Wiley Rein LLP

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Int'l Trade Commission

PUBLIC VERSION

February 4, 2019

DOC Investigation Nos. A-122-864, A-201-850, A-570-102, C-122-865, C-201-851, C-570-103
USITC Investigation Nos. 701-TA-___ and 731-TA-___
Total Pages: 9
Investigation
AD/CVD Operations
Petitioner's Business Proprietary Information
Removed from the attached:
Volume I at 2, 3, 12, 13, 25-27, 29-34, 37, 38, 42, Exhibit List, and Exhibits I-2, I-3, I-4, I-10, I-14, I-15, I-16, I-19
Volume II at Pages 3-5, 7-14, 16, 20, Exhibit List, and Exhibits II-2, II-3, II-4, II-7, II-9, II-10, II-12B, II-13, II-23
Volume III at Pages 3-12, 14, 15, 18, Exhibit List, and Exhibits III-2, III-5, III-8, III-9, III-11, III-14, III-17, III-21
Volume IV at Pages 3, 5-8, 11, 13, 14, 16, 20, Exhibit List, and Exhibits IV-3, IV-5, IV-7, IV-9A, IV-9B, IV-12 , IV-13, IV-14, IV-18, IV-22
PUBLIC VERSION

BY ELECTRONIC FILING
The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
International Trade Administration
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

BY HAND DELIVERY
The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, DC 20436

RE: Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China

Dear Secretary Ross and Secretary Barton:

On behalf of the American Institute of Steel Construction, LLC ("Petitioner" or "AISC"), we hereby submit to the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("the Commission") petitions for the imposition of antidumping and countervailing duties on U.S. imports of fabricated structural steel from Canada, Mexico, and the People's Republic of China (the "Petitions"), pursuant to sections 701, 702(b), 731, and 732(b)

of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). The members of AISC are producers in the United States of the domestic like product and are thus "interested parties" within the meaning of 19 U.S.C. § 1677(9)(C). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the U.S. International Trade Commission (the "Commission").

Volume I of the petitions contains general information and the allegations of injury, along with associated exhibits. Volumes II-IV contain antidumping duty allegations and associated exhibits. Volume V-VII contain the countervailing duty allegations and associated exhibits. There are proprietary and public versions of Volumes I, II, III, and IV, while Volumes V, VI, VII are public in their entirety.

Pursuant to 19 C.F.R. §§ 351.202(d) and 351.304 of the Department's regulations, and 19 C.F.R. § 201.6(b) of the Commission's rules, we request business proprietary treatment for the bracketed information in the narratives and exhibits of these petitions as detailed below. Disclosure of this information, which is not otherwise publicly available, would cause substantial harm to the competitive position of the submitter and would impair the ability of the Department and the Commission to obtain information in the future necessary to fulfill their statutory functions.

Volume I (General Information and Injury):

(1) **Exhibit I-16:** *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)).

(2) **Exhibit I-16:** *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)).

(3) **Pages 25, 33, Exhibit List, and Exhibits I-3, I-4, I-14 through I-16, I-19:** *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)).

(4) **Pages 2, 3, 12, 13, 25-27, 29-34, 37, 38, 42, Exhibit List, and Exhibits I-2 through I-4, I-10, I-14, I-15, I-16, I-19:** *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)).

Volume II (Canada AD Allegation):

(1) **Page 14, and Exhibits II-2, II-12B, II-13, II-23:** *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)).

(2) **Page 20, and Exhibits II-2, II-13, II-23:** *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)).

(3) **Pages 3, 5, 7, 8, 10, and Exhibits II-2, II-3, II-4, II-7, II-9, II-10, II-23:** *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)).

(4) **Pages 3-5, 7, 9, 10, and Exhibits II-2, II-3, II-12B, II-23:** *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)).

(5) **Pages 3, 9, 10, and Exhibits II-2, II-3, II-23:** *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)).

(6) **Pages 3, 4, 10, and Exhibits II-2, II-3, II-23:** *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)).

(7) **Pages 3, 8, 9, 11, 13, Exhibit List, and Exhibits II-2, II-7:** *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)).

(8) **Pages 3-5, 7-14, 16, 20, Exhibit List, and Exhibits II-2, II-3, II-4, II-7, II-9, II-10, II-12B, II-13, II-23:** *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)).

Volume III (Mexico AD Allegation):

(1) **Page 12, and Exhibits III-2, III-14, III-17:** *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)).

(2) **Page 18, and Exhibits III-2, III-14, III-7, III-21:** *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)).

(3) **Pages 3, 5, 7, and Exhibits III-2, III-5, III-8, III-9, III-11, III-21:** *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)).

(4) **Pages 3-8, and Exhibits III-2, III-11, III-21:** *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)).

(5) **Pages 3, 8, and Exhibits III-2, III-11, III-21:** *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)).

(6) **Pages 3, 4, 8, and Exhibits III-2, III-11, III-21:** *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)).

(7) **Pages 3, 7, 9, 11, 12, Exhibit List, and Exhibits III-2, III-8:** *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)).

(8) **Pages 3-12, 14, 15, 18, Exhibit List, and Exhibits III-2, III-5, III-8, III-9, III-11, III-14, III-17, III-21:** *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)).

Volume IV (People's Republic of China AD Allegation):

(1) **Pages 11, and Exhibit IV-14:** *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)).

(2) **Page 20, and Exhibits IV-14, IV-22:** *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)).

(3) **Page 3, and Exhibits IV-3, IV-5, IV-7, IV-9A, IV-13, IV-18, IV-22:** *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)).

(4) **Pages 3, 8, Exhibit List, and Exhibits IV-3, IV-22:** *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)).

(5) **Pages 3, 8 and Exhibits IV-3, IV-22:** *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section), or order numbers)* (19 C.F.R. § 351.105(c)(5)).

(6) **Pages 3, 8 and Exhibit IV-3:** *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)).

(7) **Pages 11, 13, 14, Exhibit List, and Exhibits IV-12, IV-13:** *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)).

(8) **Pages 3, 5-8, 11, 13, 14, 16, 20, Exhibit List, and Exhibits IV-3, IV-5, IV-7, IV-9A, IV-9B, IV-12, IV-13, IV-14, IV-18, IV-22:** *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)).

The requisite certification that substantially identical information is not available to the public is set forth as an attachment to this letter, in accordance with section 201.6(b)(3)(iii) of the Commission's rules. Also attached are the requisite company and counsel certifications regarding the completeness and accuracy of the information contained in the petitions.

Pursuant to section 351.304(b)(1) of the Department's regulations, Petitioner agrees in principle to permit disclosure of business proprietary information contained in the petitions under an appropriately drawn administrative protective order ("APO"). Petitioner respectfully reserves the right, however, to comment on all APO applications prior to disclosure.

Pursuant to section 351.202(c) of the Department's regulations, we certify that the petitions and all required copies were filed today with both the Department and the Commission. The petitions are being filed electronically on the Department's ACCESS filing system. An original and eight paper copies of the business proprietary version and an original and two paper copies of the public version of the narrative portions of each volume, along with CDs containing the

PUBLIC VERSION

associated business proprietary and public version exhibits, are being filed manually at the Commission.

If you have any questions regarding this petition, please contact us.

Respectfully submitted,

/s/ Alan H. Price
Alan H. Price, Esq.
Christopher B. Weld, Esq.
Stephanie M. Bell, Esq.

Counsel for Petitioner
American Institute of Steel Construction, LLC

COMPANY CERTIFICATION

I, Charles J. Carter, currently employed as President of the American Institute of Steel Construction, LLC, certify that I prepared or otherwise supervised the preparation of the attached submission, *Petitions for the Imposition of Antidumping and Countervailing Duties pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended on Certain Fabricated Structural Steel from Canada, Mexico and the People's Republic of China* (Investigation Nos. A-122-864, A-570-102, A-201-850, C-122-865, C-570-103, and C-201-851), dated February 4, 2019. I certify that the public information and any business proprietary information of American Institute of Steel Construction, LLC contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

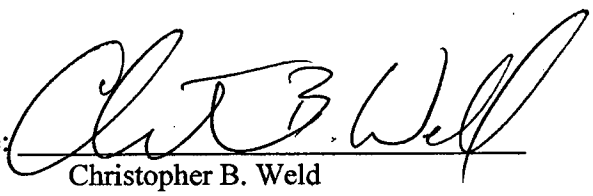
Signature: _____

Charles J. Carter

Date: December 31, 2018

REPRESENTATIVE CERTIFICATION

I, Christopher B. Weld, with Wiley Rein LLP, counsel to the American Institute of Steel Construction, LLC, certify that I have read the attached submission, *Petitions for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended, In the Matter of Certain Fabricated Structural Steel From Canada, Mexico, and the People's Republic of China* (Investigation Nos. A-122-864, A-570-102, A-201-850, C-122-865, C-570-103, and C-201-851), dated February 4, 2019. In my capacity as Counsel, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: 

Christopher B. Weld

Date: February 4, 2019

CERTIFICATION OF COUNSEL

City of Washington)
) ss:
District of Columbia)

In accordance with section 201.6(b)(3)(iii) of the Commission's regulations, 19 C.F.R. § 201.6(b)(3)(iii), I, Christopher B. Weld, of Wiley Rein LLP, counsel for the American Institute of Steel Construction, LLC, hereby certify that information substantially identical to the information for which we are requesting proprietary treatment in the attached submission is not available to the public.

In accordance with section 207.3(a) of the Commission's regulations, 19 C.F.R. § 207.3(a), I, further certify that (1) I have read the attached submission, and (2) the information contained in this submission is accurate and complete to the best of my knowledge.

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

Dated: February 4, 2019

Christopher B. Weld

Subscribed and sworn to before me on February 4, 2019.

My Commission Expires: **My Commission Expires 2/28/2019**

KAREN J. DUNLAP NOTARY PUBLIC DISTRICT OF COLUMBIA MY COMMISSION EXPIRES 02/28/2019

PUBLIC VERSION

DOC Investigation Nos. A-122-864, A-201-850, A-570-102, C-122-865, C-201-851, C-570-103
USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 176
Investigation
AD/CVD Operations
Petitioner's Business Proprietary Information Removed from Pages 2, 3, 12, 13, 25-27, 29-34, 37, 38, 42, Exhibit List, and Exhibits I-2, I-3, I-4, I-10, I-14, I-15, I-16, and I-19 of this Volume
PUBLIC VERSION

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

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

VOLUME I:
COMMON ISSUES AND INJURY PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

PETITIONER:

AMERICAN INSTITUTE OF STEEL CONSTRUCTION, LLC

COUNSEL:

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Christopher B. Weld, Esq.
Stephanie M. Bell, Esq.
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1776 K Street, NW
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February 4, 2019

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BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION OF THE
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PETITIONS FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

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February 4, 2019

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These Petitions are presented on behalf of the American Institute of Steel Construction, LLC ("AISC" or "Petitioner"). Petitioner alleges that certain fabricated structural steel ("FSS") imported from Canada, Mexico, and the People's Republic of China ("China") is being or is likely to be sold at less than normal value within the meaning of Section 731 of the Tariff Act of 1930, *as amended* ("the Act"), 19 U.S.C. § 1673. Petitioner further alleges that FSS imported from Canada, Mexico, and China is subsidized within the meaning of Section 701 of the Act, 19 U.S.C. § 1671. Petitioner also alleges that these unfairly traded imports have materially injured the U.S. domestic industry producing FSS and threaten to cause further material injury if remedial action is not taken. These Petitions contain information reasonably available to Petitioner in support of these allegations.

Separate volumes regarding the allegations of dumping by producers in each subject country, as well as countervailable subsidies provided to producers in these countries, are being filed simultaneously at both the U.S. Department of Commerce (the "Department") and the U. S. International Trade Commission (the "Commission"). Petitioner requests that antidumping ("AD") and countervailing duties ("CVD") be imposed to offset the dumping margins and subsidy rates detailed in the specific AD and CVD volumes.

I. COMMON ISSUES

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

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

Petitioner was established in 1921 to serve the structural steel industry in the United States and is the primary trade association for domestic FSS producers. Petitioner is a domestic

interested party within the meaning of 19 U.S.C. § 1677(9)(E) and 19 C.F.R. § 351.102(b)(17). Petitioner's contact information is provided in **Exhibit I-1**.

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

These Petitions are filed on behalf of the U.S. industry that produces FSS. **Exhibit I-2** contains contact information for known U.S. producers of FSS. According to the best information available to Petitioner, **Exhibit I-2** identifies all known producers of the domestic like product in the United States.[1]

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

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

There are no publicly available sources regarding U.S. production of FSS. However, Petitioner has estimated U.S. production based on the quantity of shipments of steel mill products, the primary input into FSS. Specifically, as detailed in **Exhibit I-3**, Petitioner based its calculation on U.S. shipments of parallel flanges [narrative

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[1] **Exhibit I-2** contains [narrative

]. Petitioner then made various adjustments to account for parallel flanges that are not fabricated and/or are not used for the production of FSS and to account for other steel mill products that are used in the production of FSS. Petitioner believes that this methodology constitutes the best information reasonably available to Petitioner to identify the total quantity of production of the domestic like product. Based on this methodology, Petitioner estimates that, in 2017, the total quantity of U.S. shipments of the domestic like product was 3,418,290 short tons.

Petitioner's estimate of its share of total U.S. shipments of the domestic like product is shown below in **Table 1**. This represents the quantity of U.S. shipments for full members of AISC. As explained in **Exhibit I-4**, these data were obtained from [narrative].

TABLE 1
Petitioner's Share Of Domestic Production In 2017 (short tons)

Domestic Production	3,418,290
Supporters' Production	[tons]
Supporters' Share	[%]

As shown in the table above, Petitioner represents U.S. producers accounting for approximately [ ] percent of domestic production of the domestic like product in 2017. Petitioner therefore satisfies the requirement that they account for over 50 percent of total domestic production.

].

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

1. AD/CVD Litigation

In January 1988, a petition was filed on behalf of AISC alleging that an industry in the United States was materially injured by dumped imports of fabricated structural steel from Canada.[2] The Commission made a preliminary finding that there was no reasonable indication of material injury or threat thereof and thus no order was issued.[3] Petitioner is not aware of any other requests for antidumping and/or countervailing duties by the domestic industry with respect to FSS.

2. Other Forms of Relief

Pursuant to Section 301 of the Trade Act of 1974, on August 16, 2018, the U.S. Trade Representative determined that it was appropriate to impose an *ad valorem* duty of 25 percent on various products from China, including some fabricated structural steel.[4] Specifically, the 25 percent duty applies to the following tariff lines in the U.S. Harmonized Tariff Schedule ("HTSUS") under which FSS may enter the United States: 7308.90.30, 7308.90.60, and 7308.90.95.[5] These tariffs became effective as of August 23, 2018.[6]

In addition, certain HTSUS subcategories under which FSS may enter the United States are subject to *ad valorem* duties of 25 percent pursuant to Section 232 of the Trade Expansion

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2 *See Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) at 1, excerpts attached as **Exhibit I-5**.

3 *Id.* at 1.

4 *See Notice of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 40,823 (Dep't Commerce Aug. 16, 2018).

5 *Id.* at 40,826.

6 *Id.* at 40,823.

Act of 1962. Specifically, the following HTSUS subcategories under which FSS may enter the United States are subject to duties under Section 232: 7216.99.0010, 7216.99.0090, and 7228.70.6000. These duties became effective as of March 23, 2018.[7] AISC participated in the process through which interested parties could provide comments regarding the products to be subject to duties.

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

1. Scope of Investigation

The physical characteristics of the covered products, which defines the scope, are as follows:[8]

> The merchandise covered by this investigation includes carbon and alloy (including stainless) steel products such as angles, columns, beams, girders, plates, flange shapes (including manufactured structural shapes utilizing welded plates as a substitute for rolled wide flange sections), channels, hollow structural section (HSS) shapes, base plates, plate-work components, and other steel products that have been fabricated for assembly or installation into a structure (fabricated structural steel). Fabrication includes, but is not limited to, cutting, drilling, welding, joining, bolting, bending, punching, pressure fitting, molding, adhesion, and other processes.
>
> Fabricated structural steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is two percent or less by weight.
>
> Fabricated structural steel is covered by the scope of the investigation regardless of whether it is painted, varnished, or coated with plastics or other metallic or non-metallic substances. Fabricated structural steel may be either assembled; disassembled, but containing characteristics or items, such as holes, fasteners, nuts, bolts, rivets, screws, tongue and grooves, hinges, or joints, so that the product(s) may be joined, attached, or assembled to one or more additional

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[7] Proclamation 9705, *Adjusting Imports of Steel into the United* States, 83 Fed. Reg. 11,625 (Mar. 15, 2018).

[8] The scope of this investigation includes certain exclusions that reference certain standards and specifications. These exclusions are based on the identified specifications and standards as they exist as of the filing of this Petition.

product(s); or partially assembled, such as into modules, modularized construction units, or sub-assemblies of fabricated structural steel.

Products under investigation include carbon and alloy steel products that have been fabricated for erection or assembly into structures, including but not limited to, buildings (commercial, office, institutional, and multi-family residential); industrial and utility projects; parking decks; arenas and convention centers; medical facilities; and ports, transportation and infrastructure facilities.

Subject merchandise includes fabricated structural steel that has been assembled or further processed in the subject country or a third country, including but not limited to painting, varnishing, trimming, cutting, drilling, welding, joining, bolting, punching, bending, beveling, riveting, galvanizing, coating, and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the fabricated structural steel.

Fabricated structural steel may be attached, joined, or assembled with non-steel components at the time of importation. The inclusion, attachment, joining, or assembly of non-steel components with fabricated structural steel does not remove the fabricated structural steel from the scope.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. Specifically excluded from the scope of this investigation is certain fabricated steel concrete reinforcing bar ("rebar"). Fabricated rebar is excluded from the scope only if (i) it is a unitary piece of fabricated rebar, not joined, welded, or otherwise connected with any other steel product or part; or (ii) it is joined, welded, or otherwise connected only to other rebar.

Also excluded from this scope is fabricated structural steel used for bridges and bridge sections. For the purpose of this scope, fabricated structural steel used for bridges and bridge sections is defined as fabricated structural steel that is used in bridges and bridge sections and that conforms to American Association of State and Highway and Transportation Officials ("AASHTO") bridge construction requirements or any state or local derivatives of the AASHTO bridge construction requirements.

Also excluded from this scope are pre-engineered metal building systems. For the purposes of this scope, pre-engineered metal building systems are defined as complete metal buildings that integrate steel framing, roofing and walls to form one, pre-engineered building system and are designed and manufactured to Metal Building Manufacturers Association guide specifications. Pre-engineered metal building systems are typically limited in height to no more than 60 feet or two stories.

Also excluded from this scope are steel roof and floor decking systems designed and manufactured to Steel Deck Institute standards.

Also excluded from the scope are open web steel bar joists and joist girders that are designed and manufactured to Steel Joist Institute specifications.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7308.90.9590, 7308.90.3000, and 7308.90.6000.

The products subject to the investigation may also enter under the following HTSUS subheadings: 7216.91.0010, 7216.91.0090, 7216.99.0010, 7216.99.0090, 7228.70.6000, 7301.10.0000, 7301.20.1000, 7301.20.5000, 7308.40.0000, 7308.90.9530, and 9406.90.0030.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

2. Technical Characteristics and Uses

As FSS is typically custom-manufactured for a specific project, FSS produced for one project will differ from FSS produced for another project. Nonetheless, all FSS consists of steel mill products, such as angles, columns, beams, plates, hollow structural shapes, channels, and other steel products, that have been fabricated into articles suitable for erection or assembly into a variety of structures.[9] Typical fabrication processes include, cutting, drilling, welding, joining, bolting, bending, punching, pressure fitting, molding, adhesion, and other finishing processes. Additionally, all FSS is intended to provide structural support and ensures that the structure can bear certain loads or weight. FSS is used in constructing a variety of structures, including buildings (commercial, office, institutional, and multi-family residential), industrial and utility projects, parking decks, arenas and convention centers, medical facilities, and ports, transportation and infrastructure facilities.

[9] Petitioner does not intend to include in the scope steel mill products that are punched, drilled, or undergo similar processes solely for transportation, handling, or other non-structural purposes.

3. Production Methodology

The production of FSS is typically done on a project-specific basis following a bidding process through which a bid is awarded to a FSS producer or group of producers. During this process, design and architectural plans are developed and agreed upon between the FSS producer and the contracting party. Once plans are finalized, the FSS producer will commence actual production work to fulfill the terms of the project. This entails the procurement of steel mill inputs, including structural steel such as wide flange beams, steel angles, steel channels, cut-to-length steel plate, hollow structural shapes, support materials (including steel nuts and bolts, steel studs, steel rivets, galvanized steel strand, and steel rope), welding process materials (including cutting gases, welding wire, welding gases, and welding fluxes), and other required material inputs (including galvanizing materials, protective paints and lacquers, insulating and thermal breaks, and lubricating oils).

Based upon the architectural blueprints and drawings, highly skilled welders, crane operators, and machine operators will then fabricate the various inputs and convert them to FSS through processes such as cutting operations, welding operations, drilling and punching operations, bending operations, painting and galvanizing operations, and partial assembly operations to the extent practicable at the FSS producer's production facilities. Some of the work is performed through the assistance of mechanized and automated machinery while other steps must be partially or wholly performed by hand. Once each component of FSS has been manufactured, it is prepared for shipment to a marshalling yard or to the job erection site itself or stored until shipment.

4. Tariff Classification

FSS is currently classified under the following HTSUS subheadings: 7308.90.9590, 7308.90.3000, and 7308.90.6000. FSS may also enter under the following HTSUS subheadings: 7216.91.0010, 7216.91.0090, 7216.99.0010, 7216.99.0090, 7228.70.6000, 7301.10.0000, 7301.20.1000, 7301.20.5000, 7308.40.0000, 7308.90.9530, and 9406.90.0030.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive. Excerpts from the current HTSUS are attached as **Exhibit I-6**. The most favored nation duty rate for imports under these HTSUS subheadings is free for all HTSUS subheadings except 9406.90.0030, which has an *ad valorem* rate of 2.9 percent. The tariff numbers are provided for the convenience of the U.S. Government and do not define the scope of the Petitions.

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

FSS covered by these Petitions is manufactured in and exported to the United States from Canada, China, and Mexico. Petitioner does not have any evidence indicating that the subject merchandise is produced in a country other than that from which it is exported.

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

The names and addresses of the entities believed by Petitioners to be producing and exporting FSS subject to these Petitions are provided in **Exhibit I-7**. In compiling this exhibit, Petitioner relied primarily upon import data and information regarding producers of FSS that have received certifications from AISC, as well as upon the web sites of individual producers.

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

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

Volumes II and III of these Petitions contain the necessary information concerning the calculation of normal value of the foreign like product and the export price for merchandise produced and exported from the subject countries that are market economies.

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

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

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

Volumes V, VI, and VII of these Petitions contain the necessary information regarding the countervailable subsidies from which subject producers benefit. The names and addresses of the entities believed by Petitioner to be benefitting from a countervailable subsidy and who have exported FSS subject to these Petitions are provided in **Exhibit I-7**. Information reasonably available to Petitioner does not allow it to identify the proportion of total exports to the United States accounted for during the most recent 12-month period by the producers listed in this

exhibit. Petitioner believes, however, that the companies listed in **Exhibit I-7** account for the vast majority of subject exports.

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

Volumes V, VI, and VII of these Petitions contain information concerning the alleged countervailable subsidies in the subject countries, as well as factual information relevant to the laws, regulations, and decrees under which the subsidies were bestowed, the manner in which the subsidies were granted, and Petitioner's estimation—to the extent practicable—of the value of the subsidies to the subject producers and exporters of FSS.

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

Subject imports totaled 928,997 short tons in 2016 and 949,578 short tons in 2017. Imports totaled 810,081 short tons from January to October 2017 and 898,927 short tons from January to October 2018.[10] By value, imports from the subject countries into the United States was $1,856,642,982 in 2016 and $1,906,548,603 in 2017.[11] The value of imports in the period of January to October 2017 was $1,605,481,975 and $1,923,802,787 in January through October of

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[10] *See* Official U.S. Import Statistics, attached at **Exhibit I-8**. Subject imports have been measured based on data obtained from the U.S. International Trade Commission's Dataweb system for the following group of three HTSUS categories: 7308.90.3000, 7308.90.6000, and 7308.90.9590. The domestic industry believes that these HTSUS categories account for the vast majority of the FSS entering the United States. Additionally, these HTSUS categories are limited to FSS. The domestic industry recognizes that FSS may enter the United States under additional HTSUS categories; however, these categories also capture additional, non-FSS materials. Import data for the broader group of HTSUS categories has also been provided in **Exhibit I-8**. As can be seen, the import trends for the broader group of HTSUS categories is consistent with that of the narrower group. In addition, import data have been converted from kilograms to short tons.

[11] *See id.*

2018.[12] These are the best data available to Petitioner. As discussed below, subject imports also increased on a relative basis from 2015 to 2017.

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

Contact information for known importers of FSS from the subject countries is listed in **Exhibit I-9**.[13] However, Petitioner believes that there may be additional importers for FSS from the subject countries that could not be readily identified by Petitioner. Therefore, Petitioner respectfully requests that the Department obtain this information from U.S. Customs and Border Protection.

II. MATERIAL INJURY, CAUSATION, AND THREAT

A. Introduction

A surge of dumped and subsidized FSS imports from Canada, China, and Mexico has materially injured the domestic industry and threatens the U.S. industry with further injury. Between 2015 and 2017 ("the POI"),[14] the volume of subject imports grew significantly, increasing by more than 20 percent, greatly outpacing the modest growth in apparent domestic consumption. As a result, subject producers increased their already significant share of the market at the direct expense of the domestic industry. This flood of dumped and subsidized FSS

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12 *Id.*

13 In particular, Petitioner was able to obtain shipment information with respect to [narrative].

14 Petitioner intended to submit this petition on December 31, 2018, and the period examined in this volume, as well as in the volumes of this petition examining the level of dumping by and subsidization of FSS from Canada, China, and Mexico, is based on that filing date. However, due to extraordinary circumstances relating to the closure of the Federal Government on December 21, Petitioner was unable to file this petition on December 31. Petitioner is filing this petition promptly following the reopening of the Federal Government.

imports from Canada, China, and Mexico continued throughout 2018, reaching almost 900,000 short tons between January and October and continuing to maintain significant market share.

During this time, subject imports also had significant negative price effects on the U.S. market. Subject producers were able to expand their presence in the U.S. market by offering unfair prices well below those of domestic producers, forcing U.S. prices down. This has placed domestic producers in the untenable position of maintaining sales for little to no profit or losing sales altogether. The domestic industry has reported numerous instances in which the prices of subject imports were well below U.S. producers' costs, resulting in [value] of lost sales and revenue for the domestic industry during the POI.

The negative impact that the large volume of unfairly-traded subject imports had on U.S. producers is evident from the domestic industry's plummeting financial performance during the POI. Virtually all of the domestic industry's trade and financial indicia declined during the POI, as subject imports surged into the market, undersold domestic producers by substantial margins, and depressed and suppressed U.S. prices. The causal link between subject imports and the domestic industry's deteriorating performance is corroborated by the [value] of sales and revenue lost due to low-priced subject imports. With a loss in sales and market share and downward pressure on pricing, the available data show that the domestic industry's operating income fell by [ ] percent and net income fell by [ ] percent between 2015 and 2017.[15] The deterioration of the domestic industry's performance continued in the first half of 2018, with U.S.

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[15] The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**, are based on data provided by [narrative]. These [narrative].

producers' net income margin remaining below the already low levels experienced in 2015 and 2016, and sales and production on track to remain far below 2015 and 2016 levels.[16] Thus, the domestic industry has suffered, and continues to suffer, material injury by reason of subject imports.

Subject imports also threaten the domestic industry with further material injury. Significant volumes of low-priced subject imports adversely affected the domestic industry during the POI, resulting in domestic producers operating at unsustainably low margins and leaving the industry highly vulnerable to additional injury. The significant increase in subject imports during the POI demonstrates subject producers' ability to enter the U.S. market quickly and in large quantities. Additionally, significant underselling by subject imports and the resulting loss of massive volumes of sales by U.S. producers demonstrate the negative price effects of subject imports on the U.S. market. Moreover, subject producers have the capacity and ability to further increase exports to the United States, and market conditions—namely the global oversupply of steel and the imposition of duties on upstream products—will encourage subject producers to do so. Given these factors, subject imports will cause additional injury to the domestic industry.

B. The Domestic Like Product Consists of FSS Covered by the Scope

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of subject imports, the Commission first defines the domestic like product.[17] The "domestic like product" is defined as "a product which is like, or in the absence

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16 *Id.*

17 *See NEC Corp. v. Dep't Commerce*, 36 F. Supp. 2d 380, 382 (Ct. Int'l Trade 1998).

of like, most similar in characteristics and uses with, the article subject to an investigation . . .."[18] In an investigation, the like product determination is a factual one made on a case-by-case basis.[19] In making this determination, the Commission generally considers the following factors: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price.[20] In evaluating these factors, the Commission looks for clear dividing lines and disregards minor variations.[21]

The Commission should find that there is a single domestic like product co-extensive with the scope. In particular, the Commission should find that fabricated structural steel used for bridges and bridge sections, which is expressly excluded from the scope, is not included in the domestic like product. In this regard, Petitioner notes that, in the prior investigation regarding fabricated structural steel, the Commission found that fabricated structural steel for bridges was not included in the domestic like product covering fabricated structural steel for buildings.[22] In that proceeding, the Commission explained that "the record supported a finding that FSS for bridges differs from FSS for buildings with regard to weight and size, use, and customer and producer perceptions and to some extent the materials from which it is made. In addition, the two kinds of FSS are generally produced in different facilities."[23] In the subject proceeding, the

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18 19 U.S.C. § 1677(10).

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

20 *See Cleo Inc. v. United States*, 501 F.3d 1292 (Fed. Cir. 2007).

21 *Id.* at 1292, 1295.

22 *See* USITC Pub. 2062 at 5-6, excerpts attached as **Exhibit I-5**.

23 *Id.*

Commission should again make this determination, *i.e.*, that the domestic like product is coextensive with the scope and does not include fabricated structural steel used for bridges and bridge sections.

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

Section 771(7)(4) of the Act defines the domestic industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[24] The Commission should find that there is a single domestic industry composed of entities producing FSS. In this regard, Petitioner notes that, to the extent a company performs erection or other on-site services, such services should not be considered the production of FSS. As discussed above, the merchandise is shipped to the job site for eventual erection after FSS components have been manufactured. Thus, erection companies should not be included in the domestic industry as they do not manufacture the domestic like product, but instead assemble it after it has been produced.

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

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

(1) the volume of imports of the subject merchandise;

(2) the effect of imports of that merchandise on prices in the United States for domestic like products, and

(3) the impact of imports of such merchandise on domestic producers of domestic like products.[25]

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24 19 U.S.C. § 1677(4)(A).

25 *Id.* § 1677(7)(B).

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

1. All Subject Imports Should Be Cumulated

For purposes of evaluating the volume and price effects for a material injury determination, 19 U.S.C. § 1677(7)(G)(i) requires the Commission to cumulate subject imports from all countries as to which petitions were filed on the same day, if such imports compete with each other and with the domestic like product in the U.S. market.[26] In assessing whether subject imports compete with each other and with the domestic like product, the Commission generally considers four factors:

(1) the degree of fungibility between subject imports from difference countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions;

(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[27]

While no single factor is necessarily determinative, and the list of factors is not exhaustive, these factors are intended to provide the Commission with a framework for

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[26] *Id.* § 1677(7)(G)(i). None of the exceptions to cumulation apply. *Id.* at § 1677(7)(G)(ii).

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

determining whether the subject imports compete with each other and with the domestic like product.[28] Only a "reasonable overlap" of competition is required.[29]

a. Imports from All Subject Countries Are Fungible

FSS are customized products produced for a specific project and, with few exceptions, no two projects are exactly alike. Accordingly, FSS manufactured for one project would not be interchangeable with FSS manufactured for another project, regardless of where the FSS was manufactured. Nonetheless, FSS from Canada, China, and Mexico are still fungible with each other and with the domestic like product. As an initial matter, all FSS consists of steel mill products that have been fabricated into articles suitable for erection or assembly into a structure. In addition, as discussed above, FSS is typically sold through a bidding process. During the POI, FSS producers in Canada, China, and Mexico, as well as in the United States, bid on many of the same projects. That bids were solicited from producers in the subject counties and in the United States for the same projects demonstrates that FSS produced in the subject countries and in the United States are fungible.[30]

b. All Subject Imports Compete in the Same Geographic Market

The record here will show that imports from each of the subject countries compete with imports from the other subject countries and with the domestic like product throughout the U.S.

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28 *See, e.g., Wieland Werke A.G. v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

29 Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, vol. I at 84 (1994) ("SAA") (stating that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition."); *see Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("{C}umulation does not require two products to be highly fungible"); *Wieland Werke A.G.*, 718 F. Supp. at 52 ("Completely overlapping markets are not required").

30 *See Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany and Japan*, Inv. Nos. 731-TA-736 and 737, USITC Pub. 2988 (Aug. 1996) (Final) at 26 ("The fact that purchasers solicited detailed initial bids from both German and Japanese producers as well as domestic

market. As is evident from the sales and revenue lost by the domestic industry, subject imports compete with each other and with the domestic like product across the United States. Indeed, subject imports often travel substantial distances after entering the United States to be delivered to a project site; thus, for example, FSS produced in Canada may enter the United States at the Canadian-U.S. border and then be transported to a site in Texas, and Mexican FSS may enter the United States at the Mexican-U.S. border and be transported to a site in New York. Moreover, official import statistics show that, during the POI, FSS imports from Canada, China, and Mexico entered the United States in ports throughout the United States, with imports from the subject countries overlapping at various ports of entry, further demonstrating that subject imports compete in the same geographic markets.[31]

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

Subject imports from each subject country and the domestic like product are sold through the same channels of distribution. The vast majority of FSS, regardless of whether it is imported or manufactured in the United States, is sold through a bidding process. Through this process, a customer issues a request for proposal for a specific project, receives bids from various producers, and awards the bid to a particular producer. This bidding process is the same regardless of where the FSS is manufactured, and subject producers have competed with each other and with domestic producers of FSS for the same projects.

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producers . . . indicates to us that purchasers perceived a reasonable degree of fungibility among various producers' presses at the initial bid stage.").

[31] Official U.S. Import Statistics, attached as **Exhibit I-8.**

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

Information reasonably available to Petitioner demonstrates that Canadian, Chinese, and Mexican FSS were simultaneously present in the U.S. market throughout the POI. Specifically, official import statistics show that imports from each subject country entered the United States in every single month from January 2015 through October 2018 (the latest month for which data are available).[32]

e. Conclusion

Substantial quantities of FSS imports from Canada, China, and Mexico, as well as FSS produced in the United States, were present across the United States and throughout the POI. Most all FSS, regardless of where it is produced, is sold through a bidding process, and subject imports from each country compete with each other and with the domestic like product for the same bids. Thus, the record shows that subject imports from each country compete with each other and with the domestic like product. Therefore, the Commission should cumulate subject imports for purposes of its material injury analysis.

2. The Volume of Subject Imports Is Significant

a. Substantial and Increasing Volumes of Subject FSS Imports Are Entering the United States

During the POI, significant quantities of FSS imports from Canada, China, and Mexico entered the United States. Between 2015 and 2017, subject imports grew by 21 percent, increasing from 783,641 short tons to 949,578 short tons.[33] As a result, by 2017, subject imports

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32 *Id.*

33 *Id.*

captured 20 percent of the market.[34] This surge in imports has continued in 2018. From January through October of 2018 (the most recent import data available), subject imports reached 898,927 short tons, an increase of 11 percent compared to the same period in 2017.[35]

b. Subject Imports Have Gained Market Share at the Direct Expense of the Domestic Industry

Subject imports have also increased relative to consumption, capturing market share directly from the domestic industry. During the POI, while subject imports surged, apparent domestic consumption grew by only 7.9 percent.[36] As a result, subject imports were able to increase their already significant share of the market, growing from 18.5 percent in 2015 to 20.4 percent in 2017.[37] This increase came at the direct expense of the domestic industry, which saw its market share decrease by a corresponding amount during the POI.

These data establish that the volume of subject imports and the increase in imports was significant both absolutely and on a relative basis.[38]

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34 Market Share Analysis, attached as **Exhibit I-3**.

35 Official U.S. Import Statistics, attached as **Exhibit I-8**.

36 Market Share Analysis, attached as **Exhibit I-3**.

37 *Id.*

38 *See, e.g., 1, 1, 2—Tetrafluoroethane (R-134a) from China*, Inv. No. 731-TA-1313, USITC Pub. 4679 (Apr. 2017) (Final) at 14 (finding the volume of and increase in subject imports significant absolutely and relative to consumption where subject imports' market share increased from 19.3% to 21.9%); *Stainless Steel Sheet and Strip from China*, Inv. Nos. 701-TA-557 and 731-TA-1312, USITC Pub. 4676 (Mar. 2017) (Final) at 15-16 (finding the volume of and increase in subject imports significant in absolutely and relative to consumption where such imports captured 3.3% to 7.4% of the market); *Common Alloy Aluminum Sheet from China*, Inv. Nos. 701-TA-591 and 731-TA-1399 (Preliminary), USITC Pub. 4757 (Jan. 2018) (Prelim.) at 20-21 (finding the volume of and increase in subject imports significant absolutely and relative to consumption where market share increased from 11.0% to 15.3%); *Heavy Walled Rectangular Welded Carbon Steel Pipe and Tubes from Korea, Mexico, and Turkey*, Inv. Nos. 701-TA-539 and 731-TA-1280-1282, USITC Pub. 4633 (Sept. 2016) (Final) at 21 (finding the volume of subject imports significant where subject imports' market share ranged from 8.1 percent to 10.7 percent).

c. All Imports Are Non-Negligible

The Commission will consider imports from a subject country to be negligible if they account for less than three percent of total imports of the merchandise under consideration, or four percent for developing countries subject to a countervailing duty investigation.[39] The Commission may make its determination using "reasonable estimates on the basis of available statistics."[40] The Commission may rely on official import statistics, questionnaire data, or some combination of sources.[41] In assessing negligibility, the Commission will examine "the most recent 12-month period for which data are available that precedes the filing of the petition."[42] The most recent 12-month period for which data are available is November 2017 through October 2018. As shown in **Table 2**, the official import data establishes that, during this period, imports from each subject country exceeded the negligibility threshold.

TABLE 2
U.S. Imports Of FSS From November 2017 – October 2018[43]

	Quantity (Short Tons)	% of Total
Canada	255,866	20.1%
China	481,887	37.9%
Mexico	300,680	23.6%
All Others	234,453	18.4%
Total	1,272,886	100%

39 19 U.S.C. §§ 1677(24)(A)(i), (B).

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

41 *See, e.g., Certain Cold-Rolled Steel Products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand*, Inv. Nos. 701-TA-393 and 731-TA-829-830, 833-834, 836, and 838, USITC Pub. 3283 (Mar. 2000) (Final) at 8.

42 19 U.S.C. § 1677(24)(A)(i).

43 Official U.S. Import Statistics, attached as **Exhibit I-8**.

3. The Price Effects of Subject Imports Is Significant

Dumped and subsidized FSS imports have had significant negative price effects on the domestic industry. Throughout the POI, subject producers undersold the domestic like product by large margins, forcing domestic manufacturers to lower their sales prices, lose sales, or both. This aggressive pricing by subject producers is particularly harmful given the nature of the FSS industry. Demand for FSS is based on the existence of new projects that require FSS. The vast majority of FSS is sold through a bidding process, through which a customer issues a request for proposal for a specific project.[44] The customer will receive bids from various FSS producers, frequently engage in negotiations resulting in new bids, and award the bid to a particular company.

During this process, price is the primary factor considered by customers in determining to whom a bid is awarded.[45] So long as a bid meets the customer's technical requirements, a customer will typically select the lowest-priced bid.[46] Price plays such an important role, in fact, that there have been instances where a U.S. producer has been awarded a bid only for it to be later pulled back because a subject producer has subsequently offered an even lower price.

