promoting the formation of food, automobiles, steel, petrochemicals, aluminum, manganese, nickel, engineering machinery, cement, ceramics, paper, forest chemicals, electronic information, textile, pharmaceutical manufacturing, biotechnology, ship repair, marine engineering equipment and other industries clusters.

Section accelerate the development of strategic emerging industries

Focus on the development of modern industrial system, play a major supporting role in science and technology projects, relying on the advantages of business and industrial parks, industrial innovation and implementation of development projects to accelerate the development of energy-saving and environmental protection, advanced equipment manufacturing, biotechnology, new energy vehicles, new materials, new energy, life health, a new generation of information technology and other strategic

emerging industries, as soon as possible to cultivate new economic growth point, the national economy has gradually become a pilot and pillar industries. Saving and environmental protection industry, focusing on the development of energy efficient, environmentally friendly and resource recycling advanced key technology and equipment, products and services. Advanced equipment manufacturing industry, focusing on the development of rail transportation equipment, aerospace manufacturing equipment, intelligent manufacturing equipment. Bio-industry, focusing on the development of bio-medicine, bio-agriculture, bio-medical engineering products, bio-manufacturing, and other marine organisms. New energy automotive industry, focusing on the development of plug-in hybrid vehicles, pure electric vehicles and fuel cell vehicles. New materials industry, focusing on the development of new functional materials, advanced structural materials, high-performance composite materials, common

basic materials, LED light-emitting materials. New energy industry, focusing on the development of bio-diesel, scale biogas, photovoltaic solar thermal power, wind power technology and equipment, such as smart grid. Life and health industry, focusing on the development of health, health care, pension products. New generation of information technology industry, focusing on the development of next-generation mobile communications, next generation Internet, triple play, networking, cloud computing, integrated circuits, and information services. Encourage the implementation of the national strategic emerging industry development policies, accelerate the establishment of strategic emerging industry development funds, the establishment of venture capital and industrial investment fund important research to establish new industry technical standards, support new product applications supporting infrastructure. By 2015, strategic emerging industries accounted strive proportion GDP reached about 6%.

**Column 5 : Development of Strategic Emerging Industries
Innovation Project**

Energy-saving environmental protection industry works: focus on

promoting energy-saving industries and products, pollution control, energy conservation and environmental protection equipment manufacturing, solid waste handling equipment, energy-saving and environmental protection and resource conservation and comprehensive utilization of services and other projects.

Advanced equipment manufacturing engineering: focus on the development of high-end engineering machinery, machine tools, internal combustion engines, construction machinery and other equipment, as well as rail transportation equipment, building intelligent control system.

Biological breeding project: focus on promoting the important food crops, cash crops and livestock breeds mainly bio-breeding development, testing, testing and other facilities, the implementation of new varieties of agricultural biotechnology industry demonstration projects.

Promote research and development of new energy automotive engineering: focus on promoting the gradual replacement of the internal combustion engine car electric cars into commercial demonstration to promote plug-in hybrid electric vehicle industry, the construction of Liuzhou, Guilin, new energy automotive industry base.

Engineering new materials industry: focus on promoting the indium material, aluminum composite materials, industrial chain of high-end products of zinc tin, antimony flame retardants series of new materials, and cassava, molasses as raw material for biomass-based new materials, efficient light-emitting materials, rare earth alloys, nickel-chromium alloy, energy-saving lamps and other areas of technology development and industrialization.

New Energy and Industrial Engineering: Accelerating cassava, sugar cane, fiber and other non-food agricultural and forestry resources, the development of fuel ethanol, methanol demonstration of industrial applications, focusing on the implementation of the development of bio-ethanol, biodiesel, biomass gasification, such as efficient curing and clean fuel projects.

Life and health industry works: focus on the development and application of health and longevity products, bio-pharmaceutical new product to promote industrialization, construction of coastal type, landscape type, forest type, climatic and other health, wellness,

rehabilitation base.

Broadband information network construction projects: focus on promoting full coverage of the next generation of information network, the implementation of information products network industrialization projects.

Electronic information industry works: focus on fostering the development of new flat panel industries, promote the industrialization of core components.

Things Engineering: focus on promoting the intelligent city management, intelligent industry, fine agriculture, intelligent transportation, smart logistics, smart medical applications such as demonstration projects.

Space infrastructure projects: focus on promoting remote sensing, satellite demonstration project and geographic information systems.

IV vigorously develop energy industry

Promoting diversified clean energy development, energy production and use patterns change, optimizing energy structure, build clean energy demonstration area. Depth development of hydropower, give prominence to the second phase construction of Longtan hydropower station, local conditions to develop small and medium hydropower, rational distribution of pumped storage power station. Optimize the development of thermal power, priority construction of "big pressure on the small" projects coal, cogeneration utilization, etc., to encourage the development of clean and efficient, large-capacity coal-fired units, and promote the clean use of traditional energy sources. Fangchenggang accelerate the construction of nuclear power, nuclear power and actively promote Pingnan started preliminary work and timely. Actively develop biomass, wind, solar, geothermal energy, tidal energy and other renewable energy sources. Steadily coastal LNG utilization of non-grain ethanol, biodiesel, biomass briquettes, biomass gasification and other projects, to carry out distributed energy and solar energy pilot cities, supporting the construction of electric vehicle charging facilities, increase in renewable energy in energy consumption The proportion. Strengthen international energy cooperation, active use of hydropower resources, Yunnan, and Guizhou coal joint venture to expand cooperation in energy projects in ASEAN countries participating in the survey and design, construction, to introduce domestic and foreign coal, oil and gas resources, improve energy supply security capabilities. Accelerate the construction of coastal crude oil, refined oil and coal reserves of commercial storage facilities and transport and distribution base. Construction and development needs to adapt to the load area and outside access to the main electricity grid, improving by the end of the grid structure to encourage the integration of electricity load concentrated areas of transmission and distribution of resources, the formation of joint-stock regional power grid and improve power supply safety and reliability. Improve and strengthen the city power grid upgrading county power grid, focusing on the construction of Nanning, Liuzhou, Guilin, Wuzhou and coastal urban power grids, the positive development of smart grid. Accelerate the implementation of crude oil, refined

oil pipeline and natural gas trunk pipeline network, branch network, with a pipeline network and ancillary facilities engineering. 2015, and strive to reach 41 million kilowatts of power capacity, of which 16 million kilowatts of hydropower; built 500 kV substation 27, 220 kV utility substation 169; Shequchengshi gas pipeline network coverage reached 70%, with conditions county network coverage reaches 60%.

Column 6 : Energy Construction

Hydropower: Hydropower Station built in rock beach expansion project, started in Longtan Hydropower Station two, Pumped Storage Power Station and other projects.

Coal: Nanning built power plants, power plants Hezhou, Heshan Power Plant on the first big pressure and other projects; construction started or fight big pressure on luzhai small cogeneration, big pressure on Yongfu small cogeneration plants, Heshan Power Plant great pressure on small Phase II, Bose Power Plant Phase II Fangchenggang, Qinzhou II power plants, thermal power plant in Qinzhou, Central River power plants, power plants Chongzuo, Wuzhou plants, longlin plants, Guigang Power Plant Phase II, Phase II power plant in Beihai, Liuzhou plant the big pressure, Yulin Longtan firepower cogeneration and other projects.

Nuclear power: the completion of a nuclear power Fangchenggang red sand, red sand Fangchenggang started two nuclear power and promoting peace in South Fangchenggang Nuclear Power Pak Nuclear White Dragon preliminary work and strive to start construction.

Renewable Energy: start Shangsi, Teng County, Hepu, Wuxuan other biomass power projects, Hepu West Field, jade Linda Rong Mountain, Guilin, sand and other enterprises Fangchenggang wind power projects, cassava fuel ethanol two projects, Golden Sun Demonstration Project.

Grid: New Yulin two variants, Liunan, Guinan, Jingxi, Guiping, Beihai, Hechi two variants, Hezhou two variants, Wuzhou two variants such as 500 kV substation, expansion Chongzuo, Guilin, every wish, Bose, Hezhou, Hechi, Bluff, Nanning, Wing, Wuzhou, harbor change, Jiulong and other 500 kV substation.

Natural gas: West-East Gas Pipeline Project started, the China-Burma gas pipeline projects, branch network, with a pipeline network and ancillary facilities, liquefied natural gas project in Beihai, China South City Nanning distributed energy stations.

Oil: key construction of crude oil, refined oil storage facilities and pipelines commercial projects.

Coal: focus on the construction of Beihai, Qinzhou transshipment of coal reserves and distribution base.

Section V positive development of the marine industry

Adhere to overall land and sea, marine scientific planning of economic development, the rational exploitation of marine resources, construction, marine industrial base, to develop the marine industry. Strengthen marine base, forward-looking, key technology research and development, the development of efficient ecological aquaculture, offshore and deep sea fishing, seafood processing, marine biomedicine, marine chemicals, port logistics, coastal tourism, repair and shipbuilding industries, and actively explore cooperation in development Beibu Gulf oil and gas resources.

Strengthening the construction of an important fishing port south 漓, Camp, rhino feet, enterprises sand, Overseas Port, gantry harbor, etc., to accelerate the implementation of coastal fishermen converting jobs, even house boat fishermen ashore settlers and job placement projects. Strengthening the construction of artificial reefs and marine ranch, sound reclamation management system to protect the island, coastline and marine environment. Implementation of the main functional areas of marine planning. Actively carry out marine development cooperation with ASEAN countries.

The third chapter accelerate the construction of new socialist countryside

Synchronization promoting agricultural modernization in the industrialization and urbanization in-depth development, adhere to industry nurturing agriculture and cities support rural areas and more, taking less and deregulation policy, increase the intensity of benefiting the agriculture, strengthening rural infrastructure for agricultural development, improve the level of modernization of agriculture and farmers living standards, build a better home happy life of farmers.

Section vigorously develop modern agriculture

Accelerate the transformation of agricultural development, establish and improve the modern agricultural industrial system, to develop high-yielding, high quality, efficient, ecological, safe agriculture, promote agricultural production and management specialization, standardization, scale, intensive, improve agricultural production capacity, anti-risk capability and market competitiveness. To enhance food security as an important task of the ability to implement new food production capacity planning, optimizing grain varieties, speed super rice breeding, such as the promotion of high-quality rice, strictly protect arable land, strengthening of rural land consolidation and reclamation, in order to focus on doing a good job irrigation facilities-based field construction, large-scale transformation of low-yielding fields, the basic farmland grain-producing counties of farmland Hanlaobaoshou built to high standards as soon as possible, the development of a number of rice, corn and other advantages of winter potato producing areas, the construction of 50 commodity grain production base in the county, sown area of grain stabilized at more than 4600 acres, the overall grain production capacity will reach 15 million tons or more. Support policies to improve food production and circulation, strengthen the grain and oil processing, logistics, capacity building and contingency reserves to protect and improve the grain market regulation. Optimizing agricultural structure, vigorously develop the characteristics and advantages of agricultural products, expanding health seedlings planted area, to encourage and support the growing focus on the development of grain, sugarcane, mulberry, oil and other staple agricultural products, sugar cane acreage steady guidance, focus on building suburban vegetable North South transport food production base and vegetable base Youjiang River Valley, Hunan, Guangxi, channels, etc., to promote vegetables, fruits, flowers, herbs, tea and other horticultural products production facilities. Raise pigs, poultry, livestock grazing levels

and development, and promote the health characteristics of rare freshwater aquaculture products, the implementation of standardized pond renovation project. Vigorously develop the forestry industry. Strengthen agricultural brand development, attention geographical indications of agricultural origin certification, characteristics and advantages of agricultural products in the country to strengthen the central city of publicity, display and promotion, improved forms of agricultural marketing network. To promote the industrialization of agriculture, the construction of key leading enterprises echelon, highlighting the development of deep processing and distribution of agricultural products, agricultural products wholesale markets and strengthen the cold chain logistics facilities. Accelerate the cocoon, herbivore, buffalo, herbs, non-food biomass feedstock advantage aquatic products, tea, flower cultivation for the production value of over 10 billion yuan, grain, vegetables, fruits cultivation of over 500 billion yuan, sugar cane , poultry, speed of over 100 billion yuan abundance of forest cultivation strong gifted agricultural industries. Strengthen the production, storage, marketing and other aspects of the full supervision, improve the quality and safety of agricultural products. Strengthen the modern seed industry, efficient cultivation, disease prevention and control, water conservation and other agricultural science and technology innovation, building agricultural technology demonstration counties focus, enhance modern agriculture demonstration zones demonstration function. Sound agricultural scientific and technological achievements, technology promotion, prevention and control of animal and plant diseases and other agricultural public service system, to continue to carry out rural science and technology correspondent action. Promote agricultural mechanization and agricultural production and management of information technology. Foster diversification of rural social service organization that supports supply and marketing cooperatives, postal service "three rural" network distribution centers, specialized farmers' cooperatives, farmers brokers, leading companies to provide various forms of production and business services. Broaden the policy agricultural insurance coverage and pilot varieties, improve agricultural production disaster compensation mechanism.

Column 7 : Construction of Modern Agriculture
<p>Commodity grain base: 15 national key construction of grain-producing counties and 35 autonomous starving base counties.</p> <p>Seed project: the implementation of super rice, autumn and winter, intercropping 3 "Qianwan Mu action plan" to promote sugarcane detoxification healthy saplings demonstration projects; implementation Instant Forest and forest "double four thousand acres" project; construction sugar cane, silkworms, vegetables, fruits, cassava, dominant characteristic aquatic products, livestock, pine, fir, eucalyptus, tea, and other precious broadleaf breeding base.</p> <p>Construction of basic farmland: focus on the implementation Hanlaobaoshou standard farmland, land reclamation, soil engineering, plant protection projects.</p> <p>Grain Circulation: key construction Nanning, Liuzhou, Guigang regional logistics centers and Fangchenggang cross-border food grain logistics center. and a number of grain trading. grain processing.</p>

warehousing, logistics, grain circulation management information and other projects.

Features agricultural base: key construction materials yielding high sugar sugar cane, standardization vegetables, orchards, cocoon quality raw materials, high-quality cassava, standardized herbs, specialty flowers, tea, tea, tobacco, cinnamon, star anise and other agricultural and forestry products and buffalo, rabbit , goats, pigs, tilapia, shrimp, Tai Ho, pearls, precious turtles and other aquatic animal production bases.

Facilities Agriculture: focus on promoting rice, sugarcane production mechanization and water-saving irrigation demonstration, construction vegetables, fruits, flowers, herbs, tea and other horticultural facilities and standardization of aquaculture, fish cage farming, fishing and other fishing pond renovation project.

Agricultural logistics facilities: fresh fruit cold storage building with Origin pre-cold 80 after fruit picking commercialization line 300.

Agricultural Science and Technology Demonstration: focus on building the Taiwan Strait (Yulin) agricultural cooperation experimental zones, China - ASEAN modern agricultural science and technology cooperation zone, Baise National Agricultural Science and Technology Park, Beihai National Agricultural Science and Technology Park, the West River economic belt Wuzhou specialty agriculture demonstration area, as well as a number of focus on agricultural technology demonstration city and county.

Cultivate leading enterprises: to build five-year sales of over 50 billion yuan, 20 billion over 10 leading enterprises of agricultural industrialization, new developments in specialized farmers' cooperatives over 1000.

Animal and plant disease control: focus on promoting the prevention and control of major animal diseases border interdiction zone, sudden major animal epidemic emergency system, a major plant disease prevention and control and other facilities, as well as agricultural products quality and safety testing system.

Section improve rural production and living conditions

Strengthen the new rural construction planning guidance, integrated rural

infrastructure and public service facilities, significantly improve the rural landscape. Increased irrigation and water conservancy construction, and implementation of field irrigation and drainage projects, small and medium irrigated, drought water projects, supporting improved irrigation canal system and ancillary facilities, accelerate the construction of rainwater harvesting and utilization in arid regions, to improve conditions for small rural micro-irrigation facilities, construction and sound management and protection mechanisms. With a comprehensive solution to the problem of safe drinking water in rural areas, and accelerate the pace of implementation of rural drinking water safety projects, highlighting resolve Rocky coastal brackish water and in some areas fluoride water, high arsenic drinking water insecurity, the region rural water supply coverage reached 65%. Development of rural road construction, focusing on the implementation of rural highway rating, village road hardening and accessible through

Tuen road and other projects, and comprehensively improve the rural road network management and maintenance Chang rate and level. Strengthening of rural energy construction, the implementation of a new round of rural power grid upgrade project, the continued development of rural household biogas, promoting rural households conditional transition to centralized biogas supply, vigorously develop the rural straw utilization, small hydro, solar and other renewable energy, building green energy demonstration counties. The region's towns and village centers to carry out focused action planning, reasonable arrangements for the construction of county towns, farmland protection, industrial agglomeration, village distribution, ecological conservation and other spatial layout. Accordance with the principles embodied ethnic style, prominent geographical features, respecting the wishes of the villagers, ordered to guide the appropriate concentration of rural settlements layout, construction of new rural communities. Implementation of rural housing projects, focusing on promoting rural border areas particularly dangerous border dangerous, minority villages, state-owned forest reclamation, Reservoir, resettlement areas and overseas ramshackle farm, and inland rivers and even the family boat fishermen ashore settlers works. Strengthening the construction of public facilities in rural fire protection, fire protection continue to implement minority villages renovation project. Promote information network villages and households, improving rural informatization level. Improve the rural postal service facilities and improve the level of the universal postal service. Strengthening of rural drinking water source protection, non-point source pollution control, sewage garbage treatment, comprehensive environmental remediation of soil pollution control, implementation of rural sanitation projects, supporting the launch of green village sclerosis, improve rural sanitation and human settlements.

Section strengthen water conservancy construction

Hennessy pesticides adhere to combine both disaster prevention and mitigation, taking into account the underlying causes, the government's social collaboration, strengthen water conservancy facilities to further improve water conservancy support capabilities. Promote the Xijiang, Yujiang, Liujiang, Guijiang, Chin River, South River and other major rivers and tributaries and small rivers, flood control and focus on building Guilin Lijiang River water, yangxi, off waiting controlling water conservancy project, building an important embankment flood control and drought relief combined with the library system. Strong support for the construction of small irrigation facilities in key counties. Compliance and implementation of important estuarine coastal seawall comprehensive treatment project. Accelerate the dam reinforcement and medium-sized dangerous sluices, eliminate safety hazards. Homeland Protection improve transboundary river management. Focus on promoting the River Kwai in and around key projects, such as construction and drought, drought in western Guangxi Rocky film governance, as well as medium-sized and water-saving irrigation area supporting the continued construction of the transformation, the new effective irrigation area of 180 mu. Accelerate the construction of the mountains "five small water conservancy" project. Strengthen

flood control and drought forecasting of flood control systems and primary system,

improve flood control and drought emergency response capabilities.

Box 8 : water conservancy construction

Major water conservancy projects: key construction Guilin Lijiang River flood control and water, as well as yangxi, off waiting Project.

Irrigation Project: focus on building a rule of drought in Guangxi beach music and started Phase II Reservoir Diversion Irrigation, Irrigation and drought left river water river reservoir piggy Britain, northwest Guangxi Rocky film drought management, governance, Youjiang dry piece of engineering and the central government small farmland key county facilities; perfect building 11 large-scale irrigation, and has built a number of small and medium Irrigation Reservoir (station) backbone gravity irrigation canal; completed over 1,000 dangerous reservoirs and 87 medium-sized dangerous sluices .

Flood control and drought early warning and forecasting project: Flood Control and Drought Relief Command System key construction projects within the network, video projects, improve the construction of large and medium reservoirs regimen system, flash hazard warning systems, encryption, and upgrade the network of meteorological stations, Guangxi mesoscale numerical weather sophisticated forecasting system, mainly dry piece drought monitoring system.

IV promote rapid growth of farmers' income continued

Perfect benefiting the agriculture policy to improve farmers' vocational skills and income-generating capacity, increase rural incomes channels, efforts to increase farm income. Implementation of the minimum grain price protection and temporary storage of agricultural commodities such as policies to encourage farmers to optimize the planting structure, tap the internal potential of agriculture income, expanding agricultural function, implemented million income projects, consolidating and improving the family business income. Accelerate the development of vocational education in rural areas, strengthen employment information and guidance, to develop labor export. Construction farmers entrepreneurial base and business park, farmers locally to promote the transfer of employment. Increase investment in rural infrastructure, and actively develop rural secondary and tertiary industries, increase farmers' labor income. Improving the agricultural subsidy system, improve rural social security, rural poverty alleviation of rural minimum living security, accelerate the development of agricultural insurance policies, increase farmers' transfer income. Actively create conditions to increase farmers' income from property.

Section V improve the institutional mechanisms for rural development

Accordance with the overall requirements of urban and rural development, deepen rural reform, enhance the vitality of rural development, agriculture. Adhere to the household contract based on a combination of the system of two-tier management

system, the existing rural land contract relationships remain stable over the long term. Strengthening land contracting right of management and service, improve circulation market, the development of various forms of moderate scale land operation in accordance with the law on the basis of voluntary paid circulation. Promote the coordinated development of urban and rural areas, the progressive realization of public resources between urban and rural areas in the balanced allocation of production factors between urban and rural areas in equal exchange and free flow, urban and rural infrastructure, public services, social management, and raise the level of public services in rural financial security. Gradually establish a unified construction land market, land value increment is mainly used for the promotion of agriculture and rural areas. Accelerate the establishment of urban and rural workers equal employment system. Deepen reform of rural credit cooperatives, rural commercial banks to speed up the formation of Guangxi, and steadily promote the reform county rural cooperative financial institutions. Encourage the development of community banks, rural banks, loan companies and rural mutual cooperatives and other new financial institutions, improve the rural credit guarantee system, expanding the effective range of collateral in rural areas, and gradually establish agricultural loan risk compensation and agriculture-related financial services subsidy mechanism, promote the country and rural counties and deposits are mainly used for agriculture, rural areas. Accelerate Nanning, Yulin and other urban and rural comprehensive reform. Deepening the reform of collective forest right system, promote reform and development of state-owned forest, agriculture, forestry, farm and other overseas Chinese. Supply and marketing cooperatives to promote innovation and development. Agribusiness perfect management system. Actively implement the "farming village" system.

Section VI foster the development of county economy

Around rich people, county, and ran off target, the right to promote the expansion of county reform, comparative advantage to play county to county and key towns as the basis for industrial clusters as a carrier, processing of agricultural products, specialty resources development and industries to relocate to focus accelerate the development and medium-sized cities, large enterprises supporting collaborative industry cluster, and actively cultivate pillar industry, create a number of industrial county. Encourage businesses to rural urban construction materials production and processing base, promoting urban capital, technology, human resources, management and other factors of production flow to the county. Restructure the county to promote enterprise, fostering the growth of township enterprises, and actively develop rural commerce, logistics, tourism and other services, to improve the county, township farmers market facilities. Deepening the county system, the full implementation of autonomous straight county financial reform, a number of key towns expanded management authority to carry out reform and enhance the vitality of the county development, foster greater economic hundred counties in the western county to enter the ranks to enter the country and strive to achieve one

in the western county to enter the ranks to enter the county and strive to achieve one

hundred County breakthroughs.

Chapter IV promote leapfrog development of urbanization

Adhere to the new urbanization, urban and rural development and to expand its powers County as the starting point to accelerate industrial and population concentration as the basis, in order to promote industrialization as a support to institutional innovation as the driving force, bigger and stronger urban centers, foster development of large urban agglomerations radiation, medium and small cities and small towns to promote the coordinated development, the formation of focused, clear positioning, functional, distinctive new pattern of urban system, more substantial increase in the level of urbanization.

Section accelerate the growth of urban centers

Implementation of the central city driven strategies to promote urban industrial park construction New urban development, improve the layout of large-scale integrated commercial district, the development of business and economy, and promote the integration of industrial and urban development, urban planning to optimize and beautify the living environment, and enhance the economic strength and cultural strength integrated service capabilities, to play a central city to promote agriculture, rural city with a core leading role. Highlighting the development of Nanning, Liuzhou and Guilin Megacity Megacity, for promoting the development of urbanization across the major engines. Nanning City in accordance with the construction of a regional international city positioned to accelerate the expansion of the five as the District, Jiangbei improve and enhance the south, focusing on building five core areas like City of Culture, Sports City, the headquarters base, bonded logistics, finance focus area and Metro Airport, five together university town, Yongning hub preliminary work to promote and accelerate the construction of ecological Watertown, Guangxi become "pre-eminent", and strive to build area population of around 300 million people. Liuzhou in accordance with the positioning of building a modern industrial city, focusing on the construction of Motown Liu Dong New Area, improve sound Hexi Industrial Zone, integration and optimization of the industrial area north Liu, promoting Lowe Industrial Zone, the leading city to build the West River Economic Belt, and strive to build district population reached 230 people around. Guilin in accordance with the positioning of building an international tourism city, protection and development of Lijiang River, historical and cultural heritage protection, focusing on expanding Lingui New District, accelerate the construction of science parks and Suqiao Yanshan industrial town, is important to create an international tourist destination, and strive to build area population reach about 120 million people. Other regional central cities bigger and stronger, improve the new urban infrastructure, expansion of industrial economy, increasing urban population, urban expansion, urban functions, focus on building a distinctive, unique charm of the modern city.

Column 9 : Centre City Development

2015, **Nanning** built-up area population of about 300 million people, land size of 250 square kilometers; **Liuzhou** built-up area population of about 230 million people, land size of 148 square kilometers; **Guilin** built-up area population of about 120 million people, land size of 101 square feet km; **Wuzhou city** built-up area population of about 65 million people, land size of 70 square kilometers; **Beihai** built-up area population of about 65 million people, land size of 125 square kilometers; **Fangchenggang** built-up area population of about 35 million people, land size of 56 square kilometers; **Qinzhou City**, built-up area population of about 60 million people, land size of 90 square kilometers; **Guigang** built-up area population of about 60 million people, land size of 60 square kilometers; **Yulin City**, built-up area population of about 70 million people, land size of 80 square kilometers; **Baise City** built-up area population of about 45 million people, land size of 41 square kilometers; **Hezhou** built-up area population of about 35 million people, land size of 38 square kilometers; **Hechi City**, built-up area population of about 30 million people, land size of 35 square kilometers; **Laibin** built-up area population of 40 million people, the size of 51 square kilometers of land; **Chongzuo** built-up area population of about 200,000 people, land size of 31 square kilometers.

Section foster the development of cities and towns with a population

Relying on modern transportation network and location advantages, play the leading role of the central city, county and intensive development of small towns, and optimize urban layout, improve the urban system, accelerating the development of the formation of ordered structures, functional complementation, the overall optimization of urban agglomerations and Sharing town band, becoming a new growth pole across the development. Nanning as the core of the North Bay city group is the development of industrialization and urbanization priority areas to accelerate infrastructure development and network integration, strengthening Nanning, Beihai, Qinzhou, Fangchenggang complementary functions in four cities and industrial division, advance HAPPY Lim Carolina Bay development, urbanization rate over 55%, into the country's major cities group. Xijiang River in Guangxi regional coverage of urbanization, the urban population in southeastern Guangxi, the focus is to promote regional industrialization and urbanization, to accelerate Liuzhou - Guest integrated development, promote Guigang - Wuzhou, Yulin - Wuzhou, Yulin - Guigang, Hezhou - Wuzhou Economic Corridor , built the town has an important impact on the region's population. Relying radiating Guilin, Baise, Hechi, Chongzuo, Hezhou and other centers of the city , county and promote the development of key towns, improve infrastructure, upgrade the industry , population concentration ability to form distinctive Northern urban group and Youjiang River Valley Corridor Guizhou-Guangxi corridor, Gui Gui Southwest and Northeast urban belt. By 2015, the region's new urban center of the city and strive to 450 square kilometers, the urbanization rate increased to 50%.

Section raise the level of urban planning and construction

Follow the people-oriented, land saving, eco-friendly, safe and practical, prominent features, the protection of cultural and natural heritage of the requirements, the scientific preparation of urban master plan and detailed plan, optimize urban features designed to expand program coverage, establishment of urban planning dynamic monitoring system strengthen the planning and implementation supervision. Co-ordinating urban municipal facilities and public facilities, improve the urban roads, bridges, telecommunications, postal services, electricity, drainage, gas, fire, gardens, landscaping, sanitation and other basic disabled facilities for the general public to strengthen schools, hospitals, libraries, science museums, museums, stadiums and other facilities. Continue to strengthen the construction of urban sewage and garbage treatment facilities, sewage treatment facilities have been built to ensure the normal operation. Yujiang promote diversion, Beibu Gulf Economic Zone and other key industrial base Baise diversion, and Nanning, Beihai, Wuzhou, Guigang, Hezhou, Yulin city drinking water reserve construction, implementation of a number of small micro water projects. Flood control projects and to strengthen the focus on urban flood control dam construction river basin, to further improve disaster prevention and emergency management capabilities. Deepening the reform of public utilities towns, urban construction investment in innovation, management and operation system, to explore the issue of municipal construction bonds, to encourage multiple investors into the municipal building. Support the development of carrying capacity, fast and convenient urban public transport network, encourage Nanning, Liuzhou cities develop three-dimensional traffic system, speed up the construction of rail transit project in Nanning. Prominent urban personality shaping, strengthening the historical and cultural city, neighborhood protection, create a number of cities, towns. By 2015, the urban water coverage and strive gas penetration rate reached 95%, centralized sewage treatment rate and garbage treatment rate of 85% and 80%, respectively, per capita road area of 15 square meters; urban built-up area of green above the county coverage reached 35 percent, per capita green area of 12 square meters; take dike library binding measures, and strive to make the main city of Nanning flood control capacity to 200 years, Liuzhou, Guilin, Wuzhou, Guigang City, the main city flood control capacity increased to 100 In one case, 31 cities and counties in the region focus on flood control and 46 non-priority flood control flood control capacity to cities and counties in 20 years.

Section IV strengthen urban management

Deepen the reform of the household registration system, strengthen and improve population management, relaxation of foreign population settled in accordance with the actual conditions of towns, cities attract people continue to play an important role. According to local conditions, advancing step by step, to have a stable labor relations and certain number of years of residence in the town of migrant workers gradually into urban

residents, giving priority to family migration as well as the new generation of migrant workers settled the issue of migrant workers, to guide the orderly rural to urban transfer. Accelerate the improvement of the social security of migrant workers, children, education, housing, and other systems, improve public services and ensure equal employment of migrant workers, labor remuneration, occupational safety and other basic rights. Implementation of urban dilapidated housing and "Villages" fringe renovation project. Implementation at all levels of government responsibility, the protection of basic housing, stable prices and the strengthening of the real estate market regulation objectives into local economic and social development, to increase the total supply of residential land, effectively expanding the ordinary commodity housing supply, and promote the healthy development of the real estate market. Construction of digital cities, promote urban management information. Scientific management of urban transportation. Deepening of urban management system, improve the overall level of law enforcement.

In-depth implementation of urban and rural sanitation projects and urban and rural landscape transformation, comprehensive improvement of urban environment and build long-term mechanism.

Chapter comprehensive services to accelerate the development of

Adhere to market-oriented, industrial, social, international orientation, structural optimization services, improve services layout, innovative services institutional mechanisms to guide the cluster development services, promoting services scale, brand, network management, and growth scale services, improving the level of services especially in the development of modern service industry.

Section accelerate the development of producer services

Deepening specialization, promoting services and advanced manufacturing, integration and development of modern agriculture. Improve urban and rural commodity market system, focusing on the development of a number of distribution and strong, influential in the country's large-scale wholesale market and wholesale market, forming a commodity trading sugar, automobile, steel, nonferrous metals, building materials, decoration, agricultural farm machinery, medicines, etc. distribution center. Accelerate the development of high-tech services and modern manufacturing is closely related to the positive development of investment and management consulting, software development, outsourcing. Establish a modern logistics system, promoting the connection ASEAN, the radiation out of the province to the sea of the mainland side of the logistics channel, logistics facilities and regional logistics base construction, formation of a national, regional, urban and professional logistics nodes coordinated logistics center logistics area layout. Actively promote the joint development of the logistics industry and manufacturing, focusing on the development of professional logistics billion dollar industry, driven by third-party logistics, improve distribution system, improve logistics efficiency and reduce logistics costs, to develop international logistics and bonded logistics. Construction of Nanning, Qinzhou, Yulin nationwide circulation of modern

logistics model city. Positive development of exhibition services, strengthen the construction of convention facilities, the integration of the pavilion resources, foster market players and exhibition brand, innovation exhibition mechanisms to enhance the international level. Promote the development of arbitration law, accounting, tax, consulting and assessment, engineering design and other intermediary services. Vigorously develop the urban service economy.

Section actively develop consumer services

For urban and rural residents, rich service product type, increase product supply services, and expand consumer services. Accelerate the improvement of urban and rural large consumer market, optimizing the structure and layout of the commercial networks, promoting the central business district and commercial street construction, development of shopping centers, small supermarkets, convenience stores and community business, as well as chain operations, logistics, e-commerce, logistics and courier and other modern ways to enhance the level of accommodation and catering industry. Encourage the development of domestic services, pension services, community care services and patient escort services, household services. Development of new service formats IVAS, mobile TV, Internet TV, online shopping, telemedicine and so on. Promote diversification of consumer services and facilitation. Foster a number of annual turnover of over ten billion yuan of large commodity markets.

Section to develop the financial sector

Accelerate the construction of the modern financial system, to enhance the level of financial services continue to meet the growing diverse financial needs. Continue to implement the "lead into gold Gui" to encourage domestic and foreign banks, securities, insurance, futures, trusts, venture capital funds and other financial institutions to set up branches in our region and background services. Support Beibu Gulf Bank, Bank of Liuzhou, Guilin banks deepen reform, promote innovative pilot new rural financial institutions to develop trust and investment, financial leasing, venture capital, finance companies and other financial institutions, norms financing guarantees, financial intermediation services. Innovative financial products and services for small and micro enterprises to develop financing services. Expand direct financing to encourage more enterprises to become listed companies, to support enterprises to issue bonds. Development of new insurance products and broaden channels for insurance funds. Create a regional financial center around Nanning, accelerate the construction of connecting ASEAN regional RMB settlement center, offshore centers, investment and financing center and financial talents and information exchange. By 2015, the region's banking financial institutions strive loans reached 2.6 trillion yuan and 2 trillion yuan, financial added value of 70 billion yuan.

Accelerate the development of tourism in the fourth quarter

Adapt to the new changes in the tourism market, tourism resource play potential, improve the tourism infrastructure system, the development of the popular, multi-level tourism products, improve the overall level of development of tourism, construction, tourism and strong areas. Focus on the integration of tourism resources, enhance the landscape sightseeing, seaside resort, tourism, border style, customs, leisure and fitness, festivals, religious and cultural, scientific exploration, production experience and other travel product quality. Actively create a national scenic spots 3A level and above, the development of a number of new high-quality tourist routes, the development of rural tours, Tours, tours and other emerging cross-border travel. Focus on building national tourism Guilin comprehensive reform pilot area, South 宁风亭 international ecological and cultural tourism, Beihai Weizhou tourist areas, Daxin and international cooperation in Pingxiang and Vietnam Tourism, West River tourism zone, Red River Ecological Tourism Zone, Guangxi and Taiwan (Hezhou) Hakka cultural tourism cooperation demonstration zone, and Baise, Hechi, Long states national red tourism base project to build Guilin, Nanning, Beihai, Wuzhou international tourist destination and tourist hub, foster the development of a number of small tourism county and tourism town. Sound tourism public service system, strengthen the tourism market supervision. By 2015, total tourism income of 250 billion yuan strive, to further enhance the status of the pillar industries.

Section V promote economic and social information

Construction of information covering urban and rural infrastructure network layout of the building the next generation of mobile communication, the next generation Internet, digital television and broadband wireless network infrastructure in urban, rural broadband network. Telecommunications network, network, and Internet interconnectivity and business integration. Construction of Nanning regional and international communication services gateways, development of Guangxi and ASEAN international data communications services. Expanding communications coverage in rural areas. Strengthen cloud computing services platform, establish the northern Gulf of data resources and exchange center. Actively develop things. Enhance the digital city management information systems, construction of Guangxi digital certification center, and gradually form for China - ASEAN's digital certificate authentication system. Strengthen the information network monitoring, management and control of the radio spectrum and regulatory infrastructure construction, ensure that the information network system security. Accelerate the construction of e-government network and the underlying database, important government information systems to achieve interoperability, information sharing and business collaboration, and improve network administrative approval, information disclosure, the online petition, command decisions, electronic monitoring and auditing systems, integration and management of public services and improve government capacity. Strengthen the important information system, strengthen

the geographic, demographic, legal, finance, taxation, statistics, archives and other basic information resources development and utilization. Improve the business-oriented e-

commerce services, credit services the whole of society to promote, support online payment system construction, logistics and distribution. Establishment of enterprise and individual credit information service system. Promoting community and family information. Foster the development of online publishing, digital entertainment and information services. Strengthening IT personnel training and information literacy education.

Section VI to create a favorable environment for development of service industry

Establish a fair, standardized and transparent market access system, encourage and guide social capital to invest in services to achieve investment diversification. Profit institutions to promote the restructuring and the organs and institutions of social reform logistics services, as well as industrial enterprises of non-core services, expanding service sector development. Implementation hundred engineering services and brand development projects, foster a number of annual turnover of over ten billion yuan services group of large and well-known services brand. Encouraged to first try to accelerate national comprehensive reform pilot Guilin services. Support non-public enterprises to participate in the restructuring of state-owned service companies. Expand the opening up of service, actively expand exports of services traditional tourism, transport, labor and other efforts to expand cultural, traditional Chinese medicine, software and information, trade logistics, finance, insurance and other emerging services exports, the introduction of cross-border procurement, international exhibition, international market intermediary quality resources and improve services international level. Electricity as soon as possible to encourage class service industry, water, gas, heat and industrial same price, perfect support service development and taxation, finance, land, government procurement, personnel training and other policy measures. Increase the labor-intensive, technologically advanced, energy conservation tax incentives, benefit and other service industries. Focus on the development of the service industry standards, attention to standardization of new services, new services to strengthen market management format.

Box 10 : Service Industry

Service industry gathering area: "a core area, three functional zones", that is, as the center of Nanning City, the core area of the modern service industry and service industry with a north-south land route, the West River golden waterway service industry zone, coastal open channel services gathering belt.

Logistics regional distribution: a national logistics nodes in Nanning city, Liuzhou, Guilin, Beihai, Fangchenggang, Qinzhou, Chongzuo city as a regional logistics nodes. Wuzhou. Guigang. Yulin

Guangxi City as a regional logistics nodes, Hezhou, Guigang, Liuzhou City, Baise City, Hezhou, Hechi City, Laibin professional logistics center.

Commercial Circulation : focus on the construction of "Ten Thousand Villages" Marketing Project, "two hundred" market works, "the new network project", and Nanning, Liuzhou sugar spot trading market, large-scale industrial products, food and agricultural commodities, Chinese herbal medicine, agricultural products wholesale market and the professional market works.

Logistics: focus on building China - ASEAN International Logistics Base, Nanning Airport Airport Logistics Park, China - ASEAN Nanning International logistics and distribution center of agricultural production, manufacturing logistics center in Liuzhou, Qinzhou Port integrated logistics processing zone, mechanical and electrical equipment logistics center Yulin and Wuzhou Xijiang economic regional logistics hub, integrated logistics center Guigang, Yulin International Trade Logistics Hong Kong, Guilin Liangjiang International Airport Airport Logistics Park, Hezhou produce professional logistics center, China - ASEAN Pingxiang Logistics Park and other projects.

MICE industry: key construction China - ASEAN (Guangxi) Flower Expo Exhibition and Trading Center, China South City Nanning Convention Center, Liuzhou Automobile points ASEAN Expo exhibition center, Guilin Tourism Expo Center, Wuzhou International Exhibition Center artificial gems, the North Sea Crown Ridge Convention and Exhibition Center, Qinzhou Bonded Port imported cars exhibition and trade center, China - ASEAN (Baise) modern agriculture exhibition and sale centers, Yulin Chinese Medicine Expo exhibition center, Yulin SME Business Expo exhibition center.

Tourism: focus on building a sound national tourism Guilin comprehensive reform pilot area, the Sino-Vietnamese cooperation in international tourism demonstration area, Guangxi and Taiwan (Hezhou) Hakka cultural tourism cooperation demonstration zone, Red River eco-tourism area, red tourism, infrastructure, international ecological South Ningfeng Ting Cultural Tourism Zone, Bama longevity and good health tourism, leisure and tourism Damingshan urban areas, the music industry - Fengshan World Geological Park, Beihai Weizhou cruise terminal and tourist infrastructure, the main tourist center of scenic spots and tourist information engineering.

Chapter VI build integrated transport system

Moderate advance in accordance with the principle of co-ordinating the development of various modes of transport, to further improve the province of the international side of the sea passage, the initial formation of the network interface to improve facilities, advanced technology and equipment applicable, safe and efficient transportation services integrated transport system.

Section promote railway modernization

Accelerate the development of high-speed rail, raise the technical level, expand the road network coverage, increasing the density of the railway network, and gradually form the main hub of Nanning rapid transportation network and large capacity cargo net.

In the "north, south, east, west" four directions intensify and accelerate the docking area of advanced productive forces, leading to the construction of large capacity economically

developed Pearl River Delta region and the northwest, north, southwest China's rapid railway corridor, connecting the north Gulf coastal railway corridor and international railway corridor surrounding countries. Focus on building inter-provincial lines, passenger line, the development of new coal cable channels and accelerate the expansion of the existing lines and double-track construction, improve electrification levels, transformation and build a number of railway transport hub. Built in Nanning to Guangzhou, Guiyang to Guangzhou (Guangxi), the Nanning to Liuzhou, Liuzhou, Guilin, Nanning and Kunming (New Line), Nanning, Qinzhou, Beihai, Fangchenggang and other projects under construction; New yellow barrels to Baise, Nanning with Cheung, Hepu to Zhanjiang, Hechi to Nanning, Liuzhou, Wuzhou to Zhaoqing by Guigang to Yulin, Liuzhou by Hezhou to Shaoguan, Fangchenggang to Dongxing, Jingxi to Longban railways; implementation Huaihua, Guizhou and Guangxi line, Jiailiu line , Li Zhan line, Nanning-Kunming line, Luozhan lines revamping existing lines, planning and construction of the project 38 (of which 21 projects under construction), the scale of construction 5000 km (which continued construction of 2500 km), to achieve Beijing to Nanning full speed rail link runs. Promote Nanning hub, hub Liuzhou, Guilin North Station, South Station, Wuzhou, and Nanning, Liuzhou, container freight station construction Beibu Gulf. Planning Pingxiang to Nanning to Hanoi, Singapore channel segments, Hechi Guiyang, Nanning, Guilin, Zhangjiajie, Yulin to Haikou railway electrification projects and existing lines through. By 2015, the railway operating mileage of 5,000 kilometers or more, the railway network density 210 kilometers per thousand square kilometers, double-track rate of 55% electrification rate of 70% or more, formed the center of Nanning intercity high-speed rail network, to achieve the opening of prefecture-level cities intercity high-speed train, basically completed "an axis of four vertical and four horizontal" modern rapid rail transport network, entered the high-speed rail era.

Column 11 : Railway Construction

"One axis and four vertical and four horizontal": an axis, namely Hunan, Guangxi railway; four vertical, ie, Guiyang - Hechi - Nanning - Fangchenggang, Yongzhou - Hezhou - Wuzhou - Yulin - Tieshangang, Huaihua - Liuzhou - Litang - Qinzhou - Fangchenggang, yellow bucket - Bose - Longban railway; four horizontal, ie, Guiyang - Guilin - Guangzhou, Guiyang - Hechi - Liuzhou - Wuzhou - Guangzhou, Kunming - Bose - Nanning - Guangzhou Dongxing - Qinzhou - HAPPY - Zhanjiang railway.

Nanning is the center of intercity high-speed rail network: the Nanning to Qinzhou, Beihai, Fangchenggang 1 hour arrives, Nanning to other centers around two hours to reach the city, surrounding the capital city of Nanning to about three hours to arrive.

Section accelerate the construction of the road network

Accelerate national and local highway network planning projects, focusing on the implementation side of the sea out of the province of national and provincial trunk highway engineering and renovation project, a substantial increase in the density of the road network and accessibility depth. Built Liuzhai to Hechi, Hechi to Yizhou, Hechi to have safe, CENXI to water Timor, Qinzhou to Chongzuo, Yulin Tieshangang, six King to Qinzhou Port, Baise to Jingxi, Nanning outer ring to Dongxing Fangchenggang such as highways and coastal highway expansion project, started to Baise, Hechi, Chongzuo to Jingxi, Wuzhou to Liuzhou expressway construction projects 43 (of which 24 projects under construction), construction mileage 4660 km (which continued construction Mileage 2600 km). Promote Nanning East Station (Feng Ling) and Fei Ngo Liuzhou, Wuzhou Rose Lake integrated passenger terminal building . Accelerate the transformation of Coastal Highway Route provinces and other countries, through inter-provincial highways channel. By 2015, the total mileage of more than 115,000 kilometers and strive, road network density 48.5 kilometers per hundred square kilometers, of which 3,500 km new highway, traffic mileage 6000 km or more, basically completed "six six vertical and four horizontal branch" highway network achieve expressway network covering all urban centers, more than 85 percent of the county highway accessible within half an hour, for the 2020 highway mileage of 8,000 kilometers, the realization county highway lay a solid foundation

<p>Box 12 : Road Construction</p>
<p>Six six vertical and four horizontal branch : four horizontal, ie guanyang - Larix - Longsheng - Sanjiang, Hezhou - Lipu - Yizhou - Hechi - longlin, Cenxi - Yulin - Guigang - Bose, HAPPY - Qinzhou - Chongzuo - Jing West - Napo; six vertical, ie Longsheng - Guilin - Zhongshan - Wuzhou - Cenxi resources - Larix - Gongcheng - Pingnan - Yulin - Bobai - Tieshan'gang, Sanjiang - financial security - liucheng - like the state - Guigang - Pubei - Beihai, statewide - Guilin - Liuzhou - Guest - Nanning - Chongzuo - Friendship Gate, Nandan - Hechi - are safe - Dahua - Masan - Nanning - Qinzhou - Dongxing, music industry - Gun - Bose - De Paul - Jingxi - Longbon; six branch, namely Wuzhou - Liuzhou, Takenobu - Pingguo, Chongzuo - outlet, Zhongshan - Bucheon, songwang - Tieshan'gang, six King - Tieshangang.</p> <p>Transformation of national and provincial trunk: Coastal Highway, Yongfu - abatis, Chongzuo - Long states, Liujiang - guests, Bose - Prince Jen, Wuzhou - Tianjin North, Hechi - Central River and other projects.</p> <p>Preliminary work: Hezhou - like states, liucheng - Hechi, Guigang - Binyang, Longan - Shuolong other highway projects.</p>

Section enhance the comprehensive ability of Guangxi Beibu Gulf Port

To improve the modernization level of Guangxi Beibu Gulf International Port is the

goal, focus on the implementation of port projects, collection and distribution engineering, port and shipping services projects, deepening the port open cooperation, and strive to build a regional international shipping center. Vigorously promote the deep water channel, specialized berths and large capacity container terminal building, a substantial increase port capacity by 2015, and strive Guangxi Beibu Gulf Harbour additional handling capacity of 215 million tons, with a total throughput capacity of 336 million tons, of which container throughput capacity of 400 million TEUs; Fangchenggang domain additional handling capacity of 81 million tons, with a total throughput capacity of 132 million tons; Qinzhou Port throughput capacity of 65 million tons domain added, the total handling capacity of 108 million tons; additional handling capacity of Beihai Port field 70 million tons, with a total throughput capacity of 096 million tons. Promote the collection and distribution system construction intermodal shipping, roads, railways and pipelines, etc., to improve oil, coal, ore, grain and other bulk cargo and container transshipment system at home and abroad. Strengthen port communication, production scheduling, security, navigation regulation, maritime customs, inspection and quarantine system construction, improve the incoming service support system. To the introduction of large domestic and foreign shipping enterprises, construction and operation of autonomous ports, shipping route, transport and logistics, shipping routes and flights to open and expand port capacity, enhance port competitiveness. Expansion port hinterland, the construction of "dry port." Integration of port and shipping administration resources, establish a unified and efficient new port management system.

Box 13 : Guangxi Beibu Gulf port construction

Fangchenggang Domain: built 200,000-ton berths channel ,18-22, East Bay 403-407 berths, docks and other construction steel base; clouds started operations about Gangnam District No. 1-4 berths, corporate Buchanan 1-3 berth and other projects. New 17-ton berths, reaching more than 43-ton berths.

Qinzhou Port Domain: Jingujiang waterway built one, Qinzhou Port of 300,000 tons waterway, Tai Lam Ping No. 3-13 berth, Qinzhou Port III, sandun 300,000 tons of oil terminals, 1-10 Tai Lam Ping North Road berths and other projects; river channel Ku started two SDIC Qinzhou Coal Terminal and other projects. New 23-ton berths, reaching more than 38-ton berths.

Beihai Port Domain: built Shibu Ling Port III, Tieshan'gang 1-4 berths, Weizhou 300,000 tons of oil terminals, Shibu Ling harbor cruise terminal, ferry terminals and other public works; starts Tieshan'gang No. 5-10 berth and other projects. New 25-ton berths, reaching more than 33-ton berths.

Accelerate the construction of the fourth advance Xijiang waterway

Accelerate the Xijiang River, an important tributary channel regulation, building high-level waterway network system, improve the port layout and the collection and

distribution network, and promote the standardization of large transport ships, the formation of smooth and efficient, safe green, Jianghai West River golden waterway transport. Focus on the implementation and shipping hub locks, dredging, port and logistics facilities, capacity optimization, security systems support five projects, build a perfect waterways, railways, highways interrelated, convenient intermodal transport system, to enhance the channel level, lock capacity and port capacity. By 2015, strive river port capacity to 1.5 million tons, which Guigang, Wuzhou and Nanning comprehensive Port throughput capacity was 72 million tons, 21 million tons and 20 million tons, Baise, Liuzhou, guests and Chongzuo Port throughput capacity respectively to 12 million tons, 11 million tons, 11 million tons and 280 million tons.

IV consolidate and develop national unity

Uphold and improve the system of regional ethnic autonomy, establish and improve national unity and progress to create a long-term mechanism, creating a new situation of national unity and progress. The cadres and masses of all ethnic groups to enhance the implementation of the party's national policy consciousness, strengthening national unity education, training and selection of minority cadres increase efforts to accelerate

economic and social development of ethnic minorities and ethnic minority areas, the implementation of the Frontier action to support small ethnic population development of "second five" plan to help poor minority areas, border areas to improve production and living conditions, and constantly improve the living standards of ethnic minority people, safeguard the fundamental interests of the minority people, equality, unity, mutual assistance and harmony to further develop socialist ethnic relations and achieve all ethnic groups working together for common prosperity and development to maintain and develop good situation in Guangxi as the country's national unity demonstration area.

Section V strengthen national defense reserve forces

Promote the development of civil-military integration, and promote economic development needs of national defense, building peacetime, mutually compatible, the basic platform to build shared. Strengthen grassroots reserve militia and armed police, border and coastal defense, civil air defense construction, etc., to promote transportation, information, and other municipal infrastructure sharing, economic development and national defense and promote each other in parallel. Establish and improve military and civilian research and production, logistical support, personnel training system. Enhancing economic, equipment, technology, information and other national defense mobilization and reserve forces of national defense construction quality. Deepen defense education, support military training, carry out yongjunyoushu, cherishing activities, and actively promote the build military, military and civilians closely united to maintain frontier consolidate peace.

Chapter XIV promote cultural development and prosperity

Adhere to the socialist orientation of advanced culture. promote Chinese culture and

Adhere to the socialist orientation of advanced culture, promote Chinese culture and building a harmonious culture, the development of cultural undertakings and cultural industries, to enhance the soft power of culture, meet the people's growing spiritual and cultural needs, building characteristics of the times, Zhuang style, harmony compatible strong national cultural district.

Section civilized peoples of the region to improve the quality

Strengthening the socialist core value system, extensive education in patriotism and socialism with Chinese characteristics ideal and belief education, advocacy and professional integrity patriotic and law-abiding, people of all nationalities and progressive formation of a powerful spiritual force. Further promote social morality, professional ethics and family virtues and individual morality, ethics and advocacy to enhance learning models, deepen expand mass spiritual civilization, and constantly promote "harmonious construction at the grassroots" campaign, extensive volunteer service. The spirit of science, strengthen human care, focusing on psychological counseling, foster forge ahead, calm and rational, open and tolerant society mentality. Slim promote self-discipline, care for the young, diligent work, plain life, promote the formation of one for all, all for one in society, help to help advocate the spirit of helping others. Purify the social and cultural environment, strengthen the construction of minors positions extracurricular activities, attaches great importance to ideological and moral construction of minors and the ideological and political education. Adhere to the correct orientation, the idea of creating a positive and healthy media environment, guide people well bred, and righteousness, to fulfill their obligations, the formation of rousing, good and evil in the community.

Section vigorously promote cultural innovation

Needs to adapt to the new changes in the new requirements of mass culture, promote the theme, promoting diversity, so spiritual and cultural products and social and cultural life more colorful. Implementation of cultural quality strategy to improve the quality of cultural products, dig excellent national cultural resources, promote cultural times, create and produce more reflected national characteristics, reflecting the spirit of the times, superb artistic level, popular culture boutique. Prosperity and development of philosophy and social sciences, to promote academic disciplines, academic viewpoints and research methods. Enhance the development of research on ASEAN. The use of high-tech innovation and traditional cultural production, the development of digital culture, Internet culture and other emerging culture formats, promoting public cultural information services facilitation, accelerate the establishment of efficient, covering a wide range of cultural transmission system, and expand the social impact of excellent quality culture. Institutional mechanisms to promote cultural reform and innovation, deepen the reform of nonprofit cultural institutions, innovation and operational mechanism of public cultural services. Accelerate profit cultural institutions into enterprises, establish a sound

corporate governance structure, and promote cultural enterprises and joint-stock reform public financing. Deepen the cultural management system. Improve state-owned cultural assets management system.

Section prosperity and development of cultural undertakings

Adhere to government-led, community involvement, the principle of universal equality of public cultural services to urban and rural primary focus on speeding up the implementation of cultural projects that benefit and strengthen grass-roots cultural team building, completed basic public cultural service system. Key support for old revolutionary base areas, minority areas, border areas and poor areas of cultural service network. Improve the urban community and cultural facilities, promote grassroots cultural integration and utilization of resources, extensive mass cultural activities to enrich the cultural life of the masses. Strengthening the construction of important news media, the Internet and other new media attention to the construction, use and management, improve communication capacities, expand radio and television coverage. Strengthen the protection and utilization of Guilin, Liuzhou, Beihai national historical and cultural city and towns and villages Heritage and Natural Heritage, a positive declaration Zuojiang rock world cultural heritage, the implementation of one hundred museum construction project, to strengthen the protection of ancient books, attention Archives infrastructure . Implementation plan to revive the glory of sports, the strengthening of public sports facilities, and promote mass sports, competitive sports and the coordinated development of the sports industry.

IV accelerate the development of cultural industries

Promote cultural industry training to become billion dollar industry, and enhance the cultural industry overall strength and competitiveness. Implementation of major projects to lead the cultural industry, bigger and stronger radio and television networks, cinema, film and television production, publishing, printing and reproduction, cultural creativity, arts and entertainment, animation games, cultural exhibitions, arts and crafts, heritage museums and other cultural industries, promote cultural industry and tourism, commerce and industry, the integration of high-tech industry development. Accelerate the development of large-scale cultural enterprises and strategic investors, the construction industry, the city of Guangxi Culture, Sports City and other bases, the development of regional cultural industry group, promoting a culture of industrial scale, intensive, professional. Flourishing cultural market, expanding cultural consumption, cultural consumption urban agglomeration area to build and strengthen the cultural market supervision. Foster the development of the sports industry, the development of leisure sports and fitness, sports competitions and performing markets. Strengthen international cultural exchanges and cooperation with ASEAN countries to focus on. By 2015, strive cultural industry accounts for more than 5% of the proportion of GDP, to promote cultural industry has become a pillar industry of the national economy

Box 24 : Culture

Cultural projects that benefit: focus on the implementation of radio and television coverage, and cultural information resources sharing, minority language dubbing and radio and television broadcast engineering, township cultural stations, workers Library, Farm House, Community Library, rural digital film screenings, cultural enrichment Public sports facilities, and frontier minority areas of Press and Publication Dongfeng works.

Cultural Industries: key construction Guangxi Television New Media Center, China - ASEAN cultural products logistics park, China - ASEAN Cultural Industry training base, China - ASEAN national digital publishing base, Guangxi Museum of Art, Museum of Guangxi Timbal, Guangxi Urban Planning Exhibition Hall, Guangxi Cultural Industry City, Guangxi Sports Center twenty-three Guangxi Cultural Arts Center, Third Sister Liu Guangxi Academy City Workers Cultural Palace, Cultural Industry Park Liuzhou, Guilin and the performing arts are, Nixing Pottery Culture Park, Baise red Cultural Industry Park, Wuzhou culture industrial park, urban digital cinema transformation, municipal and county comprehensive national archives, China - ASEAN Creative Printing parks, animation base Guilin, Beihai (bamboo) city of cultural and creative industries and other projects.

Cultural Heritage Protection: Key Construction in Guangxi Natural History Museum, the Museum of Guangxi transformation, the City and County Museum, Guangxi intangible cultural heritage exhibition center, Guangxi National Documentation Centre, implementing Yasuaki Huashan rock, Citylink fortress ruins and Friendship Gate, North Street, etc. key cultural relics protection engineering, construction National Archaeological Park of Guilin Jingjiang Palace and Zhen skin rock ruins, ruins of ancient pier Guigang South River, Pro He Hezhou city, HAPPY Chinese cultural theme park, a large North Sea port of origin ruins Locate Maritime Silk Road Museum.

Chapter XV crucial to speed up the pace of reform

Adhere to the socialist market economic reforms, continue to emancipate the mind, changing concepts, to further mobilize the enthusiasm, respect for people's pioneering spirit, deepen reform in various fields, to make new breakthroughs in key areas and key links.

Section deepen economic reform

Uphold the public ownership as the mainstay, the basic economic system of ownership developing side. Accelerate the strategic adjustment of state-owned economy, improve the state capital advance and retreat, reasonable flow mechanism to accelerate the exit from the state capital generally competitive fields. Deepen the reform of state-owned enterprises, complete the shareholding system reform. Improve all kinds of state-owned assets management system and improve coverage for all state-owned enterprises hierarchical management of state-owned capital operation budget and revenue sharing

hierarchical management of state-owned capital operation budget and revenue-sharing

system, the rational allocation and use of state-owned capital gains. Improve state-owned financial assets, non-operating assets and natural resources assets supervision system, strengthen supervision of state-owned assets abroad. Encourage and guide private capital into the laws and regulations do not explicitly prohibit access to all industries and fields, open and transparent market access and preferential policies, private capital alone may not set additional conditions to support private capital through equity participation, holding, asset acquisition, etc. a variety of ways to participate in the state-owned enterprise restructuring, increase efforts to attract private capital to participate in efforts to promote the project construction, implementation support private economic development, taxation, finance, land, business management, innovation, brand building, government procurement policy measures to effectively protect the legitimate rights and interests of private investment. Deepen financial reform, improve the budget management system and transfer payment system to further rationalize the allocation of fiscal relations between levels of government, expanding the coverage of the public finances, to strengthen the county government to provide basic public services, financial security, establish a sound system of local government debt management . Reform and improve

the tax administration system, and gradually improve the local tax system. Promote local financial institutions and financial management system, strengthen financial supervision and coordination, prevention of financial systemic risk. Deepen the price reform of resource products, improve important goods, services, factor price formation mechanism. Promoting environmental reform charging system. Establish and improve the land, capital, labor, technology, information and other elements of the market. Accelerate the construction of social credit system. Promote comprehensive reform of Beibu Gulf Economic Zone and other types of reform and innovation pilot area a major breakthrough.

Section promote administrative reform

In accordance with changing functions, straightening out relations, optimizing structure, improving performance requirements, accelerate the establishment of the service government, responsible government, rule of law, government and clean government. Accelerate the transformation of government functions, improve the government responsibility system, improve the level of economic regulation and market supervision, strengthen social management and public service functions. Deepen the reform of administrative examination and approval system, the establishment of administrative examination and approval cleanup normalization mechanism to accelerate separating the government-owned separate, public affairs separate, government and market intermediaries, adjust and standardize government regulatory matters. Major projects focused on improving the joint approval mechanism, enhance the investment service levels. Deepening the reform of government institutions, continue to optimize the structure of government, the executive level, functional responsibilities, reduce administrative costs and explore the county to carry out enterprise straight reform

administrative costs, and explore the county to carry out autonomous straight reform.

Improve government services infrastructure, promoting government services extended to the grassroots, the grassroots to integrate public service resources, establish a sound

system of autonomous government services at all levels. Vigorously promote open government, strengthen government services information technology, improve the scientific decision-making mechanism of democracy, enhancing the transparency of public policy making and public participation. Strictly according to law, to further improve the administrative reconsideration and administrative litigation work, the implementation of government performance management and administrative accountability system, improve the government executive power and credibility.

Section advance the cause of reform in the field of social

The maintenance of social welfare undertakings, protect people's basic demand for public services as the main duty of the government. According to government affairs, corporate thing apart, the principle of the separation of management from operation to promote science and technology, education, culture, health, sports and other reforming institutions. Basic public service delivery reforms, the introduction of competition mechanism, expanding the purchase of services, providing the body and provide ways to achieve diversity. Promote non-market-oriented reform of basic public services, expand market access and encourage social capital to invest in a variety of ways nonprofit public service organization, and enhance multi-level supply capacity to meet people's diverse multi-level needs. Use of social capital to accelerate the development of social undertakings.

Chapter XVI open deepen cooperation

Opening up new opportunities for the formation of a significant further development of the ASEAN Free Trade Area, all-round, multi-level and wide-ranging expansion of the outside world, to participate fully in international and domestic multi-regional cooperation, Yikaifangcu development, promoting reform, and promote innovation and accelerate - with good Chinese pattern and participate in international and domestic new competitive advantages.

Section deepening cooperation with ASEAN open-focused

Adhere to service the neighboring countries diplomatic strategy to important areas of cooperation and institution-building projects as the key to facilitate trade and investment as the mainstay in China - and to explore new areas of cooperation in an open space under the framework of the ASEAN Free Trade Area, the completion of China's Guangxi Open new heights with ASEAN cooperation. Strengthening run China - ASEAN Expo and China - the institutional building of the ASEAN Business and Investment Summit, pragmatic promote Pan-Beibu Gulf economic cooperation and the

Sino-Vietnamese "Two Corridors and One Ring" Cooperation, deeply involved in the Greater Mekong sub-regional cooperation, actively seek more China - ASEAN cooperation mechanisms and institutions located in Guangxi, Nanning, accelerate the construction business headquarters for ASEAN economic base. ASEAN countries to deepen mutual benefit and all-round, multi-field open cooperation, expand exchanges and cooperation in education, health, culture, sports, radio, television, press and publication, the construction of China - ASEAN youth training base, advancing transportation, electricity, telecommunications, information network interoperability. Play Qinzhou Bonded Port, Nanning Bonded Logistics Center, Pingxiang Comprehensive Bonded export processing, bonded logistics and other functions, for Beihai Export Processing Zone upgrading and expanding area Tieshan'gang, Weizhou opening up, improve inland "dry port "Network, to develop bonded logistics and bonded processing. Accelerate the construction of Nanning National strategic high ground inland open economy, focused on the development of open Dongxing national test area, promoting Nanning - Singapore Economic Corridor, Pingxiang - with the board, Dongxing - Mong Cai, Long Bang - Cha Kwo Ling cross-border economic cooperation zones. Strengthen economic and trade cooperation with Japan and South Korea, Europe, Oceania, Africa and other countries, improve cooperation opening pattern. Strengthen local foreign affairs, implement and neighbors as good neighbors as partners surrounding foreign policy, meet regularly with neighboring countries to improve provincial affairs consultation mechanism, promote pragmatic cooperation, deepen traditional friendship, extensive non-governmental friendly exchanges.

Section expanding domestic multi-regional cooperation

Closer to promote Pan-PRD regional cooperation, accelerate the construction of high-speed railway connecting the Pearl River Delta region, highways, high-grade inland waterways, information networks and other facilities, to enhance the level of cooperation in the energy, industry, environmental protection, tourism, labor, etc., to form fast straight the southeast coastal areas of people, goods, capital, technology flow, information flow channel, make our region a more comprehensive initiative to accept the advanced productive forces radiating. Strengthening of regional and inter-provincial cooperation with the Southwest, the Yangtze River Delta, Bohai deepen Gui Hong Kong, Gui-Australian cooperation, expanding trade and economic cooperation and cultural exchanges between Guangxi and Taiwan. Improve the investment environment, innovative investment mechanisms, and promote the central enterprises in Guangxi, private enterprises in Guangxi, carry big honor activities to improve contract compliance rate, the funds rate and the project started. Improve regional cooperation mechanism, expand areas of cooperation, enhance the level of cooperation, strengthen cooperation results. Play an active role chambers of commerce, associations and overseas Chinese, Chinese businessmen.

Section to develop an open economy

Accelerate the transformation of foreign trade growth, seize China - ASEAN FTA significant opportunities for further development, cultivation technology, brands and services new advantages, and strive to improve the level of foreign economy and trade and the utilization of foreign capital. Expand exports, improve product quality and grade of labor-intensive exports of electromechanical products and high-tech exports. Active use of the eastern industrial transfer, develop processing trade industry, promote research and development of processing trade to the design, the core components manufacturing, logistics and other aspects of development from the assembly process, the regional concentration of customs supervision. Focus on the construction of Nanning, Qinzhou, Wuzhou, Beihai national processing trade gradient shift focus to undertake, national and regional export processing base and service outsourcing base. To develop export business groups, encourage enterprises to foster export brand, establish an international marketing network, consolidate expand the ASEAN market, vigorously develop new markets. Accelerate the development of border trade, trade in services expanded scale. Optimize the structure of imports, an increase of advanced technology, key equipment and spare parts, shortage of resources and energy saving products imports, imports play an important role in restructuring. To expand the use of foreign capital and foreign investment to improve the quality combine to optimize the investment environment, abundant foreign capital utilization, to guide foreign investment in the field of advanced manufacturing, energy conservation and environmental protection, new energy, high-tech, modern service industry and modern agriculture, encourage foreign equity participation, mergers and acquisitions and other ways to participate in corporate mergers and acquisitions, foreign equity investment and promote the development of venture capital. Effective use of foreign preferential loans for infrastructure, education, health, the environment, poverty alleviation and development in areas such as greater use of foreign capital. Strengthen intelligence, talent and technology transfer. Gradually expand cross-border trade and investment in RMB clearing business. Support local conditions established special customs supervision area. Improve customs clearance mechanisms. Strengthening port construction, expand the scope of opening ports, for a number of border crossings upgraded to a national ports. By 2015, the total import and strive to reach \$ 46 billion, the actual use of foreign capital accumulated \$ 15 billion.

Section IV accelerate the implementation of the "going out" strategy

And autonomous decision-making in accordance with the principles of a market-oriented enterprises, encourage and guide more competitive enterprises "going out", and constantly expand the development space. Conduct a focus on ASEAN cooperation and exchanges in various forms of investment, trade, industry, etc., to encourage and support the automotive, machinery, agriculture, forestry, mining, agriculture, sugar, energy, Chinese medicine and technology, education, culture and other sectors The backbone enterprises "going out", led a group of downstream SMEs to the international market, the

establishment of resource development and agricultural products processing base, as well as science and technology base for cultural and educational exchanges, and promote the construction of the neighboring countries of transportation, energy and other infrastructure projects, expansion of ASEAN , Africa and other countries, international cooperation in agriculture. Encourage enterprises to acquisitions, mergers, market, and other ways to carry out the restructuring of overseas investment. Steady progress in economic and trade cooperation zones in Indonesia, China, Ethiopia, China agricultural technology demonstration centers, Yulin - Brunei to develop rice base construction, and strive to build more foreign trade and economic cooperation zones. ASEAN, Africa and South America, focusing on direct support for enterprises to participate in international bidding, offshore engineering sub-contracting and labor cooperation, and actively participate in national foreign aid projects. Implement policies and measures to support enterprises "going out". Maintenance companies overseas interests, prevent all kinds of risks.

Chapter XVII strengthen socialist democracy and legal system

Adhere to the party's leadership, the people as masters of the unified state machine, in-depth implementation of the rule of law Gui basic strategy, expand socialist democracy, the development of socialist political civilization.

Section developing socialist democratic politics

Uphold and improve the people's congress system, the multi-party cooperation and political consultation under the leadership of the Communist Party of China, the system of regional ethnic autonomy and grassroots self-government system, and continuously push forward the socialist political system of self-improvement and development. Sound democratic system, enrich the forms of democracy, expand democratic channels, democratic election, democratic decision making, democratic management and democratic supervision according to law, to protect the right to information, participation, expression and right to supervise people. Consolidate and expand the broadest patriotic united front. Support CPPCC fulfill political consultation, democratic supervision functions, support for democratic parties, personages without party affiliation to better fulfill politics, democratic oversight functions. Support Federation to play the role of non-public economy extensive contact with the organization. Support trade unions, the Communist Youth League, women's federations and other mass organizations to carry out the work in accordance with the law and their respective charters, participate in social management and public services, safeguard the legitimate rights and interests. To play an active role of religion and religious believers in the economic and social development. Encourage new social strata join in the reform and opening up and modernization drive. Affairs to implement the policy, do overseas Chinese.

Section comprehensively strengthen the legal system

Strengthening of national law enforcement, maintaining the unity of the socialist legal system, sanctity and authority. Adhere to local laws and regulations scientific and democratic legislation, to further improve environmental protection, employment, social security, education, health care, science and technology, intellectual property protection, and other aspects of government behavior norms. Comprehensively promoting administration according to law, fair and honest law enforcement. Deepening of the judicial system, optimizing the configuration of judicial powers, strengthen grassroots judicial construction norms of judicial conduct, strengthen judicial supervision, and build a fair, efficient and authoritative socialist judicial system. Implementation of the "Plan" year plan, carry out legal education, promote the rule of law, law abiding consciously studying the use of social atmosphere. Strengthen the protection of human rights, promotion of human rights undertakings.

Section strengthen anti-corruption

Insist on tackling the problem in a comprehensive, punitive and preventive measures, focusing on prevention approach, accelerate the construction of corruption punishment and prevention system, crack down on corruption, increase education, supervision, reform and institutional innovation, more effective prevention of corruption. Long-term mechanism to strengthen the fight against corruption, and gradually built the content of science, rigorous procedures, supporting a comprehensive and effective system of effective anti-corruption system. Strict implementation of the Clean and Honest, party spirit and discipline education to deepen and strengthen the leading cadres and strict management. Establish and improve decision-making, execution and oversight powers check each other and coordinate both the power structure and operation mechanism, strict control and supervision of the exercise of power. Carry trade associations, market intermediaries and private corruption prevention work. Expand the investigation and discipline violations efforts. Promote international exchanges and cooperation with ASEAN countries such as anti-corruption. Strengthening of the government, continue to maintain close ties with the masses, pragmatic, hard work, and resolutely oppose formalism, bureaucracy, so quit arrogant, lazy ring, ring blank, ring false, ring false, against extravagance, creating Delicate gas is environment.

Chapter XVIII grand blueprint to achieve leapfrog development

The planning through Regional People's Congress for consideration and approval, with local legal effect. Must gather the will and strength of the region's peoples, and efforts to achieve economic and social development objectives and tasks.

Section improve planning and implementation mechanisms

Implementation plan mainly rely on market allocation of resources to play a fundamental role in all levels of government to perform their duties properly, the rational

allocation of public resources, correctly guide public resources.

- A clear plan implementation responsibilities. Expectations index and industrial development, structural adjustment plan proposed by the task, mainly through independent behavior of market players to achieve various levels of government to improve the market mechanism and interest-oriented mechanism, create a favorable environment to stimulate enthusiasm and creativity of market players, to guide the market subject behavior is consistent with the planning intention. Planning to determine the binding targets, to break down into localities and departments concerned to ensure the completion of public services, especially to promote the equalization of basic public service mission, to clear job responsibilities and progress, the main use of public resources to fully complete.

- Strengthen co-ordination. Policies and measures to strengthen tax, financial, investment, industry, land, environmental protection, and prices converge with. Accordance with the principles of public finance obey and serve public policy, optimize the structure of fiscal expenditure and government investment structure, focus on investment in the people's livelihood and social undertakings, agriculture and rural areas, technological innovation, environmental protection, resource conservation and other areas, old revolutionary base areas to invest more, Rocky , border areas, minority areas.

- Improving the performance assessment system. Accelerate the development of sound conducive to promoting scientific development, accelerate the transformation of economic development mode performance assessment system and specific assessment methods, and to strengthen the structural optimization, improved living conditions, resource conservation, environmental protection and basic public services, such as the completion of the objectives and tasks of comprehensive assessment and evaluation .

- Improve the monitoring and evaluation system. Strengthening the monitoring and evaluation of capacity-building and statistical work, strengthen the planning and implementation of tracking analysis. Regional government planning departments should strengthen the assessment of the implementation of the relevant fields, accept the supervision and inspection of Regional People's Congress and its Standing Committee. Planning departments want to binding targets and key indicators is expected to be completed to assess the situation, plan to submit an annual progress report on the implementation of the regional government, in an appropriate manner to the public. Regional government organizations planning to implement mid-term evaluation, mid-term evaluation report will be submitted to the Regional People's Congress Standing Committee for consideration. Amendments to the plan when necessary, should be reported to the Regional People's Congress Standing Committee for approval.

- To strengthen planning and coordination management. Reform planning system to speed up the planning legislation to national economic and social development

plan as a guide to the main functional area planning based, special planning, regional planning, urban planning and land use planning to support the formation of various types of planning position clear, complementary functions, uniform convergence of the planning system. Strengthen planning and coordination of the planning of cities and counties, especially in convergence binding targets. The main decomposition of the implementation of the annual plan and the main indicators of the planning task, planning the annual plan implementation progress reports to analyze in particular the completion of binding targets.

Section promote the implementation of major projects

The major projects planned for implementation as an important starting point. "Twelve Five" early to ensure co-ordination center to expand domestic demand and promote the region's major projects under construction and completed and put into play a benefit. Planning proposed multi-billion dollar industry, strategic emerging industries, agriculture and rural areas, urban development, infrastructure, services, people's livelihood, independent innovation, energy conservation, ecological construction, environmental protection, cultural industries, public safety, openness and cooperation and other projects, the implementation of the construction responsibility, strengthen the preliminary work, improve propulsion mechanism, multi-channel financing, strengthen coordination tracking service, speed up the project and completion, and further enhance their ability to support cross development.

Box 14 : West River Waterway

Hub and lock project: completion of Guiping second, Youjiang Yuliangzhou shipping hub, Yujiang old port shipping hub, Changzhou Hydraulic Complex three-wire four-wire lock and other projects; starts Datengxia hub, hub Guigang tier ship lock, safflower hub tier ship lock, Xijin hub tier ship lock, lock Baise Project and other projects to promote intermodal flat land canal Jianghai preliminary study.

Dredging project: built Liujiang waterway engineering, crossing the Red River mouth to the bridge Cao Gong waterway project; starts from Nanning to Guigang two fairways, Liuzhou to Shilong Sanjiangkou and guests to Guiping two fairways, three Zuojiang Chongzuo Eguchi three fairways, Gui River waterway and other projects.

Port and logistics facilities: MAOERSHAN two built Guigang, Liuzhou Yang and a period to Binbin Hong Kong, Hong Kong Nanning six scenic one, Nanning Bay Harbor cattle operation area, Liuzhou Partridge River 1-4 berths, Pingnan Wulin Port Phase II, lijia Zhuang Wuzhou, Wuzhou pond sources, Teng County Dongsheng, Tian Dongxiang week, Chongzuo new ring, Hechi swans and other terminal project; starts tianyang Tau Tong, Wuzhou Chishui two, like the state of the pond, Guiping Jiang mouth, Liuzhou Yang and two, Nanning, six scenic two container terminal project.

Section V positive development of civil aviation

Accelerate the construction of the airport, airport layout optimization, expanding route density, to form the backbone of hub airports, regional airports and general aviation airports to assist the civil aviation network. Focus on promoting the Nanning International Airport new terminal area, Guilin Liangjiang International Airport terminal and related facilities construction, completion of the Nanning airport hub airport for ASEAN, Guilin airport built in the country's major tourist airports. Built in Hechi Airport, expansion Beihai Airport, Liuzhou Airport, Bose Airport, relocation Wuzhou Airport, the new airport Hezhou accelerate Nanning Airport military civilian separation. Construction of Nanning Airport Economic Zone, Guilin Aviation Logistics Park. Planning and timely construction of the airport and the North Sea Weizhou Yulin, Nanning, three ponds, Fangchenggang and other general aviation base. By 2015, the region's airport passenger handling capacity and strive to 27.5 million people, including the Nanning airport passenger handling capacity of 15 million passengers, Guilin airport passenger handling capacity of 10 million passengers.

Section VI improve transport services

Enhancement of the efficient docking railways, roads, ports, airports, urban public transport, efforts to achieve zero distance transfer of passenger and freight seamless convergence. Promote Nanning, Liuzhou, Guilin, regional and international, Wuzhou domestic regional integrated transport hub construction. To promote the application of advanced equipment and technology to improve the level of information transport. Optimize transportation organization, innovative services to achieve one interline ticketing, multimodal transport of goods. Vigorously develop energy-saving and environmentally friendly transport mode of transport. Strengthen safety management, ensuring transportation safety.

Chapter VII further promote the "two areas along the" coordinated development

Give full play to comparative advantages, promote the development of coastal areas along the lead and accelerate the development of resource-rich region, and promote the rational flow of factors of production to achieve regional coordination and interaction development.

Section promote pioneered the development of Beibu Gulf Economic Zone

Depth implementation of Guangxi Beibu Gulf Economic Zone Development Plan, the full implementation of the preferential policies given by the State, continue to increase efforts in resource allocation tilt, industrial layout, major projects, policy support, etc., to promote the industry, ports, transportation, logistics, construction, tourism, investment, cultural and other achieve great development, give full play to lead the Beibu Gulf Economic Zone leading role. Accelerate the steel, petrochemical, nuclear power, copper and nickel, pulp and paper, electronic information, machinery and equipment manufacturing, new energy and other major projects, improve national and provincial

key industrial park infrastructure, fostering the growth of Fangchenggang steel deep processing, Qinzhou and North Sea petrochemical and pulp and paper, aluminum deep processing Nanning, Beihai, Qinzhou, Nanning and electronic information,

Fangchenggang, and other non-ferrous metal processing Tieshan'gang, Nanning biotech, northern Gulf Harbor Port fields of grain and oil, seafood processing industry cluster, as soon as possible built in China's coastal modern heavy industry base.

Accelerate the expansion of the northern Gulf Port throughput capacity, improve port transportation system and docking with the surrounding areas of railways, highways, pipelines, waterways and other infrastructure and logistics facilities, as soon as the completion of China's coastal port and an important hub to connect multiple areas important logistics hub. Coordinate development of land and sea travel, improve coastal, islands, bays, and other cross-border tourism products, to become an international tourist hot spots. Mining marine cultural resources, innovation and industrial development model of marine culture and national culture combines geographical, cultural construct new international marine base. Promote comprehensive reform of administration, finance, banking, investment and financing, land and investment mechanisms to achieve new breakthroughs in key areas to expand and open coastal border cooperation to form new advantages, the introduction of high-quality personnel to establish a new human resources Heights. To build as soon as possible has become an important international and regional economic cooperation zone, building has an important influence economic growth in the country's new pole. By 2015, strive Beibu Gulf Economic Zone region's proportion of GDP accounted for more than 40%.

Section accelerate the construction of the West River Economic Belt

Accelerate the development of the West River golden waterway, relying along the center of the city, to build railways, highways, waterways smooth and efficient integrated transport network convergence, the formation of an important inland shipping hub, effectively reduce logistics costs for the industry to expand, upgrade, agglomeration and urbanization development of strong support and promote the rapid development of the whole West River Economic Belt. In the area of Liuzhou, guests, Guilin, Wuzhou,

Yulin, Guigang, Hezhou city center node to the industrial park as a carrier, improving spatial layout, focusing on the development of equipment manufacturing, raw materials industry, textile industry, chemical industry, high-tech industries, modern agriculture, modern services, the formation of a clear division of obvious advantages, the cooperation of the industrial belt. Enhance Wuzhou, Yulin, Guigang, Hezhou four industries to relocate to the city's competitiveness, accelerate and the PRD market docking, construction Guidong national demonstration area industries to relocate. The West River economic belt to create a national-depth implementation of the western development of new regional economic growth pole.

Section accelerate the development of advantageous resources in western**Guangxi**

Accelerate the development of the western region of Guangxi in an important position to achieve the overall development strategy across to give priority support in infrastructure, significant resources development, social development, protect and improve people's livelihood and so on. Give full play to the mineral, hydropower, tourism and other resource-rich advantages, vigorously developing industries, improve resource situ conversion rate, the establishment of national important area of strategic resources and resource processing base, the formation of industrial agglomeration area, gradually increase the ability of self-development, and actively Everyone Edge Hill area to explore new ways to accelerate development. Baise focus on building the industrial base of the country's major aluminum and red tourist destination, accelerate the development of coal, petrochemical, power, agro-processing and other industries. Hechi focus on building the country's major non-ferrous metal processing, water resources development and eco-tourism base, accelerate the development of specialty foods, silkworm, biomass and chemical industries. Chongzuo focus on developing the country's major sugar and manganese processing industry, accelerate the development of tourism, building materials, sisal processing and other industries. Chongzuo, Bose border around the play area advantage, to develop border trade, cross-border travel, cross-border cooperation, export processing, international logistics, port economy.

Section IV implementation of the main functional area planning

Manpower planning population distribution, economic layout, land use and urbanization patterns, and guide the population, economic development of the region to the appropriate concentration, the protection of agricultural and ecological development, build efficient, coordinated and sustainable spatial development pattern. Development planning is focused on the synchronization urbanized area, increase traffic, energy and other infrastructure construction, the layout of major manufacturing projects priority to co-ordinate the development of industrial and urban layout, moderate expansion of construction land, promote economic concentration and concentration of population. The planning for the main producing areas of agricultural products, to strengthen the protection of farmland, increase agricultural production capacity construction investment, and promote large-scale agriculture, industrialization and modernization, in order to focus on promoting the county as urban construction and industrial development, and guide the processing of agricultural products, circulation, Transportation companies gathered to strengthen public service facilities. Focus on planning for the regional ecological function zones, strengthen environmental protection and restoration, and enhance water conservation, soil conservation and biodiversity functions, the development of resources and the environment can carry appropriate industries. The planning for the protection of natural and cultural resources of the region, according to the mandatory protection, strict control of natural and anthropogenic factors on the cultural and natural heritage of

authenticity, integrity, interference, prohibit the body does not meet the functional orientation of the various development activities. According to the main functions of different regions, supporting the implementation of financial, investment, industry, land,

environment, population policies, the establishment of the classification performance evaluation system, in strict accordance with the main function to guide the country to promote the development orientation.

Chapter VIII strengthen the construction of ecological civilization

Prioritize ecological zones, green development, strengthen energy conservation, promotion of low-carbon technologies, the development of recycling economy, strengthen environmental protection, promote the formation of a resource-saving and environment-friendly and conducive to addressing climate change production and consumption patterns, accelerate the construction of the National Ecological civilized demonstration area.

Section strengthen energy conservation management

Reasonable control of total energy consumption, improve energy efficiency. Fixed asset investment projects to strengthen energy assessment and review, inhibit the excessive growth of high energy-consuming industries. Strengthen key energy saving units, to promote advanced energy-saving technologies and products, the implementation of key energy conservation projects in the fields of industry, construction, transportation, public institutions, etc., in various industrial parks to promote cogeneration and waste heat and pressure utilization. Accelerate the implementation of the contract energy management and demand side management, and improve energy efficiency labeling system, energy-saving product certification system and energy-saving products mandatory government procurement system, strict implementation of major energy-consuming products limits and energy efficiency standards. Strengthen capacity building energy conservation, improve energy management support system, support the growth of energy services industry. Strengthen energy conservation target responsibility assessment, improve energy efficiency regulations and policies. Low-carbon energy companies to carry out actions, initiatives and energy saving green building national action.

Box 15 : Energy Management

Energy-saving projects: continue to implement the motor system energy saving, energy system optimization, heat and pressure utilization, boiler (kiln) transformation, conservation and alternative oil, cogeneration, energy saving, energy-efficient transportation, green lighting, energy-saving technology and industrialization demonstration and other projects.

Energy Efficient Appliances: focus on the promotion of energy efficient appliances, automotive, electrical, lighting and other products.

Energy service projects: focus on the implementation of energy-

saving testing, technical consulting, contract energy management, energy audits, energy planning and other projects.

Section enhance resource conservation and management

Priority to conservation and comprehensive utilization of resources to implement the total control, two-way adjustment of supply and demand, differentiated management, significantly improved land, water and all kinds of resource efficiency. Implement the most stringent farmland protection system and the economical and intensive land use system, strengthen land use planning and annual plan control, strict use control, land remediation to strengthen and revitalize the stock of construction land, idle land clean-up efforts to increase and improve the quality of cultivated land reclamation, sound conservation Land standards, strengthen the responsibility and assessment of land and land. Implementation of total water control, a reasonable allocation of production, life and ecology of water, compensation for the use of water resources to strengthen the implementation of gradient tariff system to promote focus on water-saving technological transformation of the industry, to develop efficient and water-saving industry, to coordinate the use of rainwater and recycled water resources, mine water, brackish water and other unconventional sources, the construction of water-saving society.

Strengthening key industries of raw material consumption management and technological innovation, increase alternative materials, renewable materials to promote efforts to promote various fields and industries and materials. Enhance energy and mineral resources exploration and development management, strengthening regulation of mineral resources planning, development of mineral resources to accelerate the integration of specific minerals strict implementation of conservation and development, promote the formation of a strategic advantage continuation of mineral resources area, the establishment of aluminum, manganese, rare earths and other important mineral resources reserve system, enhanced market access management and mining right market, the implementation of paid use of mineral resources, environmental restoration and land reclamation performance bond deposit system, strengthen ecological protection and mine mineral resources of law enforcement surveillance. Heshan increase resource-exhausted cities to support industrial restructuring.

Section vigorously develop the circular economy

To improve the efficiency of resource output target, strengthen planning guidance, fiscal and financial policy support to promote the production, circulation and consumption of various aspects of the development of recycling economy, accelerate the construction of resource recycling system of the whole society. Focus on sugar, aluminum, steel, Manganese, petrochemical, power, building materials, pulp and paper, forest products processing, chemical and other industries to build recycling industrial system, encourage enterprises to establish a cycle of economic union, to promote industrial loop combo, built Sugar circular economy demonstration provinces. Guide enterprises to implement environmental management standards, the full implementation

enterprises to implement environmental management standards, the full implementation of cleaner production. Carry out key energy resource recycling industrial park transformation, to achieve intensive land use, waste exchange utilization, energy cascade utilization, waste water recycling and centralized treatment of pollutants. Strengthening of associated minerals and tailings comprehensive utilization of industrial solid propulsion bulk, buildings and roads, agriculture, forestry and other waste comprehensive utilization of industrial solid waste comprehensive utilization rate of 70%. Perfect renewable resource recycling system and garbage separation and recycling system, to promote large-scale renewable resources, industrial use, the development of remanufacturing industry. Promote ecological cycle of agriculture, the development of the ecological cycle of agriculture.

Development and application of source reduction, recycling, remanufacturing, zero-emission technology and industry links, to promote the typical pattern of circular economy, accelerate economic bases demonstration cycle. Advocate of civilization, conservation, green, low-carbon consumption concept, and gradually form a green lifestyle and consumption patterns.

Box 16 : Circular Economy
<p>Circular economy demonstration projects: key construction remanufacturing, city minerals, kitchen waste recycling, parks cycle transformation, agricultural straw utilization, forestry three residues utilization, the bulk of solid waste utilization, agricultural circular economy, services circular economy, construction waste utilization, promote the use of key technologies of recycling economy and other key projects, and 100 circular economy demonstration enterprises, intravenous industrial solid waste resource recycling and comprehensive treatment works.</p> <p>Recycling economy demonstration base: Guigang national key construction of eco-industrial (sugar) demonstration garden, Wuzhou, Yulin import renewable resource recycling demonstration zone, Nanning renewable resource industries demonstration zone, Hezhou (CR) circular economy industrial park, Qinzhou petrochemical industry circular economy demonstration area, circular economy demonstration areas tiandong Petrochemical Industrial Park, Hechi non-ferrous metal recycling economy demonstration zone of new materials, non-ferrous metal recycling economy demonstration areas Nandan, Hunan, Guangxi Chongzuo Sugar circular economy park and manganese processing recycling park, Yizhou cocoon silk industry circular economy demonstration zone, Yuchai Remanufacturing Industries Demonstration Zone, Sugar Land Reclamation circular economy demonstration areas.</p>

Section IV strengthen environmental protection

Adhere to prevention, comprehensive treatment, efforts to solve outstanding environmental problems that threaten public health and the impact of sustainable development. Implementation of chemical oxygen demand and sulfur dioxide, ammonia,

total nitrogen oxide emissions control, industrial pollution control and strengthen supervision of pollution control facilities. Strict protection of drinking water sources, urban planning centralized drinking water source protection areas and alternate water sources, increase the focus on the Xijiang River Basin Water Pollution Prevention and medium-sized reservoirs, and strengthen groundwater pollution prevention. Promote thermal power, iron and steel, chemicals, non-ferrous metals industry, sulfur dioxide, nitrogen oxides governance, the development of industrial flue gas denitrification governance and transformation of low-NO_x combustion, control of urban noise and particulate pollution, strengthen motor vehicle exhaust pollution and the recycling of waste electrical and electronic products processing, establish a sound mechanism for joint prevention and control of air pollution. Overall strengthening of livestock pollution prevention, control of agricultural nonpoint source pollution. Increase the Beibu Gulf coastal waters and land-based sources of marine pollution control efforts to protect the coastal waters of mangroves, coral reefs, seagrass and coastal wetland ecosystems. Heavy metal pollution and strengthen the comprehensive management of persistent organic compounds, hazardous waste, hazardous chemicals pollution prevention, and strengthen the security of nuclear facilities and radioactive sources supervision. Strictly implement the responsibility system for environmental protection, and strengthen overall control indicator assessment, improve emergency response departments of major environmental event mechanism, strengthen the accountability system for pollution accidents, improve local environmental regulations and standards, strengthening environmental regulatory capacity building. 2015, Shequchengshi, county centralized sources of drinking water compliance rate of over 98% and 90%, the number of days Shequchengshi air quality secondary standard is more than 340 days / year.

Box 17 : Environmental Governance

The main pollutant emission reduction projects: urban sewage treatment, industrial pollution control, pollution control and other livestock water pollutant emission reduction projects; electricity industry desulfurization and denitrification, desulfurization other non-electric key industries, cement industry and industrial boilers and other atmospheric denitrification demonstration pollutant emission reduction projects.

Environmental improvement projects: urban drinking water source protection, Yongjiang, left the river, Youjiang, Lijiang, Guijiang, HE Jiang, Chin River, South River, Diao Jiang Rong Jiang, Xunjiang comprehensive environmental and medium-sized reservoirs ecological restoration and water management, pollution prevention northern Gulf coastal waters, groundwater pollution control, such as contaminated soil remediation.

Environmental projects in rural areas: rural environment, agricultural nonpoint source pollution prevention demonstration.

Key areas of environmental risk prevention project: heavy metal pollution control, chemicals and persistent organic pollutants (POPS) pollution prevention, hazardous waste and medical waste harmless disposal.

Section V strengthening ecological construction

Insist on the protection of natural healing based priority and to strengthen the protection of important ecological functions and management, enhance water conservation, soil and water conservation, flood control moisture capacity, build ecological barrier western Guangxi Beibu Gulf coastal ecological barrier, ecological function areas northeast of Guangxi, southwest Guangxi ecological function zones, Guangxi ecological function areas, Great Mountain Ecological Reserve, Xijiang Trinidad green corridor "two screen four districts a corridor" as the backbone to nature reserves punctate distribution is an important component of ecological security pattern. Full implementation of the "Green Man bagui" afforestation and ecological restoration project, and vigorously promote forest mountain ecosystems, Pearl shelter, coastal protection forest, nature reserves, wetlands ecosystem building, consolidating natural forest protection, forest and other achievements. Measures taken to restore natural vegetation, closed forest and grass, small watershed, etc., and comprehensively promote the rocky desertification. Strengthen the protection and security of biological species resources management to prevent harmful foreign species on ecosystems abuse, protection of biodiversity. Strengthen mine ecological environment improvement and ecological restoration. Promote forest growth and increasing forest coverage, increase forest stock volume and value of forest ecosystem services, enhance carbon sequestration capacity. Accelerate the establishment of ecological compensation mechanism, and actively explore the market of ecological compensation mechanism. Support regional implementation of ecological severely degraded ecological migration. Carry out activities to create ecological demonstration.

Section VI strengthen disaster prevention and mitigation system

In medium and small rivers and torrents geological disaster prevention, focusing on empowerment and rural flood control. Enhance coastal anti-typhoon, storm surges, tsunamis capacity. Accelerate the establishment of geological disaster evaluation system torrents investigation, monitoring and early warning system, control system, emergency response system. Geological disaster-prone towns, villages, construction of key projects areas, transportation routes and mountain areas and other areas of focused prevention. Engineering measures taken to control major geological disaster point prominence Wuzhou geological disasters remediation. Governance is difficult to take dangerous risks point of relocation. Strengthen earthquake disaster prediction and weather warning, disaster prevention and emergency rescue capabilities, and adapt to climate change, particularly the ability to deal with the construction of extreme weather events. Implementation of natural disaster risk assessment, strengthening geological disaster rescue and relief measures, development of contingency plans, universal prevention knowledge, enhance public awareness of disaster prevention and mitigation, to

strengthen the rescue team, and raise the level of material support.

Box 18 : Ecological Construction and Disaster Prevention System

Focus on the implementation of ecological construction:

- "Green Man bagui" afforestation projects.
- Grain for Green Project, afforestation area of 233,000 hectares, of which 53,000 hectares returning farmland to forests, afforestation 100,000 hectares of barren hills and wasteland, closing off 80,000 hectares.
- Pearl River Shelterbelt Project, afforestation area of 327,000 hectares.
- Coastal shelterbelt projects, afforestation area of 53,000 hectares.
- Rocky desertification projects, closed forest area of 1.32 million hectares, 240,000 hectares of afforestation of barren hills.
- Wetland restoration and wetland construction projects, early retirement also beaches, farmland and lakes 4,000 hectares, 2,100 hectares of mangrove restoration, creating 9,230 hectares of mangroves, the new National Wetland Park 10.
- Focus on wildlife conservation and nature reserve construction project, the new seven nature reserves, such as the establishment of nine demonstration MAOERSHAN protected areas.

Geological Disaster Control Engineering: Key Management major geological disaster point 1200.

Chapter IX vigorously promote scientific and technological progress and innovation

Adhere to independent innovation, focusing on cross, supporting the development and lead the future of policy, institutional mechanisms to improve the scientific and technological innovation, strengthening technological innovation based on scientific and technological innovation system to build, accelerate the construction of an innovative Guangxi.

Section enhance scientific and technological innovation capability

Promote technological progress and industrial upgrading closely integrated into practical productive forces to accelerate scientific and technological innovations. Continue to implement the billion dollar industry in Guangxi major scientific and technological projects and innovative programs, the full implementation of quality Xing Gui strategy, focus on improving business innovation, and strive to make breakthroughs in key generic technologies, infrastructure technology and major equipment. Promote a number of national and regional-level key laboratories and engineering research centers, industrial R & D center, technology center, pilot base innovation platform. Play the role of science and technology business incubator to support SME development and growth. Enhanced universities, research institutes innovation, give full play to the advantages of university technology resources to support basic research in economic and social adaptation across development needs. Promote Nanning, Guilin, Liuzhou High-tech Industrial Development Zone, the park features the innovative development, improve the

level of high-tech industrial park in Beihai and gain access to state-level high-tech development zone ranks, support Qinzhou Wuzhou high-tech park construction, optimizing the development Baise National Agricultural Science and Technology Park, build a national high-tech industrial zone in Guangxi Beibu Gulf Economic Zone.

Stabilized Base Technology team. Strengthening the capacity of grassroots technological and scientific capacity building services, the implementation of the scientific quality of the action plan. Establishment of China - ASEAN science and technology cooperation and technology transfer platform to deepen exchanges and cooperation in international science and technology.

Section perfect technological innovation and institutional mechanisms

We will deepen reform, optimize the allocation of resources to promote science and technology. Focus on guidance and support innovative elements into enterprises, billion dollar industry in promoting the establishment of industrial technology innovation and strategic alliances and innovative enterprises, encourage large enterprises to increase R & D investment, enhance innovation and vitality of SMEs, entrepreneurs and technology play a leading talent in innovation important role to accelerate the construction of enterprises as the mainstay of technological innovation system. Building an innovative city. Promote research institutes classification reform. Improve public technology service platform and technology extension service system, improve the technological property rights trading market, encourage the development of science and technology intermediary service agencies. Maintain the financial growth of science and technology at all levels of funding for higher than the growth rate at the same level of regular revenue, the implementation of scientific and technological innovation incentives to develop innovative products in government procurement and purchase the first implementation measures, the establishment of a multi-channel technology innovation investment and financing system. Strengthen IPR creation, utilization, protection and management, study and formulate regulations to promote scientific and technological progress and innovation, and improve technology evaluation and incentive system to stimulate technological innovation and vitality talents.

Box 19 : technological innovation platforms and major projects

Laboratory: State Key Laboratory of non-food biomass hydrolysis key construction, protection and utilization of biological resources of Subtropical Agriculture, nonferrous metals and specialty materials processing, medicinal chemistry and drug molecules resources engineering, Ministry of State Key Laboratory Breeding Base and efficacy of traditional Chinese medicine research, prevention and treatment of thalassemia, and mapping, genetic breeding buffalo, Key Laboratory of the autonomous region of new technologies, such as spatial information Karst Dynamics major animal disease prevention and control.

Engineering laboratories and engineering research centers: focus on building southwest of endangered medicinal resources development and characteristics of the National Engineering Laboratory Bioenergy

Research Center of the State where the joint project, where immunodiagnostic reagents National Joint Engineering Laboratory, where sugarcane breeding and cultivation techniques combined national engineering research center.

Billion dollar industry R & D centers and engineering research centers: focus on building a number of billion dollar industry of commercial R & D centers and non-food biomass Engineering Research Center, earthmoving machinery, such as the National Engineering Research Center car, engine, auto parts, etc. level engineering technology research center, focusing on cultivating the internal combustion engine, such as the Guangxi Autonomous Region level engineering research centers become national engineering research centers.

Research and industrial innovation base: the new national key construction materials Liuzhou, Liuzhou national high-tech industrial base of mechanical engineering, Liuzhou national prestressed machinery, petrochemical and other Qinzhou, Beihai electronic information industry incubators, household ceramics industry R & D center in Yulin, China - ASEAN agricultural technology innovation center, and sugarcane breeding test area, aquatic animal husbandry and veterinary research and development base.

Technology Public Service Platform: focus on building China - ASEAN science and technology cooperation and technology transfer services network center, social science and technology information service platform in rural areas, the National Spark Technology Training demonstration bases.

Major science and technology: focus on the implementation of a number of major science and technology projects in the field of aluminum deep processing, new energy vehicles, non-food biomass, mulberry silk cocoon, livestock and production safety.

Important technical standards: focused on establishing the standard sound system advantageous industries, product quality and food safety, agriculture, energy conservation, and services.

Chapter priority to the development of education

According priority to the development, educating people, innovation, promote fair and improve the quality requirements, deepen the educational reform, promote scientific development of education, is to basically realize modernization of education in 2020 and lay a good foundation.

Section promote the coordinated development of all types of education

Positive development of pre-school education, especially in rural preschool education, the development of public kindergartens to support private kindergarten, nursery Office Park establish a sound system and management system, initially built urban and rural pre-school education system. Consolidating and improving the quality and level of compulsory education, and promote standardization of rural compulsory education schools. Protection of basic education development sites. Expand the scale of

high school education, basic universal high school education, the development of quality high school education, continue to implement the model high school construction project. Vigorously develop vocational education, vocational education in minority areas to promote national comprehensive reform pilot area, the new batch of demonstration bases and regional integrated vocational training base, to further improve the basic skills of secondary vocational education, the progressive introduction of free secondary vocational education system. Efforts to enhance the level of higher education development, and expand the scale of higher education, optimizing the structure layout, good high-level universities have regional characteristics. Accelerate the development of continuing education, to build a flexible and open system of lifelong education, the construction of universal learning, lifelong learning, learning society. Attaches great importance to national education, border areas and ethnic communities to improve school conditions, establishment of a national unity education curriculum, promote strong language education. Implementation of the national special education schools Midwest construction projects, and improve special education protection mechanism. By 2015, the pre-school years and strive to achieve gross enrollment rate of 60%, 93% retention rate of compulsory education, high school education gross enrollment rate of 87%, higher education gross enrollment rate of 28%.

Section efforts to achieve educational equity

Promote the balanced development of compulsory education, with emphasis to rural, remote, poverty, border, ethnic and weak school district tilt, and gradually establish a mechanism for the integration of urban and rural compulsory education, reduce urban-rural, regional, inter-school, group education development gap, the basic realization of compulsory education balanced development of the county. Implementation of counties (cities) within urban and rural wages same standard preparation and primary and secondary school teachers, as well as teachers and principals exchange system. Increase funding for students from economically disadvantaged families efforts to improve the coverage of the various stages of education funding system to assist students from poor families to complete their education. The progressive introduction of free education for high school students with disabilities. Implementation of ethnic minority areas, pupils in poor rural areas of nutrition improvement program. Effectively protect the rights of migrant workers children and left-behind children equal access to compulsory education, the improvement of rural students, especially children left boarding conditions.

Section improving the quality of education

Full implementation of quality education, education law and student body and mind to follow the law of development, adhere to moral education first, the ability to re-reform of teaching content, methods and evaluation systems, to promote all-round development of students. Established to improve the quality of education-oriented management system and working mechanism, strengthen education quality assessment and monitoring.

Overcome the "examination-oriented education" tendency to reduce the academic burden on primary and secondary schools. Implementation of work and study, school-enterprise cooperation, vocational education training model post teaching learning, improve their job skills and abilities. Strengthening Teachers' Ethics, principals and teachers to improve the professional level, to encourage talented people from teaching for life. Accelerate the implementation of pre-school education to promote, consolidate and improve compulsory education, primary and secondary schools to improve teacher quality, accelerate the development of high school, vocational education foundation capacity strengthening, revitalizing higher education, the construction of ethnic education, subsidized students from poor families, education, information technology, education, international exchanges and cooperation in the construction of ten regional specialties educational development of key projects to raise the overall quality of education level.

IV deepening education reform

Further promote the implementation of quality education, balanced development of compulsory education, vocational education model, lifelong education building institutional mechanisms, top-notch innovative talents, the modern university system, school system, education, security mechanism, examination and enrollment system,

education and other ten comprehensive and integrated education system reform.

Innovation and personnel training system, the education management system, school system, the reform of teaching content, teaching methods, quality evaluation system and examination and enrollment system. Increase education funding, improve government investment-based, multi-channel financing of education funding system. Encourage and guide social forces to run schools, private schools and the implementation of the legal status of public schools equal, standardized school order and promote the healthy development of private education. Expanding education and opening up, strengthen international exchanges and cooperation in education with a focus on the ASEAN countries, to develop student education, and more ways to introduce quality education resources.

Box 20 : Education Key Project Development
<ul style="list-style-type: none"> - rural preschool, compulsory school standardization, along the border schools, boarding schools in minority areas, the development of special education and safe drinking water in rural primary and secondary schools, primary and secondary school teachers in team building, staff turnover in rural primary and secondary schools and affordable housing housing pilot projects. - High school, secondary vocational schools basic skills, vocational and technical schools and exemplary training base, high school minority areas, ethnic minority areas such as vocational education training base. - Colleges and universities and private higher education public service facilities, universities and professional brand specialty disciplines, Guangxi University, "211" project, ASEAN Guangxi University for Nationalities, Guangxi Medical University, five as the new campus, King City headquarters relocation of Guangxi Normal University, the

City headquarters relocation of Guangxi Normal University, the University of North Sea Construction of College Park settled, and "of Ministry" special colleges and universities northern Gulf countries to support the development of local colleges and universities special fund projects to build.

- Modern distance education, distance learning network in the western region development and educational exchanges and cooperation with international.

Chapter XI train highly qualified personnel

Adhere to service development, talent priority to use oriented, innovative mechanisms, high-end leads, the overall development of guidelines to enhance adaptation across all types of personnel development needs.

Section vigorously cultivating innovative talents

Focusing on improving the scientific and technological innovation, relying on key industries, major projects, important research and innovation platform and the advantages of enterprises, implementation bagui scholar, expert systems and Distinguished Fellow reserve training project to accelerate the development of talent on high ground. Focus on supporting young scientists undertake national, autonomous major scientific and technological projects, as well as international academic exchange and cooperation projects. Expand the scale of master's and doctoral graduate education, with a good introduction and overseas high-level talents. Vigorously develop the economic and social development in various fields urgently needed expertise, coordinate development of all types of personnel party, business management, technical expertise, highly skilled, rural practical, social work. Implement organizational backbone of high-level personnel training plan national minorities, ethnic minorities and train personnel.

Section robust talent development mechanism

Build dynamic, highly efficient, more open talent system environment. Improve Party Supervision work pattern, establish a sound macroeconomic management, market allocation, autonomous units employing talents own jobs talent management system. Deepen the reform of personnel system, personnel management functions to promote change, innovation and training development, evaluation found that the selection and appointment, mobile configuration and incentives protection mechanism. Improve the talent introduction and use, take project cooperation, intelligence shares, part-time and hourly, achievements, and other forms of ad hoc jobs and attract high-level innovative talents at home and abroad to carry out intelligence services. Improve local talent and regulations, improve personnel management, strengthen the construction of the talent market, the implementation of national and regional major personnel policy, grasp major talent project to create an environment talents to promote the comprehensive development of human resources.

Box 21 : personnel development
<p>Focus on the implementation of talent to enhance the construction of a small highland, training and selection of outstanding entrepreneurs, thousands of talents in the new century, post-doctoral training, enhance the quality of party and government personnel, personnel gather Beibu Gulf Economic Zone, the West River economic belt of talent development and international export-oriented development, focus on the development of highly skilled industrial property, rural practical talent development, social work, human resource development, as well as remote and poor areas, border areas and national old revolutionary base personnel support other projects.</p>

Chapter XII establish a sound system of basic public services

Efforts to protect and improve people's livelihood, improve employment, income distribution, social security, health care, housing and other systems, to promote the equalization of basic public services, so that the fruits of development to benefit more people of all nationalities.

Section promote full employment

Implement a more proactive employment policies that promote economic growth and expanding employment positive interaction and improve workers own jobs, market regulation mechanisms to promote employment and government employment combine to create equal employment opportunities in order to expand the scale of employment. Industrial policy and employment policy co-ordination, to develop labor-intensive industries, service industries and small and micro enterprises. Promote college graduates, rural migrant workers, urban employment difficulties especially zero-employment of family members employed, good placement of demobilized military personnel and veterans find jobs. Improve and implement tax relief, small loans, financial discount, venue arrangements to support policies to encourage self-employment, self-employment, entrepreneurship and innovation support to promote full employment. Establish a sound government investment and major projects to improve employment mechanism, improve employment assistance policies, and actively develop community services, public services, public service jobs, encourage part-time employment, seasonal employment diversified forms of employment, family employment, temporary employment. Strengthen labor cooperation with the Pearl River Delta, Yangtze River Delta and other developed regions. 1.9 million new jobs in the towns, have difficulty finding employment and reemployment 10 million people, 300 million rural labor employment. Improve grassroots public employment service platform and network construction, establish and improve a unified, standardized and open human resources market. Improve the vocational training system for all workers, laid-off workers, migrant workers, people with disabilities and other vocational skills to carry out free and practical technical training, failed to enter fresh high school graduates and other new growth in

early labor in general practice work preparation training encourage businesses to develop employee job skills training. Strengthen entrepreneurship training, will have entrepreneurial aspirations and training needs of personnel into training range. Improve monitoring and early warning system for the unemployed. Full implementation of the labor contract system, expanding the coverage of collective contracts. Strengthen labor security supervision and law enforcement, and improve labor dispute handling mechanism, improve working conditions, and earnestly safeguard the interests of workers. Role of the government, trade unions and business role in efforts to form companies and workers benefit-sharing mechanisms, the establishment of harmonious labor relations.

Section rational income distribution adjustment

Uphold and improve the distribution according to work is dominant and a variety of modes of distribution coexist distribution system, efforts to increase the income share in national income distribution, labor remuneration in primary distribution. Sound normal growth of wages and payment security mechanism, improve the level of economic development linked to the minimum wage system, and gradually raise the minimum wage. Improve enterprise wage guidelines, human resources market wages and labor cost information guidance system, expanding the coverage of collective wage negotiations. Reform the civil service wage system, to establish a comprehensive system of institutions salaries to performance. Monopoly industries and state-owned enterprises to deepen reform of income distribution. Broaden the sources of income, create conditions to increase property income. Play a role in the distribution of income tax adjustment to strengthen the personal income information system. Rectify and standardize the order of income distribution, protect lawful incomes, regulate excessively high incomes and ban illegal income. By 2015, the total amount of labor and strive to reward employees in urban units accounting for the proportion of GDP increased by 2 percentage points, the monthly minimum wage of 1,000 yuan or more.

Section III sound social security system covering urban and rural residents

In urban basic pension insurance, basic medical insurance, unemployment insurance, work injury insurance, new rural social pension insurance system, focusing on commercial insurance coverage to supplement, forming a wide coverage, basic, multi-level, sustainable social security system, steadily improve the level of protection. Establish and improve the urban workers and residents of old-age insurance system for enterprise employees' basic pension insurance-based pension progressive realization of the national co-ordination, the full implementation of funds for basic old-age insurance for transferring a way to achieve full coverage of the new rural pension insurance system for urban and rural old-age security and effective convergence. Reform of the pension system organs and institutions. Improvement in unemployment, work injury and maternity insurance. Good urban workers and residents basic medical insurance, new

rural cooperative medical care, policy and rural medical assistance system convergence, gradually increase Medicare NCMS financing standards and level of urban residents and security, establish and improve medical insurance for transferring and remote medical billing system . Expanding social security coverage, focused on solving the non-public economy practitioners, migrant workers, landless farmers, flexible employment arrangements and freelancers to participate in social insurance. Encourage the establishment of occupational pension annuity and actively develop commercial pension insurance and medical insurance. Strengthening social security information network construction, expanding the coverage of social security card. Improve urban and rural minimum living security system, a reasonable minimum standards and subsidies to improve the level of compliance with the conditions of disadvantaged groups to implement the cities. Promote the social assistance system, improve rural five guarantees, strengthening the protection of minors homeless, orphans welfare, the disabled, special care and placement service facilities, to achieve full coverage of urban and rural social relief. Vigorously develop social welfare and charity, charitable support of the community, social donations, helping people to help each other social activities. By 2015, the towns 540 people participated in basic pension insurance, unemployment insurance, 240 million, 250 million work injury insurance, maternity insurance, 225 million urban residents basic medical insurance coverage for more than 95%.

IV accelerate the reform and development of health

In accordance with the basic requirements of security, strong grass-roots, building mechanisms to deepen the medical and health system, establish and improve the basic health care system, giving priority to meet the basic health needs of the masses. Overall strengthening of the public health service system, improve disease prevention and control, health education, maternal and child health, mental health, emergency treatment, blood collection, health surveillance, community-based rehabilitation and other professional public health service network. Gradually increase the per capita public health funding standards, provides free comprehensive national basic public health services, the implementation of major public health service projects. Promoting AIDS, thalassemia prevention and control, as well as major infectious diseases, chronic diseases, occupational diseases, endemic diseases and mental illness prevention. Improve sudden major public health emergency response capabilities. The gradual establishment of a network of rural medical emergency. Universal health education, extensive patriotic health campaign. The maternal mortality rate was controlled within 27/100000, the infant mortality rate controlled at 12%. Or less, life expectancy increased to about 75 years old. Sound three rural health service network, improve community-based health services for new urban health service system, the new focus on medical and health resources to rural and urban communities tilt, particularly to strengthen the medical personnel training general practitioners, perfect to encourage full Doctors Branch long service policies at the grassroots level. Actively and steadily push forward the reform of public hospitals, to explore the formation of various types of urban hospitals and primary health care

institutions rational division of labor and collaboration pattern. Establish and improve the national essential drug system based drug supply security system to ensure the quality and safety of medicines. Adhere to both Chinese and Western medicine, the pharmaceutical industry to support the development, implementation Zhuang Yao medicine revitalization plan. Strengthen Guigang, Hezhou, guests, Chongzuo City medical institutions such as the construction of a new level. Encourage social capital to set up various forms of medical institutions.

Section V strengthen the construction of affordable housing

Based on the protection of basic needs, promote rational consumption, accelerate the construction of such a government to provide basic security, market-oriented to meet the needs of multi-level housing supply system. Housing difficulties of urban low-income families, the implementation of low-rent housing system, the government provides basic housing security. For middle-income housing for needy families, the implementation of public rental housing system, the Government has given appropriate support. For high-income families, the implementation of the lease and purchase of commodity housing system combining. Establish and improve standards of housing, rent to buy advocated combining gradient consumption. Strengthen government responsibility at all levels, in order to increase public rental housing as the main body, including low-cost housing, affordable housing, commodity housing, various shantytowns and other affordable housing projects, including the construction, low-cost multi-channel financing housing availability, rental subsidies to increase efforts to steadily expand coverage, basically solve the shortage of affordable housing supply. New jobs will gradually workers and migrant workers into the scope of supply of affordable housing. Implement national regulations for construction of affordable housing sites. Increase financial input and guide social capital to participate in the construction and operation of affordable housing. To strengthen the management of affordable housing, establish a fair and reasonable, open and transparent with rent affordable housing policy and regulatory procedures, strictly regulate entry and exit management and the rental standards.

Section VI co-ordinate the work of the population do

Control of the total population, improve quality, optimize the population structure, promote the balanced development of long-term population. Adhere to the basic state policy of family planning, the birthrate low. Improve population target responsibility system, and comprehensively promote the integrity of planning to carry out family planning grassroots self-government demonstration activities. Strengthen social management and family planning service system, focusing on the implementation of village family planning health services, in order to further implement incentives to help rural families, "fast rich" family planning projects and special assistance "three systems" as the main The interest-oriented policy system. Increase the comprehensive management of high sex ratio problems, and promote gender balance. Comprehensively promote

eugenics to promote the project, carried out free pre-pregnancy health check, a really good job in preventing birth defects. To strengthen the management of floating population and family planning services. Organized by China - ASEAN Forum on Population and Development to strengthen international exchanges strategic studies population issues. Adhere to the principle of equality between men and children's basic national policy priorities, the full implementation of the new development program for women and children, and effectively protect the legitimate rights and interests of women, encourage and support women's employment and entrepreneurship, strengthen the protection of minors, rescue orphaned street children. Actively respond to the aging population, to establish home-based, community-based, service agencies to support the pension system, the priority development of social services, strengthen public service pension service facilities to encourage social capital to set up pension services, increase community elderly activities and facilitation facilities. Support the career development of persons with disabilities, the implementation of key rehabilitation, care support project and "Sunshine home" program, to carry out employment services and vocational training of persons with disabilities, persons with disabilities in rural areas to increase production assistance efforts.

VII increase poverty alleviation efforts

Old revolutionary base areas, stone mountains, border areas and ethnic communities and Reservoir resettlement zones concentrated, focused on poverty alleviation area with special difficulties, the implementation of specific policies to further increase support. Continue to focus on the integration of various resources, take great battle mode, the implementation of the Village roads, safe drinking water, electricity postal services, radio and television, public services, environment, infrastructure and public facilities, poverty alleviation projects, and improve production and living conditions, significantly reducing poverty population. Speed up the whole village poverty alleviation and development, creative industries, education, technology, ecology, and the aid to poverty alleviation, poverty alleviation, easily relocated poverty, social forces to participate in poverty alleviation and other ways to improve the effectiveness of poverty alleviation. Support the national implementation of regional development policies to support the development of less populous nation. Develop implementation plans to revitalize the old revolutionary base. Public welfare projects in poor areas of the central arrangement, city and county levels to gradually reduce or cancel the matching funds. Establish and improve financial funds mechanism of steady growth, poverty alleviation and rural development policies dibao effective convergence. Focus on supporting health, support education and other activities in poor areas, increase the exchange of cadres. Promote international exchanges and cooperation in the field of poverty alleviation.

Box 22 : basic public services
Employment and social security: focusing on the implementation of employment and social security services grassroots facilities, business

incubators, labor dispute mediation and arbitration venues, injury vocational rehabilitation centers, social security service center in Guangxi, labor and social security information system for urban residents basic medical insurance information system, new rural social endowment insurance information system works.

Health: focus on the implementation County village primary health service system, public health service system, health personnel training and other projects.

Family planning: focus on the implementation of family planning Guangxi integrated business center, city and county rural grassroots family planning service system, promote eugenics, population and family planning information construction and other projects.

Social Assistance: focus on building 5,000 villages and 400 towns wubao Center nursing home, transforming 14 prefecture-level cities relief shelters, the new 158 county relief shelters and rescue protection center for homeless children.

Poverty alleviation and development: focus on the implementation of poverty-stricken villages in the whole village to promote poverty alleviation and development, poverty alleviation ten Baiqian industry demonstration, a special type of regional infrastructure development, poverty alleviation in border areas, easily relocated poverty, reservoir resettlement works.

Village-level public service center: set focus on building the administrative, cultural, health, sports is one of the integrated service facilities.

Chapter XIII maintain social harmony and stability

Adapt to the new situation of social restructuring, strengthen social management capacity building, innovation and social management system and mechanism to further promote peace building in Guangxi to build social harmony and stability nationwide model area.

Section innovative social management system

Further improve the party leadership, government responsibility, social coordination, public participation in social management pattern. Accelerate the construction of the source of governance, social management and emergency response mechanism to dynamically manage the combination. Sound basic management and service system, synergy grass-roots mass self-government organizations, various social organizations, enterprises and institutions, and the formation of social management and service force. Strengthening urban and rural communities autonomy and service functions, autonomous system of community residents sound leadership of party organizations, improve residents' committee organizational system, regulate the development of community service stations and other professional services, construction management and community integrated service platform to strengthen community services of qualified personnel, and promote management center of gravity. Guide

services of qualified personnel, and promote management center of gravity. Guide

various social organizations and volunteers involved in community management and services. Improve the registration and management of social organizations, to relax the economic class, the establishment of public welfare associations and foundations, social organizations to implement policies to support the development and strengthening of social regulatory organizations. Promote social management and information technology. Improve social management laws and regulations.

Section robust mechanism for safeguarding people's rights

Broaden the channels for expressing public opinion, increase social conflict mediation efforts, and improve the Party and the government-led mechanism to safeguard the people's interests. Improve public decision-making system of public notices, public hearings and expert consulting verification system, pay attention to public opinion collection and feedback. Insist on leading cadres receive people, contact with the masses system, strengthen accountability petition work. Carry out the social contradictions "big investigation, large reception, large mediation, a large prevention", improving the people's mediation, administrative mediation and judicial mediation work linkage system and establish an integrated platform for mediation to resolve disputes. Smooth and regulate the expression of mass appeal, coordination of interests, protect the

interests of channels, establish social stability risk assessment mechanism for major construction projects and major policies formulated to effectively prevent and resolve labor disputes, land acquisition, environmental pollution, food and drug safety, corporate restructuring and bankruptcy and other social conflicts triggered. Rely on grass-roots party organizations, industry management organizations, mass self-organization, give full play to trade unions, the Communist Youth League, women's federations role in resolving social conflicts.

Section strengthen public safety system

Adapt to the new situation of public security, promote the establishment of prevention and emergency response initiative combining traditional methods with modern means of combining public safety system. Increase investment in public safety, improve response to accidents, disasters, public health emergencies, food and drug safety incidents, prevention of early warning and emergency response system of social security incident. Strengthen food and drug regulatory capacity building and technical support system, the establishment of food and drug quality tracing system, strengthen rapid notification and rapid response mechanism, strengthen the inspection and quarantine of animals and plants, to carry out international cooperation in drug safety, the protection of public food and drug safety. Strict management of production safety, strengthen safety supervision and monitoring capacity building, implementation of major hazard control and supervise the handling progressively rectification effect evaluation system, crack down on illegal illegal operation, strict security objective assessment and accountability.

Improve emergency management organization system, improve emergency plans, strengthen emergency team system, establish and improve emergency supplies reserve system, improve crisis management and risk management capabilities. Promote universal public site first aid, emergency hedge knowledge and basic skills training. Improve Social Security Protection System, promote urban community policing, prevention and treatment, and other basic infrastructure, strengthen social security comprehensive management, assistance and education to strengthen the management of special populations and services, increase social security weakness remediation efforts, and build air defense, physical , anti-technology combined with the new pattern, enhance public safety and social security protection capabilities. Tight guard, crack down on various criminal activities, and effectively protect people's lives and property. Strengthen border and coastal defense of social security management, improve border security frontline grassroots joint prevention and control system. Capacity building of law enforcement, improve law enforcement and credibility.

Box 23 : Social Management
<p>Community integrated service platform: focus on the implementation of community service system engineering, construction, street (township) community service centers and service stations urban and rural communities, improving public facilities and services space.</p> <p>Community information: Key Construction Set administration, social affairs, convenient service in one of the community service information network.</p> <p>Food and drug safety: focus on building China - ASEAN food and drug inspection and testing centers, food and drug inspection and monitoring bodies, urban and rural food and drug safety system works.</p> <p>Production Safety: focus on building cities and counties three production safety supervision network, Guangxi safe production technology centers, mine rescue and relief centers drainage, major accident hazard control and other projects.</p> <p>Emergency Management: focus on building regional level emergency platform, early warning information release system, urban and rural emergency infrastructure, cities and counties emergency supplies reserve system works.</p> <p>Social Security: focus on building the region's political and legal information networks and grassroots political and legal infrastructure, national security system business technology space, the public security organs video command system, the region's prisons information technology, security prisons, detention facilities renovation drug, counter-terrorism and police SWAT training base training bases, police, armed police, fire, border control, justice, prison management command center and other projects.</p>

People of all ethnic groups to unite closely around the Party Central Committee with Comrade Hu Jintao as General Secretary, hold high the great banner of socialism with Chinese characteristics, continue to emancipate the mind, the courage to blaze new trails for the realization of "harmony and strength, Civilized and blessing of the people"

Guangxi Zhuang Autonomous Region People's Government

Gui ICP prepare 06001517



Journal of
WORLD TRADE



Wolters Kluwer

Law & Business

Published by:

Kluwer Law International
PO Box 316
2400 AH Alphen aan den Rijn
The Netherlands
Website: www.kluwerlaw.com

Sold and distributed in North, Central and South America by:

Aspen Publishers, Inc.
7201 McKinney Circle
Frederick, MD 21704
United States of America
Email: customer.service@aspublishers.com

Sold and distributed in all other countries by:

Turpin Distribution Services Ltd.
Stratton Business Park
Pegasus Drive, Biggleswade
Bedfordshire SG18 8TQ
United Kingdom
Email: kluwerlaw@turpin-distribution.com

Journal of World Trade is published six times per year.

Print subscription prices, including postage (2011): EUR 912/USD 1216/GBP 670.

Online subscription prices (2011): EUR 844/USD 1126/GBP 621 (covers two concurrent users).

Journal of World Trade is indexed/abstracted in the *European Legal Journals Index*.

Printed on acid-free paper.

ISSN 1011-6702

© 2011 Kluwer Law International BV, The Netherlands

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without written permission from the publisher.

Permission to use this content must be obtained from the copyright owner. Please apply to:

Permissions Department, Wolters Kluwer Legal, 76 Ninth Avenue, 7th Floor, New York, NY 10011-5201, USA. Email: permissions@kluwerlaw.com

Printed in Great Britain.

Editor

Edwin Vermulst
Partner Vermulst, Verhaeghe Graafsma & Bronckers, Brussels, Belgium

Associate Editors **Petros C. Mavroidis** Edwin B. Parker Professor of Law at Columbia Law School, New York, Professor of Law at the University of Neuchatel & CEPR
Thomas Cottier Professor of European and International Economic Law, Managing Director World Trade Institute, University of Berne, Switzerland
Simon Evenett University of St.Gallen
Bernard Hoekman Development Research Group, The World Bank
Junji Nakagawa Professor, University of Tokyo, Tokyo, Japan
Yong-Shik Lee Director and Professorial Fellow, The Law and Development Institute
Faizel Ismail Head of the South African Delegation to the WTO, Geneva
Gary N. Horlick Law Offices of Gary N. Horlick
Henrik Horn Senior Research Fellow, Research Institute of Industrial Economics (IFN), Stockholm
Pierre Sauvé: World Trade Institute, University of Berne

All correspondence should be addressed to the Editor
under reference of:
Journal of World Trade
Email: edwin.vermulst@vvg-law.com

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic mechanical, photocopying, recording, or otherwise, without written permission from the publisher.

Permission to use this content must be obtained from the copyright owner.
Please apply to: Permissions Department, Wolters Kluwer Legal, 76 Ninth Avenue, 7thFloor, New York, NY 1001-5201, USA. Email: permissions@kluwerlaw.com

© 2011 Kluwer Law International BV, The Netherlands

ISSN 1011-6702
Mode of citation: 45:1 J.W.T.

Is China's Currency Regime A Countervailable Subsidy? A Legal Analysis Under the World Trade Organization's SCM Agreement

Benjamin Blase CARYL*

Members of Congress are currently threatening to enact legislation authorizing the US Department of Commerce to investigate China's allegedly undervalued currency as a countervailable subsidy. If this happens, then China will very likely challenge the United States at the World Trade Organization's (WTO's) dispute settlement mechanism. This paper analyses whether a countervailing duty (CVD) applied to China's currency regime would be consistent with the WTO's Subsidies and Countervailing Measures (SCM) Agreement. Contrary to many commentaries, this paper concludes that, while there are several significant potential obstacles, there are in fact legitimate arguments that a WTO panel could use to uphold a US-imposed CVD on China's undervalued currency.