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[44] *See Structural Steel: An Industry Overview*, American Institute of Steel Construction (Oct. 2017), at 6, attached as **Exhibit I-11**; USITC Pub. 2062 at A-35, excerpt attached as **Exhibit I-5**.

[45] *See Conditions of Competition Between Certain Domestic and Imported Fabricated Structural Steel Products*, Inv. No. 332-181, USITC Pub. 1601 (Nov. 1984) at xiv (highlighting the "price advantage of imports as the principal determinant of overall competitive advantage in the U.S. market" and noting that "U.S. purchasers cited price as the foremost factor in electing to import foreign fabricated steel"), excerpt attached as **Exhibit I-12**.

[46] *See Dumping and Subsidizing, Finding and Reasons, Inquiry No. NQ-2016-004 Certain Fabricated Industrial Steel Components*, Canadian International Trade Tribunal (June 9, 2017) at 17 (noting that a majority of responding purchasers identified price as "very important" and finding "generally that, as {FSS} is typically purchased as part of a competitive RFQ process, price is determinative in deciding among bids that are technically compliant"), excerpts attached as **Exhibit I-13**; *cf. Large Power Transformers from Korea*, Inv. No. 731-TA-1189, USITC Pub. 4346 (Aug. 2012) (Final) at II-15 (identifying price/cost as the second most important factor behind "meeting specifications" and noting that price/cost was one of the most commonly cited top factors in purchasing decisions).

Throughout the bidding process, purchasers will also use competing subject import prices to leverage U.S. producers' prices down.

Thus, demand for FSS relies on the existence of new projects and new bids. Additionally, demand for FSS is highly inelastic, such that changes in price are not likely to substantially change demand for FSS in the short-term. As such, a project awarded to a subject producer, in part or in full, typically means a sale lost by a domestic producer, and if a domestic producer loses a bid, it will not have an opportunity to make another sale until a new request for proposal is issued. Additionally, many projects can be quite large; a single project can provide work for an entire facility and its employees for a year or more. Thus, losing even a single project, or even part of a project, to unfairly traded imports has an immense effect on a company's profitability and employment,[47] and it may be months before another opportunity to place a bid arises. Moreover, if a U.S. producer loses a project to dumped and subsidized imports, that producer may be forced to bid on another project that it would not have otherwise bid on and, as a result, cause another U.S. producer to lose a project. Adverse price effects would likewise be transmitted throughout the market. Thus, the loss of a project to unfairly traded imports is felt throughout the industry.

a. Subject Imports Are Underselling the Domestic Like Product

During the POI, subject producers undersold domestic fabricators by significant margins. This is evident from numerous bids placed throughout the POI in which domestic producers were forced to lower their offered prices to meet those of subject producers or, more frequently, were

[47] *See Dumping and Subsidizing, Finding and Reasons, Inquiry No. NQ-2016-004 Certain Fabricated Industrial Steel Components*, Canadian International Trade Tribunal (June 9, 2017) at 17, excerpts attached as **Exhibit I-13**.

simply unable to match Canadian, Chinese, and Mexican fabricators' prices and lost the sale.[48]

For example:

- Domestic fabricator [Company] explained with respect to its bid on the [narrative]—a project that was ultimately awarded to a Chinese company—"[narrative]."[49]
- With respect to a [narrative], which was awarded to a Chinese company, U.S. producer [Company] explained that "[narrative]."[50]
- A recent project, the [narrative], was awarded to a Canadian fabricator whose bid was approximately [narrative], below that of U.S. fabricator [Company].[51]
- U.S. producer [Company] reported losing the [narrative] project to a Canadian fabricator whose bid was almost [narrative] below the domestic fabricator's price.[52]
- [Company] reported that, in bidding on a [narrative], the winning company, a Mexican fabricator, bid at approximately [narrative].[53]

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48 While the Commission typically relies on pricing products to undertake its price effects analysis, in industries such as the FSS industry, where products are custom-built, and sales are based on a bidding process, the Commission has also considered bid information in its analysis. *See, e.g.*, USITC Pub. 4346 at 18; USITC Pub. 2988 at 29-31.

49 [Source], attached as **Exhibit I-14**.

50 [Source], attached as **Exhibit I-15**.

51 Lost Sales and Revenue Data, attached as **Exhibit I-16**. Pursuant to 19 C.F.R. § 207.11(b)(2)(v), Petitioner has provided information on lost sales and lost revenue that is reasonably available to it. This information is also being submitted electronically as required by the Commission's regulations.

52 Lost Sales and Revenue Data, attached as **Exhibit I-16**.

53 *Id.*

These experiences are not unique. Indeed, numerous other domestic fabricators report being underbid by subject producers by significant amounts.[54] This is evident from the massive volume—more than [value]—of sales and revenue lost due to lower priced offerings from subject producers from 2015 through the first three quarters of 2018.[55]

b. Low-Priced Subject FSS Imports Force Domestic Producers to Lower Prices

Due to significant underselling by subject producers during the POI, the domestic industry was forced to reduce its prices to compete with subject imports. The domestic industry reports numerous instances of being forced to lower bids in the face of subject import competition in order to win projects during the POI.[56] The price depressing and suppressing effects of subject imports are shown by the decline in the domestic industry's unit gross profit during the POI, as domestic producers were forced to lower prices to compete with subject imports.[57] However, even where a domestic producer lowered its bid price, subject producers were frequently still able to capture the sale by dropping prices even further. Moreover, as tariffs under Section 232 and Section 301 increase the price of inputs, it will become even more difficult for U.S. producers to lower prices to compete with subject imports.

The price depressing and suppressing effects of subject imports are also evidenced by the downward trend of subject imports' and, consequently, U.S. fabricators' average unit values. During the POI, as the average unit value of subject imports declined,[58] the domestic industry

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54 *Id.*

55 *Id.*

56 *Id.*

57 The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**.

58 Official U.S. Import Statistics, attached as **Exhibit I-8**.

was forced to likewise decrease prices. However, despite the fact that the average unit value of FSS sold by domestic fabricators for whom data were collected declined by [ ] percent from 2015 to 2017, subject imports' average unit values remained well below domestic industry prices throughout the POI.[59]

c. Identification of Products for Which Petitioner Requests Collection of Price Data (19 C.F.R. § 207.11(b)(2)(iv))

As discussed above, most all FSS is custom-made for a specific project that is awarded through a bid process. Petitioner recognizes that, in certain prior proceedings addressing custom-built products sold through a bidding process, the Commission has collected data on bid prices instead of traditional "pricing products."[60] Given the nature of FSS, as well as the bidding process, bid price data and traditional pricing products data both present certain limitations. However, Petitioner believes that the way in which certain FSS is sold may allow for a usable pricing product analysis. In addition, there are challenges to obtaining the requisite information for a proper comparison of bid prices, particularly given the time constraints of the preliminary investigation. Accordingly, for the purposes of the preliminary investigation, Petitioner requests that the Commission collect pricing data on the following products for the preliminary phase of the investigation:

> ***Product 1.***—Fabricated light structural,[1] Grade 50, 0-19 lbs. per linear foot, sold for industrial[2] projects.

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59 *Id.*; The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**.

60 *See, e.g., Large Power Transformer from Korea*, Inv. No. 731-TA-1189, USITC Pub. 4256 (Sept. 2011) (Prelim.) at 16, V-2 (explaining that the Commission's "conventional approach to pricing analysis" was not useful in the investigation given the custom nature of the products and the manner through which they are sold and therefore requesting that U.S. producers and importers provide data on their largest bids during the POI); USITC Pub. 2988 at 29.

Product 2. —Fabricated medium structural,[1] Grade 50, 20-119 lbs. per linear foot, sold for industrial[2] projects.

Product 3. —Fabricated extra heavy structural,[1] Grade 50, 120 lbs. or greater per linear foot, sold for industrial[2] projects.

Product 4.—Fabricated structural steel[3] sold for schools, libraries, labs, and hospitals, 2-4 stories.

Product 5.—Fabricated structural steel[3] sold for office buildings, multi-family residential buildings, and mixed-use buildings, 5-19 stories.

Product 6.—Fabricated structural steel[3] sold for office buildings, multi-family residential buildings, and mixed-use buildings, 20 stories and greater.

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[1] The term "structural" includes beams, columns, and vertical bracing.

[2] The term "industrial project" includes electric power facilities; oil, gas, and refined products production, processing and storage facilities; alternative fuels facilities; petroleum refining facilities; chemical processing facilities; and metals and minerals processing facilities.

[3] The term "fabricated structural steel" includes the merchandise defined in the scope of this investigation and does not include merchandise excluded from the scope.

4. The Subject Imports Have Had a Negative Impact on the Domestic Industry

The domestic industry has suffered material injury by reason of subject imports, as demonstrated by the massive volume of sales lost to subject imports, lost revenue, and depressed and suppressed U.S. prices. Subject imports have undersold domestically produced FSS, resulting in price depression and suppression, significant lost sales, and financial deterioration, as evidenced by the domestic industry's inadequate net and operating income margins that declined significantly over the POI. These data, as described in more detail below, demonstrate the causal link between the unfairly traded subject imports and the material injury being suffered by the domestic industry and show that the domestic industry would have been substantially better off but for competition from unfairly traded imports.

a. The Domestic Industry's Production, Capacity Utilization, and Shipments Declined Due to Unfair Import Competition

As reviewed above, during the POI, subject imports entered the United States in massive and increasing volumes, despite only limited growth in apparent domestic consumption. As a result of this surge of unfairly traded imports, the domestic industry's production and shipments suffered significantly.[61] But for the competition from large volumes of unfairly traded subject imports, the domestic industry would have been able to produce and sell substantially greater quantities of the domestic like product. This can be seen from the data collected from a sample of U.S. producers, which show a significant decline in production and U.S. shipments from 2015 to 2017, and production and shipments remained low in the first half of 2018.[62] Additionally, as a result of stifled sales and production, capacity utilization for the U.S. producers for whom data were collected dropped from an already low [ ] percent in 2015 to an anemic [ ] percent in 2017 and remained critically low at only [ ] percent in the first half of 2018.[63] In the absence of competition from unfairly traded subject imports, the domestic industry could have increased production and operated at a substantially higher capacity utilization rate.

Notably the domestic industry has significant excess capacity that could be used to serve the U.S. market. "In fact, there is enough capacity to meet any increase in demand that results from additional investment in infrastructure projects and projected increases in private construction activity."[64] However, due to the large volumes of low-priced subject imports

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61 The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**.

62 *Id.*

63 *Id.*

64 Testimony of Jeff Sterner, attached as **Exhibit I-17**.

entering the United States, the domestic industry is unable to utilize its full potential and has been forced to allow substantial capacity to remain idle.

b. Unfair Import Competition Has Caused the Domestic Industry's Financial Performance to Plummet

The financial performance of the domestic industry has also deteriorated as a result of competition with unfairly traded FSS imports. The significant presence of unfairly traded imports throughout the POI placed the domestic industry in the untenable position of losing sales to low-priced imports or lowering prices (and sacrificing profits) to maintain sales. The injury to the domestic industry caused by this choice is evident from its poor financial performance during the POI.[65] Notably, the data collected from a sample of domestic producers show a significant decline in sales value, reflecting both the decline in sales quantity and price depression experienced during the POI.[66] Indeed, the increasing volume of low-priced subject imports that undercut the domestic industry's prices and took sales from U.S. producers resulted in steep declines in operating and net income. The data collected from a sample of U.S. producers show that, from 2015 to 2017, operating income dropped by [ ] percent and its net income dropped by [ ] percent.[67] Operating and net income margins likewise declined over the POI, such that the domestic industry's already low margins were at unsustainable levels by 2017.[68]

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65 *See* USITC Pub. 4633 at 29 (finding material injury where the domestic industry cut prices to retain market share, resulting in a decline in revenues); *Steel Concrete Reinforcing Bar from Japan and Turkey*, Inv. Nos. 701-TA-564 and 731-TA-1338 and 1340, USITC Pub. 4705 (July 2017) (Final) at 26 (noting that the domestic industry decreased prices to maintain market share and finding that "{a}s a result of the significant volume of low prices subject imports, the domestic industry's output and revenues were lower than they would have been otherwise").

66 The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**.

67 *Id.*

68 *Id.*

The domestic industry continued to experience poor financial performance in the first half of 2018. Notably, in the first half of 2018, the domestic industry's operating margins remained far below the already low operating margins experienced in 2015 and 2016. Moreover, in interim 2018, numerous domestic producers experienced [Trend] net and operating income and/or [Trend]. In addition, domestic producers have been forced to shutter FSS operations as a result of competition with unfairly traded FSS imports. For example, in [Company] announced that it was closing [narrative]. Likewise, [narrative]. This deterioration in the domestic industry's financial performance was the result of increased volumes of unfairly traded subject imports.

c. The Sales and Revenues Lost to Unfairly Priced Subject Imports Are Massive

The decline in the domestic industry's sales, market share, and production is a result of unfairly traded subject imports, as confirmed by the massive volume of sales and revenue lost by domestic fabricators to subject producers because of price. During the POI, the domestic industry lost more than [#] sales to subject imports and were forced to lower their bid prices for multiple other projects because of unfairly traded imports. As a result, the domestic industry experienced [value] in lost sales and revenues.[69] Between 2015 and the first three quarters of 2018, the U.S. producers from whom data were collected lost at least [value] in sales and revenue as a result of unfairly traded FSS from Canada, China, and Mexico.[70] The lost sales represent projects totaling [#] short tons, which could have supported more than

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69 Lost Sales and Revenue Data, attached as **Exhibit I-16**.

70 *Id.*

[✂] U.S. jobs,[71] and which were lost because of unfairly traded subject imports. Losses of such magnitude negatively affected the domestic industry, as can be seen in the decline in the domestic industry's production, employment, and operating and net income margins. These lost sales likewise have significant long-term effects on the domestic industry's trade and financial performance, including capacity utilization. As FSS producers will only bid on projects for which they have capacity, a lost sale results in capacity that will go unused, potentially for a significant amount of time, depending on when a producer is able to next win a bid. And the effect of these substantial lost sales and lost revenues have likely not been fully felt by the domestic industry yet. There is often a significant lag (anywhere from several months to several years) between when a project is bid, when the project begins (*i.e.*, when imports would begin to enter the United States), and when a project is completed; thus, the full price and volume effects of bids lost during the POI are not yet reflected in the domestic industry's financial performance or employment data.[72]

Not only is the sheer volume of sales lost to subject imports significant, but even a single project, or even part of a project, lost to unfair competition can have a significant negative effect on the domestic industry and its workers for an extended period. For example, for one of the Hudson Yards projects in New York City, U.S. fabricators submitted bids, but a subject

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[71] Total jobs is based on AISC's estimate that one American job is created for every 45 short tons of structural steel that is produced, fabricated, and erected in the United States. *Made in America Structural Steel is Produced and Fabricated in America*, American Institute of Steel Construction, https://www.aisc.org/why-steel/made-in-america/, attached as **Exhibit I-18**.

[72] *See, e.g.*, USITC Pub. 2988 at 17 ("{A}fter finalization of the sales contract, there is generally a lengthy production and delivery period. Completion and installation of an LNPP or press addition can take from several months to three years after execution of the sales contract. Thus, there can be a substantial lag between award of a sales contract and shipments of the merchandise to be delivered thereunder. Similarly, because payment on the contract is made in installments over the life of the production process, the full financial impact of a sale (or its loss) is often not reflected in a producer's financial records for two or more years after the date of the sale.").

fabricator was ultimately awarded part of the project by providing a bid far below what domestic fabricators could offer; in fact, the winning bid was approximately $100 million below U.S. producers' bids.[73] There is simply no way for domestic fabricators to compete with such drastically low prices. As a result of the subject producer's bid on the Hudson Yards project, the domestic industry lost a project for 3.6 million square feet of commercial construction, which would have supported 1.3 million man hours of production.[74] To put that in perspective, this single project could have supported more than 600 American workers, full time for an entire year.

Moreover, there are numerous projects for which domestic producers either did not place a bid or were not permitted to place a bid due to competition from subject imports. Many purchasers will not even request a proposal from U.S. fabricators, because the purchasers already know that the subject fabricators' bids will be far lower than what domestic producers could provide. During the POI, there were at least [narrative], for which the domestic industry did not place a bid (or were precluded from bidding) given their inability to compete with unfairly traded subject imports.[75] These projects likewise represent sales that the domestic industry could have captured in the absence of unfair trade competition,

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[73] [narrative], attached as **Exhibit I-19**.

[74] *Id.*

[75] Lost Sales and Revenue Data, attached as **Exhibit I-16**. The projects for which no bids were made largely took place toward the latter portion of the POI, as substantial volumes of increasingly low-priced subject imports entered the U.S. market.

making the already substantial lost sales and revenues figures even higher[76] and adversely impacting the domestic industry.

d. Subject Imports Have Severely Harmed American Workers

In light of the adverse effects on the domestic industry's sales and production, the domestic industry's employees were negatively impacted during the POI as well. As the production of FSS is highly labor-intensive, suppressed production greatly affected hours worked.[77] Between 2015 and 2017, and continuing into the interim period, the number of workers, hours worked, and wages paid suffered and would have been much higher in the absence of competition from unfairly traded imports.[78] Moreover, the jobs affected by the domestic industry's decline extends beyond domestic fabricators' production related workers. In fact, Petitioner estimates that one American job is created for every 45 short tons of structural steel that is produced, fabricated, and erected in the United States;[79] this means that in 2017 more than [~~##~~] jobs were supported as a result of domestic fabrication. These jobs are increasingly at risk due to subject import competition. Indeed, had the domestic industry not lost substantial sales due to underselling by unfairly traded subject imports, the domestic industry could have supported more than [~~##~~] additional jobs. Without relief, the domestic industry

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[76] These projects likely would have resulted in [value] of additional revenue for the domestic industry. While value information for the projects are not available, as no bid was made, relying on the lowest average unit value for the domestic industry during the POI [no correction].

[77] AISC estimates that 15 to 30 hours of shop time are required for every short ton of fabricated structural steel. *Structural Steel: An Industry Overview*, American Institute of Steel Construction (Oct. 2017), at 4, attached as **Exhibit I-20**.

[78] The Domestic Industry's Trade and Financial Data, attached as **Exhibit I-10**.

[79] *Made in America Structural Steel is Produced and Fabricated in America*, American Institute of Steel Construction, https://www.aisc.org/why-steel/made-in-america/, attached as **Exhibit I-18**.

will lose additional sales, production will continue to drop, and an increasing number of American jobs will be jeopardized.

e. Conclusion

The data provided herein demonstrate material injury to the domestic industry by reason of dumped and subsidized subject imports. During the POI, subject imports surged into the U.S. market, increasing by more than 20 percent despite an increase in apparent domestic consumption of only 7.9 percent. This significant increase in the volume of subject imports resulted in subject producers growing their market share at the direct expense of the domestic industry. Subject imports did so using aggressive and unfair pricing, which had significant negative price effects on U.S. producers and the U.S. market overall. Dumped and subsidized subject imports undersold domestically-produced FSS by substantial margins, forcing domestic producers to lower prices, lose sales, or both. Consequently, domestic producers experienced massive volumes of lost sales and lost revenues during the POI.

Competition from unfairly traded subject imports forced the domestic industry to either lose sales or sacrifice profit to maintain sales; as a result, the domestic industry's production, capacity, and employees were all adversely impacted. By 2017, the domestic industry's income had plummeted, and U.S. producers were operating at unsustainably low margins. The deterioration in the U.S. industry's performance has continued in the first half of 2018, with capacity utilization remaining abysmal, operating margins remaining well below 2015 and 2016 levels, and production and sales well below what they would have been in the absence of competition from unfairly traded imports. Thus, the domestic industry has been materially injured by reason of subject imports during the POI.

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

The above discussion establishes that the subject imports have caused material injury to the domestic FSS industry. In addition, evidence available to Petitioner demonstrates that the subject imports also threaten the domestic industry with further material injury. In assessing threat, the Commission should cumulate imports from all subject countries.

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

In evaluating threat of material injury, the Commission may cumulatively assess the volume and price effects of imports of subject merchandise from all countries with respect to which the petitions were filed on the same day "if such imports compete with each other and with domestic like products in the United States market."[80] As these Petitions cover all subject countries, the first requirement is met. And, as discussed above, subject imports all compete with each other and with the domestic like product in the U.S. market. Thus, the statutory requirements for cumulation in a threat investigation have been satisfied.

2. Subject Imports Threaten Domestic Producers with Additional Material Injury

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

- A significant rate of increase in the volume or market penetration of imports of the subject merchandise;
- Price effects of the subject imports;
- The nature of any countervailable subsidies;

[80] 19 U.S.C. § 1677(7)(G).

- Existing unused production capacity or potential increases in production capacity in the exporting country;
- Inventories of the subject merchandise; and
- The potential for product-shifting.[81]

In addition, because some bids have been recently awarded to producers in the subject countries, the Commission can identify specific amounts of FSS likely to enter the United States in the near future. These factors support an affirmative threat determination. Therefore, the Commission should find that the domestic FSS industry is vulnerable and that subject imports threaten the domestic industry with material injury.

a. The Domestic FSS Industry Is Vulnerable to Material Injury from Subject Imports

During the POI, substantial volumes of low-priced subject imports entered the United States and captured sales and market share from the domestic industry. As a direct result of competition with unfairly traded subject imports, the domestic industry's trade and financial indicators were adversely impacted. Notably, data collected from a sample of U.S. producers show that the domestic industry is operating at only [ ] percent capacity utilization as of the first half of 2018 and had unsustainably low operating margins. Consequently, the domestic industry has been left in a weakened state and is extremely vulnerable to further material injury from additional volumes of unfairly traded subject imports.

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[81] *Id.* § 1677(7)(F)(i).

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

There has been a substantial increase in both the volume and market share of subject imports over the POI.[82] As discussed above, the volume of subject imports increased significantly during the POI, growing by more than 20 percent and significantly outpacing the growth in apparent domestic consumption.[83] This surge of subject imports is continuing, with the volume of subject imports from January through October of 2018 increasing 11 percent compared to the same period in 2017.[84] Additionally, because of the lag between when a project may be awarded and when the FSS for that project actually enters the United States, all or some of the FSS for projects awarded in 2018 and 2017 (and possibly even 2016) may not yet have been imported. For example, the domestic industry has identified lost sales in the first three quarters of 2018 for projects totaling [tons], and it is likely that much of the FSS associated with these projects has not yet entered the United States.[85]

c. Subject Imports Have Demonstrable Adverse Price Effects That Are Likely to Continue

As discussed above, subject imports have had significant price depressing and suppressing effects.[86] During the POI, subject FSS substantially undersold domestically

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82 *Id.* § 1677(F)(i)(III) (stating that "a significant rate of increase of the volume or market penetration of imports of the subject merchandise" shall be considered in determining whether the domestic industry is threatened with material injury from subject imports).

83 Market Share Analysis, attached as **Exhibit I-3**.

84 Official U.S. Import Statistics, attached as **Exhibit I-8**.

85 Lost Sales & Revenue Data, attached as **Exhibit I-16**.

86 19 U.S.C. § 1677(7)(F)(i)(IV) (stating that, in determining whether the domestic industry is threatened with material injury, "whether imports of subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports" should be considered).

produced FSS, forcing domestic producers to lower prices and lose sales. Given that subject imports have continued to enter the United States in large volumes and at prices well below those of domestically produced FSS, it is likely that domestic producers' prices will continue to decline without relief. Thus, subject imports' adverse price effects indicate that the domestic industry is further threatened with additional material injury.

d. Subject Producers Have Substantial Capacity That Can Be Directed at the United States

Subject producers' capacity to produce significant volumes of FSS, as well as the ability to export additional volumes and target them at the United States, indicate that the domestic industry is threatened with further injury.[87] Information reasonably available indicates that the subject countries have substantial capacity to produce FSS. There are over 130 AISC-certified steel fabricators in Canada, China, and Mexico.[88] However, there appear to be significantly more steel fabricators in the subject countries; in fact, it is estimated that, in 2016, there were approximately 8,644 entities in the Chinese metal fabrication industry—a majority of which are believed to be steel fabricators.[89] The subject countries also have significant capacity to produce upstream goods. For example, in 2015, the subject countries produced over 16 million short tons of heavy sections and over 200 million short tons of plate.[90] Moreover, given the massive global excess steel capacity, particularly with respect to China, subject FSS producers undoubtedly have

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87 *Id.* § 1677(7)(F)(i)(II) (explaining that "any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports" should be considered in examining the threat of material injury).

88 AISC Certified Company Data, attached as **Exhibit I-20**.

89 *See Analysis of Australia's Steel Manufacturing and Fabricating Markets Report to the Commissioner of the Anti-dumping Commission*, Australian Government Department of Industry, Innovation and Science, Antidumping Commission (Nov. 2017) at 34, excerpts attached as **Exhibit I-21**.

access to enormous additional volumes of upstream merchandise for fabrication. The substantial availability of upstream goods provides subject producers with the ability to greatly increase production of FSS.

Information reasonably available also indicates that subject producers are likely to substantially increase production and exportation of FSS. Specifically, global steel excess capacity coupled with duties that have been placed on upstream merchandise provide a significant incentive for subject producers to further increase exports to the United States.[91] This will only accelerate as additional tariffs on steel mill products have been imposed under Section 232 of the Trade Expansion Act of 1962 and under Section 301 of the Trade Act of 1974.[92] Similarly, Chinese producers of mill products will have an increased incentive to ship goods to other export markets — such as Canada and Mexico — and enable producers of downstream products in these countries to manufacture increasing volumes of low-priced FSS, which will then be targeted at the United States. Accordingly, subject producers have both the ability and incentive to increase exports of FSS to the United States, threatening the domestic industry with further injury.

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90 *Steel Statistical Yearbook 2018*, World Steel Association at Table 15 & Table 20, excerpts attached as **Exhibit I-22**.

91 *See Analysis of Australia's Steel Manufacturing and Fabricating Markets Report to the Commissioner of the Anti-dumping Commission*, Australian Government Department of Industry, Innovation and Science, Antidumping Commission (Nov. 2017) at 6 ("The demand/production imbalance for primary steel can flow through into the steel fabrication market and lead to imbalance in the steel fabrication industry. In addition, the primary steel demand/production imbalance may create distortions in markets for steel fabricated products as a result of responses by some exporters to trade remedies on primary steel products that are being dumped or subsidised."), excerpts attached as **Exhibit I-21**.

92 *See id.* (noting a finding in Australia that "imports of some steel fabricated products had increased following the imposition of measures on the primary steel input to their production").

e. Subject Producers Received Significant Countervailable Subsidies

The subsidies received by subject producers provide additional evidence that the domestic industry is threatened with material injury.[93] The substantial subsidies provided by the Government of China to its steel industry and to encourage exports is well documented.[94] These include the provision of major inputs for less than adequate remuneration, tax reductions and exemptions, preferential loans, and grants.[95] The Canadian and Mexican Governments likewise provides numerous countervailable subsidies that are available to FSS producers and exporting entities, including preferential tax rates, grants, and export financing.[96] These subsidies encourage subject producers' exportation of significant volumes of merchandise and contribute to subject producers' ability to undersell domestically produced FSS by substantial margins.

III. CONCLUSION

The domestic FSS industry is currently experiencing material injury, and is threatened with further material injury, by reason of unfairly traded imports from Canada, China, and Mexico. Between 2015 and 2017, and throughout 2018, subject imports surged into the United States and captured market share at the direct expense of the domestic industry. Subject producers entered the U.S. market in such large and increasing quantities by offering unfair prices well below those of domestically produced FSS, forcing domestic producers to lower

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93 19 U.S.C. § 1677(7)(F)(i)(I) (directing consideration of whether subject producers receive countervailable subsidies and the nature of such subsidies in making a determination of threat of material injury).

94 *See, e.g.*, Issues and Decision Memorandum accompanying *Certain Carbon and Alloy Steel Cut-to-Length Plate From the People's Republic of China*, 82 Fed. Reg. 8507 (Dep't Commerce Jan. 26, 2017) (final affirm. countervailing duty deter.) at 8-9.

95 *Id.*

96 *See* Volumes V & VI, *infra*.

prices and resulting in the domestic industry losing [value] of sales and revenue to lower-priced subject imports. The negative impact of this unfair subject import competition on the domestic industry is clear. During the POI, as subject imports increased and undersold domestically produced FSS, the domestic industry experienced declines in essentially all trade and financial indicia, including production, capacity utilization, sales, employment, and operating and net income.

Moreover, the significant volume of unfairly traded imports that entered the U.S. market during the POI has left the domestic industry in an extremely vulnerable state. As subject producers have the ability and the incentive to continue to send massive volumes of dumped and subsidized FSS imports to the United States, the domestic industry's performance will continue to deteriorate in the absence of trade relief. As such, relief from dumped and subsidized FSS imports from Canada, China, and Mexico is critical to the domestic industry and its workers.

Respectfully submitted,

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Dated: February 4, 2019

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
I-1	Petitioner's Contact Information	Public
I-2	List of U.S. Producers	BPI
I-3	Market Share Analysis	BPI
I-4	Standing Analysis	BPI
I-5	*Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) (excerpts)	Public
I-6	U.S. Harmonized Tariff Schedule (2018) (excerpts)	Public
I-7	List of Subject Producers and Exporters	Public
I-8	Official U.S. Import Statistics	Public
I-9	List of U.S. Importers	Public
I-10	Domestic Industry's Trade and Financial Data	BPI
I-11	*Structural Steel: An Industry Overview*, American Institute of Steel Construction (Oct. 2017) (excerpt)	Public
I-12	*Conditions of Competition Between Certain Domestic and Imported Fabricated Structural Steel Products*, Inv. No. 332-181, USITC Pub. 1601 (Nov. 1984) (excerpts)	Public
I-13	*Dumping and Subsidizing, Finding and Reasons, Inquiry No. NQ-2016-004 Certain Fabricated Industrial Steel Components*, Canadian International Trade Tribunal (June 9, 2017) (excerpts)	Public
I-14	[Source]	BPI
I-15	[Source]	BPI
I-16	Lost Sales and Revenue Data	BPI

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
I-17	Testimony of Jeff Sterner	Public
I-18	*Made in America Structural Steel is Produced and Fabricated in America*, American Institute of Steel Construction, https://www.aisc.org/why-steel/made-in-america/	Public
I-19	[Source]	BPI
I-20	AISC Certified Company Data	Public
I-21	*Analysis of Australia's Steel Manufacturing and Fabricating Markets Report to the Commissioner of the Anti-dumping Commission*, Australian Government Department of Industry, Innovation and Science, Antidumping Commission (Nov. 2017) (excerpts)	Public
I-22	*Steel Statistical Yearbook 2018*, World Steel Association (excerpts)	Public

PUBLIC VERSION

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USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 375
Investigation
AD/CVD Operations
Petitioner's Business Proprietary Information Removed from Pages 3-5, 7-14, 16, 20, Exhibit List, and Exhibits II-2, II-3, II-4, II-7, II-9, II-10, II-12B, II-13, and II-23 of this Volume
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INTERNATIONAL TRADE ADMINISTRATION OF THE
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AND THE
U.S. INTERNATIONAL TRADE COMMISSION

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

VOLUME II:
CANADA AD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM
CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

PETITIONER:

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I. INTRODUCTION

The application of the Department of Commerce's ("the Department") standard dumping methodology shows that producers and/or exporters in Canada sold, or offered for sale, certain fabricated structural steel ("structural steel" or "FSS") in the United States at less than normal value ("NV").

Petitioner used export price (hereinafter "EP") as the basis for U.S. price because Canadian producers and/or exporters of subject merchandise typically sell directly to unaffiliated purchasers located in the United States. Petitioner first computed the ex-factory export price for each transaction or offer ("ex-factory U.S. price" or "ex-factory EP") in U.S. Dollars by deducting from the quoted transaction prices the costs incident to delivering the merchandise to customers in the United States. Specifically, and where applicable, Petitioner deducted transportation charges from the Canadian manufacturing facilities to the Canadian ports of exportation, foreign brokerage and handling fees, U.S. domestic freight expenses, and U.S. brokerage and handling expenses.

For the reasons stated *infra*, Petitioner calculated the NV for Canadian producers based upon constructed value ("CV"), which includes the cost of materials and fabrication, overhead expenses, selling, general and administrative expenses, and expected profit levels.[1]

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[1] *See* 19 U.S.C. § 1677b(e) (2015). Petitioner notes that Section 505(a) of Trade Preferences Extension Act of 2015 eliminates the requirement that Petitioner provide information as to whether sales have been made at less than the cost of production. Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, § 505(a), 129 Stat. 362, 385-86, codified at 19 U.S.C. § 1677b(b)(2)(A)(ii) (2015). Petitioner requests that the Department conduct an investigation to assess whether Supermétal Structures Inc. ("Supermétal") or any other Canadian producer has made sales at less than the cost of production. *See, e.g., Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom*, 80 Fed. Reg. 54,261, 54,264 n.36 (Dep't Commerce Sept. 9, 2015) (initiation of less-than-fair-value investigations).

Petitioner next compared each ex-factory EP with the ex-factory NV for identical or similar merchandise. In making these comparisons, Petitioner converted the Canadian producer's NV to U.S. Dollars using the U.S. Dollar–Canadian Dollar exchange rate in effect during the period of investigation (October 1, 2017 through September 30, 2018) (the "POI").[2] Petitioner then subtracted the U.S. price from the ex-factory NV and divided the difference by the U.S. price for each observation to determine the dumping margin.

II. EXPORT PRICE

Canadian producers/exporters of FSS typically sell subject merchandise to project developers, to commercial and industrial erectors, and to construction companies. They may sell directly or through U.S. sales affiliates. For most commercial and industrial construction fabrication projects in the United States, a contracting party, typically a project developer, a commercial or industrial erector, or a construction company, will issue a general request for proposal ("RFP") or request for quotation ("RFQ") with the expectation that several producers of FSS will express an interest in placing a bid to undertake the work to be performed under the terms of RFP or RFQ.[3] During the bid process, prospective producers of FSS will submit to the contracting party their estimations of their expected fees that they seek to obtain from the contracting party when fulfilling the requirements of the project.[4] The contracting party will then

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[2] Given the nature of the FSS industry (*e.g.*, significant lag times between design, bid, build and actual entry of the imported good), the Department should consider an extended POI.

[3] *See Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) at A-35-A-38, excerpt attached as **Exhibit II-1**. Depending on the project in question and the scope of the work, FSS producers may be asked simply to produce and deliver subject merchandise. In other projects, FSS producers may be asked to not only produce and deliver subject merchandise, but also to serve as the company that is responsible for the assembly and erection the FSS components into a finished steel structure. *Id.*

[4] The pricing is typically quoted on a price for an entire "job" as opposed to a price per unit (net ton, kilogram, piece) basis. *See id.*

assess the merits of each proposed bid, will possibly eliminate certain bids, and will then undertake additional rounds of negotiations with the remaining FSS producers. These FSS producers will profer a best and final offer to the contracting party. From these final bids, the contracting party will award a contract to the company whose offer is the most appealing to the contracting party, which is typically based on price. The FSS producers that are not awarded a contract sometimes learn at least some information from the contracting party as to the reasons why a bid was not awarded, including which FSS producer was awarded a contract and how the winning bid related to their own.

Canadian and domestic producers of FSS compete for the same customers on a daily basis and are constantly involved in bid competitions against each other.

A. U.S. Price

Petitioner obtained the following quoted sales offer for FSS produced in and exported from Canada by a Canadian producer of FSS and offered for sale to a customer in the United States during the POI.[5]

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Offered Price (US$)
US-CA-01 [						$11,000,000]

Documents certifying the term of this recent sales offer are provided in **Exhibit II-2.**

The project in question represents a [Size] project that involves the fabrication of steel into FSS for eventual erection by a third party. In this project, the Canadian FSS producer would have been [Narrative

5 *See* Declaration of [Name], attached as **Exhibit II-2.**

]. Additionally, [narrative] Canadian producer to serve the company that is responsible for the erection services where the FSS is installed and erected to form a finish fabricated structure.[6]

B. Movement and Related Expenses

In order to calculate the ex-factory U.S. price for sales to the United States, Petitioner deducted the costs associated with exporting and delivering the product to customers in the United States from the quoted transaction price. These costs normally consist of movement expenses within Canada, foreign brokerage and handling fees, customs duties paid upon entry of the subject merchandise into the United States, U.S. brokerage and handling fees, and U.S. inland freight expenses, where applicable. The following sections describe the calculations performed to derive the ex-factory U.S. price. Petitioner's calculations of the ex-factory U.S. price are provided at **Exhibit II-3**.

Canadian imports of FSS are typically transported by truck or rail car from the manufacturing facilities to the border between Canada and the United States either in shipping containers (depending on the size of the constituent components) or in break-bulk form, and by the same or a different truck, or rail car, from the international border to the location of the U.S. customer's choosing. The exact method of transportation depends on the proximity of the Canadian production factory to the international border between Canada and the United States, the availability of rail or road lines in conjunction with the factory's location, and the location of

6 *See id.*

the U.S. customer's designated delivery location. The following narrative describes the adjustments made to the offered U.S. price.

1. **Country of Manufacture Expenses**

a. **Foreign Inland Freight**

Under normal circumstances, Petitioner would deduct country of manufacture movement expenses such as foreign inland freight (truck, rail, or barge), distribution warehouse expenses, brokerage and handling expenses, and port expenses from the quoted transaction price.

Petitioner obtained actual freight expenses that Canadian producers would have incurred in shipping subject merchandise from Canada to the United States. Specifically, Petitioner obtained from the U.S. International Trade Commission information relating to movement expenses incurred in the shipment of FSS from Canada through the [Location] during the POI.[7] Petitioner utilized [Location] customs district that would encompass the actual delivery location – [Location]. Petitioner subtracted the POI-wide reported "Customs, Insurance, and Freight" ("CIF") value from the reported "Customs" value to derive the insurance and freight expenses incurred by Canadian producers during the POI. Petitioner then divided the total value of the insurance and freight expense by the quantity shipped (in net tons) to the [Location] during the POI to yield a freight rate per net ton.[8] Petitioner multiplied the per ton freight rate by the total finished weight of the

7 *See* U.S. Imports for Consumption – Monthly Data for 2017-2018, attached as **Exhibit II-4.**

8 *See id.*

project to yield an overall country of manufacture freight expense, which Petitioner then deducted from the quoted/offered U.S. price.[9]

b. Brokerage and Handling

Petitioner calculated the country of manufacture brokerage and handling expenses that the Canadian FSS producer would incur in shipping subject merchandise to the United States.

Petitioner obtained information regarding Canadian brokerage and handling costs from the World Bank Group publication *Doing Business in Canada – 2018* ("*DBC 2018*").[10] The publication provides theoretical brokerage and handling rates based on the exportation and importation of goods by a customer located in Toronto, Ontario and using the border port of Buffalo as the chosen port of exportation.[11] Specifically, according to *DBC 2018*, exporters in Canada are likely to incur up to US$323.00 in brokerage and handling fees.[12] This rate was converted to a price per kilogram (and then price per metric ton and price per net ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in *DBC 2018* – 15 metric tons.[13] The cost per net ton was then subtracted from the offered U.S. price.[14]

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9 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit II-3.**

10 *See* World Bank Group, *Doing Business in Canada – 2018*, attached as **Exhibit II-5A.**

11 *Id.*; *see* Doing Business, *Trading Across Borders Methodology*, attached as **Exhibit II-5B.** As is discussed elsewhere in this submission, Petitioner believes that the nature of FSS is such that the utilization of a standard benchmark for freight expenses significantly understates the expenses associated with the transportation of FSS.