1. INTRODUCTION

For years, American critics of the currency and exchange rate regime of the People's Republic of China (hereinafter 'China'),¹ including politicians, manufacturers, and certain

* Benjamin Blase Caryl, Benjamin.caryl@usitc.gov, is currently Counsel to Charlotte R. Lane, Commissioner of the US International Trade Commission (USITC). He received his JD at Tulane University Law School, *cum laude*, and received his LLM in international business and economic law at Georgetown University Law Center, *with distinction*, Certificate in WTO Studies, Thomas Bradbury Chetwood, S.J. Prize. All of the opinions expressed in this paper are strictly those of the author and his alone and should not be attributed to the USITC or Commissioner Lane. Without implication, the author would like to thank the following individuals for taking time to share their insights and expertise with regard to issues contained within this paper: Richard Diamond, Stacy Ettinger, Gary Horlick, and John Magnus. The author would also like to thank his wonderful fiancé Christina McMahon for being so supportive and understanding throughout the writing process.

¹ Briefly, China's currency and exchange rate regime (hereinafter 'China's currency regime') can be summarized as follows. Officially, since 2005, China has operated a 'managed floating exchange rate regime based on market supply and demand with reference to a basket of currencies'. *Public Announcement of the People's Bank of China on Reforming the RMB Exchange Rate* (21 Jul. 2005). From July 2005 until July 2008, the renminbi appreciated 21.2% against the dollar. *United States Department of the Treasury, Report to Congress on International Economic and Exchange Rate Policies* (15 Oct. 2009), at 13. In the summer of 2008, however, China effectively re-pegged at the rate of 6.82 renminbi per dollar and has maintained that rate for two years. See *ibid.* On 19 Jun. 2010, China announced that it was returning to its managed floating exchange rate regime, which allows the renminbi to trade within a band of plus/minus 0.5% against the dollar on a daily basis. *Public Announcement of the People's Bank of China on Further Reform [of] the RMB Exchange Rate Regime and Enhance the RMB Exchange Rate Flexibility* (19 Jun. 2010); see also *United States Department of the Treasury, Report to Congress on International Economic and Exchange Rate Policies* (8 Jul. 2010), at 18. The Chinese Government prevents renminbi appreciation vis-à-vis the US dollar in two main ways to maintain its allegedly undervalued exchange rate. First, China actively buys foreign currencies and sells renminbi at the Chinese Government's administered exchange rate in foreign exchange markets. See *United States Department of the Treasury, Report to Congress on International Economic and Exchange Rate Policies* (8 Jul. 2010), at 17. Second, China maintains strict capital controls that keep foreign currencies out of the Chinese domestic market, requiring most companies to repatriate profits earned abroad by exchanging the foreign currency for renminbi.

economists, have alleged that the renminbi² is undervalued vis-à-vis the US dollar by up to 40%, creating an unfair trade advantage for Chinese exporters at the expense of American jobs.³ More recently, other countries and international organizations have voiced their concern over China's currency regime, competitive devaluations (including the US Federal Reserve's renewed quantitative easing, or 'QE2'), and growing global imbalances.⁴

Thus far, the Obama Administration has essentially continued the Bush Administration's strategy of behind-closed-door diplomacy to address the currency issue.⁵ The US Treasury Department has refused to cite China as a 'currency manipulator' in its semi-annual Report to Congress on International Economic and Exchange Rate Policies, the most recent of which was due in October 2010 but has yet to be released.⁶ More

See *below*, n. 101. The foreign currency received from exporters is then collected by the State Administration of Foreign Exchange (SAFE), which invests most of that foreign currency in US Government debt. See *U.S.-China Economic and Security Review Commission 2010 Report to Congress* (Nov. 2010), at 21. China's currency practices and capital controls have led to it accumulating USD 2.85 trillion worth of foreign exchange reserves. See Keith Bradsher, 'Chinese Foreign Currency Reserves Swell by Record Amount', *The New York Times* (11 Jan. 2011). China currently holds at least USD 907 billion of US Treasury securities. See *U.S.-China Economic and Security Review Commission 2010 Report to Congress* (Nov. 2010), at 33; see also 'Analysis: Obama Urged to Step Up Yuan Pressure in Hu Meeting', *The New York Times* (10 Jan. 2011).

² China's currency is called the 'renminbi' ('the People's Money'), while 'yuan' is the name of the basis unit (similar to 'dollar' in the United States). 'CNY' is the official abbreviation for the currency, while 'RMB' is the unofficial but more commonly used abbreviation.

³ See, e.g., Robin Harding, 'Bernake to Rap China on Surplus', *Financial Times* (19 Nov. 2010); *U.S.-China Economic and Security Review Commission 2010 Report to Congress* (Nov. 2010), at 28; Steve Dunaway, 'China's Exchange Rate Policy: The Heat Is On,' Council on Foreign Relations Expert Brief, 18 Feb. 2010 (noting that some analysts expect that an appreciation would add half a percentage point to GDP in the United States and other developed countries); Robert E. Scott, *Unfair China Trade Costs Local Jobs*, EPI Briefing Paper #258 (23 Mar. 2010); Paul Krugman, 'Chinese New Year', *The New York Times* (1 Jan. 2010) (calling China's currency regime 'mercantilist' and 'predatory,' and alleging that it gives Chinese manufacturers a large cost advantage); C. Fred Bergsten, 'Correcting the Chinese Exchange Rate: An Action Plan', Testimony before the House Ways and Means Committee (24 Mar. 2010) (estimating that the renminbi is undervalued by 25% on a trade-weighted average basis and by about 40% against the dollar);

⁴ See, e.g., Alan Beattie, 'Tensions Rise in Currency Wars', *Financial Times* (10 Jan. 2011); Jonathan Wheatley and Jose Leahy, 'Trade War Looming, Warns Brazil', *Financial Times* (10 Jan. 2011); International Monetary Fund (IMF), *Global Economic Prospects and Policy Challenges: Meeting of G-20 Finance Ministers and Central Bank Governors* (21-23 Oct. 2010), at 6 (in which the IMF continued to find that the Chinese renminbi remains substantially undervalued); 'Lamy: Currency Undervaluation May Pose a Danger to Economic Stability', *Inside U.S. Trade*, vol. 28, no. 41 (22 Oct. 2010) (WTO Director-General Pascal Lamy warned that currency policies focused on gaining an unfair trade advantage could pose a serious risk to economic stability); Graham Bowley, 'As Dollar's Value Falls, Currency Conflicts Rise', *The New York Times* (20 Oct. 2010); Felipe Larrain, 'Both China and US at Fault in Currency War', *Financial Times* (18 Oct. 2010), at 9; 'IMF Chief Tries to Calm Tension Over Currency', *The New York Times* (7 Oct. 2010) (IMF Managing Director Dominique Strauss-Kahn cited China's currency policy as a primary sticking point in efforts to rebalance the global economy); IMF, *World Economic Outlook: Rebalancing Growth* (April 2010), at 5.

⁵ In early February 2010, President Obama vowed to 'get much tougher' in trade disputes with China and to press for an end to currency regimes that he said depress export prices and put US companies at a disadvantage. 'China Faces New Pressure to Let Currency Rise', *The New York Times*, 6 Mar. 2010. However, since then, the Administration has toned down the public rhetoric, most recently by focusing on 'global imbalances' rather than the currency issue at the G-20 Leaders Summit in Seoul, South Korea in November 2010. See Geithner, 'China's Wang Discuss Economic Ties', *The New York Times* (24 Oct. 2010); Howard Schneider, 'House Bill Backs Obama's Play on China Currency', *The Washington Post*, 23 Sep. 2010, A15.

⁶ On 15 Oct. 2010, the Treasury Department announced that it would delay its semi-annual Report to Congress on International Economic and Exchange Rate Policies, so that it could attempt to address the currency issue at the APEC and G-20 summits in November 2010. Treasury Department Statement Regarding Decision to Delay the International Economic and Exchange Rate Policies Report to Congress, 15 Oct. 2010 (TG-910), available at <www.treasury.gov/press-center/press-releases/Pages/tg910.aspx>.

At the November 2010 summit, the G-20 leaders agreed to continue working toward better exchange rate flexibility and more even trade balances, but avoided setting any firm targets or enforcement for currency undervaluation. Specifically, Germany was able to keep out of the G-20 Leaders' Declaration a US proposal to limit G-20 Members' current account surpluses to 4% of that Members' GDP and China was able to keep out the US proposal to include a

importantly, despite very significant pressure from the US Congress, the US Department of Commerce (hereinafter 'Commerce') has declined to investigate China's undervalued currency⁷ as a countervailable subsidy.⁸ If Commerce continues to refuse to initiate the currency subsidy allegations in the most recent countervailing duty (CVD) petitions, it is very likely that this issue will eventually be litigated at the US Court of International Trade, probably resulting in Commerce being required to initiate an investigation (although not necessarily resulting in a Commerce finding that the Chinese currency regime is a countervailable subsidy).⁹

Chinese officials have publicly rejected foreign pressure over the currency issue.¹⁰ In a 22 March 2010 interview with *The Washington Post*, China's Commerce Minister Chen Deming summarized the Chinese position:

reference to 'refraining from competitive undervaluation'. See *The G20 Seoul Summit Leaders' Declaration* (11-12 Nov. 2010), available at: <http://www.seoulsummit.kr/eng/boardDetailView.g20?boardDTO.board_seq=2010110000003391&boardDTO.board_category=BD02&boardDTO.menu_seq>; see also, BNA *Int'l Trade Daily* (15 Nov. 2010), 'G-20 Leaders Agree to Forge Ahead on Currency, Trade Balances, But No Firm Targets Set'.

⁷ Except for the 'benefit' analysis in s. 2.3, this paper will assume that the renminbi is in fact undervalued vis-à-vis the US dollar, to avoid having to refer to the 'allegedly undervalued' currency.

⁸ On 20 Oct. 2009, Commerce initiated a countervailing duty investigation on imports of certain coated paper suitable for high-quality print graphics using sheet-fed presses from China. *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 Fed Reg 53,703 (20 Oct. 2009) (hereinafter Coated Paper Investigation). The petitioners in the Coated Paper Investigation alleged that China's undervalued currency was a countervailable subsidy. However, Commerce refused to initiate the currency subsidy allegation, claiming that petitioners had not sufficiently alleged 'specificity.' 'Coated Paper Investigation', at 53,706. On 13 Jan. 2010, the petitioners in the Coated Paper Investigation submitted a revised currency subsidy allegation to address Commerce's concerns over the specificity element. Stewart and Stewart, King & Spalding, Petitioners' New Subsidy Allegation on Chinese Currency Allegation, C-570-959 (13 Jan. 2010) (hereinafter 'Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission'). On 25 Feb. 2010, a bipartisan group of fifteen US senators urged Commerce to initiate a countervailing duty investigation into China's currency regime. On 15 Mar. 2010, a total of 130 House Members sent a letter (similar to the 25 Feb. 2010 Senators' letter) to Commerce, as well as a letter to Treasury Secretary Timothy Geithner urging him to name China a currency manipulator. On 28 Apr. 2010, Commerce initiated a countervailing duty investigation on aluminum extrusions from China. *Aluminum Extrusions from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 Fed Reg 22,114 (27 Apr. 2010) (hereinafter 'Aluminum Extrusions Investigation'). The petitioners in the Aluminum Extrusions Investigation made virtually identical currency subsidy allegations as the petitioners in the Coated Paper Investigation; however, Commerce declined to initiate an investigation on the currency subsidy allegations. *Aluminum Extrusions from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 75 Fed Reg 54,302, 54,303 (7 Sep. 2010); Subsidy Allegation – Currency Memorandum, C-570-968 (30 Aug. 2010). Commerce's final determination in the Aluminum Extrusions Investigation is due in March 2011; however, Commerce has already made a final determination in the Coated Paper Investigation, again declining to initiate an investigation into the currency allegation. *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 Fed Reg 59,212 (27 Sep. 2010); Issues and Decision Memorandum, C-570-959 (20 Sep. 2010) at 43–49.

⁹ The petitioner's allegations (that China's currency regime is a countervailable subsidy) in the Coated Paper and Aluminum Extrusions Investigations seem to meet Commerce's initiation standard. See *Countervailing Duties: Final Rule*, 63 Fed Reg 65,407, 65,358 (25 Nov. 1998); *Antidumping Duties; Countervailing Duties: Final Rule*, 62 Fed Reg 27,296, 27,306 (19 May 1997). See *Nucor Fastener Division v. U.S., et al.*, Slip Op. 10-121 (Ct. Int'l Trade 2010), in which Judge Wallach dismissed as unripe a Commerce's decision to not investigate the currency allegation. This concerned a separate investigation on certain standard steel fasteners from China and Taiwan, in which the US International Trade Commission rendered a negative preliminary determination.

¹⁰ See, e.g., Andrew Batson, Ian Johnson, and Andrew Browne, 'China Talks Tough to US on Currency', *Wall Street Journal* (15. Mar. 2010) (Chinese Premier Wen said, 'First of all, I do not think the [RMB] is undervalued,' and added that China is 'opposed to countries pointing fingers at each other or taking strong measures to force other countries to appreciate their currencies'); 'Analysis: Obama Urged to Step Up Yuan Pressure in Hu Meeting', *The New York Times* (10 Jan. 2011) (China has criticized Obama for aggressive US fiscal and monetary policy action that could hurt China's investment in US Government debt by undermining the US currency); 'China Says Yuan Not Main Cause of Sino-US Trade Imbalance', *The New York Times* (6. Jan. 2011); 'MOFCOM Chief Warns Currency Appreciation Will NOT Trim US Deficit', *Inside US-China Trade*, vol. 10, no. 50 (22 Dec. 2010) (Chinese Commerce Minister Chen Deming insisted that an appreciation of China's currency would have no discernible effect on the large US trade deficit with China because

If some congressmen insist on labeling China as a currency manipulator and slap punitive tariffs on Chinese products, then the [Chinese] government will find it impossible not to react. . . If the United States uses the exchange rate to start a new trade war, China will be hurt. But the American people and U.S. companies will be hurt even more.¹¹

Instead, on 19 June 2010, the Chinese resumed their 'managed float' on their own terms and emphasized that it would entail only gradual fluctuations (both up and down) and not include a 'large-scale appreciation'.¹² Since then, the renminbi has appreciated by about 3.5% against the US dollar.¹³

Such a small appreciation will not be satisfactory to many in Congress.¹⁴ Facing constituents with still very high unemployment rates and slow economic growth, many Members of Congress have lost patience, threatening to take matters in their own hands if the Obama Administration does not make progress soon.¹⁵ In September 2010, the US House of Representatives passed, with an overwhelming and bipartisan majority, HR 2378, the *Currency Reform for Fair Trade Act*, legislation designed to enable Commerce to initiate a CVD investigation into China's currency regime (hereinafter 'House Currency Bill' or 'HR 2378'). In the US Senate, Senator Schumer introduced legislation providing for a new aggressive and comprehensive approach to the currency issue, including provisions that would make Commerce initiate a CVD investigation into China's currency regime.¹⁶ However, the Senate ran out of time to organize a vote on either the House

80% of bilateral trade is 'processed goods trade' that involves multinational corporations importing inputs into China and exporting final goods, which obviates the effect of exchange rate levels); Andrew Batson, 'Beijing Tug of War Guides Yuan's Path', *The Wall Street Journal*, 4 Nov. 2010, A17; Alan Beattie, 'China Hits Out on Renminbi', *Financial Times*, 7 Oct. 2010, at 1; 'China: Yuan Exchange Rate of No Concern to Others', *The New York Times*, 18 Jun. 2010; 'Hu Tells Obama: China to Make its Own Call on Yuan', *The New York Times*, 13 Apr. 2010.

¹¹ John Pomfret, 'China's Commerce Minister: U.S. has the Most to Lose in a Trade War', *The Washington Post*, 22 Mar. 2010. See also Andrew Batson, 'China's Hu Pledges Exchange-Rate Reform', *The Wall Street Journal*, 25 May 2010.

¹² *Public Announcement of the People's Bank of China on Further Reform [of] the RMB Exchange Rate Regime and Enhance the RMB Exchange Rate Flexibility* (19 Jun. 2010).

¹³ See 'Analysis: Obama Urged to Step Up Yuan Pressure in Hu Meeting', *The New York Times* (10 Jan. 2011).

¹⁴ On 26 Apr. 2010, US House of Representatives Ways and Means Committee Chairman Sander Levin said that China needs to appreciate the renminbi by a 'significant' amount or the United States will take action: 'I think 2% to 3% over a year would be totally unsatisfactory.' Reuters, *Small Yuan Revaluation Not Enough: Lawmaker* (26 Apr. 2010), available at <<http://uk.reuters.com/article/idUSTR63P5VB20100426>>. See also 'Baucus Vows to Revive 2007 China Currency Bill, Despite Problems', *Inside U.S. Trade*, vol. 28, no. 25 (25 Jun. 2010); 'House Lawmaker Warns China on Currency', *The New York Times*, 16 Jun. 2010.

¹⁵ See 'Some House Republicans Mull Action on China Trade', *The New York Times* (7 Jan. 2011); 'An Early Start on Trade in Congress', *Washington Trade Daily*, vol. 20, no. 7 (11 Jan. 2011); Senators Baucus, Dodd, Grassley, Stabenow, and Schumer, as well as House Ways and Means Committee Chairman Levin, Representatives Michaud, Murphy and Ryan, have all continued their public criticism of China's currency regime. See, e.g., 'Chance of Senate Currency Action On the Rise, Baucus Tells China, Multinationals', *Inside U.S.-China Trade*, vol. 10, no. 42 (27 Oct. 2010); 'Levin, Grassley Raise Possible WTO Case on China Currency Policies', *Inside U.S. Trade*, vol. 28, no. 27 (9 Jul. 2010); BNA *Int'l Trade Daily* (24 Jun. 2010), 'Reps. Ryan, Murphy Trade Coalition Urge More Action on Chinese Currency'; 'Geithner Signals U.S. Patience Waning on China Currency', *The New York Times*, 10 Jun. 2010; Sewell Chan, 'Senators Losing Patience With U.S. Policy on China', *The New York Times*, 10 Jun. 2010.

¹⁶ On 16 March 2010, Senator Schumer, joined by sixteen Senators, introduced The Currency Exchange Rate Oversight Reform Act of 2010, S. 3134, which would: (1) explicitly give Commerce the authority to investigate currency as a countervailable subsidy, (2) replace the 'currency manipulation' laws with laws that allow Treasury to censure China by finding 'currency misalignment' rather than currency manipulation, and (3) require more aggressive action by the Administration if China failed to correct the misalignment, including WTO dispute settlement. Under the current law, 22 USC 5304(b), the Secretary of the Treasury is required to determine whether 'countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments or gaining unfair competitive advantage in international trade'. If the Secretary makes such a determination, then it must initiate

Currency Bill or Senator Schumer's currency bill during its lame-duck session in November and December 2010.¹⁷ Despite the Obama Administration's preference for pursuing bilateral and multilateral negotiations, as well as China's 19 June 2010 announcement to resume its 'managed float', many Members of the new 112th Congress hope to push through some form of China currency legislation as soon as possible.¹⁸ An additional unknown is whether President Obama would veto a China currency bill. It is worth noting that during the 110th Congress (as US Senator) and in his presidential campaign, President Obama supported similar versions of both the House and Schumer proposals.

Broadly speaking, there are two main legal-based¹⁹ approaches to addressing China's currency regime: (1) a WTO challenge²⁰ and (2) CVD investigations. If the United States were to pursue the first approach, *and* win at the WTO, *and* China complied with the Dispute Settlement Body's recommendations by revaluing and/or floating its currency, such success would of course be optimal. It would eliminate not only the injury that the undervalued currency inflicted upon US producers in their domestic market but also the indirect benefits the undervalued currency provides Chinese producers in the Chinese and third-country markets.²¹ However, a WTO challenge would require many more resources and could take a very long time compared to conducting CVD investigations.²²

negotiations with the currency-manipulating country. Under Senator Schumer's proposal, a finding of 'fundamental currency misalignment' would trigger several additional consequences. Immediately upon such a finding, the United States would be required to begin opposing any IMF governance changes that would benefit the designated country. If the country failed to remedy the currency misalignment in ninety days, then the following would result: (1) Commerce could include currency undervaluation in dumping calculations, (2) federal procurement from the designated country would be prohibited, (3) Treasury would be required to request the IMF to engage the designated country in special consultations over its misaligned currency, (4) Overseas Private Investment Corporation (OPIC) financing and insurance for projects in the designated country would be prohibited, and (5) the United States would be required to oppose new multilateral bank financing for projects in the designated country. If the country failed to remedy the currency misalignment after one year, then the US Trade Representative would be required to request dispute settlement consultations at the WTO and Treasury would be required to consult with the Federal Reserve Board and other central banks to consider remedial intervention in currency markets.

¹⁷ See, e.g., 'Some House Republicans Mull Action on China Trade', *The New York Times* (7 Jan. 2011).

¹⁸ As of 12 January 2011 (the date of the submission of this paper for publication), the 112th Congress has just convened. House Democrats have already tried to re-introduce the House Currency Bill/HR 2378, and while many Republicans support such an approach, two key House Republicans – House Ways and Means Committee Chairman David Camp and House Ways and Means Subcommittee on Trade Chairman Kevin Brady – are against China currency legislation. See 'Some House Republicans Mull Action on China Trade', *The New York Times* (7 Jan. 2011); 'An Early Start on Trade in Congress', *Washington Trade Daily*, vol. 20, no. 7 (11 Jan. 2011). But see Alan Beattie and James Politi, 'Call to Rejuvenate US Trade Policy', *Financial Times* (11 Jan. 2011); 'Brady Signals China Currency Bill Will Not Advance Under Republican House', *Inside U.S.-China Trade*, vol. 10, no. 44 (10 Nov. 2010).

¹⁹ 'Legal'-based, as opposed to politically based, in which the latter would include labeling China a 'currency manipulator' under the current US law, which would only lead to further bilateral negotiations or IMF consultations. See above, n. 16.

²⁰ If the United States were to challenge China's currency at the WTO, in addition to alleging that China's currency is a prohibited and/or actionable subsidy under GATT Art. XVI and the SCM Agreement, it would likely claim that China's currency violated GATT Art. XV(4), which prohibits Members from using exchange actions to frustrate the intent of GATT or the Articles of Agreement of the IMF. The United States would also surely allege that China's currency 'nullifies or impairs' the US benefits under the GATT, pursuant to GATT Art. XXIII.

²¹ Assuming the renminbi is undervalued vis-à-vis the US dollar, it makes Chinese exports to the United States cheaper compared to US products and also makes US products more expensive than Chinese products in the Chinese domestic market, as well as other third-country markets.

²² While SCM Agreement Art. 4.12 provides for a shorter period for prohibited subsidies challenges before the WTO, if the United States challenged China's currency under GATT Art. XV(4), a WTO panel would require consultations with the IMF pursuant to GATT Art. XV(2). If China were to challenge the United States' imposition of countervailing duties on Chinese currency subsidies, there would also need to be some IMF involvement on determining the level of renminbi undervaluation, pursuant to GATT Art. XV(2), but it would certainly not require

Furthermore, a US-initiated WTO challenge would seemingly be perceived as more provocative than a CVD investigation. Lastly, there is also the distinct possibility of the United States losing the WTO challenge,²³ which would seemingly preclude it from treating the Chinese currency as a countervailable subsidy in its CVD investigations.

The second approach, which this paper will examine in detail, is treating China's currency regime as a countervailable subsidy on product- and industry-specific bases. If the United States does eventually pursue this course, China will certainly challenge any such action at the WTO. However, from a strategic point of view, if the United States decided that it wanted to be more aggressive with China on the currency issue without labeling China a 'currency manipulator' or challenging the whole entire Chinese currency regime at the WTO, CVD law would: (1) provide faster relief to some affected US industries;²⁴ (2) show the American public that the Administration was 'tough on China'; (3) provide a powerful bargaining chip for ongoing US-Sino negotiations, including Chinese President Hu Jintao's planned state visit to the United States in January 2011, the next US-China Strategic and Economic Dialogue (S&ED), and future G-20 summits; and (4) 'put the ball in China's court' such that China would have to decide whether to challenge the United States at the WTO for its imposition of CVDs for currency subsidies. If China chose to pursue WTO dispute settlement, as already mentioned, it would be a long and drawn out process, but there would be two important differences from the United States initially challenging China's currency regime at the WTO. First, the United States could continue applying CVD law to Chinese currency subsidies during the WTO proceedings. Second, China would have the burden of proving that the United States was in violation of the WTO subsidy rules, rather than the other way around.

an IMF determination that China has frustrated the intent of the Articles of Agreement of the IMF. For a comprehensive discussion of the IMF-WTO relationship, see Deborah Siegel, 'Legal Aspects of the IMF/WTO Relationship: The Fund's Articles of Agreement and the WTO Agreements', *American Journal of International Law* (AJIL) 96 (2002): 561 (hereinafter 'Siegel'). See also Panel Report, *India-Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, WT/DS90/R (6 Apr. 1999) (adopted 22 Sep. 1999), as modified by Appellate Body Report, WT/DS90/AB/R, AB-1999-3. The controversial 'Boeing-Airbus' dispute took over five years just to release the panel's report. See Panel Report, *European Communities – Measures Affecting Trade in Large Civil Aircraft*, WT/DS316/R (adopted 30 Jun. 2010). A US-China dispute on currency is certainly more politically charged and thus could take at least as long as the Boeing-Airbus dispute for a panel to issue its report. This would very likely be followed by an appeal to the Appellate Body, possible additional dispute settlement procedures on implementation (pursuant to the WTO's Dispute Settlement Understanding (DSU) Art. 21.5), and/or arbitration on the amount of compensation (pursuant to DSU Art. 22.6). On the other hand, a US countervailing duty investigation can be completed in as little as seven months (but no more than one year).

²³ It is very questionable whether such a challenge would succeed. See Arvind Subramanian & Aaditya Matto, 'Currency Undervaluation and Sovereign Wealth Funds: A New Role for the World Trade Organization' (Center For Global Development, Working Paper No. 142, 2008), at 4; Gary C. Hufbauer et al., *U.S.–China Trade Disputes: Rising Tides, Rising Stakes* (Washington, DC: Institute for International Economics, 2006), at 19 (hereinafter 'Hufbauer'); Bryan Mercurio & Celine Sze Ning Leung, 'Is China a "Currency Manipulator"? The Legitimacy of China's Exchange Regime under the Current International Framework', *The International Lawyer* 43 (2009): 1257, at 1292–1293 (hereinafter 'Mercurio & Leung'). But see Jorge Miranda, 'Currency Undervaluation as a Violation of GATT Article XV(4)', in *The US-Sino Currency Dispute: New Insights from Economics, Politics and Law*, ed. Simon Evenett (Centre for Economic Policy Research, 2010), 115.

²⁴ In United States countervailing duty annual administrative reviews, parties can add new subsidy allegations to Chinese imports currently subject to CVDs. 19 CFR 351.301(d)(4)(i)(B). Subsidy allegations could also of course be included in new countervailing duty petitions brought against Chinese imports.

Thus, for all of the above reasons, it is the perfect time to undertake a comprehensive legal analysis of whether the United States would be acting consistently with its international obligations under the rules of the WTO if it were to treat China's undervalued currency as a countervailable subsidy. Specifically, this paper will discuss and evaluate the most significant issues and likely arguments the United States and China would make before a WTO dispute settlement panel charged with determining whether the United States' treatment of China's currency regime as a countervailable subsidy is consistent with the WTO's *Agreement on Subsidies and Countervailing Measures* (hereinafter 'SCM Agreement').

This paper does not take sides in the debate of whether to begin imposing CVDs on China's currency undervaluation. It is not the purpose of his paper to advocate any particular proposed strategy. Indeed, implementation of any such strategy must be considered with extreme caution. Nonetheless, if and when the US Government decides that the time has come to aggressively address the China currency issue and its accompanying problems, only measures that are consistent with US obligations under the international trade rules of the WTO should be considered as realistic possibilities. Furthermore, strategies and measures with the best chance of success should be preferred. The goal of this paper is to analyse and evaluate the most important considerations and legal issues surrounding the potential treatment of China's currency regime as a countervailable subsidy.

2. ANALYSIS OF CHINA'S CURRENCY REGIME UNDER THE SCM AGREEMENT

2.1. SCM AGREEMENT FRAMEWORK

The WTO's rules on subsidies and subsidized trade are embodied in GATT Articles VI and XVI and the SCM Agreement.²⁵ The object and purpose of the SCM Agreement is to establish multilateral disciplines on subsidies that distort trade.²⁶ Under SCM Agreement Article 1.1, in order for a subsidy to exist, two elements must be present: (1) a 'financial contribution' or 'income or price support' by a government or public body; and (2) 'a benefit is thereby conferred'. SCM Agreement Article 1.2 provides that the WTO's rules on subsidies only apply to subsidies that are 'specific in accordance with the provisions of Article 2'. A WTO Member whose domestic industry is injured by reason of subsidized

²⁵ The SCM Agreement forms part of Annex 1A to the *Marrakesh Agreement Establishing the World Trade Organization* (15 Apr. 1999) (hereinafter 'WTO Agreement').

²⁶ See Panel Report, *Brazil – Export Financing Programme for Aircraft*, WT/DS46/R (adopted 20 Aug. 1999), as modified by Appellate Body Report, WT/DS46/AB/R (hereinafter '*Brazil – Aircraft*'), at para. 7.26 ('The object and purpose of the SCM Agreement is to impose multilateral disciplines on subsidies which distort international trade.');

Panel Report, *Canada – Measures Affecting the Export of Civilian Aircraft*, WT/DS70/R (adopted 20 Aug. 1999), as modified by Appellate Body Report, WT/DS70/AB/R (hereinafter '*Canada – Aircraft*'), at para. 9.119 ('The object and purpose of the SCM Agreement could more appropriately be summarized as the establishment of multilateral disciplines "on the premise that some forms of government intervention distort international trade [or] have the potential to distort [international trade]"').

imports has the option of challenging the subsidy at the WTO²⁷ or unilaterally imposing CVDs on the subsidized imports.²⁸

The focus of this paper is to evaluate whether China's currency regime can properly be treated as an actionable subsidy under the WTO rules, for purposes of imposing CVDs. The requirements of 'causation' and 'injury' become important once it is determined that China's currency regime is in fact a 'subsidy' under WTO rules. However, this paper will not address 'causation' and 'injury' in any further detail, as both analyses will vary considerably in each individual CVD investigation and would be no different for a Chinese currency subsidy than any other actionable subsidy.²⁹

2.2. FINANCIAL CONTRIBUTION

2.2.1. *In General*

The first element of an actionable subsidy is a financial contribution by a Member government.³⁰ The United States would need to establish that the Chinese currency regime constitutes a 'financial contribution' as (1) a 'direct transfer of funds';³¹ (2) 'government revenue...foregone or not collected';³² (3) government provision of a good or service;³³ or (4) the government entrusting or directing a private body to perform one of the first three functions mentioned above.³⁴ Alternatively, the US could treat the Chinese currency regime as an 'income or price support' for Chinese producers and exporters, which if proven true would satisfy the 'financial contribution' requirement of SCM Article 1.1(a).³⁵

The list of four possible types of 'financial contributions' in SCM Agreement Article 1.1(a) is exhaustive. The negotiating history of SCM Agreement Article 1 demonstrates that the requirement of a financial contribution was intended to ensure that not all government measures that conferred benefits would be treated as subsidies.³⁶ Nonetheless,

²⁷ Pursuant to SCM Agreement Art. 4 for prohibited subsidies and Art. 7 for actionable subsidies. If a WTO panel determines that a subsidy is prohibited, then it must be withdrawn immediately. SCM Agreement Art. 4.7. If a panel determines that a non-prohibited subsidy adversely affects a domestic industry, then that subsidy is actionable, and the offending Member must take appropriate steps to remove the adverse effects or withdraw the subsidy. SCM Agreement Arts 5, 7.1, and 7.8.

²⁸ If follows from GATT Art. VI and SCM Agreement Arts 10 and 32.1 that WTO Members may only impose countervailing duties when subsidized imports cause injury to the domestic industry. See also SCM Agreement Arts 1, 2, 14, 15, and 16.

²⁹ SCM Agreement Art. 15.5 requires demonstrating that the subsidized imports are 'causing injury' to the domestic industry. For an interesting discussion of the potential difficulties in assessing the trade effects of a currency subsidy, see Robert W. Staiger & Alan O. Sykes, 'Currency "Manipulation" and World Trade: A Caution', in *The US-Sino Currency Dispute: New Insights from Economics, Politics and Law*, ed. Simon Evenett (Centre for Economic Policy Research, 2010), 109.

³⁰ SCM Agreement Art. 1.1(a)(1).

³¹ *Ibid.*, at Art. 1.1(a)(1)(i).

³² *Ibid.*, at Art. 1.1(a)(1)(ii).

³³ *Ibid.*, at Art. 1.1(a)(1)(iii).

³⁴ *Ibid.*, at Art. 1.1(a)(1)(iv).

³⁵ *Ibid.*, at Art. 1.1(a)(2).

³⁶ Panel Report, *United States – Measures Treating Exports Restraints as Subsidies*, WT/DS194/R (adopted 23 Aug. 2001) (hereinafter 'US – Export Restraints'), para. 8.65.

the concept of 'financial contribution' is quite broad. For example, WTO panels have found the following all to be financial contributions: (1) a government stumpage programme, in which harvesting companies were permitted to cut trees;³⁷ (2) interest reductions and deferrals, interest/debt forgiveness, and debt-for-equity swaps;³⁸ and (3) export insurance guarantees and the purchase of corporate bonds.³⁹ This range of government measures capable of providing subsidies is further broadened by the concept of 'income or price support' in SCM Agreement Article 1.1(a)(2).

2.2.2. *Direct Transfer of Funds*

The first approach for finding a financial contribution ('direct transfer of funds') would focus on China's currency regime requiring 'designated banks' to exchange foreign currency for renminbi at the Chinese Government's administered exchange rate.⁴⁰

Some have interpreted WTO jurisprudence as equating 'financial contribution' to 'cost to government' and concluded that China's currency regime does not have such an 'observable budget cost'.⁴¹ However, the Appellate Body has made clear that 'cost to government' is irrelevant to the analysis. Financial contributions are not necessarily a cost to government, nor does a cost to government necessarily confer a benefit.⁴² Very importantly, it is undeniable that *certain* currency and exchange measures qualify as either 'financial contributions' or 'income or price support' under SCM Agreement Article 1.1(a). Note 2 to paragraphs 2 and 3 of GATT Article VI expressly provides that 'multiple currency practices' can constitute prohibited export subsidies.⁴³ Furthermore, the SCM Agreement's Illustrative List of Export Subsidies in Annex I (which are prohibited under the WTO) explicitly includes 'currency retention schemes and *any similar practices which include a bonus on exports*' (emphasis added) (Item (b))⁴⁴ and the governmental provision of exchange rate risk programs (Item (j)).⁴⁵ Of course, this does not necessarily lead to the conclusion that a WTO panel would determine that China's *specific* currency regime entails

³⁷ See Panel Report, *United States – Preliminary Determinations with Respect to Certain Softwood Lumber from Canada*, WT/DS236/R (adopted 1 Nov. 2002) (hereinafter '*US – Softwood Lumber III*'), para. 7.30.

³⁸ See Panel Report, *Korea – Measures Affecting Trade in Commercial Vessels*, WT/DS273/R (adopted 11 Apr. 2005) (hereinafter '*Korea – Commercial Vessels*'), para. 7.31; and Panel Report, *Japan – Countervailing Duties on Dynamic Random Access Memories from Korea*, WT/DS336/R (adopted 17 Dec. 2007), as modified by Appellate Body Report WT/DS336/AB/R (hereinafter '*Japan – DRAMs (Korea)*'), para. 7.446.

³⁹ See Panel Report, *European Communities – Countervailing Measures on Dynamic Random Access Memory Chips from Korea*, WT/DS299/R (adopted 3 Aug. 2005) (hereinafter '*EC – DRAMs*'), paras 7.87 and 7.92.

⁴⁰ See Regulations of the People's Republic of China on Foreign Exchange Control, Order No. 211, 1997 of the State Council (14 Jan. 1997), at Art. 9.

⁴¹ See, e.g., Hufbauer, at 21–22 ('observable budget cost or targeted concession').

⁴² See Appellate Body Report, *Canada – Aircraft*, paras 149–161.

⁴³ GATT Ad Art. VI, paras 2 and 3 ('Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3.').

⁴⁴ A government's currency retention scheme would allow its exporters to retain foreign-exchange earnings rather than exchange them for local currency. Siegel, at 596.

⁴⁵ Item (j) reads: 'The provision by governments...of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes'.

a ‘financial contribution’ in the form of a direct transfer of funds under SCM Agreement Article 1.1(a)(1)(i). But this argument certainly seems to have merit.

2.2.3. *Uncollected Government Revenue*

The United States could attempt to argue that, by undervaluing Chinese renminbi in relation to US dollars, the Chinese Government is foregoing or not collecting revenue ‘otherwise due’ when it exchanges renminbi for dollars. This would likely be a losing argument. SCM Agreement Article 1.1(a)(1)(ii) refers to ‘fiscal incentives such as tax credits’ as an example of government revenue foregone, and the only WTO jurisprudence on this provision thus far has been in reference to US income tax law, in the *United States – Tax Treatment for ‘Foreign Sales Corporations’* line of disputes (hereinafter ‘*US – FSC*’). Thus, the United States would likely need to somehow analogize the US government not collecting taxes on certain types of income (as in *US – FSC*) to Chinese banks paying excess renminbi for dollars. However, ‘financial contribution’ under SCM Agreement Article 1.1(a)(1)(ii) requires a negative act, in that a government is declining to do an action that it otherwise does in normal situations.

More specifically, in *US – FSC (Article 21.5 – EC)*, the Appellate Body determined whether the government measure entailed foregoing revenue ‘otherwise due’ by comparing the treatment of income subject to the contested government measure with the ‘treatment of the relevant income for taxpayers in comparable situations’.⁴⁶ Under this reasoning, the Chinese currency regime should not be compared to a theoretical ‘market-determined exchange rate’ but to the exchange rate in ‘comparable situations’ in China. The United States would be unable to point to comparable situations *in China* in which banks did *not* provide ‘excess’ renminbi in foreign exchange transactions – all authorized banks exchange dollars for renminbi at the current government-administered and undervalued rate.

2.2.4. *Government Provision of Goods or Services*

Another possible approach would be for the United States to establish that China’s currency regime constitutes a government provision of ‘goods or services other than general infrastructure’ under SCM Agreement Article 1.1(a)(1)(iii). The panel on *US – Softwood Lumber III* noted that the term ‘goods’ in the sense of Article 1.1(a)(1)(iii) is broad but did not include ‘money’.⁴⁷ The petitioners in the Coated Paper Investigation alleged that China’s currency regime provides Chinese exporters the ‘service’ within the meaning of SCM Agreement Article 1.1(a)(1)(iii), in the form of protection from the need to hedge

⁴⁶ Appellate Body Report, *United States – Tax Treatment for ‘Foreign Sales Corporations’*, WT/DS/108/AB/R (adopted 20 Mar. 2000) (hereinafter ‘*US – FSC (Article 21.5 – EC)*’), paras. 89–92.

⁴⁷ See Panel Report, *US – Softwood Lumber III*, paras. 7.22–7.23.

against foreign-exchange and exchange-rate fluctuations between the renminbi and the dollar.⁴⁸

Annex I to the SCM Agreement is an 'Illustrative List of Export Subsidies' and includes exchange-rate insurance or guarantee programs.⁴⁹ With China's currency regime in place, there is little need for Chinese (or US) businesses to spend money on hedging against USD-RMB exchange rate volatility, which can be an expensive part of conducting international trade transactions. However, there are significant problems with equating a 'managed float' exchange rate to either SCM Agreement Article 1.1(a)(1)(iii) or Annex I's item (j). First, it is unclear whether a 'service' under SCM Agreement Article 1.1(a)(1)(iii) includes government actions that have the indirect effect of making a service basically unnecessary. Second, the specific reference in Annex I to the 'cost' of the exchange risk programme is problematic. The United States could argue that the Chinese Government will in fact eventually lose money on dollar assets when the exchange rate is 'inevitably' revalued.⁵⁰ However, it could be a challenge to show the cost that the Chinese Government incurs to provide the 'service' of exchange risk hedging because the 'hedge' is the result of the 'managed float' itself, not any undervaluation of such 'managed float' exchange rate. Alternatively, the United States could argue that China's massive stockpile of USD 2.85 trillion in foreign currency reserves (and USD 1 trillion of US Treasury bills) is a 'cost to government'.

In the end, it seems very unlikely that a WTO panel would rely on such a speculative argument to conclude that China's currency regime constitutes a financial contribution under SCM Agreement Article 1.1(a)(1)(iii), particularly in light of China's June 2010 announcement to return to the 'managed float'.

2.2.5. *Indirect Financial Contribution/Entrustment or Direction*

If any of China's 'authorized foreign exchange banks' are private entities (i.e., if they are not owned or controlled by the Government of China), then the United States would argue that the Chinese Government has 'entrusted or directed' such banks to exchange dollars for renminbi. Thus, if necessary, the United States could argue that any private Chinese authorized foreign exchange banks' exchange of dollars for renminbi is an indirect 'financial contribution' pursuant to SCM Agreement Article 1.1(a)(1)(iv).

In *US – Export Restraints*, the panel noted that a financial contribution under SCM Agreement Article 1.1(a)(1)(iv) requires the following five elements:

- (1) a government 'entrusts or directs',
- (2) 'a private body',

⁴⁸ Stewart and Stewart, King & Spalding, *Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Coated Paper from Indonesia and the People's Republic of China; Request for Proprietary Treatment and Accompanying Certifications*, C-570-959 (23 Sep. 2009) (hereinafter 'Coated Paper Investigation Petition'), at 130.

⁴⁹ 'The provision by governments... of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.' SCM Agreement Annex I, item (j).

⁵⁰ See Hufbauer, at 21–22.

- (3) 'to carry out one or more of the type of functions illustrated in' subparagraphs (i) to (iii) of Article 1.1(a)(1),
- (4) 'which would normally be vested in the government', and
- (5) 'the practice, in no real sense, differs from practice normally followed by governments'.⁵¹

The panel found the first element – 'an explicit and affirmative action of delegation or command' – to be determinative.⁵² This element refers to a 'situation in which the government executes a particular policy by operating through a private body'.⁵³ The government-owned People's Bank of China administers the renminbi exchange rates, and government-approved banks are explicitly directed to conduct foreign exchange transactions at the government-administered exchange rates.⁵⁴

It seems highly likely that if a WTO panel is satisfied that government-owned Chinese banks are providing financial benefits, in the form of 'direct transfers of funds', 'government revenue foregone', or 'provision of services', it would also find that the Government of China provides indirect 'financial benefits' via any government-authorized Chinese private foreign exchange banks under SCM Agreement Article 1.1(a)(1)(iv).

2.2.6. *Income or Price Support*

In lieu of showing a 'financial contribution' under SCM Agreement Article 1.1(a)(1), the United States could attempt to argue that China's currency regime is a 'form of income or price support within the meaning of Article XVI of the GATT 1994' under SCM Agreement Article 1.1(a)(2).⁵⁵

Article XVI:1 of GATT 1994 includes 'income or price support' as a 'subsidy... which operates directly, or indirectly to increase exports of any product from, or to reduce imports of any product into [a Member's] territory'. The SCM Agreement explicitly includes 'income or price support' as described above in its definition of subsidy: '[A] subsidy shall be deemed to exist if there is a financial contribution by a government... or there is *any form of* income or price support in the sense of Article XVI of GATT 1994 and a benefit is thereby conferred'.⁵⁶ Unfortunately, 'income or price support within the meaning of Article XVI of the GATT 1994' has never been interpreted in WTO dispute settlement involving the SCM Agreement. The concept of 'income or price support' has been interpreted in WTO disputes concerning the *Agreement on Agriculture* as essentially referring to when a government commits to buy domestic agricultural products at a high set

⁵¹ Panel Report, *US – Export Restraints*, para. 8.25.

⁵² *Ibid.*, para. 8.30.

⁵³ Panel Report, *US – Export Restraints*, para. 8.28. The Panel found that 'any entity other than a government or a public body' that could receive the entrustment or direction could constitute a 'private body.' *Ibid.*, para. 8.49.

⁵⁴ Regulations of the People's Republic of China on Foreign Exchange Control, at Arts 33, 35, and 36. See below, n. 101.

⁵⁵ Petitioners in the Coated Paper Investigation made such an allegation. Coated Paper Investigation Petition, at 132.

⁵⁶ SCM Agreement Art. 1.1 (emphasis added).

price, regardless of world market prices.⁵⁷ A WTO panel could analogize the meaning of 'income or price support' in the *Agreement on Agriculture* context to the Chinese Government committing to buy US dollars at high prices (under the 'managed float's' undervalued exchange rate), regardless of what a market-determined exchange rate would value the renminbi.⁵⁸

It is unclear how a WTO panel would define 'income or price support within the meaning of Article XVI of the GATT 1994'. In the end, it seems very unlikely that a panel would place heavy reliance on finding that China's foreign exchange and currency regime constitutes an 'income or price support' under SCM Agreement Article 1.1(a)(2) to satisfy the first requirement of SCM Agreement Article 1.1(a).

2.2.7. Evaluation

A WTO panel would need to find a 'financial contribution' under at least one of five approaches outlined above. Challenging a Member's currency regime as a subsidy would be a case of first impression for the WTO. What at first seems like a compelling argument against a finding of 'financial contribution' or 'income or price support' is that the exhaustive list of government practices under SCM Agreement Article 1.1(a) does not refer to currency regimes, exchange rates, or undervalued currencies⁵⁹ because currency measures and exchange rates are left to the exclusive jurisdiction of the IMF.⁶⁰ However, upon further examination, it is completely clear that the WTO has not ceded all jurisdiction over exchange measures, *as they relate to international trade*. While GATT Articles XV(1) and XV(2) require the WTO to consult with the IMF concerning 'foreign exchange arrangements,' GATT Article XV(4) prohibits WTO Members from frustrating the intent of the GATT by exchange action (as well as the intent of the IMF Articles of Agreement). Most importantly, the WTO is required to accept certain *factual* IMF determinations regarding monetary reserves, balance of payments, or foreign exchange arrangements,⁶¹

⁵⁷ See, e.g., *European Communities – Customs Classification of Certain Computer Equipment*, WT/DS269/AB/R, WT/DS286/AB/R (adopted 27 Sep. 2005); *Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products*, WT/DS103/AB/R (adopted 27 Oct. 1999); *Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, WT/DS161/AB/R (adopted 10 Jan. 2001).

⁵⁸ Using dictionary definitions of the noun 'support' and 'exchange rate', petitioners in the Coated Paper Investigation argue that:

[B]y constantly intervening in the foreign market to prevent the price of dollars in terms of RMB from falling (that is, to prevent the dollar from depreciating vis-à-vis the RMB), the [Government of China] provides 'price support' to Chinese producers of coated paper. In turn, such 'price support' operates directly to increase exports of this product, on account that the price support concerned (i.e., the support of the exchange rate) allows the dollar price of Chinese imports of coated paper into the United States to remain at artificially low levels. Hence, China's currency manipulation constitutes a 'form of income or price support within the meaning of Art. XVI of GATT 1994'.

Coated Paper Investigation Petition, at 133–134.

⁵⁹ See Michael Waibel, 'Retaliating Against Exchange-Rate Manipulation Under WTO Rules', in *The US-Sino Currency Dispute: New Insights from Economics, Politics and Law*, ed. Simon Evenett (Centre for Economic Policy Research, 2010), 133, 135; Hufbauer, at 21, fn. 28, and 22.

⁶⁰ See, e.g., Waibel, at 136; Hufbauer, at 22.

⁶¹ See Siegel, at 570–572.

but the WTO retains the responsibility of making the legal determination of whether its Members' actions are WTO-consistent.⁶²

As mentioned in section 1 of this paper, it is unlikely that a WTO panel would conclude that China's currency regime violates GATT Article XV(4). However, regardless of whether China's currency regime violates GATT Article XV(4), currency regimes and/or currency undervaluation could still be an export subsidy under the SCM Agreement, as explained above in section 2.2.2.⁶³ Nonetheless, the question remains whether a panel would find that China's currency regime is sufficiently similar to the enumerated currency practices to satisfy SCM Agreement Article 1.1(a). It certainly seems possible that a panel could determine that China's currency regime is both practically and functionally similar to the enumerated currency measures in the Illustrative List of Export Subsidies, in that it gives a 'bonus on exports' by undervaluing the renminbi vis-à-vis the dollar.⁶⁴ The ultimate conclusion that China's currency regime is a prohibited export subsidy is not dependent upon a finding that certain aspects of the programs used to implement the overall regime are separately identified on the SCM's Illustrative List of export subsidies. But such a finding would be significant: subsidies coming under purview of the Illustrative List are *ipso facto* prohibited.⁶⁵

More importantly, the exchange of dollars for renminbi seems to in fact be a 'direct transfer of funds' under SCM Agreement Article 1.1(a)(1)(i): Chinese banks transfer renminbi to exporters in exchange for dollars. Of the five approaches listed in SCM Agreement Article 1.1(a), for the reasons discussed above, 'direct transfer of funds' seems to have the best chance of being accepted by a WTO panel; 'government revenue foregone', the worst chance; and the 'provision of services', somewhere in between those two approaches. If either of the first three were accepted, then a panel would very likely also accept the 'entrustment or direction' approach articulated in SCM Agreement Article 1.1(a)(1)(iv) if applicable. The 'income or price support' approach is a complete wildcard. While it is specifically enumerated in SCM Agreement Article 1, it has never been examined by a WTO panel under the SCM Agreement, and for that reason, it seems unlikely that a panel would place heavy reliance on it for its ultimate conclusion under SCM Agreement Article 1.1(a).

⁶² See *Ibid.*, at 580.

⁶³ See John R. Magnus, 'Chinese Subsidies and US Responses', Testimony before the U.S.–China Economic and Security Review Commission (5 Apr. 2006) (Hearing on China's World Trade Organization Compliance: Industrial Subsidies and The Impact on US and World Markets) (hereinafter 'Magnus USSC 2006 Testimony') ('[I]t seems possible that enforced undervaluation of a currency can result in a subsidy under the [SCM Agreement] without necessarily qualifying as "currency manipulation" as defined in the IMF Articles of Agreement. For instance...[c]urrency manipulation for IMF purposes includes an "intent" requirement not present in the [SCM Agreement]'). See also *General Interpretative Note to Annex 1 to WTO Agreement* ('In the event of conflict between a provision of [GATT] and a provision of another agreement in Annex 1A to the [WTO Agreement], the provision of the other agreement shall prevail to the extent of conflict').

⁶⁴ See Item (b) ('Currency retention schemes or any similar practices which involve a bonus on exports').

⁶⁵ *Brazil – Export Financing Programme for Aircraft, Second recourse by Canada to Article 21.5 of the DSU*, WT/DS46/RW2 (adopted 26 Jul. 2001).

If a WTO panel does find 'financial contribution' or 'income or price support', the analysis and calculation of 'benefit' (see below) would be determined by which approach the panel accepts.

2.3. BENEFIT

2.3.1. *In General*

If a WTO panel found that the 'financial contribution' requirement is met under SCM Agreement Article 1.1(a), then it would determine whether a 'benefit' is conferred upon the recipient Chinese exporters, under SCM Agreement Article 1.1(b).

If the Chinese currency is in fact undervalued, it seems clear that Chinese exporters receive a 'benefit' in the normal sense of the term, in that they receive more renminbi per dollar than they otherwise would if the renminbi were fairly valued. Although 'benefit' is not defined in the SCM Agreement, WTO case law has established the technical meaning of 'benefit' under the SCM Agreement. The Appellate Body has explained that a 'benefit' exists when a governmental financial contribution 'makes the recipient "better off" than it would otherwise have been, absent that contribution'.⁶⁶ The Appellate Body in *Canada – Aircraft* clarified that the basis for determining whether a recipient is 'better off' is the 'marketplace', more specifically 'whether the recipient has received a "financial contribution" on terms more favorable than those available to the recipient in the market'.⁶⁷

As mentioned in the previous section (section 2.2.7), the analysis of 'benefit' would differ depending on what type of 'financial contribution' the Chinese Government conferred on its exporters. This paper will first conduct the fairly straightforward 'benefit' analysis a WTO panel would perform if it found that the Chinese currency regime provided a 'financial contribution' under the 'provision of services' approach enumerated in SCM Agreement Article 1.1(a)(1)(iii). Then this paper will attempt the much more troublesome 'benefit' analysis a WTO panel would need to conduct if it found that the Chinese currency regime provided a 'financial contribution' under the 'direct transfer of funds', 'government revenue foregone', or 'income or price support' approaches enumerated in SCM Agreement Articles 1.1(a)(1)(i), 1.1(a)(1)(ii), and 1.1(a)(2), respectively.

2.3.2. *Governmental Provision of Services*

If the relevant authority (Commerce or a WTO panel) found that China's currency regime provides Chinese exporters a currency-hedging 'service' within the meaning of SCM Agreement Article 1.1(a)(1)(iii),⁶⁸ then the 'benefit conferred' would be equal to the extent

⁶⁶ See Appellate Body Report, *Canada – Aircraft*, para. 157.

⁶⁷ *Ibid.*

⁶⁸ The petitioners in the Coated Paper Investigation made such allegations. See Coated Paper Investigation Petition, at 130.

that such service is ‘provided for less than adequate remuneration’.⁶⁹ SCM Agreement Article 14(d) further explains that:

The adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

Thus, the US would need to show that foreign-exchange risk insurance exists in the Chinese market (which it presumably does for trade with non-dollar currency countries). Then the ‘benefit’ would be the market cost for such insurance, since Chinese exporters receive the US dollar hedging service for free from the Government of China, which is surely ‘less than adequate remuneration’.⁷⁰

2.3.3. *Direct Transfer of Funds, Revenue Foregone, and Income or Price Support*

If a WTO panel determines that the Chinese currency regime provides exporters a ‘financial contribution’ in the form of a ‘direct transfer of funds’, ‘revenue foregone’, or ‘income or price support,’ then the benefit analysis becomes much more difficult and controversial. The calculation of ‘benefit conferred’ would be the difference between the amount of local currency (RMB) currently provided to exporters in exchange for foreign currency (USD) and the amount of local currency they would have received ‘absent the government’s intervention’, that is, the renminbi’s ‘equilibrium rate of exchange’.⁷¹

SCM Agreement Article 14 is the relevant context for interpreting the term ‘benefit’ in SCM Agreement Article 1.1(b).⁷² Specifically, the chapeau of SCM Agreement Article 14 requires that any method used to calculate benefit must be consistent with Article 14’s guidelines for four types of financial contributions.

The current US statute and implementing regulations for CVDs follow SCM Agreement Article 14 very closely.⁷³ However, the guidance provided in Article 14 is not very helpful for an analysis of whether China’s currency regime provides Chinese exporters a ‘benefit’ under the SCM Agreement. There is no explicit guidance for when a financial contribution is a ‘direct transfer of funds’, ‘government revenue foregone’, or ‘income or price support’ in SCM Agreement Article 14. The United States could attempt to analogize the direct transfer of funds to Article 14(a)’s ‘government provision of equity capital’ and argue that banks provision of more renminbi for dollars than they would under a

⁶⁹ See Coated Paper Investigation Petition, at 131; SCM Agreement Art. 14(d).

⁷⁰ It may be necessary to use third country costs for foreign-exchange risk to determine the benefit. See s. 2.3.3 for more on alternative benchmarks.

⁷¹ See Coated Paper Investigation Petition, at 130–131. The House Currency Bill (HR 2378) provides for using the renminbi’s ‘equilibrium real effective exchange rate’ as the benchmark for comparison to the current exchange rate. HR 2378, Sec. 2(c)(B). See also Sen. Schumer’s proposal, S. 3134, s. 110(b).

⁷² See Appellate Body Report, *Canada – Aircraft*, para. 155; Magnus USSC 2006 Testimony (SCM Agreement Art. 14 is entitled ‘calculation of the amount of a subsidy in terms of the benefit to the recipient’ and is contained in Part V of the SCM Agreement, so it applies directly to CVD investigations, but it would likely also apply in a WTO case brought under the SCM Agreement).

⁷³ See 19 USC 1677(E) and 19 CFR 351.503–525.

market-determined exchange rate is not 'the usual investment decision... of private investors,' but undervalued exchange rates seem quite different from equity capital infusions. Similarly, the guidance in Article 14(c) could be used to argue that the appropriate benchmark for the Chinese currency regime should be what the RMB-USD exchange rate would be 'absent Chinese Government's control of the "managed float",' but undervalued exchange rates are very different from loan guarantees. However, the most helpful guidance in Article 14 is Article 14(b) and Article 14(d). Using the guidance in Article 14(b), the benchmark for determining the benefit of a government loan could be analogized to what the RMB-USD exchange rate would be if it were 'market-determined'. China's currency regime's 'direct transfer of funds' seems to be most similar to Article 14(d)'s 'purchase of goods... for more than adequate remuneration' – Chinese banks are purchasing dollars with more renminbi than it would if the exchange rate were market-determined.

SCM Agreement Article 14 is also problematic for analysing China's currency regime because the guidance focuses on 'market-determined' benchmarks. On the one hand, China's strictly controlled 'managed float' is not currently 'market-determined' (in the normal sense of the term), but on the other hand, the current official RMB-USD rate *is the* 'prevailing market condition'.

In *Canada – Aircraft*, the Appellate Body clearly stated that the appropriate benchmark for the benefit analysis is 'the marketplace'.⁷⁴ Three years following the Appellate Body's decision in *Canada – Aircraft*, the panel in *US – Softwood Lumber III* elaborated that the appropriate benchmark for the benefit analysis under SCM Agreement Article 14(d) is the 'prevailing market conditions for the good or service in question in the country of provision or purchase',⁷⁵ not those of a 'hypothetical undistorted or perfectly competitive market'.⁷⁶

However, more recently, the Appellate Body in *US – Softwood Lumber IV* took a broader view of the guidelines set forth in SCM Agreement Article 14(d). The Appellate Body interpreted the chapeau of Article 14 as allowing WTO Members to select any method of calculating benefit as long as the method was in conformity with the Article 14 guidelines.⁷⁷ More specifically, the Appellate Body interpreted Article 14(d) as not preventing the use of a benchmark other than private market prices.⁷⁸ The Appellate Body

⁷⁴ '[I]n our view, the marketplace provides an appropriate basis for comparison in determining whether a "benefit" has been "conferred", because the trade-distorting potential of a "financial contribution" can be identified by determining whether the recipient has received a "financial contribution" on terms more favorable than those available to the recipient in the market.' Appellate Body Report, *Canada – Aircraft*, para. 157.

⁷⁵ Panel Report, *US – Softwood Lumber III*, para. 7.44.

⁷⁶ *Ibid.*, para. 7.50.

⁷⁷ The Appellate Body focused on the chapeau of Art. 14, which refers to 'any method used by investigating authorities...,' which the Appellate Body interpreted as implying that 'more than one method consistent with Art. 14 is available to investigating authorities for purposes of calculating the benefit to the recipient... [and that the chapeau] gives WTO Members the possibility to select any method that is in conformity with the "guidelines" set out in Article 14.' Appellate Body Report, *US – Softwood Lumber IV*, para. 91.

⁷⁸ The Appellate Body noted that 'the use of the phrase "in relation to" in Art. 14(d) suggests, contrary to the Panel's understanding, that the drafters did not intend to exclude any possibility of using as a benchmark something other than private prices in the market of the country of provision'. Appellate Body Report, *US – Softwood Lumber IV*, para. 89.

ultimately concluded that Members may ignore commercial ‘market’ prices and rely on an alternative benchmark when the government’s predominant role in the market has distorted prices:

[A]n investigating authority may use a benchmark other than private prices of the goods in question in the country of provision, when it has been established that those private prices are distorted, because of the predominant role of the government in the market as a provider of the same or similar goods. When an investigating authority resorts, in such a situation, to a benchmark other than private prices in the country of provision, the benchmark chosen must, nevertheless, relate or refer to, or be connected with, the prevailing market conditions in that country, and must reflect price, quality, availability, market-ability, transportation and other conditions of purchase or sale, as required by Article 14(d).⁷⁹

In *US – Softwood Lumber IV*, the Appellate Body opened up the possibility of looking outside the subject country for an alternative benchmark; however, it was unable to complete the necessary analysis to determine whether the alternative benchmark that Commerce used (stumpage fees in northern US states bordering Canada) was sufficiently related to the prevailing market conditions in Canada.⁸⁰

Most recently, in *US – Antidumping and Countervailing Duties on Certain Products from China* (hereinafter ‘*US – AD/CVD*’),⁸¹ the panel picked up where the Appellate Body in *US – Softwood Lumber IV* left off. The panel in *US – AD/CVD* upheld Commerce’s rejection of in-country private prices (and interest rates) in China as benchmarks for steel and chemical inputs, land-use rights, and preferential lending, noting that Commerce made reasonable and objective ‘case-by-case’ findings that the Chinese Government played a predominant role in each of the respective markets in China, such that Chinese prices and interest rates were significantly distorted and unsuitable as benchmarks.⁸² The panel then examined the actual benchmarks used by Commerce in place of internal Chinese benchmarks and upheld all of the Commerce’s benchmarks except those for an interest rate on a USD-denominated loan (which the panel found should have been calculated on a daily, rather than annual, average).⁸³ For the land-use rights subsidy, Commerce had compared the prices paid by the investigated Chinese producers in China to prices for certain industrial property in Bangkok and adjacent provinces in Thailand. The panel rejected China’s argument that land prices in other countries do not ‘relate or refer to’ the prevailing market conditions in China,⁸⁴ finding that Commerce had done its best to make a satisfactorily close ‘approximation of the counterfactual situation (an undistorted land use rights market in China)’.⁸⁵ For the preferential lending subsidy, the panel upheld Commerce’s use of a ‘constructed a proxy interest rate using a regression analysis of inflation-

⁷⁹ Appellate Body Report, *US – Softwood Lumber IV*, para. 103.

⁸⁰ *Ibid.*, paras 115–118.

⁸¹ Panel Report, *United States – Definitive Anti-dumping and Countervailing Duties on Certain Products from China*, WT/DS379/R (adopted 22 Oct. 2010) (hereinafter ‘*US – AD/CVD*’).

⁸² *Ibid.*

⁸³ *Ibid.* The panel found that benchmark for USD-denominated loans should have reflected the rates prevailing on the particular days on which those loans were taken out rather than using an average annual interest rate. *Ibid.*, paras. 10.218–219.

⁸⁴ *Ibid.*, para. 10.191.