12 *See* World Bank Group, *Doing Business in Canada – 2018*, attached as **Exhibit II-5A.**

13 *See* Doing Business, *Trading Across Borders Methodology*, attached as **Exhibit II-5B**; *see also* Calculation of Foreign Brokerage and Handling - Canada, attached as **Exhibit II-6**; World Bank Group, *Doing Business in Canada – 2018*, attached as **Exhibit II-5A.**

14 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit II-3.**

2. Expenses in the United States

a. Domestic freight

With respect to movement expenses within the United States, Petitioner obtained information regarding U.S. domestic inland freight costs from the World Bank Group publication *Doing Business in the United States.*[15] The publication provides theoretical freight rates based on the importation of goods by a customer located in New York City, New York and using the border port of Laredo, Texas as the chosen port of importation.[16] The distance – approximately 3,192 kilometers[17] – was applied against the import inland freight rate of US$4,373 per shipment to yield a cost per kilometer.[18] That cost was then converted to a cost per kilometer per kilogram (or per metric ton or net ton) by dividing the quoted rate by the standard container load as specified by the methodology outlined in *DBUSA 2018* – 15 metric tons.[19] The resulting cost per kilometer per metric ton was converted to a cost per kilometer per net ton and multiplied by the calculated distance between the international border dividing Canada and the United States and [Location].[20]

However, for reasons stated *infra*, Petitioner believes that the calculated freight rates identified in *DBUSA 2018* significantly understate the freight costs incurred in shipping FSS. As

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15 *See* World Bank Group, *Doing Business in the United States – 2018* ("*DBUSA 2018*"), attached as **Exhibit II-8.**

16 *Id.*; *see* Doing Business, *Trading Across Borders Methodology*, attached as **Exhibit II-5B**. As is discussed elsewhere in this submission, Petitioner believes that the nature of FSS is such that the utilization of a standard benchmark for freight expenses significantly understates the expenses associated with the transportation of FSS.

17 *See* World Bank Group, *Doing Business in the United States – 2018*, attached as **Exhibit II-8**.

18 *See* Country of Destination Freight, attached as **Exhibit II-9**.

19 *See* Doing Business, *Trading Across Borders Methodology*, attached as **Exhibit II-5B**; *see* World Bank Group, *Doing Business in the United States – 2018*, attached as **Exhibit II-8**.

20 *See* Distance Calculation, attached as **Exhibit II-10**.

noted in the declaration included in **Exhibit II-7**, the specialized and unique nature of FSS means that freight costs incurred in shipping FSS are significantly higher than for commodity goods that could be shipped inside a box truck or in a standard shipping container. Indeed, the unique nature of FSS often means that the freight costs incurred in shipping FSS will be [$99] higher than what shipping costs would be for standard commodity products.[21] Accordingly, Petitioner added this amount to the calculated freight rate as identified in *DBUSA 2018*,[22] which in turn was subtracted from the offered U.S. price.[23]

b. Domestic brokerage and handling

Petitioner calculated the U.S. domestic and handling expenses that the Canadian producer would incur in shipping subject merchandise to the United States. Specifically, according to DBUSA 2018, exporters in Canada are likely to incur up to US$275.00 in brokerage and handling fees when shipping goods within the United States.[24] This rate was converted to a price per kilogram (and then price per metric ton and price per net ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in DBUSA 2018 – the 15 metric tons referenced above.[25] Petitioner subtracted these expenses from the U.S. price quote as shown in **Exhibit II-3**.

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21 *See* Declaration of [Name], attached as **Exhibit II-7.**

22 Country of Destination Freight, attached as **Exhibit II-9**.

23 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit II-3**.

24 *See* World Bank Group, *DBUSA 2018*, attached as **Exhibit II-8**.

25 *See* Doing Business, *Trading Across Borders Methodology*, attached as **Exhibit II-5B**; *see also* Calculation of Brokerage and Handling – U.S., attached as **Exhibit II-11**; World Bank Group, *DBUSA 2018*, attached as **Exhibit II-8.**

c. Additional sales expenses

As noted above, [Narrative] Canadian producer to serve as the company that is responsible for the erection services where the FSS is installed and erected to form a finish fabricated structure. Pursuant to its practice and as required by Sections 772(b) and (d) of the Tariff Act of 1930 (the "Tariff Act"), the Department will deduct those expenses from the offered U.S. price.[26]

As noted in the declaration of [None],[27] it is estimated that the on-site additional sales expenses would amount to [$3,800,000] relating to the costs associated with the erection of the structural steel and [$73,000 Narrative] erection of the steel. Petitioner subtracted these expenses from the offered U.S. price as noted in **Exhibit II-3.**

In addition to offsetting the offered U.S. price for these additional sales expenses incurred in the United States, the Tariff Act permits the Department to make a further adjustment to account for profits realized in the United States associated with further manufacturing expenses.[28] Petitioner does not have access to Supermétal's profit rates that it realizes when the company performs further manufacturing operations. As best information available, Petitioner obtained the profit ratios realized by Stantec (Canada) Company Limited ("Stantec") during calendar year 2017 as evidenced from the company's 2017 audited financial statement. Stantec

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[26] *See Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan*, 61 Fed. Reg. 8029, 8032-33 (Dep't Commerce Mar. 1, 1996) (notice. of prelim. deter. of sales at less than fair value and postponement of final deter.) ("*LNPPs From Japan*").

[27] *See* Declaration of [None], attached as **Exhibit II-2.**

[28] *See LNPPs From Japan*, 61 Fed. Reg. at 8032-33.

is a company that designs, performs project management services for, and erects commercial and industrial buildings.[29]

Petitioner applied the calculated profit ratio for Stantec for calendar year 2017 against the [Narrative] that Supermétal would have incurred in the erection of the project under consideration and which were built into the U.S. price offer to yield a further manufacturing/constructed export price profit.[30] Petitioner subtracted the calculated profit from the offered U.S. price.[31]

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

Petitioner subtracted the calculated movement expenses, brokerage and handling expenses, further manufacturing expenses, and further manufacturing expense profit from the reported U.S. price to obtain the following ex-factory U.S. price for FSS exported from Canada and offered for sale in the United States:

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Ex-Factory EP (US$)
US-CA-01 [						$6,712,000]

Detailed calculations of the ex-factory U.S. price for imports of FSS from Canada are provided in **Exhibit II-3**.

29 *See* Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit - Stantec (Canada) Company Limited, attached as **Exhibit II-12A**.

30 *See* Calculation of Further Manufacturing and Profit, attached as **Exhibit II-12B**.

31 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit II-3**.

III. NORMAL VALUE

The preferred method for determining the NV of imported products is to examine sales or offers of sales of identical or similar products in the home market of the exporting country. However, FSS is a specialized product which is sold to specific classes of customers and for specific projects and, with few exceptions, no two FSS projects are identical. Thus, it is not practicable to obtain home market pricing for FSS for purposes of calculating a dumping margin on a price-to-price basis. Given the unavailability of home market pricing to calculate NV, Petitioner has relied upon CV to estimate NV.

A. Cost of Production and Constructed Value

Petitioner used the Department's standard methodology to calculate the cost of production ("COP") for the subject merchandise produced by the Canadian FSS producer in Canada. Because the volume of inputs consumed by the Canadian FSS producer and the company's actual production costs are not reasonably available, Petitioner used the product-specific production costs and/or consumption rates of [Company], as the "Canadian Surrogate."[32]

Petitioner used [Company] as [Narrative].[33] The [Narrative].

As with the Canadian FSS producer in question and other Canadian respondents, [Company

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32 *See* Declaration of [Name], attached as [Exhibit].

33 *Id.*

] of FSS. [narrative

] FSS.

1. The Production Process for Subject Merchandise

The manufacturing process for FSS follows a lengthy process and requires a variety of inputs.

As an initial matter, Petitioner notes that FSS is a unique product, and, with few exceptions, no two projects are exactly alike. When a contracting party issues an RFQ or RFP with a generalized set of design parameters for a given project, each FSS producer will expend significant amounts of time and money preparing a response to that RFQ or RFP and will propose a cost estimate based on a design and engineering plan that the FSS producer believes will satisfy the terms of the RFP or RFQ. Thousands of hours of time are expended by architects, drafters, computer aided design ("CAD") programmers, engineers, and planners in generating a bid in response to an RFQ or RFP. Even after an FSS producer's bid has been accepted and a contract has been awarded, architectural design plans and blueprints must be updated and finalized, which requires additional feedback and analysis from architects, drafters, CAD programmers, engineers, and planners. The time and money expended in finalizing set of architectural and engineering blueprints represents a significant cost that is built into the bid price.

Once all final design and architectural plans have been agreed to between the FSS producer and the contracting party (which usually happens *after* a contract has been awarded), the FSS producer will commence actual production work to fulfill the terms of the project. This entails the procurement of steel mill inputs (including structural steel such as wide flange beams, steel angles, steel channels, cut-to-length steel plate, and structural shapes, support materials

(including steel nuts and bolts, steel studs, steel rivets, galvanized steel strand, and steel rope), welding process materials (including cutting gases, welding wire, welding gases, and welding fluxes), and other required material inputs (including galvanizing materials, protective paints and lacquers, insulating and thermal breaks, and lubricating oils)).

Based upon the architectural blueprints and drawings, highly skilled welders, crane operators, and machine operators will then fabricate the various inputs and convert them to FSS through processes such as cutting operations, welding operations, drilling and punching operations, bending operations, painting and galvanizing operations, and partial assembly operations to the extent practicable at the FSS producer's production facilities. Some of the work is performed through the assistance of mechanized and automated machinery while other steps must be partially or wholly performed by hand.

Once each component of FSS has been manufactured, it is placed into storage until shipment or is immediately prepared for shipment to a marshalling yard or to the job erection site itself. Doing so is a complex and expensive process. Unlike standard steel goods or bulk commodity goods, FSS is often shipped in small quantities (on a piece count basis) and is shipped via flat-bed truck.[34] FSS components cannot be simply stacked onto other components as doing so could damage the surface of the components (where they have been painted, coated, or galvanized) or could physically deform the components or fracture or damage weldments. Resultantly, a flat-bed truck might be dispatched to a job site with a single piece of steel on the bed of the truck. In addition, many construction and erection companies dictate tight delivery schedules to FSS producers – including dictating precisely where and when (within a narrow

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34 *See* Declaration of [None], attached as **Exhibit II-7**.

window) FSS components are to be delivered.[35] Finally, owing to the size and shape of many FSS components, FSS producers must often coordinate with freight carriers to work with local and state transportation departments and law enforcement agencies to obtain permits and clearances to transport loads of FSS that require the utilization of escort or flag vehicles and/or special signage (*e.g.*, oversized load signs) or must be shipped only during certain hours of the day (*e.g.*, at night) or on certain roads.

The combination of low shipment quantities per truckload shipment, the need to handle FSS with care, the existence of precise delivery and shipment times, and the need for special permits and escort vehicles substantially increases the freight and handling costs associated with FSS. These costs are built into the contracted price for subject merchandise.

2. The Canadian Surrogate

The production process for FSS is very similar regardless of whether the product is produced in the United States or in Canada. [Company] produces FSS in [Location].[36] The company has been associated with the production of FSS for [Time].

3. Calculation of Normal Value

To calculate NV, Petitioner first calculated the amount (*i.e.*, consumption rate) of each production input that the Canadian Surrogate used [Narrative] offered for sale by the Canadian FSS producer in the United States during the POI. Petitioner used the Canadian Surrogate's actual consumption rates for all direct material inputs

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35 *Id.*

36 *Id.*

(*e.g.*, steel plate, structural steel shapes, nuts and bolts and other hardware, paint or zinc for galvanizing, finished steel panels (*e.g.*, roof decking or steel grating), process gases, and welding materials).[37] Petitioner determined the average cost for most of these inputs in Canada using publicly available information that is most contemporaneous with the POI. Similarly, using the Canadian Surrogate's actual incurred consumption rates for energy and labor,[38] Petitioner determined the average cost for these inputs in Canada from publicly available information that is most contemporaneous with the POI.[39] Based on this information, Petitioner calculated the Canadian respondent's normal value.

4. Adjustments for Inflation and Exchange Rates

Petitioner was unable to obtain cost figures in U.S. Dollars for the period for which Petitioner has cost data for certain inputs. Where an input came from a period preceding the POI, the period for which Petitioner has cost data, Petitioner made adjustments for inflation using the producer price index for Canada as reported by the Federal Reserve.[40] Specifically, Petitioner divided the index for the period to which the input price pertained by the index for the proposed POI (October 2017 through September 2018).[41]

Petitioner calculated the entire cost of production in Canadian Dollars pursuant to Department practice. For input prices denominated in U.S. Dollars, Petitioner converted the

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37 *See* Calculation of Normal Value, attached as **Exhibit II-13**.

38 As noted above, there is substantial labor cost and time that is required to design and plan for a finished project that is not directly related to the actual physical fabrication of structural steel. This labor includes output from architects, drafters, CAD programmers, engineers, and planners. The time and costs incurred from these employees is factored into the finished cost of a project and is not treated by FSS producers as company overhead.

39 Calculation of Normal Value, attached as **Exhibit II-13**.

40 *See* Canada Producer price Index, attached as **Exhibit II-14**.

41 *Id.*

price into Canadian Dollars using the simple average of the daily U.S. Dollar–Canadian Dollar exchange rate (or third country exchange rate) for the POI as reported by the Federal Reserve.[42]

5. **Production Costs – Direct**

Using the methodology described above, Petitioner estimated the cost of production for merchandise produced and exported by the Canadian respondent.[43]

a. Raw Materials

Petitioner valued most direct material inputs used to produce FSS from Canadian import statistics. Petitioner obtained Canadian import data from Statistics Canada for the POI. For one material input – propane – Petitioner obtained pricing for propane (reported in liters) from Natural Resources Canada.[44]

Petitioner converted certain data to a price per net ton or gallon basis [

narrative

]. A summary of all surrogate values pertaining to material inputs appears at **Exhibit II-16**, while the source data pertaining to these production costs appear at **Exhibit II-17** and **Exhibit II-18**. For items such as paint and oil, Petitioner has provided conversion factor information in **Exhibit II-19A**, **Exhibit II-19B**, **Exhibit II-19C**, and **Exhibit II-19D**. Consistent with the Department's standard methodology, Petitioner deleted from the calculation of surrogate values any import pricing that was sourced from non-market economies (*e.g.*, China, Vietnam), countries that have

42 *See* Exchange Rates, attached as **Exhibit II-15**.

43 *See* Calculation of Normal Value, attached as **Exhibit II-13**.

44 *See* Summary Input Calculation Worksheet, attached as **Exhibit II-16**.

been found to provide generally available export subsidies (*e.g.*, India, Indonesia), and countries that are unidentifiable (*e.g.*, "Other countries, NES").

b. Energy

To value electricity, Petitioner used the Canadian electricity rates in effect during a portion (calendar year 2017) of the POI as reported by the International Energy Agency's publication *Energy Prices and Taxes*.[45] The price is reported as a price per megawatt hour.[46] Petitioner divided the rate by 1,000 to yield a price per kilowatt hour.[47]

c. Labor

The labor expense incurred in producing FSS involves many classes of workers ranging from manual laborers to machine operators to experienced welders. In addition, there is a large component of "professional" labor that is involved in the production of subject merchandise, which includes architectural labor, drafters, designers, and professional licensed structural engineers.

Petitioner obtained hourly average labor costs for manufacturing in Canada from the U.S. Bureau of Labor Statistics. The data, reported in Canadian Dollars per hour during calendar year 2012, was adjusted for inflation utilizing the Canadian producer price index in effect during the POI. Petitioner's calculation of the labor costs appears in **Exhibit II-21**.

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45 *See* International Energy Agency, *Energy Prices and Taxes*, attached as **Exhibit II-20**.

46 *See id.*

47 *See* Summary Input Calculation Worksheet, attached as **Exhibit II-16**.

6. Production Costs – Other Expenses

Petitioner added all the total direct manufacturing costs (materials, labor, and energy) to calculate the total cost of goods sold ("COGS") net of depreciation for FSS.[48] Pursuant to the Tariff Act and the Department's regulations, Petitioner added additional expenses relating to overhead, selling, general and administrative expenses, and profit to calculate a final NV.

Consistent with the Department's normal practice, Petitioner sought to obtain financial statements for producer of FSS where information could be extracted related to the company's FSS operations. Supermétal is a private concern and does not appear to publish an audited financial statement. As best information available, Petitioner is utilizing the audited financial statement of Empire Industries Limited ("Empire"), which is a Canadian producer of fabricated steel structures.[49] The financial statement obtained by Petitioner reflects Empire's operations during calendar year 2017.[50]

a. Overhead Expense

Petitioner multiplied the Canadian FSS producer's calculated cost of goods sold ("Total Materials, Labor & Energy") by Empire's overhead ratio as derived from Empire's calendar year 2017 financial statements to arrive at the fixed overhead expense.[51] Petitioner added this expense to the calculated cost of goods sold to arrive at the total cost of manufacturing ("COM") for the Canadian FSS producer.[52]

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48 *See* Calculation of Normal Value, attached as **Exhibit II-13**.

49 *See* Empire Industries Ltd., *Annual report 2017*, attached as **Exhibit II-22A**.

50 *See* Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit – Empire Industries Limited, attached as **Exhibit II-22B**.

51 *See id.*; *see also* Calculation of Normal Value, attached as **Exhibit II-13**.

52 *See* Calculation of Normal Value, attached as **Exhibit II-13**.

b. Selling, General, and Administrative Costs

With respect to selling, general, and administrative costs SG&A, Petitioner multiplied the Canadian FSS producer's calculated total cost of manufacturing by Empire's SG&A ratio as derived from Empire's calendar year 2017 financial statements to arrive at the SG&A expense for the Canadian FSS producer.[53] Petitioner added the calculated SG&A expense to the previously calculated total cost of manufacturing to arrive at a total cost of production (excluding profit and packing expenses).[54]

c. Profit

To calculate the profit expense for the Canadian FSS producer, Petitioner would normally multiply the company's calculated total cost of production (excluding packing expenses) by Empire's calculated profit ratio as derived from the company's calendar year 2017 financial statements. However, since Empire's financial statement shows a net loss for the year in 2017, Petitioner has omitted the addition of profit in the cost of production.[55] Petitioner notes that despite the existence of net losses, it is the Department's prior practice in market economy antidumping proceedings to utilize as best information available financial ratios from companies who are in net loss positions.[56]

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[53] *See* Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit – Empire Industries Limited, attached as **Exhibit II-22B**; *see also* Calculation of Normal Value, attached as **Exhibit II-13**.

[54] Calculation of Normal Value, attached as **Exhibit II-13**.

[55] *See* Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit – Empire Industries Limited, attached as **Exhibit II-22B**; *see also* Cost of Production Template, attached as **Exhibit II-13**.

[56] *See, e.g., Ferrovanadium From the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 81 Fed. Reg. 24,059, 24,062 (Dep't Commerce Apr. 25, 2016); *Certain Iron Mechanical Transfer Drive Components from Canada and The People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 80 Fed. Reg. 73,716, 73,720 (Dep't Commerce Nov. 25, 2015).

B. Normal Value

The calculations described above result in an FOP-based NV for the following observation:[57]

OBS		Project	Total Weight (NT)	Normal Value (CA$)	
US-CA-01	[			$13,000,000	]

IV. LESS THAN NORMAL VALUE COMPARISON

In order to calculate the margin of dumping, Petitioner matched the U.S. transaction offer to its NV. Petitioner subtracted the ex-factory U.S. price from NV and then divided the difference by the EP to determine a dumping margin for the U.S. transaction offer, yielding a transaction-specific dumping margin.[58]

This comparison demonstrates that Canadian producers/exporters sold, or offered for sale, subject merchandise in the United States at prices below NV. The calculated *ad valorem* dumping margin is 31.46 percent.[59]

V. CONCLUSION

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

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57 *See* Calculation of Dumping Margin, attached as **Exhibit II-23.**

58 *See id.*

59 *See id.*

RANGED DATA

PUBLIC VERSION

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
II-1	*Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.)	Public
II-2	Declaration of [Name]	BPI
II-3	Calculation of Ex-Factory Export Price	BPI
II-4	U.S. Imports for Consumption - Monthly Data for 2017-2018	BPI
II-5A	World Bank Group, Doing Business in Canada - 2018	Public
II-5B	Doing Business, Trading Across Borders Methodology	Public
II-6	Calculation of Foreign Brokerage and Handling - Canada	Public
II-7	Declaration of [Name]	BPI
II-8	World Bank Group, Doing Business in the United States - 2018	Public
II-9	Country of Destination Freight	BPI
II-10	Distance Calculation	BPI
II-11	Calculation of Brokerage and Handling – U.S.	Public
II-12A	Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit - Stantec (Canada) Company Limited	Public
II-12B	Calculation of Further Manufacturing and Profit	BPI
II-13	Calculation of Normal Value	BPI
II-14	Canada Producer Price Index	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
II-15	Exchange Rates	Public
II-16	Summary Input Calculation Worksheet	Public
II-17	Propane Pricing	Public
II-18	Summary of Canadian Inputs	Public
II-19A	Conversion - Hectoliter to Gallon	Public
II-19B	Conversion - Kilogram of Argon	Public
II-19C	Conversion - Kilogram of Oxygen	Public
II-19D	Conversion - Comprehensive Chart	Public
II-20	International Energy Agency, Energy Prices and Taxes	Public
II-21	Labor Costs in Canada	Public
II-22A	Empire Industries LTD, Annual Report 2017	Public
II-22B	Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A, and Profit - Empire Industries Limited	Public
II-23	Calculation of Dumping Margin	BPI

PUBLIC VERSION

DOC Investigation No. A-201-850
USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 222
Investigation
AD/CVD Operations
Petitioner's Business Proprietary Information Removed from Pages 3-12, 14, 15, 18, Exhibit List and Exhibits III-2, III-5, III-8, III-9, III-11, III-14, III-17, and III-21 of this Volume
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PETITIONS FOR THE IMPOSITION OF
ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME III:
MEXICO AD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM
CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

PETITIONER:

AMERICAN INSTITUTE OF STEEL CONSTRUCTION, LLC

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February 4, 2019

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I. INTRODUCTION

The application of the Department of Commerce's ("the Department") standard dumping methodology shows that producers and/or exporters in Mexico sold, or offered for sale, certain fabricated structural steel ("structural steel" or "FSS") in the United States at less than normal value ("NV").

Petitioner used export price (hereinafter "EP") as the basis for U.S. price because Mexican producers and/or exporters of subject merchandise typically sell directly to unaffiliated purchasers located in the United States. Petitioner first computed the ex-factory export price for each transaction or offer ("ex-factory U.S. price" or "ex-factory EP") in U.S. Dollars by deducting from the quoted transaction prices the costs incident to delivering the merchandise to customers in the United States. Specifically, and where applicable, Petitioner deducted transportation charges from the Mexican manufacturing facilities to the Mexican port of exportation, foreign brokerage and handling fees, U.S. domestic freight expenses, and U.S. brokerage and handling expenses.

For the reasons stated *infra*, Petitioner calculated the NV for Mexican producers based upon constructed value ("CV"), which includes the cost of materials and fabrication, overhead expenses, selling, general and administrative expenses, and expected profit levels.[1]

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[1] *See* 19 U.S.C. § 1677b(e). Petitioner notes that section 505(a) of Trade Preferences Extension Act of 2015 eliminates the requirement that Petitioner provide information as to whether sales have been made at less than the cost of production. Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, § 505(a), 129 Stat. 362, 385-86, codified at 19 U.S.C. § 1677b(b)(2)(A)(ii). Petitioner requests that the Department conduct an investigation to assess whether Corey Oficinas Corporativas ("Corey") or any other Mexican producer has made sales at less than the cost of production. *See, e.g., Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom*, 80 Fed. Reg. 54,261, 54,264 n. 36 (Dep't Commerce Sept. 9, 2015) (initiation of less-than-fair-value investigations).

Petitioner next compared each ex-factory EP with the ex-factory NV for identical or similar merchandise. In making these comparisons, Petitioner converted the Mexican producer's NV to U.S. Dollars using the U.S. Dollar–Mexican Peso exchange rate in effect during the period of investigation (October 1, 2017 through September 30, 2018) (the "POI").[2] Petitioner then subtracted the U.S. price from the ex-factory NV and divided the difference by the U.S. price for each observation to determine the dumping margin.

II. EXPORT PRICE

Mexican producers/exporters of FSS typically sell subject merchandise to project developers, to commercial and industrial erectors, and to construction companies. They may sell directly or through U.S. sales affiliates. For most commercial and industrial construction fabrication projects in the United States, a contracting party, typically a project developer, a commercial or industrial erector, or a construction company, will issue a general request for proposal ("RFP") or request for quotation ("RFQ") with the expectation that several producers of FSS will express an interest in placing a bid to undertake the work to be performed under the terms of RFP or RFQ.[3] During the bid process, prospective producers of FSS will submit to the contracting party their estimations of their expected fees that they seek to obtain from the contracting party when fulfilling the requirements of the project.[4] The contracting party will then

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[2] Given the nature of the FSS industry (*e.g.*, significant lag times between design, bid, build and actual entry of the imported good), the Department should consider an extended POI.

[3] *See Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) at A-35-A-38, excerpts attached as **Exhibit III-1**. Depending on the project in question and the scope of the work, FSS producers may be asked simply to produce and deliver subject merchandise. In other projects, FSS producers may be asked to not only produce and deliver subject merchandise, but also to serve as the company that is responsible for the assembly and erection the FSS components into a finished steel structure. *Id.*

[4] The pricing is typically quoted on a price for an entire "job" as opposed to a price per unit (net ton, kilogram, piece) basis. *See id.*

assess the merits of each proposed bid, will possibly eliminate certain bids, and will then undertake additional rounds of negotiations with the remaining FSS producers. These FSS producers will proffer a best and final offer to the contracting party. From these final bids, the contracting party will award a contract to the company whose offer is the most appealing to the contracting party, which is typically based on price. The FSS producers that are not awarded a contract sometimes learn at least some information from the contracting party as to the reasons why a bid was not awarded, including which FSS producer was awarded a contract and how the winning bid related to their own.

Mexican and domestic producers of FSS compete for the same customers on a daily basis and are constantly involved in bid competitions against each other.

A. U.S. Price

Petitioner obtained the following quoted sales offer for FSS produced in and exported from Mexico by a Mexican producer of FSS and offered for sale to a customer in the United States during the POI.[5]

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Offered Price (US$)
US-MX-01 [						$42,000,000]

Documents certifying the term of this recent sales offer are provided in **Exhibit III-2.**

The project in question represents a [Size] project that involves the fabrication of steel into FSS for eventual erection by a third party. In this project, the Mexican producer would have been [Narrative

[5] *See* Declaration of [Name], attached as **Exhibit III-2.**

].

B. Movement and Related Expenses

In order to calculate the ex-factory U.S. price for sales to the United States, Petitioner deducted the costs associated with exporting and delivering the product to customers in the United States from the quoted transaction price. These costs normally consist of country of manufacture movement expenses within Mexico, foreign brokerage and handling fees, customs duties paid upon entry of the subject merchandise into the United States, U.S. brokerage and handling fees, and U.S. inland freight expenses, where applicable. The following sections describe the calculations performed to derive the ex-factory U.S. price. Petitioner's calculations of the ex-factory U.S. price are provided at **Exhibit III-11**.

Mexican imports of FSS are typically transported by truck or rail car from the manufacturing facilities to the border between Mexico and the United States either in shipping containers (depending on the size of the constituent components) or in break-bulk form, and by the same or a different truck, or rail car, from the international border to the location of the U.S. customer's choosing. The exact method of transportation depends on the proximity of the Mexican production factory to the international border between Mexico and the United States, the availability of rail or road lines in conjunction with the factory's location, and the location of the U.S. customer's designated delivery location. The following narrative describes the adjustments made to the offered U.S. price.

1. Country of Manufacture Expenses

a. Foreign Inland Freight and Warehousing

Under normal circumstances, Petitioner would deduct country of manufacture movement expenses such as foreign inland freight (truck or rail or barge), distribution warehouse expenses, brokerage and handling expenses, and port expenses from the quoted transaction price. According to information available to Petitioner, the Mexican producer's facilities in the city of [Location] are situated approximately [1,106] kilometers from the company's most likely (and nearest) border port of exportation – [Location].[6]

Petitioner obtained information regarding Mexican inland freight costs from the World Bank publication *Doing Business in Mexico*.[7] The publication provides theoretical freight rates based on the exportation and importation of goods by a customer located in both Mexico City and Monterrey and using the border port of Nuevo Laredo as the chosen port of exportation.[8] The distance – approximately 1,117 and 219 kilometers, respectively[9] – was applied against the average export inland freight rate of US$1,300.00 and US$500, respectively, per shipment to yield a cost per kilometer.[10] That cost was then converted to a cost per kilometer per kilogram

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6 *See* Distance Calculation within Mexico, attached as **Exhibit III-3**. The address used is [Location].

7 *See* World Bank, *Doing Business in Mexico – 2018* ("*DBM 2018*"), attached as **Exhibit III-4A**.

8 *Id.*; *see also Doing Business,* "Trading Across Borders Methodology," attached as **Exhibit III-4B**. As is discussed elsewhere in this submission, Petitioner believes that the nature of FSS is such that the utilization of a standard benchmark for freight expenses significantly understates the expenses associated with the transportation of FSS.

9 *See DBM 2018*, attached as **Exhibit III-4A**.

10 *See* Calculation of Country of Manufacture Freight Expenses, attached as **Exhibit III-5**.

(or per metric ton or net ton) by dividing the quoted rate by the standard container load as specified by the methodology outlined in *DBM 2018* – 15 metric tons.[11] The resulting cost per kilometer per metric ton was converted to a cost per kilometer per net ton and multiplied by the calculated distance between the Mexican producer's facilities and the [Location], which in turn was subtracted from the offered U.S. price.[12]

b. Brokerage and Handling

Petitioner calculated the country of manufacture brokerage and handling expenses that the Mexican producer of FSS would incur in shipping subject merchandise to the United States. Specifically, according to *DBM 2018*, exporters in Mexico are likely to incur up to US$460.00 in brokerage and handling fees.[13] This rate was converted to a price per kilogram (and then price per metric ton and price per net ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in *DBM 2018* – the 15 metric tons referenced above.[14] The cost per net ton was then subtracted from the offered U.S. price.[15]

2. Expenses in the United States

a. Domestic freight

With respect to movement expenses within the United States Petitioner obtained information regarding U.S. domestic inland freight costs from the World Bank publication *Doing Business in the United States*.[16] The publication provides theoretical freight rates based on the

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11 *See Doing Business,* "Trading Across Borders Methodology," attached as **Exhibit III-4B**.

12 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit III-11**.

13 *See DBM 2018*, attached as **Exhibit III-4A**.

14 *See* Calculation of Country of Manufacture Brokerage and Handling Expenses, attached as **Exhibit III-6.**

15 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit III-11**.

16 *See* World Bank, *Doing Business in the United States – 2018* ("*DBUSA 2018*"), attached as **Exhibit III-7**.

importation of goods by a customer located in New York City, New York and using the border port of Laredo, Texas as the chosen port of importation.[17] The distance – approximately 3,192 kilometers[18] – was applied against the import inland freight rate of US$4,373 per shipment to yield a cost per kilometer.[19] That cost was then converted to a cost per kilometer per kilogram (or per metric ton or net ton) by dividing the quoted rate by the standard container load as specified by the methodology outlined in *DBUSA 2018* – 15 metric tons.[20] The resulting cost per kilometer per metric ton was converted to a cost per kilometer per net ton and multiplied by the calculated distance between the international border dividing Mexico and the United States and [Location].

However, for reasons stated *infra*, Petitioner believes that the calculated freight rates identified in *DBUSA* significantly understate the freight costs incurred in shipping FSS. As noted in the declaration included in **Exhibit III-8**, the specialized and unique nature of FSS means that freight costs incurred in shipping FSS are significantly higher than for commodity goods that could be shipped inside a box truck or in a standard shipping container. Indeed, the unique nature of FSS often means that the freight costs incurred in shipping FSS will be [$99.00] higher than what shipping costs would be for standard commodity products.[21]

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17 *Id.*; *see Doing Business,* "Trading Across Borders Methodology," attached as **Exhibit III-4B**. As is discussed elsewhere in this submission, Petitioner believes that the nature of FSS is such that the utilization of a standard benchmark for freight expenses significantly understates the expenses associated with the transportation of FSS.

18 *See DBUSA 2018*, attached as **Exhibit III-7**.

19 *See* Calculation of Country of Destination Freight Expenses, attached as **Exhibit III-9**.

20 *See Doing Business,* "Trading Across Borders Methodology," attached as **Exhibit III-4B**.

21 *See* Declaration of [Name], attached as **Exhibit III-8.**

Accordingly, Petitioner added this amount to the calculated freight rate as identified in *DBUSA*,[22] which in turn was subtracted from the offered U.S. price.[23]

b. Domestic brokerage and handling

Petitioner calculated the U.S. domestic and handling expenses that the Mexican producer of FSS would incur in shipping subject merchandise to the United States. Specifically, according to *DBUSA 2018*, exporters in Mexico are likely to incur up to US$275.00 in brokerage and handling fees when shipping goods to the United States.[24] This rate was converted to a price per kilogram (and then price per metric ton and price per net ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in *DBUSA 2018* – the 15 metric tons referenced above.[25] Petitioner subtracted these expenses from the U.S. price quote as shown in **Exhibit III-11.**

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

Petitioner subtracted the calculated movement expenses and brokerage and handling expenses from the reported U.S. price to obtain the following ex-factory U.S. price for FSS exported from Mexico and offered for sale in the United States:

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Ex-Factory EP (US$)
US-MX-01 [						$31,000,000]

22 Calculation of Country of Destination Freight Expenses, attached as **Exhibit III-9**.

23 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit III-11**.

24 *See DBUSA 2018*, attached as **Exhibit III-7**.

25 *See* Calculation of Brokerage and Handling Expenses, attached as **Exhibit III-10.**

Detailed calculations of the ex-factory U.S. price for imports of FSS from Mexico are provided in **Exhibit III-11**.

III. NORMAL VALUE

The preferred method for determining the NV of imported products is to examine sales or offers of sales of identical or similar products in the home market of the exporting country. However, FSS is a specialized product, which is sold to specific classes of customers and for specific projects and, with few exceptions, no two FSS projects are identical. Thus, it is not practicable to obtain home market pricing for FSS for purposes of calculating a dumping margin on a price-to-price basis. Given the unavailability of home market pricing to calculate NV, Petitioner has relied upon CV to estimate NV.

A. Cost of Production and Constructed Value

Petitioner used the Department's standard methodology to calculate the cost of production ("COP") for the subject merchandise produced by the Mexican FSS producer in Mexico. Because the volume of inputs consumed by the Mexican FSS producer and the company's actual production costs are not reasonably available, Petitioner used the product-specific production costs and/or consumption rates of [Company], as the "Mexican Surrogate."[26]

Petitioner used [Company] as [Narrative].[27] The [Narrative

[26] *See* Declaration of [Name], attached as **Exhibit III-2**.

[27] *Id.*

]. As with the Mexican FSS producer in question and other Mexican respondents, [Company] of FSS. [narrative] FSS.

1. The Production Process for Subject Merchandise

The manufacturing process for FSS follows a lengthy process and requires a variety of inputs.

As an initial matter, Petitioner notes that FSS is a unique product, and, with few exceptions, no two projects are exactly alike. When a contracting party issues an RFQ or RFP with a generalized set of design parameters for a given project, each FSS producer will expend significant amounts of time and money preparing a response to that RFQ or RFP and will propose a cost estimate based on a design and engineering plan that the FSS producer believes will satisfy the terms of the RFP or RFQ. Thousands of hours of time are expended by architects, drafters, computer aided design ("CAD") programmers, engineers, and planners in generating a bid in response to an RFQ or RFP. Even after an FSS producer's bid has been accepted and a contract has been awarded, architectural design plans and blueprints must be updated and finalized which requires additional feedback and analysis from architects, drafters, CAD programmers, engineers, and planners. The time and money expended in finalizing a set of architectural and engineering blueprints represents a significant cost that is built into the bid price.

Once all final design and architectural plans have been agreed to between the FSS producer and the contracting party (which usually happens *after* a contract has been awarded), the FSS producer will commence actual production work to fulfill the terms of the project. This entails the procurement of steel mill inputs (including structural steel such as wide flange beams,

steel angles, steel channels, cut-to-length steel plate, and hollow structural shapes, support materials (including steel nuts and bolts, steel studs, steel rivets, galvanized steel strand, and steel rope), welding process materials (including cutting gases, welding wire, welding gases, and welding fluxes), and other required material inputs (including galvanizing materials, protective paints and lacquers, insulating and thermal breaks, and lubricating oils)).

Based upon the architectural blueprints and drawings, highly skilled welders, crane operators, and machine operators will then fabricate the various inputs and convert them to FSS through processes such as cutting operations, welding operations, bending operations, drilling and punching operations, painting and galvanizing operations, and partial assembly operations to the extent practicable at the FSS producer's production facilities. Some of the work is performed through the assistance of mechanized and automated machinery while other steps must be partially or wholly performed by hand.

Once each component of FSS has been manufactured, it is placed into storage prior to shipment or is immediately prepared for shipment to a marshalling yard or to the job erection site itself. Doing so is a complex and expensive process. Unlike standard steel goods or bulk commodity goods, FSS is often shipped in small quantities (on a piece count basis) and is shipped via flat-bed truck.[28] FSS components cannot be simply stacked onto other components as doing so could damage the surface of the components (where they have been painted, coated, or galvanized) or could physically deform the components or fracture or damage weldments. Resultantly, a flat-bed truck might be dispatched to a job site with a single piece of steel on the bed of the truck. In addition, many construction and erection companies dictate tight delivery

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28 *See* Declaration of [None], attached as **Exhibit III-8**.

schedules to FSS producers – including dictating precisely where and when (within a narrow window) FSS components are to be delivered.[29] Finally, owing to the size and shape of many FSS components, FSS producers must often coordinate with freight carriers to work with local and state transportation departments and law enforcement agencies to obtain permits and clearances to transport loads of FSS that require the utilization of escort or flag vehicles and/or special signage (*e.g.*, oversized load signs) or must be shipped only during certain hours of the day (*e.g.*, at night) or on certain roads.

The combination of low shipment quantities per truckload shipment, the need to handle FSS with care, the existence of precise delivery and shipment times, and the need for special permits and escort vehicles substantially increases the freight and handling costs associated with FSS. These costs are built into the contracted price for subject merchandise.

2. The Mexican Surrogate

The production process for FSS is very similar regardless of whether the product is produced in the United States or in Mexico. [Company] produces FSS in [Location].[30] The company has been associated with the production of FSS for [Time].

3. Calculation of Normal Value

To calculate NV, Petitioner first calculated the amount (*i.e.*, consumption rate) of each production input that the Mexican Surrogate used [Narrative] offered

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29 *Id.*

30 Declaration of [Name], attached as **Exhibit III-2.**

for sale by the Mexican FSS producer in the United States during the POI. Petitioner used the Mexican Surrogate's actual consumption rates for all direct material inputs (*e.g.*, steel plate, structural steel shapes, nuts and bolts and other hardware, paint or zinc for galvanizing, finished steel panels (*e.g.*, roof decking or steel grating), process gases, and welding materials).[31] Petitioner determined the average cost for most of these inputs in Mexico using publicly available information that is most contemporaneous with the POI. Similarly, using the Mexican Surrogate's actual incurred consumption rates for energy and labor,[32] Petitioner determined the average cost for these inputs in Mexico from publicly available information that is most contemporaneous with the POI.[33] Based on this information, Petitioner calculated the Mexican respondent's normal value.

4. Adjustments for Inflation and Exchange Rates

Petitioner was unable to obtain cost figures in U.S. Dollars for the period for which Petitioner has cost data for certain inputs. Where an input came from a period preceding the POI, the period for which Petitioner has cost data, Petitioner made adjustments for inflation using the producer price index for Mexico as reported by the Federal Reserve.[34] Specifically, Petitioner divided the index for the period to which the input price pertained by the index for the proposed POI (October 2017 through September 2018).[35]

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31 *See* Calculation of Normal Value, attached as **III-14**.

32 As noted above, there is substantial labor cost and time that is required to design and plan for a finished project that is not directly related to the actual physical fabrication of structural steel. This labor includes output from architects, drafters, CAD programmers, engineers, and planners. The time and costs incurred from these employees is factored into the finished cost of a project and is not treated by FSS producers as company overhead.

33 *Id.*

34 *See* Mexican Producer Price Index, attached as **Exhibit III-12**.

35 *Id.*

Petitioner calculated the entire cost of production in Mexican Pesos pursuant to Department practice. For input prices denominated in U.S. Dollars, Petitioner converted the price into Mexican Pesos using the simple average of the daily U.S. Dollar–Mexican Peso exchange rate (or third country exchange rate) for the POI as reported by the Federal Reserve.[36]

5. Production Costs – Direct

Using the methodology described above, Petitioner estimated the cost of production for merchandise produced and exported by the Mexican respondent.[37]

a. Raw Materials

Petitioner valued all direct material inputs used to produce FSS from Mexican import statistics. Petitioner obtained Mexican import data from the Global Trade Atlas database made available by Global Trade Information Services for the period of investigation. With respect to several inputs, because [narrative], the precise material inputs are not necessarily known. For example, a certain design element could be satisfied with the utilization of two types of heavy structural shapes. Alternatively, where a project design element is described, that element might be satisfied by using a standard grade of steel or may require a high strength low alloy steel. The final design and final bill of materials will not be known until final blue prints and designs are prepared. As such, in certain circumstances more than one class of input (alloy and non-alloy steel) (*i.e.*, materials coming from more than one harmonized tariff schedule code ("HTS")) may be used to produce a given element of fabricated structural steel.

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36 *See* Currency Exchange Rates, attached as **Exhibit III-13**.

37 *See* Calculation of Normal Value, attached as **Exhibit III-14**.

Petitioner converted data to a price per net ton or gallon basis [narrative]. A summary of all surrogate values pertaining to material inputs appears at **Exhibit III-15**, while the source data pertaining to these production costs appear at **Exhibit III-16**. For items such as paint and oil, Petitioner has provided conversion factor information in **Exhibit III-17.** Consistent with the Department's standard methodology, Petitioner deleted from the calculation of surrogate values any import pricing that was sourced from non-market economies (*e.g.*, China, Vietnam), countries that have been found to provide generally available export subsidies (*e.g.*, India, Indonesia), and countries that are unidentifiable (*e.g.*, "Other countries, NES").

b. Energy

To value electricity, Petitioner used the Mexican electricity rates in effect during the POI as reported by the International Energy Agency's publication *Energy Prices and Taxes*.[38]

c. Labor

The labor expense incurred in producing FSS involves many classes of workers ranging from manual laborers to machine operators to experienced welders. In addition, there is a large component of "professional" labor that is involved in the production of subject merchandise and includes architectural labor, drafters, designers, and professional licensed structural engineers.

With respect to professional and skilled workers (*e.g.*, those with university degrees, graduate degrees and professional licenses), Petitioner obtained compensation rates for mechanical engineers in Mexico from the Internet website www.payscale.com.[39] There is not

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38 *See* International Energy Agency, *Energy Prices and Taxes*, attached as **Exhibit III-18**.

39 *See* Skilled Worker Wages, attached as **Exhibit III-19A.**

information identifying the time period that these compensation rates were in effect. As a conservative measure, Petitioner did not adjust the reported compensation rates for inflation.

With respect to non-professional workers, Petitioner obtained labor costs for Mexico in 2012 from the U.S. Department of Labor.[40] This source does not segregate labor cost based on class of employee or based on a given skillset – especially given that certain skillsets are in high demand (*e.g.*, experienced welders). Thus, Petitioner believes that this source undervalues the labor cost component associated with FSS. Finally, as the labor rate was obtained calendar year 2012, Petitioner adjusted the value for inflation using the Mexican producer price index in effect during the POI.[41]

6. Production Costs – Other Expenses

Petitioner added all the total direct manufacturing costs (materials, labor, and energy) to calculate the total cost of goods sold ("COGS") net of depreciation for FSS.[42] Pursuant to the Tariff Act and the Department's regulations, Petitioner added additional expenses relating to overhead, selling, general and administrative expenses, and profit to calculate a final NV.

Consistent with the Department's normal practice, Petitioner sought to obtain financial statements for producer of FSS where information could be extracted related to the company's FSS operations. Corey is part of the Groupo Recal group, which does not publish or make available an audited financial statement. As best information available, Petitioner is utilizing the audited financial statement of Grupo Carso ("Carso") which is a diversified group which includes

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40 *See* Line Worker Wages, attached as **Exhibit III-19B.**

41 Mexican Producer Price Index, attached as **Exhibit III-12.**

42 *See* Calculation of Normal Value, attached as **Exhibit III-14.**

the production of fabricated structural steel and construction in its product portfolio.[43] The financial statement obtained by Petitioner reflects Carso's operations during calendar year 2017.[44]

a. Overhead Expense

Petitioner multiplied the Mexican FSS producer's calculated cost of goods sold ("Total Material, Labor & Energy") by Carso's overhead ratio as derived from Carso's calendar year 2017 financial statements to arrive at the fixed overhead expense.[45] Petitioner added this expense to the calculated cost of goods sold to arrive at the total cost of manufacturing ("COM") for the Mexican FSS producer.[46]

b. Selling, General, and Administrative Costs

With respect to selling, general, and administrative costs ("SG&A"), Petitioner multiplied the Mexican FSS producer's calculated total cost of manufacturing by Carso's SG&A ratio as derived from Carso's calendar year 2017 financial statements to arrive at the SG&A expense for the Mexican FSS producer.[47] Petitioner added the calculated SG&A expense to the previously calculated total cost of manufacturing to arrive at a total cost of production (excluding profit and packing expenses).[48]

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43 *See* Grupo Carso 2017 Annual Report, attached as **Exhibit III-20B.**

44 *See* Calculation of Financial Ratios, attached as **Exhibit III-20A.**

45 *See id.*; *see also* Calculation of Normal Value, attached as **Exhibit III-14.**

46 *See* Calculation of Normal Value, attached as **Exhibit III-14.**

47 *See* Calculation of Financial Ratios, attached as **Exhibit III-20A**; *see also* Calculation of Normal Value, attached as **Exhibit III-14.**

48 Calculation of Normal Value, attached as **Exhibit III-14.**

c. Profit

To calculate the profit expense for the Mexican FSS producer, Petitioner multiplied the company's calculated total cost of production (excluding packing expenses) by Carso's calculated profit ratio as derived from Carso's calendar year 2017 financial statements.[49]

B. Normal Value

The calculations described above result in an FOP-based NV for the following observation:[50]

OBS	Project	Total Weight (NT)	Normal Value (MxN)
US-MX-01	[		$1,000,000,000]

IV. LESS THAN NORMAL VALUE COMPARISON

In order to calculate the margin of dumping, Petitioner matched the U.S. transaction offer to its NV. Petitioner subtracted the ex-factory U.S. price from NV and then divided the difference by the EP to determine a dumping margin for the U.S. transaction offer, yielding a transaction-specific dumping margin.[51]

This comparison demonstrates that Mexican producers/exporters sold, or offered for sale, subject merchandise in the United States at prices below NV. The calculated *ad valorem* dumping margin is 41.39%.[52]

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49 *See* Calculation of Financial Ratios, attached as **Exhibit III-20A**; *see also* Calculation of Normal Value, attached as **Exhibit III-14**.

50 *See* Calculation of Normal Value, attached as **Exhibit III-14**.

51 *See* Calculation of Dumping Margin, attached as **Exhibit III-21**.

52 *See id.*

V. CONCLUSION

Petitioner requests that antidumping duties be imposed on imports of FSS from Mexico in an amount sufficient to offset the unfair pricing described above.

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
III-1	*Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988)	Public
III-2	Declaration of [Name]	BPI
III-3	Distance calculations within Mexico	Public
III-4A	World Bank, *Doing Business in Mexico* – 2018	Public
III-4B	"Trading Across Borders Methodology," *Doing Business*	Public
III-5	Calculation of Country of Manufacture Freight Expenses	BPI
III-6	Calculation of Country of Manufacture Brokerage and Handling Expenses	Public
III-7	World Bank, *Doing Business in the United States* – 2018	Public
III-8	Declaration of [Name]	BPI
III-9	Calculation of Country of Destination Freight Expenses	BPI
III-10	Calculation of Domestic Brokerage and Handling	Public
III-11	Calculation of Ex-Factory Export Price	BPI
III-12	Mexican Producer Price Index	Public
III-13	Currency Exchange Rates	Public
III-14	Calculation of Normal Value	BPI
III-15	Summary of Input Costs Worksheet	Public
III-16	Global Trade Information Services Data	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
III-17	Conversion Rate for Uncommon Various Material Inputs	BPI
III-18	International Energy Agency, *Energy Prices and Taxes*	Public
III-19A	Skilled Worker Wages	Public
III-19B	Line Worker Wages	Public
III-20A	Calculation of Financial Ratios	Public
III-20B	Grupo Carso 2017 Annual Report	Public
III-21	Calculation of Dumping Margin	BPI

PUBLIC VERSION

DOC Investigation No. A-570-102
USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 248
Investigation
AD/CVD Operations
Petitioner's Business Proprietary Information Removed from Pages 3, 5-8, 11, 13, 14, 16, 20, Exhibit List, and Exhibits IV-3, IV-5, IV-7, IV-9A, IV-9B, IV-12, IV-13, IV-14, IV-18, and IV-22 of this Volume
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AND THE
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PETITIONS FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME IV:
PEOPLE'S REPUBLIC OF CHINA AD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

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I. INTRODUCTION

The application of the Department of Commerce's ("the Department") standard dumping methodology shows that producers and/or exporters in the People's Republic of China ("China") sold, or offered for sale, certain fabricated structural steel ("structural steel" or "FSS") in the United States at less than normal value ("NV").

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

Because the Department considers China to be a non-market economy ("NME"), for purposes of this petition, Petitioner calculated NV by valuing the factors of production ("FOP") for subject merchandise based on the cost or value of those factors in a surrogate country: Brazil. Public information regarding consumption rates in China was not reasonably available to Petitioner. Consequently, Petitioner based FOP consumption rates on the average consumption rates of a producer of fabricated structural steel in the United States (hereinafter the "Chinese Surrogate") for identical or similar merchandise.

Petitioner next compared the ex-factory U.S. prices with the NVs for identical or similar merchandise. In making these comparisons, Petitioner calculated NV for each observation in

Brazilian reals, converted the NV to U.S. dollars, subtracted the ex-factory U.S. price from the normal value for each observation, and divided the difference by the ex-factory U.S. price to determine the dumping margin.

II. EXPORT PRICE

Chinese producers/exporters of FSS typically sell subject merchandise to project developers, commercial and industrial erectors, and construction companies. They may sell directly or through U.S. sales affiliates. For most commercial and industrial construction fabrication projects in the United States, a contracting party, typically a project developer, a commercial or industrial erector, or a construction company, will issue a general request for proposal ("RFP") or request for quotation ("RFQ") with the expectation that several producers of FSS will express an interest in placing a bid to undertake the work to be performed under the terms of an RFP or RFQ.[1] During the bid process, prospective producers of FSS will submit to the contracting party their estimations of their expected fees that they seek to obtain from the contracting party when fulfilling the requirements of the project.[2] The contracting party will then assess the merits of each proposed bid, will possibly eliminate certain bids, and will then undertake additional rounds of negotiations with the remaining FSS producers. These FSS producers will profer a best and final offer to the contracting party. From these final bids, the contracting party will award a contract to the company whose offer is the most appealing to the

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[1] *See Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) at A-35-A-38, excerpts included in **Exhibit IV-1**. Depending on the project in question and the scope of the work, FSS producers may be asked simply to produce and deliver subject merchandise. In other projects, FSS producers may be asked to not only produce and deliver subject merchandise, but also to serve as the company that is responsible for the assembly and erection the FSS components into a finished steel structure. *Id.*

[2] The pricing is typically quoted on a price for an entire "job" as opposed to a price per unit (net ton, kilogram, piece) basis. *See id.* at A-36.

contracting party, which is typically based on price. The FSS producers that are not awarded a contract sometimes learn at least some information from the contracting party as to the reasons why a bid was not awarded, including which FSS producer was awarded a contract and how the winning bid related to their own.

Chinese and domestic producers of FSS compete for the same customers on a daily basis and are constantly involved in bid competitions against each other.

A. U.S. Price

Petitioner obtained the following quoted sales offer for FSS produced in and exported from China by a Chinese producer of FSS and offered for sale to a customer in the United States during the period of investigation (April 1, 2018 – September 30, 2018) (the "POI").[3]

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Offered Price (US$)
US-CN-01 [						$11,600,000]

Documents certifying the term of this recent sales offer are provided in **Exhibit IV-2.**

The project in question represents a [Size] project that involves the fabrication of steel into FSS for eventual erection by a third party. In this project, the Chinese producer of FSS would have been [Narrative

].

[3] Given the nature of the FSS industry (*e.g.*, significant lag times between design, bid, build and actual entry of the imported good), the Department should consider an extended POI.

B. Movement and Related Expenses

In order to calculate the ex-factory U.S. price for sales to the United States, Petitioner deducted the costs associated with exporting and delivering the product to customers in the United States from the quoted transaction price. These costs normally consist of inland and ocean freight charges from Chinese manufacturing facilities to U.S. ports, Chinese and U.S. port, wharfage, and/or handling fees, foreign brokerage and handling fees, customs duties paid upon entry of the subject merchandise into the United States, U.S. brokerage and handling fees, and U.S. inland freight expenses, where applicable. The following sections describe the calculations performed to derive the ex-factory U.S. price. Petitioner's calculations of the ex-factory U.S. price are provided at **Exhibit IV-3**.

Chinese imports of FSS are typically transported by truck or rail from the manufacturing facilities to the port of export, shipped by ocean vessel to the United States either in shipping containers (depending on the size of the constituent components) or in break-bulk form, and moved by truck, barge, or rail from the port of arrival to the location of the U.S. customer's choosing. The exact method of transportation depends on the proximity of the Chinese production factory to the port of exportation, the availability of rail or road lines in conjunction with the factory's location, and the location of the U.S. customer's designated delivery location. The following narrative describes the adjustments made to the offered U.S. price.

1. Country of Manufacture Expenses

a. Foreign Inland Freight and Warehousing

Under normal circumstances, Petitioner would deduct country of manufacture movement expenses such as foreign inland freight (truck or rail or barge), distribution warehouse expenses, brokerage and handling expenses, and port expenses from the quoted transaction price.

According to information available to Petitioner, the Chinese producer's facilities in [Location] are situated approximately [Distance] from the company's most likely (and nearest) port of exportation – [Location].[4]

In addition, the Department considers China to be an NME. Consequently, the Tariff Act of 1930, *as amended* (the "Tariff Act"), prohibits the Department from using a Chinese exporter's actual incurred foreign inland freight expenses unless the expense was paid for in a market economy currency and transportation was provided by an entirely independent, market economy provider. With respect to the sale and shipment of subject merchandise by the Chinese FSS producer, the information reasonably available to Petitioner indicates that the company utilizes local or regional Chinese-based entities for its transportation needs, as it is highly unlikely that international, market economy-based entities would be used to transport subject merchandise within China itself. As such, the Department cannot use the actual costs incurred by the Chinese FSS producer and, instead, must use a surrogate value for calculating foreign inland freight expenses.

Petitioner obtained information regarding Chinese inland freight costs from the World Bank publication *Doing Business in Brazil*.[5] The publication provides theoretical freight rates based on the exportation and importation of goods by a customer located in Rio de Janeiro and using the port of Santos as the chosen port of exportation.[6] The distance – approximately 513

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4 *See* Foreign Market Research Declaration, attached as **Exhibit IV-2.**

5 *See* World Bank Group, *Doing Business in Brazil – 2018* ("*DBB 2018*"), attached as **Exhibit IV-4A.**

6 *Id.*; *see Doing Business*, "Trading Across Borders Methodology," attached as **Exhibit IV-4B.** As is discussed elsewhere in this submission, Petitioner believes that the nature of FSS is such that the utilization of a standard benchmark for freight expenses significantly understates the expenses associated with the transportation of FSS.

kilometers[7] – was applied against the average export inland freight rate of US$1,779.00 per shipment to yield a cost per kilometer.[8] That cost was then converted to a cost per kilometer per kilogram (or per metric ton or net ton) by dividing the quoted rate by the standard container load as specified by the methodology outlined in *DBB 2018* – 15 metric tons.[9] The resulting cost per kilometer per metric ton was converted to a cost per kilometer per net ton and multiplied by the calculated distance between the Chinese producer's facilities and the [Location], which in turn was subtracted from the offered U.S. price.[10]

b. Brokerage and Handling

Petitioner calculated the country of manufacture brokerage and handling expenses that the Chinese producer of FSS would incur in shipping subject merchandise to the United States. Specifically, according to *DBB 2018*, exporters in Brazil are likely to incur up to US$1,185.00 in brokerage and handling fees.[11] This rate was converted to a price per kilogram (and then price per metric ton and price per net ton) by dividing the brokerage and handling fee rate by the standard container load as specified by the methodology outlined in *DBB 2018* – the 15 metric tons referenced above.[12] The cost per net ton was then subtracted from the offered U.S. price.[13]

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7 *See DBB 2018*, attached as **Exhibit IV-4A**.

8 *See* Calculation of Foreign Inland Freight, attached as **Exhibit IV-5**.

9 *See Doing Business*, "Trading Across Borders Methodology," attached as **Exhibit IV-4B**.

10 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit IV-3**.

11 *See DBB 2018*, attached as **Exhibit IV-4A**.

12 *See Doing Business*, "Trading Across Borders Methodology," attached as **Exhibit IV-4B**; *see also* Calculation of Foreign Brokerage and Handling Expenses, attached as **Exhibit IV-6**.

13 *See* Calculation of Ex-Factory Export Price, attached as **Exhibit IV-3**.

2. International Movement Expenses

a. Ocean Freight and Insurance

With respect to ocean freight and relevant marine insurance expenses, Petitioner obtained from the U.S. International Trade Commission information relating to FSS imported into the United States during the POI.[14] Petitioner utilized [narrative

].[15]

Petitioner subtracted the reported Customs values for entries made into [Location] from the reported cost insurance freight ("CIF") values for the same port and divided the remainder by the quantity of merchandise imported into the port for the same time period.[16] This result was subtracted from the U.S. price quote as shown in **Exhibit IV-3**. This is the best information available to Petitioner.

b. U.S. Port Expenses

Petitioner made adjustments to the Chinese FSS producer's offered price to account for port expenses associated with the delivery of goods to the port of arrival in the United States. Specifically, as the goods were to be delivered to the [Location], Petitioner obtained

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[14] *See* Ocean Freight Expense Calculation, attached as **Exhibit IV-7**. Petitioner notes that official U.S. import statistics base movement expense data on reported expenses "incurred {while} bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry." 19 C.F.R. § 141.86(a)(8). Based upon this, it is clear that foreign inland freight expenses are not captured in official U.S. import statistics and must be calculated separately. This conclusion is confirmed by the U.S. Customs and Border Protection Agency, which stipulates that freight charges reportable on Customs Form 7501 at Column 32 are to be "port to port" based expenses. *See* Excerpts from CBP Form 7501 Instructions, attached as **Exhibit IV-8**.

[15] *See* Ocean Freight Expense Calculation, attached as **Exhibit IV-7**.

[16] *See id.*

the tariff for this port that was in effect during the POI.[17] Petitioner subtracted these expenses from the U.S. price quote as shown in **Exhibit IV-3.**

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

Petitioner subtracted the calculated movement expenses and brokerage and handling expenses from the reported U.S. price to obtain the following ex-factory U.S. price for FSS exported from China and offered for sale in the United States:

OBS	Project	Location	Finished Weight (NT)	Offer Date	Offer Terms	Ex-Factory EP (US$)
US-CN-01 [						$ 11,300,000]

Detailed calculations of the ex-factory U.S. price for imports of FSS from China are provided in **Exhibit IV-3.**

III. NORMAL VALUE

Pursuant to the Tariff Act, if subject merchandise is exported from an NME, the Department must determine NV based on the factors of production used to produce the subject merchandise as valued in an appropriate surrogate market economy country.[18] General expenses, profit, the cost of containers, coverings, and other expenses must be added to this amount.[19] Because China remains an NME, Petitioner calculated NV using the values of FOPs from a surrogate country, Brazil.

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17 *See* Calculation of U.S. Port Fees, attached as **Exhibit IV-9A.**

18 19 U.S.C. § 1677b(c)(4).

19 *Id.* § 1677b(c)(3).

A. China Is a Non-Market Economy

The Department has consistently treated China as an NME in every administrative proceeding in which China has been involved, including recently concluded administrative proceedings.[20] Consequently, consistent with the Tariff Act and the Department's regulations, China's NME status remains in effect today.[21]

B. Brazil Is an Appropriate Surrogate Country for China

Consistent with its practice in other antidumping proceedings relating to imports from China, including pending and recently completed proceedings, for purposes of initiation of this petition, the Department should use Brazil as the surrogate country to value FOPs for FSS produced in China. The Tariff Act specifies that the Department shall value FOPs in a market economy country that is 1) at a comparable level of development to the NME country, and 2) is a significant producer of comparable merchandise.[22] Brazil satisfies both requirements.

First, Brazil and China have very similar per capita gross national incomes ("GNI"). Data compiled by the World Bank for 2017 indicate that Brazil's per capita GNI was $8,580.00, while China's per capita GNI was $8,690.00.[23] The Department has determined in a number of ongoing and recently concluded investigations and administrative reviews that Brazil is at a level

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[20] *See* Preliminary Decision Memorandum accompanying *Rubber Bands From the People's Republic of China* 83 Fed. Reg. 45,213 (Dep't Commerce Sept. 6, 2018) (affirm. prelim. deter. of sales at less-than-fair-value and postponement of final deter.) at Sec. V.

[21] *See* 19 U.S.C. § 1677(18)(C)(i); *see also Multilayered Wood Flooring from the People's Republic of China,* 76 Fed. Reg. 30,656, 30,658 (Dep't Commerce May 26, 2011) (prelim. deter. of sales at less-than-fair value).

[22] 19 U.S.C. §§ 1677b(c)(4)(A) – (B); *see also Non-Market Economy Surrogate Country Selection Process*, Policy Bulletin 04.1 (Dep't Commerce 2004).

[23] *See* Memorandum from Carole Showers, Executive Director, Off. Of Policy, Enf't and Compliance, to James Maeder, Acting Deputy Assistant Secretary, AD/CVD Operations, Enf't and Compliance, re: *List of Surrogate Countries for Antidumping Investigations and Reviews from the People's Republic of China ("China")* (Aug. 2, 2018) at 2, excerpts attached as **Exhibit IV-10** ("SC/SV Memo").

of economic development comparable to China.[24] Second, Brazil is a significant producer of subject merchandise. According to information obtained from the Brazilian Center of Steel Construction ("CBCA"), the steel structure industry in Brazil employed nearly 30,000 workers in 2014.[25] Companies such as Brazil's Metasa and Codeme Engenharia (after having merged in 2010) have the ability to produce nearly 110,000 tons of FSS for construction purposes annually.[26] This quantity represents the output of but two companies. According to CBCA, there are dozens of FSS producers throughout Brazil that produce identical and comparable merchandise.[27] Certainly if two companies are capable of producing 110,000 tons of subject merchandise annually, and if there are dozens of additional producers of subject and comparable merchandise scattered throughout Brazil, then it is clear that Brazil easily meets the statutory requirement that a potential surrogate country be a significant producer of identical and comparable merchandise.

In sum, Brazil's position as a significant producer of FSS and comparable products is indicative of the country's suitability as a surrogate country. Brazil is also at a comparable level of economic development as China and has been used by the Department as a surrogate country for China for purposes of petition initiation. For these reasons, Brazil is an appropriate surrogate country for purposes of this Petition.

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24 *See, e.g.*, Preliminary Decision Memorandum accompanying *Certain Tool Chests and Cabinets from the People's Republic of China,* 82 Fed. Reg. 53,456 (Dep't Commerce Nov. 16, 2017) at 8.

25 *See* Patrick Bruha, *Civil Construction Industry in Brazil,* The Brazil Business (Apr. 28, 2015), attached as **Exhibit IV-11A**.

26 *See* Brazilian Steel Fabricators Codeme and Metasa Join Efforts, Steel Business Briefing (Sept. 7, 2010), attached as **Exhibit IV-11B**.

27 *See* CBCA Steel Construction Statistics, attached as **Exhibit IV-11C**.

C. Cost of Production and Constructed Value

Petitioner used the Department's standard methodology to calculate the cost of production ("COP") for the subject merchandise produced by the Chinese FSS producer in China. Because the volume of inputs consumed by the Chinese FSS producer and the company's actual production costs are not reasonably available, Petitioner used the product-specific production costs and/or consumption rates of [Company], as the "Chinese Surrogate."[28]

Petitioner used [Company] as [narrative].[29] The [narrative]. As with the Chinese FSS producer in question and other Chinese respondents, [Company] of FSS. [narrative] FSS.

1. The Production Process for Subject Merchandise

The manufacturing process for FSS follows a lengthy process and requires a variety of inputs.

As an initial matter, Petitioner notes that FSS is a unique product, and, with few exceptions, no two projects are exactly alike. When a contracting party issues an RFQ or RFP with a generalized set of design parameters for a given project, each FSS producer will expend significant amounts of time and money preparing a response to that RFQ or RFP and will

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28 *See* Declaration of [Name], attached as **Exhibit IV-12.**

29 *Id.*

propose a cost estimate based on a design and engineering plan that the FSS producer believes will satisfy the terms of the RFP or RFQ. Thousands of hours of time are expended by architects, drafters, computer aided design ("CAD") programmers, engineers, and planners in generating a bid in response to an RFQ or RFP. Even after an FSS producer's bid has been accepted and a contract has been awarded, architectural design plans and blueprints must be updated and finalized which requires additional feedback and analysis from architects, drafters, CAD programmers, engineers, and planners. The time and money expended in finalizing set of architectural and engineering blueprints represents a significant cost that is built into the bid price.

Once all final design and architectural plans have been agreed to between the FSS producer and the contracting party (which usually happens *after* a contract has been awarded), the FSS producer will commence actual production work to fulfill the terms of the project. This entails the procurement of steel mill inputs (including structural steel such as wide flange beams, steel angles, steel channels, cut-to-length steel plate, and hollow structural shapes, support materials (including steel nuts and bolts, steel studs, steel rivets, galvanized steel strand, and steel rope), welding process materials (including cutting gases, welding wire, welding gases, and welding fluxes), and other required material inputs (including galvanizing materials, protective paints and lacquers, insulating and thermal breaks, and lubricating oils)).

Based upon the architectural blueprints and drawings, highly skilled welders, crane operators, and machine operators will then fabricate the various inputs and convert them to FSS through processes such as cutting operations, bending operations, welding operations, drilling and punching operations, painting and galvanizing operations, and partial assembly operations to the extent practicable at the FSS producer's production facilities. Some of the work is performed

through the assistance of mechanized and automated machinery while other steps must be partially or wholly performed by hand.

Once each component of FSS has been manufactured, it is placed into storage until shipment or is immediately prepared for shipment to a marshalling yard or to the job erection site itself. Doing so is a complex and expensive process. Unlike standard steel goods or bulk commodity goods, FSS is often shipped in small quantities (on a piece count basis) and is shipped via flat-bed truck.[30] FSS components cannot be simply stacked onto other components as doing so could damage the surface of the components (where they have been painted, coated, or galvanized), physically deform the components, or fracture or damage weldments. Resultantly, a flat-bed truck might be dispatched to a job site with a single piece of steel on the bed of the truck. In addition, many construction and erection companies dictate tight delivery schedules to FSS producers – including dictating precisely where and when (within a narrow window) FSS components are to be delivered.[31] Finally, owing to the size and shape of many FSS components, FSS producers must often coordinate with freight carriers to work with local and state transportation departments and law enforcement agencies to obtain permits and clearances to transport loads of FSS that require the utilization of escort or flag vehicles and/or special signage (*e.g.*, oversized load signs) or must be shipped only during certain hours of the day (*e.g.*, at night) or on certain roads.

The combination of low shipment quantities per truckload shipment, the need to handle FSS with care, the existence of precise delivery and shipment times, and the need for special

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30 *See* Declaration of [Name], attached as **Exhibit IV-13**.

31 *Id.*

permits and escort vehicles substantially increases the freight and handling costs associated with FSS. These costs are built into the contracted price for subject merchandise.

2. The Chinese Surrogate

The production process for FSS is very similar regardless of whether the product is produced in the United States or in China. [Company] produces FSS in [Location].[32] The company has been associated with the production of FSS for [Time].

3. Calculation of Normal Value

To calculate NV, Petitioner first calculated the amount (*i.e.*, consumption rate) of each production input that the Chinese Surrogate used [narrative] offered for sale by the Chinese FSS producer in the United States during the POI. Petitioner used the Chinese Surrogate's actual consumption rates for all direct material inputs (*e.g.*, steel plate, structural steel shapes, nuts and bolts and other hardware, paint or zinc for galvanizing, finished steel panels (*e.g.*, roof decking or steel grating), process gases, and welding materials).[33] Petitioner determined the average cost for most of these inputs in China using publicly available information that is most contemporaneous with the POI. Similarly, using the Chinese Surrogate's actual incurred consumption rates for energy and labor,[34] Petitioner determined the

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32 Declaration of [Name], attached as **Exhibit IV-12**.

33 *See* Calculation of Normal Value, attached as **Exhibit IV-14**.

34 As noted above, there is substantial labor cost and time that is required to design and plan for a finished project that is not directly related to the actual physical fabrication of structural steel. This labor includes output from architects, drafters, CAD programmers, engineers, and planners. The time and costs incurred from these employees is factored into the finished cost of a project and is not treated by FSS producers as company overhead.

average cost for these inputs in China from publicly available information that is most contemporaneous with the POI.[35] Based on this information, Petitioner calculated the Chinese respondents' normal values.

4. Adjustments for Inflation and Exchange Rates

Petitioner was unable to obtain cost figures in U.S. dollars for the period for which Petitioner has cost data for certain inputs. Where an input came from a period preceding the POI, the period for which Petitioner has cost data, Petitioner made adjustments for inflation using the producer price index for Brazil as reported by the internet website www.tradingeconomics.com.[36] Specifically, Petitioner divided the index for the period to which the input price pertained by the index for the proposed POI (April through September 2018).[37]

Petitioner calculated the entire cost of production in Brazilian reals pursuant to Department practice. For input prices denominated in U.S. dollars, Petitioner converted the price into Brazilian reals using the simple average of the daily U.S. dollar–Brazilian real exchange rate (or third country exchange rate) for the POI as reported by the Federal Reserve.[38]

5. Production Costs – Direct

Using the methodology described above, Petitioner estimated the cost of production for merchandise produced and exported by the Chinese respondent.[39]

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35 Calculation of Normal Value, attached as **Exhibit IV-14**.

36 *See* Brazilian Producer Price Index, attached as **Exhibit IV-15**.

37 *Id.*

38 *See* Exchange Rates, attached as **Exhibit IV-16**.

39 *See* Calculation of Normal Value, attached as **Exhibit IV-14**.

a. Raw Materials

Petitioner valued all direct material inputs used to produce FSS from Brazilian import statistics. Petitioner obtained Brazilian import data from the Global Trade Atlas database made available by Global Trade Information Services for the period April through September 2018 (*i.e.*, the six month period encompassing the POI).[40]

Petitioner converted data to a price per net ton or gallon basis [narrative]. A summary of all surrogate values pertaining to material inputs appears at **Exhibit IV-18**, while the source data pertaining to these production costs appear at **Exhibit IV-17**. Consistent with the Department's standard methodology, Petitioner deleted from the calculation of surrogate values any import pricing that was sourced from NMEs (*e.g.*, China, Vietnam), countries that have been found to provide generally available export subsidies (*e.g.*, India, Indonesia), and countries that are unidentifiable (*e.g.*, "Other countries, NES").

With respect to several inputs, because [narrative], the precise material inputs are not necessarily known. For example, a certain design element could be satisfied with the utilization of two types of heavy structural shapes. Alternatively, where a project design element is described, that element might be satisfied by using a standard grade of steel or may require a high strength low alloy steel. The final design and final bill of materials will not be known until final blue prints and designs are prepared. As such, in certain circumstances more than one class of input (alloy

40 *See* GTIS Import Data, attached as **Exhibit IV-17**.

and non-alloy steel) (*i.e.*, materials coming from more than one harmonized tariff schedule code ("HTS")) may be used to produce a given element of fabricated structural steel.

b. Energy

To value electricity, Petitioner used the Brazilian electricity rates in effect during July 2013 as reported by the Brazil Business.[41] As the electricity rate was obtained in a period that preceded the POI, Petitioner adjusted the value for inflation using the Brazilian producer price index in effect during the POI.[42]

c. Labor

The labor expense incurred in producing FSS involves many classes of workers ranging from manual laborers to machine operators to experienced welders. In addition, there is a large component of "professional" labor that is involved in the production of subject merchandise and includes architectural labor, drafters, designers, and professional licensed structural engineers. Petitioner sought, without success, to obtain labor and wage rate information that accounts for the various skill levels found in workers involved in the production of FSS. As best information available, Petitioner obtained labor costs for Brazil in 2012 from the U.S. Department of Labor.[43] This source does not segregate labor cost based on class of employee or based on a given skillset. Thus, Petitioner believes that this source undervalues the labor cost component associated with FSS. Finally, as the labor rate was obtained calendar year 2012, Petitioner adjusted the value for inflation using the Brazilian producer price index in effect during the POI.[44]

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41 *See* Calculation of Electricity Expenses, attached as **Exhibit IV-19**.

42 *See id.*

43 *See* Brazilian Labor Statistics 2012, attached as **Exhibit IV-20**.

44 *Id.*

6. Production Costs – Other Expenses

Petitioner added all the total direct manufacturing costs (materials, labor, and energy) to calculate the total cost of goods sold ("COGS") net of depreciation for FSS.[45] Pursuant to the Tariff Act and the Department's regulations, Petitioner added additional expenses relating to overhead, selling, general and administrative expenses, and profit to calculate a final NV.

Consistent with the Department's normal practice, Petitioner attempted to locate the financial ratios of a company that is a producer of comparable or identical merchandise in the primary surrogate country. Many companies within Brazil have reported net losses for their most recent fiscal years or have been required to report "qualified" financial statements. Lacking viable financial statements in Brazil, Petitioner has relied upon the 2017 financial statements of a Mexican producer of identical or comparable merchandise – Grupo Carso ("Carso").[46] Grupo Carso's product portfolio includes companies that are producers of fabricated structural steel.[47] Petitioner believes this to be a suitable methodology as Mexico has been identified by the Department as a country that is economically comparable to China.[48]

a. Overhead Expense

Petitioner multiplied the Chinese FSS producer's calculated cost of goods sold ("Total Materials, Energy & Labor") by Carso's overhead ratio as derived from Carso's calendar year 2017 financial statements to arrive at the fixed overhead expense.[49] Petitioner added this

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45 *See* Calculation of Normal Value, attached as **Exhibit IV-14**.

46 *See* Grupo Carso 2017 Annual Report, attached as **Exhibit IV-21A**.

47 *See id.*

48 *See* SC/SV Memo at 2, attached as **Exhibit IV-10**.

49 *See* Calculation of Financial Ratios, attached as **Exhibit 21B**; *see also* Calculation of Normal Value, attached as **Exhibit IV-14**.

expense to the calculated cost of goods sold to arrive at the total cost of manufacturing ("COM") for the Chinese FSS producer.[50]

b. Selling, General, and Administrative Costs

With respect to selling, general, and administrative costs ("SG&A"), Petitioner multiplied the Chinese FSS producer's calculated total cost of manufacturing by Carso's SG&A ratio as derived from Carso's calendar year 2017 financial statements to arrive at the SG&A expense for the Chinese FSS producer.[51] Petitioner added the calculated SG&A expense to the previously calculated total cost of manufacturing to arrive at a total cost of production (excluding profit and packing expenses).[52]

c. Profit

To calculate the profit expense for the Chinese FSS producer, Petitioner multiplied the company's calculated total cost of production (excluding packing expenses) by Carso's calculated profit ratio as derived from Carso's calendar year 2017 financial statements.[53]

D. Normal Value

The calculations described above result in a FOP-based NV for the following observation:[54]

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50 Calculation of Normal Value, attached as **Exhibit IV-14**.

51 *See* Calculation of Financial Ratios, attached as **Exhibit 21B**; *see also* Calculation of Normal Value, attached as **Exhibit IV-14**.

52 Calculation of Normal Value, attached as **Exhibit IV-14**.

53 *See id.*

54 *See id.*

OBS		Project	Total Weight (NT)	Normal Value (R$)	
US-CN-01	[			$120,000,000	]

IV. LESS THAN NORMAL VALUE COMPARISON

In order to calculate the margin of dumping, Petitioner matched the U.S. transaction offer to its NV. Petitioner subtracted the ex-factory U.S. price from NV and then divided the difference by the EP to determine a dumping margin for the U.S. transaction offer, yielding a transaction-specific dumping margin.[55]

This comparison demonstrates that Chinese producers/exporters sold, or offered for sale, subject merchandise in the United States at prices below NV. The calculated *ad valorem* dumping margin is 218.85%.[56]

V. CONCLUSION

Petitioner request that antidumping duties be imposed on imports of FSS from China in an amount sufficient to offset the unfair pricing described above.

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55 *See* Calculation of Dumping Margin, attached as **Exhibit IV-22**.

56 *See id.*

RANGED DATA

PUBLIC VERSION

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
IV-1	*Certain Fabricated Structural Steel from Canada*, Inv. No. 731-TA-387, USITC Pub. 2062 (Feb. 1988) (Prelim.) (excerpts)	Public
IV-2	Foreign Market Research Declaration	Public
IV-3	Calculation of Ex-Factory Export Price	BPI
IV-4A	World Bank Group, *Doing Business in Brazil – 2018*	Public
IV-4B	*Doing Business*, "Trading Across Borders Methodology"	Public
IV-5	Calculation of Foreign Inland Freight	BPI
IV-6	Calculation of Foreign Brokerage and Handling Expenses	Public
IV-7	Ocean Freight Expense Calculation	BPI
IV-8	CBP Form 7501 Instructions	Public
IV-9A	Calculation of U.S. Port Fees	BPI
IV-9B	[Source]	BPI
IV-10	Memorandum from Carole Showers to James Maeder re: *List of Surrogate Countries for Antidumping Investigations and Reviews from the People's Republic of China* (Aug. 2, 2018)	Public
IV-11A	Patrick Bruha, *Civil Construction Industry in Brazil*, The Brazil Business (Apr. 28, 2015)	Public
IV-11B	Brazilian Steel Fabricators Codeme and Metasa Join Efforts, Steel Business Briefing (Sept. 7, 2010)	Public
IV-11C	CBCA Steel Construction Statistics	Public
IV-12	Declaration of [Name]	BPI

RANGED DATA

PUBLIC VERSION

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
IV-13	Declaration of [Name]	BPI
IV-14	Calculation of Normal Value	BPI
IV-15	Brazilian Producer Price Index	Public
IV-16	Exchange Rates	Public
IV-17	GTIS Import Data	Public
IV-18	Summary Input Calculation Worksheet	BPI
IV-19	Calculation of Electricity Expense	Public
IV-20	Brazilian Labor Statistics 2012	Public
IV-21A	Grupo Carso 2017 Annual Report	Public
IV-21B	Calculation of Financial Ratios	Public
IV-22	Calculation of Dumping Margin	BPI

DOC Investigation No. C-122-865
USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 585
Investigation
AD/CVD Operations
PUBLIC DOCUMENT

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

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

VOLUME V:
CANADA CVD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

PETITIONER:

AMERICAN INSTITUTE OF STEEL CONSTRUCTION, LLC

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February 4, 2019

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I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON FABRICATED STRUCTRUAL STEEL FROM CANADA

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"), Canada is considered to be a "Subsidies Agreement" country under 19 U.S.C. § 1677(b). Petitioner alleges that the Government of Canada ("GOC") maintains various economic programs and policies that have conferred countervailable subsidies on Canadian producers of fabricated structural steel ("FSS"), and that these subsidized subject imports are materially injuring the U.S. FSS industry. Accordingly, Petitioner requests that the Department apply U.S. CVD laws to the policies and programs outlined in this petition.

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

The name of the country in which the subject merchandise is manufactured or produced is Canada.