⁸⁵ *Ibid.*, para. 10.189.

adjusted interest rates in 33 lower-middle-income countries' as the benchmark.⁸⁶ The panel found that the constructed proxy that Commerce used as a benchmark sufficiently approximated:

what 'would' have been paid on a comparable commercial loan that 'could actually' have been obtained on the market, in the particular circumstances of the [AD/CVD] investigations, where it was found not only that no such specific loan existed but also that in fact it was not possible to identify any interest rates in China that could even be adjusted to approximate what would be paid on such a commercial loan.⁸⁷

Thus, a WTO panel would need to determine how to perform its 'benefit' analysis for China's currency regime. The benchmark selected would likely determine the outcome of whether the panel deems China's currency regime to be a countervailable subsidy. If it uses the Chinese market or global foreign exchange markets as the benchmark for comparison (as *Canada – Aircraft* would suggest), then there appears to be no benefit: the dollar-to-renminbi exchange rates are virtually identical at any bank that provides such foreign exchange transactions. On the other hand, the panel could extend the Appellate Body's broad interpretation of SCM Agreement Article 14 in *US – Softwood Lumber IV*, as the panel in *US – AD/CVD* recently did, and use an 'equilibrium real effective exchange rate' as the benchmark. If a panel were to follow the *US – Softwood Lumber IV/US – AD/CVD* approach, then it would very likely uphold Commerce's rejection of China's administered exchange rate as the benchmark for determining 'benefit': the Chinese Government controls both the currency and foreign exchange market in China and plays a predominant role in setting and maintaining the USD-RMB exchange rate, resulting in distorted currency markets in China and (at least as far as USD and RMB) on global currency markets.⁸⁸ A panel would then examine the actual benchmarks that Commerce used, which would likely be an IMF-calculated equilibrium exchange rate. If a panel were to follow *US – AD/CVD*, it seems that it would likely find that a real effective exchange rate is an acceptable benchmark to determine the benefit of China's currency regime. Like the land-use rights and preferential loans in *US – AD/CVD*, there is no *market-determined* US-RMB exchange rate, free of Chinese Government distortions, in any market in the world. An IMF-calculated equilibrium exchange rate seems just as, if not more, reasonable than Commerce's calculations that the panel upheld in *US – AD/CVD*. A methodology using IMF equilibrium exchange rates is an 'unbiased and objective way' of generating a proxy for a market-determined exchange rate 'that would exist (and thus "could" be obtained) in an undistorted market'.⁸⁹

⁸⁶ *Ibid.*, paras 10.192–10.194 and 10.207 and 209.

⁸⁷ *Ibid.*, paras 10.204–10.207.

⁸⁸ See *ibid.*, paras 10.144–148, in which the panel in *US – AD/CVD* found that a 'reasonable and objective investigating authority could have concluded that the [Chinese] government played a predominant role in the Chinese commercial lending market as both a lender and in terms of controlling the operation of this market, and thus distorted interest rates, such that the observed rates were not suitable as benchmarks'. To analogize China's currency regime, the Chinese Government plays a predominant role in the currency and foreign exchange markets and thus distorts exchange rates, such that the observed rates are not suitable as benchmarks.

⁸⁹ See *US – AD/CVD*, para. 10.206.

It would certainly be ideal for Commerce to have used the IMF's equilibrium exchange rate-based estimate of undervaluation for calculating the benefit conferred by China's currency regime in any CVD investigation. If Commerce did, then it is much more likely that a WTO panel would approve the 'internal logic of the methodology employed and the soundness and appropriateness of the data relied upon' in constructing the benchmark.⁹⁰ If Commerce used its own estimate, a WTO panel would need to consult with the IMF regarding the actual percentage amount of renminbi undervaluation vis-à-vis the US dollar.⁹¹

2.3.4. *Evaluation*

If the 'financial contribution' is determined to be the Chinese Government's provision of a currency-hedging 'service' (albeit a big 'if'), then the 'benefit' analysis is fairly simple and a WTO panel finding of 'benefit' would be very likely.

However, if the 'financial contribution' is determined to be either a 'direct transfer of funds', 'government revenue foregone', or 'income or price support', then the outcome of a 'benefit' analysis would be much less clear. Although in an economic sense the 'benefit' requirement at first glance appears to be straightforward and obvious, the legal analysis of 'benefit' under the SCM Agreement and WTO jurisprudence seems to be the most significant challenge to the United States being able to convince a WTO panel that China's currency regime is a countervailable subsidy. Any benefit that China's currency regime provides to exporters might not technically come from the 'financial contribution' of exchanging currencies but from China's current unwritten policy of undervaluation and de facto pegging to the dollar. But it is not necessary for financial contributions to *cause* the benefit. The necessary link between 'financial contribution' and 'benefit' is captured in SCM Agreement Article 1.1(b), which states that 'a benefit *is thereby conferred*' (emphasis added). The Appellate Body has made it clear that 'financial contribution' and 'benefit' are two separate elements.⁹² Thus, if it is accepted that Chinese banks make a financial contribution when they exchange dollars for renminbi, the 'benefit is thereby conferred' if and when exporters receive excess renminbi. For the 'benefit' analysis, it is irrelevant whether there is a 'policy' of undervaluation – if exporters received excess renminbi (even if by accident), then 'a benefit is thereby conferred' under SCM Agreement Article 1.1(b).

Nonetheless, there is still the question on what is the proper benchmark to determine whether exporters receive excess renminbi and if so, the exact amount thereof. This would likely be determined by whether a WTO panel takes the more restrictive interpretation found in *Canada – Aircraft*, using the real marketplace, or the broader interpretations in *US – Softwood Lumber IV* and *US – AD/CVD*, allowing for an alternative benchmark. If a panel subscribes to *Canada – Aircraft*, then it would determine that a benefit is not conferred.

⁹⁰ See *ibid.*

⁹¹ See *above*, n. 22; GATT Art. XV:2.

⁹² See, e.g., Appellate Body Report in *Brazil – Aircraft*, para. 157.

Even if a panel follows the broader interpretation embodied in *US – Softwood Lumber IV* and *US – AD/CVD* and allows for an alternative benchmark, this does not necessarily mean that the panel would accept an equilibrium exchange rate-based benchmark, as explained above in section 2.3.3. If the IMF cooperates with Commerce and the WTO by providing a sound estimate of the renminbi's undervaluation, then a WTO panel would be more likely to interpret 'benefit' broadly enough to use a 'real effective exchange rate' as the benchmark for calculating the benefit. However, it is still unknown at this point whether a WTO panel or the Appellate Body would conclude that an equilibrium exchange rate sufficiently 'relate[s] or refer[s] to, or [is] connected with, the prevailing market conditions' and 'reflect[s] prices, quality, availability, marketability, transportation and other conditions of purchase or sale'. Hopefully, the Appellate Body will confirm or correct the *US – AD/CVD* panel's conclusions relating to the alternative benchmark issue.

Thus, while it is possible that a WTO panel could find that a 'benefit' both exists and is capable of being accurately quantified, it is highly questionable whether a panel would do so. If a panel does accept an IMF equilibrium exchange rate benchmark, then it is likely that it would conclude that, under the Chinese currency regime, 'a benefit is thereby conferred' within the meaning of SCM Agreement Article 1.1(b). That benchmark would then be used to determine the amount of the benefit (how many extra RMB received), which would then be allocated over the products subject to the underlying CVD investigation.

If a WTO panel finds that the SCM Agreement's 'financial contribution' and 'benefit' requirements are met, then China's currency regime is a 'subsidy' within the meaning of SCM Agreement Article 1.

2.4. SPECIFICITY

2.4.1. *In General*

If a WTO panel determines that the Chinese currency regime is a 'subsidy' under SCM Agreement Article 1, then the panel would need to determine whether the subsidy meets the 'specificity' requirements of SCM Agreement Articles 2 and 3. If specificity is established, then the panel would permit the United States to treat China's currency regime as a countervailable subsidy.⁹³ There are essentially two ways to satisfy the element of specificity:

- (1) establish that China's currency subsidy is deemed to be specific because it is export-contingent, pursuant to SCM Agreement Articles 2.3 and 3⁹⁴ and/or

⁹³ If follows from GATT Art. VI and SCM Agreement Arts 10 and 32.1 that WTO Members may only impose countervailing duties when subsidized imports cause injury to the domestic industry. See also SCM Agreement Arts 1, 2, 14, 15, and 16. See above, n. 28.

⁹⁴ SCM Art. 2.3 states that 'Any subsidy falling under the provisions of Article 3 shall be deemed to be specific'. SCM Art. 3.1 states that 'subsidies contingent, in law or in fact, whether solely or as one of several conditions, upon export performance' shall be prohibited.

- (2) establish that China's currency subsidy 'is specific to an enterprise or industry or group of enterprises or industries', pursuant to SCM Agreement Article 2.1.

Under both of the above ways, subsidies can be de jure- or de facto-specific.⁹⁵ This paper will first examine whether China's currency subsidy is an export-contingent subsidy, which is both deemed specific under SCM Agreement Article 2.3 and prohibited under SCM Agreement Article 3. Then this paper will examine whether China's currency subsidy is 'specific' to 'certain enterprises', making it a countervailable subsidy under SCM Agreement Articles 2 and 19.

The precise 'specificity' analysis that a WTO panel would undertake would depend on what type of 'financial contribution' and what kind of 'benefit' were determined to exist. The specificity analyses would also depend on the specific facts concerning the particular Chinese industry being investigated in the relevant Commerce CVD investigation. However, the main arguments and issues, as well as the overall approach, would be similar to that put forth below.

2.4.2. *Export-Contingent Subsidy*

2.4.2.1. *In general*

SCM Agreement Article 3.1(a) prohibits 'subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I'.

In its notice of initiation of the Coated Paper Investigation, Commerce declined to initiate an investigation into the allegation that the Chinese currency regime was a countervailable subsidy on the basis that Commerce determined that petitioners failed to sufficiently allege that 'the receipt of the excess RMB is contingent on export or export performance because receipt of the excess RMB is independent of the type of transaction or commercial activity for which the dollars are converted or of the particular company or individuals converting the dollars'.⁹⁶ In its final CVD determination in the Coated Paper Investigation, despite petitioner's supplemental allegations on specificity in January 2010,⁹⁷ Commerce refused to initiate an investigation into the currency allegation.⁹⁸ The House Currency Bill (HR 2378) attempted to change Commerce's longstanding and (critics would say) overly restrictive practice concerning export contingency with the following sentence: 'In the case of a subsidy relating to a fundamentally undervalued currency, the fact that the subsidy may also be provided in circumstances not involving export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance'.⁹⁹

⁹⁵ SCM Agreement Arts 2.1 and 3.1.

⁹⁶ *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 Fed Reg 53,703, 53,706 (20 Oct. 2009).

⁹⁷ Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission.

⁹⁸ *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 Fed Reg 59,212, 59,213 (27 Sep. 2010).

⁹⁹ HR 2378, s. 2 (b).

2.4.2.2. *De jure export contingency*

De jure export contingency exists when conditionality upon export can be demonstrated 'on the basis of the very words of the relevant legislation, regulation or other legal instrument constituting the measure'.¹⁰⁰ Although there are many pieces of legislation and regulations that establish and maintain China's currency regime,¹⁰¹ there is no explicit requirement in any of China's currency regime laws or regulations that the subsidy is available only upon export performance. However, the Appellate Body in *Canada – Autos* explained that a subsidy can be de jure export contingent without such words.¹⁰² Instead, 'such conditionality can be derived by necessary implication from the words actually used in the measure'.¹⁰³

In *US – FSC*, the Appellate Body upheld the underlying panel's finding that the United States' Extraterritorial Income (ETI) Act granted subsidies contingent in law upon export performance within the meaning of SCM Agreement Article 3.1(a)¹⁰⁴ because taxpayers must export their products in order to be eligible for the subsidy (the ETI tax exclusion).^{105,106} Thus, a WTO panel would need to determine whether exportation is literally a necessary precondition to receive the subsidy under the Chinese foreign exchange laws.

However, there do seem to be situations in which beneficiaries can receive the benefit of China's currency subsidy without exportation, such as foreign investment in China and foreign tourists in China. In *US – FSC*, the Appellate Body noted that its conclusion (of export contingency for the ETI Act subsidy for *goods produced in the United States* and then exported) was not affected by the fact that the ETI subsidy can also be obtained through production abroad, and in such a case, there is clearly no export contingency.¹⁰⁷ Similarly, under China's currency regime, *for goods produced in China*, exportation is a necessary condition for receiving the subsidy. Thus, based on either the Appellate Body's broad

¹⁰⁰ Appellate Body Report, *Canada – Aircraft*, para. 166.

¹⁰¹ See, e.g., Regulations of the People's Republic of China on Foreign Exchange Administration (5 Aug. 2008); Regulations of the People's Republic of China on Foreign Exchange Control, Order No. 211, 1997 of the State Council (14 Jan. 1997) ('Chinese FOREX Rules'); The Regulations on the Administration of Offshore Foreign Exchange Accounts (promulgated by the State Administration of Foreign Exchange) (1 Jan. 1998). In the Coated Paper Investigation, petitioners alleged that China's policy as applied through the Chinese FOREX Rules, in particular Arts 7–9, 11, 12, 19, 20, 32, and 33, demonstrate that the Government of China has enacted de jure restrictions that promote exports and reward exporters and foreign-invested enterprises with excess RMB. See Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission, at 21–22.

¹⁰² Appellate Body Report, *Canada – Certain Measures Affecting the Automotive Industry*, WT/DS139 & 142/AB/R (adopted 19 Jun. 2000) (hereinafter '*Canada – Autos*'), para. 100.

¹⁰³ *Ibid.* See also Panel Report, *Canada – Aircraft*, para. 7.365, and Panel Report, *US – FSC (Article 21.5 – EC)*, paras 8.54–8.56.

¹⁰⁴ Appellate Body Report, *US – FSC*, para. 120.

¹⁰⁵ *Ibid.*, paras 116–117.

¹⁰⁶ Similarly, the Appellate Body on *Canada – Autos* concluded that 'as the import duty exemption is simply not available to a manufacturer unless it exports motor vehicles, the import duty exemption is clearly conditional, or dependent upon, exportation and, therefore, is contrary to Article 3.1(a)' Appellate Body Report, *Canada – Autos*, para. 104. See also *ibid.*, para. 100.

¹⁰⁷ Appellate Body Report, *US – FSC*, at para. 119. The Appellate Body observed that the ETI Act contemplates 'two different factual situations,' one involving property produced *within* the United States and the other involving property produced *outside* the US. Those two situations were subject to distinct conditions for receipt of the subsidy. Therefore, the Appellate Body found it appropriate to examine these two situations separately. *Ibid.*, paras 114–15.

interpretation of export contingency in *US – FSC*, or its interpretation of ‘tied to’ in *Canada – Autos*,¹⁰⁸ de jure export contingency could possibly be satisfied.

In refusing to initiate investigations into the currency subsidy allegations made in the Coated Paper and Aluminum Extrusions Investigations, Commerce placed heavy reliance on the fact that the ‘surrender requirement’ in China’s foreign exchange laws no longer existed, such that exporters were no longer required to repatriate earnings from abroad.¹⁰⁹ Unlike Commerce, a WTO panel would find the elimination of China’s ‘surrender requirement’ to not be very relevant in determining de jure export contingency, because all that matters is whether exportation is a de jure condition for receiving the subsidy. The fact that conversion (of foreign earnings, after exportation) is also a necessary condition is irrelevant. The amount that exporters do repatriate and convert into RMB would, however, be relevant in determining the amount of the benefit conferred.

On the other hand, a WTO panel could also distinguish China’s currency regime from the subsidies in *US – FSC* and *Canada – Autos* on the basis that, in those disputes, the US and Canadian laws clearly identified the subsidy/benefit, whereas China’s foreign exchange rules, by themselves, do not identify what the subsidy/benefit is. China’s foreign exchange rules do not *require* that the currency is necessarily undervalued; they merely enable the Chinese Government to keep it so. In other words, under China’s currency regime, while exportation does seem sufficiently ‘tied to’ the receipt of the subsidy, a panel may find that such conditionality cannot ‘be derived by necessary implication from the words actually used’ in the Chinese foreign exchange rules, in which case China’s currency regime would fail de jure export contingency.¹¹⁰

2.4.2.3. *De facto export contingency*

Another approach to establishing the export contingency element for prohibited subsidies would be for the United States to argue that the subsidy is de facto contingent upon export performance. This is the approach taken by the House Currency Bill: if exportation is one of several conditions for receipt of the subsidy, then it *can* be an export-contingent, and thus countervailable, subsidy.¹¹¹

Footnote 4 to SCM Agreement Article 3.1(a) states that de facto export contingency is met when the ‘granting of a subsidy. . . is in fact tied to actual or anticipated exportation or export earnings’. In *Canada – Aircraft*, the Appellate Body examined footnote 4 in SCM Article 3.1(a) and concluded that the standard for determining de facto export contingency requires establishing three different substantive elements: (1) the ‘granting of

¹⁰⁸ The phrase ‘tied to’ in fn. 4 to SCM Agreement Art. 3.1(a) informs the de jure analysis, as well as the de facto analysis. Appellate Body Report, *Canada – Autos*, para. 107.

¹⁰⁹ *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 Fed Reg 59,212, 59,213 (27 Sep. 2010); Issues and Decision Memorandum, C-570-959 (20 Sept. 2010) at 47–48; Subsidy Allegation – Currency Memorandum, C-570-968 (30 Aug. 2010) at 4–5.

¹¹⁰ See Appellate Body Report, *Canada – Autos*, para. 100.

¹¹¹ See HR 2378, s. 2 (b).

a subsidy',¹¹² (2) that is 'tied to' or 'contingent upon',¹¹³ and (3) 'actual or anticipated exportation or export earnings'.¹¹⁴ Furthermore, the Appellate Body noted that, when attempting to prove de facto export contingency:

There is no single legal document which will demonstrate, on its face, that a subsidy is 'contingent. . .in fact. . .upon export performance'. Instead, the. . .contingency. . .must be *inferred* from the total configuration of the facts constituting and surrounding the granting of the subsidy, none of which on its own is likely to be decisive in any given case.¹¹⁵

Similarly, the panel on *Australia – Automotive Leather II* held that the language of footnote 4 of the SCM Agreement required it to 'to examine all the facts concerning the grant or maintenance of the challenged subsidy', emphasizing that the panel was not precluded from considering any particular fact.¹¹⁶ The panel also held that the specific facts to be considered will vary on a case-by-case basis.¹¹⁷

Thus, the United States would argue that, under the Chinese currency regime, the granting of the subsidy is in fact 'tied to' exportation: the subsidy is contingent, as one of several conditions, upon export performance. However, footnote 4 to SCM Agreement Article 3 states that '[t]he mere fact that a subsidy is granted to enterprises that export shall not for that reason alone be considered to be an export subsidy with the meaning of this provision'. This sentence of footnote 4 could be interpreted to mean that a currency regime with an undervalued exchange rate, by itself, is no more a prohibited export subsidy than any other 'beneficial economic climate'.¹¹⁸

The petitioners in the Coated Paper Investigation alleged that China's other non-currency subsidies provided to 'launch [its coated paper] industry into the global market',¹¹⁹ coupled with the Chinese Government's control over its currency regime (to maintain RMB undervaluation vis-à-vis the US dollar), demonstrates the Chinese Government's de facto export contingent subsidy is 'tied to' exportation.¹²⁰

Returning to the Appellate Body's findings in *US – FSC*, it appears that under China's currency regime, based on all of the surrounding facts, the granting of the currency subsidy

¹¹² The Appellate Body on *Canada – Aircraft* clarified that the export-contingency analysis should focus on the granting Member, not the reasonable knowledge of the recipient, para. 170.

¹¹³ The Appellate Body on *Canada – Aircraft* explained that this element requires a relationship of conditionality or dependence be demonstrated, para. 171 (emphases in original).

¹¹⁴ Appellate Body Report, *Canada – Aircraft*, para. 172.

¹¹⁵ *Ibid.*, at para. 167 (emphasis in original).

¹¹⁶ Panel Report, *Australia – Subsidies Provided to Producers and Exporters of Automotive Leather*, WT/DS126/R (adopted 16 Jun. 1999) (hereinafter '*Australia – Automotive Leather II*'), paras 9.56–9.57.

¹¹⁷ *Ibid.*, paras 9.56–9.57; see also Panel Report, *Canada – Aircraft*, para. 9.337.

¹¹⁸ See Hufbauer, at 22 ('[S]uch as a concessionary tax rate that applies to all new plant and equipment investment by foreign firms').

¹¹⁹ Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission at 27.

¹²⁰ Petitioners' revised specificity allegation in the Coated Paper Investigation argues that the Chinese Government controls the amount of excess RMB provided to its industries in two steps: (1) 'by encouraging the development of an industry through specific government policies designed to launch the industry into the global market' and (2) 'by rewarding the successfully developed industry through the provision of excess RMB in exchange for foreign currency'. Relying on the subsidies on which the Department of Commerce has initiated its CVD investigation, petitioners argue that China's de jure policy to support the Chinese paper industry made that industry more likely than non-supported industries to successfully export its products, which resulted in that industry receiving more dollars and, therefore, more excess RMB than non-encouraged industries. Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission, at 22–24.

is contingent, as one of several other conditions, upon exportation. The Chinese manufacturer must export its products in order to receive foreign currency, and in order for that manufacturer to receive the benefit of the subsidy, it must convert that foreign currency into RMB. As both the House Currency Bill and the Appellate Body in *US – FSC* make clear, the fact that foreign investors and tourists can receive the currency subsidy without exporting does not necessarily eliminate export contingency for purposes of the SCM Agreement.¹²¹ Furthermore, contrary to the reasoning Commerce relied upon for its determination to not initiate the Coated Paper currency allegation, the fact that some Chinese exporters do not convert all of their foreign currency earnings into RMB does not necessarily eliminate export contingency for SCM Agreement purposes. If China's currency regime entails a financial contribution and a benefit being conferred (extra RMB) that is contingent, as one of several conditions, upon exportation (and conversion), then China's currency regime is an export-contingent subsidy.

In *Canada – Aircraft*, the Appellate Body upheld the underlying panel's decision that the government of Canada provided a de facto export subsidy (through its Technology Partnerships Canada (TPC) assistance) to its aircraft industry even though (1) Brazil admitted that TPC assistance was granted to non-aircraft industries with domestic sales and (2) Canada asserted that 'TPC provides support to a broad base of sectors and technologies that touch on virtually all industrial sectors of Canada'.¹²² It must be noted that, in *Canada – Aircraft*, Canadian companies needed to apply for TPC assistance, and both the panel and the Appellate Body found that the Canadian government exercised its discretion to grant such assistance in a manner that amounted to export contingency. Under China's currency regime, while there is no government discretion involved in exchanging dollars for renminbi, there is of course substantial 'discretion' in China's policy of undervaluation. Thus, just as the Canadian government granted TPC assistance in *Canada – Aircraft*, the United States could argue that the Chinese Government 'attaches considerable importance' to the fact that its championed industries will export merchandise.¹²³ In addition to the evidence already on the record of the Coated Paper and Aluminum Extrusions Investigations, the United States could point to more recent statements by Chinese Government officials¹²⁴ that show that the renminbi is not undervalued merely

¹²¹ See Appellate Body Report, *US – FSC*, para. 119; HR 2378, s. 2 (b).

¹²² Appellate Body Report, *Canada – Aircraft*, paras 178–180; see Panel Report, *Canada – Aircraft*, para. 9,341, as upheld by the Appellate Body.

¹²³ Petitioners in the Coated Paper Investigation argue that 'the Chinese Government has structured its economy to generate sales of particular products by instituting plans: for example, the Papermaking Plan, the 2010 Special Plan for the Construction of National Forestry and Papermaking Integration Project, and various State Council decisions'. See Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission, at 27.

¹²⁴ Most recently, Vice Commerce Minister Zhong Shan said that China's export growth 'must be faster than the overall level of global trade growth, otherwise our country's share of global trade will fall,' and that because 'China is a developing nation... it is very necessary to maintain a reasonable surplus.' 'China Needs to Maintain Trade Surplus: Vice Minister', *The New York Times* (27 Dec. 2010). Other examples include an October 2010 speech, in which Chinese Premier Wen Jiabao said, 'Should the yuan appreciate by 20% to 40%, as demanded by some people, a large number of Chinese export enterprises will go bankrupt'. Andrew Batson, 'Beijing Tug of War Guides Yuan's Path', *The Wall Street Journal*, 4. Nov. 2010, A17. Similarly, in mid-March interview with the *Washington Post*, China's Minister of Commerce, Chen Deming denied that the renminbi was undervalued and stated that China's exporters would be hurt if the renminbi strengthens, as the profit margin of average Chinese exporter was only 1.7% to 2%, and revaluation would wipe that out

with knowledge that exports will result but that the Chinese Government continues its policy of undervaluation to encourage, support, and develop China's export trade.¹²⁵

Two of the other sixteen factual 'considerations' that the panel considered in *Canada – Aircraft* in finding de facto export contingency, as applied to China's currency regime, were (1) whether China's domestic market is too small to absorb domestic production of a subsidized product¹²⁶ and (2) the export orientation of the Chinese industry.¹²⁷ In the Coated Paper and Aluminum Extrusion Investigations, it is not clear whether or not these two factors would have supported a finding of de facto export contingency.¹²⁸ However, there are certainly some Chinese industries for which these factors would seemingly support a finding of de facto export contingency.

Thus, while a panel could reasonably not be persuaded that export contingency can be derived from the actual words of China's foreign exchange laws (i.e., de jure export contingency) because such laws do not require that the RMB be undervalued, based on *US – FSC*, it would be more difficult for a panel to determine that, based on all of the facts, exportation is not one of several conditions in order to receive the currency subsidy.

2.4.3. *Enterprise and/or Industry Specificity*

2.4.3.1. *De jure specificity under SCM Agreement Article 2.1(a)*

De jure specificity under SCM Agreement Article 2.1(a) occurs 'where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises'. China's currency regime initially seems to fail Article 2.1(a) because it does not explicitly limit access to the subsidy (the extra renminbi) to certain enterprises (although there may be implicit de facto limits). Furthermore, China's currency regime operates on 'objective criteria' (i.e., exportation or currency exchange) for being automatically eligible for any 'benefit' flowing from the undervalued currency, and the amount of the subsidy is strictly determined by the amount of goods exported (or amount of USD exchanged).¹²⁹ Thus, pursuant to SCM Agreement Article 2.1(b), specificity under Article 2.1(a) 'shall not exist'.¹³⁰ For these reasons, no one has yet seriously alleged that China's currency regime is de jure-specific to certain enterprises under SCM Agreement Article 2.1(a).

('We also have our own employment and stability to think about'). John Pomfret, 'China's Commerce Minister: U.S. has the Most to Lose in a Trade War', *The Washington Post*, 22 Mar. 2010. In February, a spokesman for China's Commerce Ministry, Yao Jian, reiterated that '[m]any exporters are still struggling for survival, so I think a stable exchange rate for the yuan will remain a prime target of China's current economic policies'. 'China Restates Intention to Hold Currency's Exchange Rate Steady', *The New York Times*, 26 Feb. 2010.

¹²⁵ See Appellate Body Report, *Canada – Aircraft*, para. 172; Panel Report, *Canada – Aircraft*, paras 6.52 and 9.230.

¹²⁶ Panel Report, *Canada – Aircraft*, paras. 7.370–7.376.

¹²⁷ Appellate Body Report, *Canada – Aircraft*, para. 173.

¹²⁸ There does not seem to be any direct information on the public record of these investigations concerning these two factors. However, such information may have been included in proprietary submissions.

¹²⁹ SCM Art. 2.1(b) and fn. 2 to Art. 2.

¹³⁰ See, e.g., Panel Report, *United States – Subsidies on Upland Cotton*, WT/DS267/R (adopted 21 Mar. 2005), as modified by Appellate Body Report WT/DS267/AB/R (hereinafter 'US – Upland Cotton'), para. 7.1143.

2.4.3.2. *De facto specificity under SCM Agreement Article 2.1(C)*

SCM Agreement Article 2.1(c) explains that programs that do not de jure limit access to subsidies to specific enterprises, but de facto do, could be considered a specific subsidy. In order to determine whether such a programme is de facto-specific, Article 2.1(c) allows authorities to consider ‘other factors’¹³¹ such as:

[U]se of a subsidy programme by a limited number of certain enterprises, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised in the granting authority in the decision to grant a subsidy.

WTO panels have previously upheld CVDs applied to programs deemed to be de facto-specific subsidies under Article 2.1(c) on the basis that certain enterprises were both predominant users of the subsidy programme and received a disproportionately large amount of the subsidy benefits. For example, in *EC – DRAMS*, the panel upheld the EC’s CVDs imposed on certain enterprises because a Korean debenture programme was utilized by only six of more than 200 eligible companies, and one particular enterprise used up to 41% of the funds available under the programme.¹³²

The petitioners in the Coated Paper and Aluminum Extrusions Investigations alleged that China’s undervalued currency is a subsidy specific to ‘foreign-invested enterprises’ (FIEs) and, in the alternative, is a subsidy specific to exporters, because they claim that each respective group of enterprises are both predominant users of Chinese currency undervaluation and receive a disproportionately large amount of excess RMB resulting from Chinese currency undervaluation.¹³³ In rejecting this particular specificity allegation, Commerce placed heavy reliance on the fact that many Chinese exporters and foreign-invested enterprises do not convert their foreign currency earnings but instead use such earnings to purchase imported inputs.¹³⁴

The panel in *US – Softwood Lumber IV* upheld Commerce’s finding of specificity for a limited group of Canadian ‘wood products industries’ to countervail Canada’s stumpage

¹³¹ On the argument by Canada that an investigating authority is required to examine all four factors mentioned in SCM Art. 2.1(c) in order to determine de facto specificity, the Panel on *US – Softwood Lumber IV* stated that SCM Art. 2.1(c) provides that if there are reasons to believe that the subsidy may in fact be specific, other factors ‘may’ be considered. In the view of the Panel, the use of the verb ‘may’ rather than ‘shall’ indicates that if there are reasons to believe that the subsidy may in fact be specific, an authority may want to look at any of the four factors or indicators of specificity. Panel Report, *US – Softwood Lumber IV*, para. 7.123.

¹³² Panel Report, *EC – DRAMS*, paras 7.223–7.230.

¹³³ See, e.g., Petitioners’ Coated Paper Investigation, 13 Jan. 2010 submission, at 28–34. The petitioners in the Coated Paper Investigation have put on the record of that investigation support for their claims that Chinese FIEs and exporters are predominant users of the undervalued renminbi and receive a disproportionately large amount of excess renminbi resulting from the undervaluation. Specifically, they alleged that FIEs account for no more than 20% of China’s GDP but account for 55% of China’s exports, and exporters account for no more than 33% of GDP but accounted for 70% of China’s foreign-exchange earnings from current account transactions and long-term capital and financial account transactions.

¹³⁴ *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 Fed Reg 59,212, 59,213 (27 Sep. 2010); Issues and Decision Memorandum, C-570-959 (20 Sep. 2010), at 47–48; Subsidy Allegation – Currency Memorandum, C-570-968 (30 Aug. 2010), at 4–5.

programs.¹³⁵ Furthermore, Commerce has previously determined that Chinese FIEs are a 'group of enterprises' in its specificity analysis for other subsidy programs.¹³⁶ However, as noted above, Commerce declined to initiate the currency subsidy allegations in the Coated Paper and Aluminum Extrusions Investigations, based partly on the fact that FIEs do not convert much of their foreign currency earnings into RMB.¹³⁷

It is highly questionable whether a WTO panel would find such a broad group of enterprises to be deemed de facto-specific under SCM Agreement Article 2.1(c). First, the subsidy programs in *EC – DRAMs* seem quite different from China's currency regime. In *EC – DRAMs*, only 200 companies were eligible, only 3% of those eligible used the programme at issue, 41% of the subsidy went to one company, 79% went to one small group of companies (Hyundai Group), there were complaints within Korea about the lack of transparency and eligibility criteria, and the Korean government had discretion in providing the subsidy. The facts of *EC – DRAMs* seem to perfectly fit SCM Agreement Article 2.1(c)'s de facto specificity. Returning to the China currency regime, based on the data in the Coated Paper and Aluminum Extrusions Investigations: (1) it is not clear that FIEs and exporters are sufficiently 'predominant' users of the undervalued renminbi;¹³⁸ (2) the currency 'subsidy program' is available to all; (3) the amounts that FIEs and exporters receive are much less 'disproportionate' than the six companies in the *EC – DRAMs* case; (4) the eligibility criteria is objective; and (5) the Chinese Government does not have discretion in providing the subsidy to certain enterprises over others. Furthermore, SCM Agreement Article 2.1(c) requires that 'the extent of diversification of economic activities' in China be taken in account in determining de facto specificity.¹³⁹ China's economy is certainly economically diversified, and many diverse companies and industries receive the benefit of the currency subsidy, which does not support an argument for de facto specificity under Article 2.1(c).¹⁴⁰ Lastly, any subsidy provided by China's currency regime seems to be 'sufficiently broadly available throughout [the Chinese] economy as not to benefit a particular limited group of producers of certain products', leading to the conclusion that it is not de facto-specific to any enterprise, industry, or group thereof.¹⁴¹

¹³⁵ Panel Report, *US – Softwood Lumber IV*, para. 7.125.

¹³⁶ The Petitioners in the Coated Paper Investigation cite several cases including *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determinations*, 74 Fed Reg 16,836, 16,838 (13 Apr. 2009). Petitioners' Coated Paper Investigation, 13 Jan. 2010 submission, at 29, fn. 56.

¹³⁷ See Issues and Decision Memorandum, C-570-959 (20 Sep. 2010), at 47–48, and Subsidy Allegation – Currency Memorandum, C-570-968 (30 Aug. 2010), at 4–5 ('As Petitioners' own data shows, FIEs use the vast portion of their foreign currency receipts – 80% in 2007 – to purchase imported inputs and raw materials. . . Thus, Petitioners overlook the fact that the vast majority of FIE foreign currency earnings are never converted into RMB').

¹³⁸ Despite FIEs receiving a disproportionate amount of foreign currency receipts, it is not clear that FIEs comprise a disproportionate amount of foreign currency conversions into RMB.

¹³⁹ See Panel Report, *US – Softwood Lumber IV*, para. 7.124.

¹⁴⁰ The Panel in *US – Softwood Lumber IV* found that Commerce had satisfied the requirement that the extent of economic diversification be taken into account by noting that the vast majority of companies and industries in Canada did not receive the benefits under the programs at issue, para. 7.124.

¹⁴¹ See Panel Report, *US – Upland Cotton*, para. 7.1142.

2.4.4. Evaluation

If a WTO panel first determines that China's currency regime is a subsidy under SCM Agreement Article 1 (i.e., establishes 'financial contribution' and 'benefit'), then it is likely that the panel will find that de facto export contingency (and thus specificity) exists. Commerce has thus far refused to initiate a CVD investigation into China's currency regime due to a lack of specificity under Commerce's more stringent interpretation of export contingency. The House Currency Bill attempts to enable Commerce to find export contingency of the kind the Appellate Body found in *US – FSC* and/or *Canada – Aircraft*. If applied as such, based on WTO case law, the argument for de facto export contingency under SCM Agreement Article 3.1(a) seems quite strong – exportation is certainly 'one of several conditions' tied to receiving the subsidy, and it is a necessary condition for goods produced in China. In addition, based on myriad of other considerations and factors (including those relied on in *Canada – Aircraft*), it seems clear that the Chinese Government's maintenance of its currency regime is 'tied to' exportation and that exporters receive the benefit of the undervalued renminbi only upon actual exportation. Thus, while it is not precisely clear how close the 'tie' must be, it appears that based on the reasoning used in *Canada – Aircraft*, *US – FSC*,¹⁴² and *Canada – Autos*, China's currency regime satisfies the 'tied to' contingency requirement of SCM Agreement Article 3.

Under *Canada – Autos* and *US – FSC*, there is also a chance (although less likely) that a panel could find that the China currency regime is de jure export contingent. Finally, an allegation of industry or enterprise specificity under SCM Agreement Article 2 is much less likely to be successful because the subsidy is available to, and used by, such a broad group of enterprises.

If a WTO panel does find that either de jure or de facto export contingency exists, then the panel will uphold the United States' application of CVD law to China's currency regime.

2.5. EXCEPTIONS

The SCM Agreement provides that developing country Members and Members in the process of transformation from centrally planned to market economies enjoy 'special and differential treatment' in the form of a longer period of safe harbor (in which prohibited subsidies are permitted).¹⁴³

¹⁴² *Canada – Aircraft* and *US – FSC* were both decided under a de jure export contingency analysis. Nonetheless, the Appellate Body in *Canada – Autos* noted that the phrase 'tied to' in fn. 4 to SCM Agreement Art. 3.1(a) informs the de jure analysis, as well as the de facto analysis. Appellate Body Report, *Canada – Autos*, para. 107.

¹⁴³ SCM Agreement Art. 27 (developing countries) and Art. 29 (transition economies). SCM Agreement Art. 28 also provides a safe harbor for 'existing programmes' (that were notified to the WTO) for three years from the 'date of entry into force of the WTO Agreement'. Whether the 'date of entry into force of the WTO Agreement' is when the WTO was created or when a new Member accedes to the WTO is unclear at this point, but for this analysis under either interpretation, the safe harbor has expired.

In its WTO Accession Protocol, China committed to 'eliminate all subsidy programmes falling within the scope of Article 3 of the SCM Agreement'.¹⁴⁴ This by itself seems to eliminate China's eligibility for the exceptions to Article 3's prohibition on export subsidies enumerated in Articles 27, 28, and 29. Furthermore, during the negotiations leading up to its accession, China explicitly stated that it only reserved the right to benefit from four provisions of Article 27, none of which involve an exception to the prohibition on export subsidies.¹⁴⁵ Thus, it is highly unlikely that a WTO panel would find that China is currently eligible for any exceptions to the SCM Agreement's prohibition on export subsidies.

3. CONCLUSION

Contrary to the conclusion that many commentators have drawn,¹⁴⁶ this paper concludes that the United States' treatment of China's currency regime as a countervailable subsidy could very well be consistent with the WTO's SCM Agreement. Defending CVDs at the WTO is usually an uphill battle; defending CVDs on Chinese currency undervaluation would be an even great challenge. However, while it is impossible to predict with complete accuracy the outcome of a WTO complaint on the currency issue, there are legitimate arguments based on WTO case law interpreting the SCM Agreement that support this paper's conclusion that a WTO panel could uphold the United States' application of CVD law to China's undervalued currency.

From a legal perspective, there are clearly some troubling difficulties and uncertainties, most notably the required element of 'benefit' under SCM Agreement Article 1 (and more specifically what benchmark to use to measure it under SCM Agreement Article 14). But on balance, this paper believes a WTO panel could conclude that 'financial contribution', 'benefit', and 'export contingency' all exist under China's currency regime. To briefly summarize each of the 'Evaluations' from above in section 2:

- (1) the strongest argument that a 'financial contribution' exists is that China's currency regime involves a 'direct transfer of funds' when Chinese banks exchange US dollars for renminbi;

¹⁴⁴ Protocol on the Accession of the People's Republic of China, WT/L/432, s. 10 at para. 3.

¹⁴⁵ *Report of the Working Party on the Accession of China*, WT/ACC/CHN49, at 33–35 (China reserved the right to benefit from SCM Agreement Arts 27.10, 27.11, 27.12, and 27.15 only). The exceptions in SCM Agreement Arts 28 and 29 are also inapplicable to China because both include subsidy 'notice' provisions (implicating Art. 25), and China has not given any such notification regarding its currency subsidy. If somehow China's WTO Accession Protocol commitments did not eliminate its eligibility under Art. 27 for developing country safe harbor on export subsidies in Art. 3, that exception still only lasted for eight years from China's accession to the WTO, thus expiring on 11 Dec. 2009 (China acceded to the WTO on 11 Dec. 2001). If China was eligible for this exception, it could have requested an extension, but it would have needed to start that process by 11 Dec. 2008, which it did not do. See SCM Agreement Art. 27.4. See also Panel Report, *Brazil-Aircraft*, para. 7.40. Similarly, if somehow China's WTO Accession Protocol commitments did not eliminate its eligibility under Art. 29 on safe harbor for countries still 'in the process of transformation from centrally-planned into a market, free-enterprise economy', that exception only lasted for seven years, thus it expired in 2008 (and China failed to notify under Art. 29.3).

¹⁴⁶ See, e.g., Staiger & Sykes; Joel P. Trachtman, 'Yuan to Fight About it? The WTO Legality of China's Exchange Regime', in *The US-Sino Currency Dispute: New Insights from Economics, Politics and Law*, ed. Simon Evenett (2010), 127; Dukgeun Ahn, 'Is the Chinese Exchange-Rate Regime "WTO-Legal"?', in *The US-Sino Currency Dispute: New Insights from Economics, Politics and Law*, ed. Simon Evenett (2010), 139; Mercurio & Leung; Hufbauer.

- (2) a ‘benefit is thereby conferred’ when Chinese exporters receive more renminbi than they would if the Chinese currency were not undervalued;
- (3) thus, the Chinese currency regime is a ‘subsidy’ under SCM Agreement Article 1;
- (4) Such subsidy is ‘contingent...in fact, whether solely or as one of several other conditions, upon export performance’ – one way to receive the subsidy is to export, and for goods produced in China, exportation is a necessary condition for receipt of the subsidy.
- (5) Accordingly, China’s currency regime is an actionable subsidy (as well as a prohibited export subsidy) under the SCM Agreement.

The first element, financial contribution, seems to be the most straightforward of the three. If a WTO panel accepts that the exchange of currencies is a financial contribution within the meaning of SCM Agreement Article 1 (and in light of the reference to currency and exchange rate measures in Annex I’s Illustrative List of Export Subsidies and Note 2 to GATT Article VI), then it will proceed to address ‘benefit’. The benchmark that the panel selects for its ‘benefit’ analysis would likely determine the outcome of the entire dispute. If the panel accepts an IMF-calculated level of undervaluation, then ‘benefit’ will be satisfied, and the panel will find that China’s currency regime is a ‘subsidy’ under the SCM Agreement. If that happens, then based on the Appellate Body’s interpretations of *de facto* export contingency, it is likely that the panel would find that China’s currency regime ‘is deemed to be specific’ and countervailable, upholding the United States’ imposition of CVDs on China’s currency regime. The United States would then have the option of bringing its own WTO challenge on the basis that China’s currency regime is a prohibited export subsidy.¹⁴⁷ If the United States won the first dispute (brought by China), then the second dispute would almost certainly be successful.

On the other hand, if a panel (or Appellate Body) finds that any of the three elements are not satisfied, then it will conclude that China’s currency regime is not a countervailable subsidy and that the United States’ CVD on the Chinese currency is inconsistent with the SCM Agreement. In that case, the United States would be directed to bring the measure (the CVD) into conformity with the SCM Agreement.

From a geopolitical and foreign policy perspective, just initiating a CVD investigation into China’s currency regime would severely strain US–Sino relations. An affirmative determination by Commerce (and the US International Trade Commission), leading to duties on Chinese imports, would ignite a political firestorm between the United States and China as seen never before. China would immediately request consultations at the WTO, leading to the biggest test for the WTO’s dispute settlement system to date. This would not only affect the entirety of US–Sino *trade* relations but also put significant strains on other

¹⁴⁷ While SCM Agreement Art. 4.7 states that ‘[i]f the measure in question is found to be a prohibited subsidy, the panel shall recommend that the subsidizing Member withdraw the subsidy without delay’, in a Chinese-initiated WTO dispute, the ‘measure’ at issue would be the United States’ countervailing duty, not the Chinese currency regime. With that said, the WTO has never upheld a countervailing duty on a prohibited subsidy.

important US foreign policy concerns, including but not limited to China's cooperation on climate change initiatives, North Korea, Iran, disputes over Internet censorship, human rights, the East China Sea and South China Sea, as well as Chinese restraint on US weapon sales to Taiwan, and US meetings with the Dalai Lama.

From a purely strategic perspective, a United States CVD based on China's currency regime has a much better chance of being upheld at the WTO than a US-initiated GATT Article XV challenge at the WTO.¹⁴⁸ Furthermore, the CVD approach has a better chance (albeit only slightly better) of being upheld at the WTO than a US-initiated, SCM Agreement-based WTO challenge because: (1) the burden of proof would rest with China in the former but with the United States in the latter; and (2) the former has less severe implications for United States 'success' (upholding the CVD in the former, versus ordering China to eliminate its export subsidy altogether in the latter).

The CVD approach, whether or not it is WTO-consistent, is the fastest legal-based approach to begin addressing the effects of the renminbi's undervaluation. By itself, this approach does not guarantee significant appreciation of the renminbi. If the United States refrains from taking any unilateral aggressive action towards China's currency regime, the renminbi will likely continue to slowly appreciate under the 'managed float'. However, if the United States starts applying CVDs on China's currency subsidy, then China will either: (1) be more likely to appreciate its currency faster (or implement a large one-time revaluation), in which case the strategy will have proven successful, or (2) resist US pressure to revalue and bring a WTO challenge, which will last for many years. During the WTO dispute, Commerce can impose currency-based CVDs on Chinese imports, providing some relief for US manufacturers (although the CVD margins would not increase as much as some would think, and it is unlikely that many new CVD petitions would be filed as a result of a China currency CVD law). Despite straining overall US-Sino relations, the CVD approach, including a China-initiated WTO challenge, would likely improve the United States' negotiating position with China over the currency issue, not to mention send a strong message that Washington will no longer passively tolerate Beijing's trade-distortive policies.

As already stated in the Introduction, this paper does not advocate any particular proposed strategy. Any aggressive unilateral action should be considered with extreme caution. Instead, the goal of this paper was to analyse and evaluate the potential treatment of China's currency regime as a countervailable subsidy. In concluding that such a measure could legitimately be consistent with WTO rules, hopefully this paper will better enable US policymakers and regulators to make the most informed decision on an extremely important issue.

¹⁴⁸ See above, n. 23.

Submission Guidelines

The following is a brief guide concerning the provision of articles which may be of assistance to authors.

1. Articles must be submitted in Microsoft Word-format, in their final form, in correct English. The electronic file can be presented to the Editor by email, through edwin.vermulst@vvg-law.com.
2. Special attention should be given to quotations, footnotes and references which should be accurate and complete. In the case of book references please provide the name of author, publisher, place and year of publication.
3. Tables should be self-explanatory and their content should not be repeated in the text. Do not tabulate unnecessarily. Keep column headings as brief as possible and avoid descriptive matter in narrow columns.
4. A brief biographical note, including both the current affiliation as well as the email address of the author(s), should be provided in the first footnote of the manuscript.
5. Due to strict production schedules it is often not possible to amend texts after acceptance or send proofs to authors for correction.
6. Articles which are submitted for publication to the editor must not have been, nor be, submitted for publication elsewhere.
7. The article should contain an abstract, a short summary of about 100 words, placed at the beginning of the article. This abstract will also be added to the free search zone of the Kluwerlaw Online database.

ORIGINAL

DOC Investigation No.: C-570-980
Total Pages: 2,134
Investigation
Contains Business Proprietary
Information removed from Pages 36, 37,
43, 44, Exhibit List, and in Exhibits 50-
51, 53-62, 75.
PUBLIC VERSION

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

**CERTAIN CRYSTALLINE SILICON PHOTOVOLTAIC CELLS,
WHETHER OR NOT ASSEMBLED INTO MODULES, FROM THE
PEOPLE'S REPUBLIC OF CHINA**

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

VOLUME III

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

Timothy C. Brightbill, Esq.
Adam H. Gordon, Esq.
Robert E. DeFrancisco, Esq.

WILEY REIN LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

*Counsel to SolarWorld Industries
America Inc.*

October 19, 2011

PUBLIC VERSION

TABLE OF CONTENTS

	Page
I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CRYSTALLINE SILICON PHOTOVOLTAIC CELLS FROM CHINA	1
II. NAMES AND ADDRESSES OF CHINESE CSPV CELL PRODUCERS BENEFITING FROM SUBSIDY PROGRAMS	2
III. PRODUCT AND INDUSTRY BACKGROUND.....	2
A. The Product.....	2
B. Background on the Chinese Government’s Efforts to Develop and Expand its CSPV Cell Industry.....	3
1. National Government Programs	4
C. Regional Government Measures and Programs.....	13
IV. EFFORTS TO OBTAIN INFORMATION	15
V. THE DATE FROM WHICH THE DEPARTMENT SHOULD MEASURE SUBSIDIES	17
VI. COUNTERAVAILABLE SUBSIDY PROGRAMS.....	17
A. Grant Programs	18
1. Export Product Research and Development Fund.....	18
2. Subsidies for Development of “Famous Brands” and China World Top Brands.....	21
3. Sub-Central Government Subsidies for Development of “Famous Brands” and China World Top Brands	23
4. Special Energy Fund	25
5. Fund for Economic, Scientific, and Technology Development.....	26
6. Funds for Outward Expansion of Industries in Guangdong Province	27
7. Provincial Fund for Fiscal and Technological Innovation.....	29
8. The Golden Sun Demonstration Program.....	30
B. Provision of Inputs for Less Than Adequate Remuneration.....	33
1. The CSPV Cell Production Process.....	33
2. The Provision of Polysilicon for Less Than Adequate Remuneration.....	34

TABLE OF CONTENTS
(continued)

	Page
3. The Provision of Aluminum for Less Than Adequate Remuneration.....	38
4. The Provision of Power for Less Than Adequate Remuneration	41
5. The Provision of Water for Less Than Adequate Remuneration.....	44
C. Provision of Land for Less Than Adequate Remuneration	46
1. Chinese CSPV Cell Producers Receive Land-Use Rights from the Government for Less Than Adequate Remuneration	46
2. The Receipt of Land-Use Rights for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy.....	47
D. Preferential Loans and Directed Credit.....	48
1. The Chinese Government Subsidizes the CSPV Cell Industry with the Provision of Preferential Loans and Directed Credit	48
2. Chinese CSPV Cell Producers Have Received Massive Preferential Loans and Credit from the Chinese Government	49
3. The Provision of Preferential Loans and Directed Credit Constitutes a Countervailable Subsidy	50
E. Tax Benefit Programs	51
1. The Two Free/Three Half Program for Foreign-Invested Enterprises.....	52
2. Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises.....	57
3. Income Tax Benefits for Foreign-Invested Enterprises Based on Geographic Locations	58
4. Local Income Tax Exemption and Reduction Programs for “Productive” Foreign-Invested Enterprises	61
5. Tax Reductions for Foreign-Invested Enterprises Purchasing Chinese-Made Equipment.....	63
6. Tax Offsets for Research and Development by Foreign-Invested Enterprises.....	65
7. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises.....	66
8. Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises	68

PUBLIC VERSION

TABLE OF CONTENTS
(continued)

	Page
9. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects	70
10. Preferential Income Tax Policy for Enterprises in the Northeast Region	72
11. Guangdong Province Tax Programs	74
12. The Foregoing Tax Preferences Remain in Effect Despite the Chinese Government’s Commitments in a Recent MOU with the United States to Eliminate Them	77
F. VAT Programs	79
1. VAT Exemptions for Use of Imported Equipment	79
2. VAT Rebates on FIE Purchases of Chinese-Made Equipment	81
3. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program	82
G. Export Credit Subsidies	84
1. The Chinese Government Provides Export Credit Subsidies to Encourage the Export of Chinese CSPV Cells	84
2. Export Credits Provided by the Chinese Government Constitute Countervailable Subsidies	86
H. Export Guarantees and Insurance for Green Technology	87
1. The Government of China Provides Preferential Export Credit Insurance for CSPV Cells Through the China Export and Credit Insurance Corporation (“Sinasure”)	87
2. The Provision of Preferential Export Credit Insurance Constitutes a Countervailable Subsidy	89
I. Currency Undervaluation	90
1. The GOC Provides an Export Subsidy in the Form of Undervaluing its Currency	90
2. The GOC’s Currency Undervaluation Constitutes a Countervailable Subsidy	94
VII. CONCLUSION	98

I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CRYSTALLINE SILICON PHOTOVOLTAIC CELLS 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”) when a “Subsidies Agreement” country is found to provide countervailable subsidies to manufacturers that sell or import merchandise into the United States and 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 considered to be a “Subsidies Agreement” country under 19 U.S.C. § 1677(b). Petitioner alleges that the Government of China (“GOC”) maintains a complex system of economic programs and policies that have conferred massive countervailable subsidies, at unprecedented levels, on Chinese producers of crystalline silicon photovoltaic cells (“CSPV cells”), and that these subsidized subject imports are materially injuring the U.S. CSPV cell industry.

Petitioner notes at the outset that the Department has clarified that U.S. CVD laws apply to China. 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 Accordingly, Petitioner requests that the Department apply U.S. CVD laws to the policies and programs outlined in this petition.

¹ Issues and Decision Memorandum accompanying *Coated Free Sheet Paper from the People’s Republic of China* (Dep’t Commerce Oct. 25, 2007) (final affirmative countervailing duty determination) at 19-20 (“*Coated Free Sheet I&D Memo*”). See also *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) (preliminary affirmative countervailing duty and critical circumstances determinations, and alignment of final countervailing duty determination with final antidumping duty determination) (“*Line Pipe Prelim.*”) (“{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 affirmative countervailing duty determination) at 38-43 cmt. 1 (“*Wire Decking 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

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

Petitioner has identified 75 CSPV cell 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. The names and addresses of these companies are attached at Exhibit III-1.

III. PRODUCT AND INDUSTRY BACKGROUND

A. The Product

As described further in Volume I of this petition, CSPV cells, which are made from crystalline silicon, are the building blocks of solar photovoltaic power-generation systems. CSPV cells convert the energy of sunlight directly into electricity, by the photovoltaic effect. CSPV cells typically form the basic element of solar panels or modules but can be utilized in other products as well, including building integrated photovoltaic (“BIPV”) materials.² CSPV cells used in solar panels or modules are conductively connected to one another, laminated to strengthen and weather-proof the cells, and can be mounted into frames, depending on the final application. The resulting system of solar panels or modules are often installed on or above the roofs of residential and non-residential buildings, as free field installations, or as stand-alone units. If required to produce an alternating current, they can be connected to an inverter, which converts the direct current generated by the CSPV cells to alternating current that can be fed into the utility grid or directly into the residential or non-residential structure.

(Dep’t Commerce Dec. 7, 2009) (final determination in the countervailing duty investigation) at cmt. 1 (“*OCTG I&D Memo*”).

² BIPV products are PV products that replace traditional building materials and can be used in several applications, including windows, paint, roofing tiles, facades, and siding. These products are relatively new market entrants and do not comprise a significant portion of the CSPV market.

B. Background on the Chinese Government's Efforts to Develop and Expand its CSPV Cell Industry

Over the past decade, China's CSPV industry has expanded at a phenomenal rate. In 2008, "China became the largest producer of solar panel cells in the world, shipping 2,600 megawatt peak of photovoltaic ("PV") panels, which was roughly one-third of worldwide total PV cell shipments."³ China remained the world's largest producer of CSPV cells in 2009 and 2010.⁴ Indeed, Chinese solar cell and panel producers captured more than half of the global CSPV cell market for the first time in 2010.⁵ Moreover, many of China's leading CSPV cell producers have projected 2011 production levels that far surpass 2010 levels.⁶

This rapid and unprecedented expansion is the direct result of the GOC's support of the Chinese solar energy industry, including its granting of an extraordinary range and amount of countervailable subsidies to the industry. As discussed below, the national, provincial and local Chinese governments have provided, and continue to provide, vast subsidies and other forms of assistance to Chinese CSPV cell producers, including grants, tax incentives, preferential loans and subsidized inputs, such as polysilicon.

These subsidies to China's CSPV cell producers have resulted in significant adverse effects on the U.S. CSPV cell industry. The subsidies have enabled Chinese producers to reach production levels far greater than what would have been possible absent the subsidies, and at

³ Dewey & LeBoeuf LLP for the National Foreign Trade Council, *China's Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass* (Mar. 2010) at 75, attached at Exhibit III-2.

⁴ See *Why Solar Prices Will Continue Falling*, Hexun News, Apr. 18, 2011 (Chinese version included), attached at Exhibit III-3. See also Keith Bradsher, *China Leading Global Race to Make Clean Energy*, The New York Times, Jan. 30, 2010, attached at Exhibit III-4; *China Solar Booming - Chinese Solar Panels Prices, Cost, Review, Best Manufacturers (Trina, Suntech)*, Green World Investor, Mar. 17, 2011, attached at Exhibit III-5; Becky Stuart, *Suntech Named As Top PV Module Supplier; JA Solar As Number One Cell Producer*, PV Magazine, Apr. 13, 2011, attached at Exhibit III-6.

⁵ *Asia Doubles Solar Silicon Factories, Pursuing Gain in Slump*, Bloomberg News, July 10, 2011, attached at Exhibit III-7.

⁶ Photon International Survey, *Year of the Tiger*, Science & Technology (Mar. 2011) ("Photon Int'l Survey"), attached at Exhibit III-8.

PUBLIC VERSION

significantly lower costs to the producers. As a result, Chinese exports of CSPV cells to the United States have skyrocketed. Imports from China increased from 3.8 million cells and panels in 2008 to 17.4 million cells and panels in 2010, an increase of more than 350 percent.⁷ Subject imports increased still further to 44.6 million cells and panels in the first eight months of 2011 alone.⁸ By value, subject imports rose from \$233.34 million in 2008 to \$1.21 billion in 2010.

Provided below is a detailed description of the various subsidy programs that the Chinese government has implemented to support its CSPV cell industry. These programs have enabled China to quickly become the world's leading producer of CSPV cells.

1. National Government Programs

China's central government has implemented numerous policies, measures, and directives that provide subsidies to its solar power industry. These policies, measures, and directives include, but are not limited to, the following:

a. New and Renewable Energy Development Program (1996 – 2000)

The Chinese government's support for the renewable energy industry can be traced back to at least 1996, when the government promulgated the New and Renewable Energy Development Program (1996 – 2000). Government efforts were focused on the development of solar technology, among other renewable energy technologies.⁹ One year later, the Chinese government issued renewable energy project construction guidelines, emphasizing the research,

⁷ See Common Issues and Injury Volume at Exhibit I-6.

⁸ See *id.*

⁹ Dewey & LeBoeuf LLP for the National Foreign Trade Council, *China's Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass* (Mar. 2010), attached at Exhibit III-2.

PUBLIC VERSION

development and manufacture of new energy technology and equipment in an effort to “accelerate the localization of equipment.”¹⁰

b. China’s Tenth Five-Year Plan

China’s Tenth Five-Year Plan, which covered the period from 2001 to 2005, provides that China will “actively develop new energy and renewable energy such as wind, solar, and geothermal power,”¹¹ and noting that solar energy production capacity should be increased. During the period covered under the Tenth Five-Year Plan, China “gradually enhanced its degree of support in renewable energy by providing more financial assistance and putting forward more preferential taxes.”¹²

c. Renewable Energy Law (2005)

In 2005, the GOC enacted the *Renewable Energy Law* to “promote the exploitation of renewable energy,”¹³ specifically including solar energy.¹⁴ This law establishes a national policy to encourage the use of solar and other renewable energy sources, and “encourages economic entities of various ownerships to participate in the exploitation of renewable energy and protects the lawful rights and interests of the exploiters of renewable energy.”¹⁵

Moreover, to encourage the development of renewable energy, the law “provides financial incentives, such as national funding, preferential loans and tax preferences for the

¹⁰ Dewey & LeBoeuf LLP for the National Foreign Trade Council, *China’s Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass* (Mar. 2010) at 18, quoting *Interim Measures for Administering Capital Construction Project of New Energy*, Ji Jiao Neng {1997} No. 955 (May 27, 1997) at Art. 1, attached at Exhibit III-2.

¹¹ *Id.* at 19.

¹² *Id.*

¹³ *Renewable Energy Law of the People’s Republic of China*, Feb. 28, 2005, at Art. 1 (“Renewable Energy Law 2005”), attached at Exhibit III-9.

¹⁴ *Id.* at Art. 2.

¹⁵ *Id.* at Art. 4.

PUBLIC VERSION

development of renewable energy projects.”¹⁶ Specifically, the law “allocates funds for scientific and technical research in, and application, demonstration and industrialized development of, the exploitation of renewable energy, so as to promote technical advancement in the exploitation of the same, reduce the production cost of renewable energy products and improve product quality.”¹⁷ The law also establishes a “special fund for the development of renewable energy” to promote “localized production of equipment for exploitation of renewable energy,”¹⁸ as discussed below.

Following the enactment of the *Renewable Energy Law*, the Chinese government issued a series of implementing measures. Among these measures is a directive that requires utilities to pay renewable energy developers full price for their electricity and provide consumers renewable-generated electricity at discounted rates.¹⁹ The government also established a dedicated fund to support the development of new renewable energy technologies.²⁰ In addition, the government issued a *Guidance Catalogue on Renewable Energy Industrial Development*, which identifies more than 80 types of renewable energy projects that are eligible for preferential tax treatment or designated funding, including several types of solar energy projects.²¹

The *Renewable Energy Law* was most recently amended on December 26, 2009 to require power companies to purchase all power produced by renewable energy.²²

¹⁶ Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 49, attached at Exhibit III-10.

¹⁷ Renewable Energy Law 2005 at Art. 12, attached at Exhibit III-9.

¹⁸ *Id.* at Art. 24.

¹⁹ Dewey & LeBoeuf LLP for the National Foreign Trade Council, *China's Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass* (Mar. 2010) at 23, attached at Exhibit III-2.

²⁰ *Id.* at 23.

²¹ *Id.* at 24.

²² *Id.* at 23.

PUBLIC VERSION

d. China's Ministry of Construction 2005 and 2006 Directives

In June 2005, the Ministry of Construction issued a directive aiming to increase the use of solar energy in residential and commercial construction, and encourage the expanded application of solar energy in various townships.²³ Shortly thereafter, in September 2006, China's Ministry of Finance and Ministry of Construction issued the *Interim Measures for Administration of Special Funds for Application of Renewable Energy in Building Construction*, which established that the Ministry of Finance will provide special funds to support the use of renewable energy in building construction.²⁴ As China's CSPV cell producers have acknowledged, these "special funds provide significant support for the application of solar energy in hot water supply, refrigeration and heating, PV technology and lighting integrated into building construction materials."²⁵

e. Renewable Energy Development Fund (2006)

The *Renewable Energy Law* provides for the establishment of a *Renewable Energy Development Fund* to support scientific and technological research and pilot projects for the development and utilization of renewable energy, as well as the localized production of equipment for the development and utilization of renewable energy.²⁶ China's Ministry of Finance subsequently issued directives for the administration of this fund,²⁷ which provide for grants and soft loans through the central financial budget to support research and development, demonstration projects, establishment of standards, and the promotion of "localized

²³ Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 49, attached at Exhibit III-10.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Renewable Energy Law 2005 at Art. 24, attached at Exhibit III-9.

²⁷ *A Tentative Management Method of Special Funds for Renewable Energy Development*, No. 371 (May 30, 2006), attached at Exhibit III-11.

PUBLIC VERSION

manufactur{ing} of equipment and devices that facilitate the development and utilization of renewable energy,” placing special emphasis on wind, solar and tidal power.²⁸

f. China’s Eleventh Five-Year Plan

China’s Eleventh Five-Year Plan, which covered the period from 2006 to 2010, calls for optimizing the development of the energy industry by, among other policies, “{a}ctively develop{ing} and utiliz{ing} solar energy.”²⁹ The Plan also mandates the implementation of “preferential tax, investment, and mandatory market share policies” to “encourage the production and consumption of renewable energy {and} increase (the renewable energy’s) share in primary energy consumption.”³⁰ During the period covered by this Plan, the government devoted roughly 2 trillion RMB (US\$309 billion) to energy efficiency and environmental protection measures.³¹ Consequently, during this five-year period, “China’s new energy industries like wind power, solar power, bio energy and nuclear power developed extremely fast.”³²

g. National Medium- and Long-Term Program for Science and Technology Development (2006 – 2020)

The *National Medium- and Long-Term Program for Science and Technology Development (2006 – 2020)*, issued in June 2006, sets forth a number of goals for the renewable energy sector, placing particular emphasis on the development of “high-performance and low-

²⁸ *Id.* at Art. 3.