III. NAMES AND ADDRESSES OF CANADIAN FSS PRODUCERS BENEFITING FROM SUBSIDY PROGRAMS

Petitioner has identified a number of FSS producers or exporters in Canada 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 as **Exhibit I-7** to Volume I of this petition.

IV. EFFORTS TO OBTAIN INFORMATION

Petitioner has conducted extensive research to document Canadian government subsidies to the FSS industry in Canada, including a review of the following sources: financial statements of Canadian FSS producers, where available; company websites; market and industry research; news sources; WTO, U.S. government and Canadian government reports; private market research reports; and recent Department CVD investigations with respect to Canada.

However, much of the information that would allow Petitioner to determine with certainty the types and amounts of subsidies received by each of Canada's FSS producers is difficult or impossible to obtain. For example, the interest rates at which Canada's FSS producers obtain preferable loans are not publicly available. As a result of the 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."[1] The most accurate and thorough manner in which the type and amount of subsidies may be determined is through administrative investigation and through the issuance of preliminary and final administrative determinations.[2]

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

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1 *Prestressed Concrete Steel Wire Strand from India*, 68 Fed. Reg. 40,629, 40,632 (Dep't Commerce July 8, 2003) (prelim. affirmative countervailing duty deter.).

2 *See id.*

V. THE DATE FROM WHICH THE DEPARTMENT SHOULD MEASURE SUBSIDIES

For purposes of 19 C.F.R. § 351.524(d)(2), the average useful life of renewable physical assets in this industry – *i.e.*, in the manufacture of fabricated structural metal products – is 12 years.[3] Accordingly, assuming that the period of investigation ("POI") is calendar year 2017, Petitioner respectfully requests that the Department investigate any allocable, non-recurring subsidies granted during the period from 2006 to 2017, and any outstanding loans or recurring subsidies provided during the presumptive POI.

VI. COUNTERVAILABLE SUBSIDY PROGRAMS

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

- grants, cash infusions and preferential loans;
- tax incentives and rebates;
- programs for producers in designated locations; and
- export subsidies.

Cases of this nature are typically not amenable to mediation because they involve agency decisions pursuant to statutory/regulatory schemes on the basis of the administrative record.

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 FSS producers, and are specific.

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[3] *See* Internal Revenue Service, Pub. 946 "How to Depreciate Property" (Feb. 28, 2018) at 105, excerpt attached as **Exhibit V-1**.

Based on the locations of the FSS producers identified in **Exhibit I-7**, in addition to subsidies provided by the GOC, Petitioner has identified subsidies provided by the following provincial governments:

- The Government of Alberta ("GOA"), as JV Driver Fabricators Inc. and Waiward Steel LP have production facilities in the province of Alberta.
- The Government of British Columbia ("GBC"), as AI Industries, Dynamic Attractions, and Supreme Steel Vancouver have production facilities in the province of British Columbia.
- The Government of Manitoba ("GOM"), as Capitol Steel Corp. has production facilities in the province of Manitoba.
- The Government of New Brunswick ("GNB"), as Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd. have production facilities in the province of New Brunswick.
- The Government of Nova Scotia ("GNS"), as Cherubini Metal Works Limited and Marid Industries Limited, have production facilities in the province of Nova Scotia.
- The Government of Quebec ("GOQ"), as the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc. have production facilities in the province of Quebec.
- The Government of Ontario ("GOO"), as ANJ Industrial Fab Ltd., Niagara Structural Steel, and Walters, Inc., have production facilities in the province of Ontario.
- The Government of Prince Edward Island ("GPEI"), as MacDougall Steel Erectors, Inc. has production facilities in the province of Prince Edward Island ("PEI").
- The Government of Saskatchewan ("GOS"), as Supreme Steel LP has production facilities in the province of Saskatchewan.

Provided below is a description of the various countervailable subsidies available to Canadian FSS producers.

A. Government of Canada Subsidy Programs

1. Export Guarantee Program

The GOC provides guarantees for loans from private banks to cover Canadian companies' international sales contracts.[4] Specifically, the GOC provides companies with guarantees to encourage banks to increase access to financing.[5] The program provides guaranteed amounts of up to $10 million per customer and financing for foreign and domestic assets.[6] To qualify for a guarantee under this program on a domestic operation line or capital expenditure loan not directly related to an export, the company's export sales in the past year must have been at least 15 percent or C$5 million and the company must have also exported goods and services in the same amount in the previous year. As Canadian FSS producers have won projects in the United States valued at well-above the C$5 million threshold, it is reasonable to believe that such companies would qualify for, and utilize, this program.

a. Export Guarantees Provided to Canadian FSS Producers Constitutes a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and other benefits granted under this export guarantee program should be considered loans provided directly by the GOC and thus financial contributions within the meaning of section 775(5)(D)(i) of the Act.[7]

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4 Export Development Canada, *Export Guarantee Program*, attached as **Exhibit V-2**.

5 *Id.*

6 *Id.*

7 *See, e.g.,* Issues and Decision Memorandum accompanying *Coated Free Sheet Paper from the People's Republic of China*, 72 Fed. Reg. 60, 645 (Dep't Commerce Oct. 25, 2007) (final affirm. countervailing duty deter.) ("*CFS Paper from China* IDM") at 54.

(2) Benefit

These export loan policies appear to be administered on preferential, non-commercial terms, which confer a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act. The benefit 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 without the government-provided guarantee.

(3) Specificity

The benefits conferred under this program are specific because they are contingent on export performance, under section 771(5A)(B) of the Act.

2. Foreign Affairs and International Trade Canada CanExport Program

The CanExport is a new program designed to increase the competitiveness of Canadian companies.[8] It will provide up to $50 million over five years in direct financial support to small and medium-sized enterprises ("SMEs") in Canada seeking to develop new export opportunities, particularly in high-growth priority markets and sectors.[9] This program is contingent on export activity. As there are Canadian FSS producers that have less than 500 employees[10] and have targeted their exports at the United States, it is reasonable to believe that such companies would qualify for, and utilize, this program.

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8 Government of Canada, *About CanExport*, attached as **Exhibit V-3**.

9 *Id.*

10 *See AI Industries Builds with Automation Push*, Canadian Fabricating & Welding (Aug. 2016) at 19, excerpt attached as **Exhibit V-4**; Industry Canada, Key Small Business Statistics (July 2012), attached as **Exhibit V-5**.

a. Grants Under the CanExport Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the CanExport program provide a "direct transfer of funds" in the form of a grant from the GOC within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the CanExport program provide a benefit equal to the amount of the grant.[11]

(3) Specificity

Grants provided under the CanExport program are specific because they are contingent on export performance, under section 771(5A)(B) of the Act. These benefits are also specific pursuant to Section 771(5A)(D)(iii)(II) of the Act because they appear to be directed at specific high-growth priority markets and sectors, such as the FSS industry.[12]

3. Export Development Canada Export Financing for Steel

The Export Development Canada ("EDC"), Canada's export credit agency, is making up to $900 million in commercial financing and insurance available over the next two years to assist viable companies in the steel and aluminum sectors and related industries.[13] EDC's financing and insurance solutions can be used for activities such as:

- Providing for additional liquidity based on existing commitments by a commercial lender;
- Partnering with banks to guarantee the issuance of eligible letters of credit, freeing up working capital;

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11 Government of Canada, *About CanExport*, attached as **Exhibit V-3**.

12 *Id.*

13 Export Development Canada, *EDC is offering support for the steel and aluminum industries*, attached as **Exhibit V-6.**

- Providing insurance to ensure payment by a foreign buyer; or
- Providing access to working capital to fulfill an international contract.[14]

Given that Canadian FSS producers are part of the steel industry supply chain, it is reasonable to believe that such companies would qualify for, and utilize, this program.

a. Subsidized EDC Export Financing Provided to Canadian FSS Producers Constitutes a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and other benefits granted under the EDC financing program should be considered loans provided directly by the GOC and thus financial contributions within the meaning of section 775(5)(D)(i) of the Act.[15] Funds disbursed under the EDC export financing program for insurance constitute financial contributions under section 771(5)(D)(i) of the Act because they are direct transfers of liability to the GOC.

(2) Benefit

These export loan and insurance policies appear to be administered on preferential, non-commercial terms, which confer a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act. The benefit 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. For the export insurance program, the benefit 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 without the government-provided guarantee.

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14 *Id.*

15 *See, e.g., CFS Paper from China* IDM at 54.

(3) Specificity

The benefits conferred under the EDC financing program are specific pursuant to Section 771(5A)(D)(iii)(II) of the Act because they appear to be limited to the steel and aluminum industry, which includes Canadian FSS producers that are part of the steel industry supply chain.[16]

4. Federal Accelerated Capital Cost Allowances for Class 29 Assets

The GOC allows Class 29 assets (*i.e.*, machinery used in manufacturing or processing operations) acquired after March 18, 2007, and before 2016, to be claimed as a tax deduction under the Accelerated Capital Cost Allowance program.[17] Under this allowance, Class 29 assets can be fully depreciated at an accelerated rate over three years and the amount of depreciation can be claimed as a deduction to reduce the taxpayer's taxable income.[18] This subsidy is a recurring subsidy with the benefit as the difference between the deduction calculated using the Class 29 accelerated rate of depreciation and the deduction calculated using the standard rate of depreciation. The Department recently found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[19] Because Canadian FSS producers likely acquired manufacturing or processing machinery between 2014 and 2016, it is reasonable to believe that such companies would qualify for, and utilize, this program.

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16 Export Development Canada, *EDC is offering support for the steel and aluminum industries*, attached as **Exhibit V-6**.

17 *See* Government of Canada, *Classes of depreciable property*, attached as **Exhibit V-7**.

18 *Id.*

19 *See* Issues and Decision Memorandum accompanying *Certain Uncoated Groundwood Paper from Canada*, 83 Fed. Reg. 39,414 (Dep't Commerce Aug. 9, 2018) (final affirmative countervailing duty deter.) ("*UG Paper from Canada* IDM") at 9.

a. Tax Credits for Class 29 Assets Constitute Countervailable Subsidies

(1) Financial Contribution

The tax credits granted under the Accelerated Capital Cost Allowance program constitute a financial contribution in the form of revenue foregone by the GOC, consistent with section 771(5)(D)(ii) of the Act.[20]

(2) Benefit

The tax credits granted under the Accelerated Capital Cost Allowance program confer a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[21]

(3) Specificity

As the Department has previously found,[22] the Canadian government's provision of tax credits under the Accelerated Capital Cost Allowance program is *de jure* specific because, as a matter of law, eligibility for this tax program is expressly limited to certain industries.

5. Federal Scientific Research and Experimental Development Tax Credit

The GOC provides a tax credit on companies' eligible research and development expenditures, such as salary and wages, materials, overhead, and contracts.[23] The GOC offered a standard tax credit of 15 percent of the cost of these expenditures, with an enhanced rate of 35 percent for small Canadian businesses.[24] The Department found this program to be countervailable

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20 *See, e.g., Certain Steel Grating from the People's Republic of China*, 74 Fed. Reg. 56,796, 56,801 (Dep't Commerce Nov. 3, 2009) (prelim. affirmative countervailing duty deter. and alignment of countervailing duty deter. with final antidumping duty deter.).

21 *See, e.g., id.* at 56,801.

22 *UG Paper from Canada* IDM at 184.

23 *See* Government of Canada, *Claiming SR&ED tax incentives*, attached as **Exhibit V-8**.

24 *Id.*

in *Certain Softwood Lumber Products from Canada*[25] and *Certain Uncoated Groundwood Paper from Canada*.[26] Given that Canadian FSS producers conduct research and development ("R&D"), it is reasonable to believe that such companies would qualify for, and utilize, this program.

a. Federal Scientific Research and Experimental Development Tax Credits Constitute Countervailable Subsidies

(1) Financial Contribution

Federal Scientific Research and Experimental Development tax credits constitute a financial contribution in the form of revenue foregone by the GOC, consistent with section 771(5)(D)(ii) of the Act.[27]

(2) Benefit

Federal Scientific Research and Experimental Development tax credits confer a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[28]

(3) Specificity

As the Department has previously found,[29] this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because, the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.

6. Federal Apprenticeship Job Creation Tax Credit

The GOC provides the Apprenticeship Job Creation Tax Credit for employers to claim a tax credit of 10 percent of wages for qualifying apprentices in the first two years of employment,

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25 *See* Issues and Decision Memorandum accompanying *Certain Softwood Lumber Products from Canada*, 82 Fed. Reg. 51,814 (Dep't Commerce Nov. 8, 2017) (final affirmative countervailing duty deter., and final negative deter. of critical circumstances) ("*Softwood Lumber from Canada* IDM") at 13-14.

26 *See UG Paper from Canada* IDM at 9.

27 *See, e.g.*, Initiation Checklist, *Uncoated Groundwood Paper from Canada* (Aug. 29, 2017) ("Initiation Checklist, *UG Paper from Canada*") at 34-35, attached as **Exhibit V-9**.

28 *See id.*

29 *See Softwood Lumber from Canada* IDM at 190.

with a maximum of C$2,000 per apprentice per year.[30] The Department has explained that "{a} qualifying apprentice is someone working in a prescribed trade in the first two years of their apprenticeship contract."[31] In addition, to qualify under this program, the apprentice must be working in one of the "Red Seal Trades,"[32] which includes the trades in the iron and steel manufacturing and fabrication industry.[33] The Department found this program to be countervailable in *Certain Softwood Lumber Products from Canada*.[34]

a. Federal Apprenticeship Job Creation Tax Credits Constitute Countervailable Subsidies

(1) Financial Contribution

Federal Apprenticeship Job Creation tax credits constitute a financial contribution in the form of revenue foregone by the GOC, consistent with section 771(5)(D)(ii) of the Act.[35]

(2) Benefit

Federal Apprenticeship Job Creation tax credits confer a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[36]

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30 *See* Government of Canada, *Apprenticeship Job Creation Tax Credit*, attached as **Exhibit V-10**.

31 Preliminary Decision Memorandum accompanying *Certain Softwood Lumber Products from Canada*, 82 Fed. Reg. 19,657 (Dep't Commerce Apr. 28, 2017) (prelim. affirm. CVD deter., and alignment of final deter. with final AD deter.) ("*Softwood Lumber from Canada* Prelim. Memo") at 73.

32 *Id.*

33 *See* Red Seal Trades, attached as **Exhibit V-11**.

34 *Softwood Lumber from Canada* IDM at 14.

35 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 35, attached as **Exhibit V-9**.

36 *See id.*

(3) Specificity

As the Department previously found,[37] this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, "Red Seal Trades."

7. Western Economic Diversification Canada's Western Innovation Initiative

The GOC's Western Innovation Initiative ("WINN") provides a countervailable subsidy consisting of a C$100 million, five-year loan for SMEs with operations in Western Canada.[38] The program supports companies' move to new technology from research and development to the marketplace.[39] SMEs in Western Canada may request up $3.5 million per project and there is a maximum funding limit of $7.5 million per recipient over the five-year period.[40] This initiative provides a repayable contribution, and funds are reimbursed for a specific set of expenditures that support the technology commercialization activities identified in the application. As long as the WINN recipient is in good standing, interest will not be applied to the repayment of the funds. Regarding eligibility for the repayable contribution, the SMEs incorporated to do business in Canada must have less than 500 employees, have conducted business for at least one year, and have operating facilities in Western Canada (defined as British Columbia, Alberta, Saskatchewan, or Manitoba).[41] FSS producers located in these provinces, such as AI Industries, Dynamic Attractions, Supreme Steel Vancouver, JV Driver Fabricators Inc., Waiward Steel LP, Capitol

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37 *See Softwood Lumber from Canada* IDM at 201-02; *see also* Initiation Checklist, *UG Paper from Canada* at 35, attached as **Exhibit V-9**.

38 *See* Western Economic Diversification Canada, *Western Innovation Initiative (WINN)*, attached as **Exhibit V-12**; *see also* Initiation Checklist, *UG Paper from Canada*, attached as **Exhibit V-9**.

39 Initiation Checklist, *UG Paper from Canada*, attached as **Exhibit V-9**.

40 *See id.*

41 *See id.* at 29-30.

Steel Corp., and Supreme Steel LP, are eligible for this regionally specific program. The Department initiated an investigation into this subsidy program in *Certain Uncoated Groundwood Paper from Canada* and should do so here.[42]

a. Loans Granted Under the WINN Program Constitute a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and other benefits granted under the WINN Program should be consider loans provided by the government and thus a financial contribution within the meaning of section 775(5)(D)(i) of the Act.[43]

(2) Benefit

The loans granted under the WINN Program appear to be administered on preferential, non-commercial terms, which confer a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act. The benefit 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.

(3) Specificity

The benefits conferred under this program are regionally specific in accordance with section 771(5A)(D)(iv) of the Act because it is limited to companies in Western Canada.[44] Further, this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the recipients are limited in number to only exceptional applications from entities meeting the program's requirements for an SME.[45]

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42 *See id.* The Department ultimately found that this program was not used during the period of investigation. *See UG Paper from Canada* IDM at Appendix II, pg. II-2.

43 *See, e.g., CFS Paper from China* IDM at 54.

44 Initiation Checklist, *UG Paper from Canada* at 29-30, attached as **Exhibit V-9**.

45 *See id.*

8. Atlantic Investment Tax Credit

The GOC provides the Atlantic Investment Tax Credit to encourage investment in the Atlantic Region of Canada, which encompasses the provinces of Newfoundland and Labrador, New Brunswick, Nova Scotia, Prince Edward Island, and Quebec's Gaspe Peninsula.[46] The program provides a credit against federal income tax owed and can equal 10 percent of the value of investments that the company has made in qualified property located in the Atlantic Region and is used in certain sectors. Qualifying property includes machinery and equipment for manufacturing, farming, logging, and fishing.[47] The credits "can be earned in the year that the qualifying property is first put into use, regardless of the acquisition date" and can be applied "against federal taxes payable three years back and 20 years forward."[48] The Department found this program to be countervailable in *Softwood Lumber from Canada.*[49] Given that many FSS Producers are located in these provinces, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

a. The Atlantic Investment Tax Credit Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Atlantic Investment Tax Credit constitutes a financial contribution in the form of revenue foregone by the GOC, consistent with section 771(5)(D)(ii) of the Act.[50]

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46 *See* Government of Canada, *Atlantic investment tax credit*, attached as **Exhibit V-13**.

47 *Softwood Lumber from Canada* Prelim. Memo at 73-74.

48 *Id.* at 74.

49 *See Softwood Lumber from Canada* IDM at 14.

50 *See, e.g.*, Initiation Checklist, *UGP from Canada* at 36, attached as **Exhibit V-9**.

(2) Benefit

The Atlantic Investment Tax Credit confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[51]

(3) Specificity

As the Department found in *Softwood Lumber from Canada*,[52] this program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because, it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

9. The Federal Atlantic Innovation Fund

The Atlantic Innovation Fund helps businesses, universities, colleges and research institutions to develop and bring to market new products or services, adapt technology to meet business and market needs, and partner with other firms and researchers to achieve commercialization success.[53] This program can provide assistance of up to 75 percent of eligible costs of projects valued between C$500,000 and C$3 million and is available to entities operating in the Atlantic Region of Canada.[54] This aid may take place in the form of transfer payments that are repayable, conditionally repayable, or non-repayable.[55] The Department found this program to be countervailable in *Softwood Lumber from Canada.*[56] Given that many FSS producers are located in the Atlantic Region, including Coastal Metals Limited, MQM Quality Manufacturing,

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51 *See id.*

52 *See Softwood Lumber from Canada* Prelim. Memo at 74; *see also* Initiation Checklist, *UG Paper from Canada* at 36, attached as **Exhibit V-9**.

53 *See* Atlantic Canada Opportunities Agency, *Frequently Asked Questions*, attached as **Exhibit V-14**.

54 *See id.*

55 *See Softwood Lumber from Canada* IDM at 223.

56 *See id.* at 18.

Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

a. The Atlantic Innovation Fund Constitutes a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and grants under the Atlantic Innovation Fund constitute a financial contribution in the form of a direct transfer of funds from under section 771(5)(D)(i) of the Act. The other forms of assistance under this program would similarly constitute a direct transfer of funds.

(2) Benefit

As the Department found in *Softwood Lumber from Canada*,[57] Atlantic Innovation Fund loans are interest free and constitute a benefit measured by the difference between the zero-rate paid on the Atlantic Innovation Fund loan and the market rate paid on similar loans on the commercial market. A benefit also exists under 19 C.F.R. § 351.504(a) equal to the amount of the payroll rebate, Canadian FSS producer received.

(3) Specificity

As the Department found in *Softwood Lumber from Canada*,[58] the Atlantic Innovation Fund is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to companies in the Atlantic Region of Canada. Further, this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act because the recipients are limited in number to only exceptional applications from entities meeting the program's requirements for an SME.

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[57] *See id.* at 223; *see also* Initiation Checklist, *UG Paper from Canada* at 28-29, attached as **Exhibit V-9**.

[58] *See Softwood Lumber from Canada* IDM at 223; *see also* Initiation Checklist, *UG Paper from Canada* at 28-29, attached as **Exhibit V-9**.

10. Business Development Program

The GOC provides countervailable loan subsidies to businesses located in the Atlantic Region through Atlantic Canada Opportunities Agency Loans program ("ACOA"). The GOC established ACOA in 1985 to support and promote opportunity for economic development of the Atlantic Region of Canada, with particular emphasis on SMEs, pursuant to the Atlantic Canada Opportunities Agency Act, on the basis of strengthening the Atlantic region's economy by helping businesses become more innovative, productive and competitive.[59] Under this program, recipients can receive up to 75 percent of eligible projects costs up to C$500,000.[60] The program has awarded hundreds of millions of dollars in aid in the four Atlantic provinces, including in the province of New Brunswick.[61] ACOA will contribute $450 million over the next few years to innovation projects in the region.[62] The Department initiated an investigation of this program in *Uncoated Groundwood Paper from Canada* and should do so here.[63] Given that many FSS producers are located in the Atlantic Region, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

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59 *See* Initiation Checklist, *UG Paper from Canada* at 27, attached as **Exhibit V-9**; *see also* ACOA, Business Development Program, attached as **Exhibit V-15**.

60 *See* ACOA, Business Development Program, attached as **Exhibit V-15**.

61 *See* Initiation Checklist, *UG Paper from Canada* at 27, attached as **Exhibit V-9**.

62 *See id.*; *see also* ACOA, Business Development Program, attached as **Exhibit V-15**.

63 *See* Initiation Checklist, *UG Paper from Canada* at 27, attached as **Exhibit V-9**. The Department ultimately determined that the program was not used during the period of investigation. *See UG Paper from Canada* IDM at Appendix II, p. II-2.

a. Loans Granted Under the ACOA Program Constitute a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and other benefits granted under the ACOA Program should be considered loans provided by the government and thus financial contributions within the meaning of section 775(5)(D)(i) of the Act.[64]

(2) Benefit

These loans granted under the ACOA Program appear to be 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 to the difference between what the recipient paid on the loan and the amount that would have been paid on a comparable commercial loan.

(3) Specificity

The benefits conferred under these programs are regionally specific in accordance with section 771(5A)(D)(iv) of the Act because it is limited to companies in the Atlantic Region of Canada.[65] Further, this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act because recipients are limited in number to only exceptional applications from entities meeting the program's requirements for an SME.[66]

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64 *See, e.g., CFS Paper from China* IDM at 54.

65 *See* Initiation Checklist, *UG Paper from Canada* at 27, attached as **Exhibit V-9**.

66 *See* ACOA, Business Development Program, attached as **Exhibit V-15**.

B. Government of Alberta Subsidy Programs

1. Alberta Scientific Research and Experimental Development Tax

The GOA provides a tax credit to qualified corporations that incur eligible expenditures with respect to scientific research and experimental development ("SR&ED") activities.[67] A qualified corporation that has a permanent establishment in Alberta any time during a taxation year and carries on SR&ED activities during that taxation year may claim benefits under this program.[68] The credit is equal to 10 percent of the company's eligible expenses up to C$4 million per tax year.[69] The Department found this program to be countervailable in *Softwood Lumber from Canada.*[70] Given that many FSS producers are located in Alberta that conduct R&D activities, including JV Driver Fabricators Inc. and Waiward Steel LP, it is reasonable to believe that they benefitted from this program.

a. The Alberta SR&ED Tax Credit Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Alberta SR&ED Tax Credit constitutes a financial contribution in the form of a tax refund and/or credit from the GOA, consistent with section 771(5)(D)(ii) of the Act.[71]

(2) Benefit

The Alberta SR&ED Tax Credit confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[72]

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67 *See* Initiation Checklist, *UG Paper from Canada* at 42, attached as **Exhibit V-9**.

68 *See id.*

69 *See Softwood Lumber from Canada* Prelim. Memo at 76.

70 *Softwood Lumber from Canada*, IDM at 15.

71 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 42, attached as **Exhibit V-9**.

72 *See id.*

(3) Specificity

This program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[73]

2. Alberta Export Support Fund

The GOA provides reimbursements to SMEs in Alberta for a select range of export activities.[74] The funding under this program is only available for companies incorporated and operating in Alberta, operating in certain sectors (such as manufacturing, infrastructure and construction), and which indicate interest in developing sales in a market that represents up to 10 percent of the company's sales for the last 12 months.[75] The Department initiated an investigation into this program in *Certain Uncoated Groundwood Paper from Canada* and should do so here.[76] Given that many FSS producers are located in Alberta and export their products, including JV Driver Fabricators Inc. and Waiward Steel LP, it is reasonable to believe that they benefitted from this program.

a. Grants Under the Alberta Export Fund Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the Alberta Export Fund provide a "direct transfer of funds" in the form of a grant from the GOA within the meaning of section 771(5)(D)(i) of the Act.

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73 *See Softwood Lumber from Canada* Prelim. Memo at 76; *see also* Initiation Checklist, *UG Paper from Canada* at 42, attached as **Exhibit V-9**.

74 *See Government of Alberta, Export Support Fund,* attached as **Exhibit V-16**.

75 *Id.*

76 *See* Initiation Checklist, *UG Paper from Canada* at 45-46, attached as **Exhibit V-9**. The Department ultimately found that this program was not used during the period of investigation. *See UG Paper from Canada* IDM at Appendix II, pg. II-2.

(2) Benefit

Grants made under the Alberta Export Fund provide a benefit equal to the amount of the grant.

(3) Specificity

Grants provided under the Alberta Export Fund are specific because they are contingent on export performance, under section 771(5A)(B) of the Act.[77] This program is also regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

3. Employer Trainer Grant (Canada – Alberta Job Grant)

The GOA's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[78] Specifically, the governments provide two-thirds of total training cost for an employee up to $10,000 per person of the total training cost.[79] If an Alberta employer hires and trains an unemployed Albertan, up to 100 percent of training costs could be covered, up to $15,000 per trainee.[80] Individual employers have a cap of $300,000 for the amount of grant funding they can receive per fiscal year.[81] To be eligible for this grant, the company must be located in Alberta.[82] Given that many FSS producers are located in Alberta, including JV Driver Fabricators Inc. and Waiward Steel LP, it is reasonable to believe that they benefitted from this program.

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77 *See* Initiation Checklist, *UG Paper from Canada* at 45-46, attached as **Exhibit V-9**.

78 *See Canada-Alberta Job Grant*, attached as **Exhibit V-17**.

79 *See id.*

80 *Id.*

81 *Id.*

82 *Id.*

a. Alberta Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

Alberta Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GOA within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Alberta Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

C. Government of British Columbia Subsidy Programs

1. British Columbia Hydro Power Smart: Industrial Energy Managers Program

The GBC provides countervailable subsidies in the form of grants provided under the British Columbia ("BC") Hydro Power Smart Program.[83] BC Hydro, a provincial Crown corporation that generates, purchases, distributes, and sells the vast majority of BC's electricity, provides funding in the form of wage subsidies to PSP-Transmission customers to fund an employee dedicated to the position of Energy Manager who works to identify energy conservation opportunities.[84] This program expressly limits access to the wage subsidies to industrial customers

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83 *See* BC Hydro, *Industrial Energy Manager*, attached as **Exhibit V-18**.

84 *See* Preliminary Determination Memorandum accompanying *Certain Uncoated Groundwood Paper From Canada*, 83 Fed. Reg. 2133 (Dep't Commerce Jan. 16, 2018) (prelim. affirmative countervailing duty deter., and alignment of final deter. with final antidumping duty deter.) ("*UG Paper from Canada* Prelim. Memo") at 61.

that use more than 10 gigawatt hours (GwH) of electricity per year.[85] The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[86] As some FSS producers would likely be large consumers of electricity, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, a number of Canadian FSS producers are located in British Columbia, including AI Industries, Dynamic Attractions, and Supreme Steel Vancouver, meaning they would be eligible for this program.

a. Grants Under the BC Hydro Power Smart Program for Industrial Energy Managers Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the BC Hydro Power Smart Program for Industrial Energy Managers provide a "direct transfer of funds" in the form of a grant from the GOC within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the BC Hydro Power Smart Program for Industrial Energy Managers provide a benefit equal to the amount of the grant.

(3) Specificity

As the Department previously found, grants provided under the BC Hydro Power Smart Program for Industrial Energy Managers are *de jure* specific under section 771(5A)(D)(i) of the Act because this program expressly limits access to the wage subsidies to industrial customers that use more than 10 GwH of electricity per year.[87]

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85 *Id.*

86 *See UG Paper from Canada* IDM at 12.

87 *See id.* at 214-15; *see also* Initiation Checklist, *UG Paper from Canada* at 14, attached as **Exhibit V-9**.

2. BC Hydro Power Smart: Load Curtailment

The GBC provides countervailable subsidies in the form of grants provided under the BC Hydro Power Smart Program. This program includes subprograms under which industrial customers may qualify for a variety of grants as incentives for companies to lower their electricity usage.[88] BC Hydro undertook a pilot program (*i.e.*, the Load Curtailment Pilot subprogram) through which it paid customers on a monthly basis based on the number of megawatts ("MW") bid into the program at a fixed dollar per MW price.[89] BC Hydro operates the Power Smart program to comply with British Columbia's Clean Energy Act.[90] This subsidy program expressly limits access to industrial customers with a transmission service rate with a minimum bid of 5 MW of load. The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[91] While this program was initially started as a pilot program, reasonable available evidence demonstrates the program continued into the presumptive period of investigation (*i.e.*, 2017). For example, the respondent in *Uncoated Paper from Canada*, Catalyst, had "two separate agreements to curtail electricity under load curtailment agreements with BC Hydro during the 2015-2016 and 2016-2017 winter seasons,"[92] and BC Hydro has indicated that the program continued to grant benefits at least until April 2017.[93] Given that this program continued into 2017, the Department should initiate an investigation into this program. As some FSS producers would likely be large consumers of electricity, it is reasonable to believe that

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88 *See* BC Hydro, CEC Interruptible Rate Proposal at 7, attached as **Exhibit V-19**.

89 *Id.*

90 *See* BC Hydro, Integrated Resource Plan Technical Advisory Committee Presentation (Oct. 3, 2016) at 28, attached as **Exhibit V-20**.

91 *See UG Paper from Canada* IDM at 12.

92 *See* Catalyst Verification Report at 8, attached **Exhibit V-21**.

93 *See* BC Hydro's Final Submission in the Fiscal 2017 – Fiscal 2019 Revenue Requirements Application Proceeding at 223, attached as **Exhibit V-22**.

Canadian FSS producers have benefitted from this program. In addition, a number of Canadian FSS producers are located in British Columbia, including AI Industries, Dynamic Attractions, and Supreme Steel Vancouver, meaning they would be eligible for this program.

a. Grants Under the BC Hydro Power Smart Load Curtailment Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the BC Hydro Power Smart Load Curtailment Program provide a "direct transfer of funds" in the form of a grant from the GOC within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the BC Hydro Power Smart Load Curtailment Program provide a benefit equal to the amount of the grant.

(3) Specificity

As the Department previously found, grants provided under the BC Hydro Power Smart Load Curtailment Program are *de jure* specific under section 771(5A)(D)(i) of the Act because this program expressly limits access to this subsidy to industrial customers with a transmission service rate with a minimum bid of 5 MW of load.[94]

3. BC Hydro Power Smart: Incentives

The GBC provides countervailable subsidies in the form of grants provided under the BC Hydro Power Smart Program.[95] This program includes subprograms under which industrial customers may qualify for a variety of grants as incentives for companies to lower their electricity

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[94] *See UG Paper from Canada* IDM at 215; *see also* Initiation Checklist, *UG Paper from Canada* at 15-16, attached as **Exhibit V-9**.

[95] *See* British Columbia Energy Plan 2010 and BC Hydro Demand-Side Management programs, attached as **Exhibit V-23**.

usage.[96] BC Hydro provides funding to support capital projects that achieve greater energy efficiency or displace the electrical load purchased from BC Hydro.[97] BC Hydro operates the Power Smart program to comply with British Columbia's Clean Energy Act. This subsidy program is limited to industrial customers who consume more than 1 GwH of electricity annually. The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[98] As a number of Canadian FSS producers are located in British Columbia, including AI Industries, Dynamic Attractions, and Supreme Steel Vancouver, they would be eligible for this program.

a. Grants Under the BC Hydro Power Smart Incentives Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the BC Hydro Power Smart Incentives Program provide a "direct transfer of funds" in the form of a grant from the GOC within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the BC Hydro Power Smart Incentives Program provide a benefit equal to the amount of the grant.

(3) Specificity

As the Department previously found, grants provided under the BC Hydro Power Smart Incentives Program are *de jure* specific under section 771(5A)(D)(i) of the Act because this

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96 *Id.*

97 *See* Iipnetwork, *BC Hydro Program Summary*, attached as **Exhibit V-24**.

98 *See UG Paper from Canada* IDM at 12.

program expressly limits access to this subsidy to industrial customers who consume more than 1 GwH of electricity annually.[99]

4. Employer Trainer Grant (Canada – BC Job Grant)

The GBC's employer trainer grant program, formerly known as the Canada – BC Job Grant program, is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[100] Specifically, the governments provide two-thirds of total training cost for an employee up to C$10,000 per person of the total training cost.[101] The GBC's program allows training to be obtained for Red Seal industries, such as iron and steel manufacturing, as well as industry certificates for manufacturing.[102] The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[103] Given that many FSS producers are located in British Columbia, including AI Industries, Dynamic Attractions, and Supreme Steel Vancouver, it is reasonable to believe that they benefitted from this program.

a. BC Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

BC Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC within the meaning of section 771(5)(D)(i) of the Act.

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99 *See id.* at 215; *see also* Initiation Checklist, *UG Paper from Canada* at 16-17, attached as **Exhibit V-9**.

100 *See* Manufacturing Safety Alliance of BC, *Employer Training* Grant, attached as **Exhibit V-25**.

101 *See* Initiation Checklist, *UG Paper from Canada* at 13, attached as **Exhibit V-9**.

102 *See* Government of British Columbia, B.C. Employer Trainer Grant (ETG), attached as **Exhibit V-26**; *see* Red Seal Trades, attached as **Exhibit V-11**.

103 *See UG Paper from Canada* IDM at 12.

(2) Benefit

BC Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

As the Department previously found, BC Job Grants are regionally specific pursuant to section 771(5A)(D)(iv) of the Act.[104] In addition, this program is *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited to companies operating in Canada's priority sectors, which include the FSS industry.[105]

5. British Columbia Scientific Research and Experimental Development Tax Credit

The GBC provides a tax credit to qualified corporations that incur eligible expenditures with respect to SR&ED activities.[106] This program is "designed to encourage research and development that will lead to new, improved, or technologically advanced products or processes" and is available to entities "with permanent establishments in British Columbia that conduct qualifying SR&ED activities in British Columbia during a particular tax year . . . ."[107] The Department found this program to be countervailable in *Softwood Lumber from Canada.*[108] Given that many FSS producers are located in British Columbia that conduct R&D activities, including Dynamic Attractions, Rapid Span Structures, Limited, and Supreme Steel Vancouver, it is reasonable to believe that they benefitted from this program.

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104 *See id.* at 231.

105 *See* Initiation Checklist, *UG Paper from Canada* at 13, attached as **Exhibit V-9**.

106 *See Softwood Lumber from Canada* IDM at 15; *see also* Initiation Checklist, *UG Paper from Canada* at 43, attached as **Exhibit V-9**.

107 *Softwood Lumber from Canada* Prelim. Memo at 77.

108 *See Softwood Lumber from Canada* IDM at 15.

a. The BC SR&ED Tax Credit Constitutes a Countervailable Subsidy

(1) Financial Contribution

The GBC SR&ED Tax Credit constitutes a financial contribution in the form of a tax refund and/or credit from the GBC, consistent with section 771(5)(D)(ii) of the Act.[109]

(2) Benefit

The GBC SR&ED Tax Credit confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[110]

(3) Specificity

As the Department found in *Softwood Lumber from Canada*, this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[111]

D. Government of Manitoba Subsidy Programs

1. Employer Trainer Grant (Canada – Manitoba Job Grant)

The GOM's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[112] Specifically, the governments provide two-thirds of total training cost for an employee up to $10,000 per person of the total training cost.[113] If a Manitoba employer hires and trains an unemployed individual, additional funding support is available.[114] The GOM will fund up to

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109 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 43, attached as **Exhibit V-9**.

110 *See id.*

111 *See Softwood Lumber from Canada* IDM at 190-91; *see also* Initiation Checklist, *UG Paper from Canada* at 43, attached as **Exhibit V-9**.

112 *See Canada-Manitoba Job Grant*, attached as **Exhibit V-27**.

113 *See id.*

114 *See id.*

$100,000 per employer.[115] To be eligible for this grant, the company must be located in Manitoba. Given that certain FSS producers are located in Manitoba, such as Capitol Steel Corp., it is reasonable to believe that they benefitted from this program.

a. Manitoba Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

Manitoba Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GOM within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Manitoba Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

E. Government of New Brunswick Subsidy Programs

1. New Brunswick Research and Development Tax Credit

The GNB provides a tax credit against the New Brunswick provincial taxes equal to 15 percent of eligible expenditures to carry out experimental development, applied research and basic research work, to any corporate or individual business taxpayers.[116] The tax credit is fully refundable and, therefore, if the corporation did not owe provincial taxes, it can receive the credit

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115 *Id.*

116 *See* Issues and Decision Memorandum accompanying *Supercalendered Paper from Canada*, 82 Fed. Reg. 18,896 (Dep't Commerce Apr. 24, 2017) (final results of countervailing duty expedited review) ("*SC Paper from Canada* IDM") at 9; *see also* Initiation Checklist, *UG Paper from Canada* at 43-44, attached as **Exhibit V-9**.

in the form of a refund.[117] The Department found this program to be countervailable in *Supercalendered Paper from Canada.*[118] Given that many FSS producers are located in New Brunswick and conduct R&D activities, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

a. The GNB R&D Tax Credit Constitutes a Countervailable Subsidy

(1) Financial Contribution

The GNB R&D Tax Credit constitutes a financial contribution in the form of a tax refund and/or credit from the GBC, consistent with section 771(5)(D)(ii) of the Act.[119]

(2) Benefit

The GNB R&D Tax Credit confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[120]

(3) Specificity

As the Department found in *Supercalendered Paper from Canada*, this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[121]

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117 *See id.* at 43-44.

118 *See SC Paper from Canada* IDM at 9.

119 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 43-44, attached as **Exhibit V-9**.

120 *See id.*

121 *See SC Paper from Canada* IDM at 103-04; *see also* Initiation Checklist, *UG Paper from Canada* at 43-44, attached as **Exhibit V-9**.

2. New Brunswick Large Industrial Renewable Energy Purchase Program

The New Brunswick Department of Energy and Resource Development and New Brunswick Power, a Crown corporation, administers the Large Industrial Renewable Energy Purchase Program under the Electricity Act.[122] The main objectives of this program are to reach a mandated percentage of renewable electricity usage by buying energy from large industrial customers, and to bring large industrial enterprises' net electricity cost in line with the average cost of electricity in other provinces.[123] This program is available to large industrial companies that produce renewable energy and own and operate "a facility that has an electrical energy requirement of not less than 50 GWh per year, that obtains all or a portion of its electricity on a firm basis (vs. interruptible basis) from NB Power, and that exports at least 50 percent of its primary products produced to another province or territory within Canada or outside the country."[124] The Department found this program to be countervailable in *Supercalendered Paper from Canada.*[125] Given that many FSS producers are located in New Brunswick, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

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122 *See* Preliminary Determination Memorandum accompanying *Supercalendered Paper from Canada*, 81 Fed. Reg. 85,520 (Dep't Commerce Nov. 28, 2016) (preliminary results of countervailing duty expedited review) ("*SC Paper from Canada* Prelim. Memo") at 21-22.

123 *Id.*

124 *Id.* at 21.

125 *See SC Paper from Canada* IDM at 8.

a. The Large Industrial Renewable Energy Purchase Program Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Large Industrial Renewable Energy Purchase Program constitutes a financial contribution in the form of revenue foregone by the GNB, consistent with section 771(5)(D)(ii) of the Act.[126]

(2) Benefit

The Large Industrial Renewable Energy Purchase Program confers a benefit on the recipients in an amount that the credits under this program offset electricity costs, consistent with 771(5)(E) of the Act.[127]

(3) Specificity

As the Department found in *Supercalendered Paper from Canada*, this program is *de facto* specific de facto specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[128]

3. New Brunswick Workforce Expansion: One Job Pledge

The GNB administers the One Job Pledge program through the Employment and Continuous Learning Services Branch of the GNB's Department of Post-Secondary Education, Training and Labour.[129] Introduced in January 2013, this program provides financial assistance to eligible New Brunswick businesses in the form of wage subsidy rebates for new hires that are

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126 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 47-48, attached as **Exhibit V-9**.

127 *See id.*

128 *See SC Paper from Canada* Prelim. Memo at 22; *see also* Initiation Checklist, *UG Paper from Canada* at 47-48, attached as **Exhibit V-9**.

129 *See* Government of New Brunswick, *Wage Incentive – One Job Pledge*, attached as **Exhibit V-28**.

recent post-secondary graduates.[130] Specifically, the participant must create a new position for the new hire and must demonstrate that such a position would be sustainable after one year. The Department found this program to be countervailable in *Supercalendered Paper from Canada.*[131] Given that many FSS producers are located in New Brunswick, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

a. Grants Under the One Job Pledge Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the One Job Pledge Program provide a "direct transfer of funds" in the form of a grant from the GNB within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the One Job Pledge Program provide a benefit equal to the amount of the grant.

(3) Specificity

As explained in *Supercalendered Paper from Canada*, grants provided under the One Job Pledge Program are *de facto* specific because the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[132]

4. New Brunswick Financial Assistance to Industry Program

The GNB's Financial Assistance to Industry Program was established under the Economic Development Act and provides funding from the GNB to eligible companies with the goal of

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130 *SC Paper from Canada* Prelim. Memo at 17.

131 *See SC Paper from Canada* IDM at 7.

132 *See id.* at 101.

helping companies establish or maintain their presence within the province, whereby companies may receive various forms of assistance, including loans and payroll rebates.[133] The program targets manufacturing and processing industries as well as selected commercial service firms (business to business with focus on export activity). The Department found this program to be countervailable in *Supercalendered Paper from Canada.*[134] Given that many FSS producers are located in New Brunswick, including Coastal Metals Limited, MQM Quality Manufacturing, Ltd., and Ocean Steel & Construction, Ltd., it is reasonable to believe that they benefitted from this program.

a. The New Brunswick Financial Assistance to Industry Program Constitutes a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and payroll rebates granted under the New Brunswick Financial Assistance to Industry Program constitute a financial contribution in the form of a direct transfer of funds from the GNB under section 771(5)(D)(i) of the Act. The other forms of assistance under this program would similarly constitute a direct transfer of funds.

(2) Benefit

As the Department found in *Supercalendered Paper from Canada*, a benefit exists under section 771(5)(E)(ii) and 19 C.F.R. § 351.505(a)(1) equal to the difference between the amounts paid by the company for the loans during the POR and the amounts the company would have paid

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133 *See* Government of New Brunswick, Financial Assistance to Industry Program, attached as **Exhibit V-29**; Initiation Checklist, *UG Paper from Canada* at 17, attached as **Exhibit V-9**; *see also* ACOA, Business Development Program, attached as **Exhibit V-15**.

134 *See SC Paper from Canada* IDM at 6.

on comparable commercial loans.[135] A benefit also exists under 19 C.F.R. § 351.504(a) equal to the amount of the payroll rebate that Canadian FSS producers received.[136]

(3) Specificity

As the Department found in *Supercalendered Paper from Canada*, the New Brunswick Financial Assistance to Industry Program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because certain industries are explicitly ineligible.[137]

F. Government of Nova Scotia Subsidy Programs

1. Employer Trainer Grant (Canada – Nova Scotia Job Grant)

The GNS's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[138] Specifically, the governments provide two-thirds of total training cost for an employee up to $10,000 per person of the total training cost.[139] To be eligible for this grant, the company must be located in Nova Scotia with a $2 million liability insurance policy.[140] Given that many FSS producers are located in Nova Scotia, including Cherubini Metal Works Limited and Marid Industries Limited, it is reasonable to believe that they benefitted from this program.

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135 *See SC Paper from Canada* Prelim. Memo at 12; *see also* Initiation Checklist, *UG Paper from Canada* at 17, attached as **Exhibit V-9**.

136 *See SC Paper from Canada* Prelim. Memo at 12.

137 *See id.*

138 *See Canada-Nova Scotia Job Grant (CNSJG)*, attached as **Exhibit V-30**.

139 *See id.*

140 *Id.*

a. Nova Scotia Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

Nova Scotia Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GNS within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Nova Scotia Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

2. Workplace Innovation and Productivity Skills Incentive (WIPSI) Program

The WIPSI Program is administered by the Workplace Initiatives Division (LAE), which is an initiative of the Canada — Nova Scotia Job Grant.[141] The program supplements employer contributions to train full-time staff who are permanently located in Nova Scotia to improve productivity and profitability, increase innovation, adapt to new technology, machinery and equipment, or work processes, and increase international competitiveness.[142] Generally, the WIPSI Program provides up to 50 percent of direct training costs; however, small businesses with 50 employees or less may be eligible for coverage of up to 100 percent of direct training costs (up to $10,000).[143] To be eligible for this program, the company must be (1) located in Nova Scotia;

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141 Workplace Innovation and Productivity Skills Incentive (WIPSI) Program, Application Guidelines, attached as **Exhibit V-31**.

142 *Id.*

143 *Id.*

(2) registered and active in the Nova Scotia Registry of Joint Stock Companies or incorporated by an Act of the Nova Scotia Legislature; (3) have operated for at least one calendar year; and (4) generate at least thirty percent of revenue from commercial activity.[144] Given that many FSS producers are located in Nova Scotia, including Cherubini Metal Works Limited and Marid Industries Limited, and they appear to meet the eligibility criteria, it is reasonable to believe that they benefitted from this program.

a. WIPSI Program Grants Constitute Countervailable Subsidies

(1) Financial Contribution

WIPSI Program Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GNS within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

WIPSI Program Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

G. Government of Quebec Subsidy Programs

1. Quebec Tax Holiday for Large Investment Projects

The GOQ provides a tax holiday for 15 years on income from certain activities related to large investment projects.[145] Such projects are investment projects of $100 million or more in

144 *Id.*

145 *See* Revenue Quebec, Large Investment Project, attached as **Exhibit V-32**.

Quebec ($75 million or more if the investment is carried out in an eligible region).[146] Subject to certain limitations, qualifying corporations may receive a deduction from their taxable income and, for corporations, an exemption from the employer contribution to the health services fund for eligible activities relating to a project.[147] The Department initiated an investigation into this subsidy program in *Certain Uncoated Groundwood Paper from Canada* and should do so here.[148] Given that many FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. The Quebec Tax Holiday for Large Investment Projects Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Quebec Tax Holiday for Large Investment Projects constitutes a financial contribution in the form of revenue foregone by the GOQ, consistent with section 771(5)(D)(ii) of the Act.[149]

(2) Benefit

The Quebec Tax Holiday for Large Investment Projects confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[150]

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146 *Id.*

147 *Id.*

148 *See* Initiation Checklist, *UG Paper from Canada* at 39-40, attached as **Exhibit V-9**. The Department ultimately found that this program was not used during the period of investigation. *See UG Paper from* Canada, IDM at Appendix II, pg. II-3.

149 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 39-40, attached as **Exhibit V-9**.

150 *See id.*

(3) Specificity

This program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to the manufacturing and processing sectors.[151]

2. Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Quebec

The GOQ provides a tax credit for investments for new property used mainly in the manufacturing and processing of items to be sold or leased that are acquired before January 1, 2017.[152] The basic credit rate for this program is four percent, but corporations may be eligible for an increased rate based on where the investment is made and its consolidated paid-up capital.[153] Further, corporations may benefit from an increased credit rate under certain conditions.[154] The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[155] Given that many FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

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151 *See id.*

152 *See* Raymond Chabot Grant Thornton, *Update on Manufacturing Enterprises in Quebec: On-line Tax Strategies*, attached as **Exhibit V-33** (the date is before January 1, 2023 in certain zones); *see also* Initiation Checklist, *UG Paper from Canada* at 40, attached as **Exhibit V-9**.

153 *Id.*

154 *Id.*

155 *See UG Paper from Canada* IDM at 11.

a. Quebec's Tax Credit for the Acquisition of Manufacturing and Processing Equipment Constitutes a Countervailable Subsidy

(1) Financial Contribution

Quebec's Tax Credits for the Acquisition of Manufacturing and Processing Equipment constitute a financial contribution in the form of revenue foregone by the GOQ, consistent with section 771(5)(D)(ii) of the Act.[156]

(2) Benefit

Quebec's Tax Credits for the Acquisition of Manufacturing and Processing Equipment confer a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[157]

(3) Specificity

As the Department found in *Certain Uncoated Groundwood Paper from Canada*, this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, it is limited to companies that purchase qualified manufacturing and processing equipment.[158]

3. Quebec Capital Cost Allowance for Property Used in Manufacturing and Processing

The GOQ provides an increased capital cost allowance rate and deduction for new buildings acquired for manufacturing and processing purposes.[159] The Department initiated an investigation into this program in *Certain Uncoated Groundwood Paper from Canada* and should

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156 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 40, attached as **Exhibit V-9**.

157 *See id.*

158 *See UG Paper from Canada* Prelim. Memo at 54; *see also* Initiation Checklist, *UG Paper from Canada* at 40, attached as **Exhibit V-9**.

159 *See* Raymond Chabot Grant Thornton, *Update on Manufacturing Enterprises in Quebec: On-line Tax Strategies*, attached as **Exhibit V-33** (the date is before January 1, 2023 in certain zones); *see also* Initiation Checklist, *UG Paper from Canada* at 40-41, attached as **Exhibit V-9**.

do so here.[160] Given that many FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. The Quebec Capital Cost Allowance for Property Used in Manufacturing and Processing Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Quebec Capital Cost Allowance for Property Used in Manufacturing and Processing subsidy constitutes a financial contribution in the form of revenue foregone by the GOQ, consistent with section 771(5)(D)(ii) of the Act.[161]

(2) Benefit

The Quebec Capital Cost Allowance for Property Used in Manufacturing and Processing subsidy confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[162]

(3) Specificity

This program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to manufacturing and processing industries, such as the FSS industry.[163]

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160 *See id.* The Department ultimately found that this program was not used during the period of investigation. *See UG Paper from Canada* IDM at Appendix II, pg. II-3.

161 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 40-41, attached as **Exhibit V-9**.

162 *See id.*

163 *See id.*

4. Quebec Columbia Scientific Research and Experimental Development Tax Credit

The GOQ provided a SR&ED tax credit for salaries and wages for R&D work.[164] Taxpayers who carry on business in Canada and perform R&D, or have R&D carried out on their behalf, in Quebec can claim a tax credit for the salaries and wages or for the consideration paid in Quebec.[165] The Department found this program to be countervailable in *Certain Uncoated Groundwood Paper from Canada*.[166] Given that many FSS producers are located in Quebec and conduct R&D activities, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. The Quebec SR&ED Tax Credit Constitutes a Countervailable Subsidy

(1) Financial Contribution

The Quebec SR&ED Tax Credit constitutes a financial contribution in the form of a tax refund and/or credit from the GOQ, consistent with section 771(5)(D)(ii) of the Act.[167]

(2) Benefit

The Quebec SR&ED Tax Credit confers a benefit on the recipients in an amount equal to the tax savings, under 19 C.F.R. § 351.509(a)(1).[168]

(3) Specificity

As the Department found in *Certain Uncoated Groundwood Paper from Canada*, this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because

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164 *See id.* at 44-45.

165 *See id.*

166 *See UG Paper from Canada* IDM at 10.

167 *See, e.g.*, Initiation Checklist, *UG Paper from Canada* at 44-45, attached as **Exhibit V-9**.

168 *See id.*

the actual recipients, relative to total corporate tax filers, are limited in number on an enterprise basis.[169]

5. Hydro-Québec Interruptible Electricity Option Program

Hydro-Québec is a state-owned utility, whose sole shareholder is the Québec government.[170] Hydro-Québec is mandated to supply power and to pursue the energy Electricity Option, which is designed to help Hydro-Québec meet increased power requirements during the winter period (*i.e.*, December 1 to March 31).[171] The Department has previously found that Hydro-Québec is a government authority.[172]

The Hydro-Quebec Interruptible Electricity Option Program requires participants to be able to curtail power on demand, or risk penalties assessed by Hydro-Québec.[173] As payment for complying with Hydro-Québec interruption notices, the participants receive certain fixed and variable credits for the winter period.[174] Historically, this program relies on less than 35 interruptible-energy-option customers.[175] In order to be eligible for this program, customers must apply to Hydro-Québec and propose a quantity of interruptible power with which to commit, meet, and comply with interruption notices.[176] While this program is available to all Medium-Power

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169 *See UG Paper from Canada* IDM at 198; *see also* Initiation Checklist, *UG Paper from Canada* at 44-45, attached as **Exhibit V-9**.

170 *See* Hydro Quebec Website Excerpts, attached as **Exhibit V-34**; *see also UG Paper from Canada* Prelim. Memo at 69-70.

171 *See UG Paper from Canada* Prelim. Memo at 69-70.

172 *See e.g.*, *id.*, unchanged in *UG Paper from Canada* IDM at 220.

173 *See* Hydro Quebec Website Excerpts, attached as **Exhibit V-34**; *see also Certain Uncoated Groundwood Paper From Canada*, 83 Fed. Reg. 2133 (Dep't Commerce Jan. 16, 2018) at 69-70.

174 *See* Hydro Quebec Website Excerpts, attached as **Exhibit V-34**.

175 *See UG Paper from Canada* Prelim. Memo at 70.

176 *See* Hydro Quebec Website Excerpts, attached as **Exhibit V-34**; *see also UG Paper from Canada* Prelim. Memo at 69-70.

Customers, Large-Power Customers on Rate L (industrial), and Rate LG Customers, access to this subsidy is limited to industrial users with the technical capacity to curtail power on notice of interruption.[177]

a. Grants Under the Hydro-Québec Interruptible Electricity Option Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the Hydro-Québec Interruptible Electricity Option Program provide a "direct transfer of funds" in the form of a grant from the GOQ within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the Hydro-Québec Interruptible Electricity Option Program provide a benefit equal to the amount of the grant.

(3) Specificity

As the Department previously found, grants provided under the Hydro-Québec Interruptible Electricity Option Program are *de jure* specific under section 771(5A)(D)(i) of the Act because the subsidies that are provided by Hydro-Québec through this program are expressly limited by law to enterprises that meet specific energy generation and consumption requirements and have the technical capacity to curtail power on notice of interruption.[178]

6. Hydro-Québec Electricity Discount Program for Capital Investments

In the March 2016 *Québec Economic Plan*, the provincial government announced a program to stimulate capital investment by large industrial companies that are located in Québec

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177 *See UG Paper from Canada* Prelim. Memo at 70.

178 *See id.*

and are billed at Rate L (large power).[179] Through this program, Hydro-Québec provides power rebates to large industrial companies enabling them to recoup up to 50 percent of eligible project costs (*i.e.* reimbursement of 40 percent of committed eligible costs; and additional recovery of up to 10 percent of committed eligible costs in the case of projects designed to reduce GHG emissions).[180] Rate L applies to an annual contract whose contract power is 5,000 kilowatts (kW) or more and which is principally for an industrial activity.[181] As some FSS producers would likely be large consumers of electricity, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, because a number of Canadian FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. Grants Under the Hydro-Québec Electricity Discount Program for Capital Investments Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the Hydro-Québec Electricity Discount Program for Capital Investments provide a "direct transfer of funds" in the form of a rebate from the GOQ within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the Hydro-Québec Electricity Discount Program for Capital Investments provide a benefit equal to the amount of the rebate.

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179 Hydro Quebec Website Excerpts, attached as **Exhibit V-34**.

180 *Id.*

181 *Id.*

(3) Specificity

Grants provided under Hydro Electricity Discount Program for Capital Investments are *de jure* specific under section 771(5A)(D)(i) of the Act because the subsidies that are provided by Hydro-Québec through this program are expressly limited by law to enterprises that meet specific energy consumption requirements and have made capital investments.

7. Hydro-Québec Electricity Discount Program for Industrial Users

Hydro-Québec also offers discounts for large industrial customers with Rate L contracts.[182] For example, large-power customers installing new equipment are temporarily exempt from certain rate conditions while the new equipment is being put into service and operations are being optimized.[183] Hydro-Québec also offers discounts for large industrial customers testing new equipment.[184] When large-power customers run short tests after adding new equipment or modifying or optimizing existing equipment and their power demand rises, Hydro-Québec exempts these companies from paying for the increased power consumption.[185] Moreover, Hydro-Québec provides discounts for companies to use electricity beyond their normal consumption to fill short-term orders or meet exceptional needs at a lower price for both energy and power.[186] Finally, Hydro-Québec offers an "Economic Development Rate" for Rate L customers that are building or commissioning a new facility with a power demand of at least 500 kW or adding at least 1,000 kW of power demand to an existing facility.[187] As some FSS producers would likely

182 *Id.*

183 *Id.*

184 *Id.*

185 *Id.*

186 *Id.*

187 *Id.*

be large consumers of electricity, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, because a number of Canadian FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. Discounts Under the Hydro-Québec Electricity Discount Program Constitute Countervailable Subsidies

(1) Financial Contribution

Electricity discounts under the Hydro-Québec Electricity Discount Program constitute a financial contribution in the form of revenue forgone by the GOQ, consistent with section 771(5)(D)(ii) of the Act.

(2) Benefit

Electricity discounts made under the Hydro-Québec Electricity Discount Program confer a benefit on the recipients in an amount equal to the electricity discount.

(3) Specificity

Electricity discounts provided under Hydro-Québec Electricity Discount Program are *de jure* specific under section 771(5A)(D)(i) of the Act because the subsidies that are provided by Hydro-Québec through this program are expressly limited by law to enterprises that meet specific energy consumption requirements.

8. ESSOR Program – Investment Projects Support Component

The ESSOR program aims to support investment projects in Quebec that increase competitiveness, productivity, job creation, and sustainable development.[188] One of the program's main objectives is to "support companies, especially those in the manufacturing sector, to invest

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188 *See* Economie et Innovation Quebec, ESSOR Program, attached as **Exhibit V-35**.

in advanced equipment and technologies to improve their competitiveness" and "accelerate the implementation of investment projects carried out as part of the establishment or expansion of businesses here or elsewhere."[189] The ESSOR Program is administered jointly by Investissement Québec and the Ministère de l'Économie et de l'Innovation.[190]

Through the ESSOR program, the GOQ provides loans and loan guarantees at below market rates.[191] Indeed, local news publications have reported that the GOQ provided "an interest free loan of $1.5 million" to a Quebec company that "acquired a new plant to increase its productive capacity."[192] Government non-payable contributions (*i.e.*, grants) and equity investments are also available through the ESSOR Program.[193] In fact, the GOQ recently provided a Quebec company with "a non-repayable financial contribution of $1.5 million" through the ESSOR Program.[194] The financial assistance granted through this program can represent a maximum of 15 percent or 25 percent of eligible expenses, depending on the nature of the project and the business sector of the company.[195] For loan guarantees, the GOQ will guarantee loans for up to 10 years and for a net loss up to 70 percent.[196]

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189 *Id.*

190 *Id.*

191 *Id.*

192 *See Quebec lends support to expanding Brai-d'Urfe firm Ranger Design*, Montreal Gazette (Apr. 11, 2017), attached as **Exhibit V-36**.

193 *See* Economie et Innovation Quebec, ESSOR Program, attached as **Exhibit V-35**.

194 *See* Canada Economic Development for Quebec Regions, *Creation of 56 jobs in Sherbrooke - SOPREMA receives $8.5 million in government assistance for a new plant in the Estrie region* (Sept. 25, 2017), attached as **Exhibit V-37**.

195 *See* Economie et Innovation Quebec, ESSOR Program, attached as **Exhibit V-35**.

196 *Id.*

To be eligible for the ESSOR Program, the Quebec company must be in the manufacturing sector or a company in a targeted sector.[197] Investment projects with eligible expenditures of $250,000 or more for the purpose of starting a new business or expanding (including modernizing) an existing business are eligible for funding.[198] However, manufacturing companies only need to invest $100,000 to be eligible for funding.[199] Given that FSS producers operate in the manufacturing sector and have likely invested more than $100,000 in expanding or modernizing their business, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, because a number of Canadian FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program.

a. ESSOR Program Funding Provided to Canadian FSS Producers Constitutes a Countervailable Subsidy

(1) Financial Contribution

Preferential loans and other benefits granted under this export guarantee program should be consider loans provided directly by the GOC and thus a financial contribution within the meaning of section 775(5)(D)(i) of the Act.[200] Grants and equity infusions under the ESSOR Program provide a "direct transfer of funds" in the form of a grant from the GOQ within the meaning of section 771(5)(D)(i) of the Act.

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197 *Id.*

198 *Id.*

199 *Id.*

200 *See, e.g., CFS Paper from China* IDM at 54.

(2) Benefit

The loans granted under the ESSOR Program appear to be administered on preferential, non-commercial terms, which confer a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act. The benefit 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. The loan guarantees also appear to be administered on preferential, non-commercial terms, which confer a benefit to recipients within the meaning of section 771(5)(E)(ii) of the Act. The benefit 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 without the government-provided guarantee. For government grants and equity infusions under the ESSOR Program, the benefit is equal to the amount of the grant and/or equity infusion.

(3) Specificity

The funding assistance under the ESSOR Program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited in number.

9. ÉcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects

The ÉcoPerformance program is administered by the Transition énergétique Québec ("TEQ"), a division of the Ministère de l'Énergie et Ressources Naturelles (Ministry of Energy and Natural Resources or MERN).[201] The ÉcoPerformance program was launched in October 2013 as the successor program to the Programme de reduction de la consommarion de mazout

[201] *See* Memorandum from James P. Maeder, Associate Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations to Gary Taverman, Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Sec'y for Enforcement and Compliance, re: *Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Uncoated Groundwood Paper from Canada* (June 18, 2018), attached as **Exhibit V-38**.

lourd (Program to reduce the consumption of heavy fuel oil), that ran from 2008 to 2012.[202] The purpose of the ÉcoPerformance program is to provide financial assistance to businesses, institutions, and municipalities to reduce greenhouse gas emissions through the implementation of measures or projects.[203] The applicants must satisfy the following criteria: (1) be located in Québec; (2) consume fossil fuel; (3) invest more than 25 percent of project cost in the project; (4) reduce greenhouse gas emissions; (5) meet energy rate of return requirements; and (6) respect ISO14064 for quantification of greenhouse gas emission reductions.[204] As some FSS producers would likely be large consumers of fossil fuel and would have likely invested in projects to reduce greenhouse gas emissions, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, because a number of Canadian FSS producers are located in Quebec, including the ADF Group, Inc., Canam Buildings and Structures Inc., and Constructions Proco Inc., it is reasonable to believe that they benefitted from this program. Finally, the Department found that this program is a countervailable subsidy in *Uncoated Groundwood Paper*.[205]

a. Grants Under the ÉcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the ÉcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects Program provide a "direct transfer of funds" in the form of a grant from the GOQ within the meaning of section 771(5)(D)(i) of the Act.

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202 *Id.*

203 *Id.*

204 *Id.*

205 *See id.*; unchanged in *UG Paper from Canada* IDM at 248-49.

(2) Benefit

Grants made under the ÉcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects Program provide a benefit equal to the amount of the grant.

(3) Specificity

As the Department previously found, grants provided under ÉcoPerformance – MERN (TEQ)/Energy Efficiency Conversion Projects Program are *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited in number. [206]

H. Government of Ontario Subsidy Programs

1. Employer Trainer Grant (Canada – Ontario Job Grant)

The GOO's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[207] Specifically, the governments provide up to $10,000 in grants to assist in training new employees.[208] Large companies with more than 100 employees are required to provide one half of the total cost for training, whereas small and medium sized companies (*i.e.*, less than 100 employees) are only required to provide 1/6 of the total cost of training.[209] Additionally, small employers who are training and hiring unemployed individuals are eligible for 100 percent funding and up to $15,000 per trainee.[210] To be eligible for this grant, the company must be licensed to operate in Ontario and the job must be located in Ontario.[211] Given that many FSS producers are

206 *See id.*

207 *See Canada-Ontario Job Grant*, attached as **Exhibit V-39**.

208 *Id.*

209 *See id.*

210 *See Canada-Ontario Job Grant Employer Overview Presentation* (Apr. 2018), attached as **Exhibit V-40**.

211 *Id.*

located in Ontario, including ANJ Industrial Fab Ltd., Niagara Structural Steel, and Walters, Inc., it is reasonable to believe that they benefitted from this program.

a. Ontario Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

Ontario Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GOO within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Ontario Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

2. Independent Electricity System Operator (IESO) Demand Response

The Independent Electricity System Operator is a government-designated independent system operator that operates Ontario's electricity grid, administers the region's wholesale electricity markets, and provides reliability planning for the region's bulk electricity system.[212] The IESO was created and its activities are governed by the Electricity Act of 1998.[213] The Department has found that the IESO is an "authority" within the meaning of section 771(5)(B) of

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212 *See* Independent Electricity System Operator, *About the IESO*, attached as **Exhibit V-41**; *see also UG Paper from Canada* Prelim. Memo at 68.

213 *See id.*

the Act because it is an agency of the Ontario Ministry of Energy,[214] and this Ministry appoints IESO's Chief Executive Officer and board of directors.

IESO fully administers the Demand Response Program, whereby firms alter their electricity consumption patterns in exchange for availability payments.[215] The purpose of the procurement of demand response capacity is to ensure the reliability planning for the region's bulk electricity system by reducing the overall regional demand for electricity in response to IESO's reliability mandate.[216] As some FSS producers would likely be large consumers of electricity, it is reasonable to believe that Canadian FSS producers have benefitted from this program. In addition, a number of Canadian FSS producers are located in Ontario, including ANJ Industrial Fab Ltd., Niagara Structural Steel, and Walters, Inc., meaning they would be eligible for this program. Finally, the Department found that this program is a countervailable subsidy in *Uncoated Groundwood Paper*.[217]

a. Grants Under the IESO Demand Response Program Constitute Countervailable Subsidies

(1) Financial Contribution

Grants under the IESO Demand Response Program provide a "direct transfer of funds" in the form of a grant from the GOO within the meaning of section 771(5)(D)(i) of the Act.

(2) Benefit

Grants made under the IESO Demand Response Program provide a benefit equal to the amount of the grant.

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214 *See UG Paper from Canada* IDM at 225; *see UG Paper from Canada* Prelim. Memo at 68.

215 *See* Independent Electricity System Operator, *Capacity Based Demand Response*, attached as **Exhibit V-42**; Independent Electricity System Operator, Q&A: Demand Response, attached as **Exhibit V-43**.

216 *See UG Paper from Canada* Prelim. Memo at 68.

217 *See UG Paper from Canada* IDM at 14.

(3) Specificity

As the Department previously found, grants provided under IESO Demand Response Program are *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited in number.[218]

I. Government of Prince Edward Island Subsidy Programs

1. Employer Trainer Grant (Canada – Prince Edward Island Job Grant)

The GPEI's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[219] Specifically, the employer invests one-third of the training costs and gains the benefit of a worker who is skilled and ready to work.[220] Then the GPEI will reimburse employers for the remaining two-thirds of eligible training costs.[221] To be eligible for this grant, the company must be based in Prince Edward Island ("PEI").[222] Given that certain FSS producers are located in PEI, such as MacDougall Steel Erectors, Inc., it is reasonable to believe that they benefitted from this program.

a. PEI Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

PEI Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GPEI within the meaning of section 771(5)(D)(i) of the Act.

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218 *See id.* at 225.

219 *See Canada-PEI Job Grant*, attached as **Exhibit V-44**.

220 *Id.*

221 *Id.*

222 *Id.*

(2) Benefit

PEI Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

J. Government of Saskatchewan Subsidy Programs

1. Employer Trainer Grant (Canada – Saskatchewan Job Grant)

The GOS's employer trainer grant program is a cost-share arrangement between the federal and provincial governments and employers to provide employee-based skills training.[223] Specifically, the governments provide two-thirds of total training cost for an employee up to $10,000 per person of the total training cost.[224] The GOS and GOC will fund up to $100,000 per employer.[225] To be eligible for this grant, the company must be located in Saskatchewan. Given that certain FSS producers are located in Saskatchewan, such as Supreme Steel LP., it is reasonable to believe that they benefitted from this program.

a. Saskatchewan Job Grants Constitute Countervailable Subsidies

(1) Financial Contribution

Saskatchewan Job Grants provide a "direct transfer of funds" in the form of a grant from the GOC and GOM within the meaning of section 771(5)(D)(i) of the Act.

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223 *See Apply for the Canada Saskatchewan Job Grant*, attached as **Exhibit V-45**.

224 *See id.*

225 *Id.*

(2) Benefit

Saskatchewan Job Grants provide a benefit equal to the amount of the grant received by eligible employers.

(3) Specificity

This program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is limited to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy.

VII. CONCLUSION

As described above, Canadian FSS producers are benefiting from substantial countervailable subsidies, which are causing material injury to the FSS industry in the United States. Petitioner therefore requests that the Department initiate a countervailing duty investigation on imports of FSS from Canada, 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.

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
V-1	*Publication 946: How to Depreciate Property,* Internal Revenue Service, Department of the Treasury (Feb. 27, 2018) (excerpt)	Public
V-2	Export Development Canada, *Export Guarantee Program*	Public
V-3	Government of Canada, *About CanExport*	Public
V-4	*AI Industries Builds with Automation Push*, Canadian Fabricating & Welding (Aug. 2016) (excerpt)	Public
V-5	Industry Canada, Key Small Business Statistics (July 2012)	Public
V-6	Export Development Canada, *EDC is offering support for the steel and aluminum industries*	Public
V-7	Government of Canada, *Classes of depreciable property*	Public
V-8	Government of Canada, *Claiming SR&ED tax incentives*	Public
V-9	*Certain Uncoated Groundwood Paper from Canada,* Initiation Checklist	Public
V-10	Government of Canada, *Apprenticeship Job Creation Tax Credit*	Public
V-11	Red Seal Trades	Public
V-12	Western Economic Diversification Canada, *Western Innovation Initiative (WINN)*	Public
V-13	Government of Canada, *Atlantic investment tax credit*	Public
V-14	Atlantic Canada Opportunities Agency, *Frequently Asked Questions*	Public
V-15	ACOA, Business Development Program	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
V-16	*Government of Alberta, Export Support Fund*	Public
V-17	*Canada-Alberta Job Grant*	Public
V-18	BC Hydro, *Industrial Energy Manager*	Public
V-19	BC Hydro, CEC Interruptible Rate Proposal	Public
V-20	BC Hydro, Integrated Resource Plan Technical Advisory Committee Presentation	Public
V-21	Catalyst Verification Report	Public
V-22	BC Hydro's Final Submission in the Fiscal 2017 – Fiscal 2019 Revenue Requirements Application Proceeding	Public
V-23	British Columbia Energy Plan 2010 and BC Hydro Demand-Side Management programs	Public
V-24	Iipnetwork, *BC Hydro Program Summary*	Public
V-25	Manufacturing Safety Alliance of BC, *Employer Training* Grant	Public
V-26	Government of British Columbia, B.C. Employer Trainer Grant (ETG)	Public
V-27	*Canada-Manitoba Job Grant*	Public
V-28	Government of New Brunswick, *Wage Incentive – One Job Pledge*	Public
V-29	Government of New Brunswick, Financial Assistance to Industry Program	Public
V-30	*Canada-Nova Scotia Job Grant (CNSJG)*	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
V-31	Workplace Innovation and Productivity Skills Incentive (WIPSI) Program, Application Guidelines	Public
V-32	Revenue Quebec, Large Investment Project	Public
V-33	Raymond Chabot Grant Thornton, *Update on Manufacturing Enterprises in Quebec: On-line Tax Strategies*	Public
V-34	Hydro Quebec Website Excerpts	Public
V-35	Economie et Innovation Quebec, ESSOR Program	Public
V-36	*Quebec lends support to expanding Brai-d'Urfe firm Ranger Design*, Montreal Gazette (Apr. 11, 2017)	Public
V-37	Canada Economic Development for Quebec Regions, *Creation of 56 jobs in Sherbrooke - SOPREMA receives $8.5 million in government assistance for a new plant in the Estrie region* (Sept. 25, 2017)	Public
V-38	Memorandum from James P. Maeder, Associate Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations to Gary Taverman, Deputy Assistant Sec'y for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Sec'y for Enforcement and Compliance, re: *Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Uncoated Groundwood Paper from Canada* (June 18, 2018)	Public
V-39	*Canada-Ontario Job Grant*	Public
V-40	*Canada-Ontario Job Grant Employer Overview Presentation* (Apr. 2018)	Public
V-41	Independent Electricity System Operator, *About the IESO*	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
V-42	Independent Electricity System Operator, *Capacity Based Demand Response*	Public
V-43	Independent Electricity System Operator, Q&A: Demand Response	Public
V-44	*Canada-PEI Job Grant*	Public
V-45	*Apply for the Canada Saskatchewan Job Grant*	Public

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

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

VOLUME VI:
MEXICO CVD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

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I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CERTAIN FABRICATED STRUCTURAL STEEL FROM MEXICO

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"), Mexico is considered to be a "Subsidies Agreement" country under 19 U.S.C. § 1677(8)(A). Petitioner alleges that the Government of Mexico ("GOM") maintains various economic programs and policies that have conferred countervailable subsidies on Mexican producers of certain fabricated structural steel ("FSS"), and that these subsidized subject imports are materially injuring the U.S. FSS industry. Accordingly, Petitioner requests that the Department apply U.S. CVD laws to the policies and programs outlined in this Petition.

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

The name of the country in which the subject merchandise is manufactured or produced is Mexico.

III. NAMES AND ADDRESSES OF MEXICAN FSS PRODUCERS AND EXPORTERS BELIEVED TO BENEFIT FROM COUNTERVAILABLE SUBSIDIES

Petitioner has identified numerous Mexican producers and exporters of FSS believed to benefit from countervailable subsidies provided by all levels of the Mexican government. The names and contact information for Mexican FSS producers and exporters are attached as **Exhibit I-7** in Volume I of this petition. The information provided in this exhibit represents the best information reasonably available to Petitioner.

IV. EFFORTS TO OBTAIN INFORMATION

Petitioner has conducted extensive research to document Mexican government subsidies to the FSS industry in Mexico, including a review of the following sources: financial statements of Mexican FSS producers, where available; company websites; market and industry research; news sources; WTO, U.S. government, and Mexican government reports; and past and existing Department CVD investigations and administrative reviews with respect to Mexico.

However, much of the information that would allow Petitioner to determine with certainty the types and amounts of subsidies received by each of Mexico's FSS producers is difficult or impossible to obtain. Given the 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."[1] The most accurate and thorough manner in which the type and amount of subsidies may be determined is through investigations and administrative reviews.[2]

Despite the difficulties in obtaining information, Petitioner investigated and is providing information demonstrating that the GOM has granted, and continues to grant, financial assistance to Mexico's FSS producers – assistance that constitutes countervailable subsidies under section 771 of the Tariff Act of 1930, *as amended* (the "Act"), *codified at* 19 U.S.C. § 1677.

V. MEXICAN FSS PRODUCERS BENEFIT FROM COUNTERVAILABLE SUBSIDIES

The GOM, including regional and local governments, government-owned or -controlled entities, and agencies, provides countervailable subsidies to producers of FSS as described on a program-by-program basis below. These programs include:

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

2 *See id.*

- Export subsidies;
- Loans;
- Energy and resource subsidies;
- Tax benefits;
- Regional subsidies; and
- Research and development incentives.

Each of these programs meets the elements of a countervailable subsidy within the meaning of section 771(5) of the Act. The general information required by section 351.202(b) of the Department's regulations is provided in **Volume I** of this petition.

The Department has found that some of the programs identified below constitute countervailable subsidies in prior investigations and reviews. Many are subsidy programs on their face and have been identified as such by the GOM or state governments. The subsidy programs described below are specific to an enterprise or industry, including the Mexican FSS industry, or a geographical region, or are contingent on export performance.

For purposes of 19 C.F.R. § 351.524(d)(2), the average useful life of renewable physical assets in this industry – *i.e.*, in the manufacture of fabricated structural metal products – is 12 years.[3] Accordingly, assuming that the period of investigation ("POI") is calendar year 2017, Petitioner respectfully requests that the Department investigate any allocable, non-recurring subsidies granted during the period from 2006 to 2017, and any outstanding loans or recurring subsidies provided during the presumptive POI.

A. Background

In prior countervailing duty proceedings involving steel and other products from Mexico, specifically countervailing duty proceedings involving cut-to-length carbon steel plate and sugar from Mexico, the Department has found that the GOM supports the development of its

[3] *See* Internal Revenue Service, Pub. 946 "How to Depreciate Property" (Feb. 28, 2018) at 105, excerpt attached as **Exhibit VI-1**.

industries, including its steel industry, through numerous and massive subsidies.[4] These include subsidies that are contingent upon export and are therefore prohibited under the agreements of the WTO to which Mexico is a party.[5] In addition, as discussed below, the GOM has developed a series of other economic incentives that support FSS producers and exporters, and constitute countervailable subsidies. Among the more significant of the subsidy programs are:

- Preferential tax incentives for companies located in Special Economic Zones;
- Duty exemption and remission schemes that provide duty-free access to key inputs and other benefits that are far in excess of the duties that would otherwise be levied;
- VAT refund programs contingent upon export; and
- A preferential duty scheme that allows the import of goods under preferential ad-valorem tariffs where the goods are for use in development of other products.

Of additional note are three programs that prominently form part of the GOM's export assistance program: DRAWBACK, which provides import tax refunds to exporters, IMMEX, which involves the temporary importation of goods for processing into goods for subsequent export, and PROSEC, which are sectorial promotion programs for the importation of certain goods at preferential tariffs.[6] The Department has investigated how some of these programs have benefitted the Mexican steel industry, as well as similar programs in other countries, within the last five years.[7]

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4 *See, e.g.*, Issues and Decision Memorandum accompanying *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 65 Fed. Reg. 13,368 (Dep't Commerce Mar. 13, 2000) (final results of countervailing duty admin. rev.) ("*CTL Plate from Mexico* AR 1997 IDM") at Analysis of Programs at I.G; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. 48,796, 48,801 (Dep't Commerce Sept. 8, 1999) (prelim. results of countervailing duty admin. rev.); Issues and Decision Memorandum accompanying *Sugar from Mexico*, 80 Fed. Reg. 57,337 (Dep't Commerce Sept. 23, 2015) (final affirmative countervailing duty deter.) ("*Sugar from Mexico* INV IDM") at 22.

5 *See, e.g.*, Office of the United States Trade Representative, *2018 National Trade Estimate Report on Foreign Trade Barriers* (Mar. 2017) at 321-28, excerpt attached as **Exhibit VI-2**.

6 *See* ProMexico, *Investing in Mexico step-by-step: Investment incentives*, attached as **Exhibit VI-3**.