²⁹ *National Economic and Social Development Eleventh Five-Year Plan – Outlines of the People’s Republic of China, 2006 -2010* (“Excerpts of China’s Eleventh Five-Year Plan”), attached at Exhibit III-12. Several of the exhibits in this Volume III were originally cited in Petition for Relief under Section 301 of the Trade Act of 1974, as Amended, *China’s Policies Affecting Trade and Investment in Green Technology*, on Behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC (USW), Sept. 9, 2010.

³⁰ Excerpts of China’s Eleventh Five-Year Plan, attached at Exhibit III-12.

³¹ U.S. Economic and Security Review Commission, *Background: China’s Twelfth Five-Year Plan* (June 24, 2011) at 10, attached at Exhibit III-13.

³² *See China’s Five-Year Plan & Renewable Energy – A Detailed Explanation*, Debblockconsulting.com (DoNews), Mar. 21, 2011, attached at Exhibit III-14.

PUBLIC VERSION

cost solar voltaic cells.”³³ The program specifically establishes financial and tax policies to encourage research and development in the priority sectors.³⁴ These policies include allowances for the acceleration of depreciation of assets and equipment used for research and development, a range of tax-rebates, pre-tax deduction of enterprise research and development, and deductible value-added tax (“VAT”) for equipment purchases.³⁵

h. Medium- and Long-Term Development Plan for Renewable Energy in China (2007 – 2020)

In September 2007, the National Development and Reform Commission (“NDRC”) released the *Medium and Long-Term Development Plan for Renewable Energy in China* to “speed up the development and deployment of hydropower, wind power, solar energy, and biomass energy; promote technical progress, . . . {and} increase market competitiveness.”³⁶ The plan also directs local authorities to “allocate the necessary funds to support renewable energy development.” The plan requires the Chinese government to “support the development and deployment of renewable energy,” including solar energy, “through preferential tax policies as well as to support R&D for renewable energy technologies and equipment manufacturing through appropriate favorable tax policies for relevant enterprises.”³⁷ Moreover, the plan requires power companies which own installed capacity of over five GW to have non-hydro renewable energy installed power capacity accounting for three percent of total capacity by 2010 and eight percent by 2020.³⁸ Finally, with regard to self-sufficiency in renewable energy

³³ The State Council, The People’s Republic of China, *The National Medium- and Long-Term Program for Science and Technology Development – An Outline (2006-2020)*, attached at Exhibit III-15.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Medium and Long-Term Development Plan for Renewable Energy in China*, Fa Gai Neng Yuan {2007} No. 2174 (Sept. 2007) at Art. 2, attached at Exhibit III-16.

³⁷ *Id.* at Art. 5.4.

³⁸ *Id.* at Art. 5.1.

PUBLIC VERSION

equipment, the plan provides that by 2010, “a basic system of renewable energy technologies and industry will have been established, so that equipment capabilities based mainly on domestic manufacturing will have been established.”³⁹

i. Notice of Interim Measures for the Administration of Financial Subsidy Fund for Renewable and Energy Saving-Building Materials (2008)

Issued by the Ministry of Finance, China’s *Interim Measures for the Administration of Financial Subsidy Fund for Renewable and Energy Saving-Building Materials* provide for the establishment of special funds to promote the production and use of renewable and energy-efficient building materials.⁴⁰ The subsidies provided under this program include discounted interest loans.⁴¹

j. Eleventh Five Year Plan for Renewable Energy (2008)

In March 2008, the NDRC issued the *Eleventh Five Year Plan for Renewable Energy* as another means to accelerate the development of renewable energy in China. This plan identifies several support measures to be implemented by the government, including: promoting renewable energy development policy measures; working to improve and implement such policies as renewable energy-related regulations on power generation connected to the grid, on-grid electricity price and cost sharing as well as policies on financial assistance and tax preferences; implementing administrative measures and instruction for a special fund for renewable energy development in accordance with the need for renewable energy development and utilization, arranging necessary financial funding, and supporting renewable energy equipment localization; and promoting the market environment for renewable energy development and utilization. The

³⁹ *Id.* at Art. 5.5.

⁴⁰ *Notice and Interim Measures for the Administration of Financial Subsidy Fund for Renewable and Energy-Saving Building Materials*, Cai Jian {2008} No. 677 (Oct. 14, 2008), attached at Exhibit III-17.

⁴¹ *Id.*

PUBLIC VERSION

plan also instructs government agencies to adopt comprehensive measures, such as finance, tax and pricing policies, to achieve mandatory market share.⁴² To achieve these goals, the plan envisioned that the GOC would invest more government funds towards renewable energy, as well as provide financial and tax incentives.

k. Subsidies for Solar Photovoltaic Technology in Building Construction (2009)

In March 2009, China's Ministry of Finance issued the *Interim Measures for Administration of Government Subsidy Funds for Application of Solar Photovoltaic Technology in Building Construction*, with the aim of promoting solar PV applications in China. Pursuant to these measures, "{l}ocal governments are encouraged to issue and implement supporting policies for the development of solar PV technology."⁴³ Moreover, these measures "set forth subsidy funds set at RMB20 per watt for 2009 to cover solar PV systems integrated into building construction that have a minimum capacity of 50 kilowatt peak."⁴⁴ In April 2009, China's Ministry of Finance and Ministry of Housing and Urban-Rural Development jointly promulgated the *Guidelines for Declaration of Demonstration Project of Solar Photovoltaic Building Applications*, which established "a subsidy of up to RMB20 (about US\$2.20) per watt for BIPV projects using solar-integrated materials for rooftops or walls."⁴⁵

⁴² China's *Eleventh Five Year Plan for Renewable Energy*, attached at Exhibit III-18.

⁴³ See Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 50, attached at Exhibit III-10.

⁴⁴ See *id.*

⁴⁵ *Notice on Printing and Distributing Solar Photovoltaic Building Demonstration Project Application Guidelines*, Cai Ban Jian {2009} No. 34 (Apr. 16, 2009), attached at Exhibit III-19; see also Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 50, attached at Exhibit III-10.

PUBLIC VERSION

i. Interim Measures for Administration of Financial Subsidy Funds for the Promotion of High-Efficiency and Energy-Saving Products (2009)

Promulgated by the Ministry of Finance and the NDRC in May 2009, these measures are intended to promote the use and application of high efficiency and energy saving products.⁴⁶ Specifically, the measures provide that subsidy funds shall be arranged to support enterprises manufacturing high-efficiency and energy-consuming products.⁴⁷

m. National Energy Administration Statement of Objectives (2009)

In March 2008, China established the National Energy Administration (“NEA”) to coordinate decision-making among government agencies with authority over the energy sector and to develop energy plans.⁴⁸ The NEA identified the following objectives for the solar energy sector:

To speed up the progress of development and utilization of solar energy. To gradually promote installation of solar water heater in government and commercial buildings which take larger areas and consume more energy; initiate construction of demonstration solar power generation projects; develop demonstration urban roof solar photovoltaic generation applications; promote R&D and industrialization of solar silicon.⁴⁹

In mid-2009, China’s NEA announced a subsidized price for solar power of 1.09 Yuan per KWh, which some consider to be still too low for profitable solar operations (although the price is almost three times what coal-fired power plants receive).⁵⁰

⁴⁶ *Interim Measures for Administration of Financial Subsidy Funds for Promotion of High-Efficiency and Energy-Saving Products* (May 18, 2009), attached at Exhibit III-20.

⁴⁷ *Id.*

⁴⁸ Dewey & LeBoeuf LLP for the National Foreign Trade Council, *China’s Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass* (Mar. 2010) at 35, attached at Exhibit III-2.

⁴⁹ *See id.* at 36.

⁵⁰ Zhang Qi, *China Hikes 2011 Solar Power Target*, China Daily, July 3, 2009, attached at Exhibit III-21.

n. The Twelfth Five-Year Plan

On March 14, 2011, China's National People's Congress approved the Twelfth Five-Year Plan, covering the years 2011 to 2015.⁵¹ Among the seven priority industries in the Plan is "new energy," which includes nuclear, wind and solar power.⁵² The plan aims to expand on gains made in the renewable energy sector during the previous five-year period.

C. Regional Government Measures and Programs

Like the central government, China's provincial and local governments have promulgated a series of measures and programs designed to promote the renewable energy industry, including solar. The numerous provincial and local government programs provide, among other incentives, financial support to the solar power industry. They include, but are not limited to, the following:

People's Government of Shaanxi Province: In December 2009, the government of Shaanxi Province implemented *Several Opinions Regarding Further Accelerating the Development of New Energy*.⁵³ Pursuant to this measure, Shaanxi Province will accelerate the development of new energy by strengthening its policy support for solar and wind power in the northern region and solar PV and new energy equipment manufacturing in the middle region. The measure also calls for increased financial support for new energy development, including the provision of "fiscal support for projects that are included in national new energy revitalization plan and other major projects."⁵⁴

⁵¹ KPMG China, *China's 12th Five-Year Plan: Overview* (Mar. 2011), attached at Exhibit III-22.

⁵² *Id.*

⁵³ *Shaanxi Province: Several Opinions Regarding Further Accelerating the Development of New Energy*, Shan Zheng Fa {2009} No. 65 (Dec. 3, 2009), attached at Exhibit III-23.

⁵⁴ *Id.*

PUBLIC VERSION

People's Government of Hunan Province: Hunan Province's *Opinions Regarding Accelerating the Development of the Environmental Protection Industry*, implemented in November 2009, pledge to provide support to key projects and enterprises in the environmental protection industry, including solar, wind and biomass.⁵⁵ The measure calls for the provision of preferential tax policies for such projects and enterprises (including a 150 percent tax deduction for research and development expenses), states that financial institutions "shall provide key support for projects whose development is encouraged by the state or our provinces," and establishes priority treatment in land allocation for the environmental protection industry.⁵⁶

People's Government of Yunnan Province: Issued in August 2007, the *Interim Measures for Administering the Special Fund of the Renewable Energy Development* in Yunnan Province provides support for renewable energy development, including solar energy, in the form of grants and loan interest discounts.⁵⁷

People's Government of Ningxia Hui Autonomous Region: In November 2008, the Ningxia Hui Autonomous Region issued *Plans for the Development of the Industrial Cluster of Equipment Manufacturing in the Ningxia Region*. This program calls for the provincial government to provide support in the form of market access, investment and tax preferences to projects in the energy industry.

Haixi Autonomous Prefecture of Mongolia and Tibet: The Haixi Autonomous Prefecture of Mongolia and Tibet in the northern Qinghai province of Western China has been actively engaged in promoting the Chinese CSPV cell industry. For example, in 2009, the Haixi

⁵⁵ *Hunan Province People's Government's Opinion on Accelerating – Environmental Protection Industry*, Hunan Government Pub. {2009} No. 36 (Nov. 6, 2009), attached at Exhibit III-24.

⁵⁶ *Id.*

⁵⁷ *Yunnan Province: Interim Measures for Administering the Special Fund of the Renewable Energy Development in Yunnan Province*, Cai Jian {2006} No. 237 (Aug. 2007), attached at Exhibit III-25.

PUBLIC VERSION

Autonomous Prefecture signed an agreement with China Technology Development Group Corp. and the privately-owned Qinghai New Energy Group to help the two companies “acquire land, subsidies, and project approvals from the central government” for their joint development of a gigawatt-level solar station in Qinghai, which its developers claim will be the largest in the world when finished.⁵⁸

IV. EFFORTS TO OBTAIN INFORMATION

Petitioner has conducted extensive research to document Chinese government subsidies to the CSPV cell industry in China, including a review of the following sources: the financial statements of Chinese CSPV cell producers, where available; company websites; market and industry research; news sources; WTO, U.S. government and Chinese government reports; private market research reports; recent Department CVD investigations with respect to China; and a recent Section 301 investigation into China’s policies affecting green technology.

However, much of the information that would allow Petitioner to determine with certainty the types and amounts of subsidies received by each of China’s CSPV cell producers is difficult or impossible to obtain. The United States Trade Representative (“USTR”) noted in its 2011 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.⁵⁹

In addition to this documented lack of transparency, the Chinese government 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

⁵⁸ *Solar Power Plants to Spring Up in China*, Chinadaily.com.cn, Jan. 10, 2009, attached at Exhibit III-26.

⁵⁹ United States Trade Representative, *2011 National Trade Estimate Report on Foreign Trade Barriers* at 70, attached at Exhibit III-27.

PUBLIC VERSION

Measures. In fact, until April 2006, China had failed to make any of its required subsidy notifications since becoming a member of the WTO, despite repeated requests for notification by the United States and other WTO Member countries. Even its April 2006 subsidies notification was deficient in numerous respects. For instance, the notification failed to include a discussion of major categories of subsidies provided by the government, including debt-to-equity swaps, policy loans at preferential rates, government direction of credit through state-owned banks, and the forgiveness of debts by state-owned banks. Throughout this period, China also failed to report subsidies provided by any level of government below the central government.⁶⁰ Indeed, in a recent request for WTO dispute settlement consultations on China's use of subsidies for wind power equipment manufacturers, USTR included transparency-related claims, addressing China's failure to comply with its obligation to notify the subsidies at issue under the WTO's Agreement on Subsidies and Countervailing Measures and China's failure to translate the measures into the official languages of the WTO.⁶¹

As a result of these 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."⁶² The most accurate and thorough manner in which the type and amount of subsidies may be determined is

⁶⁰ See, e.g., *WTO Committee on Subsidies and Countervailing Measures - Subsidies - Questions from the United States Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/19 (July 26, 2006), attached at Exhibit III-28.

⁶¹ See Office of the United States Trade Representative, *United States Requests WTO Dispute Settlement Consultations on China's Subsidies for Wind Power Equipment Manufacturers* (Dec. 2010), attached at Exhibit III-29.

⁶² *Prestressed Concrete Steel Wire Strand from India*, 68 Fed. Reg. 40,629, 40,632 (Dep't Commerce July 8, 2003) (notice of preliminary affirmative countervailing duty determination).

PUBLIC VERSION

through administrative investigation and through the issuance of preliminary and final administrative determinations.⁶³

Despite these difficulties in obtaining information, Petitioner investigated and is providing information demonstrating that the GOC has granted, and continues to grant, massive amounts of financial assistance to China's CSPV cell producers – assistance which constitutes countervailable subsidies under section 771 of the Act.

V. THE DATE FROM WHICH THE DEPARTMENT SHOULD MEASURE SUBSIDIES

Petitioner does not take a position on this issue. Nonetheless, Petitioner notes that the Department's practice is to countervail any subsidies provided by the Chinese government following China's accession to the WTO on December 11, 2001.⁶⁴

VI. COUNTERVAILABLE SUBSIDY PROGRAMS

The Chinese government grants extensive subsidies to its producers of subject merchandise, including:

- cash grants;
- discounted inputs such as polysilicon and aluminum;
- discounted land, power and water;
- preferential loans and directed credit;
- tax incentives and rebates;
- programs for producers in designated locations;
- export assistance grants; and

⁶³ See *id.*

⁶⁴ 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 affirmative countervailing duty determination in part of critical circumstances) at cmt. 2.

PUBLIC VERSION

- export insurance at preferential rates.

The available evidence indicates that these programs constitute countervailable subsidies under section 771 of the Act because they are financial contributions, provide a benefit to CSPV cell producers, and are specific.

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

A. Grant Programs

1. Export Product Research and Development Fund

a. The Government of China Provides Grants to CSPV Cell Producers Through the Export Product Research and Development Fund

China maintains a number of programs that benefit the export of products designated as “high technology products for export” in the *Catalogue of Chinese High-Tech Products for Export*, first issued in 2000 and updated in 2006. The Catalogue specifically lists “solar photovoltaic power generation systems” and “high-tech products for export.”⁶⁵

On the Chinese-language website for MOFCOM’s Department of Scientific and Technological Development and Trade, MOFCOM outlines the programs maintained to support exports of the goods in the Catalogue, including solar PV power generation systems. The website (translated) states:

Regarding policies for promoting export of high-tech products:

In recent years, State Council relevant agencies have issued a series of policies such as “Rejuvenating Trade Through Science and Technology Action Plan,” “Rejuvenating Trade Through Science and Technology, ‘The 10th Five-year’ Special Plan,” and “Catalogue of Chinese High-Tech Products for Export” to promote the export of high-tech products. In particular, the General Office of State Council reissued on Nov. 12, 2003, “The Several Opinions on Further Implementation of the Strategy of Rejuvenating Trade through Science and

⁶⁵ See Catalogue of Chinese High-Tech Products for Export, attached at Exhibit III-30.

PUBLIC VERSION

Technology,” which was first issued by the MOFCOM and eight other Departments. The document established the framework of policy system of rejuvenating trade through science and technology, mainly reflecting the aspects of capital support, export loan, export credit insurance, speedy custom clearance, and custom examination, etc.

1. Capital Support. To promote technology renewal, upgrading, development, and innovation, as well as the international competitiveness of Chinese products, according to “Discount-loan Fund Management Methods for Technology Renewal and Transformation Project” and “Export Product Research and Development Fund Management Methods,” China has formally started to provide discount-loans for technology renewal and transformation project since July 2002 and to provide capital support for high-tech product R&D since 2003.

Attached at Exhibit III-31 are the regulations for administration of the *Export Product and Research Development Fund*. Our research indicates that this policy is still in effect and applies to products listed in the *2006 Catalogue of Chinese High-Tech Products for Export*.

The *Export Product and Research Development Fund* policy states that the program’s purpose is to “increase exports, research and development efforts to further optimize export product mix {and} improve the technological content of exports and value added.”⁶⁶ The program provides research and development grants for certain export-oriented companies, from central government of China funds,⁶⁷ jointly administered by the Ministry of Finance and the Ministry of Commerce.⁶⁸ To be eligible for funding, exports must have accounted for 50 percent or more of the applicant’s sales in the prior year, or the applicant’s prior year export sales must have exceeded \$15 million.⁶⁹ Projects identified as priority projects in China’s high- and new-technology policies and products demonstrating competitiveness in international markets will receive priority funding.

⁶⁶ See *Measures for Administration of Export Product Research and Development Funds*, Ministry of Foreign Trade and Economic Cooperation {2002} Circular No. 527 at Preamble, attached at Exhibit III-31.

⁶⁷ *Id.* at Art. 2.

⁶⁸ *Id.* at Art. 4.

⁶⁹ *Id.* at Art. 8.

PUBLIC VERSION

Most, if not all, producers of subject imports would be eligible for funds from China's *Export Product and Research Development Fund* and therefore likely received funds under the program. Indeed, Chinese CSPV cell producers are heavily export-oriented. For example, LDK Solar's 2010 Annual Report indicates that it exported more than 65 percent of its products in 2008, 2009, and 2010.⁷⁰ Trina Solar's 2nd Quarter 2011 Supplemental Earnings Call Presentation states that it experienced record shipments in the 2nd quarter of 2011, as shipments made to both Germany and the United States increased significantly.⁷¹ Moreover, JA Solar recently reported that its "sales to overseas markets, such as Europe and North America ... increased significantly in 2010."⁷² As with JA Solar and Trina Solar, Suntech Power and Yingli Green Energy "export most of their goods to Europe and North America."⁷³ In fact, in 2010 alone, Suntech shipped more than 1,572 megawatts of solar product, an increase of 125 percent over 2009 shipment levels, making the company the leading supplier of solar panels worldwide.⁷⁴ Further, in 2008, 2009, and 2010, Yingli Green Energy sold 97.5 percent, 95.5 percent, and 94 percent,⁷⁵ respectively, of its products outside of China, and expects to ship 1.7 to 1.75 GW in 2011.⁷⁶

⁷⁰ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 54 (July 22, 2011), attached at Exhibit III-32.

⁷¹ Trina Solar Limited Q2 2011 Supplemental Earnings Call Presentation (Aug. 23, 2011), attached at Exhibit III-33.

⁷² JA Solar Holdings Co., Ltd. Form 20-F For Fiscal Year Ended December 31, 2010 (Apr. 26, 2011) at 14, attached at Exhibit III-34.

⁷³ Ucilina Wang, *Here Comes China's \$3B, 'Golden Sun' Projects*, Green Tech Media, Nov. 16, 2009, attached at Exhibit III-35.

⁷⁴ Suntech Power Holdings Co., Ltd., Form 20-F For Fiscal Year Ended December 31, 2010 at 39, attached at Exhibit III-36.

⁷⁵ Yingli Green Energy Holding Co. Ltd. Form 20-F For Fiscal Year Ended December 31, 2010 at 17, attached at Exhibit III-37.

⁷⁶ Photon Int'l Survey at 192, attached at Exhibit III-8.

PUBLIC VERSION

b. Grants Through the *Export Product Research and Development Fund* Constitute Countervailable Subsidies

(1) *Financial Contribution*

The *Export Product Research and Development Fund* provides a direct financial contribution in the form of a grant from the Chinese central government budget.

(2) *Benefit*

The *Export Product Research and Development Fund* provides a benefit equal to the amount of the grant.

(3) *Specificity*

Only enterprises that export more than half of their sales, or at least \$15 million a year, may qualify for grants under the *Export Product Research and Development Fund*. The very terms of the policy make it clear that the fund is only available to exports, and eligibility is contingent on the level of export. Because this subsidy program is contingent on export performance, it is specific under section 771(5A)(B) of the Act.

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

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

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.”⁷⁷

USTR has also stated that because these subsidies are explicitly tied to exports, they constitute

⁷⁷ See WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment, 74 Fed. Reg. 7,494 (Feb. 17, 2009), attached at Exhibit III-38.

PUBLIC VERSION

prohibited subsidies under the WTO Agreement on Subsidies and Countervailing Measures.⁷⁸ In prior cases, the Department has determined that famous brand awards provide countervailable subsidies.⁷⁹

Publicly available information indicates that Chinese CSPV cell producers have received benefits under this program. For example, information reasonably available to Petitioner indicates that Suntech and LDK Solar produce products with “famous brand names.”⁸⁰ Similarly, Hengdian Group DMEGC Magnetics produces merchandise that has been designated as “Chinese Famous Product” by the government’s General Administration of Quality Supervision, Inspection and Quarantine.⁸¹ Accordingly, the Department should investigate this program.

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

(1) *Financial Contribution*

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

⁷⁸ See *id.*

⁷⁹ See Issues and Decision Memorandum accompanying *Aluminum Extrusions from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 Fed. Reg. 18,521 (Dep’t Commerce Apr. 4, 2011) (Final) at 18-19 (“*Aluminum Extrusions I&D Memo*”); Issues and Decision Memorandum accompanying *China Citric Acids and Citrate Salts*, 74 Fed. Reg. 16,836 (Dep’t Commerce Apr. 13, 2009) at 13-14.

⁸⁰ See *ICBC International: Company Note GCL-Poly (3800.HK)* (July 21, 2009) at D4, attached at Exhibit III-39.

⁸¹ DMEGC Company Profile, attached at Exhibit III-40.

(2) *Benefit*

The Department also previously determined 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 GOC pursuant to these programs allow Chinese CSPV cell 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).

(3) *Specificity*

The Department has previously determined that the subsidy program is specific under sections 771(5A)(A) and (B) of the Act because the grants provided under these programs are contingent on export activity.⁸²

3. Sub-Central Government Subsidies for Development of “Famous Brands” and China World Top Brands

a. China’s Sub-Central Governments Provide Grants to CSPV Cell 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.⁸³ According to USTR, these sub-central programs provide additional financial support to companies with products designated as famous brands.⁸⁴

Several Chinese provinces have their own famous brand programs under which Chinese CSPV cell producers likely received benefits. For example, Jiangxi Province has a government

⁸² See, e.g., *Aluminum Extrusions I&D Memo* at 18-19.

⁸³ See WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment, 74 Fed. Reg. 7,494 (Feb. 17, 2009), attached at Exhibit III-38.

⁸⁴ See *id.*; see also *WTO Committee on Subsidies and Countervailing Measures - Subsidies - Questions from the United States Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/19 at 9-10 (July 26, 2006), attached at Exhibit III-28.

PUBLIC VERSION

program to support *Famous Export Brands*.⁸⁵ In April 2007, Jiangxi Province implemented a measure entitled the *Support and Cultivation of Famous Export Brands in Jiangxi Province, Special Commissioner's Office in Shanghai* (19 April 2007).⁸⁶ Both Suntech and LDK Solar, Chinese CSPV cell producers with products designated as “famous brands,” are located in Jiangxi Province. Jiangsu Province is yet another province that has its own program to support Famous Export Brands,⁸⁷ implementing its *Notice Regarding Selection of 2007-2008 “Jiangsu Province Export Brands for Focused Cultivation and Development,” Suwaijingmaomao {2007} No. 122* in 2007.⁸⁸ Several Chinese CSPV cell producers are located in Jiangsu Province, including Suntech Power, Trina Solar, and Jiasheng Photovoltaic Tech. Accordingly, to the extent these companies are also designated as producing famous brands, they likely received benefits under this program.

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

(1) *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.

(2) *Benefit*

This program also 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 CSPV cell producers to increase exports and lower their costs of

⁸⁵ *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/42* at 2 (Oct. 11, 2011), attached at Exhibit III-41.

⁸⁶ *Id.* at 12.

⁸⁷ *Id.* at 18.

⁸⁸ *Id.* at 8.

PUBLIC VERSION

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).

(3) *Specificity*

The Department has previously determined that the subsidy program is specific under sections 771(5A)(A) and (B) of the Act because the grants provided under these programs are contingent on export activity.⁸⁹

4. **Special Energy Fund**

a. Shandong Province Provides Grants to CSPV Cell Producers Through the *Special Energy Fund*

In 2007, the Shandong Province established the *Shandong Province Energy Fund*, which is a fund of RMB 2.133 billion to support energy conservation and emission reductions.⁹⁰ Through this fund, the “provincial government will allocate funds to subsidise (sic) the construction and adoption of solar hot water supply systems by hotels, schools and other establishments.”⁹¹

Several CSPV cell producers are located in Shandong Province, including CNPV, General Solar Power, Himin Holdings, Linuo Photovoltaic and Sunvim Solar Technology. Consequently, they likely received benefits under this program.

b. Grants Provided Through the *Special Energy Fund* Constitute Countervailable Subsidies

(1) *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.

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

⁹⁰ See International Energy Agency, *Global Renewable Energy: Policies and Measures*, attached at Exhibit III-42.

⁹¹ See *id.*

(2) *Benefit*

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

(3) *Specificity*

This subsidy program is specific under section 771(5A)(B) of the Act because the recipients of the grant are limited to companies located in a certain geographical region, namely, Shandong Province.

5. **Fund for Economic, Scientific, and Technology Development**a. The Government of Foshan City Provides Grants through the Fund for Economic, Scientific, and Technology Development

Under this program, the Government of Foshan City provides grants to firms in order to encourage technological and economic development. The *Fund for Economic, Scientific, and Technology Development* is administered by the Science and Technology Bureau of Foshan Municipality and the Finance Bureau of Foshan Municipality pursuant to the *Circular on Printing and Distributing of the Measures on Administration of Foshan Sci-Tech Development Special Fund*.⁹² The Department has previously determined this program to be countervailable in *Certain Aluminum Extrusions from the People's Republic of China* (“*Aluminum Extrusions*”).⁹³

Information concerning the grants received by CSPV cell producers under the *Fund for Economic, Scientific, and Technology Development* is not reasonably available to Petitioner. However, both Aiko Solar and Golden Partner Development are CSPV cell producers located in

⁹² *Aluminum Extrusions I&D Memo* at 27.

⁹³ *Id.*

PUBLIC VERSION

Foshan City. As enterprises that are engaged in technological development, it is likely that they received benefits under this program.

b. Grants Provided Through the Fund for Economic, Scientific, and Technology Development Constitute Countervailable Subsidies

(1) *Financial Contribution*

As the Department determined in *Aluminum Extrusions*,⁹⁴ monies disbursed under this program constitute financial contributions, as they are direct transfers of funds under section 771(5)(D)(i) of the Act.

(2) *Benefit*

Consistent with the Department's determination in *Aluminum Extrusions*,⁹⁵ 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).

(3) *Specificity*

This subsidy program is specific under section 771(5A)(B) of the Act because the actual recipients of the grant are limited to companies located in a certain geographical area, namely, Foshan City.

6. Funds for Outward Expansion of Industries in Guangdong Province

a. Guangdong Province Provides Grants to Chinese CSPV Cell 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*,⁹⁶ the goal of this program is

⁹⁴ *Id.* at 29.

⁹⁵ *Id.*

⁹⁶ See Issues and Decision Memorandum accompanying *Certain Lightweight Thermal Paper from the People's Republic of China*, 73 Fed. Reg. 57,323 (Dep't Commerce Oct. 2, 2008) ("*Lightweight Thermal Paper I&D Memo*").

PUBLIC VERSION

to provide eligible private enterprises located in the province with special funds to develop their export activities. As the Department has stated:

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.⁹⁷

The Department previously found this program to provide a countervailable subsidy in *Certain Lightweight Thermal Paper from the People's Republic of China* (“*Lightweight Thermal Paper*”).⁹⁸

Information concerning the funding that Chinese CSPV cell producers have received under this program is not reasonably available to Petitioners. However, several Chinese CSPV cell producers are located in Guangdong Province, including Aiko Solar, CSG PV Tech, Global Solar Energy Tech and Sunflower, and many of these producers are export-oriented. Accordingly, they likely received benefits under this program.

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

(1) *Financial Contribution*

As the Department determined in *Lightweight Thermal Paper*,⁹⁹ monies disbursed under this program constitute financial contributions under section 771(5)(D)(i) of the Act.

⁹⁷ *Lightweight Thermal Paper from the People's Republic of China*, 73 Fed. Reg. 23,850, 13,860 (Dep't Commerce Mar. 14, 2008) (preliminary affirmative countervailing duty determination and alignment of final countervailing duty determination with final antidumping duty determination).

⁹⁸ See *Lightweight Thermal Paper I&D Memo*.

⁹⁹ See *id.* at 11.

(2) *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).

(3) *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.

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. The Department has previously determined this program to be countervailable in *Aluminum Extrusions*.¹⁰⁰

Information concerning the grants received by CSPV cell producers under the *Provincial Fund for Fiscal and Technological Innovation* is not reasonably available to Petitioner. However, several CSPV cell producers, including Aiko Solar, CSG PV Tech, Global Solar Energy Tech and Sunflower are located in Guangdong Province. As enterprises engaged in technological development, it is likely that they received benefits under this program.

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

PUBLIC VERSION

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

(1) *Financial Contribution*

As the Department determined in *Aluminum Extrusions*,¹⁰¹ funds disbursed under this program constitute financial contributions, as they are direct transfers of funds under section 771(5)(D)(i) of the Act.

(2) *Benefit*

Consistent with the Department's determination in *Aluminum Extrusions*,¹⁰² 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).

(3) *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 companies located in a certain geographical region, namely, Guangdong Province.

8. The Golden Sun Demonstration Program

a. The Chinese Government's Golden Sun Demonstration Project Subsidizes Chinese CSPV Cell Producers

In July 2009, the Chinese government announced its "Golden Sun" Project to subsidize the installation of at least 500 megawatts of solar projects across the country in a period of two to three years.¹⁰³ The July 2009 *Notice Concerning the Implementation of the Golden Sun Demonstration Project and Golden Sun Demonstration Project Interim Measures for Financial*

¹⁰¹ *Aluminum Extrusions I&D Memo* at 27.

¹⁰² *Id.*

¹⁰³ Ucilia Wang, *Chinese Gov't Will Pay to Install 500MW Solar*, Green Tech Media, July 21, 2009, attached at Exhibit III-43.

PUBLIC VERSION

*Assistance Fund Management*¹⁰⁴ establish funding to support the demonstration and industrialization of key technologies in the solar cell and module industry. The measure provides that financial resources will be used to strengthen management, improve capital efficiency, standardize project management and create a formulated approach. The Golden Sun Demonstration Project is a combination of financial assistance, technological support and market approaches designed to accelerate the industrialization and development of the solar cell industry in China, and to promote the progress of solar power generation technology.

Subsidy-eligible projects include various solar power generation demonstration projects, the construction of large-scale grid-connected solar power generation demonstration projects in solar-energy rich regions, the development and industrialization of key solar technologies, and solar power generation capacity building. For grid-connected solar power generation projects, consisting of solar systems and supporting transmission and distribution projects, the government of China will “subsidize 50 percent of the costs of building a solar power project and transmitting and distributing the solar power from that project.”¹⁰⁵ The incentive rises to 70 percent of the costs for projects in remote areas that are not connected to the grid.¹⁰⁶ “In November 2009, China’s Ministry of Finance announced that it had identified 294 solar power projects eligible for subsidies covering 50 percent of the project costs.”¹⁰⁷ Although the original project’s mandate expires in 2012, China has already announced plans to extend this subsidy

¹⁰⁴ *Notice Concerning the Implementation of the Golden Sun Demonstration Project and Golden Sun Demonstration Project Interim Measures for Financial Assistance Fund Management* (July 16, 2009), attached at Exhibit III-44.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Jim Bai and Chen Aizhu, *China Selects 294 Solar Power Plants for Subsidy*, Reuters, Nov. 15, 2009, attached at Exhibit III-45.

PUBLIC VERSION

program.¹⁰⁸ Significantly, the government's Golden Sun program "could easily boost solar panel demand by 9-10GW in the next 5 years...."¹⁰⁹

It is likely that Chinese CSPV cell producers have been the recipient of subsidies under the Golden Sun program, as many cell producers also set up and install solar power projects. For example, in 2009, the government awarded subsidies under this program to Suntech Power, Yingli Green Energy, JA Solar, and Trina Solar, all of which export most of their products to Europe and North America.¹¹⁰ Moreover, in December 2010, the Chinese government announced that it was awarding to Yingli Green Energy "70% of the 272 megawatt in Golden Sun program subsidized solar projects for 2011, with the majority of the estimated 190 MW of shipments scheduled for the second half of 2011."¹¹¹

Moreover, publicly available information suggests that Chinese CSPV producers do not bid on Golden Sun projects in a transparent and competitive manner.¹¹² Rather, it appears likely that the government simply assigns Golden Sun-approved projects to particular CSPV cell producers, thereby providing them a subsidy.

b. The Golden Sun Demonstration Program Constitutes a Countervailable Subsidy

(1) *Financial Contribution*

The Golden Sun Demonstration Program constitutes a financial contribution in the amount of the grant provided, either 50 percent or 70 percent of the total project costs.

¹⁰⁸ *China's Govt to Extend Golden Sun Project Beyond 2012*, Jan. 20, 2011, attached at Exhibit III-46.

¹⁰⁹ Kelvin Schulle, *Three Upside Surprises to Expect in 2011*, Seeking Alpha, Dec. 10, 2010, attached at Exhibit III-47.

¹¹⁰ Uculia Wang, *Here Comes China's \$3B, 'Golden Sun' Projects*, Green Tech Media, Nov. 16, 2009, attached at Exhibit III-35.

¹¹¹ Eric Rosenbaum, *Solar Winners: Yingli, Suntech, Power-One*, The Street, Dec. 6, 2010, attached at Exhibit III-48.

¹¹² See *China Sets Solar Power Price to Boost Profits, Investment*, Bloomberg News, Aug. 1, 2011, attached at Exhibit III-49.

(2) *Benefit*

When Chinese CSPV cell and module producers receive direct grants under the Golden Sun program as developers of solar power projects, they receive a benefit equal to the amount of the grant received (either 50 percent or 70 percent of the project's costs). When Chinese CSPV cell and module producers are directed or assigned by the Chinese government to supply CSPV modules for a Golden Sun solar power project, they receive a benefit equal to the amount they are paid for supplying the project.

(3) *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 involved in certain solar power projects.

B. Provision of Inputs for Less Than Adequate Remuneration**1. The CSPV Cell Production Process**

The manufacturing process for CSPV cells includes up to five phases: (1) crystallization; (2) wafer production; (3) cell conversion; (4) module assembly; and (5) packing and inspection.¹¹³ As discussed in more detail in Volume I, wafer production begins with pure polysilicon chunks, from which a silicon crystal is grown. The crystal is then cut into ingots, which are "squared" and sliced into wafers. At this stage, the silicon crystal has been turned into a crystalline silicon wafer. To process silicon wafers into solar cells that are capable of generating electricity, wafers are generally treated with heat and chemicals and placed in oven-like chambers where a dopant of opposite electrical property is diffused onto the wafers' surface. The cells are coated with nitride and undergo a process in which metals such as silver are painted

¹¹³ See SolarWorld Production Brochure at Common Issues and Injury Volume Exhibit I-11.

PUBLIC VERSION

or printed onto the surface of the cell. To assemble modules of panels, cells are conductively connected, typically into a string of ten cells. A string of cells is then typically mated with five other strings to form a rectangular matrix, which is then laminated with special solar glass. The laminated cells and glass can be encased in an aluminum frame. Additionally, an electrical junction box is soldered or joined to the module.¹¹⁴ Once these tasks are accomplished, a solar module is considered to be complete.¹¹⁵

Chinese CSPV cell producers can purchase many of the inputs for this process for less than adequate remuneration, as described below.

2. The Provision of Polysilicon for Less Than Adequate Remuneration

a. Chinese CSPV Cell Producers Receive Polysilicon for Less Than Adequate Remuneration from State-Owned Polysilicon Producers

Polysilicon for use in CSPV cells is produced and sold by state-owned enterprises (“SOEs”) in China at subsidized rates. Chinese CSPV cell producers purchase polysilicon from these producers for less than adequate remuneration and thereby receive a large subsidy. By providing extensive subsidies to its state-owned and -controlled polysilicon producers, the Chinese government is able to heavily promote its solar industry, as polysilicon producers sell the raw material at a significant discount to, and thereby benefit, the producers of CSPV cells. Moreover, the Chinese government imposes export duties and other export restrictions on various types of silicon, which can be processed into polysilicon for use in CSPV cells, and thereby artificially lowers the price of the material for Chinese polysilicon and CSPV cell producers and confers a significant subsidy.

¹¹⁴ The inclusion of an inverter is much more dependent upon the particular customer order. As an inverter is used to convert DC power to AC power, only one inverter is needed for a number of finished modules.

¹¹⁵ See SolarWorld Production Brochure at Common Issues and Injury Volume Exhibit I-11.

PUBLIC VERSION

Polysilicon in China is produced by a large number of SOEs, which receive extensive subsidies from the Chinese government. Petitioner's research demonstrates that, likely in addition to others, the following major Chinese polysilicon producers are state-owned or -controlled:

- China Silicon Corporation Ltd.: China Silicon is [*NARRATIVE*] in China;¹¹⁶ in addition, [~~X~~] of China Silicon's shareholders are state owned;¹¹⁷
- LDK Solar Co. Ltd. ("LDK Solar"): LDK Solar's largest shareholder is [*NAME NARRATIVE*];¹¹⁹
- CGL-Poly Energy Holdings Limited ("CGL-Poly"): China Investment Corporation, an SOE, holds a 20 percent interest in CGL-Poly;¹²⁰ in addition, CGL-Poly's Director and Chairman, Zhu Gongshan, [*NARRATIVE*] and controls 32 percent of CGL-Poly's shares;¹²¹
- Dongfang Electric Emei Semiconductor Material Co. Ltd. ("Dongfang Electric"): Dongfang Electric is [*NARRATIVE*];
- Sichuan Xinguang Silicon-Tech Co. Ltd. ("Sichuan Xinguang"): Sichuan Xinguang's largest shareholder is [*NAME*],¹²² which itself is a subsidiary of an SOE, [*NAME*].¹²³ The second-largest shareholder of Sichuan Xinguang is [*NAME*], also an SOE, [*NARRATIVE*];

¹¹⁶ See China Silicon Corporation, Ltd., *Luoyang China Silicon High-Tech Co. Ltd. is Developing Independent Technology Innovation*, attached with English translation at Exhibit III-50.

¹¹⁷ See China Silicon Corporation Ltd. Shareholders Table.

¹¹⁸ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 108 (July 22, 2010), attached at Exhibit III-32.

¹¹⁹ See [*NAME*] attached with English translation at Exhibit III-51.

¹²⁰ GCL-Poly Energy Holdings Limited, *Bringing Green Power to Life: 2011 Interim Report* at 52 n.2, attached at Exhibit III-52.

¹²¹ *Id.* at 47.

¹²² See Sichuan Xinguang Silicon-Tech Co., Ltd. Shareholders table, attached at Exhibit III-53. This information was obtained by a foreign market researcher in China from confidential and highly sensitive records in China, and Petitioner is thus treating the information as proprietary.

¹²³ See [*NAME*], attached at Exhibit III-54 [*NARRATIVE*].

PUBLIC VERSION

- Jiangsu Zhongneng Polysilicon Technology Development Co., Ltd. (“Jiangsu Zhongneng”): Jiangsu Zhongneng’s largest shareholder is [NAME], is [%] percent owned by the [NAME];
- Sichuan Chuantou Energy Co. (“Sichuan Chuantou”): The largest shareholder of Sichuan Chuantou, as noted above, is an SOE – [NAME].¹²⁵ Moreover, [NAME] a Chinese government body, holds a [%] percent stake in Sichuan Chuantou;¹²⁶
- Baoding Tianwei Baobian Electric Co. Ltd. (“Baoding Tianwei”): [NAME] which owns over [%] percent of Baoding Tianwei’s shares,¹²⁷ is wholly owned by [NAME]¹²⁸ [NAME] is directly controlled by the State Council’s [NAME];¹²⁹
- Kunming Yeyan New Material Co. Ltd. (“Kunming Yeyan”): Kunming Yeyan’s largest shareholder, [NAME],¹³⁰ is [%] percent controlled by [NAME],¹³¹ and
- Yichang CSG Polysilicon Co. Ltd. (“Yichang CSG”): Yichang CSG is [%] percent owned by [NAME],¹³² the largest shareholder of which is an SOE, [NAME]¹³³

The Chinese polysilicon industry, guided by the Chinese government, developed recently and extremely quickly. In 2006, over 95 percent of Chinese polysilicon demand was imported,¹³⁴ and by the end of that year, China’s total polysilicon manufacturing capacity was

¹²⁴ See Jiangsu Zhongneng Polysilicon Technology Development Shareholders Table, attached at Exhibit III-55.

¹²⁵ See Sichuan Investment Group Co. Ltd, attached with English translation at Exhibit III-54.

¹²⁶ See Sichuan Chuantou Energy Co. Shareholders Table, attached at Exhibit III-56.

¹²⁷ See Baoding Tianwei Baobian Electric Co., Ltd. Shareholders Table, attached at Exhibit III-57.

¹²⁸ See Baoding Tianwei Ownership Chart, attached at Exhibit III-58.

¹²⁹ See *id.*

¹³⁰ See Kunming Yeyan New Material Co., Ltd. Shareholders Table, attached at Exhibit III-59.

¹³¹ See Kunming Yeyan New Material Co., Ltd. Ownership Chart, attached at Exhibit III-60.

¹³² See Yichang CSG Polysilicon Co., Ltd. Shareholders Table, attached at Exhibit III-61.

¹³³ See Yichang CSG Polysilicon Co., Ltd. Ownership Chart, attached at Exhibit III-62.

¹³⁴ Susan Myers and LY Yuan, *China’s Solar Energy Industry: Polysilicon 2007-2011*, Altenergymag.com, attached at Exhibit III-63.

PUBLIC VERSION

only 500 tons.¹³⁵ By 2009, Chinese polysilicon production capacity was over 60,000 tons,¹³⁶ and this year, it is expected that China will produce about 176,000 tons of polysilicon¹³⁷ – an increase of over 3000 percent in only five years.

This rapid expansion of China's polysilicon manufacturing industry was the direct result of a conscious decision by the Chinese government that the country needed a strong polysilicon industry in order to promote its fledgling solar energy industry. As a result, the government established polysilicon manufacturing enterprises and provided subsidies to its polysilicon manufacturing sector, making the industry's unusually rapid growth possible.

Polysilicon is a major input of CSPV cells. Because many Chinese CSPV producers referenced in this petition lack production facilities for producing polysilicon (or for producing the full amount of polysilicon they require), they must purchase this input. It is likely that the polysilicon that CSPV cell producers purchase from China is manufactured by state-owned or controlled polysilicon producers. Thus, all available evidence demonstrates that CSPV producers receive polysilicon at subsidized prices, paying less than adequate remuneration for their main input.

Information needed to specifically quantify the benefit provided to CSPV producers from the provision of polysilicon by SOEs is not reasonably available to Petitioner. In particular, Petitioner does not have access to the quantities of polysilicon purchased from SOEs by each CSPV cell producer and the purchase prices during the period. However, Petitioner believes that Chinese CSPV cell producers purchase polysilicon from SOEs at prices far below world market

¹³⁵ *Id.*

¹³⁶ Xina Xie and Michael Economides, *China's Photovoltaic Industry: Exporting on the Cheap*, Energy Tribune, Sept. 3, 2009, attached at Exhibit III-64.

¹³⁷ *Asia Doubles Solar Silicon Factories, Pursuing Gain in Slump*, Bloomberg News, July 10, 2011, attached at Exhibit III-7.

PUBLIC VERSION

prices. Monthly world market prices for polysilicon in 2010, attached at Exhibit III-154, ranged from a low of \$53.33 per kilogram in June 2010 to a high of \$71 per kilogram in December 2010. It appears that Chinese CSPV producers purchase polysilicon at much lower prices.

b. Chinese CSPV Cell Producers' Receipt of Polysilicon for Less Than Adequate Remuneration from State-Owned Producers Constitutes a Countervailable Subsidy

(1) *Financial Contribution*

The Chinese government's provision of polysilicon through state-owned or controlled producers is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

(2) *Benefit*

This program confers a benefit on recipients because a good is being sold for less than adequate remuneration, pursuant to section 771(5)(E)(iv) of the Act.

(3) *Specificity*

This subsidy is specific because it is provided to a limited number of enterprises and industries. Accordingly, the Department should investigate the receipt of benefits by Chinese CSPV cell producers from the provision of polysilicon at less than adequate remuneration, pursuant to section 771(5A)(D)(iii) of the Act.

3. The Provision of Aluminum for Less Than Adequate Remuneration

a. The GOC Provides Aluminum to CSPV Cell Producers for Less Than Adequate Remuneration Through State-Owned Aluminum Producers

CSPV cell producers in China enjoy the benefit of obtaining aluminum from state-owned aluminum producers at below-market prices. State-owned aluminum producers dominate primary aluminum production in China.¹³⁸ In fact, SOEs accounted for nearly half of China's

¹³⁸ See Canadian Border Services Agency, Statement of Reasons Concerning the Making of Final Determinations with Respect to the Dumping and Subsidizing of *Certain Aluminum Extrusions Originating in or Exported from the People's Republic of China* (Mar. 3, 2009) at 70 ("*Canadian Statement of Reasons*"), attached at

PUBLIC VERSION

total aluminum production in 2008.¹³⁹ For example, the state-owned Aluminum Corporation of China Limited (“Chalco”) alone produced almost one-fourth of China’s total primary aluminum output in 2008.¹⁴⁰

To ensure an adequate supply for manufacturers of downstream products such as CSPV cells, the GOC has implemented several policies to manage primary aluminum prices.¹⁴¹ For example, the GOC manages aluminum supply and demand through the *Notice of Guidelines on Accelerating the Adjustment of Aluminum Industry Structure*.¹⁴² This policy requires China’s financial institutions to provide lending for Chinese aluminum enterprises.¹⁴³ Moreover, the GOC protects domestic aluminum supply with export tariffs as high as 15 percent.¹⁴⁴

Publicly available information confirms that the CSPV cell industry in China is able to purchase aluminum from SOEs at below-market prices. In 2010, the average three-month futures price of aluminum on the London Metals Exchange (“LME”), adjusted for import duties and VAT, was nearly 13.10 percent higher than the price on the Shanghai Futures Exchange (“SHFE”).¹⁴⁵

Exhibit III-65; Australian Customs and Border Protection Service, Preliminary Report on Existence of Countervailable Subsidies – *Alleged Subsidization of Aluminum Extrusions Exported from the People’s Republic of China* at 6 (“*Australia Preliminary Report*”), attached at Exhibit III-66.

¹³⁹ See *Australia Preliminary Report* at 6, attached at Exhibit III-66.

¹⁴⁰ 2008 Annual Report of Aluminum Corporation of China Limited at 27, 37 and 39, attached at Exhibit III-67.

¹⁴¹ As one industry journal reports, the government of China “has been keen to control exports of the upstream product primary aluminum in order to increase domestic supply.” *Growing Aluminum Alloy Exports Inviting Attention from Chinese Authorities*, China Metal Weekly, July 18, 2008, attached at Exhibit III-68.

¹⁴² *Notice of Guidelines on Accelerating the Adjustment of Aluminum Industry Structure*, Fa Gai Yun Xing 2006 No. 589, attached at Exhibit III-69.

¹⁴³ *Id.*

¹⁴⁴ See *Customs Export Tariff of the People’s Republic of China (Enforced from Jan. 1, 2009)*, attached at Exhibit III-70; see also *Customs Import Tariff of the People’s Republic of China (2009)*, attached at Exhibit III-71.

¹⁴⁵ See *Estimated Benefits Provided to Chinese CSPV Cell Producers from the Provision of Aluminum for Less Than Adequate Remuneration*, attached at Exhibit III-72.

PUBLIC VERSION

In addition to these macroeconomic controls, the GOC intervenes directly in the purchasing process to assist manufacturers who use aluminum as an input. For example, the Fuzhou Development Zone Development and Reform Bureau helped an aluminum product manufacturer procure low-priced aluminum ingot.¹⁴⁶

b. The Provision of Aluminum for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

(1) *Financial Contribution*

As the Department has previously determined, primary aluminum producers in China are majority-government owned and, therefore, are government authorities.¹⁴⁷ As a result, “primary aluminum supplied by companies deemed to be government authorities constitute(s) a financial contribution in the form of a governmental provision of a good,”¹⁴⁸ within the meaning of section 771(5)(D)(iii) of the Act.

In addition, China agreed in its WTO Accession Protocol that its SOEs would be considered government actors, and therefore that they could confer countervailable subsidies when they did not act in a commercial manner. By selling aluminum for less than adequate remuneration, the SOEs are behaving as extensions of the Chinese government, not as commercial actors, and are providing a financial contribution to CSPV cell producers.

(2) *Benefit*

Chinese CSPV cell producers receive a benefit to the extent that the price paid for aluminum from state-owned and -controlled aluminum producers constitutes less than adequate remuneration, pursuant to section 771(5)(E)(iv) of the Act. To determine the amount of benefit,

¹⁴⁶ See Mawei District Government, *Fuzhou Development Zone “Bites” on Scientific Development Tightly*, May 4, 2009, attached at Exhibit III-73.

¹⁴⁷ See *Aluminum Extrusions from the People’s Republic of China*, 75 Fed. Reg. 54,302, 54,317 (Dep’t Commerce Sept. 7, 2010) (preliminary affirmative countervailing duty determination).

¹⁴⁸ See *id.*

PUBLIC VERSION

the Department's regulations require the use of a market-determined price for the good resulting from actual transactions in the country in question as the benchmark, where applicable.¹⁴⁹ However, the Chinese government's domination and subsidization of aluminum producers in the country have distorted the price of aluminum in China.

Therefore, following the Department's practice in *Aluminum Extrusions*,¹⁵⁰ Petitioner adopts the LME price as a suitable world market price, adjusted as appropriate, and the publicly-available SHFE price for the Chinese government price of aluminum. As demonstrated in Exhibit III-72, primary aluminum was in fact provided to CSPV producers by SOEs for less than adequate remuneration in 2010.¹⁵¹ The benefit conferred on Chinese producers of CSPV cells as a result of this subsidy was \$351.93 per metric ton for primary aluminum.¹⁵²

(3) *Specificity*

As the Department has previously determined, this program is specific because it is provided to a limited number of preferred industries.¹⁵³ The provision of aluminum to CSPV cell producers in China is therefore specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

4. The Provision of Power for Less Than Adequate Remuneration

a. Chinese CSPV Cell Producers Receive Power 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 the effort to promote

¹⁴⁹ See 19 C.F.R. § 351.511(a)(2)(i).

¹⁵⁰ See *Aluminum Extrusions I&D Memo* at cmt. 21.

¹⁵¹ See *Estimated Benefits Provided to Chinese CSPV Cell Producers from the Provision of Aluminum for Less Than Adequate Remuneration*, attached at Exhibit III-72.

¹⁵² See *id.*

¹⁵³ See *Aluminum Extrusions I&D Memo* at cmt. 19.

PUBLIC VERSION

production.¹⁵⁴ While data on the actual rates given to individual companies are unavailable, publicly available information makes it clear that Chinese CSPV cell producers continue to benefit from electricity at no cost or at rates well below market value.

Many Chinese provinces offer their local polysilicon producers preferential electricity rates in order to promote domestic CSPV cell production. Indeed, as of June 2009, at least six Chinese cities provided polysilicon producers with electricity rates that were 17 percent to 60 percent lower than rates provided to other local industries.¹⁵⁵ Moreover, in each city [

QUOTE

].”¹⁵⁶ Importantly, these preferential power prices have provided polysilicon producers with tremendous cost advantages.¹⁵⁷ According to a June 2009 report, while the average cost of production was [

QUOTE

].”¹⁵⁸

Importantly, 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.¹⁵⁹

¹⁵⁴ 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 at 12 (Jan. 2007), attached at Exhibit III-74.

¹⁵⁵ [TITLE], attached at Exhibit III-75.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ See, e.g., *Polluters Will Be Forced to Pay More*, People's Daily Online, June 27, 2007, attached at Exhibit III-76.

PUBLIC VERSION

Chinese CSPV cell producers have likely benefitted from this program. First, several Chinese CSPV cell producers also produce polysilicon and, as a result, are eligible to receive preferential power rates. For example, CSG PVTech Co. Ltd. “works along the PV value chain covering poly-silicon, ingot, wafer, solar cell, solar glass and solar modules.”¹⁶⁰ Further, DMEGC Solar Energy, a Division of the Hengdian Group DMEGC Magnetics Co., Ltd., recently launched a project to manufacture polysilicon, which is expected to become operational in early 2012.¹⁶¹ Second, it is likely that several Chinese provinces offer preferential power prices to local CSPV cell producers. Indeed, as of June 2009, officials in Chanzhou City, Jiangsu Province, were considering offering such preferential prices to local firms that produce CSPV cells.¹⁶² Accordingly, the Department should initiate and investigate the extent to which China’s CSPV cell producers receive power at a discounted rate.

b. **Chinese CSPV Cell Producers’ Receipt of Power for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy**

(1) *Financial Contribution*

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.

(2) *Benefit*

Because the various levels of the Chinese government provide discounted electricity to Chinese CSPV cell 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

¹⁶⁰ Arnulf Jager-Waldau, *PV Status Report: Research, Solar Cell Production and Market Implementation of Photovoltaics* (July 2011) at 84, attached at Exhibit III-77.

¹⁶¹ *Id.*

¹⁶² [TITLE], attached at Exhibit III-75.

PUBLIC VERSION

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.”¹⁶³

(3) *Specificity*

Under section 771(5A)(D)(iii)(I), the receipt of discounted electricity is *de facto* specific because officials use their discretion to administer the discounted rates to a limited group of preferred enterprises and industries. Petitioners believe that these decisions are made pursuant to policy directives and measures issues by the central and provincial governments.

5. **The Provision of Water for Less Than Adequate Remuneration**a. **Chinese CSPV Cell Producers Receive Water for Less Than Adequate Remuneration**

Similar to electricity, available evidence indicates that the GOC provides preferential water rates and unlimited water use to favored industries and certain enterprises within those industries. Indeed, in its preliminary determination in *Rectangular Pipe and Tube*, the Department found that water prices are regulated by the local governments and that certain subject producers paid less for water than other industrial users.¹⁶⁴ As a result, the Department preliminarily determined that the GOC’s provision of water conferred a countervailable subsidy.¹⁶⁵

Based on information reasonably available, Petitioner believes that Chinese CSPV cell producers benefit from preferential water rates and usage restrictions. The Department should

¹⁶³ WTO Accession Protocol of the People’s Republic of China, Nov. 10, 2001 (“WTO Accession Protocol”) at Art. 15, attached at Exhibit III-78.

¹⁶⁴ *Light-Walled Rectangular Pipe and Tube from the People’s Republic of China*, 72 Fed. Reg. 67,703, 67,708 (Dep’t Commerce Nov. 30, 2007) (preliminary affirmative countervailing duty determination and alignment of final countervailing duty determination with final antidumping duty determination) (“*Light-Walled Rectangular Prelim.*”).

¹⁶⁵ *Id.*

PUBLIC VERSION

initiate and investigate the extent to which China's CSPV cell producers receive water at a discounted rate.

b. **Chinese CSPV Cell Producers' Receipt of Power for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy**

(1) *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.

(2) *Benefit*

Because the central, local, and provincial governments provide discounted water to CSPV 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."

(3) *Specificity*

As noted in the *Rectangular Pipe and Tube* preliminary determination, the GOC and local governments have provided favored industries and certain enterprises within those industries with water rates lower than other industrial users and, in some cases, provided those enterprises with unlimited use of water.¹⁶⁶ The discretion with which the Chinese government bestows these lower rates indicates that the policies are specific under section 771(5A)(D) of the Act.

¹⁶⁶ *Light-Walled Rectangular Prelim.*, 72 Fed. Reg. at 67,708.

C. Provision of Land for Less Than Adequate Remuneration

1. Chinese CSPV Cell Producers Receive Land-Use Rights from the Government for Less Than Adequate Remuneration

As the Department has recognized, the Chinese government, “either at the national or local level, is the ultimate owner of all land in China.”¹⁶⁷ 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.¹⁶⁸ Instead, the Chinese national or local governments often take land from farmers without fair compensation and transfer the land to industrial users.¹⁶⁹

All CSPV cell producers use land that would have been acquired through the corrupt, opaque and preferential land sale process prevalent in China. Indeed, many CSPV cell producers have received land-use rights from the Chinese government for less than adequate remuneration, or even for free.¹⁷⁰ For example, the municipal government of Hunan province transferred “22 acres of valuable urban land close to downtown at a bargain-basement price” to Hunan Sunzone Optoelectronics, a CSPV cell manufacturer.¹⁷¹ The price was reportedly \$90,000 an acre – one-third of the official price at the time for industrial land from the government.¹⁷² There is

¹⁶⁷ *Certain 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) (preliminary affirmative countervailing duty determination) (“*Certain Pneumatic Off-The-Road-Tires Prelim.*”).

¹⁶⁸ See Issues and Decision Memorandum accompanying *Circular Welded Carbon Quality Line Pipe from China*, 73 Fed. Reg. 70,961 (Dep’t Commerce Nov. 24, 2008) (Final) (“*Line Pipe I&D Memo*”) at 16.

¹⁶⁹ *Id.*

¹⁷⁰ See, e.g., Breakthrough Institute and the Information Technology and Innovation Foundation, *Rising Tigers, Sleeping Giant*, Nov. 2009, at 10, attached at Exhibit III-79 (“In China... local governments are offering {clean energy} firms free land...”).

¹⁷¹ See Keith Bradsher, *On Clean Energy, China Skirts Rules*, The New York Times, Sept. 8, 2010, attached at Exhibit III-80.

¹⁷² See *id.*

PUBLIC VERSION

evidence that executives at three other clean energy companies near Changsha, China reported that they had been allowed to buy government land for a third of the regulated price.¹⁷³ In addition, the local government of Zhuzhou, China, reportedly gives land away for free “for really good projects” in high-tech industries, including CSPV cell manufacturing.¹⁷⁴

Therefore, the Department should investigate, as it did in *Off-the-Road Tires*¹⁷⁵ and *Line Pipe from China*,¹⁷⁶ 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.

2. The Receipt of Land-Use Rights for Less Than Adequate Remuneration Constitutes a Countervailable Subsidy

a. Financial Contribution

The provision of land to CSPV cell 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.

b. Benefit

Because the government provides land to CSPV cell producers at discounted rates, or even for free, the government is providing a good or serve “for less than adequate remuneration,” for purposes of section 771(5)(E) of the Act.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Certain Pneumatic Off-The-Road-Tires Prelim.*, 72 Fed. Reg. at 71,368.

¹⁷⁶ *Line Pipe I&D Memo* at 14.

c. Specificity

The land-use policies are administered on a specific basis for purposes of section 771(5A) of the Act. Local Chinese governments only provide access to discounted land for certain high-tech enterprises.

D. Preferential Loans and Directed Credit

1. The Chinese Government Subsidizes the CSPV Cell Industry with the Provision of Preferential Loans and Directed Credit

The government of China directly subsidizes its CSPV cell industry through preferential loans and directed credit. In fact, “state-owned banks are flooding the solar industry with loans at considerably lower interest rates than available in Europe or the United States.”¹⁷⁷ These subsidies are granted pursuant to China’s numerous government policies intended to develop China’s clean energy industries, particularly the solar cell and module industry. Government-directed credit and financing play a major role in enabling Chinese CSPV cell producers to manufacture panels in huge quantities and to sell their products at prices far below what they would be selling absent significant government support.

The provision of preferential financing is possible because China’s banking system is dominated by state policy banks and state-owned commercial banks. Traditionally, these banks have made loans based on political directives from the central or provincial governments, rather than creditworthiness or other market-based factors.¹⁷⁸ These “policy loans” have generally

¹⁷⁷ Keith Bradsher, *China Racing Ahead of U.S. in the Drive to Go Solar*, The New York Times, Aug. 25, 2009, attached at Exhibit III-81. See Stephen Lacey, *How China Dominates Solar Power*, The Guardian, Sept. 12, 2011, attached at Exhibit III-82.

¹⁷⁸ See Stephen Lacey, *How China Dominates Solar Power*, The Guardian, Sept. 12, 2011, attached at Exhibit III-82 (“The CDB was originally set up as a “policy bank,” to operate as an arm of the Chinese central government, doling out public funding to support central government development programs. Now it is a “joint stock company with limited liability” that often reports to China’s national cabinet on certain policy issues. This allows the Chinese government to get involved in CDB activities and direct loans toward projects officials want to support”).

PUBLIC VERSION

gone to SOEs and to industries favored by the government, which include the solar industry, on preferential, non-commercial terms.¹⁷⁹

2. Chinese CSPV Cell Producers Have Received Massive Preferential Loans and Credit from the Chinese Government

The Chinese government is subsidizing its CSPV cell producers through the provision of preferential loans and directed credit at massive and unprecedented levels. During the past year and a half alone, loans and credit provided by state-owned Chinese banks to Chinese CSPV cell producers totaled nearly \$41 billion.¹⁸⁰

The list of Chinese CSPV cell producers that have received preferential loans and credit from the Chinese government in recent years is long. Jinko Solar received a massive loan of \$7.6 billion from the Bank of China.¹⁸¹ Trina Solar and JA Solar each received a \$4.4 billion loan from China Development Bank.¹⁸² Hanwa SolarOne received \$1 billion from the Bank of China, and another \$885 million from the Bank of Shanghai.¹⁸³ China Sunergy received \$160 million from the China Development Bank, and Daqo New Energy received \$154 million from the Bank of China.¹⁸⁴

¹⁷⁹ See *Reform of China's Banks, Burdened by Bad Loans, Is Priority for Government*, Knowledge@Wharton, June 1, 2005, attached at Exhibit III-83. See, e.g., *Certain Steel Wheels From the People's Republic of China*, 76 Fed. Reg. 55,012 (Dep't Commerce Sept. 6, 2011) (preliminary affirmative countervailing duty determination and alignment of final countervailing duty determination with final antidumping duty determination).

¹⁸⁰ Mercom Capital Group, *Loans and Credit Agreements Involving Chinese Banks to Chinese Solar Companies since Jan 2010*, Sept. 25, 2011, attached at Exhibit III-84.

¹⁸¹ *Id.*

¹⁸² See *Yingli Solar Gets \$5.3 Billion to Bulk up Manufacturing*, Business Week, July 9, 2010, attached at Exhibit III-85; *UPDATE: Suntech, Trina Solar sign \$11.7bln Loan Deals*, Apr. 14, 2010, attached at Exhibit III-86; *China's Solar Firms Get A Boost*, Forbes.com, Apr. 12, 2010, attached at Exhibit III-87; Paul Ausick, *China's Leading Solar Player Gets Big Bank Boost*, Sept. 6, 2011, attached at Exhibit III-88.

¹⁸³ Mercom Capital Group, *Loans and Credit Agreements Involving Chinese Banks to Chinese Solar Companies Since Jan 2010*, Sept. 25, 2011, attached at Exhibit III-84.

¹⁸⁴ *Id.*

PUBLIC VERSION

In 2009, the China Development Bank granted a five-year credit line to LDK Solar for an astounding \$9.1 billion.¹⁸⁵ Additionally, in April 2011, Suntech signed an agreement with China Development Bank that gives the company access to up to \$7.33 billion per year.¹⁸⁶ Chinese CSPV cell producer Yingli Green Energy Holding Co. (“Yingli”) received a \$5.6 billion line of credit from the state-owned China Development Bank.¹⁸⁷ In fact, about 20 percent of the money that Yingli is borrowing for a capacity expansion at its solar manufacturing plants is being provided by the China Development Bank.¹⁸⁸

3. The Provision of Preferential Loans and Directed Credit Constitutes a Countervailable Subsidy

a. Financial Contribution

Preferential loans and directed credit constitute a financial contribution in the form of a direct transfer of funds by the Chinese government within the meaning of section 771(D)(i) of the Act. It is the Department’s policy to consider loans provided by government policy banks as direct loans from the government, and thus direct financial contributions under the Act.¹⁸⁹

b. Benefit

These preferential loans and directed credit are administered on preferential, non-commercial terms, which confers a benefit to the recipients within the meaning of section

¹⁸⁵ Ben Sills, *China Buries Obama’s ‘Sputnik’ Goal for Clean-Energy Use*, Business Week, Apr. 4, 2011, attached at Exhibit III-89.

¹⁸⁶ *Solar Trade: View from China*, The Daily Star, June 8, 2011, attached at Exhibit III-90; *UPDATE: Suntech, Trina Solar Sign \$11.7bln Loan Deals*, Reuters, Apr. 14, 2010, attached at Exhibit III-86; *China’s Solar Firms Get A Boost*, Forbes.com, Apr. 12, 2010, attached at Exhibit III-87; Alison Pruitt, *China Tries to Stimulate Solar Industry with Loans. Will It Work?*, EnergyBoom.com, Apr. 21, 2010, attached at Exhibit III-91; Paul Ausick, *China’s Leading Solar Player Gets Big Bank Boost*, Sept. 6, 2011, attached at Exhibit III-88.

¹⁸⁷ See Michael Forsythe, *Yingli CEO Says Solar Company Prepared for Drop in Panel Prices*, bloomberg.com (June 20, 2011), attached at Exhibit III-92; *Yingli Solar Gets \$5.3 Billion to Bulk up Manufacturing*, Business Week (July 9, 2010), attached at Exhibit III-85; Paul Ausick, *China’s Leading Solar Player Gets Big Bank Boost* (Sept. 6, 2011), attached at Exhibit III-88.

¹⁸⁸ See *id.*

¹⁸⁹ *Coated Free Sheet I&D Memo* at 49, 54.

PUBLIC VERSION

771(5)(E)(ii) of the Act that is equal to the 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."¹⁹⁰ 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.¹⁹¹

c. Specificity

The Chinese government's preferential loans and directed credit are granted on a specific basis for purposes of section 771(5A) of the Act. China's state-owned banks have generally directed policy loans to industries favored by the government, such as the CSPV cell industry. Policy loans to Chinese CSPV cell producers are specific in law because the Chinese government has policies in place to encourage and support the growth of the CSPV cell industry, which mandate the provision of preferential funding to CSPV cell producers. In addition, as explained in China's WTO Accession Protocol, loans from Chinese policy banks are by nature discretionary, and therefore specific.¹⁹²

E. Tax Benefit Programs

The central, provincial and local Chinese governments provide a variety of tax exemptions, reductions and credits that directly benefit China's CSPV cell producers. These

¹⁹⁰ See China's WTO Accession Protocol at Article 15(b), attached at Exhibit III-78.

¹⁹¹ Coated Free Sheet I&D Memo at 5-6.

¹⁹² See China's WTO Accession Protocol at 77, attached at Exhibit III-78.

PUBLIC VERSION

programs, detailed below, have provided and continue to provide a financial contribution to CSPV cell producers in the form of foregone revenue by the Chinese government and are countervailable subsidies under section 771 of the Act. As discussed *infra*, these tax benefits have continued notwithstanding the signing of a memorandum of understanding (“MOU”) between the Chinese and U.S. governments in which China promised to reduce many of its subsidizing tax programs.

1. 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 CSPV Cell 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 1991.¹⁹³ A company with foreign investment is called a Foreign-Invested Enterprise (“FIE”) and, as such, becomes eligible for a number of tax subsidies.

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.¹⁹⁴ FIEs are deemed productive if they are identified as such under Article 72 of the *Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign-Invested Enterprises and Foreign Enterprises*.¹⁹⁵

¹⁹³ *Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Order No. 45 (Apr. 9, 2011), attached at Exhibit III-93. See *Coated Free Sheet I&D Memo* at 10.

¹⁹⁴ See *Coated Free Sheet I&D Memo* at 10-11.

¹⁹⁵ See *Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign Investment Enterprises* (June 30, 1991) at Article 72, attached at Exhibit III-94

PUBLIC VERSION

Importantly, Article 72 specifically identifies “energy industries” as “enterprises of a productive nature.”¹⁹⁶

China implemented a new tax regime on January 1, 2008, intended to eliminate discrepancies between tax rates for domestically-owned companies and FIEs. Notwithstanding the new law, FIE tax subsidies continued into 2009. Article 57 of the new *Enterprise Income Tax Law* grandfathered benefits for FIEs that were entitled to special tax rates under the previous regime.¹⁹⁷ Furthermore, the Chinese government issued separate rules clarifying how it would continue to provide the tax breaks, notwithstanding the new law. These rules provide:

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. 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 2008.¹⁹⁸

The benefits of this program, therefore, have remained available throughout the POI.

Based on the available information, Petitioner believes that a number of Chinese CSPV cell producers have likely benefited from the “Two Free/Three Half” program. The following Chinese subject producers appear to be FIEs and, therefore, automatically qualify for benefits under this program:¹⁹⁹

- Canadian Solar²⁰⁰

¹⁹⁶ See *id.*

¹⁹⁷ See *Enterprise Income Tax Law of the People’s Republic of China, No. 63* (March 16, 2007), attached at Exhibit III-95.

¹⁹⁸ See *Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa 2007, No. 39*, attached at Exhibit III-96.

¹⁹⁹ As previously noted, Petitioner believes that additional solar producers likely qualify as FIEs; however, given the general lack of transparency and opaque nature of Chinese enterprises’ ownership structures, Petitioner has been unable to definitively identify additional FIEs.

²⁰⁰ See Canadian Solar Inc. Form 20-F for the Period Ended December 31, 2007 at F-21, attached at Exhibit III-97.

PUBLIC VERSION

- Chaori Solar Energy²⁰¹
- China Sunergy²⁰²
- CSG Holding Co. Ltd.²⁰³
- Suntech²⁰⁴
- Jiangxi LDK Solar²⁰⁵
- Trina Solar²⁰⁶
- Jinko Solar²⁰⁷
- Soleos Solar²⁰⁸
- Jiangsu Soudai PV-Tech Co., Ltd²⁰⁹
- JA Solar Holdings Co., Ltd.²¹⁰

For example, JA Solar's 2010 Annual Report explicitly states that the company's operating subsidiaries, which manufacture solar cells and modules, are enjoying preferential tax rates under

²⁰¹ See *Establish Foreign Invested Company CS Solar Project International AG*, Chaori Solar, Sept. 21, 2011, attached at Exhibit III-98.

²⁰² China Sunergy Co., Ltd. Form 20-F for the Period Ended December 31, 2010 at 49, attached at Exhibit III-99.

²⁰³ See CSG Holding Co., Ltd. 2010 Annual Report Summary (Mar. 2011), attached at Exhibit III-100.

²⁰⁴ Suntech Power Holdings Co., Ltd., Form 20-F For Fiscal Year Ended December 31, 2010 at F-42, attached at Exhibit III-36.

²⁰⁵ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 38-39, 59-60 (July 22, 2011), attached at Exhibit III-32.

²⁰⁶ Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 30, attached at Exhibit III-10.

²⁰⁷ See *JinkoSolar Holding Co., Ltd. Form 20-F for the Period Ended December 31, 2010 at F-20*, attached at Exhibit III-101. ("As foreign invested enterprises, Jiangxi Jinko and Zhejiang Jinko are entitled to a two year tax exemption from CIT and a 50% CIT reduction for the succeeding three years thereafter").

²⁰⁸ See, e.g., Soleos Solar GmbH Shanghai, *About Us*; Soleos Solar Co., Ltd. (Wuxi), *About Us*, attached at Exhibit III-102.

²⁰⁹ Soudai, *About*, attached at Exhibit III-103 ("Jiangsu Soudai PV-Tech Co., Ltd. is an exclusively foreign invested enterprise").

²¹⁰ JA Solar Holdings Co., Ltd. Form 20-F for the Period Ended December 31, 2010 at 23, 55, 94, attached at Exhibit III-34.

PUBLIC VERSION

this program.²¹¹ Similarly, LDK Solar's 2010 Annual Report indicates that Jiangxi LDK Solar benefitted from an exemption from Chinese national enterprise income tax for two years and a reduced rate for the following three years.²¹²

Significantly, the Chinese CSPV cell producers that are FIEs are by no means limited to the companies listed above and likely include many more, as there are currently more than 400,000 registered FIEs in China.²¹³ 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.²¹⁴ 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, Petitioners have been unable to definitively identify additional FIEs. Accordingly, Petitioner respectfully requests that the Department further investigate which Chinese CSPV cell producers are FIEs, as they have likely benefitted from this and other tax benefit programs for FIEs.

²¹¹ *Id.*

²¹² See LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 38-39 (July 22, 2011), attached at Exhibit III-32 ("Jiangxi LDK Solar, as a foreign-invested manufacturing enterprise, was entitled to a two-year exemption from the national enterprise income tax for 2006 and 2007... Jiangxi LDK Solar was subject to a reduced unified enterprise income tax rate of 12.5% from 2008 to 2010").

²¹³ China Global, *China Foreign Invested Enterprises (FIEs)*, attached at Exhibit III-104.

²¹⁴ See *Income Tax Law of the People's Republic of China Enterprises with Foreign Investment and Foreign Enterprises* (Apr. 9, 1991), attached at Exhibit III-93.

PUBLIC VERSION

b. The Two Free/Three Half Program for Foreign-Invested Enterprises Constitutes a Countervailable Subsidy

The Department should find, as it did in *Aluminum Extrusions*,²¹⁵ *Wire Decking*,²¹⁶ *Coated Free Sheet Paper*²¹⁷ and *Laminated Woven Sacks*,²¹⁸ that this program confers a countervailable subsidy under section 771(5) of the Act.

(1) *Financial Contribution*

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.

(2) *Benefit*

This program provides a benefit under section 771(5)(E). The benefit conferred is equal to the taxes saved by the recipients, under 19 C.F.R. § 351.509(a)(1).

(3) *Specificity*

Consistent with the Department’s determination in *Coated Free Sheet*, the “Two Free/Three Half” program is specific as described in section 771(5A)(D)(i) because it is “limited as a matter of law to certain enterprises, (*i.e.*, ‘productive’ FIEs).”²¹⁹

²¹⁵ See *Aluminum Extrusions I&D Memo* at 19.

²¹⁶ *Wire Decking I &D Memo*.

²¹⁷ *Coated Free Sheet Paper From the People’s Republic of China*, 72 Fed. Reg. 17,484, 17,494 (Apr. 9, 2007) (Amended Prelim.) (“*Coated Free Sheet Prelim.*”); *Coated Free Sheet I&D Memo* at 11.

²¹⁸ *Laminated Woven Sacks From the People’s Republic of China*, 72 Fed. Reg. 67,893, 67,903 (Dep’t of Commerce Dec. 3, 2007) (preliminary affirmative countervailing duty determination; preliminary affirmative determination of critical circumstances, in part; and alignment of final countervailing duty determination with final antidumping duty determination) (“*Laminated Woven Sacks Prelim.*”).

²¹⁹ *Coated Free Sheet I&D Memo* at 11; see also *OCTG I&D Memo* at 16.

2. Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises

a. The GOC Provides Income Tax Reductions for Export Oriented Foreign-Invested Enterprises

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 exports constitute 70 percent of the company's sales.²²⁰ Export-oriented enterprises in specially designated zones already eligible to pay half the standard income tax rate may receive a further rate reduction through this program pursuant to the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.²²¹

As noted above, a number of Chinese CSPV cell producers qualify as FIEs. Accordingly, to the extent that these FIEs satisfy the requisite export levels, they likely benefitted from this program. Evidence indicates that many Chinese CSPV cell producers are heavily export-oriented. For instance, LDK Solar's 2010 Annual Report indicates that it exported more than 65 percent of its products in 2008, 2009, and 2010.²²² In 2008, 2009, and 2010, Yingli Green Energy sold 97.5 percent, 95.5 percent, and 94 percent,²²³ respectively, of its products outside of China, and expects to ship 1.7 to 1.75 GW in 2011.²²⁴ Trina Solar's 2nd Quarter 2011 Supplemental Earnings Call Presentation states that it experienced record shipments in the 2nd

²²⁰ *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 § I (Apr. 13, 2006), ("China Subsidies Notification")*, attached at Exhibit III-105.

²²¹ *See Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises* (June 30, 1991), attached at Exhibit III-94.

²²² LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 5 (July 22, 2011), attached at Exhibit III-32 .

²²³ Yingli Green Energy Holding Co. Ltd. 20-F Form For Fiscal Year Ended December 31, 2010 at 17, attached at Exhibit III-37.

²²⁴ Photon Int'l Survey, attached at Exhibit III-8.

PUBLIC VERSION

quarter of 2011, as shipments made to both Germany and the United States increased significantly.²²⁵ Moreover, JA Solar recently reported that its “sales to overseas markets, such as Europe and North America ... increased significantly in 2010.”²²⁶ In 2010 alone, Suntech shipped over 1.57 gigawatts of solar product, an increase of 123 percent over 2009 shipment levels, making the company the leading supplier of solar panels worldwide.²²⁷

b. Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises Constitute a Countervailable Subsidy

(1) *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 foregone revenue by the Chinese government.

(2) *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).

(3) *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.

3. Income Tax Benefits for Foreign-Invested Enterprises Based on Geographic Locations

a. The GOC Provides Income Tax Benefits for Enterprises 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,

²²⁵ Trina Solar Limited Q2 2011 Supplemental Earnings Call Presentation (Aug. 23, 2011), attached at Exhibit III-33.

²²⁶ JA Solar Holdings Co., Ltd. Form 20-F for the Fiscal Year Ended December 31, 2010 at 14, attached at Exhibit III-34.

²²⁷ Suntech Power Holdings Co., Ltd., 2010 Corporate Report, attached at Exhibit III-106.

PUBLIC VERSION

special economic zones, export processing zones and economic and technological development zones. These programs, which benefit CSPV cell producers, constitute countervailable subsidies under section 771 of the Act and have been found to be countervailable by the Department in previous cases.²²⁸

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*). 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 30 percent rate.²²⁹ FIEs in the energy industry are considered “productive” FIEs.²³⁰ Productive 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.²³¹

Based on the addresses available to Petitioners, many Chinese CSPV cell producers are located within eligible locations. For example, Amplesum Solar is located in the Xiasha Export

²²⁸ 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. of Commerce May 21, 2010) at 30-31; *Lightweight Thermal Paper I&D Memo* at 15.

²²⁹ See *Coated Free Sheet I&D Memo* at 11; *Wire Decking I&D Memo* at 24; see also Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, Order No. 45 (Apr. 9, 2011), attached at Exhibit III-93. In its 2006 notification to the WTO, China acknowledged that this program was a subsidy. See *China Subsidies Notification* at § I, attached at Exhibit III-105.

²³⁰ See *Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign Investment Enterprises* (June 30, 1991) at Article 72, attached at Exhibit III-94.

²³¹ *China Subsidies Notification* § X, attached at Exhibit III-105. 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.*

PUBLIC VERSION

Processing Zone, while Best Solar Hi-Tech is located in Hi-tech Industrial Development Zone. A full list of Chinese CSPV cell producers located in these zones is provided at Exhibit III-107.²³² Accordingly, to the extent that these productive enterprises are also FIEs, they likely benefitted from the programs outlined above.

b. Income Tax Benefits for Foreign-Invested Enterprises Based on Geographic Location Constitute a Countervailable Subsidy

The Department has determined on several recent occasions that tax reductions provided to FIEs based on location confer a countervailable benefit to Chinese manufacturers.²³³ For example, in *Off-The-Road Tires*, the Department concluded that “the exemption or reduction in the income tax paid by FIEs in specially designated geographic areas under this program confers a countervailable subsidy.”²³⁴ The Department should make the same finding in this instance.

(1) *Financial Contribution*

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.

(2) *Benefit*

The benefit conferred is in an amount equal to the taxes saved by the recipients, under 19 C.F.R. § 351.509(a)(1).

²³² See list of Chinese CSPV Cell Producers Located in Special Development Zones, attached at Exhibit III-107.

²³³ *Wire Decking from the People’s Republic of China*, 75 Fed. Reg. 32,905 (Dep’t Commerce June 10, 2010) (final determination of sales at less than fair value); *Coated Free Sheet Prelim.*, 72 Fed. Reg. at 17,495; *Certain Pneumatic Off-The-Road-Tires Prelim.*, 72 Fed. Reg. at 71,370–71; *Laminated Woven Sacks Prelim.*, 72 Fed. Reg. at 67,904; *Light-Walled Rectangular Prelim.*, 72 Fed. Reg. at 67,707.

²³⁴ *Certain Pneumatic Off-The-Road-Tires Prelim.*, 72 Fed. Reg. at 71,370–71.

(3) *Specificity*

Consistent with the Department's previous determinations with respect to these programs, "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."²³⁵

4. Local Income Tax Exemption and Reduction Programs for "Productive" Foreign-Invested Enterprises

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 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."²³⁶

Local governments appear to have heavily utilized this program by implementing tax exemptions and reductions for productive FIEs in their localities. For example, the Jiangxi provincial government announced that energy companies with authorized terms of operation for more than ten years are eligible for a five-year exemption from the 3 percent local enterprise income tax from their first profitable year and a 50 percent reduction of their local enterprise income tax rate for the succeeding five years.²³⁷ Moreover, pursuant to Article 5 of *the Rules on Exemption and Reduction of Local Income Tax for Foreign Invested Enterprises* published by the Guangdong People's Government, "productive and/or export-oriented FIEs that were eligible to pay income tax at half the normal rate shall also be exempted from the local income tax during

²³⁵ *Id.*

²³⁶ *See Certain Pneumatic Off-The-Road-Tires Prelim.*, 72 Fed. Reg. 71,360.

²³⁷ *See* LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 38 (July 22, 2010), attached at Exhibit III-32.

PUBLIC VERSION

the same period.”²³⁸ As previously noted, the energy industry is specifically designated as a productive industry. The Department found this program to be countervailable in prior cases²³⁹ and should make the same finding here.

Publicly available evidence indicates that Chinese CSPV cell producers likely benefitted from this program. For example, under this program, “Jiangxi LDK Solar was entitled to a five-year exemption from the local enterprise income tax beginning in 2006 and would be subject to a reduced local enterprise income tax rate of 1.5% from 2011 through 2015.”²⁴⁰

b. Local Income Tax Exemptions and Reductions for “Productive” FIEs Constitute Countervailable Subsidies

(1) *Financial Contribution*

As the Department determined in *Off-the-Road Tires*,²⁴¹ 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.

(2) *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).²⁴²

(3) *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.

²³⁸ See Issues and Decision Memorandum accompanying *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China* (Dep’t. Commerce July 20, 2009) at 12-13 (“*Kitchen Appliance I&D Memo*”).

²³⁹ See Issues and Decision Memorandum accompanying *Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China* (Dep’t Commerce July 7, 2008) at 22 (“*Certain New Pneumatic Off-The-Road I&D Memo*”); see also *Kitchen Appliance I&D Memo* at 12-13.

²⁴⁰ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting (July 22, 2010) at 38, attached at Exhibit III-32.

²⁴¹ See *Certain New Pneumatic Off-The-Road I&D Memo* at 22.

²⁴² See *id.*

5. Tax Reductions for Foreign-Invested Enterprises Purchasing Chinese-Made Equipment

a. The GOC Provides Tax Reductions for FIEs Purchasing Chinese-Produced Equipment

The Chinese government provides tax refunds, reductions and exemptions to enterprises that purchase domestically-produced goods, including equipment and machinery. Pursuant to the *Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises* and the *Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises*, FIEs can receive tax credits of up to 40 percent of the purchase value of domestically-produced equipment.²⁴³ The credit applies to any domestically produced equipment so long as the equipment is not listed in the *Catalogue of Non-Duty Exemptible Articles of Importation*.²⁴⁴ The program has been in place since 1999, with the purpose of attracting foreign investment and supporting technology renovation.²⁴⁵

As the Department explained in *Coated Free Sheet Paper*, to obtain a tax credit under this program:

Requesting enterprises must submit an application to the local tax authority within two months of purchasing the equipment. Once approved, the credit can be claimed on the enterprise's income tax return. The amount of the credit is limited to the lesser of 40 percent of the purchase price of the domestically produced equipment or the incremental increase in income taxes owed over the previous year.²⁴⁶

²⁴³ *Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises*, attached at Exhibit III-108; *Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises*, attached at Exhibit III-109.

²⁴⁴ *Coated Free Sheet Prelim.*, 72 Fed. Reg. at 17,495.

²⁴⁵ *Id.*

²⁴⁶ *Id.*

PUBLIC VERSION

This tax credit is available to FIEs whose projects are classified in either “Encouraged” or “Restricted” Categories of the *Catalogue of Industrial Guidance for Foreign Investment*.²⁴⁷ The construction and management of solar energy power stations is classified as an “Encouraged” foreign investment project in the Catalogue.²⁴⁸ Thus, it is likely that Chinese CSPV cell producers that are FIEs have benefited from these domestic preference tax benefits, as they almost certainly purchase domestic machinery and equipment used in the production of CSPV cells.

b. Tax Reductions for FIEs Purchasing Domestically Produced Equipments Constitute Countervailable Subsidies

(1) *Financial Contribution*

As the Department determined in *Coated Free Sheet Paper*,²⁴⁹ pursuant to section 771(5)(D)(iii) of the Act, these domestic preference tax benefits provide a financial contribution in the form of revenue foregone by the Chinese government.

(2) *Benefit*

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

(3) *Specificity*

Because this program rewards the purchase of domestic over imported products, it is considered *per se* specific under section 771(5A)(C) of the Act.

²⁴⁷ *Id.*

²⁴⁸ See *Catalogue for the Guidance of Foreign Investment Industries* (amended in 2007), attached at Exhibit III-110.

²⁴⁹ *Id.*

6. Tax Offsets for Research and Development by Foreign-Invested Enterprises

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*.²⁵⁰ 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.”²⁵¹ The Department has previously determined this program to be countervailable in *Aluminum Extrusions*.²⁵²

Petitioner believes that one or more Chinese CSPV cell producers may have benefited from this program because they are FIEs and have conducted research and development in China, and therefore appear to be eligible for benefits.

b. Tax Offsets for Research and Development by FIEs Constitute Countervailable Subsidies

(1) *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.

²⁵⁰ *China Subsidies Notification* at 31-32, attached at Exhibit III-105.

²⁵¹ *Id.*

²⁵² See Issues and 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 (Sept. 22, 2010) (final affirmative countervailing duty det.) at 16-17.

(2) *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).

(3) *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.

7. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises

a. The GOC Provides Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises

Pursuant to the *Ministry of Finance and State Administration of Taxation's Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises*²⁵³ and the *State Administration of Taxation's Supplementary Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises*,²⁵⁴ 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.²⁵⁵

Several Chinese producers of CSPV cells have likely benefitted from this program, China Sunergy's Form 20-F for fiscal year 2010 specifically states that under the "New EIT law,

²⁵³ *Ministry of Finance and State Administration of Taxation Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (June 1, 2002), attached at III-111.

²⁵⁴ *See Supplementary Circular Concerning the Preferential Policy for Enterprises with Foreign Investment*, Guo Shui Han 2003, No. 368, attached at III-112.

²⁵⁵ *Ministry of Finance and State Administration of Taxation Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (June 1, 2002), attached at III-111.

PUBLIC VERSION

dividends, which arise from profits of foreign invested enterprises ('FIEs') earned after January 1, 2008, are subject to a 10% withholding income tax."²⁵⁶ However, as of "December 31, 2010, the Company's PRC subsidiaries have an accumulated earning of \$14.3 million. As the Group plans to indefinitely reinvest the undistributed earnings of the Company's PRC subsidiaries, no dividend withholding tax has been accrued."²⁵⁷

Moreover, Chinese producers of CSPV cells with foreign investment, such as Trina Solar, LDK Solar, JA Solar and Yingli Green Energy, are eligible for this program, provided they meet the export threshold. Evidence indicates that the vast majority of Chinese CSPV cell producers are significantly export-oriented and likely qualify for this tax refund. For example, Trina Solar's 2nd Quarter 2011 Supplemental Earnings Call Presentation states that it experienced record shipments in the 2nd quarter of 2011, as shipments made to both Germany and the United States increased significantly.²⁵⁸ For the years ending December 31, 2008, 2009 and 2010, LDK Solar derived 71.8 percent, 75 percent and 65.8 percent, respectively, of its sales from exports.²⁵⁹ In 2008, 2009, and 2010, Yingli Green Energy sold 97.5 percent, 95.5 percent, and 94 percent, respectively, of its products outside of China.²⁶⁰ Given the substantial imports of Chinese CSPV cells into the United States, and the number of Chinese CSPV cell producers that are FIEs, it is likely that CSPV cell producers benefitted from this program.

²⁵⁶ China Sunergy Co., Ltd. Form 20-F for the Period Ended December 31, 2010 at F-27, attached at Exhibit III-99.

²⁵⁷ *Id.*

²⁵⁸ Trina Solar Q2 2011 Supplemental Earnings Call Presentation (Aug. 23, 2011), attached at Exhibit III-33.

²⁵⁹ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 54 (July 22, 2010), attached at Exhibit III-32.

²⁶⁰ Yingli Green Energy Holding Co. Ltd. Form 20-F for the Period Ended December 31, 2010 at 17, attached at Exhibit III-37.

b. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises Constitute Countervailable Subsidies

(1) *Financial Contribution*

Income tax exemptions or refunds constitute financial contributions in the form of revenue foregone by the government of China, consistent with section 771(5)(D)(ii) of the Act.

(2) *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).

(3) *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 who reinvest profits into the FIE or another FIE. Additionally, this benefit is specific because it is contingent upon export performance.

8. Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises

a. The GOC Provides Tax Benefits for FIEs Recognized as High or New Technology Enterprises

The government of China 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 “new” technology industrial development zones. China has identified new-energy and efficient energy-saving technology as falling within the scope of high and new technologies.²⁶¹ Under this program, such FIEs are entitled to a reduced income tax rate of 15 percent.²⁶²

²⁶¹ *Replies to the Questions Posed by Turkey Regarding the New and Full Notification of China, G/SCM/Q2/CHN/29* (Sept. 14, 2007), attached at Exhibit III-113.

²⁶² *China Subsidies Notification* at 9-10, LIX, attached at Exhibit III-105.

PUBLIC VERSION

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.”²⁶³ The Department has previously found that the provision of preferential tax benefits for FIEs recognized as high or new technologies constitutes a countervailable subsidy.²⁶⁴

A number of CSPV cell producers have been designated as having high or new technology and likely received benefits pursuant to this subsidy program during the period of investigation, notwithstanding changes to China’s tax regime. For example, according to LDK Solar’s 2010 Annual Report, Jiangxi LDK Solar was recognized as a “High and New Technology Enterprise” and will benefit from a reduced income tax rate of 15 percent this year.²⁶⁵ Trina Solar Ltd.’s 2011 Annual Report states that in September 2008, its Chinese subsidiary, Trina China, obtained the High and New Technology Enterprise Certificate with a valid term of three years, entitling it to a preferential income tax rate of 15 percent in 2008, 2009 and 2010.²⁶⁶ Eoply New Energy Technology Co., Ltd. is also identified as a high and new technology enterprise, which enables the company to benefit from a preferential tax rate.²⁶⁷ Suntech’s Chinese subsidiaries, Wuxi Suntech and Luoyang Suntech Power Co., Ltd., are

²⁶³ *Id.*

²⁶⁴ *Aluminum Extrusions I&D Memo at VII.F.*

²⁶⁵ LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 29 (July 22, 2010) (“In December 2009, Jiangxi LDK Solar was recognized by the PRC government as a “High and New Technology Enterprise” under the EIT Law and is therefore entitled to the preferential enterprise income tax rate of 15% from 2009 to 2011. Under the EIT Law, where the transitional preferential enterprise income tax policies and the preferential policies prescribed under the EIT Law and its implementation rules overlap, an enterprise may choose the more favorable policy... Jiangxi LDK Solar chose to complete the above-mentioned 2-year-exemption-plus-3-year-50%-reduction tax holiday for the overlapping period of 2009 and 2010. As a result, Jiangxi LDK Solar will be subject to income tax at 15% for 2011...”), attached at Exhibit III-32.

²⁶⁶ Trina Solar Limited Form 20-F for the Period Ended December 31, 2010 at 28, attached at Exhibit III-33.

²⁶⁷ Eoply New Energy: *About Us*, attached at Exhibit III-114.

PUBLIC VERSION

“qualified as a ‘high and new technology enterprise’ under the definition stipulation in the Administrative Measures for the Determination of High and New Technology Enterprises effective as of January 1, 2008,” thereby entitling them to a 15 percent preferential income tax rate.²⁶⁸ Moreover, China Sunergy is similarly qualified as a high and new technology enterprise.²⁶⁹

b. Tax Benefits for High or New Technology FIEs Constitute Countervailable Subsidies

(1) *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.

(2) *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).

(3) *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.

9. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects

a. The GOC Provides Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects

Pursuant to China’s *Enterprise Income Tax Law*, enterprises that qualify as high or new-technology enterprises may be taxed at 15 percent rather than 25 percent. These enterprises may

²⁶⁸ Suntech Power Holdings Co., Ltd., Form 20-F For Fiscal Year Ended December 31, 2010 at 29, attached at Exhibit III-36.

²⁶⁹ China Sunergy Co., Ltd. Form 20-F for the Period Ended December 31, 2010 at 42-43, attached at Exhibit III-99.

PUBLIC VERSION

also be eligible for additional tax benefits. For instance, certain high or new-technology enterprises that are established in the Shenzhen, Zhuhai, Shanou, Xiamen or Hainan Special Economic Zones, or in the Pudong New District of Shanghai are exempt from income taxes for the first two years after earning income from production and pay half of the standard tax rate for the following three years.²⁷⁰ Additional requirements on the duration of an enterprise's existence are imposed.²⁷¹ Moreover, while companies must be engaged in certain fields to obtain these tax benefits, over 200 project categories are eligible.²⁷²

As indicated previously, several Chinese CSPV cell producers have been designated as having high or new technology, making them eligible for this program. These companies include LDK, Trina Solar, Eoply New Energy Technology Co., Ltd., SunTech, and China Sunergy. Accordingly, they have likely received benefits under this program.

b. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects Constitute Countervailable Subsidies

(1) *Financial Contribution*

These preferential tax benefits provide a financial contribution in the form of revenue foregone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

(2) *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).

²⁷⁰ See Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in Pudong New District of Shanghai, Dec. 26, 2007, Guo Fa {2007} No. 40, attached at Exhibit III-115.

²⁷¹ See Regulations of Implementation of the Enterprise Income Tax Law, Exhibit III-116, see also Administrative Measures Governing Recognition of High or New Technology Enterprises, attached at Exhibit III-117; Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for High or New Technology Enterprises, attached at Exhibit III-118.

²⁷² *Id.*

(3) *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 designated as having high or new technology and engage in specified projects.

10. Preferential Income Tax Policy for Enterprises in the Northeast Region

a. The GOC Provides Tax Benefits for 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,²⁷³ 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.²⁷⁴ As the Chinese government 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.²⁷⁵

Specific information concerning the income taxes paid and the tax deductions taken by CSPV cell producers located in the Northeast Region, which include Solargiga Energy Holdings

²⁷³ See *Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Base in the Northeast*, Caishui (2004) No. 153 (Sept. 20, 2004) (“Northeast Tax Preference Policy”), attached at Exhibit III-119; 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 III-120.

²⁷⁴ See *id.*

²⁷⁵ See *Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 million Yuan of Taxes Waived*, *Xinhua* Northeast Revitalization Net, Oct. 22, 2004, attached at Exhibit III-121.

PUBLIC VERSION

Limited, is not reasonably available to Petitioner. However, to the extent that Chinese CSPV cell 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

(1) *Financial Contribution*

The Northeast Tax Preference Policy provides a financial contribution in the form of revenue foregone by the Chinese government, 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.²⁷⁶

(2) *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.²⁷⁷

(3) *Specificity*

The subsidies provided by the Northeast Tax Preference Policy are available only to companies located in the Liaoning, Jilin and Heilongjiang Provinces. As a result, such benefits are limited to a designated geographical region within the jurisdiction of the government of China and are therefore specific under section 771(5A)(D)(iv) of the Act.

²⁷⁶ See Northeast Tax Preference Policy, attached at Exhibit III-119; Northeast Tax Preference Policy Notice, attached at Exhibit III-120.

²⁷⁷ See *Countervailing Duties (Final Rule)*, 63 Fed. Reg. 65,348, 65,375-65,376 (Dep't Commerce Nov. 25, 1998); see also Issues and Decision Memorandum accompanying *Stainless Steel Plate in Coils from Belgium*, 64 Fed. Reg. 15567 (Dep't Commerce Mar. 31, 1999) (final affirm. countervailing duty determination) at cmt. 21-22.

11. Guangdong Province Tax Programs

a. Guangdong Province Provides Major Tax Incentives to its CSPV Cell Producers

Guangdong Province implements a variety of tax programs that provide countervailable subsidies to CSPV cell producers in the region who are FIEs. Several Chinese CSPV cell producers are located in Guangdong Province, including Aiko Solar, CSG PV Tech, Global Solar Energy Tech and Sunflower. Accordingly, to the extent that they are FIEs, they likely received benefits under these tax programs.

(1) *City Tax and Surcharge Exemptions for Foreign-Invested Enterprises*

Pursuant to the *Circular on Temporarily Not Collecting City Maintenance and Construction Tax and Education Fee Surcharge for FIEs and Foreign Enterprises*,²⁷⁸ local tax authorities exempt all FIEs and foreign enterprises from city maintenance and construction taxes and education fee surcharges.²⁷⁹ As the Department has described:

The construction tax is based on the amount of product tax, VAT, and/or business tax actually paid by the taxpayer. For taxpayers located in urban areas, the rate is seven percent; for taxpayers located in counties or townships, the rate is five percent; and for taxpayers located in areas other than urban areas, counties, and townships, the rate is one percent. Regarding the education fee surcharge, FIEs pay only one percent of the actual amount of the product tax, VAT, and business tax paid, whereas other entities pay four percent of that amount.²⁸⁰

²⁷⁸ See *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China* 76 Fed. Reg. 62,364, 62,368 (Dep't Commerce Oct. 7, 2011) (preliminary results of the countervailing duty admin. rev.) (citing *Circular on Temporarily Not Collecting City Maintenance and Construction Tax and Education Fee Surcharge for FIEs and Foreign Enterprises*, (Guo Shui Fa 1994, No. 38)).

²⁷⁹ See *Certain Kitchen Shelving and Racks from the People's Republic of China* 74 Fed. Reg. 37,012 (Dep't Commerce July 27, 2009) (final affirmative countervailing duty determination) ("*Kitchen Shelving Final Determination*"); *Kitchen Appliance I&D Memo* at 13.

²⁸⁰ See *Aluminum Extrusions I&D Memo* at 17-18.

PUBLIC VERSION

The Department previously determined that this program provides a countervailable subsidy in *Certain Kitchen Shelving and Racks from the People's Republic of China*²⁸¹ and *Aluminum Extrusions*.²⁸²

(2) *Income Tax Reduction For High-Tech Industries in Guangdong Province*

As the Department has explained, “{a}ccording to Yue-Fa (1998) No.16 (Decision on Promoting the Optimization and Updating of Industrial Structure through Scientific and Technological Progress by Guangdong Provincial Party Committee and the Municipal Government of Guangdong Province of the Central Committee), companies placed on the province’s list of high-tech industries pay a reduced income tax rate of 15 percent.”²⁸³ Absent the income tax reduction, companies must pay a national income tax rate of 25 percent.²⁸⁴ The Department has previously determined that this program constitutes a countervailable subsidy in *Lightweight Thermal Paper*.²⁸⁵

As stated above, several Chinese CSPV cell producers are located in Guangdong Province. Although Guangdong’s list of high-tech industries is not readily available to Petitioner, Petitioner notes that the GOC recognizes the solar power industry as a high-tech

²⁸¹ See *Certain Kitchen Shelving and Racks from the People's Republic of China* 74 Fed. Reg. 37,012 (Dep’t Commerce July 27, 2009) (final affirmative countervailing duty determination) (“*Kitchen Shelving Final Determination*”); *Kitchen Appliance I&D Memo* at 13.

²⁸² See *Aluminum Extrusions I&D Memo* at 9-17.

²⁸³ *Lightweight Thermal Paper I&D Memo* at 14.

²⁸⁴ “Under PRC tax laws and regulations effective prior to January 1, 2008, a company established in China was typically subject to a national enterprise income tax at the rate of 30% on its taxable income and a local enterprise income tax at the rate of 3% on its taxable income... In Mar. 2007, the PRC National People’s Congress enacted a new Enterprise Income Tax Law, or the EIT Law, which became effective on January 1, 2008. The new tax law imposes a unified income tax rate of 25% on all domestic enterprises and foreign-invested enterprises unless they qualify for preferential tax treatments under certain limited exceptions.” LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 38 (July 22, 2010), attached at Exhibit III-32.

²⁸⁵ See *Lightweight Thermal Paper I&D Memo* at 14.

PUBLIC VERSION

industry.²⁸⁶ Accordingly, Chinese CSPV cell producers located in Guangdong likely received benefits under this program and the Department should investigate the program.

(3) *Income Tax Programs for FIEs in Dongguan City in Guangdong Province*

Under this program, the government of Guangdong Province provides income tax benefits to FIEs located in the province. As described in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof* (“*Tow-Behind Lawn Groomers*”), under this program, “productive FIEs operating for at least 10 years may take advantage of a ‘Two Free, Three Half’ program similar to that operated by the central government” and “‘export-oriented’ FIEs that export 70 percent or more of their produced goods may qualify for reduced income tax once the ‘Two Free, Three Half’ period has expired.”²⁸⁷ Moreover, companies located in Dongguan, a coastal economic development zone, are “entitled to a 24 percent central government tax rate, reduced from the standard central tax rate of 30 percent.”²⁸⁸ The Department countervailed this program in *Tow-Behind Lawn Groomers*.²⁸⁹

Both CSG PVTech and Leye Photovoltaic Science Tech are located in Dongguan City in Guangdong Province. Consequently, to the extent that these and other companies are FIEs, they likely have received benefits under this program.

b. Tax Incentives Provided by Guangdong Province Constitute Countervailable Subsidies

(1) *Financial Contribution*

²⁸⁶ For example, the government’s *Catalogue of Chinese High-Tech Products for Export* specifically includes “solar photovoltaic power generation systems.”

²⁸⁷ *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China*, 73 Fed. Reg. 70,979 (Dep’t Commerce Nov. 24, 2008) (preliminary affirmative countervailing duty determination and alignment of final countervailing duty determination with final antidumping duty determination).

²⁸⁸ *Id.*

²⁸⁹ *Id.*

PUBLIC VERSION

The tax exemptions and reductions disbursed under these programs constitute financial contributions in the form of revenue foregone by the Government of China, consistent with section 771(5)(D)(ii) of the Act.

(2) *Benefit*

This program provides a benefit under section 771(5)(E) of the Act. Moreover, the benefits conferred are in an amount equal to the taxes saved by the recipients under 19 C.F.R. § 351.509(a)(1).

(3) *Specificity*

The benefit conferred under these programs is specific as described in section 771(5A)(D)(i) of the Act because it is limited certain enterprises, *i.e.*, FIEs or high-tech industries. Moreover, the benefit conferred under these programs is also specific within the meaning of section 771(5A)(D)(iv) of the Act because it is are limited to enterprises located in designated geographic areas.

12. The Foregoing Tax Preferences Remain in Effect Despite the Chinese Government's Commitments in a Recent MOU with the United States to Eliminate Them

It is worth noting that certain of China's tax incentives for FIEs discussed above were challenged by the United States in dispute settlement proceedings at the WTO.²⁹⁰ As a result of this challenge, the Chinese government agreed to eliminate the majority of these programs pursuant to a November 29, 2007, Memorandum of Understanding ("MOU") with the United

²⁹⁰ See Request for the Establishment of a Panel by the United States in China, WT/DS358/13 (July 13, 2007), attached at Exhibit III-122.

PUBLIC VERSION

States.²⁹¹ According to the MOU, China was to end the majority of these tax programs effective January 1, 2008, nearly four years ago.²⁹²

However, in practice, the opposite has occurred, as China has taken concrete steps to continue many of these programs well beyond 2008. Pursuant to a Chinese Government State Administration of Taxation directive issued after the MOU was signed, a number of tax incentives addressed by the MOU continued outright or were only reduced gradually. Specifically, the *Announcement Regarding Transitional Favorable 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:

- (1) "Previous low tax rates {which} will be phased into the {new} statutory tax rates after 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."²⁹³ The standard corporate income tax rate in China (absent incentives) is now 25 percent.²⁹⁴
- (2) Tax incentives of "two years of tax free followed by three years of 50%" (i.e., the "Two Free/Three Half" Program discussed above); Companies receiving these incentives will be permitted to continue to receive them until the incentives expire as provided under prior tax laws and regulations. Furthermore, those companies which were approved but which had not yet made a profit will start receiving tax incentives beginning in 2008.²⁹⁵

²⁹¹ See Communication from China and the United States, *China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments*, WT/DS358/14 (Jan. 4, 2008), attached at Exhibit III-123.

²⁹² *Id.* Certain programs, such as the Provisions of the State Council on the Encouragement of Foreign Investment, could be continued until January 1, 2009. See *id.* at 3.

²⁹³ See *Announcement Regarding Favourable Policies In Implementing The Law of Corporate Income Tax*, Dec. 29, 2007, attached at Exhibit III-124.

²⁹⁴ See *China Enacts New Corporate Income Tax Law*, Industry Week, July 11, 2007, attached at Exhibit III-125.

²⁹⁵ See *Announcement Regarding Favourable Policies In Implementing The Law of Corporate Income Tax*, Dec. 29, 2007, attached at Exhibit III-124.

PUBLIC VERSION

In short, the tax programs continue to subsidize the CSPV cell industry in China, despite China's promises. There is no indication that China has taken steps to eliminate the many other corporate tax incentives provided at the central and sub-central levels which were not addressed by the MOU. Clearly, as described above, significant tax incentives continued to be provided to CSPV cell producers despite China's commitments in the MOU.

F. VAT Programs

1. VAT Exemptions for Use of Imported Equipment

a. The Chinese Government Provides VAT 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 CSPV cell producers. The *State Council's Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment*²⁹⁶ 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.²⁹⁷ 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 1997²⁹⁸ and was included in the GOC's subsidy notification to the WTO.²⁹⁹ The Department has

²⁹⁶ *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, GuoFa, No. 37, Dec. 29, 1997, attached at Exhibit III-126.

²⁹⁷ *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 III-126; *Coated Free Sheet Prelim.*, 72 Fed. Reg. at 17,496.

²⁹⁸ *Id.*

²⁹⁹ See *China Subsidies Notification* at 68-69, attached at Exhibit III-105.

PUBLIC VERSION

previously found this program to be a countervailable subsidy and has imposed countervailing duties on imports which benefited from this program.³⁰⁰

The GOC's *Catalogue for the Guidance of Industrial Structure Adjustment*,³⁰¹ which replaced the *Catalogue of the Industries, Products and Technologies Particularly Encouraged by the State*,³⁰² identifies solar power as an encouraged industry. Information reasonably available to Petitioner indicates that a number of CSPV cell producers have purchased imported equipment and thus would qualify for benefits under this program. For example, LDK Solar's 2010 Annual Report states explicitly that it relies on imported equipment.³⁰³ Aiko Solar advertises that "key equipment {for its} production line is imported from Japan."³⁰⁴ Given that many Chinese CSPV producers likely use imported equipment in their production of CSPV, they have likely received benefits under this program.

b. VAT Exemptions Provided by the Government of China Constitute Countervailable Subsidies

(i) *Financial Contribution*

Consistent with the Department's findings in *Aluminum Extrusions*, *Wire Decking*, and *Coated Free Sheet Paper*,³⁰⁵ 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.

³⁰⁰ See *Aluminum Extrusions I&D Memo* at section VII.D; *Wire Decking I&D Memo* at 26; *Coated Free Sheet I&D Memo* at 13-14. See also *Certain Pneumatic Off-The-Road-Tires Prelim.*, 72 Fed. Reg. at 71,371; *Laminated Woven Sacks Prelim.*, 72 Fed. Reg. at 67,905.

³⁰¹ GOC's *Catalogue for the Guidance of Industrial Structure Adjustment (2011 Version)*, effective June 1, 2011, attached at Exhibit III-127.

³⁰² *Replies to the Questions Posed by Turkey Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/29 (Sept. 14, 2007), attached at Exhibit III-113.

³⁰³ See LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting at 17 (July 22, 2010), attached at Exhibit III-32.

³⁰⁴ See Aiko Solar Website excerpts, attached at Exhibit III-128.

³⁰⁵ *Wire Decking I&D Memo* at cmt. 19, and *Aluminum Extrusions I&D Memo* at 19-21.

(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.

(iii) Specificity

Consistent with the Department's reasoning 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.³⁰⁶

2. VAT Rebates on FIE Purchases of Chinese-Made Equipment

a. The Chinese Government Provides VAT Rebates on FIE Purchases of Chinese-Made Equipment

Under the *Interim Administrative Measures on Purchase of Domestic Equipment Projects with Foreign Investment*, the Chinese government refunds the VAT on FIE purchases of certain domestically-produced equipment. This program is limited to FIEs,³⁰⁷ and covers equipment falling under the "Encouraged" and "Restricted B" categories listed in the *Notice of the State Council Concerning the Adjustment of Taxation policies for Imported Equipment* and equipment for projects listed in the *Catalogue of Key Industries, Products and Technologies Encouraged for Development by the State*.³⁰⁸ These VAT rebates are provided upon the presentation of documents demonstrating FIE status.

As previously mentioned, a number of Chinese CSPV cell producers qualify as FIEs. Because these producers are likely to have purchased machinery used to manufacture subject

³⁰⁶ *Wire Decking I&D Memo* at 26.

³⁰⁷ *Interim Administrative Measures on Purchase of Domestic Equipment Projects with Foreign Investment, Guo Shui Fa* 1999, No. 171, attached at Exhibit III-129, art. 3.

³⁰⁸ *Id.*; *see also* *Notice of the State Council Concerning the Adjustment of Taxation policies for Imported Equipment* 1997, No. 37, attached at Exhibit III-130.

PUBLIC VERSION

merchandise from domestic sources in China, there is a reasonable basis to believe that some producers of CSPV cell producers have benefited from this VAT rebate program.

b. VAT Rebates on FIE Purchases of Chinese-Made Equipment

(i) *Financial Contribution*

The VAT rebate program qualifies as a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOC.

(1) *Benefit*

Consistent with 19 C.F.R. § 351.509(a)(1), the benefit conferred is equal to the amount of VAT rebates.

(ii) *Specificity*

The Department has found this program to be specific on a *de facto* basis under section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the subsidy are limited in number. Additionally, this program is specific because it is limited to 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 Areas* 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.³⁰⁹ As a high-tech industry, the solar power industry clearly falls within the scope of these

³⁰⁹ *Line Pipe I&D Memo* at 21-22.

PUBLIC VERSION

industries. Indeed, “solar photovoltaic power generation systems” are listed on the government’s *Catalogue of Chinese High-Tech Products for Export*.

In prior investigations, the Department has found this program to be countervailable.³¹⁰ Information concerning the grants received by CSPV cell producers under this preferential tax program is not reasonably available to Petitioner. However, Solargiga Energy Holdings Limited is located in the northeastern Liaoning Province³¹¹ and has most likely benefited from this program.

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.³¹²

(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.³¹³

(iii) *Specificity*

The Department has found this program 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.³¹⁴

³¹⁰ *See id.*

³¹¹ *See* Solargiga Energy Holdings Limited website, *Contact Us*, attached at Exhibit III-131.

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.*

G. Export Credit Subsidies

1. The Chinese Government Provides Export Credit Subsidies to Encourage the Export of Chinese CSPV Cells

To further support the export of products listed in the *Catalogue of Chinese High-Tech Products for Export*, which includes products in the solar energy sector, the Export-Import Bank of China provides export-contingent loans at preferential rates. In 2010 alone, the new medium- and long-term official export credits from China amounted to \$45 billion.³¹⁵

While Petitioner does not have access to detailed information regarding the terms upon which the China Export-Import Bank provides financing, many recent reports indicate that these loans are highly concessional.³¹⁶ A study of 12 infrastructure projects supported by China's Export-Import Bank found interest rates between 2 and 4 percent, with terms ranging from 10 to 20 years, and grace periods from 3 to 7 years.³¹⁷ Japan's Bank for International Cooperation found that Chinese exports for infrastructure projects received non-interest loans from the Export-Import Bank of China, with repayments terms between 20 and 30 years, and grace period of 10 to 15 years.³¹⁸ A 2010 *Washington Post* investigation confirmed that such loans continue to be available with interest rates of less than one percent and terms beyond 20 years.³¹⁹ Further,

³¹⁵ Export-Import Bank of the United States, *Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States* (June 2011) at 11, attached at Exhibit III-132.

³¹⁶ See Paul Hubbard, *Aiding Transparency: What We Can Learn About China ExIM Bank's Concessional Loans*, Center for Global Development Working Paper No. 126, Sept. 2007, at 7, attached at Exhibit III-133; Takaaki Kobayashi, *Evolution of China's Aid Policy*, JBICI Working Paper, Apr. 2008, at 20, attached at Exhibit III-134.

³¹⁷ See Paul Hubbard, *Aiding Transparency: What We Can Learn About China ExIM Bank's Concessional Loans*, Center for Global Development Working Paper No. 126, Sept. 2007, at 7, attached at Exhibit III-133.

³¹⁸ See Takaaki Kobayashi, *Evolution of China's Aid Policy*, JBICI Working Paper, Apr. 2008, at 20, attached at Exhibit III-134.

³¹⁹ See John Pomfret, *China Invests Heavily in Brazil, Elsewhere in Pursuit of Political Heft*, *The Washington Post*, July 26, 2011, attached at Exhibit III-135.

PUBLIC VERSION

in 2010, the U.S. Export-Import Bank concluded that “{m}ost of the terms and conditions of {the China Export-Import Bank’s} financing *did* and *do* not fit within the OECD guidelines.”³²⁰

a. Export Seller’s Credit

China’s Export-Import Bank provides assistance to exporters through a variety of mechanisms, including an export seller’s credit.³²¹ Capital for the export seller’s credit “comes from fiscal allocation of the Chinese government,” and its purpose is to lend “strong government support in line with relevant national, industrial, foreign trade, financial, and fiscal policies.”³²² The Export-Import Bank of China’s website provides that the credit is meant to “support the export of Chinese products and improve their competitiveness in the international market.”³²³ In addition, it describes the export seller’s credit as “a loan with large amount, long maturity, and preferential interest rate.”³²⁴

The export seller’s credit is available to products listed in the *Catalogue of Chinese High-Tech Products for Export*, the *Export List of High- and New-Tech Products* and/or on the *List of High and New-Tech Products*.³²⁵ As mentioned above, each of these lists includes products in the solar energy sector. To qualify for this credit, an exporter must have achieved \$3 million in annual exports of listed products.³²⁶

The majority of credit provided is in the form of direct loans disbursed to exporters, with newly signed credit agreements totaling RMB 224 billion in 2009. Loans for new- and high-tech

³²⁰ Export-Import Bank of the United States, *Report to the U.S. Congress on Export Credit Competition and the Export Import Bank of the United States* (June 2010) at 99, attached at Exhibit III-132.

³²¹ Export-Import Bank of China Annual Report 2010 at 23-26, attached at Exhibit III-136.

³²² See China ExIm Bank Website, *Export Seller’s Credit*, attached at Exhibit III-137.

³²³ *Id.*

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ *Id.*

PUBLIC VERSION

products accounted for nearly a third of all loans disbursed to exporters that year. In 2010, the Chinese Export-Import Bank's provided RMB 47.291 billion in export seller's credits to new- and high-tech products, which again accounted for over 30 percent of the bank's total export seller's credit disbursements.³²⁷

b. Export Buyer's Credit

The Export-Import Bank of China also assists CSPV cell exporters through an export buyer's credit. The export buyer's credit does not appear to be limited by type of credit, but the bank requires that the Chinese content of exported goods used in the project comprise no less than half of the contract's value.³²⁸ The loans are medium- and long-term loans, and have preferential, low interest rates.³²⁹ Included among the projects that are eligible for such preferential financing are energy projects.³³⁰

2. **Export Credits Provided by the Chinese Government Constitute Countervailable Subsidies**

a. Financial Contribution

Preferential loans and other benefits granted under these export credit programs represent direct transfers of funds under section 771(D)(i) of the Act. As explained above, the Department should consider loans provided by government policy banks as direct loans from the government and thus direct financial contributions under the Act.³³¹

b. Benefit

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

³²⁷ Export-Import Bank of China, *Annual Report 2010*, at 24, attached at Exhibit III-136.

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ *Coated Free Sheet I&D Memo* at 54.

PUBLIC VERSION

to the difference between what the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan. In addition, as mentioned above, pursuant to China's WTO Accession Protocol, the Department may "use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks."³³²

c. Specificity

The benefits conferred under these programs are specific because they are limited to certain enterprises and industries, consistent with sections 771(5A)(D)(iv) and 771(5A)(B) of the Act. Moreover, the benefits conferred under the export seller's credit are specific as a matter of law because access is limited to exporters with exports over a certain specified value amount. Regarding the export buyer's credit, exporters must meet Chinese-content requirements to be eligible for the credit. In addition, as explained in China's WTO Accession Protocol, loans from Chinese policy banks are by nature discretionary and, therefore, specific.³³³

H. Export Guarantees and Insurance for Green Technology

1. **The Government of China Provides Preferential Export Credit Insurance for CSPV Cells Through the China Export and Credit Insurance Corporation ("Sinasure")**

China Export & Credit Insurance Corporation ("SINOSURE") is China's policy-oriented insurance company that specializes in export credit insurance.³³⁴ According to its website:

SINOSURE is mandated, in accordance with the Chinese government's diplomatic, international trade, industrial, fiscal and financial policies, to promote Chinese exports and investments, especially exports of high-tech or high-value-

³³² WTO Accession Protocol Art. 15, attached at Exhibit III-78.

³³³ See *id.* Annex 5A at IX.

³³⁴ China Export & Credit Insurance Corporation website, excerpts attached at Exhibit III-138.

PUBLIC VERSION

added capital goods, by means of offering export credit insurance against non-payment risks³³⁵

To do so, SINOSURE provides short-, medium- and long-term export credit insurance, investment insurance and bond guarantees, among other services.³³⁶ SINOSURE's support is provided on a concessional basis. In fact, the premiums on SINOSURE's export credit programs reportedly are not even adequate to cover the long-term operating costs and losses of the program.³³⁷ The combination of preferential policies available to high-tech industries is termed the "Green Express" treatment by SINOSURE.³³⁸

SINOSURE has provided significant support to industries considered "high- and new-tech," such as the CSPV cell industry. In 2004, the Ministry of Commerce issued a *Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilizing Export Credit Insurance*, directing SINOSURE to increase its support of export of products listed in the *Catalogue of Chinese High-Tech Products for Export*.³³⁹ Additionally, the *Notice* identifies priority levels for exports of such products along with the maximum discount in rates.³⁴⁰ These Chinese policy directives have evidently been very successful. In 2008, the amount of insured high- and new-technology products, as listed in the *High and New-Tech*

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ The most recent annual report available on Sinosure's website is its 2008 annual report. Sinosure's annual reports from 2002 to 2008 provide annual revenues and costs, and a comparison of revenues and costs over that period reveals a significant shortfall of RMB 1.4 to 1.7 billion. See SINOSURE 2008 Annual Report at 13-14, attached at Exhibit III-139.

³³⁸ See *Leading Solar Wafer Manufacturer Works with SINOSURE to Spur Corporate Development with Credit Insurance*, Sinosure website, attached at Exhibit III-140.

³³⁹ Ministry of Commerce, *Notice on the Implementation of the Strategy of Promoting Trade Through Science and Technology by Utilizing Export Credit Insurance, Shiang Ji Fa* {2004}, Doc. No. 368, attached at Exhibit III-141.

³⁴⁰ *Id.*

PUBLIC VERSION

Products Catalogue, totaled \$11.21 billion, accounting for approximately 18 percent of the total insurance by SINOSURE in that year.³⁴¹

Solar technology, in particular, has been a key focus for SINOSURE. From January to July of 2009, Sinosure underwrote \$1.25 billion in PV exports from China, which covered nearly half of all Chinese PV exports during the period.³⁴² For example, LDK Solar, one of China's largest CSPV cell producers, has signed a "Strategic Cooperation Agreement" with SINOSURE.³⁴³

2. The Provision of Preferential Export Credit Insurance Constitutes a Countervailable Subsidy

a. Financial Contribution

Funds disbursed under this program constitute financial contributions under section 771(5)(D)(i) of the Act because they are direct transfers of liability to the government of China.

b. Benefit

This program confers a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act equal to the difference between what the recipient paid on the insurance and the amount that would have been paid on a comparable commercial insurance plan.

c. Specificity

This subsidy program is specific under section 771(5A)(B) of the Act because the insurance is available only to cover the risks of non-payment for Chinese exports.

³⁴¹ SINOSURE 2008 Annual Report at 13-14, attached at Exhibit III-139.

³⁴² See *Leading Solar Wafer Manufacturer Works with SINOSURE to Spur Corporate Development with Credit Insurance*, attached at Exhibit III-140.

³⁴³ *Id.*

I. Currency Undervaluation

1. The GOC Provides an Export Subsidy in the Form of Undervaluing its Currency

The GOC continues to undervalue its currency, the RMB, which subsidizes Chinese exporters to the clear detriment of U.S. producers. Specifically, the GOC maintains an exchange rate policy in which it pegs the value of the RMB to a basket of foreign currencies heavily weighed by the U.S. dollar. This practice has ensured that the RMB exchange rate heavily understates the value of the RMB vis-à-vis the U.S. dollar – according to some estimates, by as much as 50 percent.³⁴⁴

Economists and policymakers alike agree that China’s currency policies have enabled it to amass an enormous trade surplus with the United States to the clear detriment of U.S. manufacturers.³⁴⁵ As Senator Sessions recently testified:

So our goods that go there are higher in China than they would be, making the Chinese less able to buy them than otherwise would be the case. The goods they ship to the United States come in cheaper than they otherwise would be, making them more attractive to American consumers. This is a big factor in the surging and huge trade deficit between our countries.³⁴⁶

Echoing these sentiments, Senator Reid testified that China’s currency undervaluation “hurts our economy and it costs American jobs. In the last decade alone, we have lost more than 1 million American jobs to China because of this trade deficit fueled by currency manipulation.”³⁴⁷

By continuing to undervalue its currency, the GOC is actively promoting the export of Chinese manufactured products.³⁴⁸ If, for example, the Chinese government’s intervention keeps

³⁴⁴ See CRS Report for Congress, *China’s Currency: An Analysis of the Economic Issues*, RS21625 (Aug. 3, 2011), attached at Exhibit III-142.

³⁴⁵ *Id.*

³⁴⁶ Congressional Record-Senate: Currency Exchange Rate Oversight Reform Act, 157 Cong Rec S 6017, 6017 (Oct. 3, 2011), attached at Exhibit III-143.

³⁴⁷ Congressional Record-Senate: Currency Exchange Rate Oversight Reform Act, 157 Cong Rec S 6013, 6013 (Oct. 3, 2011), attached at Exhibit III-144.

PUBLIC VERSION

the value of the RMB 50 percent below its market rate, Chinese goods sold in the United States are 50 percent less expensive than they would be if the RMB were allowed to float freely.

In response to China's continued failure to allow its currency to float freely, on October 11, 2011, the U.S. Senate passed a bill that would require the Treasury Department to order the Department of Commerce to impose duties on Chinese imports upon a finding by Treasury that China was improperly valuing its currency to gain an unfair economic advantage.³⁴⁹ Indeed, a “{k}ey provision of the Currency Exchange Rate Oversight Reform Act of 2011 would require the Commerce Department to consider whether undervalued currencies act as an effective export subsidy that would justify the United States applying countervailing duties in response.”³⁵⁰

By maintaining an undervalued currency, the GOC is actively providing Chinese manufacturers exporting to the United States, including Chinese CSPV producers, a countervailable subsidy. When these Chinese producers export their product to the United States, they receive payment in U.S. dollars, which they are required to trade for Chinese RMB.³⁵¹ Given the GOC's manipulation of its exchange rate for purposes of maintaining an undervalued RMB, exporters receive more RMB per dollar than they would otherwise receive if China permitted its exchange rate to fluctuate freely.

The GOC's undervaluation of its currency involves a financial contribution, provides a benefit, and is specific, thereby satisfying the three requirements for countervailability.

³⁴⁸ Congressional Record-Senate: Currency Exchange Rate Oversight Reform Act, 157 Cong Rec S 6017, 6017 (Oct. 3, 2011), attached at Exhibit III-143.