7 *See, e.g.*, Issues and Decision Memorandum accompanying *Stainless Steel Flanges From India,* 83 Fed. Reg. 40,748 (Dep't Commerce Aug. 16, 2018) (final affirm. countervailing duty deter. and final affirm. deter. of critical circs.) ("*SS Flanges from India* IDM") at cmt. 5; *CTL Plate from Mexico* AR 1997 IDM at Analysis of

Like the GOM, Mexican state governments have also implemented extensive subsidy programs to support favored producers in their states. Through these subsidies, Mexican state governments seek to promote "aggressive" financial incentives, increase employment, and expand business activity in their states. These subsidies include:

- Economic development policies that confer a host of subsidies – including free and low-cost land, tax exemptions, waivers of environmental and other regulations, and support for research and development – to selected manufacturers;
- Tax waivers, refunds and exemptions to select producers over a period of time; and
- Discounts and exemptions related to water connection and monthly use fees.

Each of these subsidy programs, and many others, are discussed in detail in sections B and C, below. In these sections, Petitioner also presents the evidence that is reasonably available to it establishing that Mexican FSS producers and exporters have derived significant countervailable benefits from these subsidies.

B. Countervailable Subsidies Provided by the National Government

1. Energy Demand Response Programs

The GOM has established at least two subsidy programs aimed at curtailing load during electricity demand periods, which are likely used by Mexican FSS producers. These are the Tarifa I-15 Program and the Tarifa I-30 Program. These programs are typical electricity demand load interruptibility schemes, which the Department has previously found provide subsidies to large industrial users in other countervailing duty proceedings.[8] As discussed below, the Department should similarly determine that each of these schemes is countervailable.

Programs at I.G; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. 48,796, 48,801 (Dep't Commerce Sept. 8, 1999) (prelim. results of countervailing duty admin. rev.).

[8] *See, e.g.*, Preliminary Decision Memorandum accompanying *Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 82 Fed. Reg. 13,792 (Dep't Commerce Mar. 15, 2017) (prelim. results of countervailing duty admin. rev., and prelim. intent to rescind in part: calendar year 2015) ("*CTL Plate from Korea* Prelim. Results IDM") at 13-14, *unchanged* in Issues and Decisions Memorandum accompanying *Certain Cut-to-*

a. Tarifa I-15 Program

(1) Factual Background

The Comision Federal de Electricidad ("CFE"), Mexico's public utility, generates, distributes, and markets electric power throughout Mexico.[9] Under "tarifa I-15," the GOM provides funds to large industrial users of energy (consuming 10,000 kw or more) to be automatically disconnected and make at least 7,000 kw of electricity available for the government's use.[10] Duration of enrollment in this service is at least one year.[11] For users who enroll in this service for a period of three years or more, the corresponding monthly bonus is increased by 25 percent.[12] As some FSS producers would likely qualify as large industrial users of electricity, it is reasonable to believe that Mexican FSS producers have benefitted from this program. In other proceedings, the Department has found similar electricity demand load interruptibility schemes countervailable, and particularly with respect to steel products manufacturers.[13]

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

Length Carbon-Quality Steel Plate From the Republic of Korea, 82 Fed. Reg. 39,410 (Dep't Commerce Aug. 18, 2017) (final results of countervailing duty admin. rev. and rescission of countervailing duty admin. rev., in part) ("*CTL Plate from Korea* Final Results IDM") at 19-22.

9 *See Comision Federal de Electricidad, About Us*, attached as **Exhibit VI-4**.

10 *See Comision Federal de Electricidad*, Rate I-15 (2017-2018), attached as **Exhibit VI-5**.

11 *Id.*

12 *Id.*

13 *See, e.g.*, *CTL Plate from Korea* Prelim. Results IDM at 13, *unchanged in CTL Plate from Korea* Final Results IDM at 19-22.

(a) Financial Contribution

This program provides a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[14]

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the transfer of funds.[15]

(c) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to large industrial users consuming 10,000 kw or more.[16]

b. Tarifa I-30 Program

(1) Factual Background

CFE, Mexico's national electricity company, generates, distributes and markets electric power throughout Mexico.[17] Under "tarifa I-30," the GOM provides funds to large industrial users of energy (consuming 20,000 kw or more over the three months prior to the user's registration application) to be automatically disconnected and make at least 7,000 kw of electricity available for the government's use.[18] Duration of enrollment in this service is at least one year.[19] For users who enroll in this service for a period of three years or more, the corresponding monthly bonus will be increased by 25 percent.[20] As some FSS producers in

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14 *See, e.g., id.*

15 *See, e.g., id.*

16 *See, e.g., id.*

17 *See Comision Federal de Electricidad, About Us*, attached as **Exhibit VI-4**.

18 *See Comision Federal de Electricidad*, Rate I-30 (2017-2018), attached as **Exhibit VI-6**.

19 *Id.*

20 *Id.*

Mexico would likely qualify as large industrial users of electricity, it is reasonable to believe that Mexican FSS producers have benefitted from this program. In other proceedings, the Department has found similar electricity demand load interruptibility schemes countervailable, and particularly with respect to steel products manufacturers.[21]

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

This program provides a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[22]

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the transfer of funds.[23]

(c) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to large industrial users consuming 20,000 kw or more.

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21 *See, e.g., CTL Plate from Korea* Prelim. Results IDM at 13, *unchanged in CTL Plate from Korea* Final Results IDM at 19-22.

22 *See, e.g., id.*

23 *See, e.g., id.*

2. Renewable Energy Grants

a. Factual Background

In 2005, the GOM passed the "Law for the Use of Renewable Sources of Energy", which established the creation of a "Program for the Use of Renewable Energy Sources of Energy."[24] As part of this initiative, the GOM established a series of funds totaling 1 billion pesos per year to support renewable energy generation. Specifically, the GOM set out to channel approximately 600 million pesos per year (in 2005, equal to $55 million) "to grant incentives to foster public and private investment for the development and operation of {renewable energy ("RE")} electricity projects for public service, using competitive technologies."[25] The GOM also pledged additional resources equal to 400 million pesos per year (in 2005, equal to $37 million) "to promote other, less mature technologies, yet considered strategic for Mexico (electric and non electric applications)," and "to foster national research and technological development," "social development and economic growth in less advanced regions and population sectors."[26] During the first year of operation, the GOM listed the following uses for the funds created through this program:

- 55 percent of total support for a "Green Fund" to "foster the use of RE mature technologies (electrical applications);"
- 6 percent for an "Emergent Technologies Fund" aimed at electrical applications;
- 10 percent for a "Rural Electrification Fund;"
- 7 percent for a "General RE Fund" aimed at non-electrical applications; and

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24 Secretaría de Energía (SENER) de Mexico, Deutsche Gesellschaft für Technische, Zusammenarbeit (GTZ) GmbH, *Energías Renovables para el Desarrollo Sustentable en México* (2006) at 69-70 ("2006 Mexican Secretary of Energy Report on Renewable Energies"), attached as **Exhibit VI-7**.

25 *Id.* at 70.

26 *Id.*

- 15 percent for a "Research and Technological Development Fund".[27]

These funds constitute countervailable subsidies in the form of grants established by the GOM to incentivize renewable energy-related projects. Notably, because these grants are limited to investments for renewable energy generation, eligibility for these grants is restricted. However, this program has been utilized by the steel industry. For example, Minera del Norte ("MINOSA"), a subsidiary of Mexican steel producer Altos Hornos de México ("AHMSA"),[28] has developed a project involving the cogeneration of electric power,[29] which qualifies as "renewable energy generation."[30] Given that AHMSA's subsidiary developed a qualifying program, it is reasonable to believe that others in the steel industry, including FSS producers or their subsidiaries have similarly developed such a program, and benefitted from the grants offered by the GOM. The Department has previously investigated these grants.[31]

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27 *Id.*

28 *See AHMSA Altos Hornos de Mexico, Structural Shapes*, attached as **Exhibit VI-8**; *AHMSA Altos Hornos de Mexico, Products Brochure* (2017), attached as **Exhibit VI-9**.

29 *See* AHMSA Altos Hornos de Mexico, *Annual Report 2016* (Apr. 2017) at 18 ("AHMSA Annual Report 2016"), (excerpt) attached as **Exhibit VI-10**; *see also* AHMSA Altos Hornos de Mexico, *Annual Report 2017* (Apr. 2018) at Altos Hornos de México, S.A.B. de C.V. and Subsidiaries (A Subsidiary of Grupo Acerero del Norte, S.A. de C.V.) Consolidated Financial Statements for the Years Ended December 31, 2017, 2016 and 2015, and Independent Auditors' Report Dated April 2, 2018 at 22 ("MINOSA is the mine subsidiary that . . . extracts thermal coal, which is sold to the CFE (Federal Electricity Commission) for the generation of electric power.") ("AHMSA Annual Report 2017"), (excerpt) attached as **Exhibit VI-11**.

30 *See* Claudia Salgado and Kirsten Lorgen-Knapp, *Mexico: Cogeneration opportunities in PEMEX-CFE*, U.S. Commercial Service (Sept. 2012) ("Mexico: Cogeneration") at 2-3, attached as **Exhibit VI-12**.

31 *See* Memorandum from Off. of AD/CVD Operations, Enf't and Compliance, to The File, re: *Countervailing Duty Investigation Initiation Checklist: Sugar from Mexico, C-201-846* (Apr. 17, 2014) ("Initiation Checklist, *Sugar from Mexico*") at 20, attached as **Exhibit VI-13.**

b. The Subsidy is Countervailable

As it did in the recent investigation of *Sugar from Mexico*, the Department should initiate an investigation of this allegation,[32] and, for the reasons detailed below, conclude that the GOM's grants from certain renewable energy funds constitute a countervailable subsidy.

(1) Financial Contribution

A renewable energy grant from the GOM provides a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[33]

(2) Benefit

A non-recurring benefit within the meaning of section 771(5)(E) of the Act and 19 C.F.R. § 351.504(b) is conferred in the amount of the grant received.[34]

(3) Specificity

This subsidy is *de jure* specific under section 771(5A)(D)(i) of the Act, because pursuant to the relevant law, the funds are only provided to qualifying "renewable energy" technologies.[35]

3. Tax Benefit Programs

a. Accelerated Depreciation for Renewable Energy Investments

(1) Factual Background

Under the Mexican Income Tax Law ("MITL"), the GOM allows taxpayers to depreciate 100 percent of a qualifying renewable energy-related investment, such as solar panels and wind turbines, in a single exercise instead of over the life of the asset.[36] Because renewable energy-

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32 *See id.*

33 *Id.*

34 *Id.*

35 *Id.*

36 *See* Carlos Perez-Chow Martinez, *Mexican Tax Incentives for Green Energy Companies*, Vol. 83 Tax Notes Int'l No. 7 (Aug. 15, 2016) at 1, excerpt attached as **Exhibit VI-14**; Letter from Hughes Hubbard & Reed

related investments are generally of high value, a net operating loss ("NOL") would likely be created after applying the accelerated depreciation.[37] The MITL allows for the NOL to be carried forward to offset corporate income taxes for a 10-year period, and any remaining amount of the NOL beyond this 10-year period can be written off.[38] The Department has previously found that this program constitutes a countervailable subsidy, and has specifically done so in another proceeding involving Mexican steel producers and exporters.[39]

As indicated above, MINOSA, a subsidiary of Mexican steel producer AHMSA,[40] has developed a project involving the cogeneration of electric power,[41] which qualifies as "renewable energy generation" for immediate depreciation under the GOM's tax deduction program.[42] Moreover, AHMSA has specifically developed a series of efficiency-maximizing projects relating to its in-house generation of electricity.[43] Notably, in its 2015 annual report, AHMSA indicated that "{i}n savings, the program of in-house generation of electric power has been substantial, with the operation of 3 new in-house power plants which provide a more

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LPL to Sec'y Commerce, re: *Sugar from Mexico: Response to Countervailing Duty Questionnaire* (July 30, 2014) at Vol. VII at 3, Exhibit GOM-VOL VII-1, excerpt attached as **Exhibit VI-15**; 2006 Mexican Secretary of Energy Report on Renewable Energies at 74, attached as **Exhibit VI-7**.

37 Carlos Perez-Chow Martinez, *Mexican Tax Incentives for Green Energy Companies*, Vol. 83 Tax Notes Int'l No. 7 (Aug. 15, 2016) at 1, excerpt attached as **Exhibit VI-14**.

38 *Id.*

39 *See Certain Steel Products from Mexico*, 58 Fed. Reg. 37,352, 37,353-54 (Dep't Commerce July 9, 1993) (final affirm. countervailing duty deter.); Issues and Decision Memorandum accompanying *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 71 Fed. Reg. 32,521 (Dep't Commerce June 6, 2006) (final results of expedited five-year sunset review) at 5-6; *Sugar from Mexico* INV IDM at 22.

40 *See AHMSA Altos Hornos de Mexico, Structural Shapes*, attached as **Exhibit VI-8**; *AHMSA Altos Hornos de Mexico, Products Brochure*, attached as **Exhibit VI-9**.

41 *See* AHMSA Annual Report 2016 at 18, (excerpt) attached as **Exhibit VI-10**; *see also* AHMSA Annual Report 2017 at 22 ("MINOSA is the mine subsidiary that . . . extracts thermal coal, which is sold to the CFE (Federal Electricity Commission) for the generation of electric power."), (excerpt) attached as **Exhibit VI-11**.

42 *See* Mexico: Cogeneration at 2-3, attached as **Exhibit VI-12**.

43 *See* Grupo BMV, *Eventos Relevantes* (Nov. 8, 2017), attached as **Exhibit VI-16**; *see also* AHMSA Annual Report 2017 at 59 (indicating that AHMSA in 2017 internally obtained "57.7% of its requirements of electricity from its own facilities under a self-generation permit from the Government of Mexico"), (excerpt) attached as **Exhibit VI-11**.

advantageous scale of energy costs, which is one of the major expenses in the steelworks industry."[44] Because AHMSA and its subsidiary developed these projects under GOM's tax deduction program, it is reasonable to believe that others in the steel industry, including FSS producers or their subsidiaries, have similarly developed such projects and benefitted from this program.

(2) The Subsidy is Countervailable

As it did in the recent investigation of *Sugar from Mexico*, the Department should initiate an investigation of this allegation,[45] and, for the reasons detailed below, conclude that this program constitutes a countervailable subsidy.

(a) Financial Contribution

Accelerated depreciation provides a financial contribution as defined under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government.[46]

(b) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a)(1) is conferred on the recipient of this subsidy in the amount of the reduced income taxes.[47]

(c) Specificity

This program is *de jure* specific under section 771(5A)(D)(i) of the Act, because pursuant to the relevant law, as the Department has previously indicated, "only a highly limited list of

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44 AHMSA Altos Hornos de Mexico, *Annual Report 2015* (Apr. 2016) at 2, (excerpt) attached as **Exhibit VI-17**.

45 *Sugar from Mexico* INV IDM at 22.

46 *See id.*

47 *See id.*

qualified renewable energy generation-related investments qualify for the accelerated depreciation tax deduction."[48]

b. Immediate Deduction Program

(1) Factual Background

The Immediate Deduction Program in Mexico is a tax incentive that allows for a deduction for projects that are labor-intensive, do not pollute, and do not require the intensive use of water.[49] This program is also limited to areas other than Mexico City, Monterrey, or Guadalajara. As the production of FSS is highly labor-intensive and projects are non-polluting projects and do not require the intensive use of water, it is reasonable to believe Mexican FSS producers could have benefitted from this program. In addition, there are a number of Mexican producers of FSS, such as Corey S.A. de C.V.,[50] KS Fabrication de Mexico,[51] and Grupo Industrial Persal S.A. de C.V.,[52] that are located outside of Mexico City, Monterrey, or Guadalajara and thus would be eligible for this program.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

This subsidy provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of forgone tax revenue.

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48 *See id.* at 22, 62.

49 *See Investing in Mexico step-by-step: Investment incentives*, attached as **Exhibit VI-3**; Colegio de Contadores Públicos de México, *Boletín de la Comisión de Investigación Fiscal: Principales Estímulos Fiscales* (June 30, 2008) at 6-7, excerpt attached as **Exhibit VI-18**.

50 *See* AISC, AISC Certification – Corey S.A. de C.V., attached as **Exhibit VI-19**.

51 *See* AISC, AISC Certification – KS Fabrication de Mexico, attached as **Exhibit VI-20**.

52 *See* AISC, AISC Certification – Grupo Industrial Persal S.A. de C.V., attached as **Exhibit VI-21**.

(b) Benefit

A benefit is conferred in the amount of the tax payments exempted.

(c) Specificity

This program is *de jure* specific under section 771(5A)(D)(i) of the Act, because it is limited to certain eligible types of projects. In addition, it is specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to enterprises in geographically limited areas.

c. Deduction for New Fixed Assets for Small Companies

(1) Factual Background

The GOM provides an immediate deduction of expenses to small companies where the expenses are related to the acquisition of fixed assets.[53] These assets must be for first-time use in Mexico, and the deduction applies for 2017 and 2018. According to the relevant decree, this program does not apply to investments in vehicles, office equipment, armored car equipment, and aircraft not involved in agricultural spraying.[54] Because some FSS in Mexico producers may qualify as small companies and likely acquired new assets qualifying under this program, it is reasonable to believe that such companies would qualify for and utilize this program.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides a countervailable subsidy and should be investigated.

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53 *See* Diario Oficial de la Federación, *Decreto por el que se otorga un estímulo fiscal en materia de Deducción Inmediata de Bienes Nuevos de Activo Fijo para las Micro y Pequeñas Empresas* (Jan. 18, 2017), attached as **Exhibit VI-22**; EY, *Tax Incentives regarding One-Time Depreciation and Repatriation of Capital to Mexico were granted through Decrees issued by the Ministry of Finance* (Jan. 19, 2017), attached as **Exhibit VI-23**.

54 *See* KPMG, Mexico: Repatriation relief, tax incentives (Mar. 2, 2017), attached as **Exhibit VI-24**.

(a) Financial Contribution

This subsidy provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of forgone tax revenue.

(b) Benefit

A benefit under section 771(5)(E) of the Act is conferred in the amount of the tax payments exempted.

(c) Specificity

This program is *de jure* specific under section 771(5A)(D)(i) of the Act, because it is limited to small companies and first-time acquisition of fixed assets.

4. Foreign Investment Program

a. Maquiladora Program Tax Benefit

(1) Factual Background

In Mexico, maquiladoras are manufacturers that operate under a maquila program as approved by government officials.[55] The maquila program allows a foreign manufacturer to invest capital and management in a factory without going through many of the obstacles that come with setting up a foreign business. One of the key elements of the maquiladora in Mexico is that it offers certain tax benefits to foreign investors. Companies are able to offset the cost of taxes, including the flat tax and income tax, through transfer pricing.[56] This is a practice of making a deduction whenever a company imports materials for use in business.[57] As there are a

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55 *See PwC-IMMEX Maquiladora Guide: Doing Business in Mexico* (Mar. 2013) at 7, excerpt attached as **Exhibit VI-25**; *Secretaria de Economia*, IMMEX: Manufacturing, Maquila and Export Service Industry, attached as **Exhibit VI-26**.

56 *See PwC-IMMEX Mauiladora Guide: Doing Business in Mexico* (Mar. 2013) at 11-12, attached as **Exhibit VI-25**.

57 *Id.*

number of FSS producers in Mexico that are maquiladoras, including Grupo Industrial Persal S.A. de C.V.,[58] and Industrias Metalicas De Monclova S.A. De C.V. (IMMSA),[59] it is reasonable to assume they have benefitted from this program.[60]

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

This program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of foregone tax revenue.

(b) Benefit

A benefit under section 771(5)(E) of the Act is conferred in the amount of the tax payments exempted.

(c) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries that qualify as maquiladoras.

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58 AISC, AISC Certification – Grupo Industrial Persal S.A. de C.V., attached as **Exhibit VI-21**.

59 AISC, AISC Certification – Industrias Metalicas De Monclova S.A. De C.V. (IMMSA), attached as **Exhibit VI-27**; IMMSA, Steel fabrication in Mexico, attached as **Exhibit VI-28**.

60 *See* InfoMaquila, *Directorio de Maquiladoras*, website excerpt attached as **Exhibit VI-29**.

5. Export Subsidies

a. IMMEX Program

(1) Factual Background

The GOM's Manufacturing Industry, Maquiladora and Export Services ("IMMEX") Program is an instrument to promote exports, through which producers of goods destined for export or companies that provide services destined for export are allowed to import temporarily various goods (raw materials, inputs, components, packaging and packaging, as well as machinery and equipment) to be used in the production of export products, without covering the payment of the general import tax, the value-added tax, and the quotas compensatory, if applicable.[61] In order to enjoy the benefits of an IMMEX program, the company must register annual sales abroad worth more than US$500,000, or its equivalent in other currencies, or invoice export products for at least 10 percent of its total sales. As there are a number of FSS producers in Mexico that are maquiladoras, it is reasonable to assume that they have benefitted from this program.[62] In fact, the GOM has specifically identified numerous FSS producers – Corey S.A. de C.V.,[63] ASI Baja, S. de R.L. de C.V.,[64] BBM-CPG Mexicana S.A. de C.V.,[65] Estructuras Metalicas la Popular S.A. de C.V./MSCI,[66] Grupo Industrial Persal S.A. de C.V.,[67]

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61 *See Secretaria de Economia*, IMMEX: Manufacturing, Maquila and Export Service Industry, attached as **Exhibit VI-26**.

62 *See* InfoMaquila, *Directorio de Maquiladoras*, website excerpt attached as **Exhibit VI-29**.

63 *See* Grupo Recal, Services – Design, attached as **Exhibit VI-30**; Grupo Recal, Services – Steel Supply, attached as **Exhibit VI-31**; Grupo Recal, Services – Manufacturing, attached as **Exhibit VI-32**; AISC, AISC Certification – Corey S.A. de C.V., attached as **Exhibit VI-19**.

64 AISC, AISC Certification – ASI Baja, S. de. R.L. de C.V., attached as **Exhibit VI-33**.

65 AISC, AISC Certification – BBM-CPG Mexicana S.A. de C.V., attached as **Exhibit VI-34**.

66 AISC, AISC Certification – Estructuras Metalicas la Popular S.A. de C.V./MSCI, attached as **Exhibit VI-35**; Estructurales Metalicas La Popular, S.A. de C.V., Nuestros Servicios, attached as **Exhibit VI-36**.

67 AISC, AISC Certification – Grupo Industrial Persal S.A. de C.V., attached as **Exhibit VI-21**.

Industrias Metalicas De Monclova S.A. De C.V. (IMMSA),[68] Preacero Pellizzari Mexico S.A. de C.V.,[69] and Valmont Monterrey, S. de R.L. de C.V.[70] – as beneficiaries of IMMEX.[71]

The Department has previously investigated this program.[72] In addition, the Department has recognized that this program is the successor program to PITEX, which has previously been found to provide countervailable export subsidies in other proceedings.[73]

(2) The Subsidy is Countervailable

As it did in the recent investigation of *Sugar from Mexico*, the Department should initiate an investigation of this allegation,[74] and, for the reasons detailed below, conclude that this program constitutes a countervailable subsidy.

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68 AISC, AISC Certification – Industrias Metalicas De Monclova S.A. De C.V. (IMMSA), attached as **Exhibit VI-27**; IMMSA, Steel fabrication in Mexico, attached as **Exhibit VI-28**.

69 AISC, AISC Certification – Preacero Pellizzari Mexico S.A. de C.V., attached as **Exhibit VI-37**.

70 AISC, AISC Certification – Valmont Monterrey, S. de R.L. de C.V., attached as **Exhibit VI-38**.

71 Petitioner notes that the GOM maintains spreadsheets identifying program beneficiaries; these lists are accessible through hyperlinks at siicex.gob.mx. *See* Directorio de Empresas IMMEX (Mar. 13, 2018), available at http://www.siicex.gob.mx/portalSiicex/directorios/archivos/IMMEX_13032018.xlsx; SIICEX.gob.mx, Directorios de Programas de Fomento (Mar. 13, 2018), attached as **Exhibit VI-39**; SIICEX.gob.mx, IMMEX – Informacion Especifica y Beneficiarios (providing in "*click here*" hyperlink under "Directory of Programs and Companies IMMEX" a list of beneficiaries that includes FSS producers), attached as **Exhibit VI-40**.

72 *See Sugar from Mexico* INV IDM at 24. The Department ultimately found that this program had not been used or did not confer a benefit during the period of investigation. *Id.*

73 *See* Initiation Checklist, *Sugar from Mexico* at 22, attached as **Exhibit VI-13**; *see, e.g.*, *CTL Plate from Mexico* AR 1997 IDM at Analysis of Programs at I.G; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. at 48,801.

74 *Sugar from Mexico* INV IDM at 22.

(a) Financial Contribution

IMMEX provides a financial contribution as defined under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government.[75]

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act and 19 C.F.R. § 351.519 is conferred on the recipient in the amount of exempted duties.[76]

(c) Specificity

This program is specific under section 771(5A)(B), as it is contingent upon export performance. This program is also *de facto* specific under section 771(5A)(D)(iii) because it is limited to certain companies in specific industries selected by the GOM.[77]

b. ALTEX Program

(1) Factual Background

The GOM's Register of Highly Exporting Companies ("ALTEX") allows individuals and corporations to obtain the Value Added Tax ("VAT") refunds for the value of the exported goods.[78] These refunds may be obtained on balances within a maximum period of 20 days.[79] The program is also a duty drawback scheme through which the exporter is reimbursed the value of the taxes caused by the import and subsequent export of:

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75 *See* Initiation Checklist, *Sugar from Mexico* at 22, attached as **Exhibit VI-13**.

76 *See id.*

77 *See id.*

78 *See Goodrich's Bluebook Mexico: Business opportunities and legal framework Supplementary materials*, excerpt attached as **Exhibit VI-41.**

79 *Id.*

- raw materials, parts and components, packaging and containers, fuels, lubricants and other materials incorporated into the exported product;
- for the importation of goods that are returned abroad in the same state in which they were imported; and
- imported goods for repair or alteration.[80]

To be eligible for this program, applicants must demonstrate that they have direct exports of at least US$2,000,000 or 40 percent of their annual sales or indirect imports of 50 percent of their sales.[81] Given that the domestic FSS industry has lost projects to Mexican FSS producers that far exceed this value, it is reasonable to believe that such companies would qualify for, and utilize, this program. Indeed, the GOM has identified FSS producer Grupo Industrial Persal S.A. de C.V. as a beneficiary of ALTEX.[82] The Department has previously investigated this program.[83]

(2) The Subsidy is Countervailable

As it did in *Cut-to-Length Carbon Steel Plate from Mexico*, the Department should initiate an investigation of this allegation,[84] and, for the reasons detailed below, conclude that this program constitutes a countervailable subsidy.

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80 *Id.*

81 *Id.*

82 Petitioner notes that the GOM maintains a spreadsheet identifying ALTEX program beneficiaries; this list is accessible through a hyperlink at siicex.gob.mx. *See* Directorio de Empresas ALTEX (Mar. 13, 2018), available at http://www.siicex.gob.mx/portalSiicex/directorios/archivos/ALTEX_13032018.xlsx; Directorios de Programas de Fomento, attached as **Exhibit VI-39**.

83 While the Department has previously found this program to be not countervailable, that determination was based on the specific information gathered during the course of that proceeding and this determination was issued almost two decades ago. *See Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. at 48,803-04.

84 *See id.*

(a) Financial Contribution

The ALTEX program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone.

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the taxes reimbursed.

(c) Specificity

This program is specific under section 771(5A)(B), as it is contingent upon export performance.

6. Loan Programs

a. Bancomext Financing for Maquila Companies and Industrial Facilities

(1) Factual Background

Bancomext, Mexico's Development Bank responsible for financing international trade, offers preferential financing in accordance with the needs of maquila companies, maquila suppliers, and developers of industrial infrastructure to facilitate the development of added value, growth in job creation, and foreign-currency generation in the maquila export sector.[85] The financing is limited to direct exporters (maquila companies), developers of industrial facilities, and suppliers of the industry's products and services.[86] Further, the minimum financing amount is $3 million.[87] As noted above, a number of Mexican FSS producers are maquiladoras; moreover, producers of FSS would likely be considered developers of industrial infrastructure.

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85 *See* Bancomext, *Maquila and Industrial Warehouses*, attached as **Exhibit VI-42**.

86 *Id.*

87 *Id.*

Accordingly, it is reasonable to believe that Mexican producers of FSS utilized this program. The Department has previously found that loans from Bancomext constitute countervailable subsidies.[88] Notably, the Department has previously found that Mexican steel producer AHMSA has benefitted from this program,[89] and as such, it is reasonable to believe FSS producers may have similarly benefitted from this program.

(2) The Subsidy is Countervailable

The Department has previously found that this program provides countervailable benefits to Mexican steel producers, and it should continue to do so here with respect to FSS producers.[90]

(a) Financial Contribution

This program represents a direct transfer of funds in the form of loans, and as such qualifies as a financial contribution under section 771(5)(D)(i).

(b) Benefit

A benefit within the meaning of section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the interest rates charged on the loans are lower than interest rates for comparable commercial loans.

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88 *See* Issues and Decision Memorandum accompanying *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 66 Fed. Reg. 14,549 (Dep't Commerce Mar. 13, 2001) (final results of countervailing duty admin. rev.) ("*CTL Plate from Mexico* AR 1998 IDM") at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 65 Fed. Reg. 54,232, 54,237 (Dep't Commerce Sept. 7, 2000) (prelim. results of countervailing duty admin. rev. and extension of time limit for final results of countervailing duty admin. rev.); *CTL Plate from Mexico* AR 1997 IDM at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. at 48,801.

89 *See CTL Plate from Mexico* AR 1998 IDM at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 65 Fed. Reg. at 54,237; *CTL Plate from Mexico* AR 1997 IDM at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. at 48,801.

90 *See CTL Plate from Mexico* AR 1998 IDM at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 65 Fed. Reg. at 54,237; *CTL Plate from Mexico* AR 1997 IDM at Analysis of Programs at I.F; *Certain Cut-to-Length Carbon Steel Plate from Mexico*, 64 Fed. Reg. at 48,801.

(c) Specificity

As the Department has found, this subsidy is specific under section 771(5A)(B) of the Act because it is contingent upon export.

7. Preferential Duty Scheme

a. PROSEC

(1) Factual Background

Sectoral Promotion Programs ("Programas de Promoción Sectorial" or "PROSEC") allow entities that produce certain products – including certain steel products – "to import diverse goods for use in the development of specific products at preferential ad-valorem tariffs . . . ."[91] This program is available to companies that produce a specific set of products, regardless of whether the goods produced are for export or domestic consumption.[92] FSS is among the downstream products that qualify for this program.[93] As the Department has previously observed, "{u}pon providing documentation that the imported materials will be used to produce goods in the applicable sector, an entity's non-transferrable PROSEC registration will remain valid, without expiration, until explicitly cancelled by either the entity or the GOM."[94] The GOM has specifically identified FSS producers as beneficiaries of the PROSEC

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91 *See Secretaria de Economia*, PROSEC, Sectoral Promotion Programs, Ministry of Economy, Government of Mexico, attached as **Exhibit VI-43**.

92 *Id.*

93 *See* Matriz Fracción Arancelaria – Industria de Acuerdo al Artículo 4 del Decreto Prosec (Actualización conforme al DOF del 16 de Diciembre de 2009), Ministry of Economy, Government of Mexico (listing products inclusive of FSS products classifiable under HTS 7308.90), available at http://www.siicex.gob.mx/portalSiicex/SICETECA/Decretos/Arancel/Prosec/PROSEC/PROSEC%20Art.%204/PROSEC_ART_4_DOF_29_NOV_12.xls.

94 Memorandum from Kaitlin Wojnar, International Trade Analyst, Office VII, AD/CVD Operations, Enf't and Compliance, through Mark Hoadley Program Manager, Office VII, AD/CVD Operations, Enf't and Compliance, to the File, re: *Verification of the Responses of the Government of Mexico in the Countervailing Duty Investigation of Sugar from Mexico* (July 30, 2015) at 12-13, attached as **Exhibit VI-44**.

programs,[95] including Corey S.A. de C.V.,[96] Grupo Industrial Persal S.A. de C.V.,[97] Industrias Metalicas De Monclova S.A. De C.V. (IMMSA),[98] and Operadora CICSA, S. A. de C.V.[99] In addition, given that FSS is among the downstream products that qualify for this program,[100] it is reasonable to believe that other Mexican FSS producers have benefitted from this program.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides a countervailable subsidy and should be investigated.

(a) Financial Contribution

This program represents revenue forgone by the GOM, and as such qualifies as providing a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

(b) Benefit

This program provides a benefit under section 771(5)(E) of the Act, in the amount of tax savings under 19 C.F.R. § 351.510(a)(1).

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95 Petitioner notes that the GOM maintains spreadsheets identifying PROSEC program beneficiaries; these lists are accessible through hyperlinks at siicex.gob.mx. *See* Directorio de Empresas PROSEC (Mar. 13, 2018), available at http://www.siicex.gob.mx/portalSiicex/directorios/archivos/PROSEC_13032018.xlsx; Directorios de Programas de Fomento, attached as **Exhibit VI-39**; SIICEX.gob.mx, PROSEC – Informacion Especifica y Beneficiarios (providing in "*click here*" hyperlink under "Directory of beneficiary companies of the PROSEC Program" a list of beneficiaries that includes FSS producers), attached as **Exhibit VI-45**.

96 *See* Grupo Recal, Services – Design, attached as **Exhibit VI-30**; Grupo Recal, Services – Steel Supply, attached as **Exhibit VI-31**; Grupo Recal, Services – Manufacturing, attached as **Exhibit VI-32**; AISC, AISC Certification – Corey S.A. de C.V., attached as **Exhibit VI-33**.

97 AISC, AISC Certification – Grupo Industrial Persal S.A. de C.V., attached as **Exhibit VI-21**.

98 AISC, AISC Certification – Industrias Metalicas De Monclova S.A. De C.V. (IMMSA), attached as **Exhibit VI-27**; IMMSA, Steel fabrication in Mexico, attached as **Exhibit VI-28**.

99 AISC, AISC Certification – Operadora CICSA, S.A. de C.V, attached as **Exhibit VI-46**; AISC, AISC Certification – Operadora CICSA, S.A. de C.V. Swecomex – Guadalajara, attached **Exhibit VI-47**.

100 *See* Matriz Fracción Arancelaria – Industria de Acuerdo al Artículo 4 del Decreto Prosec (Actualización conforme al DOF del 16 de Diciembre de 2009), Ministry of Economy, Government of Mexico (listing products inclusive of FSS products classifiable under HTS 7308.90), available at http://www.siicex.gob.mx/portalSiicex /SICETECA/Decretos/Arancel/Prosec/PROSEC/PROSEC%20Art.%204/PROSEC_ART_4_DOF_29_NOV_12.xls.

(c) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries.

b. Eighth Rule Permit

(1) Factual Background

In Mexico, companies that already participate in the PROSEC program, an IMMEX program, or both, are eligible to benefit from an Eighth Rule permit.[101] Under this rule, companies may benefit from preferential tariffs on importations of inputs, parts, components, machinery, equipment, and other goods required for a manufacturing process. To be eligible for this program, applicants already participating in a PROSEC and/or IMMEX program must also show that they are temporarily or permanently importing inputs or machinery for use in a manufacturing process.[102] Given that there are FSS producers that participate in the PROSEC and/or IMMEX programs, it is reasonable to believe that such companies would qualify for, and utilize, this program.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides a countervailable subsidy and should be investigated.

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101 *See* Autorizaciones de Regla 8ª – Información General, Sistema Integral de Información de Comercio Exterior (SIICEX), Ministry of Economy, Government of Mexico, attached as **Exhibit VI-48**; *see also Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 30, excerpt attached as **Exhibit VI-49**.

102 *See* Autorizaciones de Regla 8ª – Información General, Sistema Integral de Información de Comercio Exterior (SIICEX), Ministry of Economy, Government of Mexico, attached as **Exhibit VI-48**; *see also Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 30, excerpt attached as **Exhibit VI-49**.

(a) Financial Contribution

This program represents revenue forgone by the GOM, and as such qualifies as providing a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

(b) Benefit

This program provides a benefit under section 771(5)(E) of the Act, in the amount of tax savings from the program pursuant to 19 C.F.R. § 351.510(a)(1).

(c) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries.

8. Duty Exemption/Remission Scheme

a. Import Tax Refund to Exporters (DRAWBACK)

(1) Factual Background

The duty drawback scheme in Mexico, like other countries' duty drawback programs that the Department has found to be countervailable,[103] provides rebates of duties on imported materials that are used in the production of export goods.[104] Under this program, the rebated duties represent revenue forgone by the GOM, and the program provides a benefit in the amount of the import duty deferral or exemption. Further, this program is contingent on export activity. As Mexican producers of FSS import substantial volumes of steel mill products for use in the

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[103] *See, e.g., SS Flanges from India* IDM at cmt. 5; Countervailing Duty Investigation Initiation Checklist, *Stainless Steel Flanges from India* (C-533-878) (Sept. 5, 2017) (ACCESS Barcode 3672416) at 9 ("Initiation Checklist, *SS Flanges from India*").

[104] *See Secretaria de Economia*, Programa de Devolución de Impuestos de Importación a los Exportadores (DRAWBACK), attached as **Exhibit VI-50**; *Secretaria de Economia*, Drawback, Ministry of Economy, Government of Mexico, attached as **Exhibit VI-51**; Drawback – Información General, Sistema Integral de Información de Comercio Exterior (SIICEX), Ministry of Economy, Government of Mexico, attached as **Exhibit VI-52**.

production of FSS and export substantial volumes of FSS, it is reasonable to believe that such producers have benefitted from this program.

(2) The Subsidy is Countervailable

As it has found in similar proceedings, the Department should initiate an investigation of this allegation,[105] and, for the reasons detailed below, conclude that the GOM's drawback system constitutes a countervailable subsidy.

(a) Financial Contribution

This program provides a financial contribution as defined under section 771(5)(D)(ii) of the Act because the rebated duties represent revenue forgone by the GOM. The GOM exempts eligible recipients from the payment of import duties that would otherwise be due.[106]

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient because the program provides an import duty deferral or exemption.[107] Moreover, as the Department has found in past investigations, the agency should find that the entire amount of the exemption granted under the drawback program is countervailable pursuant to 19 C.F.R. § 351.519(a)(4).[108]

(c) Specificity

This program is specific under section 771(5A)(B) of the Act because it is contingent upon export performance.[109]

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105 *See, e.g., SS Flanges from India* IDM at cmt. 5; Initiation Checklist, *SS Flanges from India* at 10-11.

106 *See, e.g., SS Flanges from India* IDM at cmt. 5.

107 *See, e.g., id.*

108 *See, e.g., id.*

109 *See, e.g., id.*

9. Program to Boost Industrial Productivity and Competitiveness (PPCI)

a. Factual Background

The GOM provides subsidies under the PPCI ("Programa para la Productividad y Competitividad Industrial") program to applicants in certain sectors – including the metal-mechanic, metalworking, and machinery and equipment sectors – to increase their competitiveness.[110] The subsidies provided by this program include assistance in personnel training, certifications, education, as well as assistance in machinery and equipment, and certain projects.[111] Because FSS producers operate under a sector covered by this program, it is reasonable to believe that they benefitted from this program.

b. The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program provides a direct transfer of funds in the form of assistance in personnel training, certifications, education, as well as assistance in machinery and equipment, and certain projects, and as such qualifies as a financial contribution under section 771(5)(D)(i).

(2) Benefit

A benefit within the meaning of section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a) is conferred in the amount of the subsidy provided by this program.

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[110] *See Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 55-56, excerpt attached as **Exhibit VI-49**; Diario Oficial de la Federación, Reglas de Operación del Programa para la Productividad y Competitividad Industrial (PPCI), para el ejercicio fiscal 2016 (Dec. 29, 2015), attached as **Exhibit VI-53**.

[111] *See* Diario Oficial de la Federación,Reglas de Operación del Programa para la Productividad y Competitividad Industrial (PPCI), para el ejercicio fiscal 2016, attached as **Exhibit VI-53**.

(3) Specificity

This program is specific under sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible sectors.