³⁴⁹ *Senate Approves Bill to Punish China for Currency*, U.S. News & World Report, Oct. 12, 2011, attached at Exhibit III-145; Jennifer Steinhauer, *Senate Jabs China Over its Currency*, The New York Times, Oct. 11, 2011, attached at Exhibit III-146.

³⁵⁰ *Senate Approves Bill to Punish China for Currency*, U.S. News & World Report, Oct. 12, 2011, attached at Exhibit III-145.

³⁵¹ See 2010 Report to Congress of the U.S.-China Economic and Security Review Commission (Nov. 2010) at 3-4, attached at Exhibit III-147.

PUBLIC VERSION

Accordingly, the Department should initiate a subsidy investigation of currency undervaluation in China.

a. Background on China's Currency Undervaluation

The Chinese government has systematically intervened in foreign exchange markets to maintain the value of the RMB steady in relation to the U.S. dollar for well over a decade. Indeed, from 1997 to 2005, the Chinese government tied the value of the RMB at exactly RMB 8.28 per U.S. dollar.³⁵² In July 2005, responding to pressure from U.S. policymakers, China announced a small (2.1 percent) upward revaluation of the RMB, and announced that it would allow the RMB to fluctuate in value to reflect market forces.³⁵³ The Chinese government described the new exchange rate regime as “a managed floating exchange rate regime based on market supply and demand with reference to a basket of currencies.”³⁵⁴ Under this regime, the RMB could fluctuate by up to 0.3 percent per day against the dollar. In May 2007, the People's Bank of China (“PBC”) announced that it was broadening the band to 0.5 percent per day.³⁵⁵ Around mid-July 2008, China suspended its RMB appreciation, resulting in a significant decline in Chinese exports in 2009.

On June 19, 2010, one week prior to the start of the June 2010 G-20 Summit in Toronto, and under “considerable pressure from its trading partners,”³⁵⁶ China announced its resumption of RMB appreciation, cautioning, however, that “it is important to avoid any sharp and massive

³⁵² Department of the Treasury, *Report to Congress on Economic and Exchange Rate Policies: November 2005* (2005), attached at Exhibit III-148.

³⁵³ *Id.* at 17-18.

³⁵⁴ Department of the Treasury, *Report to Congress on Economic and Exchange Rate Policies: December 2006* (2006), attached at Exhibit III-149.

³⁵⁵ See, e.g., A. Batson, J. Areddy and M. Phillips, *Beijing May Calm Stocks with Steps, Not Spur Yuan*, *The Wall Street Journal*, May 19, 2007, at A3, attached at Exhibit III-150.

³⁵⁶ See 2010 Report to Congress of the U.S.-China Economic and Security Review Commission (Nov. 2010) at 14, attached at Exhibit III-147.

PUBLIC VERSION

fluctuations of the RMB exchange rate.”³⁵⁷ However, as the U.S-China Economic and Security Review reported following this announced RMB appreciation:

But the supposed reform failed to meet global expectations. China still dictates the value of the RMB relative to the dollar on each trading day, and, according to the International Monetary Fund, the RMB remains ‘substantially undervalued.’ As of October 13, the RMB had only appreciated by 2.3 percent, far below the estimated undervaluation of 20 to 40 percent. The International Monetary Fund and the Group of Twenty nations (G-20) members have attempted to persuade China to allow its currency to reflect a market price but elicited only refusals from China’s top leaders. Chinese Premier Wen Jiabo turned aside appeals, warning in October that ‘if the [] is not stable, it will bring disaster to China and the world.’ In addition, there is little evidence that consumption is constituting a greater share of the Chinese economy.

As of August 4, 2011, more than one year after China made its 2010 promise to fluctuate its currency, the RMB/dollar exchange rate has only appreciated by 6.1 percent – *i.e.*, still far below the estimated undervaluation of China’s currency.³⁵⁸

b. China’s Policies to Maintain Undervalued Currency

To maintain China’s inflexible exchange rate, the GOC actively intervenes in its markets to regulate supply and demand imbalances.³⁵⁹ For instance, the GOC maintains tight capital controls, which limit Chinese companies from “freely purchasing and selling foreign currency.”³⁶⁰ Moreover, Chinese exporters are required to trade their U.S. dollars for RMB.³⁶¹

³⁵⁷ See CRS Report for Congress, *China’s Currency: An Analysis of the Economic Issues*, RS21625 (Aug. 3, 2011), attached at Exhibit III-142.

³⁵⁸ See *id.*

³⁵⁹ See CRS Report for Congress, *China’s Currency: Economic Issues and Options for U.S. Trade Policy*, RL32165 (May 22, 2008), attached at Exhibit III-142.

³⁶⁰ See CRS Report for Congress, *China’s Currency: An Analysis of the Economic Issues*, RS21625 (Aug. 3, 2011), attached at Exhibit III-142.

³⁶¹ See 2010 Report to Congress of the U.S.-China Economic and Security Review Commission (Nov. 2010) at 3-4, attached at Exhibit III-147.

PUBLIC VERSION

Additionally, as reported by USTR, the GOC places stringent controls on the investment activities of both foreign and domestic companies.³⁶²

Underscoring China's stringent hold on its foreign exchange market is the State Council's *Regulations of the People's Republic of China on Foreign Exchange Control*, which were promulgated on January 26, 1996 and amended on January 14, 1997.³⁶³ Pursuant to Article 7 of the Regulations:

Foreign currency is prohibited for circulation and shall not be quoted for pricing or settlement in the territory of the People's Republic of China.

Moreover, Article 12 states that:

The collection of export proceeds and the payments for imports in foreign exchange by domestic entities shall be processed in accordance with the relevant government regulations governing the verification procedures for export proceeds and import payments.

While these regulations were revised in August 2008, foreign currency remains prohibited for circulation and may not be quoted for pricing or settlement in China.³⁶⁴

2. The GOC's Currency Undervaluation Constitutes a Countervailable Subsidy

As detailed below, China's currency regime provides a financial contribution, bestows a benefit, and is specific. Recent Appellate Body decisions have clarified why China's regime is export contingent. Accordingly, the Department should initiate and investigate this subsidy program.

³⁶² United States Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers: China* (2011) at 83-87, attached at Exhibit III-27.

³⁶³ See *1997 Regulations of the People's Republic of China on Foreign Exchange*, attached at Exhibit III-151.

³⁶⁴ See *2008 Regulations of the People's Republic of China on Foreign Exchange* at Article 8, attached at Exhibit III-152.

PUBLIC VERSION

a. Financial Contribution

The GOC's undervaluation of its currency constitutes a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. As stated above, Chinese enterprises are required to trade the U.S. dollars that they receive as payment for exports to RMB. Because the Chinese government manipulates the value of the RMB to keep it artificially low, Chinese exporters receive more RMB per dollar than they would otherwise receive if the RMB were permitted to float freely. Consequently, the sale of RMB by the GOC at artificially low rates constitutes a direct transfer of funds from the Chinese government to Chinese producers of subject merchandise that export their products to the United States. Additionally, the GOC's systematic undervaluation of its currency also constitutes the provision of a good or service other than general infrastructure under section 771(5)(D)(iii) of the Act.

b. Benefit

The GOC's currency practice also provides a benefit. Specifically, the GOC's manipulation of its exchange rate enables exporters to receive more RMB per dollar than they would otherwise receive if the exchange rate was allowed to float freely. To the extent that the Department determines that the financial contribution is provided in the form of a provision of good or service, a benefit exists to the extent that the good or service is provided for less than adequate remuneration. If purchased, a benefit is conferred if such goods or services are purchased for more than adequate remuneration under section 771(5)(E)(iv) of the Act. Pursuant to 19 C.F.R. § 351.501, such a benefit would be calculated by determining the difference between the amount of RMB that Chinese companies receive when they exchange dollars and the amount of RMB that would have been receive absent the GOC's intervention in the currency market.

PUBLIC VERSION

c. Specificity

The GOC's currency policies are specific. A subsidy is specific if it is limited to one or a group of enterprises or industries as a matter of law or, in fact, or if it is an export subsidy.³⁶⁵ Both the Tariff Act and the WTO's SCM Agreement define an export subsidy as "a subsidy that is, in law or in fact, contingent upon export performance . . ."³⁶⁶ The benefit conferred by the Chinese government's currency policies satisfy this definition, as receipt of this benefit is dependent on export performance.

(1) *De Facto Export Contingency*

In accordance with section 771(5A)(B) of the Act, China's currency practices constitute a *de jure* export subsidy. Although there are no pieces of legislation that establish and maintain China's currency undervaluation and it is possible for the subsidy program's beneficiaries to receive benefits without exporting (*e.g.*, foreign tourists in China),³⁶⁷ consistent with WTO precedent, these circumstances do not undermine the fact that this program is contingent on exports and is, therefore, specific.

Specifically, a Chinese producer that exports merchandise receives foreign currency as payment, which the producer then exchanges for RMB. Because of China's failure to allow its currency to freely float, the Chinese producer receives more RMB than it would otherwise if China did not engage in such currency practices. Accordingly, a Chinese producer's ability to receive benefits under this program is directly linked to the producer's ability to export.

³⁶⁵ 19 U.S.C. §1677(5A); SCM Agreement at Art. 3.

³⁶⁶ 19 U.S.C. §1677(5A)(B).

³⁶⁷ See Benjamin Blase Caryl, *Is China's Currency Regime A Countervailable Subsidy? A Legal Analysis Under the World Trade Organization's SCM Agreement*, 45 *Journal of World Trade* (London) 1, 209-10 (Feb. 2011).

PUBLIC VERSION

A finding that China's currency policy is *de facto* export contingent is entirely consistent with WTO precedent. In several prior cases, the WTO Appellate Body specifically found that the "fact that the subsidy is available to non-exporters (even in the same program) does not 'dissolve' the export contingent nature of the payments to exporters."³⁶⁸ For example, in *United States-Tax Treatment for "Foreign Sales Corporations"* ("US-FSC"), the United States argued that its preferential tax treatment for exporting companies was not an export subsidy because the benefit was also available to companies that produced goods outside of the United States.³⁶⁹ In negating this theory, the WTO Appellate Body explained that the "fact that subsidies granted in the second set of circumstances *might* not be export contingent does not dissolve the export contingency arising in the first set of circumstances."³⁷⁰ Similarly, even though subsidies were available to both exporters and domestic consumers in *United States-Subsidies on Upland Cotton*, the Appellate Body determined that the benefits at issue provided a countervailable subsidy, noting that the fact that "domestic users may also be eligible to receive payments under different conditions does not eliminate the fact that an exporter will receive payment only upon proof of exportation."³⁷¹

For these reasons, China's currency undervaluation policies are *de jure* export contingent and countervailable.

(2) *De Facto Export Contingency*

China's currency practices also constitute a *de facto* export subsidy. Pursuant to the SCM Agreement, *de facto* export contingency exists where the "granting of a subsidy ... is in

³⁶⁸ Charles O. Verrill, *Currency Undervaluation as an Export Subsidy Under the Subsidies and Countervailing Measures Agreement*, attached at Exhibit III-153.

³⁶⁹ *United States - Tax Treatment for "Foreign Sales Corporations" - Recourse to Article 21.5 of the DSU by the European Communities - AB-2001-8*, WT/DS108/AB/RW ¶ 113 (Jan. 14, 2002).

³⁷⁰ *Id.* ¶ 119.

³⁷¹ *United States - Subsidies on Upland Cotton*, WT/DS267/AB/R ¶ 582 (Mar. 3, 2005).

PUBLIC VERSION

fact tied to actual or anticipated exportation or export earnings.”³⁷² China’s currency undervaluation is in fact “tied to” exportation.³⁷³ Indeed, as explained in a recent publication:

Returning to the Appellate Body’s findings in US – FSC, it appears that under China’s currency regime, based on all of the surrounding facts, the granting of the currency subsidy is contingent, as one of several other conditions, upon exportation. The Chinese manufacturer must export its products in order to receive foreign currency, and in order for that manufacturer to receive the benefit of the subsidy, it must convert that foreign currency into RMB. As both the House Currency Bill and the Appellate Body in US – FSC make clear, the fact that foreign investors and tourists can receive the currency subsidy without exporting does not necessarily eliminate export contingency for purposes of the SCM Agreement. Furthermore, contrary to the reasoning Commerce relied upon for the determination to not initiate the Coated Paper currency allegation, the fact that some Chinese exporters do not convert all of their foreign currency earnings into RMB does not necessarily eliminate export contingency for SCM Agreement purposes. If China’s currency regime entails a financial contribution and a benefit being conferred (extra RMB) that is contingent, as one of several conditions, upon exportation (and conversion), then China’s currency regime is an export-contingent subsidy.³⁷⁴

Because China’s currency undervaluation policies are *de facto* export contingent, they are specific and countervailable.

VII. CONCLUSION

As described above, Chinese CSPV cell producers are benefiting from enormous countervailable subsidies, which are causing material injury to the domestic CSPV cell industry. Petitioner therefore requests that the Department initiate a countervailing duty investigation on imports of CSPV cells 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.

³⁷² SCM Agreement at Article 3.1(a).

³⁷³ See Benjamin Blase Caryl, *Is China’s Currency Regime A Countervailable Subsidy? A Legal Analysis Under the World Trade Organization’s SCM Agreement*, 45 *Journal of World Trade* (London) 1, 212 (Feb. 2011).

³⁷⁴ See *id.*

EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>	
III-1	Contact Information for Chinese CSPV cell producers and exporters	Public
III-2	<i>National Foreign Trade Council, China's Promotion of the Renewable Electric Power Equipment Industry: Hydro, Wind, Solar, Biomass</i>	Public
III-3	<i>Why Solar Prices Will Continue Falling</i>	Public
III-4	<i>China Leading Global Race to Make Clean Energy</i>	Public
III-5	<i>China Solar Booming - Chinese Solar Panels Prices, Cost, Review, Best Manufacturers (Trina, Suntech)</i>	Public
III-6	<i>Suntech Named As Top PV Module Supplier; JA Solar As Number One Cell Producer</i>	Public
III-7	<i>Asia Doubles Solar Silicon Factories, Pursuing Gain in Slump</i>	Public
III-8	Photon International Survey, <i>Year of the Tiger</i> , Science & Technology	Public
III-9	Renewable Energy Law 2005	Public
III-10	Trina Solar Limited 2010 Form 20-F (excerpts)	Public
III-11	<i>A Tentative Management Method of Special Funds for Renewable Energy Development</i> , Cai Jian {2007} No. 371 (May 30, 2006)	Public
III-12	National Economic and Social Development Eleventh Five-Year Plan – Outlines of the People's Republic of China, 2006 -2010 (excerpts)	Public
III-13	U.S. Economic and Security Review Commission, Background: China's Twelfth Five-Year Plan (June 24, 2011)	Public
III-14	<i>China's Five-Year Plan & Renewable Energy – A Detailed Explanation</i>	Public
III-15	<i>The National Medium- and Long-Term Program for Science and Technology Development – An Outline (2006-2020)</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-16	<i>Medium and Long-Term Development Plan for Renewable Energy in China, Fa Gai Neng Yuan {2007} No. 2174 (Sept. 2007)</i>	Public
III-17	<i>Notice and Interim Measures for the Administration of Financial Subsidy Fund for Renewable and Energy-Saving Building Materials, Cai Jian {2008} No. 677 (Oct. 14, 2008)</i>	Public
III-18	China's Eleventh Five Year Plan for Renewable Energy	Public
III-19	<i>Notice on Printing and Distributing Solar Photovoltaic Building Demonstration Project Application Guidelines, Cai Ban Jian {2009} No. 34 (Apr. 16, 2009)</i>	Public
III-20	<i>Interim Measures for Administration of Financial Subsidy Funds for Promotion of High-Efficiency and Energy-Saving Products (May 18, 2009)</i>	Public
III-21	<i>China Hikes 2011 Solar Power Target</i>	Public
III-22	KPMG China, China's 12th Five-Year Plan: Overview (Mar. 2011)	Public
III-23	<i>Several Opinions Regarding Further Accelerating the Development of New Energy, Shan Zheng Fa {2009} No. 65 (Dec. 3, 2009)</i>	Public
III-24	<i>Opinions Regarding Accelerating the Development in the Environmental Protection Industry, Hunan Government Pub. {2009} No. 36 (Nov. 6, 2009)</i>	Public
III-25	<i>Interim Measures for Administering the Special Fund of the Renewable Energy Development in Yunnan Province, Cai Jian {2006} No. 237 (Aug. 2007)</i>	Public
III-26	<i>Solar Power Plants to Spring Up in China</i>	Public
III-27	United States Trade Representative, <i>2011 National Trade Estimate Report on Foreign Barriers</i>	Public
III-28	<i>Questions from the United States Regarding the New and Full Notification of China, G/SCM/Q2/CHN/19 (July 26, 2006)</i>	Public
III-29	Office of the United States Trade Representative, <i>United States Requests WTO Dispute Settlement Consultations on China's Subsidies for Wind Power Equipment Manufacturers (Dec. 2010)</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-30	Catalogue of Chinese High-Tech Products for Export	Public
III-31	<i>Measures for Administration of Export Product Research and Development Funds</i> , Ministry of Foreign Trade and Economic Cooperation {2002} Circular No. 527	Public
III-32	LDK Solar Co. Ltd. 2010 Form 20-F (excerpts)	Public
III-33	Trina Solar Limited Q2 2011 Supplemental Earnings Call Presentation	Public
III-34	JA Solar Holdings Co., Ltd. (JASO) 2010 Form 20-F (excerpts)	Public
III-35	<i>Here Comes China's \$3B, 'Golden Sun' Projects</i> , Green Tech Media, Nov. 16, 2009	Public
III-36	Suntech Power Holdings Co., Ltd. 2010 Form 20-F (excerpts)	Public
III-37	Yingli Green Energy Holding Co. Ltd. (YGE) 2010 Annual Report Form 20-F (excerpts)	Public
III-38	<i>WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment</i> , 74 Fed. Reg. 7,494 (USTR Feb. 17, 2009)	Public
III-39	<i>ICBC International: Company Note GCL-Poly (3800.HK)</i> (July 21, 2009)	Public
III-40	DMEGC Company Profile	Public
III-41	<i>WTO Committee on Subsidies and Countervailing Measures: Request from the United States to China Pursuant to Article 25.10 of the Agreement</i> , G/SCM/Q2/CHN/42 (Oct. 11, 2011)	Public
III-42	International Energy Agency, <i>Global Renewable Energy: Policies and Measures</i>	Public
III-43	<i>Chinese Gov't Will Pay to Install 500MW Solar</i>	Public
III-44	Notice Concerning the Implementation of the Golden Sun Demonstration Project and Golden Sun Demonstration Project Interim Measures for Financial Assistance Fund Management	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-45	<i>China Selects 294 Solar Power Plants for Subsidy</i>	Public
III-46	China's Govt to Extend Golden Sun Project Beyond 2012	Public
III-47	<i>Three Upside Surprises to Expect in 2011</i>	Public
III-48	<i>Solar Winners: Yingli, Suntech, Power-One</i>	Public
III-49	<i>China Sets Solar Power Price to Boost Profits, Investment</i>	Public
III-50	<i>Luoyang China Silicon High-Tech Co. Ltd. is Developing Independent Technology Innovation</i>	BPI
III-51	[]	BPI
III-52	GCL-Poly Energy Holdings Limited, <i>Bringing Green Power to Life: 2011 Interim Report</i>	Public
III-53	Sichuan Xinguan silicon-Tech Co., Ltd. Shareholders table	BPI
III-54	Sichuan Investment Group Co. Ltd.	BPI
III-55	Jiangsu Zhongneng Polysilicon Technology Development Shareholders table	BPI
III-56	Sichuan Chuantou Energy Co. Shareholders table	BPI
III-57	Baoding Tianwei Baobian Electric Co., Ltd. Shareholders table	BPI
III-58	Baoding Tianwei ownership chart	BPI
III-59	Kunming Yeyan New Material Co., Ltd. Shareholders table	BPI
III-60	Kunming Yeyan New Material Co., Ltd. ownership chart	BPI

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-61	Yichang CSG Polysilicon Co., Ltd. Shareholders table	BPI
III-62	Yichang CSG Polysilicon Co., Ltd. ownership chart	BPI
III-63	<i>China's Solar Energy Industry: Polysilicon 2007-2011</i>	Public
III-64	<i>China's Photovoltaic Industry: Exporting on the Cheap</i>	Public
III-65	Statement of Reasons Concerning the Making of Final Determinations with Respect to the Dumping and Subsidizing of Certain Aluminum Extrusions Originating in or Exported from the People's Republic of China	Public
III-66	Australian Customs and Border Protection Service, Preliminary Report on Existence of Countervailable Subsidies – <i>Alleged Subsidization of Aluminum Extrusions Exported from the People's Republic of China</i>	Public
III-67	2008 Annual Report of Aluminum Corporation of China Limited	Public
III-68	<i>Growing aluminum alloy exports inviting attention from Chinese Authorities</i>	Public
III-69	Notice of Guidelines on Accelerating the Adjustment of Aluminum Industry Structure, Fa Gai Yun Xing 2006 No. 589	Public
III-70	Customs Export Tariff of the People's Republic of China (Enforced from Jan. 1, 2009)	Public
III-71	Customs Import Tariff of the People's Republic of China (2009)	Public
III-72	Estimated Benefits Provided to Chinese CSPV Cell Producers from the Provision of Aluminum for Less Than Adequate Remuneration	Public
III-73	Mawei District Government, <i>Fuzhou Development Zone "Bites" on Scientific Development Tightly</i>	Public
III-74	Report of 'The China Price Project,' Merage School of Business, University of California-Irvine	Public
III-75	[]	BPI

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-76	<i>Polluters Will Be Forced to Pay More</i>	Public
III-77	<i>PV Status Report: Research, Solar Cell Production and Market Implementation of Photovoltaics</i>	Public
III-78	WTO Accession Protocol of the People's Republic of China, Nov. 10, 2001	Public
III-79	Breakthrough Institute and the Information Technology and Innovation Foundation, <i>Rising Tigers, Sleeping Giant</i> , Nov. 2009	Public
III-80	<i>On Clean Energy, China Skirts Rules</i>	Public
III-81	<i>China Racing Ahead of U.S. in the Drive to Go Solar</i>	Public
III-82	<i>How China Dominates Solar Power</i>	Public
III-83	<i>Reform of China's Banks, Burdened by Bad Loans, Is Priority for Government</i>	Public
III-84	<i>Loans and Credit Agreements involving Chinese Banks to Chinese Solar Companies since Jan 2010</i>	Public
III-85	<i>Yingli Solar Gets \$5.3 Billion to Bulk up Manufacturing</i>	Public
III-86	<i>UPDATE: Suntech, Trina Solar Sign \$11.7bln Loan Deals</i>	Public
III-87	<i>China's Solar Firms Get A Boost</i>	Public
III-88	<i>China's Leading Solar Player Gets Big Bank Boost</i>	Public
III-89	<i>China Buries Obama's 'Sputnik' Goal for Clean-Energy Use</i>	Public
III-90	<i>Solar Trade: View from China</i>	Public
III-91	<i>China Tries to Stimulate Solar Industry with Loans. Will It Work?</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-92	<i>Yingli CEO Says Solar Company Prepared for Drop in Panel Prices</i>	Public
III-93	<i>Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises</i>	Public
III-94	<i>Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises (June 30, 1991)</i>	Public
III-95	Enterprise Income Tax Law	Public
III-96	<i>Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa 2007, No. 39</i>	Public
III-97	Canadian Solar Inc. 2010 Form 20-F (excerpts)	Public
III-98	<i>Establish Foreign Invested Company CS Solar Project International AG</i>	Public
III-99	China Sunergy Co., Ltd. 2010 Form 20-F (excerpts)	Public
III-100	CSG Holding Co., Ltd. 2010 Annual Report Summary	Public
III-101	JinkoSolar Holding Co., Ltd. 2010 Form 20-F (excerpts)	Public
III-102	Soleos Solar GmbH Shanghai, <i>About Us</i>	Public
III-103	Soudai, <i>About</i>	Public
III-104	China Global, <i>China Foreign Invested Enterprises (FIEs)</i>	Public
III-105	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 § I (Apr. 13, 2006)	Public
III-106	Suntech Power Holdings Co., Ltd. 2010 Corporate Report	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-107	List of Chinese CSPV Cell Producers Located in Special Development Zones	Public
III-108	<i>Administrative Measures on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises</i>	Public
III-109	<i>Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchase of Domestic Equipment by FIEs and Foreign Enterprises</i>	Public
III-110	Catalogue for the Guidance of Foreign Investment Industries (Amended in 2007)	Public
III-111	<i>Ministry of Finance and State Administration of Taxation Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises</i>	Public
III-112	<i>Supplementary Circular Concerning the Preferential Policy for Enterprises with Foreign Investment, Guo Shui Han 2003, No. 368</i>	Public
III-113	Replies to the Questions Posed by Turkey Regarding the New and Full Notification of China, G/SCM/Q2/CHN/29 (Sept. 14, 2007)	Public
III-114	Eopply New Energy: About Us	Public
III-115	<i>Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in Pudong New District of Shanghai, Jan. 28, 2008, Guo Fa {2007} No. 40</i>	Public
III-116	Regulations of Implementation of the Enterprise Income Tax Law	Public
III-117	Administrative Measures Governing Recognition of High or New Technology Enterprises	Public
III-118	Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for High or New Technology Enterprises	Public
III-119	<i>Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Base in the Northeast, Caishui (2004) No. 153 (Sept. 20, 2004)</i>	Public
III-120	<i>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</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
	(2005) No. 17 (Feb. 2, 2005)	
III-121	<i>Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 million Yuan of Taxes Waived</i>	Public
III-122	Request for the Establishment of a Panel by the United States in China, WT/DS358/13 (July 13, 2007)	Public
III-123	Communication from China and the United States, China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, WT/DS358/14 (Jan. 4, 2008)	Public
III-124	<i>Announcement Regarding Favourable Policies In Implementing The Law of Corporate Income Tax, Dec. 29, 2007</i>	Public
III-125	<i>China Enacts New Corporate Income Tax Law</i>	Public
III-126	<i>Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment, GuoFa, No. 37, Dec. 29, 1997</i>	Public
III-127	GOC's Catalogue for the Guidance of Industrial Structure Adjustment (2011 Version), effective June 1, 2011	Public
III-128	Aiko Solar Website (excerpts)	Public
III-129	<i>Interim Administrative Measures on Purchase of Domestic Equipment Projects with Foreign Investment, Guo Shui Fa 1999, No. 171</i>	Public
III-130	Notice of the State Council Concerning the Adjustment of Taxation policies for Imported Equipment 1997, No. 37	Public
III-131	Solargiga Energy Holdings Limited Website	Public
III-132	Export-Import Bank of the United States, <i>Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States</i>	Public
III-133	<i>Aiding Transparency: What We Can Learn About China ExIM Bank's Concessional Loans</i>	Public
III-134	<i>Evolution of China's Aid Policy</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-135	<i>China Invests Heavily in Brazil, Elsewhere in Pursuit of Political Heft</i>	Public
III-136	Export-Import Bank of China, Annual Report 2010	Public
III-137	China ExIm Bank Website, <i>Export Seller's Credit</i>	Public
III-138	China Export & Credit Insurance Corporation website	Public
III-139	Sinosure Annual Report 2008 (excerpts)	Public
III-140	<i>Leading Solar Wafer Manufacturer Works with SINOSURE to Spur Corporate Development with Credit Insurance</i>	Public
III-141	Ministry of Commerce, Notice on the Implementation of the Strategy of Promoting Trade Through Science and Technology by Utilizing Export Credit Insurance, Shiang Ji Fa {2004}	Public
III-142	CRS Reports for Congress, China's Currency	Public
III-143	Congressional Record-Senate: Currency Exchange Rate Oversight Reform Act, 157 Cong Rec S 6013, 6017 (Oct. 3, 2011)	Public
III-144	Congressional Record-Senate: Currency Exchange Rate Oversight Reform Act, 157 Cong Rec S 6013, 6013 (Oct. 3, 2011)	Public
III-145	Senate Approves Bill to Punish China for Currency, U.S. News & World Report (Oct. 12, 2011)	Public
III-146	<i>Senate Jabs China Over its Currency</i>	Public
III-147	2010 Report to Congress of the U.S.-China Economic and Security Review Commission (Nov. 2010)	Public
III-148	Department of the Treasury, Report to Congress on Economic and Exchange Rate Policies: November 2005 17 (2005)	Public
III-149	Department of the Treasury, Report to Congress on Economic and Exchange Rate Policies: December 2006 26 (2006)	Public
III-150	<i>Beijing May Calm Stocks with Steps, Not Spur Yuan</i>	Public

PUBLIC VERSION

<u>Exhibit</u>	<u>Description</u>	
III-151	1997 Regulations of the People's Republic of China on Foreign Exchange	Public
III-152	2008 Regulations of the People's Republic of China on Foreign Exchange	Public
III-153	Charles O. Verrill, Currency Undervaluation as an Export Subsidy Under the Subsidies and Countervailing Measures Agreement	Public
III-154	World Market Prices for Polysilicon 2010	Public

C-570-980
Investigation
POI: 01/01/2010 – 12/31/2010
Proprietary Document
Public Version
Office 6: GHC

November 8, 2011

**IMPORT ADMINISTRATION
OFFICE OF AD/CVD OPERATIONS
COUNTERVAILING DUTY INVESTIGATION INITIATION CHECKLIST**

SUBJECT: Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China

CASE NUMBER: C-570-980

PETITIONER:

SolarWorld Industries America Inc.
25300 NW Evergreen Road
Hillsboro, Oregon 97124
(503) 844-3400

COUNSEL TO PETITIONER:

Timothy C. Brightbill
Adam H. Gordon
Robert DeFrancesco
Wiley Rein, LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7000

POTENTIAL RESPONDENTS:

A list of producers of certain crystalline silicon photovoltaic cells, whether or not assembled into modules, in the People’s Republic of China (PRC) identified by Petitioner can be found in the “Petition for the Imposition of Antidumping and Countervailing Duties: Certain Crystalline Silicon Photovoltaic Cells, Whether or not Assembled Into Modules, From the People’s Republic of China,” dated October 19, 2011 (Petition). See Volume III of the Petition at Exhibit III-1; see also the October 28, 2011 Supplement to the Petition at Exhibit General-Supp-1.

SCOPE: See Attachment I to this checklist.

IMPORT STATISTICS:

PRC	2008	2009	2010
Quantity (No.)	3,828,375	6,637,238	17,371,621
Value (\$)	233,336,813	424,036,845	1,206,549,209

Source: U.S. Department of Commerce. The merchandise subject to this investigation is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8501.61.0000, 8507.20.8000, 8541.40.6020 and 8541.40.6030. See Volume I-6 of the Petition; see also the October 28, 2011 Supplement to the Petition at 2.

APPROXIMATE CASE CALENDAR:

Event	No. of Days	Date of Action	Day of Week
Petition Filed	0	October 19, 2011	Wednesday
Initiation Date	20	November 8, 2011	Tuesday
ITC Preliminary Determination	45	December 5, 2011	Monday*
ITA Preliminary Determination**†	85	January 12, 2012	Thursday
ITA Final Determination†	160	March 27, 2012	Tuesday
ITC Final Determination***	205	May 11, 2012	Friday
Publication of Order****	212	May 18, 2012	Friday

* Where the deadline falls on a weekend/holiday, the appropriate date is the next business day.

† These deadlines may be extended under the governing statute.

**This will take place only in the event of a preliminary affirmative determination from the International Trade Commission (ITC).

*** This will take place only in the event of a final affirmative determination from the International Trade Administration (ITA).

****This will take place only in the event of a final affirmative determination from the ITA and the ITC.

Note: The ITC final determination will take place no later than 45 days after a final affirmative ITA determination.

Note: Publication of an order will take place approximately seven days after an affirmative ITC final determination.

INDUSTRY SUPPORT:

Do Petitioner and those expressing support for the Petition account for more than 50% of production of the domestic like product?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

If No, do those expressing support account for the majority of those expressing an opinion and at least 25% of domestic production?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Not Applicable

Describe how industry support was established - specifically, describe the nature of any polling or other step undertaken to determine the level of domestic industry support.

See Attachment II to this checklist.

Was there opposition to the Petition by any producers of the domestic like product?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Are any of the parties who have expressed opposition to the Petition either importers or domestic producers affiliated with foreign producers?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input checked="" type="checkbox"/>	Not Applicable

INJURY ALLEGATION:

We received a copy of the action notice from the Director of the Office of Investigations at the ITC on October 20, 2011. It indicates that the ITC has instituted an investigation to determine whether there is a reasonable indication that the domestic industry producing steel cylinders is materially injured or threatened with material injury. See Attachment IV to this checklist.

The relevant injury data can be found in Volume I of the Petition, at 3, 26-35, 37-38, and Exhibits I-6, I-9, I-10, I-14, I-15, I-18a, I-19, I-20, I-24, II-1, and II-2, and Supplement to the

AD/CVD Petitions filed on October 28, 2011 (Supplement II-A-General Issues), at 1-2. See Attachment III to this checklist.

Does the Petition contain evidence of causation? Specifically, does the Petition contain information relative to:

- volume and value of imports (See Volume I of the Petition, at 15 and Exhibit I-6).
- U.S. market share (i.e., the ratio of imports to consumption) (See Volume I of the Petition, at 3, 26, 28, and Exhibits I-6, I-24).
- actual pricing (i.e., evidence of decreased pricing) (See Volume I of the Petition, at 27-29, 32-33, 38, and Exhibits I-8, I-10, I-15, II-1).
- relative pricing (i.e., evidence of imports underselling U.S. products) (See Volume I of the Petition, at 26-27, 30-31, 33 and Exhibits I-9, I-14, I-18a, I-24, II-1, II-2).

PETITION REQUIREMENTS:

Does the Petition contain the following?

- the names, addresses, and telephone numbers of Petitioner (See Volume I of the Petition, at 4-5, and Exhibit I-1).
- the names, addresses, and telephone numbers of all domestic producers of the domestic like product known to Petitioner (See Volume I of the Petition, at 5, and Exhibits I-1, I-2a).
- the volume or value of the domestic like product produced by Petitioner and each domestic producer identified for the most recently completed 12-month period for which data is available (See Volume I of the Petition, at 5-6, and Exhibit I-3, and Supplement II-A-General Issues, at 5-6 and Exhibit General-Supp-5).

Was the entire domestic industry identified in the Petition?

- Yes (See Volume I of the Petition, at 4-6, and Exhibits I-1, I-2a, I-2b, and I-3).
- No
- a clear and detailed description of the merchandise to be investigated, including the appropriate Harmonized Tariff Schedule numbers (See Volume I of the Petition, at 12-13, and Exhibit I-4, and Supplement II-A-General Issues, at 2-5, and Exhibits General-Supp-2-4, and Supplement to the AD/CVD Petitions, filed November 4, 2011 (Supplement IV)).

- the name of each country in which the merchandise originates or from which the merchandise is exported (See Volume I of the Petition, at 13).
- the identity of each known exporter, foreign producer, and importer of the merchandise (See Volume I of the Petition, at 13-14, and Exhibit I-5).
- a statement indicating that the Petition was filed simultaneously with the Department of Commerce and the ITC (See Petition cover letter, at 1).
- an adequate summary of the proprietary data (See public version of the Petition, and public version of Supplement to AD Petitions filed on October 25, 2011 (Supplement I), and public version of Supplement II-A-General Issues, and public version of Supplement to the AD Petition filed on October 28, 2011 (Supplement II-B-AD Issues), and public version of Supplement to the AD Petitions filed on November 7, 2011 (Supplement V-A-AD Issues), and public version of Supplement to the AD/CVD Petitions filed on November 7, 2011 (Supplement V-B-General Issues)).
- a statement regarding release under administrative protective order (See Petition cover letter, at 1, and Supplement I cover letter, at 1, and Supplement II-A-General Issues cover letter, at 1, and Supplement II-B-AD Issues cover letter, at 1, and Supplement V-A-AD Issues cover letter, at 1, and Supplement V-B-General Issues, at 1).
- a certification of the facts contained in the Petition by an official of the petitioning firm(s) and its legal representative (if applicable) (See Petition cover letter attachments, and Supplement II-A-General Issues cover letter attachments, and Supplement II-B-AD Issues cover letter attachments, and Supplement to the AD/CVD Petitions filed on November 2, 2011 (Supplement III) attachments, and Supplement IV cover letter attachments, and Supplement V-A-AD Issues cover letter attachments, and Supplement V-B-General Issues cover letter attachments).
- import volume and value information for the most recent two-year period (See Volume I of the Petition, at 15, and Exhibit I-6).

INJURY TEST:

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury, to a U.S. industry.

COUNTERVAILING DUTY ALLEGATION:

The proposed period of investigation (POI) is January 1, 2010, through December 31, 2010.

The Petition was filed on October 19, 2011. On October 21, 24 and 31, and on November 4, 2011, the Department of Commerce (the Department) sought clarification on certain issues in the Petition. Petitioner filed its responses to the Department's request on October 26 and 28, and on November 2, 4 and 7, 2011.

CONSULTATIONS:

In accordance with Article 13.1 of the Agreement on Subsidies and Countervailing Measures, and section 702(b)(4)(a)(ii) of the Act, On October 20, 2011, we invited the Government of the PRC (GOC) for consultations regarding the countervailing duty (CVD) petition. Consultations were held with the GOC's Ministry of Commerce by conference call on November 2, 2011. The points raised in the consultations are described in the November 4, 2011, memorandum entitled, "Consultations with the Government of the People's Republic of China; Countervailing Duty Petition; Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules," which is available through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), located in Room 7046 of the main Department building.

COUNTERVAILING DUTY INVESTIGATION INITIATION STANDARD:

Section 702(b) of the Act states that Petitioner must allege the elements necessary for the imposition of a countervailing duty proceeding under section 701(a) of the Act, i.e., the existence of countervailable subsidies and material injury, or threat of material injury, by reason of the subsidized imports. Section 702(b)(1) of the Act requires that these allegations be supported by information reasonably available to Petitioner.

Petitioner contends that producers of certain crystalline silicon photovoltaic cells, whether or not assembled into modules, in the PRC have benefited from countervailable subsidies bestowed by the GOC and by various provincial and municipal governments within the PRC.

The Department recommends initiating an investigation of the alleged programs listed in Section I below, "Programs on which the Department is initiating an Investigation." For each program, Petitioner has properly alleged the elements of a subsidy, i.e., financial contribution, benefit, and specificity. The Department finds that Petitioner's allegations are supported by adequate and accurate information that was reasonably available to it. In Section II, Alleged Programs on which the Department is Not Initiating an Investigation, the Department lists those programs that it does not recommend for initiation, describing the Department's decision under "Recommendation."

ALLEGED SUBSIDY PROGRAMS

Note: A number of the allegations presented by Petitioner involve particular provinces, localities, or special economic development or tax zones. Petitioner has provided information demonstrating that a number of potential respondents are located within these provinces or

localities. For example, Volume III, Exhibit 107 is an Ernst & Young report listing solar cell producers located in special development zones. Petitioner also provided a number of corporate reports and printouts of websites for potential respondents indicating their locations. Likewise, some of the allegations below, as noted, indicate that a particular corporate status is required to be eligible for benefits. Petitioner has provided information indicating that several potential respondents hold such status, such as foreign invested enterprises (FIEs), state-owned enterprises, or producers of “famous brands.”

I. PROGRAMS ON WHICH THE DEPARTMENT IS INITIATING AN INVESTIGATION

A. Grant Programs

1. Export Product Research and Development Fund

Description: Petitioner argues that this program provides research and development (R&D) grants for certain export-oriented companies. Petitioner contends that PRC producers of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) would be eligible for funds from this program because many of these producers are export-oriented. Further, Petitioner claims that the PRC maintains a number of programs, this program included, that benefit the export of products designated as “high technology products for export” in the *Catalogue of Chinese High-Tech Products for Export*. According to Petitioner, the *Catalogue* specifically lists “solar photovoltaic power generation systems” and “high-tech products for export.”

Financial Contribution: Petitioner argues that this program provides a direct financial contribution in the form of a grant from the Chinese central government budget. See section 771(5)(D)(i) of the Act.

Specificity: According to Petitioner, only enterprises that export more than half of their sales, or at least \$15 million a year, are eligible for grants under this program. As such, Petitioner claims that this subsidy is contingent on export performance and is specific under section 771(5A)(B) of the Act.

Benefit: Petitioner states that this program confers a benefit on the recipient that is equal to the amount of the grant. See section 771(5)(E) of the Act; see also 19 CFR 351.504(a).

Support: *Catalogue of Chinese High-Tech Products for Export*, (2006) (Petition, Vol. III at Exhibit 30); *Measures for Administration of Export Product Research and Development Funds*, (2002) (Petition, Vol. III at Exhibit 31); LDK Solar Co., Ltd. *2010 Annual Report and Notice of General Meeting* (July 22, 2011) (Petition, Vol. III, Exhibit 32 at 54); *Here Comes China’s \$3B, ‘Golden Sun’ Projects*, Green Tech Media (November 16, 2009) (Petition, Vol. III at Exhibit

35). The Department has previously found this program to be countervailable in the investigation of concrete steel wire from the PRC.¹

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

Description: Citing the *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment*, Petitioner alleges that the GOC provides grants, loans and other incentives to Chinese producers of goods included in the GOC’s “Famous Brand” and “World Top Brand” programs. According to Petitioner, these programs are 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. Petitioner provided evidence that several solar cell companies have produced products with “famous brand names,” or have produced merchandise that has been designated as a “Chinese Famous Product,” including Suntech, LDK Solar, and Hengdian Group DMEGC.

Financial Contribution: Petitioner alleges that grants, loans and other incentives under these programs constitute financial contributions because they are direct transfers of funds, pursuant to section 771(5)(D)(i) of the Act.

Specificity: Petitioner contends that this subsidy is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon export activity.

Benefit: Petitioner claims that this program confers a benefit on the recipient in the amount of the grant, pursuant to section 771(5)(E) of the Act, and 19 CFR 351.504(a).

Support: *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment*, (February 17, 2009) (Petition, Vol. III at Exhibit 38); ICBC International: Company Note GCL-Poly (3800.HK) (July 21, 2009) at D4 (Petition, Vol. III Exhibit 39); DMEGC Company Profile (Petition, Vol. III at Exhibit 40). The Department has previously found this program to be countervailable in the CVD investigations of aluminum extrusions from the PRC and citric acid from the PRC.²

3. Sub-Central Government Subsidies for Development of “Famous Brands” and “China World Top Brands”

Description: Petitioner alleges that in addition to the central government’s “Famous Brands” and “China World Top Brands” program, described above, a number of “sub-central” (i.e., provincial and local) governments have carried out their own policies to implement the goals of the central government’s programs. According to Petitioner, the United States Trade Representative (USTR) has indicated that these sub-central programs provide additional financial

¹ See Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 28557 (May 21, 2010) and accompanying Issues and Decision Memorandum (IDM) (Concrete Steel Wire from the PRC).

² See Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 76 FR 18521 (April 4, 2011) (Aluminum Extrusions from the PRC); see also Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 16836 (April 13, 2009) and accompanying IDM.

support to companies with products designated as famous brands. Petitioner contends that several provinces in the PRC (e.g., Jiangxi and Jiangsu Provinces) have their own famous brand programs, and that producers of solar cells are located in these provinces. Petitioner claims, therefore, that Chinese producers of subject merchandise have likely received benefits from this program.

Financial Contribution: Petitioner states that funds dispersed under this program constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Specificity: Petitioner contends that this subsidy is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon export activity.

Benefit: Petitioner claims that this program confers a benefit on the recipient in the amount of the grant, pursuant to section 771(5)(E) of the Act, and 19 CFR 351.504(a).

Support: *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives; Notice and Request for Public Comment*, (February 17, 2009) (Petition, Vol. III at Exhibit 38); *WTO Committee on Subsidies and Countervailing Measures – Subsidies – Questions from the United States Regarding the New and Full Notification of China, G/SCM/Q2/CHN/19* (July 26, 2006) (Petition, Vol. III, Exhibit 28 at 9-10). The Department has previously found this program to be countervailable in Aluminum Extrusions from the PRC.

4. Special Energy Fund (Established by Shandong Province)

Description: Citing *Global Renewable Energy: Policies and Measures*, Petitioner claims that Shandong Province has established a fund to support energy conservation and emission reductions. Petitioner further claims that through this fund, Shandong Province will finance renewable energy developers, supporting activities ranging from manufacturing to technology developers. According to Petitioner, through this fund, Shandong Province hopes to reach an annual production capacity of 500MW of silicon and thin-film photovoltaic cells. Petitioner states that several solar cell producers are located in Shandong Province, and have likely received benefits under this program.

Financial Contribution: Petitioner contends that grants dispersed under this program provide a direct transfer of funds to manufacturers of renewable technology, including solar cell producers, which constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Specificity: According to Petitioner, this subsidy is specific under section 771(5A)(D)(iii) of the Act because recipients of the grants are limited to certain enterprises and industries, namely companies involved in the renewable energy sector, including solar cell producers.

Benefit: Petitioner states that this program confers a benefit to the recipient that is equal to the amount of the grant, as defined under 19 CFR 351.504(a).

Support: *Global Renewable Energy: Policies and Measures*, International Energy Agency (2010) (Petition, Vol. III at Exhibit 42); *ECF China Intelligence and Communication: China's Shandong province aims for 4GW of renewable capacity by 2012* (December 27, 2009) (October 26, 2011 Supplement to the Petition at Exhibit Supp-1).

5. Funds for Outward Expansion of Industries in Guangdong Province

Description: Petitioner claims that through the *Implementing Measures of Guangdong Province concerning the Support of Development of Outward Privately-Held Enterprises*, Guangdong Province operates a fund to provide eligible private enterprises located within the province with special funds to develop their export activities. Petitioner claims that several Chinese solar cell producers are located in Guangdong Province, are export-oriented, and have likely received benefits under this program.

Financial Contribution: Petitioner states that funds dispersed under this program constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Specificity: Petitioner contends that eligibility for this program is contingent upon export performance, and is specific under section 771(5A)(B) of the Act.

Benefit: According to Petitioner, this program confers a benefit to recipients that is equal to the amount of the grant received, as defined at 19 CFR 351.504(a).

Support: The Department has previously found this program to be countervailable in the investigation of lightweight thermal paper from the PRC.³

6. Golden Sun Demonstration Program

Description: Petitioner claims that through the *Notice Concerning the Implementation of the Golden Sun Demonstration Project and Golden Sun Demonstration Project Interim Measures for Financial Assistance Fund Management*, the GOC has established a fund to support the demonstration and industrialization of key technologies in the solar cell and module industry. Petitioner states that this program is a combination of financial assistance, technological support, and market approaches that are designed to accelerate the industrialization and development of the solar cell industry in the PRC. Petitioner explains that eligible projects include solar power generation demonstration projects, the construction of large-scale, grid-connected solar power generation demonstration projects, and the development and industrialization of key solar technologies, *inter alia*. Petitioner claims that the GOC will subsidize 50 percent of the costs of building a solar power project and transmitting and distributing the solar power from that project; this incentive rises to 70 percent of the costs for projects in remote areas that are not already connected to the electric grid. Petitioner states that in 2009, the GOC identified 294 solar projects that were eligible for subsidies covering 50 percent of the project's costs. Petitioner claims that while the original mandate of the program is set to expire in 2012, the GOC has announced that this program will extend beyond that date. According to Petitioner, in 2009, the GOC awarded subsidies under this program to several Chinese solar cell producers.

³ See Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 57323 (October 2, 2008) and accompanying IDM (Lightweight Thermal Paper from the PRC).

Financial Contribution: Petitioner states that funds from this program constitute a financial contribution in the amount of the grant provided, either 50 or 70 percent of the total project costs, pursuant to section 771(5)(D)(i) of the Act.

Specificity: According to Petitioner, this subsidy is limited as a matter of law to certain enterprises, namely, those that are involved in certain solar power projects. See section 771(5A)(D)(i) of the Act.

Benefit: Petitioner claims that when Chinese solar cell producers receive direct grants under this program as developers of solar power projects, they receive a benefit equal to the amount of the grant received (i.e., either 50 or 70 percent of the project's costs). Petitioner further claims that when Chinese solar cell producers are directed by the GOC to supply solar cell modules for a project under this program, they receive a benefit equal to the amount they are paid for supplying the project. See 19 CFR 351.504(a).

Support: *Chinese Gov't Will Pay to Install 500MW Solar*, Green Tech Media (July 21, 2009) (Petition, Vol. III at Exhibit III-43); *Notice Concerning the Implementation of the Golden Sun Demonstration Project and Golden Sun Demonstration Project Interim Measures for Financial Assistance Fund Management* (July 16, 2009) (Petition, Vol. III at Exhibit III-44); *China Selects 294 Solar Power Plants for Subsidy*, Reuters (November 15, 2009) (Petition, Vol. III at Exhibit III-45); *China's Govt to Extend Golden Sun Project Beyond 2012* (January 20, 2011) (Petition, Vol. III at Exhibit III-46); *Solar Winners: Yingli, Suntech, Power-One*, The Street (December 6, 2010) (Petition, Vol. III at Exhibit III-48).

B. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

1. Government Provision of Polysilicon for LTAR

Description: Petitioner alleges that polysilicon used in solar cells is produced and sold by the PRC's state-owned enterprises at subsidized rates, and that the GOC imposes export duties and other export restrictions on silicon to lower the silicon prices for Chinese solar cell producers. Petitioner states that its research demonstrates that there are Chinese producers of polysilicon that are state-owned or controlled, and further states that these producers are subsidized by the GOC. Petitioner explains that polysilicon is a major input of solar cells, and argues that many of the Chinese solar cell producers referenced in this petition lack the production facilities for producing polysilicon. Thus, Petitioner continues, it is likely that the polysilicon that Chinese solar cell producers purchase from the PRC is manufactured by state-owned or controlled polysilicon producers. Petitioner's research indicates that Chinese solar cell producers received a benefit ranging from \$10.39 to \$23.90 kg during 2010, the prospective POI. Therefore, Petitioner concludes that Chinese solar cell producers have received polysilicon at subsidized prices, paying LTAR for this input.

Financial Contribution: Petitioner contends that the provision of polysilicon by state-owned or controlled producers is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

Specificity: Petitioner states that this subsidy is specific because it is provided to a limited number of enterprises and industries, pursuant to section 771(5A)(D)(iii) of the Act.

Benefit: According to Petitioner, this program confers a benefit on recipient because polysilicon is being sold for LTAR, pursuant to section 771(5)(E)(iv) the Act.

Support: *China - Measures Related to the Exportation of Various Raw Materials*, Report of the Panel, WT/DS394/R (July 5, 2011) (October 26, 2011 Supplement to the Petition, at Exhibit Supp-7); *National Trade Estimate on Foreign Trade Barriers: China*, United States Trade Representative (2008) (October 26, 2011 Supplement to the Petition, at Exhibit Supp-1); *Bloomberg New Energy Finance Solar Spot Price Survey*, Bloomberg (January 2011) (October 26, 2011 Supplement to the Petition, at Exhibit Supp-2).

2. Government Provision of Aluminum for LTAR

Description: Petitioner alleges that state-owned aluminum producers dominate the primary aluminum production in the PRC, and provide aluminum at below-market prices to Chinese producers of solar cells. In addition, Petitioner alleges that the GOC manages the supply and demand of aluminum in the PRC through various government policies. Finally, Petitioner claims that the GOC protects domestic aluminum supply with high export tariffs. Petitioner contends that the GOC, through these actions, intervenes directly in the purchasing process to assist domestic manufacturers that use aluminum as an input.

Financial Contribution: Petitioner states that the provision of aluminum by companies deemed to be government authorities constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

Specificity: According to Petitioner, this subsidy is provided to a limited number of preferred industries, therefore, the provision of aluminum at LTAR to solar cell producers is specific pursuant to section 771(5A)(D)(iii)(I) of the Act.

Benefit: Petitioner claims that aluminum provided from state-owned and state-controlled aluminum producers to Chinese solar cell producers is at LTAR. Therefore, Chinese solar cell producers receive a benefit consistent with section 771(5)(E)(iv) the Act.

Support: *Notice of Guidelines on Accelerating the Adjustment of Aluminum Industry Structure* (2006) (Petition, Vol. III at Exhibit III-69). The Department has previously found this program to be countervailable in the investigation of Aluminum Extrusions from the PRC.

3. Government Provision of Power for LTAR

Description: Petitioner alleges that particular industries are eligible for discounted electricity rates pursuant to GOC's policy to promote production of such industries, and that central, provincial, and local governments have established policies to provide preferential electricity rates to attract investment to their respective areas. Petitioner also notes that the Department has previously found that electricity prices are set by the central government, and that those rates

differ on a regional basis. Petitioner further alleges that several Chinese provinces offer power at preferential rates to local solar cell producers. Thus, according to Petitioner, producers of solar cells likely receive electricity at no cost or at rates that are well below market value.

Financial Contribution: Petitioner states that the provision of electricity at discounted prices by the GOC constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

Specificity: Petitioner alleges that the subsidy is limited to priority industries such as the solar power industry, therefore, it is de facto specific under section 771(5A)(D)(iii)(I) of the Act. Petitioner also alleges that this subsidy is specific pursuant to section 771(5A)(D)(iv) of the Act because of discriminatory pricing established on a regional basis by a central government.

Benefit: Petitioner contends that because various levels of the GOC provide discounted electricity to Chinese solar cell producers, these government entities are providing a good or service for LTAR, pursuant to section 771(5)(E) of Act.

Support: *Medium and Long-Term Development Plan for Renewable Energy*, GOC's National Development and Reform Commission (September 2007) (Petition, Vol. III at Exhibit III-16); *China's 12th Five-Year Plan: Overview*, KPMG China (March 2011) (Petition, Vol. III at Exhibit III-22). Petitioner also references the CVD investigations of laminated woven sacks from the PRC⁴ and line pipe from the PRC,⁵ in which we did not countervail the provision of electricity for LTAR, but stated that we would continue to investigate and analyze further concerning this program in future administrative reviews and other PRC CVD proceedings.⁶

C. Government Provision of Land for LTAR

Description: Petitioner claims that the GOC is the ultimate land owner in the PRC and, that the GOC does not provide land-use rights to private companies consistent with market principles. Petitioner alleges that Chinese solar cell producers use land that was acquired at preferential sale prices or even for free. Petitioner argues that anecdotal evidence indicates that Chinese solar cell producers have been offered free land-use rights, or land-use rights for one-third of the official price. Petitioner argues further that certain local governments reportedly provide free land-use rights to enterprises that are operating "really good projects" in high-tech or clean technology industries, including the production of solar cells.

⁴ Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances, 73 FR 35639 (June 24, 2008) and accompanying IDM (Laminated Woven Sacks from PRC).

⁵ Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 70961 (November 24, 2008) and accompanying IDM (Line Pipe from the PRC).

⁶ The Department notes that it undertook further inquiry regarding the provision of electricity at LTAR as we stated that we would in Laminated Woven Sacks from the PRC. After such inquiry, the Department countervailed the provision of electricity at LTAR in several cases as adverse facts available (AFA) based on the GOC's unwillingness to provide us with adequate information. See Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination, 74 FR 64045 (December 7, 2009).

Financial Contribution: Petitioner claims that the provision of land-use rights by the GOC to Chinese solar cell producers at a discounted rate, or for free, is a financial contribution under section 771(5)(D)(iii) of the Act.

Specificity: Petitioner claims that these land-use policies are administered on a specific basis pursuant to section 771(5A)(D)(iii) of the Act, as local Chinese governments only provide access to discounted land for certain high-tech enterprises.

Benefit: Petitioner alleges that because the GOC provides land to solar cell producers at discounted rates, or for free, the GOC is providing a good or service for LTAR, pursuant to section 771(5)(E) of the Act.

Support: *Rising Tigers, Sleeping Giant* (November 2009) (Petition, Vol. III at Exhibit III-79); *On Clean Energy, China Skirts Rules, New York Times* (September 8, 2010) (Petition, Vol. III at Exhibit III-80). This program was found to be countervailable in Laminated Woven Sacks from the PRC, and Line Pipe from the PRC.⁷

D. Policy Lending to the Renewable Energy Industry

Description: Petitioner argues that the GOC is subsidizing Chinese solar cell producers through preferential loans and directed credit at interest rates that are considerably lower than market rates. According to Petitioner, this preferential financing is possible because the PRC's banking system is dominated by state policy banks and state-owned commercial banks. Citing the news story *How China Dominates Solar Power*, Petitioner contends that these banks have made loans based on political directives from the central or local governments, rather than on creditworthiness. Petitioner alleges that loans are granted pursuant to the PRC's numerous government policies, at both the central and sub-central level, intended to develop the PRC's clean energy industries, particularly the solar cell and module industry. Petitioner has provided information indicating that Chinese solar cell producers have received loans from the Bank of China, and the China Development Bank, inter alia.

Financial Contribution: Petitioner states that preferential loans and directed credit are a direct transfer of funds from the GOC, and constitute a financial contribution pursuant to section 771(D)(i) of the Act.

Specificity: According to Petitioner, the PRC's state-owned banks have generally directed policy loans to industries favored by the government, such as the solar cell industry. As such, Petitioner claims that the GOC's preferential loans and directed credit are granted on a specific basis, pursuant to section 771(5A)(D) of the Act.

Benefit: Petitioner claims that preferential loans and directed credit confer a benefit upon the recipient in the amount of the difference between what the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan, pursuant to section 771(5)(E)(ii) of the Act.

⁷ See Laminated Woven Sacks from the PRC and accompanying IDM at 14-18; see also Line Pipe from the PRC and accompanying IDM at 14.

Support: China Racing Ahead of U.S. in the Drive to Go Solar, New York Times (August 25, 2009) (Petition, Vol. III at Exhibit III-81); How China Dominates Solar Power, The Guardian (September 12, 2011); Yingli Solar Gets \$5.3 Billion to Bulk up Manufacturing, Business Week (July 9, 2010) (Petition, Vol. III at Exhibit III-85); Accession of the People's Republic of China, World Trade Organization (November 2001) (Petition, Vol. III, Exhibit III-78 at 77); Medium and Long-Term Development Plan for Renewable Energy in China, Fa Gai Neng Yuan No. 2174 (September 2007) (Petition, Vol. III at Exhibit III-16); Notice and Interim Measures for the Administration of Financial Subsidy Fund for Renewable and EnergySaving Building Materials, Cai Jian No. 677 (October 14, 2008) (Petition, Vol. III at Exhibit III-17); A Tentative Management Method of Special Funds for Renewable Energy Development, No. 371 (May 30, 2006) (Petition, Vol. III at Exhibit III-11).

E. Income and Other Direct Tax Exemption or Reduction Programs

1. “Two Free, Three Half” Program for Foreign-Invested Enterprises (FIEs)

Description: Petitioner contends that in an effort to encourage foreign investment in the PRC, the GOC enacted the *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law*. According to Petitioner, FIEs become eligible for a number of subsidies such as those provided under the “Two Free, Three Half” Program. According to Petitioner, under this program, FIEs that are profitable and scheduled to operate for at least 10 years are exempt from income tax in their first two profitable years, and pay only half of the applicable tax for the following three years. Petitioner states that in 2008, the GOC implemented a new tax regime intended to eliminate discrepancies between tax rates for domestically-owned companies and FIEs. However, Petitioner continues, benefits from this program remain available throughout the prospective POI. Petitioner claims that a number of Chinese solar cell producers appear to be FIEs, and have likely benefited from this program.

Financial Contribution: According to Petitioner, the tax exemptions and reductions disbursed under this program constitute a financial contribution in the form of revenue foregone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this subsidy is specific pursuant to section 771(5A)(D)(i) of the Act because it is limited as a matter of law to certain enterprises.

Benefit: Petitioner states that this program confers a benefit to the recipient in the amount of taxes saved as a result of this program, pursuant to section 771(5)(E) and 19 CFR 351.509(a)(1).

Support: Enterprise Income Tax Law of the People's Republic of China, No. 63, (March 2007) (Petition, Vol. III at Exhibit III-95); Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Gua Fa 2007, No. 39 (Petition, Vol. III at Exhibit III-96); JA Solar Holdings Co., Ltd. Form 20-F (December 31, 2010) (Petition, Vol. III at Exhibit III-34). The Department has found this program to be

countervailable in coated free sheet paper from the PRC, and in certain coated paper from the PRC.⁸

2. Income Tax Reductions for Export-Oriented FIEs

Description: Petitioner alleges that according to the PRC'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 its exports constitute 70 percent of the company's sales. Petitioner explains that under this program, export-oriented FIEs may receive further income tax rate reductions if they are located in specially designated zones. Petitioner has provided information indicating that Chinese solar cell producers are export-oriented. Petitioner contends that as a number of Chinese solar cell producers qualify as FIEs and, accordingly, to the extent that these FIEs satisfy the requisite export levels, they have likely benefitted from this program.

Financial Contribution: According to Petitioner, the reduction or exemption of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this subsidy is specific because it is limited to FIEs, and is contingent upon export performance. See sections 771(5A)(D)(i) and 771(5A)(B) of the Act, respectively.

Benefit: Petitioner states that this program confers a benefit to the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *Committee on Subsidies and Countervailing Measures-Subsidies-New and Full Notification Pursuant to Article XVI:1 of GATT 1994 and Article 25 of the SCM Agreement, G/SCM/N/123/CHN;1* (April 13, 2006) (Petition, Vol. III at Exhibit III-105); *Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises* (June 30, 1991) (Petition, Vol. III at Exhibit III-94); *LDK Solar Co., Ltd. 2010 Annual Report and Notice of General Meeting* (July 22, 2011) (Petition, Vol. III at Exhibit III-32). The Department has found this program to be countervailable in lawn groomers from the PRC, and in Certain Coated Paper from the PRC.⁹

3. Income Tax Benefits for FIEs Based on Geographic Location

Description: Petitioner alleges that the Chinese central and provincial governments have a set of tax benefits for FIEs operating in Special Economic Areas (SEAs). According to Petitioner these SEAs include economic zones, special economic zones, economic and technological

⁸ See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 72 FR 60645 (October 25, 2007) and accompanying IDM (Coated Free Sheet Paper from the PRC); see also Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 59212 (September 27, 2010) and accompanying IDM (Certain Coated Paper from the PRC).

⁹ See Certain Coated Paper from the PRC and accompanying IDM at 14-15; Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 29180 (June 19, 2009) and accompanying IDM at 8 (Lawn Groomers from the PRC).

development zones, *inter alia*. Petitioner contends that these programs benefit Chinese solar cell producers. Petitioner alleges that one program, which is administered under Article 7 of the *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law*, provides for “productive” FIEs located in coastal economic development zones to receive preferential tax rates of either 15 or 24 percent, rather than the standard 30 percent tax rate. Petitioner has provided information indicating that Chinese solar cell producers are FIEs that are located within eligible SEAs.

Financial Contribution: According to Petitioner, the reduction of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this subsidy is specific because it is limited to enterprises located in designated geographic regions. See section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner states that this program confers a benefit to the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, Order No. 45* (April 9, 2011) (Petition, Vol. III at Exhibit III-93); *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law* (April 9, 2011) (Petition, Vol. III at Exhibit III-93). The Department has found this program to be countervailable in Concrete Steel Wire from the PRC, Lightweight Thermal Paper from the PRC, wire decking from the PRC, and Coated Free Sheet Paper from the PRC.¹⁰

4. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs

Description: Petitioner alleges that, under Article 9 of the PRC FIE Tax Law, provincial and local governments in the PRC have been delegated the authority to provide income tax reductions or exemptions for FIEs, effectively extending the tax exemptions or reductions that are allowed to FIEs under the national “Two Free, Three Half” program. Petitioner contends that Article 5 of the *Rules on Exemption and Reduction of Local Income Tax for Foreign Invested Enterprises* published by the Guangdong People’s Government provides for productive and/or export-oriented FIEs that were eligible to pay income taxes at half the normal rate to be exempted from paying local income taxes the same period. Petitioner claims that the energy industry is specifically designated as a productive industry, and further claims that Chinese solar cell producers have likely benefitted from this program.

Financial Contribution: Petitioner states that the reduction of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

¹⁰ See Concrete Steel Wire from the PRC; Lightweight Thermal Paper from the PRC; Wire Decking from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 75 FR 32902 (June 10, 2010) and accompanying IDM (Wire Decking from the PRC), and Coated Free Sheet Paper from the PRC.

Specificity: Petitioner alleges that these subsidies are specific because the recipients are limited as matter of law to a group of enterprises or industries (i.e., “productive” FIEs). See section 771(5A)(D)(i) of the Act.

Benefit: Petitioner states that this program confers a benefit on the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: The Department has found this program countervailable in off-the-road tires from the PRC and Kitchen Racks from the PRC.¹¹

5. Tax Reductions for FIEs Purchasing Chinese-Made Equipment

Description: According to Petitioner, FIEs can receive tax credits up to 40 percent of the purchase value of domestically-produced equipment, so long as the equipment is not listed in the *Catalogue of Non-Duty Exemptible Articles of Exemption*. Petitioner claims that this program is available to FIEs whose projects are classified as either “encouraged” or “restricted” by the GOC, such as solar energy power stations. Petitioner claims that a number of Chinese solar cell producers are FIEs, and have likely qualified for benefits under the program.

Financial Contribution: Petitioner states that the reduction of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the subsidy is specific under section 771(5A)(C) of the Act because it is contingent upon the use of domestic over imported goods.

Benefit: Petitioner states that this program confers a benefit on the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: Petitioner notes that the Department has found this program countervailable in Coated Free Sheet Paper from the PRC.¹²

6. Tax Offsets for Research and Development by FIEs

Description: Petitioner alleges that to encourage the R&D by FIEs in the PRC, the GOC’s *SAT Circular Guo Shui Fa No. 173 of 1999* provides that an FIE’s expenses for R&D conducted in the PRC can be offset by 150 percent from the taxable income of that year. Petitioner states that Chinese solar cell producers are FIEs and have conducted R&D in the PRC, and have likely benefitted from this program.

¹¹ See Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances, 73 FR 40480 (July 15, 2008) and accompanying IDM; see also Certain Kitchen Shelving and Racks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 37012 (July 27, 2009) and accompanying IDM (Kitchen Racks from the PRC).

¹² See Coated Free Sheet Paper from the PRC and accompanying IDM at 12-13.

Financial Contribution: According to Petitioner, tax offsets for R&D by FIEs provide a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that these subsidies are specific because the recipients are limited as matter of law to a group of enterprises or industries (i.e., FIEs conducting R&D in the PRC). See section 771(5A)(D)(i) of the Act.

Benefit: Petitioner states that this program confers a benefit on the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *China Subsidies Notification* (2006) (Petition, Vol. III at Exhibit III-105). The Department has found this program countervailable in Aluminum Extrusions from the PRC and Certain Coated Paper from the PRC.¹³

7. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises

Description: Petitioner alleges that pursuant to the GOC's *Ministry of Finance and State Administration of Taxation's Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* and the *State Administration of Taxation's Supplementary Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises*, FIEs that use profits to establish another FIE or high-technology company, or reinvest those profits into the same FIE, can receive complete refunds of the corporate income tax already paid on the invested amount. Petitioner explains that to be eligible for this refund, the recipient of the investment must be export-oriented and scheduled to operate for at least five years. Petitioner has provided information indicating that Chinese producers of solar cells are likely exporting-FIEs, and have likely benefitted from this program.

Financial Contribution: According to Petitioner, the reduction or exemption of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this subsidy is specific because the recipients are limited to a group of enterprises or industries. See section 771(5A)(D)(i) of the Act. Petitioner also alleges that this subsidy is also contingent on export performance, making it specific under section 771(5A)(B) of the Act.

Benefit: Petitioner states that this program confers a benefit in the amount of taxes saved by, or refunded to, the recipient as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *Ministry of Finance and State Administration of Taxation's Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (June 1, 2002) (Petition, Vol. III at Exhibit III-111); *State Administration of Taxation's Supplementary Notice on Preferential Tax Policies for Supplementary Investment of Foreign Invested Enterprises* (2003)

¹³ See Aluminum Extrusions from the PRC and accompanying IDM at 20; see also Certain Coated Paper from the PRC and accompanying IDM at 16.

(Petition, Vol. III at Exhibit III-112). The Department has found this program countervailable in Lawn Groomers from the PRC.¹⁴

8. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises

Description: Petitioner alleges that the GOC provides preferential tax benefits to FIEs recognized as high or new technology enterprises and that are established in high or new technology development zones. Citing *China's Subsidies Notification*, Petitioner claims that these benefits include a reduced income tax rate of 15 percent, and further claims that additional tax preferences are administered by the governments of the development zones. Petitioner contends that several Chinese solar cell producers are FIEs, have been designated as high or new technology enterprises, and are located in the designated development zones. Therefore, Petitioner concludes, Chinese producers of solar cells have likely benefited from the program.

Financial Contribution: According to Petitioner, the reduction of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this subsidy is specific because the recipients are limited as matter of law to a group of enterprises or industries. See section 771(5A)(D)(i) of the Act.

Benefit: Petitioner states that this program confers a benefit on the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *China Subsidies Notification* (2006) (Petition, Vol. III at Exhibit III-105). The Department has found this program countervailable in Aluminum Extrusions from the PRC.¹⁵

9. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects

Description: Petitioner alleges that pursuant to the PRC's *Enterprise Income Tax Law*, enterprises that qualify as high or new-technology enterprises may be taxed at 15 percent rather than 25 percent. Petitioner further alleges that certain high or new-technology enterprises that are established in certain geographic areas are eligible for additional preferential income tax treatments. Petitioner claims that several Chinese solar cell producers have been designated as having high or new technology, are located in geographic areas that provide additional income tax benefits, and have likely benefitted from this program.

Financial Contribution: Petitioner claims that the reduction of income tax provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

¹⁴ See Lawn Groomers from the PRC and accompanying IDM at 8.

¹⁵ See Aluminum Extrusions from the PRC and accompanying IDM at 29.

Specificity: Petitioner alleges that these subsidies are specific because the recipients are limited as matter of law to a group of enterprises or industries. See section 771(5A)(D)(i) of the Act.

Benefit: Petitioner argues that this program confers a benefit on the recipient in the amount of taxes saved as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: *Regulations of Implementation of the Enterprise Income Tax Law* (2007) (Petition, Vol. III at Exhibit III-116); *Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for High or New Technology Enterprises* (2009) (Petition, Vol. III at Exhibit III-118); *Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in Pudong New District of Shanghai* (December 26, 2007) (Petition, Vol. III at Exhibit III-115).

10. Preferential Income Tax Policy for Enterprises in the Northeast Region

Description: Petitioner alleges that under the Northeast Tax Preference Policy, enterprises located in several provinces and municipalities in Northeast China can significantly reduce their tax liability. Citing *Notice Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Bases in the Northeast Region by the Ministry of Finance and State Administration of Taxation*, Petitioner claims that 1) certain enterprises may reduce the depreciation life of fixed assets by up to 40 percent for tax purposes; and 2) these enterprises may shorten the amortization period of their intangible assets by up to 40 percent. According to Petitioner, Chinese producers of solar cells are located in the Northeast Region, and may have benefitted from this program.

Financial Contribution: According to Petitioner, this program provides a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D) of the Act. Specifically, Petitioner explains, this program permits an eligible company to deduct a larger amount of depreciation and amortization expenses, thereby reducing the company's income tax.

Specificity: Petitioner alleges that these subsidies are specific because the recipients are limited to a group of enterprises or industries located in certain geographical areas, pursuant to section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner claims that this program lowers the tax burden on eligible companies, and contends the benefit conferred on the recipient is the difference between the amount of taxes paid and the amount of taxes otherwise due in the absence of this program. See section 771(5)(E).

Support: *Notice Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Bases in the Northeast Region by the Ministry of Finance and State Administration of Taxation* (2004) (Petition, Vol. III at Exhibit III-119); *Notice of the Ministry of Finance and State Administration of Taxation on the Assets Depreciation and the Implementation Caliber of Amortization Policy in the Northeast Old Industrial Base* (2005) (Petition, Vol. III at Exhibit III-120); *Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 million Yuan of Taxes Waived*, Xinhua Northeast Revitalization Net (October 22, 2004) (Petition, Vol. III at Exhibit III-121).

11. Guangdong Province Tax Programs

Description: According to Petitioner, Guangdong Province operates a variety of tax programs that provide subsidies to Chinese producers of solar cells. These include: the City Tax and Surcharge Exemptions for FIEs, Income Tax Reduction for High-Tech Industries in Guangdong Province, and Income Tax Programs for FIEs in Dongguan City in Guangdong Province. Citing the *Circular on Temporarily Not Collecting City Maintenance and Construction Tax and Education Fee Surcharge for FIEs and Foreign Enterprises*, Petitioner claims that FIEs and foreign enterprises are exempt from paying taxes on city maintenance and construction, and surcharges on education fees. Petitioner further alleges that Guangdong Province provides that companies placed on the province's list of high-tech industries can pay a reduced income tax rate of 15 percent. Finally, Petitioner claims that companies located in Dongguan City, a coastal economic development zone located within Guangdong Province, a preferential central government tax rate of 24 percent, rather than the standard 30 percent rate. Petitioner claims that Chinese producers of solar cells are located in Dongguan City, and to the extent that these companies are FIEs, have likely benefitted from this program.

Financial Contribution: Petitioner claims that the tax exemptions and reductions provided by these programs constitute financial contributions in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: Petitioner contends that subsidies under this program are specific pursuant to section 771(5A)(D)(i) of the Act because they are limited to certain enterprises. Petitioner further contends that this program is limited to enterprises located in designated geographic regions, pursuant to section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner states that this program confers a benefit under section 771(5)(E) of the Act. Petitioner states further that the benefit conferred is the amount of taxes saved by the recipient as a result of this program, pursuant to 19 CFR 351.509(a)(1).

Support: The Department has found this program to be countervailable in Kitchen Racks from the PRC, Aluminum Extrusions from the PRC, Lightweight Thermal Paper from the PRC, and Lawn Groomers from the PRC.

F. **INDIRECT TAX AND TARIFF EXEMPTION PROGRAMS**

1. Value Added Tax (VAT) Exemptions for Use of Imported Equipment

Description: According to Petitioner, the GOC's *State Council's Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment* exempts FIEs and certain domestic enterprises in encouraged industries from paying VAT and tariffs on imported equipment, if that equipment is used for production and is not intended for resale. Petitioner states that the GOC's *Catalogue for the Guidance of Industrial Structure Adjustment* identifies solar power as an encouraged industry. Petitioner claims that Chinese solar cell producers have imported equipment, and, given the extent that they are FIEs, have likely benefitted from this program.

Financial Contribution: Petitioner alleges that the VAT tax exemptions constitute a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone by the GOC.

Specificity: Petitioner claims that the subsidy is specific under section 771(5A)(D)(iii)(I) of the Act because only certain domestic companies and FIEs are eligible to receive the import tariff and VAT exemptions.

Benefit: Petitioner alleges that the program confers a benefit to the recipient under 19 CFR 351.509(a)(1) in the amount of the VAT and import tariffs saved as a result of this program.

Support: *Catalogue for the Guidance of Industrial Structure Adjustment* (2011) (Petition, Vol. III at Exhibit III-127). The Department found this program to be countervailable in Aluminum Extrusions from the PRC, Coated Free Sheet Paper from the PRC, and Wire Decking from the PRC.¹⁶

2. VAT Rebates on FIE Purchases of Chinese-Made Equipment

Description: Petitioner alleges that the GOC's *Interim Administrative Measures on Purchase of Domestic Equipment Projects with Foreign Investment* provides for refunds to FIEs for their purchases of certain domestically-produced equipment. Petitioner explains that this program is limited to FIEs, and covers equipment falling under the "encouraged" and "Restricted B" categories listed in the *Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment*, and equipment for projects listed in the *Catalogue of Key Industries, Products and Technologies Encouraged for Development by the State*. Petitioner contends that Chinese solar cell producers have likely purchased machinery from domestic sources that is used to manufacture the subject merchandise, and have likely benefited from this program.

Financial Contribution: Petitioner alleges that VAT rebates constitute a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone by the GOC.

Specificity: Petitioner argues that this subsidy is specific under section 771(5A)(C) of the Act because the VAT rebates are contingent upon the use of domestic over imported goods. Petitioner further argues that this subsidy is specific under 771(5A)(D)(iii) of the Act because it is limited to certain enterprises.

Benefit: According to Petitioner, the VAT rebates under this program confer a benefit on the recipient in the amount equal to the VAT rebate. See 19 CFR 351.509(a)(1).

Support: *Interim Administrative Measures on Purchase of Domestic Equipment with Foreign Investment* (1999) (Petition, Vol. III at Exhibit III-129); *Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment* (1997) (Petition, Vol. III at Exhibit III-130).

¹⁶ See Aluminum Extrusions from the PRC and accompanying IDM at 19; Coated Free Sheet Paper from the PRC and accompanying IDM at 13-14; Wire Decking from the PRC and accompanying IDM at 26.

3. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program

Description: Petitioner argues that the *Circular of the Ministry of Finance and State Tax Administration on Printing and Distributing the Regulations on Relevant Issues with Respect to Expansion of VAT Deduction Scope in the Northeast Areas* provides for businesses located in Northeast China that operate in the high-tech, equipment manufacturing, and petrochemical industries, *inter alia*, to deduct VAT for purchases of fixed assets from the VAT for sales of finished goods. Petitioner argues that as a high-tech industry, the solar power industry falls within the scope of these industries. Petitioner contends that Chinese producers of solar cells are located in Northeast China, and have likely benefitted from this program.

Financial Contribution: Petitioner alleges 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.

Specificity: Petitioner alleges that this subsidy is specific because it is limited to companies located within a designated geographical region. See section 771(5A)(D)(iv) of the Act.

Benefit: According to Petitioner, this program confers a benefit to the recipient in the amount of the VAT refund, pursuant to section 771(5)(E) of the Act.

Support: *Solargiga Energy Holdings Limited Website, Contact Us* (2011) (Petition, Vol. III at Exhibit III-131). This program was found countervailable in Line Pipe from the PRC.¹⁷

G. EXPORT CREDIT SUBSIDY PROGRAMS

Description: Petitioner alleges that to support the export of products listed in the *Catalogue of Chinese High-Tech Products for Export* (Catalogue) the Export-Import Bank of China (Ex-Im BOC) provides export-contingent loans at preferential rates. Petitioner explains that the Ex-Im BOC provides assistance to exporters through mechanisms including an export seller's and buyer's credit. Petitioner states that the funding for the seller's credit comes from a fiscal allocation of the GOC, with the goal of supporting the export of Chinese products. Petitioner claims that this credit is available to products listed in the *Catalogue, the Export List of High- and New-Tech Products*, and/or on the *List of High and New-Tech Products*, which includes products in the solar energy sector. Petitioner states that Ex-Im BOC's loans to new and high-tech products accounted for about 30 percent of all of its loans to exporters in 2009 and 2010. Petitioner states that exporters must have achieved \$3 million in annual exports of listed products to qualify for this seller's credit. Petitioner states that eligibility for the buyer's credit requires that the Chinese content of exported goods used in the project comprise no less than 50 percent of the contract's value. Petitioner contends that the loans making up these buyer's credits have preferential rates and, that energy projects are eligible this financing. As such, Petitioner concludes that Chinese solar cell producers have benefitted from this program.

Financial Contribution: Petitioner contends that preferential loans and other benefits granted under this program represent a direct transfer of funds, pursuant to section 771(D)(i) of the Act.

¹⁷ See Line Pipe from the PRC and accompanying IDM at 21-22.

Specificity: Petitioner argues that benefits conferred under these programs are specific because they are limited to certain enterprises and industries, consistent with section 771(5A)(D)(iii) of the Act. Moreover, Petitioner continues, the benefits conferred under the export seller's credit are specific under section 771(5A)(B) of the Act as a matter of law because access is limited to exporters with exports over a certain specified value amount.

Benefit: Petitioner claims that the benefit conferred on the recipient is the difference between what the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan, pursuant to section 771(5)(E)(ii) of the Act.

Support: *Export-Import Bank of China Annual Report* (2010) (October 26, 2011 Supplement to the Petition at Exhibit Supp-6); *China ExIm Bank Website* (Petition, Vol. III at Exhibit III-137); *Aiding Transparency: What We Can Learn About China ExIm Bank's Concessional Loans*, Center for Global Development Working Paper No. 126 (September 2007) (Petition, Vol. III at Exhibit III-133).

H. EXPORT GUARANTEES AND INSURANCE FOR GREEN TECHNOLOGY

Description: Petitioner claims that the China Export & Credit Insurance Corporation (SINOSURE) is a policy-oriented insurance company that provides export credit insurance and other services to Chinese exporters on a concessional basis. According to Petitioner, the premiums collected on SINOSURE's export credit programs are not adequate to cover its long-term operating costs and losses of the program. Petitioner explains that in 2004, the GOC's *Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilizing Export Credit Insurance* directed SINOSURE to increase its support of export of products listed in the *Catalogue of Chinese High-Tech Products for Export*. Petitioner contends that solar technology has been a key focus for SINOSURE, claiming that it underwrote \$1.25 billion in photovoltaic exports from the PRC from January to July of 2009. Petitioner further contends that Chinese solar cell producers have signed strategic cooperation agreements with SINOSURE, and concludes that these producers have benefitted from this program.

Financial Contribution: Petitioner claims that this program provides a direct transfer of liability to the GOC, and constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Specificity: Petitioner argues that this subsidy is specific under section 771(5A)(B) of the Act, as this insurance is available only to cover the risks of non-payment for Chinese exports.

Benefit: Petitioner states that this program confers a benefit on the recipient pursuant to section 771(5)(E)(ii) of the Act, equal to the difference between what the recipient paid on the insurance plan and the amount that would have been paid on a comparable commercial insurance plan.

Support: *SINOSURE Annual Report* (2008) (Petition, Vol. III at Exhibit III-139); *Leading Solar Wafer Manufacturer Works with SINOSURE to Spur Corporate Development with Credit Insurance*, *SINOSURE Website*, (Petition, Vol. III at Exhibit III-139); *Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilizing Export Credit Insurance* (2004) (Petition, Vol. III at Exhibit III-141).

II. ALLEGED PROGRAMS ON WHICH THE DEPARTMENT IS NOT INITIATING AN INVESTIGATION

A. Grant Programs

1. Fund for Economic, Scientific, and Technology Development (Established by Foshan City)

Description: Petitioner alleges that under this program, the Government of Foshan City provides grants to firms to encourage technological and economic development. Petitioner contends that the fund was established by the *Circular on Printing and Distributing of the Measures on Administration of Foshan Sci-Tech Development Special Fund*. Petitioner explains that information regarding this fund is not reasonably available to it. However, according to Petitioner, solar cell producers are located in Foshan City, and have likely benefitted from this program.

Financial Contribution: Petitioner contends that funds disbursed under this program are a direct transfer of funds and constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

Specificity: Petitioner argues that this subsidy is specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the grants are limited to certain enterprises, namely enterprises engaged in technological development.

Benefit: Petitioner claims that this program confers a benefit on the recipient that is equal to the amount of the grant. See 19 CFR 351.504(a).

Support: The Department has previously found this program to be countervailable in the investigation of Aluminum Extrusions from the PRC.¹⁸

2. Provincial Fund for Fiscal and Technological Innovation (Established by Guangdong Province)

Description: Petitioner alleges that the Government of Guangdong Province provides grants to firms with the goal of promoting technological and fiscal innovation, pursuant to the *Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund*. Petitioner explains that information regarding this fund is not readily available to it. However, Petitioner claims that several Chinese solar cell producers are located in Guangdong Province, and have likely benefitted from this program.

Financial Contribution: Petitioner contends that funds disbursed under this program are a direct transfer of funds and constitute a financial contribution pursuant to section 771(5)(D)(i) of the Act.

¹⁸ See Aluminum Extrusions from the PRC and accompanying IDM at 27.

Benefit: Petitioner claims that this program confers a benefit on the recipient that is equal to the amount of the grant. See 19 CFR 351.504(a).

Specificity: Petitioner claims that this program is specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the grant are limited to certain enterprises, namely those engaged in technological innovation.

Support: The Department has previously found this program to be countervailable in the investigation of Aluminum Extrusions from the PRC.¹⁹

Recommendation: Regarding the two grant programs listed above, these programs were discovered during the course of Aluminum Extrusions from the PRC. In that case, the Department did not receive any information on this program, including distribution data, as requested from the GOC. As such, the program was found specific based on the application of AFA. Petitioner only cited to our AFA finding, and did not provide any information, evidence, or explanation to support its allegation that these two grant programs are specific. As such, we recommend not initiating an investigation on these two grant programs.

B. Government Provision of Water for LTAR

Description: Petitioner alleges that Chinese producers of solar cells benefit from preferential water rates and usage restrictions from central, provincial and local governments in the PRC.

Financial Contribution: The provision of water at discounted prices by the government constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.

Specificity: Petitioner alleges that the program is limited to encouraged industries such as the solar power industry, therefore, it is de facto specific under section 771(5A)(D)(iii) of the Act. Petitioner also alleges that this program is specific pursuant to section 771(5A)(D)(iv) of the Act because of the discriminatory pricing by a central government based on a regional basis.

Benefit: Petitioner claims that the provision of discounted water by central, local, and provincial governments for LTAR provides a benefit under section 771(5)(E).

Support: Light-walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 72 FR 67703 (November 30, 2007) (LWRP from the PRC Prelim); *China Faces a Water Crisis, Business Week* (April 15, 2009) (October 26, Supplement to the Petition, at Exhibit Supp-1).

Recommendation: Petitioner cited to LWRP from the PRC Prelim as support for its allegation. However, the Department found this program to be not countervailable in the final determination of that investigation. Because Petitioner provided no evidence to support its allegation that this program is specific, we recommend not initiating an investigation.

¹⁹ See Aluminum Extrusions from the PRC and accompanying IDM at 27.

C. Currency Undervaluation

Description: Petitioner claims that the GOC maintains an exchange rate policy that pegs the value of the Chinese renminbi (RMB) to a basket of foreign currencies heavily weighed by the U.S. dollar. According to Petitioner, this practice has ensured that the RMB exchange rate heavily understates the value of the RMB with respect to the U.S. dollar by as much as 50 percent. Petitioner alleges that this undervaluation subsidizes Chinese exporters, including producers of Chinese solar cells, to the detriment of U.S. producers.

Financial Contribution: Petitioner contends that the undervaluation of the RMB by the GOC is a direct transfer of funds, which provides a financial contribution pursuant to section 771(5)(D)(i) of the Act. Petitioner further contends that this undervaluation of the RMB also constitutes a provision of a good or service, other than general infrastructures, by the GOC, which constitutes a financial contribution pursuant to section 771(5)(D)(iii) of the Act.

Specificity: Petitioner alleges that the GOC's currency policy is specific as it is dependent on export performance pursuant to section 771(5A)(B) of the Act. Petitioner acknowledges that the GOC has not expressly established legislation to maintain the PRC's currency undervaluation, and that the undervaluation may also benefit those who do not necessarily export. Petitioner argues, however, that this program is *de facto* contingent upon export performance because a Chinese producer's ability to receive benefits is directly linked to its ability to export, and, that, the subsidies from this program are tied to actual or anticipated exportation or export earnings.

Benefit: Petitioner claims that the benefit from the program is the difference between the amount of RMB that Chinese companies receive when they exchange dollars and the amount of RMB that would have been received absent this program, pursuant to section 771(5)(E)(iv) of the Act, and 19 CFR 351.501.

Support: CRS Report for Congress, *China's Currency: An Analysis of the Economic Issues* (Augusts 3, 2011) (Petition, Vol. III at Exhibit III-142); *Senate Jabs China Over its Currency*, *New York Times* (October 11, 2011) (Petition, Vol. III at Exhibit III-146); *Is China's Currency Regime A Countervailable Subsidy? A Legal Analysis Under the World Trade Organization's SCM Agreement*, 45 *Journal of World Trade* (February 2011); *2010 Report to Congress of the U.S. – China Economic and Security Review Commission* (November 2010); (Petition, Vol. III at Exhibit III-147); *China's Currency: An Economic Analysis of the Economic Issues*, CRS Report for Congress (Petition, Vol. III at Exhibit III-142).

Recommendation: The Department has received similar allegations regarding PRC currency undervaluation in the investigations of, e.g., Certain Coated Paper from the PRC, Aluminum Extrusions from the PRC, and Wood Flooring from the PRC.²⁰ Among other arguments, the petitioners in those cases alleged that currency undervaluation constituted *de jure* and *de facto* export subsidies. The Department did not initiate an investigation into the currency undervaluation allegation in those investigations because, among other things, the petitioners in those cases failed to sufficiently support their allegations, with information reasonably available

²⁰ See Multilayered Wood Flooring From the People's Republic of China: Initiation of Countervailing Duty Investigation, 75 FR 70719 (November 18, 2010).

to them, that the undervaluation of the RMB is specific under section 771(5A) of the Act. Petitioner in this investigation does not provide any new information or evidence to address the fundamental deficiencies that the Department identified in the above cited allegations. Therefore, the Department recommends finding that Petitioner's allegation does not allege the elements necessary for the imposition of the duty set forth in section 701(a) of the Act, and is not supported by information reasonably available to it. As such, the Department does not recommend investigating the PRC's alleged currency undervaluation as a countervailable subsidy.

Attachment I

Scope of the Investigation

The merchandise covered by this investigation are crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Subject merchandise may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of subject merchandise are included in the scope of this investigation.

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of this investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8000, 8541.40.6020 and 8541.40.6030. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Attachment II

Analysis of Industry Support for the Petitions Covering Solar Cells from the People's Republic of China

Background

Sections 702(c)(4)(A) and 732(c)(4)(A) of the Tariff Act of 1930, as amended (the Act), state that the administering authority shall determine that a petition has been filed by or on behalf of the industry if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) 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. The Petitions²¹ provide data supporting a finding that Petitioner's²² share is at least 25 percent of total production of the domestic like product and more than 50 percent of the domestic like product production of those producers expressing support for, or opposition to, the Petitions.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs the Department of Commerce (the Department) to look to producers and workers who produce the domestic like product. The United States International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001), citing Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. While the Department is not bound by the criteria used by the ITC to determine the domestic like product in answering this question, we have reviewed these factors as presented by Petitioner. The criteria are: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, processes, and employees; and (6) price. See Fujitsu Ltd. v. United States, 36 F. Supp. 2d 394,

²¹ Petitions for the Imposition of Antidumping and Countervailing Duties: Crystalline Silicon Photovoltaic Cells from the People's Republic of China, filed October 19, 2011 (collectively, "Petitions").

²² Petitioner is SolarWorld IndustriesAmerica Inc. (Petitioner or SolarWorld).

397-98 (CIT 1999); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991); see also Antidumping and Countervailing Duty Handbook, Twelfth Edition, United States International Trade Commission, Publication 3916 (April 2007), at II-33. With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Petitioner argues that this investigation involves a single domestic like product that is identical to the definition of the subject merchandise: crystalline silicon photovoltaic cells (CSPV cells), whether individually or partially or fully assembled into modules or panels (CSPV modules/panels).²³ See Volume I of the Petitions, at 16. Petitioner further argues that thin-film technologies are not part of the domestic like product because despite a few overlapping uses they differ significantly from solar cells. See Volume I of the Petitions at 17. For a detailed analysis and discussion, see the “Analysis of Domestic Like Products” section below.

Analysis of Domestic Like Product

Petitioner addresses the six criteria used by the ITC to determine the domestic like product in Volume I of the Petitions, at 16-21. Petitioner makes the following arguments:

(1) Physical characteristics and uses

Petitioner explains that solar cells are made from crystalline silicon, which is processed into “thin silicon wafers that are treated to become a diode with a {positive/negative} junction, coated with specific chemicals to increase light absorption, and painted or printed with metals to add pinstripe ‘fingers’ and bus-bar circuitry in order to gather electricity and collect and channel the power.” See Volume I of the Petitions, at 17. According to Petitioner, CSPV cells can be mono-crystalline or polycrystalline, be either round, quasi-square, or squared shaped and are typically 50 micrometers or greater in thickness. See id. Petitioner also states that CSPV cells, “which are the building blocks of solar-photovoltaic power-generation systems” are combined to create “solar panels or modules, which are often installed on or above roofs of residential and non-residential buildings or as stand-alone (freestanding) units...” See id.

Thin-film products do not share essential physical characteristics with solar cells. Petitioner notes that the raw material input for solar cells is crystalline silicon, while thin-film technologies use “a thin layer of a compound, such as cadmium telluride, copper indium, gallium selenide, or amorphous silicon, which is sputtered or otherwise applied onto a substrate like glass.” See id. Petitioner further notes that thin-film products “take on the shape of the surface on which they are applied” and are significantly less efficient than solar cells. See Volume I of the Petitions, at 17-18. As thin-film products are less efficient they require more units to generate the same power, and therefore, “are often used in environments without space limitations and/or environments with high temperatures or low lights.” See Volume I of the Petitions, at 18. Another physically distinguishing feature is that thin-film products are typically 20 micrometers or less in thickness, while CSPV cells are typically more than 20 micrometers in thickness, but are often more than 150 micrometers in thickness. See id.

²³ Herein when CSPV cells or CSPV modules/panels are mentioned collectively they are referred to as “solar cells.”

(2) Interchangeability

Petitioner explains that all solar cells are made from crystalline silicon, are used to convert light to electricity and meet industry safety standards including UL 1703 and International Standard IEC 61215. See Volume I of the Petitions, at 18-19.

Petitioner indicates that while certain applications might overlap, thin-film products have such different physical characteristics that they are not often interchangeable with solar cells. Specifically, Petitioner notes that because thin-film products are less efficient they require “significantly greater surface area than CSPV cells in order to generate the same amount of electricity.” See Volume I of the Petitions, at 18. Therefore, thin-film products are more typically “used in applications without weight or space installation constraints...” See Volume I of the Petitions, at 19. In addition, Petitioner explains that thin-film products are manufactured to separate industry safety standards than solar cells, further distinguishing the two products. See id.

(3) Channels of distribution

Petitioner states that, “CSPV cells are typically internally consumed to produce solar modules and panels, or are sold to companies that fabricate modules or panels.” See id. Petitioner further explains that CSPV modules/panels are sold to distributors, installers, and utilities/developers, and “{w}ithin these channels there are three primary market segments: (1) utility-scale, where large-scale solar panel arrays are installed as stand-alone units; (2) commercial, where panels are affixed to large, flat non-residential rooftops or installed in stand-alone systems; and (3) residential, where panels are affixed to residential rooftops or installed in stand-alone systems.” See id.

Petitioner indicates that due to the physical differences between the two types of technologies, thin-film products are typically “not sold in the residential and restricted-space commercial channels because they weigh more and require much more surface area...” See id. Therefore, thin-film products are sold most often to the utility-scale market and “installed in large, open spaces, such as deserts” where space and weight limitations are not an issue. See Volume I of the Petitions, at 20.

(4) Customer and producer perceptions

Petitioner explains that solar cells “produced domestically, in China, or in a non-subject country are generally viewed similarly by customers and producers.” See id. Despite CSPV cells being perceived as generally the same, Petitioner points out that, “...due to different physical characteristics, end uses, and manufacturing processes, CSPV cells and modules and thin-film products are viewed differently by customers and producers.” See id. Noting the aforementioned, Petitioner asserts that solar cells “are recognized by customers and producers as the stalwart {photovoltaic} technology, and account for most global production of {photovoltaic} products.” See id.

With regard to thin-film technology, Petitioner states that thin film “is a newer, less established photovoltaic technology that uses a deposited or sputtered film, rather than the crystalline silicon manufacturing process.” See id. Petitioner further notes that thin-film products “weigh more and require more space than CSPV cell modules and panels because they are less efficient than CSPV cell modules and panels and therefore are not perceived in the same manner by customers.” See id.

(5) Common manufacturing facilities, production processes, and production employees

Petitioner contends that the facilities, production processes and employees used to manufacture CSPV cells are entirely different from those utilized in the manufacture of thin-film products. Petitioner maintains that, “the manufacture of CSPV cells is a highly automated, capital-intensive, and technologically sophisticated process, requiring skilled technicians and employees with advanced degrees.” See id.

Petitioner states that thin-film products, however, neglect the most fundamental aspect of the CSPV cell manufacturing process by applying materials onto a substrate. Moreover, Petitioner claims that it is “not aware of any companies that produce both CSPV cells and thin-film products.” See Volume I of the Petitions, at 20-21.

(6) Price

Petitioner points out that solar cells and thin-film products are sold on the basis of price per kilowatt. Noting that, Petitioner points out that, “thin-film products, which offer lower power density and have a lower cost of manufacturing than CSPV cells and modules, are generally less expensive than CSPV cells and modules on a per-watt basis.” See Volume I of the Petitions, at 21.

Department’s Position:

We have analyzed the information provided by Petitioner with regard to the ITC’s six domestic like product factors. We note that various types of solar cells have similar physical characteristics and are interchangeable for their intended end uses. Furthermore, solar cells are produced using similar techniques and production processes utilizing the same employees. The pricing of solar cells is based on a per-watt basis and is generally more expensive per-watt than thin-film products due to the complexity and higher efficiency of solar cells over thin-film products.

We agree with Petitioner that solar cells, as defined in the scope of the investigations, constitute a single domestic like product. Likewise, we agree with Petitioner that thin-film products should not be included in the definition of the domestic like product. Thin-film products have different physical characteristics than solar cells. As a result, customers and producers view thin-film products and solar cells as two distinct products. Petitioner notes that customers and producers consider solar cells to be the industry standard photovoltaic technology whereas thin-film products are a newer, less efficient, and less proven technology. Finally, we note that solar cells

and thin-film products are produced in a different manner, using different production equipment and employees. Unless the Department finds Petitioner's definition of the domestic like product to be inaccurate, we will adopt the domestic like product definition set forth in the Petitions. While the statute defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation," pursuant to section 771(10) of the Act, Petitioner has presented the Department with detailed information pertaining to the six factors the ITC traditionally analyzes. We have analyzed the six criteria presented by Petitioner and have found there is reason to conclude that solar cells comprises a single domestic like product, that does not include thin-film products.

Industry Support Calculation

In determining whether Petitioner has standing (*i.e.*, those domestic workers and producers supporting the Petitions account for (1) at least 25 percent of the total production of the domestic like product and (2) 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 Petitions), we conducted the following analysis.

We considered the industry support data contained in the Petitions with reference to the domestic like product as defined in Attachment I, "Scope of the Investigations," to this Checklist and discussed in detail above. Petitioner establishes the universe of producers based on its knowledge of the industry and information contained within industry publication Photon International. See Volume I of the Petitions, at 5, and Exhibits I-1, I-2A, I-2B, and Supplement to the Petitions, filed on November 7, 2011, (Supplement V-B-General Issues) at Attachment 1. Petitioner identifies eleven producers of the domestic like product, as well as themselves, as the U.S. producers of CSPV modules/panels. See Volume I of the Petitions, at Exhibits I-1 and I-2B, and Supplement V-B-General Issues, at Attachment 1.

While the domestic like product covers both CSPV cells and CSPV modules/panels, and the Petitioner identifies U.S. producers of both CSPV cells and CSPV modules/panels in order to establish the universe of producers of the domestic like product, the Petitioner based its industry support calculation on module production in the U.S. measured in megawatts. See Volume I of the Petitions, at Exhibits I-1, I-2A, I-2B and Supplement V-B-General Issues, at Attachment 1. Petitioner states that, "This analysis, which considers U.S. module/panel production only, and not both production of modules and cells, avoids any risk of double-counting." See Supplement V-B-General Issues, at 2. Further, Petitioner explains that this analysis "reflects all production of modules/panels by the identified domestic producers, regardless of the source/origin of the cells used to produce the modules/panels." See id.

To establish industry support, Petitioner provided its own production volume of the domestic like product for calendar year 2010, as well as, an estimate of the production volume of the domestic like product for the non-petitioning companies in the industry. See Supplement V-B-General Issues, at Attachment 1. To the extent Petitioner had letters of support from certain non-petitioning companies or to the extent Petitioner had actual production figures, that data was used. See Volume I of the Petitions, at Exhibit I-3BI-3D, I-3E, I-3F, I-3G and Supplement V-B-General Issues, at 2-3 and Attachment 1.

Specifically, in the declaration by Gordon Brinser, President of SolarWorld, he notes that he reviewed an article published by Photon in March 2011, which identifies U.S. production sites for module photovoltaic technology production. See Supplement V-B-General Issues, at Attachment 1. From that list in the article Mr. Brinser identifies the following companies as producers of CSPV modules/panels: BlueChip Energy GmbH, Evergreen Solar Inc., MX Solar USA LLC, Schott Solar Inc., Sharp Electronics Corp., Silicon Energy LLC, Solar Power Industries Inc., SolarWorld, Solon Corp., Suniva Inc., Sunpower Corp., Suntech Power Holdings Co., Ltd. (Arizona). See id. Further, Mr. Brinser states that the other companies identified in the article are producers of other photovoltaic technologies, such as thin-film, which are not part of the domestic like product. See id. Petitioner has actual data for 2010 production of CSPV modules/panels for itself, []]. See Volume I of the Petitions, at Exhibits I-3B, I-3D, I-3E, and Supplement V-B-General Issues, at Attachment 1. The 2010 production data for [

] were taken from the March 2011 Photon article. See Supplement V-B-General Issues, at Attachment 1. In the declaration by Mr. Brinser he states that he [

[]]. See id. In addition, Petitioner provided []]. [] provide 2010 production of CSPV modules/panels. See Volume I of the Petitions, at Exhibit I-3F and I-3G.

Petitioner adds its own production volume to the production data (taken from the sources described above) for the other U.S. producers of CSPV modules/panels to calculate the total 2010 production volume of the domestic like product. See Supplement V-B-General Issues, at Attachment 1. Petitioner calculates the 2010 domestic production volume of CSPV modules/panels at [] megawatts. See id.

Based on information provided in the Petitions and supplements thereto, the share of total estimated U.S. production of the domestic like product in calendar year 2010 represented by Petitioner was equal to or more than 25 percent of total domestic production, but less than 50 percent of total production of the domestic like product. See id. Therefore, we determined that Petitioner accounts for [] percent of total U.S. production of the domestic like product, well above the 25 percent threshold established in sections 702(c)(4)(A)(i) and 732(c)(4)(A)(i) of the Act. See Table 1 below.

Sections 702(c)(4)(D) and 732(c)(4)(D) of the Act require the Department to poll the industry or rely on other information to determine industry support “if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product.” Petitioner did not establish the support of domestic producers accounting for more than 50 percent of the total production of the domestic like product. Therefore, in this case, we have relied on other information to determine industry support for the Petitions. See Sections 702(c)(4)(D)(i) and 732(c)(4)(D)(i) of the Act. Specifically, we note that [

[]. See Memorandum to the File from Stephen Bailey, dated November 3, 2011, titled “Conference Call”; see also Memorandum to File from Meredith Rutherford, dated November 8, 2011, titled “Call to Petitioner’s Counsel on November 7, 2011;” see also Supplement V-B-General Issues, at Attachment 1; see also Memorandum to the File from Meredith Rutherford, dated November 8, 2011, titled “Conference Call.” The Department’s reliance on [

] as other information, pursuant to sections 702(c)(4)(D)(i) and 732(c)(4)(D)(i) of the Act, is a reasonable methodology to use in determining industry support under sections 702(c)(4)(A)(ii) and 732(c)(4)(A)(ii) of the Act.

Because [

] percent of the total U.S. production of those parties expressing an opinion.²⁴ See Sections 702(c)(4)(A)(ii) and 732(c)(4)(A)(ii) of the Act; and see also Table 1 below.

²⁴ On November 2, 2011, [

] . See Memorandum to the File from Stephen Bailey, dated November 3, 2011, titled “Conference Call.” On November 7, 2011, []. See Memorandum to the File from Meredith Rutherford, dated November 8, 2011, titled “Conference Call.” Further Petitioner provided information from []. See Supplement V-B-General Issues, at Attachment 1; see also Memorandum to File from Meredith Rutherford, dated November 8, 2011, titled “Call to Petitioner’s Counsel on November 7, 2011. In addition, [

], Petitioner would account for [] percent of the production of the domestic like product produced by the industry expressing support for or opposition to the Petitions. See Sections 702(c)(4)(A)(ii) and 732(c)(4)(A)(ii) of the Act; and see also Table 1 above.

**Table 1
Calculation of Industry Support**

U.S. Producers of Solar Cells	2010 Production of CSPV modules/panels (MW)	Position
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
SolarWorld Industries America Inc.	[]	Petitioner
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
Total Quantity	[]	
Total Support		[]
Total Opposition		[]
Total Opinion		[]
Total Neutral		[]
Support/Total (25% test)		[]%
Support/Opinion (50% test)		[]%

Challenges to Industry Support

(1) Challenge from Respondents

On November 7, 2011, we received a submission from Changzhou Trina Solar Energy Co., Ltd, a Chinese producer and exporter of the subject merchandise, and its U.S. affiliates, Trina Solar (U.S.) Inc., Wuxi Suntech Power Co., Ltd., Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., and Canadian Solar, Inc. (collectively “Respondents”), in which Respondents urge the Department to poll the industry to determine whether the industry support requirements have been met. See Standing Challenge, properly filed on November 8,

2011, by Arent Fox, (Respondents' Standing Challenge), at 2.²⁵ Each respondent is an interested party in these proceedings as defined in section 771(9)(A) of the Act.

Respondents first argue that because the Petitioner does not offer a domestic like product distinct from the scope of the Petitions, and because the scope language has been revised on multiple occasions by Petitioner, the domestic like product should also have been revised. See Respondents' Standing Challenge, at 3-4. Further, Respondents claim that "Petitioner's description of the scope of these investigations appears to be broader than the U.S. industry on which the standing calculations are based." See Respondents' Standing Challenge, at 5.

Respondents' second argument states that Petitioner did not provide production data for all producers of the domestic like product, and gives the example of BP Solar. See Respondents' Standing Challenge, at 6. Respondents cite to language in the Petitions that states that BP Solar shut down its U.S. plant in March 2010. See Respondents' Standing Challenge, at 7. Respondents note that BP Solar is not listed in the documents that identify domestic producers contained in Exhibits I-2A or I-2B of the Petitions. See id.

Respondents' next argue that Petitioner should have relied on a more current period of data instead of calendar 2010 for measuring industry support. See id. Respondents cite to Petitioner's many arguments in the Petitions discussing the dramatic changes in the U.S. industry producing the domestic like product in 2010 and 2011, including closures and bankruptcy filings. See Respondents' Standing Challenge, at 7-8. Respondents argue that the 12-month period immediately prior to the filing of the petitions would be a more accurate measure of industry support, and state that this is another reason for the Department to delay initiation in order to collect more recent data. See Respondents' Standing Challenge, at 8.

Finally, Respondents' argue that Petitioner's calculation of industry support is incorrect. See id. Respondents' state that Petitioner did not include production by BP Solar, but did include production of a company it later identified as not being a producer of domestic like product. See id. Further, Respondents claim that contrary to the statute Petitioner excluded Evergreen Solar Inc.'s production of the domestic like product on the basis of a relationship between it and a Chinese company. See Respondents' Standing Challenge, at 9. Respondents acknowledge that while it may be appropriate to exclude Evergreen Solar Inc.'s production from the 50-percent test, it must be included for the 25-percent test. See Respondents' Standing Challenge, at 10. Respondents' explain that a revised calculation "would likely indicate that domestic producers' support for the petition does not account for more than 50 percent of such total production." See id. Therefore, Respondents' request that the Department poll the industry and cite to Steel Wire Garment Hangers as an example of an instance in which the Department has polled when the requisite industry support criteria has not been met. See id., citing Steel Wire Garment Hangers from the People's Republic of China: Initiation of Antidumping Duty Investigation, 72 Fed. Reg. 52855, 52856 (Sept. 17, 2007) (Steel Wire Garment Hangers).

Respondents also filed an additional industry support challenge on November 8, 2011. Initially we rejected the filing because the comments were not limited to industry support as required by

²⁵ Because the comments did not include certifications as required under 19 CFR 351.303(g), we allowed the parties to re-file the comments. On November 8, 2011, we received comments with proper certifications.

section 732(c)(4)(E) of the Act. See Letter from Howard Smith, Program Manager AD/CVD Enforcement Office 4 to John M.Gurley, Inv. No. A-570-979, C-570-980 dated November 8, 2011. Respondents re-filed the comments on the same day and properly limited their comments to industry support. See Respondents Opposition to Petitioner’s Alternative Standing Analysis filed November 7, 2011 (Respondents’ Second Standing Challenge). These comments are similar in nature to those summarized above in Respondents’ Standing Challenge, in that they provide the same arguments but reference Petitioner’s revised industry standing calculation. We note that we received these arguments just prior to the initiation deadline. We believe that our responses contained in the “Department’s Position” section below also address arguments provided in Respondents’ Second Standing Challenge.

Department’s Position:

Regarding Respondents first argument regarding the revisions to the scope, we note that the Department is given a limited time frame for dealing with the scope as it may relate to the domestic like product. Further, despite revisions to the scope provided by Petitioner on November 4, 2011, we do not find that this revision altered the definition of domestic like product in any significant way because both have always included CSPV cells and CSPV module/panels. Refining the scope during the 20-day initiation period is standard practice, and we further provide parties additional time to comment on the scope after initiation of any petition. See e.g., Bottom Mount Combination Refrigerator Freezers from the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations, 76 FR 23281 (April 26, 2011) Bottom Mount Refrigerators from Korea and Mexico); Certain Steel Nails from the United Arab Emirates: Initiation of Antidumping Duty Investigation, 76 FR 23559 (April 27, 2011) (Nails from the UAE); Certain Steel Wheels from the People’s Republic of China: Initiation of Antidumping Duty Investigation, 76 FR 23294 (April 26, 2011) (Steel Wheels from China); and Galvanized Steel Wire from the People’s Republic of China and Mexico: Initiation of Antidumping Duty Investigations, 76 FR 23548 (April 27, 2011) (Galvanized Steel Wire from China and Mexico). In addition, as of November 7, 2011, Petitioner provided a calculation of industry support based on domestic production of CSPV modules/panels.²⁶ We believe that this new calculation is a conservative approach to calculating industry support because it limits the risk of double-counting (i.e., including both U.S.-produced CSPV cells and U.S.-produced CSPV modules/panels that include those same U.S-produced CSPV cells) and it includes all production of modules/panels regardless of the origin of the CSPV cells.²⁷

²⁶ We note that we do not have information on the record to calculate an industry support calculation based on just domestically-produced CSPV cells plus domestically-produced CSPV modules/panels without double-counting.

²⁷ We note that Petitioner provided a calculation for industry support based on U.S. production of CSPV cells in 2010. As with the calculation detailed above, based on information on the record in the Petitions, supplements to the Petitions, and information placed on the record by the Department, domestic producers who support the Petitions account for at least 25 percent of the total production of the domestic like product, and domestic producers who support the Petitions 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 Petitions with regard to CSPV cell production in the United States. See Volume I of the Petitions, at 5-6, Exhibit I-3, I-3A, I-3B, and Supplement II-A-General Issues, at 5-6, and Exhibit General-Supp-4; see also Memorandum to the File from Stephen Bailey, dated November 3, 2011, titled “Conference Call,”(in which []); see also Memorandum to the File from Meredith Rutherford, dated November 3, 2011, titled “Conference Call and Updated Information,” (in which []); see also Table below. In addition, []

Respondents' second argument relating to the exclusion of BP Solar is unsupported by substantial evidence and moot based upon Petitioner's new industry support calculation described above. Where Petitioner provided an article detailing the domestic producers of CSPV modules/panels and BP Solar is not listed in that article, Respondents have provided no evidence detailing BP Solar's production levels in 2010. Further, Respondents have not offered any evidence that BP Solar's possible production levels during the 3 months in 2010 in which BP Solar may have been producing (as BP Solar's plant shutdown in March 2010) would be of such magnitude to alter the Petitioner's calculation. That is, there is no evidence supporting Respondents' claim that taking BP Solar's production levels into account would result in a failure by Petitioner to fulfill the industry support requirements.

Third, Respondents' contention that the Petitioner should provide production data based on the most recent 12-month period prior to the Petitions filing date is at odds with the Department's longstanding practice of measuring production over the most recently completed calendar year absent a compelling argument that a different period is more appropriate. See Bottom Mount Refrigerators from Korea and Mexico, Nails from the UAE, Steel Wheels from China, and Galvanized Steel Wire from China and Mexico. The regulation clearly states that we "will measure production over a twelve-month period specified by the Secretary...." See 19 C.F.R. 351.203(e)(1). Given that we do not believe we have substantial evidence to alter the regulatory time period, we see no reason to depart from our normal practice of measuring production over the most recently completed calendar year.

Finally, regarding Respondents' claim that Petitioner inappropriately included or excluded certain producers of the domestic like product; we note that it is the Department's practice to include all producers of the domestic like product for purposes of the 25-percent test. See Antidumping Duty Investigation Initiation Checklists: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea at Attachment I, Industry

], Petitioner would account for [] percent of the production of the domestic like product produced by the industry expressing support for or opposition to the Petitions. See Sections 702(c)(4)(A)(ii) and 732(c)(4)(A)(ii) of the Act; see also Memorandum to the File from Stephen Bailey, dated November 8, 2011, titled "Conference Call;" see also Table below.

US Producers of CSPV Cells	2010 Production of CSPV Cells (MW)	Position
SolarWorld Industries America, Inc.	[]	Petitioner
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
[]	[]	[]
TOTAL QUANTITY	[]	
TOTAL SUPPORT	[]	
TOTAL OPPOSITION	[]	
TOTAL OPINION	[]	
TOTAL NEUTRAL	[]	
SUPPORT/TOTAL (25% TEST)	[]%	
SUPPORT/OPINION (50% TEST)	[]%	

Support (on file in the Central Records Unit, Room 7046 of the main Department of Commerce building) where we state “... the Department must first consider whether the petition has the support of domestic producers accounting for more than 50 percent of total production of the domestic like product before examining the relationships between domestic producers and foreign manufacturers under section 732(c)(4)(B) of the Act.” We believe that Petitioner’s revised industry support calculation properly accounts for all domestic producers of the domestic like product.

Based on the statements above the Department does not agree with the Respondents that it is necessary to delay the initiation to poll the industry to determine if the criteria for industry support have been met. See “Industry Support Calculation” section above, and “Findings” section below for more details.

(2) Challenge from Government of China

During the consultations held with respect to the countervailing duty investigation the Government of China (GOC) on November 2, 2011, the GOC made a few comments regarding industry support for the Petitions. See Memorandum to the File from Emily Halle, dated November 4, 2011.²⁸ Specifically, the GOC remarked that the petition only revealed the names of one of the companies supporting the petition (SolarWorld), but did not disclose the names of the other six parties. The GOC expressed that because this information was not disclosed it would not be able to analyze whether the standard for industry support had been met or if the unnamed companies had imported from China or were related to Chinese producers meaning that those companies should not be able to express support for the Petitions.

Department’s Position:

The only Petitioner to these Petitions is SolarWorld Industries America, Inc., and the name of that company is public knowledge. Accordingly, the Department does not need to make any other information public. With regard to other claims by the GOC regarding industry support, the Department has received no substantive analysis from the GOC regarding the degree of industry support as presented in the Petitions, and supplements thereto. Therefore, the Department finds that the GOC provided no evidence to detract from the industry support calculation.

Findings

We relied on information provided by Petitioner, as described above, to establish total estimated 2010 production of solar cells. Using these data, as demonstrated above, we find the domestic producers who support the Petitions account for at least 25 percent of the total production of the domestic like product. We further find the domestic producers who support the Petitions 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 Petitions. Therefore, we find that

²⁸ As the discussion of industry support pertains to both of the Petitions, this memorandum was placed on the record of case number A-570-979 on November, 8, 2011. See Memorandum to the File from Meredith Rutherford, dated November 8, 2011, titled “Placing Consultations Memorandum on the AD Record.”

there is adequate industry support within the meaning of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

In addition to our analysis of the Petitioner's submissions, we conducted a search of the Internet and have been unable to locate information that contradicts Petitioner's assertions. We believe Petitioner has provided data that are reasonably available. For these reasons, we find that there is adequate industry support for initiating the investigations. Accordingly, we find that the Petitions have satisfied the requirements of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

Attachment III

Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Solar Cells from the People's Republic of China

I. Introduction

When making a determination regarding the initiation of an antidumping (“AD”) or countervailing duty (“CVD”) investigation, the Department examines whether the petition alleges the elements necessary for the imposition of AD or CVD and contains information reasonably available to the petitioners that support the allegations. See sections 702(c)(1)(A)(i) and 732(c)(1)(A)(i) of the Act. This attachment analyzes the sufficiency of the allegations and supporting evidence regarding material injury and causation.

II. Definition of Domestic Industry

The domestic industry is described with reference to producers of the domestic like product, as provided for in section 771(4)(A) of the Act. The Petitions²⁹ define the domestic industry as producers of crystalline silicon photovoltaic cells, whether or not assembled into modules (collectively, “solar cells”). See Volume I of the Petitions, at 4-5. Petitioner identified itself as well as other domestic manufacturers of the domestic like product, as the companies constituting the domestic industry in the United States. See Volume I of the Petitions, at 5-6 and Exhibit Exhibits I-1, I-2A, I-2B, and I-3A. For a discussion on the domestic like product, see Attachment II to this Checklist.

III. Evidence of Injury and Threat of Injury

To determine injury, the statute requires an evaluation of the volume, price effects, and impact of imports on the domestic industry. See section 771(7)(B) of the Act. Specifically, section 771(7)(C)(iii) of the Act states that:

In examining the impact {of imports on domestic producers, the International Trade Commission (“ITC”)} shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

- (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
- (II) factors affecting domestic prices,
- (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment,
- (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry..., and

²⁹ Petitions for the Imposition of Antidumping and Countervailing Duties: Crystalline Silicon Photovoltaic Cells from the People's Republic of China, filed October 19, 2011 (collectively, “Petitions”).

(V) in {an antidumping proceeding}, the magnitude of the margin of dumping.

The Petitions allege that the domestic industry has experienced the following types of injury by reason of imports from the People's Republic of China ("PRC"):

- A. Reduced market share (Volume I of the Petitions, at 3, 26, 28, and Exhibits I-6, I-24);
- B. Reduced production, shipments, and capacity utilization (Volume I of the Petitions, at 37, and Exhibit I-9);
- C. Underselling and price depression (Volume I of the Petitions, at 26-27, 30-31, 33 and Exhibits I-9, I-14, I-18a, I-24, II-1, II-2);
- D. Reduced employment (Volume I of the Petitions, at 3, 27, 34-36, and Exhibit I-19);
- E. Decline in financial performance (Volume I of the Petitions, at 3, 34-35 and Exhibits I-9, I-24);
- F. Lost sales and revenue (Volume I of the Petitions, at 27-29, 32-33, 38, and Exhibits I-8, I-10, I-15, II-1); and
- G. Increase in import penetration (Volume I of the Petitions, at 3, 26-29, and Exhibit I-6).

The Petitions also allege that the domestic industry could be threatened with further injury by reason of imports from the PRC:

- Rate of increase of volume and market penetration of subject imports (Volume I of the Petitions, at 40, 50, and Exhibits I-6, I-15, I-20, and Supplement to the AD/CVD Petitions filed October 28, 2011 ("Supplement II-A-General Issues"), at 1-2);
- Worsened market conditions due to worldwide economic crisis (Volume I of the Petitions, at 41-44, 53, and Exhibits I-14, I-16, I-21A, I-21B, I-24);
- Subsidies from the Chinese government (Volume I of the Petitions, at 44-46, and Volume III of the Petitions);
- Substantial capacity to increase exports (Volume I of the Petitions, at 39-40, 46-50, and Exhibits I-10, I-14, I-15, I-17A, I-17B, I-18B, I-20, I-23, I-24, and Supplement II-A-General Issues, at 1-2);
- Continued price depression or suppression (Volume I of the Petitions, at 50-52, and Exhibits I-9, I-24); and
- Massive unused inventory (Volume I of the Petitions, at 51-52, and Exhibits I-9, I-24);
- Government of China's export orientated economic policies (Volume I of the Petitions, at 52-53).

The information from the Petitions, provide the Department with a sufficient basis to conclude that the allegations of material injury and threat of material injury as a result of imports of subject merchandise are adequately supported.

IV. Negligibility

Section 771(24)(A)(i) of the Act states that “imports from a country of merchandise corresponding to a domestic like product identified by the ITC are ‘negligible’ if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which the data are available....” Petitioner provides data that demonstrate that imports of subject merchandise from the PRC accounted for far greater than the required 3 percent of the volume of all subject merchandise. See Volume I of the Petitions, at 28 at footnote 61 and Exhibit I-6. Petitioner collected data on imports for subject merchandise using the ITC’s Dataweb. See id. Therefore, by volume, imports from the PRC surpassed the negligibility threshold as defined in section 771(24)(A)(i) of the Act. See id.

V. Causation of Material Injury or Threat of Material Injury

Petitioner claims that the material injury and the threat of material injury to the domestic industry were caused by the impact of the allegedly dumped and/or subsidized imports from the PRC. In support of their argument, Petitioner provided information on the historical trend of the volume of the allegedly dumped and/or subsidized imports focusing on the period beginning with 2008 through 2010 as well as year to date 2011. See Volume I of the Petitions, at 15 and Exhibit I-6. In the Petitions, Petitioner demonstrated the effect of these import volumes, and their respective value, on domestic prices, production, market share, and the consequent impact on the domestic industry, specifically on sales, revenue, and employment. See Volume I of the Petitions, at 3, 26-35, 37-38, and Exhibits I-6, I-9, I-10, I-14, I-15, I-18A, I-19, I-24. Petitioner argued that this evidence shows the decline of the U.S. industry’s profitability and market share resulting from increasing imports of the subject merchandise at prices substantially lower than price offers from U.S. producers, thereby resulting in reduced employment and unused capacity, as well as lost sales and revenue. See id.

In making a determination regarding causation of material injury, the ITC is directed to evaluate the volume of subject imports (section 771(7)(B)(i)(I) of the Act), the effect of those imports on the prices of domestically-produced products (section 771(7)(B)(i)(II) of the Act) and their impact on the domestic operations of U.S. producers (section 771(7)(B)(i)(III) of the Act). Petitioner based its allegations of causation of current injury upon domestic producers reduced market share, reduced production, shipments, capacity utilization, underselling and price depression, reduced employment, declines in financial performance, lost sales and revenue and an increase in import penetration. See id. With regard to the threat of material injury, Petitioner based its allegations on the rate of increase of volume and market penetration of subject imports, worsened market conditions due to the worldwide economic crisis, subsidies from the Chinese government, substantial capacity to increase exports, continued price depression or suppression, massive unused inventory, and, finally, Government of China’s export orientated economic policies. See Volume I of the Petitions, at 39-53, and Exhibits I-6, I-9, I-10, I-14, I-15, I-16, I-17a, I-17b, I-18b, I-20, I-21A, I-21B, I-23, I-24, and Supplement II-A-General Issues, at 1-2.

The allegations of causation of material injury and the threat of material injury are based upon the factors indicating current injury, as well as the factors indicating threat of material injury as noted above. The factors related to causation presented in the injury section of the Petitions are the types of factors that the ITC is directed to consider for the purpose of evaluating causation under sections 771(7)(C) and 771(7)(F) of the Act.

VI. Conclusion

Pursuant to sections 702(c)(1)(A) and 732(c)(1)(A) of the Act, in order to assess the accuracy and adequacy of the evidence relating to the allegations regarding material injury and causation, we examined the information presented in the Petitions and compared it with information that was readily available (e.g., import data on the ITC website, and additional industry and press reports available online). We have been unable to locate information that contradicts Petitioner's assertions.

The information in the Petitions demonstrates a sufficient showing of injury or threat of injury to the producers of solar cells. Therefore, we find the overall evidence of injury included in the Petitions to be adequate to initiate the investigations of solar cells from the PRC.

Attachment IV

Action Letter from the International Trade Commission

No. 1349 P. 1

OFFICE OF INVESTIGATIONS



FAX TRANSMITTAL COVER SHEET

DATE: 10/20/2011
TO: Mr. Norbert Gannon
ORGANIZATION: Department of Commerce
FAX NUMBER: 202-501-7952
PHONE NUMBER: _____

FROM: Catherine DeFilippo
FAX NUMBER: 202-205-3205
PHONE NUMBER: 202-205-3160

Number of pages transmitted (including this cover sheet): 5

MESSAGE/ADDITIONAL INFORMATION:

Mr. Gannon:

Attached is notice of the Commission's institution of the preliminary antidumping/countervailing duty investigations on Crystalline Silicon Photovoltaic Cells and Modules from China. The petitions were filed with the Commission on October 19, 2011. Commission staff has not identified any significant defects in the petition with respect to the injury allegations and related information.

Oct. 20. 2011 1:59PM

No. 1349 P. 3

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-481 and 731-TA-1190 (Preliminary)

CRYSTALLINE SILICON PHOTOVOLTAIC CELLS AND MODULES FROM CHINA

Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-481 and 731-TA-1190 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and §§ 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of crystalline silicon photovoltaic cells and modules, provided for in subheadings 8541.40.60 (statistical reporting numbers 8541.40.6020 or 8541.40.6030) of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. These goods may also be imported as parts or subassemblies of goods provided for in subheadings 8501.61.00.00 or 8507.20.80 of the Harmonized Tariff Schedule of the United States. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. §§ 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by December 5, 2011. The Commission's views are due at Commerce within five business days thereafter, or by December 12, 2011.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 19, 2011.

FOR FURTHER INFORMATION CONTACT: Christopher Cassise (202-708-5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on October 19, 2011, by Solar World Industries America, Hillsboro, OR.

Oct. 20. 2011 1:59PM

No. 1349 P. 4

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the *Federal Register*. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 8, 2011, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with the Office of the Secretary (William.bishop@usitc.gov and Sharon.bellamy@usitc.gov) on or before November 4, 2011. Parties in support of the imposition of countervailing duty and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules at the date of this notice, any person may submit to the Commission on or before November 14, 2011, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments will take effect on November 7, 2011. See 74 Fed. Reg. 61937 (Oct. 6, 2011). For those materials submitted to the Commission in this proceeding on and after the effective date of these amendments please refer to 74 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Oct. 20. 2011 1:59PM

No. 1349 P. 5

AUTHORITY: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

James R. Holbein
Secretary to the Commission

Issued:

Oct. 20. 2011 2:00PM