10. Innovation Incentive Program

a. Factual Background

The GOM, through its National Science and Technology Council (Conacyt), provides subsidies to companies investing in research, technological development, and innovation projects.[112] Under this program, the GOM grants credit lines to companies engaging in certain research and development efforts, and makes these grants available to small and medium, as well as large, companies. According to the GOM, credit lines are extended "based on the project's impact on the economy and the country's level of competitiveness."[113] Because FSS producers may engage in research and development efforts that qualify for this program, it is reasonable to believe that they benefitted from this program.

b. The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(1) Financial Contribution

This program provides a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

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112 *See Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 60, excerpt attached as **Exhibit VI-49**; *CONACYT*, Programa de Estímulos a la Innovación, attached as **Exhibit VI-54**.

113 *Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 60, excerpt attached as **Exhibit VI-49**.

(2) Benefit

A benefit within the meaning of section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that there is a difference between the amount the recipient pays on these research and development loans and the amount the recipient would pay on a comparable commercial loan.

(3) Specificity

This program is *de facto* specific under section 771(5A)(D)(iii) because it is limited to certain companies selected by the GOM.

11. Special Economic Zones

a. Factual Background

The GOM offers special incentives to companies located in special economic zones ("SEZ"), called Zonas Económicas Especiales or "ZEE."[114] These SEZs are similar to the SEZ programs in other countries,[115] which the Department has previously found to be countervailable.[116] Moreover, the SEZ program in Mexico aims to provide more "aggressive incentives" than those provided in other SEZ programs.[117] Among the benefits of Mexico's SEZs are a special customs regime, general and local tax incentives, and significant participation

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114 *See* Special Economic Zones (SEZ), Mexico Projects Hub, attached as **Exhibit VI-55**; Pro México, *Logistics – Consolidating the competitiveness of Mexican companies*, Negocios ProMéxico (July 26, 2017) at 8-9, 20-21, excerpt attached as **Exhibit VI-56**; Banco de México, Las Zonas Económicas Especiales de México (June 2018), attached as **Exhibit VI-57**.

115 *See* Banco de México, Las Zonas Económicas Especiales de México at 1, attached as **Exhibit VI-57**; Viridiana Rios, *Mexico's Special Economic Zones: White Elephants?*, Forbes (July 5, 2016), attached as **Exhibit VI-58**.

116 *See, e.g.*, Issues and Decision Memorandum accompanying *Polyethylene Terephthalate Film, Sheet, and Strip From India*, 76 Fed. Reg. 30,910 (Dep't Commerce May 27, 2011) (final results of countervailing duty new shipper rev.) at 14-19.

117 *See* Autoridad Federal para el Desarrollo de las Zonas Económicas Especiales, *¿En qué se distinguen las ZEE en México de las otras Zonas en el mundo?*, Gob.mx (Jan. 9, 2017), attached as **Exhibit VI-59**.

from national development banks.[118] For example, SEZs in Mexico offer: a "100% discount" on income tax over a company's first 10 years, and "50% the next 5 years;" a special customs regime that exempts taxes to foreign trade; a deduction of 25 percent for training expenses, for 15 years; tax credits for the health and maternity component of social security fees; 0 percent VAT rates for goods entering the SEZs; VAT exemptions for transactions inside SEZs; and payment exemptions for federal land exploitation.[119] The GOM has established at least seven SEZs: (1) Coatzacoalcos, Veracurz; (2) Puerto Chiapas, Chiapas; (3) Lázaro Cárdenas–La Unión, Michoacán and Guerrero; (4) Salina Cruz, Oaxaca; (5) Progreso, Yucatán; (6) Champotón, Tabasco; and (7) Dos Bocas, Campeche.[120] In particular, the SEZ in Lázaro Cárdenas–La Unión, in Michoacán and Guerrero, has been assigned to host steel production activities,[121] and companies have been expected to start operating towards the last quarter of 2018.[122] Because there may be Mexican FSS producers located in these zones, it is reasonable to believe that such companies benefit from special programs in these areas.

b. The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

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118 *See* Special Economic Zones (SEZ), Mexico Projects Hub, attached as **Exhibit VI-55**.

119 *See* Special Economic Zones in Mexico – Opportunities for European Investments at 10, attached as **Exhibit VI-60**.

120 Banco de México, Las Zonas Económicas Especiales de México at 4, attached as **Exhibit VI-57**.

121 *Id.*

122 *Id.*

(1) Financial Contribution

This subsidy, in providing income tax and VAT benefits based on geographic location, constitutes financial contributions in the form of revenue foregone by the GOM, consistent with section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the tax or payment that is exempted.

(3) Specificity

This subsidy is specific under section 771(5A)(D)(iv) because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy.

C. Regional Subsidies

Local governments in Mexico offer various regional incentives and subsidies that Mexican FSS producers, depending on their location, would benefit from.[123] Regional governments in Jalisco, for example, provide special incentives for research and development projects, and exemptions or reductions on the payment of certain duties.[124] And major FSS producer Corey S.A. de C.V.,[125] and producers Acesta S.A. de C.V.,[126] and Operadora CICSA, S. A. de C. V. Swecomex – Guadalajara,[127] are located in Jalisco. Because FSS producers are

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123 *See Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* at 71-85, excerpt attached as **Exhibit VI-49**.

124 *See id.* at 77.

125 *See* AISC, AISC Certification – Corey S.A. de C.V., attached as **Exhibit VI-19**.

126 *See* AISC, AISC Certification – Acesta S.A. de C.V., attached as **Exhibit VI-61**.

127 AISC, AISC Certification – Operadora CICSA, S.A. de C.V. Swecomex – Guadalajara, attached **Exhibit VI-47**.

located and operate throughout regions in Mexico providing such subsidies, it is reasonable to believe that they benefitted from those programs.

1. State Government of Jalisco

a. Law for the Promotion of Investments in the State of Jalisco

(1) Factual Background

The Law for the Promotion of Investments in the State of Jalisco provides eligible companies with subsidies for total and partial financing of investment projects in Jalisco.[128] As provided in this law, the state of Jalisco authorizes loans for movable and immovable property, partial or total payment of training services, partial payment of salaries, and "{a}ny other type of incentive . . . as long as it is justified, founded and duly motivated."[129] As indicated above, FSS producers Corey S.A. de C.V.,[130] Acesta S.A. de C.V.,[131] and Operadora CICSA, S. A. de C. V. Swecomex – Guadalajara,[132] are all located in Jalisco. Accordingly, it is reasonable to believe that FSS producers benefitted from those programs.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

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

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128 *See* Ley Para la Promoción de Inversiones en el Estado de Jalisco, Decreto Número 23965/LIX/12 (Jan. 24, 2012) at Artículo 33, attached as **Exhibit VI-62**.

129 *See id.*

130 *See* AISC, AISC Certification – Corey S.A. de C.V., attached as **Exhibit VI-19**.

131 *See* AISC, AISC Certification – Acesta S.A. de C.V., attached as **Exhibit VI-61**.

132 AISC, AISC Certification – Operadora CICSA, S.A. de C.V. Swecomex – Guadalajara, attached **Exhibit VI-47**.

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of expenses that are reimbursed, and payments received. Further, this program confers a benefit on the recipient equal to the difference paid on a loan under this program and the amount the recipient would pay on a comparable commercial loan, pursuant to section 771(5)(E)(ii).

(c) Specificity

The subsidy program is specific within the meaning of section 771(5A)(D)(iv) because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy.

2. State Government of Baja California

a. Economic State Incentives

(1) Factual Background

Baja California provides eligible companies with financial incentives that included: (1) a 100-percent exemption on payroll tax for a period of 3 to 5 years, depending on the project; (2) 30-percent discounts to monthly water bills; and (3) a 20-percent exemption with respect to water connection fees.[133] FSS producers ASI Baja, S. de R.L. de C.V.,[134] Estructuras Metalicas la Popular S.A. de C.V./MSCI,[135] Grupo Industrial Persal S.A. de C.V,[136] and KS Fabrication de

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133 *See* Incentivos del Estado, InvestinBaja.gob.mx, attached as **Exhibit VI-63**.

134 AISC, AISC Certification – ASI Baja, S. de. R.L. de C.V., attached as **Exhibit VI-33**.

135 AISC, AISC Certification – Estructuras Metalicas la Popular S.A. de C.V./MSCI, attached as **Exhibit VI-35**; Estructurales Metalicas La Popular, S.A. de C.V., Nuestros Servicios, attached as **Exhibit VI-36**.

136 AISC, AISC Certification – Grupo Industrial Persal S.A. de C.V., attached as **Exhibit VI-21**.

Mexico,[137] are all located in Baja California. Accordingly, it is reasonable to believe that FSS producers benefitted from those programs.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

This exemption provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone.

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the taxes and other payments that are exempted.

(c) Specificity

The subsidy program is specific within the meaning of section 771(5A)(D)(iv) because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy.

3. State Government of Nuevo León

a. Law to Promote Investment and Employment for the State of Nuevo León

(1) Factual Background

The Mexican state of Nuevo León's Law to Promote Investment and Employment for the State of Nuevo León allows for a series of economic incentives for eligible companies.[138] These incentives, according to the law, may include a subsidization of payroll tax payments and certain

137 *See* AISC, AISC Certification – KS Fabrication de Mexico, attached as **Exhibit VI-20**.

138 *See* Ley de Fomento a la Inversión y al Empleo para el Estado de Nuevo Leon (Nov. 17, 2017) at Article 27, attached as **Exhibit VI-64**.

state rights payments, as well as reimbursement for training of laborers, installation of water and energy services, research and development, and other activities.[139] FSS producers ACERO TECNOLOGIA, S.A. DE C.V.,[140] Aceros Lozano S.A. de C.V.,[141] and Valmont Monterrey, S. de R.L. de C.V.,[142] are all located in Nuevo León. As such, it is reasonable to believe that FSS producers benefitted from this program.

(2) The Subsidy is Countervailable

As detailed below, this program constitutes a financial contribution, provides a benefit, and is specific. As such, it provides countervailable subsidies and should be investigated.

(a) Financial Contribution

This program provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone for tax exemptions, and for reimbursements, a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

(b) Benefit

A benefit within the meaning of section 771(5)(E) of the Act is conferred on the recipient in the amount of the taxes exempted, as well as in the amount of expenses that are reimbursed.

(c) Specificity

The subsidy program is specific within the meaning of section 771(5A)(D)(iv) because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy.

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139 *See id.*

140 AISC, AISC Certification – ACERO TECNOLOGIA, S.A. DE C.V., attached as **Exhibit VI-65**.

141 AISC, AISC Certification – Aceros Lozano S.A. de C.V., attached as **Exhibit VI-66**.

142 AISC, AISC Certification – Valmont Monterrey, S. de R.L. de C.V., attached as **Exhibit VI-38**.

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

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

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Mexican producers and exporters of FSS benefit from numerous and massive countervailable subsidies provided by the GOM and state governments in Mexico. Accordingly, Petitioner requests that the Department initiate a CVD investigation of FSS from Mexico.

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VI-1	Internal Revenue Service, Pub. 946 "How to Depreciate Property" (Feb. 28, 2018) (excerpt)	Public
VI-2	Office of the United States Trade Representative, *2018 National Trade Estimate Report on Foreign Trade Barriers* (March 2017) (excerpt)	Public
VI-3	ProMexico, *Investing in Mexico step-by-step: Investment incentives*	Public
VI-4	*Comision Federal de Electricidad, About Us*	Public
VI-5	*Comision Federal de Electricidad,* Rate I-15 (2017-2018)	Public
VI-6	*Comision Federal de Electricidad*, Rate I-30 (2017-2018)	Public
VI-7	*Secretaría de Energía (SENER) de Mexico, Deutsche Gesellschaft für Technische, Zusammenarbeit (GTZ) GmbH:* Energías Renovables para el Desarrollo Sustentable en México (2006).	Public
VI-8	*AHMSA Altos Hornos de Mexico*, *Structural Shapes*	Public
VI-9	AMSA Altos Hornos de Mexico, *Products Brochure* (2017)	Public
VI-10	AHMSA Altos Hornos de Mexico, *Annual Report 2016* (Apr. 2017) (excerpt)	Public
VI-11	AHMSA Altos Hornos de Mexico, *Annual Report 2017* (Apr. 2018) at Altos Hornos de México, S.A.B. de C.V. and Subsidiaries (A Subsidiary of Grupo Acerero del Norte, S.A. de C.V.) Consolidated Financial Statements for the Years Ended December 31, 2017, 2016 and 2015, and Independent Auditors' Report Dated April 2, 2018 (excerpts)	Public
VI-12	Claudia Salgado and Kirsten Lorgen-Knapp, *Mexico: Cogeneration opportunities in PEMEX-CFE*, U.S. Commercial Service (Sept. 2012)	Public
VI-13	Memorandum from Off. of AD/CVD Operations, Enf't and Compliance, to The File, re: *Countervailing Duty Investigation Initiation Checklist: Sugar from Mexico, C-201-846* (Apr. 17, 2014)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VI-14	Carlos Perez-Chow Martinez, *Mexican Tax Incentives for Green Energy Companies*, Vol. 83 Tax Notes Int'l No. 7 (Aug. 15, 2016) (excerpt)	Public
VI-15	Letter from Hughes Hubbard & Reed LPL to Sec'y Commerce, re: *Sugar from Mexico: Response to Countervailing Duty Questionnaire* (July 30, 2014) (excerpt)	Public
VI-16	Grupo BMV, *Eventos Relevantes* (Nov. 8, 2017)	Public
VI-17	AHMSA Altos Hornos de Mexico, *Annual Report 2015* (Apr. 2016) (excerpt)	Public
VI-18	Colegio de Contadores Públicos de México, *Boletín de la Comisión de Investigación Fiscal: Principales Estímulos Fiscales* (June 30, 2008) (excerpt)	Public
VI-19	AISC, AISC Certification – Corey S.A. de C.V.	Public
VI-20	AISC, AISC Certification – KS Fabrication de Mexico	Public
VI-21	AISC, AISC Certification – Grupo Industrial Persal	Public
VI-22	Diario Oficial de la Federación, *Decreto por el que se otorga un estímulo fiscal en materia de Deducción Inmediata de Bienes Nuevos de Activo Fijo para las Micro y Pequeñas Empresas* (Jan. 18, 2017)	Public
VI-23	EY, *Tax Incentives regarding One-Time Depreciation and Repatriation of Capital to Mexico were granted through Decrees issued by the Ministry of Finance* (Jan. 19, 2017)	Public
VI-24	KPMG, Mexico: Repatriation relief, tax incentives (Mar. 2, 2017)	Public
VI-25	*PwC-IMMEX Mauiladora Guide: Doing Business in Mexico* (Mar. 2013) (excerpt)	Public
VI-26	*Secretaria de Economia, IMMEX: Manufacturing, Maquila and Export Service Industry*	Public
VI-27	AISC, AISC Certification – Industrias Metalicas De Monclova S.A. De C.V. (IMMSA)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VI-28	IMMSA, Steel fabrication in Mexico	Public
VI-29	InfoMaquila, *Directorio de Maquiladoras* (excerpt)	Public
VI-30	Grupo Recal, Services – Design	Public
VI-31	Grupo Recal, Services – Steel Supply	Public
VI-32	Grupo Recal, Services – Manufacturing	Public
VI-33	AISC, AISC Certification – ASI Baja, S. de. R.L. de C.V.	Public
VI-34	AISC, AISC Certification – BBM-CPG Mexicana	Public
VI-35	AISC, AISC Certification – Estructuras Metalicas la Popular S.A. de C.V./MSCI	Public
VI-36	Estructurales Metalicas La Popular, S.A. de C.V., Nuestros Servicios	Public
VI-37	AISC, AISC Certification – Preacero Pellizzari Mexico S.A. de C.V.	Public
VI-38	AISC, AISC Certification – Valmont Monterrey, S. de R.L. de C.V.	Public
VI-39	SIICEX.gob.mx, Directorios de Programas de Fomento (Mar. 13, 2018)	Public
VI-40	SIICEX.gob.mx, IMMEX – Informacion Especifica y Beneficiarios	Public
VI-41	*Goodrich's Bluebook Mexico: Business opportunities and legal framework Supplementary materials* (excerpt)	Public
VI-42	Bancomext, *Maquila and Industrial Warehouses*	Public
VI-43	*Secretaria de Economia*, PROSEC, Sectoral Promotion Programs, Ministry of Economy, Government of Mexico	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VI-44	Memorandum from Kaitlin Wojnar, International Trade Analyst, Office VII, AD/CVD Operations, Enf't and Compliance, through Mark Hoadley Program Manager, Office VII, AD/CVD Operations, Enf't and Compliance, to the File, re: *Verification of the Responses of the Government of Mexico in the Countervailing Duty Investigation of Sugar from Mexico* (July 30, 2015)	Public
VI-45	SIICEX.gob.mx, PROSEC – Informacion Especifica y Beneficiarios	Public
VI-46	AISC, AISC Certification – Operadora CICSA, S.A. de C.V.	Public
VI-47	AISC, AISC Certification – Operadora CICSA, S.A. de C.V. Swecomex – Guadalajara	Public
VI-48	Autorizaciones de Regla 8a – Información General, Sistema Integral de Información de Comercio Exterior (SIICEX), Ministry of Economy, Government of Mexico	Public
VI-49	*Mexico, Strategic Destination for Productive Investment: A Guide to Facilitate the Establishment of Businesses in Mexico – Part II* (excerpt)	Public
VI-50	*Secretaria de Economia*, Programa de Devolución de Impuestos de Importación a los Exportadores (DRAWBACK)	Public
VI-51	*Secretaria de Economia*, Drawback, Ministry of Economy, Government of Mexico	Public
VI-52	Drawback – Información General, Sistema Integral de Información de Comercio Exterior (SIICEX), Ministry of Economy, Government of Mexico	Public
VI-53	Diario Oficial de la Federación, Reglas de Operación del Programa para la Productividad y Competitividad Industrial (PPCI), para el ejercicio fiscal 2016 (Dec. 29, 2015)	Public
VI-54	*CONACYT*, Programa de Estímulos a la Innovación	Public
VI-55	Special Economic Zones (SEZ), Mexico Projects Hub	Public
VI-56	Pro México, *Logistics – Consolidating the competitiveness of Mexican companies*, Negocios ProMéxico (July 26, 2017) (excerpt)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VI-57	Banco de México, Las Zonas Económicas Especiales de México (June 2018)	Public
VI-58	Viridiana Rios, *Mexico's Special Economic Zones: White Elephants?*, Forbes (July 5, 2016)	Public
VI-59	Autoridad Federal para el Desarrollo de las Zonas Económicas Especiales, *¿En qué se distinguen las ZEE en México de las otras Zonas en el mundo?* Gob.mx (Jan. 9, 2017)	Public
VI-60	Special Economic Zones in Mexico – Opportunities for European Investments	Public
VI-61	AISC, AISC Certification – Acesta S.A. de C.V.	Public
VI-62	Ley Para la Promoción de Inversiones en el Estado de Jalisco, Decreto Número 23965/LIX/12 (Jan. 24, 2012)	Public
VI-63	Incentivos del Estado, InvestinBaja.gob.mx	Public
VI-64	Ley de Fomento a la Inversión y al Empleo para el Estado de Nuevo Leon (Nov. 17, 2017)	Public
VI-65	AISC, AISC Certification – ACERO TECNOLOGIA, S.A. DE C.V.	Public
VI-66	AISC, AISC Certification – Aceros Lozano S.A. de C.V.	Public

PUBLIC DOCUMENT

DOC Investigation No. C-570-103
USITC Investigation Nos. 701-TA-___ - ___ and 731-TA-___, ___
Total Pages: 1551
Investigation
AD/CVD Operations
PUBLIC DOCUMENT

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

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

VOLUME VII:
PEOPLE'S REPUBLIC OF CHINA CVD PETITION

IN THE MATTER OF:

CERTAIN FABRICATED STRUCTURAL STEEL FROM
CANADA, MEXICO, AND THE PEOPLE'S REPUBLIC OF CHINA

PETITIONER:

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February 4, 2019

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I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON FABRICATED STRUCTURAL STEEL FROM CHINA

Pursuant to 19 U.S.C. §§ 1671(a)(1) and (2), the Department of Commerce ("the Department") is required to impose a countervailing duty ("CVD") on imported merchandise from a "Subsidies Agreement" country, where (1) producers/exporters of that merchandise benefit from countervailable subsidies, and (2) the imported merchandise materially injures or threatens to injure an industry in the United States. As a member of the World Trade Organization ("WTO"), the People's Republic of China ("China") is a "Subsidies Agreement" country under 19 U.S.C. § 1677(8)(A). Petitioner hereby alleges that the Government of China ("GOC") maintains a complex system of economic programs and policies that have conferred, and continue to confer, massive countervailable subsidies on Chinese producers of certain fabricated structural steel ("FSS"), which are materially injuring the U.S. FSS industry.

The following allegations identify subsidies that Petitioner has identified through research of reasonably available public information, including many programs that the Department has found countervailable in previous countervailing duty investigations involving the Chinese steel industry. Petitioner has also identified subsidy programs recently implemented by the Chinese government that the Department has not yet investigated. Petitioner reserves the right to make further allegations of subsidies with respect to specific producers once the Department selects one or more Chinese FSS producers as mandatory respondents.

Finally, Petitioner notes that the U.S. CVD laws apply to China. Indeed, the Department has unambiguously stated that it has "legal authority to apply the CVD law to China. Congress granted the Department the general authority to conduct CVD investigations. In none of these

provisions is the granting of this authority limited only to market economies."[1] Accordingly, Petitioner requests that the Department apply U.S. CVD laws to the policies and programs outlined in this petition.

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

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

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

Petitioner has identified the names and addresses of Chinese FSS producers and exporters believed to have benefited from countervailable subsidies and whose products are believed to have been exported to the United States. The names and contact information for Chinese FSS producers and exporters are attached as **Exhibit I-7** to Volume I of this petition. The information provided in this exhibit represents the best information reasonably available to Petitioner.

IV. PRODUCT AND INDUSTRY BACKGROUND

A. The Product

As described further in Volume I of this Petition, the product covered by the petition is certain fabricated structural steel ("FSS") from the People's Republic of China.

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[1] Issues and Decision Memorandum accompanying *Coated Free Sheet Paper from the People's Republic of China*, 72 Fed. Reg. 60,645 (Dep't Commerce Oct. 25, 2007) (final affirm. countervailing duty deter.) ("*CFS Paper from China* IDM") at 19-20 (citations omitted); *see Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 72 Fed. Reg. 63,875, 63,880 (Dep't Commerce Nov. 13, 2007) (prelim. affirm. countervailing duty deter.; prelim. affirm. deter. of critical circumstances; and alignment of final countervailing duty deter. with final antidumping duty deter.) ("{W}e... do not agree with the GOC that we are precluded from investigating subsidies. . . ") at 63,880; Issues and Decision Memorandum accompanying *Wire Decking from the People's Republic of China*, 75 Fed. Reg. 32,902 (Dep't Commerce June 10, 2010) (final affirm. countervailing duty deter.) ("*Wire Decking from China* IDM") at 38-43.

B. Chinese Policies Confirm that Subsidies at the Local, National, and Provincial Levels of Government Confer Benefits to Chinese Producers of Fabricated Structural Steel

As the Department is aware, since 1990, the Chinese steel industry has expanded at a phenomenal rate to become the largest in the world. Reports indicate that China's total domestic crude steel capacity reached 1.1 billion metric tons[2] by 2016, with over 350 million of those tons being excess or surplus capacity.

This unparalleled expansion is the direct result of the GOC's direction and control of the Chinese steel industry, and its granting of an extraordinary range of countervailable subsidies to Chinese steel producers, including tax incentives, grants, subsidized loans, and subsidized inputs.[3] For years, the GOC has provided massive state support throughout the Chinese steel industry, as the Department has repeatedly found,[4] and this support extends to Chinese FSS producers as well. As the Department is aware, China maintains extensive industrial policies aimed at furthering China's economic growth and development.[5] These industrial policies, which have been issued on both a national and sub-national level, call for subsidy programs that confer massive benefits on the Chinese steel industry, including FSS producers.

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[2] Simon Denyer, *Smog and mirrors? China's steel capacity cuts were fake, report says,* Washington Post (Feb. 13, 2017), attached as **Exhibit VII-1**.

[3] *See, e.g.*, United States Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers* (2017) at 82, excerpts attached as **Exhibit VII-2** ("Chinese government actions and financial support in manufacturing industries like steel and aluminum have contributed to massive excess capacity in China").

[4] *See, e.g.*, Issues and Decision Memorandum accompanying *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China*, 73 Fed. Reg. 70,961 (Dep't Commerce Nov. 24, 2008) (final affirm. countervailing duty deter.) ("*Line Pipe from China* IDM"); Issues and Decision Memorandum accompanying *Certain Oil Country Tubular Goods from the People's Republic of China*, 74 Fed. Reg. 64,045 (Dep't Commerce Dec. 7, 2009) (final affirm countervailing duty deter.) ("*OCTG from China* IDM"); Issues and Decision Memorandum accompanying *Light-Walled Rectangular Pipe and Tube from China*, 73 Fed. Reg. 35,642 (Dep't Commerce June 24, 2008) (final affirm. countervailing duty deter.); Issues and Decision Memorandum accompanying *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 Fed. Reg. 31,966 (Dep't Commerce June 5, 2008) (final affirm countervailing duty deter.).

[5] *See, e.g.*, Memorandum from Leah Wils-Owens to Gary Taverman, re: *China's Status as a Non-Market Economy* (Oct. 26, 2017) at 117-149, attached as **Exhibit VII-3**.

As an initial matter, subject FSS production benefits from industrial policies aimed at supporting China's steel sector, which provides the inputs for downstream production, such as FSS. The "Steel and Iron Industry Development Policy, Order No. 35 of the National Development and Reform Commission" ("NDRC") ("2005 Steel Plan") was promulgated by China's State Council in July 2005. The plan outlines the Chinese government's objectives for China's steel industry during the 2006-2010 period and served as the primary means through which the Chinese government applied its industrial policy initiatives to the steel industry.[6]

The Steel Policy provides for governmental management and control of almost every aspect of the industry's development, including resource and equipment utilization, regional output levels, quality improvements, technological innovation, investment management, and consolidation.[7] The Steel Policy also mandates direct government subsidization of the steel industry. Article 16, for example, provides for government support in the form of "taxation, interest subsidy and scientific research funds" and other policy support for major iron and steel projects utilizing newly developed domestic equipment.[8] The policy also encourages indirect government support by, among other things, restricting foreign investment, discriminating against foreign equipment and technology, and providing various export credits.[9] In short, China's Steel Policy is a primary example of the government's attempt to dictate industry outcomes and is one of several government policies that call for subsidization of the steel industry.

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6 *Policies for Development of Iron and Steel Industry*, Order of the National Development and Reform Commission No. 35 (July 8, 2005), attached as **Exhibit VII-4**.

7 *See id.* at art. 20. For example, Article 20 specifically provides for the reorganization of China's largest steel producers to create an industry with two 300 million-ton steel groups and several 10 million-ton steel groups by 2010. The policy further prescribes the number and size of steel producers, their location, the type and mix of products that are permitted to be produced, and even minute details relating to the technology that will be used (*e.g.*, size and composition of blast furnaces).

8 *See id.* at art. 16.

9 *See id.* at art. 27.

As another example, the Steel Adjustment and Revitalization Plan ("Revitalization Plan"), issued by China's Ministry of Industry and Information Technology in March 2009, also provides for various direct and indirect government subsidization of the steel industry. The Revitalization Plan encourages financial support of "key enterprises in {the} steel industry" – an "important mainstay industry" for China's national economy – and provides for "interest grant{s} for large enterprise{s} using commercial credit loans when necessary to prevent them from severe breakdown in cash flows."[10] In addition to requiring that subsidies be provided to the steel industry, the Revitalization Plan mandates the "substantial reorganization," consolidation, and relocation of specific Chinese steel producers – some of which produce FSS.[11]

The following year, China's State Council released its Advice for the Promotion of Energy Saving, Emissions Reduction and Industrial Structure Adjustment ("State Council Policy").[12] The State Council uses this June 2010 policy to direct the growth and development of the steel industry, mandating that subsidies and other government support such as land usage, loans, credit, and capital market financing be used for the technological innovation and transformation of the steel industry.[13] It also provides measures to control the export and import of specific steel products.[14] In accordance with prior industrial plans, the State Council Policy encourages accelerating the consolidation and reorganization of the steel industry with the goal of "creating 3-5 massive steel

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10 A Blueprint for Steel Adjustment and Revitalization Plan (Mar. 2009), attached as **Exhibit VII-5**; *see* Wiley Rein LLP, *The Reform Myth: How China Is Using State Power To Create The World's Dominant Steel Industry* (Oct. 2010) at 12-13, attached as **Exhibit VII-6**.

11 *See* A Blueprint for Steel Adjustment and Revitalization Plan (Mar. 2009), attached as **Exhibit VII-5**.

12 Wiley Rein LLP, *The Reform Myth: How China Is Using State Power To Create The World's Dominant Steel Industry* (Oct. 2010) at 13-14, attached as **Exhibit VII-6**.

13 *Id.*

14 *Id.*

groups with international competitiveness."[15] These policies and plans, which instruct the Chinese government at all levels to provide massive subsidies to Chinese steel producers, have contributed to the rapid expansion of China's steel industry, including the FSS industry.

The GOC has continued to support the Chinese steel industry's development in the 13th Five Year Plan Period, covering 2016-2020. In 2016, the Ministry of Industry and Information Technology issued a Steel Industry Development Plan covering the same period, including calls for substantial government assistance to carry out its objectives.[16] China's recent Made in China 2025 plan also targets upgrading traditional industries like steel by, for example, "{s}upport{ing} strategic major projects and high-end equipment technology upgrading," and "{s}tabliz{ing} the fund for central technological upgrading and build{ing} a long-term mechanism to support technology upgrades."[17]

As discussed in the context of the subsidy allegations below, the Chinese government's industrial policy planning, at both the central and sub-central levels of government, covers not only the steel industry as a whole, but also the FSS industry in particular. The FSS industry is in fact a point of emphasis in the GOC's industrial policy objectives for the steel industry during the 13th Five Year Plan period. The *Steel Industry Adjustment and Upgrading Plan (2016-2020)* calls for a 15% increase in the use of FSS in the construction industry, and directs governments to

> hasten expansion of application of structural steel, support steel enterprises to actively participate in constructing structural steel industry demonstration bases, developing production of customized and made-to-order steel products suitable for use as components in structural steel construction, promote 390 mega-Pascal and higher high-strength steel for structural steel applications, develop heat-resistant

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15 *Id.*

16 Lingna Yan, *China Issues 13th Five Year Plan for the Steel Industry*, King & Spalding (Nov. 22, 2016), attached as **Exhibit VII-7** (noting that "the Plan calls on local governments to utilize existing funds, explore multiple kinds of support measures, and guide financial institutions and social funds to support key tasks of the Plan").

17 *Made in China 2025*, State Council (July 7, 2015) at 27, attached as **Exhibit VII-8**.

> and corrosion-resistant high-capability steel for structural steel applications, seek to produce highly standardized structural steel components, construct integrated distribution centers for structural steel components, and strive to increase the volume of steel for structural steel applications from 50 million tons currently to 100 million tons or more.[18]

To accomplish its objectives, the *Steel Industry Adjustment and Upgrading Plan (2016-2020)* directs governments to "thoroughly utilize available financial channels, encourage localities to explore a variety of methods and complementary measures, and guide financial institutions and social capital to support major responsibilities under the plan."[19] It explicitly directs banks to "continue to guarantee the reasonable credit needs of enterprises that are efficient and have market viability."[20] The State Council's *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*, discussed above, likewise directs local governments to issue policies supporting development of prefabricated construction, including budgetary and financing support.[21]

This industrial policy priority on developing the FSS industry has been echoed at sub-central levels of government. In October 2016, the Anhui provincial MOHURD issued the *Guiding Opinion Regarding Hastening and Promoting the Development of Structural Steel Construction*.[22] The *Guiding Opinion* links development of the FSS industry to concurrent state objectives, including "promoting green development of urban construction and transformation and upgrading of the construction industry."[23] The plan was identified as a means of "thoroughly

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18 *Steel Industry Adjustment and Upgrading Plan (2016-2020)* at 20, attached as **Exhibit VII-9**.

19 *Id.* at 24-25.

20 *Id.* at 25.

21 *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*, State Council (2016) No. 71, attached as **Exhibit VII-10**.

22 *Guiding Opinion Regarding Hastening and Promoting the Development of Structural Steel Construction*, Anhui Office of Housing and Urban Development (Oct. 19, 2016), attached as **Exhibit VII-11**.

23 *Id.*

implementing the State Council's *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*" and "hastening and promoting development of structural steel construction throughout the province."[24] It directs authorities to "nurture five to eight structural steel industry groups, take initial steps in forming complete structural steel industrial clusters of a defined scale . . . and realize sales of industrial output exceeding RMB 30 billion by structural steel enterprises of provincial or greater scope."[25] It provides that qualified structural steel enterprises should "enjoy relevant preferential policies" and directs local governments to "strengthen organization, guidance, and overall coordination for promoting development of structural steel construction," by "actively obtaining the support of the relevant departments of Development and Reform, Industry and Information Technology, Finance, and Technology in strengthened oversight and inspection and supervision of implementing duties."[26] Petitioner's reasonable efforts have identified similar provincial or local government measures targeting the Chinese FSS industry as an industrial policy priority in Henan province, Gansu province, Guangxi Zhuang autonomous region, Sichuan province, Chongqing municipality, and Nanjing municipality.[27]

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24 *Id.*

25 *Id.*

26 *Id.*

27 *Implementation Opinion of the General Office of the People's Government of Henan Province Regarding Vigorously Developing Prefabricated Construction*, Henan People's Gov't (2017) No. 153 (Dec. 7, 2017), attached as **Exhibit VII-12**; *Gansu Hastens Promotion of Development and Application of Structural Steel Construction*, Gansu Daily (Mar. 4, 2016), attached as **Exhibit VII-13** (discussing the Gansu Province *Guiding Opinion Regarding Promoting Development and Application of Structural Steel for Construction*); *Guiding Opinion of the General Office of the People's Government of Guangxi Zhuang Autonomous Region Regarding Hastening the Expansion of Application of Structural Steel for Construction*, Guangxi People's Gov't (2016) No. 134 (Oct. 21, 2016), attached as **Exhibit VII-14**; *Guiding Opinion of the Sichuan Province People's Government Regarding Promoting Modernization and Development of the Construction Industry*, Sichuan People's Gov't (2016) No. 12 (Mar. 23, 2016), attached as **Exhibit VII-15**; *Guiding Opinion of the People's Government of Chongqing Municipality Regarding Hastening Expansion of Application of Structural Steel and Industrial Innovation and Development*, Chongqing People's Gov't (2016) No. 2 (Jan. 7, 2016), attached as **Exhibit VII-16**; *Implementing Opinion Of the People's Government of Nanjing Municipality Regarding Hastening and Promoting Modernization and Spurring Transformation and Upgrading of the Construction Industry*, Nanjing People's Gov't (2015) No. 246 (Dec. 1, 2015), attached as **Exhibit VII-17**.

These plans and industrial policies call for government support for China's steel industry, including FSS manufacturing, and result in a complex and overlapping web of countervailable subsidy programs. These include direct grants, policy lending, specialized tax breaks, export support, and the provision of inputs for less than adequate remuneration, as detailed further herein. China's ability to significantly increase its exports of FSS is based on its government ownership of, planned government intervention in, and massive subsidies to its domestic FSS industry.

V. EFFORTS TO OBTAIN INFORMATION

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

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

> China rarely publishes in {its official} journal certain types of trade-related measures, such as subsidy measures, and seldom publishes sub-central government trade-related measures in the journal. . . . China does not publish timely . . . translations of trade-related laws and administrative regulations, nor does it publish any translations of trade-related measures issued by sub-central governments at all.[28]

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[28] United States Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers* (2018) at 108-109, excerpts attached as **Exhibit VII-2**; *see* WTO, *Committee on Subsidies and Countervailing Measures: Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/53 (Oct. 19, 2015), attached as **Exhibit VII-18** (identifying approximately 60 specific subsidies for which China failed to submit subsidy notifications).

In addition to this documented lack of transparency, the GOC has not been forthcoming in disclosing the nature and extent of the government subsidies that it provides, despite its obligations to do so under the WTO Agreement on Subsidies and Countervailing Measures. In fact, USTR reports that "{s}ince joining the WTO 16 years ago, China has not yet submitted to the WTO a complete notification of subsidies maintained by the central government, and it did not notify a single sub-central government subsidy until 2016, when it provided information only on sub-central government subsidies that the United States had challenged as prohibited subsidies in a WTO case."[29]

Because of China's failure to fully comply with its WTO requirements and other difficulties inherent in documenting subsidization, Petitioner concurs with the Department that "there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs."[30] The most accurate and thorough manner in which the type and amount of subsidies may be determined is through administrative investigation and through the issuance of preliminary and final administrative determinations.[31]

Despite these difficulties in obtaining information, Petitioner researched and is providing information demonstrating that the GOC and provincial/local governments have granted, and continue to grant, massive amounts of financial assistance to China's FSS producers – assistance which constitutes countervailable subsidies under section 771 of the Tariff Act of 1930 (the "Act"). Much of the information included herein is available only in Chinese, with no official English

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29 United States Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers* (2018) at 95, excerpts attached as **Exhibit VII-2**.

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

31 *See id.*

translation. Petitioner has therefore translated relevant excerpts in the text of this petition and has included complete Google Translate versions of Chinese documents in the relevant exhibits. In addition, many of the Chinese FSS producers that Petitioner has identified are members of large corporate groups and, to the best of Petitioner's knowledge, do not publish individual financial information in the public domain. As the best available information regarding benefits likely received by the Chinese FSS industry, Petitioner has relied on annual reports or other financial information of affiliated companies that Petitioner believes would be cross-owned within the meaning of the Department's regulations, in addition to the individual financial information FSS producers, where available.[32]

VI. THE DATE FROM WHICH THE DEPARTMENT SHOULD MEASURE SUBSIDIES

For non-recurring subsidies, the Department should measure subsidies based on a 12-year allocation period in accordance with the guidelines of the Internal Revenue Service ("IRS") for depreciating business or income-producing property placed into service after 1986.[33] In particular, the IRS assigns an average useful life ("AUL") of 12 years to assets in this industry – *i.e.*, in the manufacture of fabricated structural metal products – is 12 years.[34] For purposes of 19 C.F.R. § 351.524(d)(2), the average useful life of renewable physical assets in the fabricated structural steel industry is 12 years. Accordingly, Petitioner respectfully requests that the Department investigate any allocable, non-recurring subsidies granted between 2006 and 2017, and any outstanding loans or recurring subsidies provided during the presumptive POI.

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32 19 C.F.R. § 351.525(b)(6)(vi).

33 *See* Dep't Treasury, Internal Revenue Service, Pub. 946 "How to Depreciate Property" (Feb. 28, 2018) at 104, excerpt attached at **Exhibit VII-19**.

34 *See id.*

VII. SUBSIDY PROGRAMS

A. Provision of Inputs for Less than Adequate Remuneration

1. Steel Inputs for Less than Adequate Remuneration

As discussed in Volume I of this Petition, FSS is typically custom-made on a project-specific basis using design and architectural plans developed in cooperation between the FSS producer and the contracting party. The steel inputs that may be required to manufacture FSS are therefore numerous and may vary from one project to the next. Commonly used steel inputs for FSS production include, but are not limited to steel mill products such as wide flange beams, steel angles, steel channels, cut-to-length steel plate, and hollow structural shapes. In recent countervailing duty investigations involving steel products from China, the Department has determined that Chinese steel producers owned or controlled by the GOC provide these or similar steel inputs for less than adequate remuneration ("LTAR").

In *Forged Steel Fittings from the People's Republic of China*, for example, the Department explained that "the GOC exercises significant control and influence in the broader economy, and in the steel industry specifically," highlighting the "GOC's significant and distortive role in the steel industry, which includes SBQ bar."[35] The Department concluded that the GOC provided SBQ bar for LTAR, resulting in an *ad valorem* subsidy rate of 6.93 percent.[36] The Department has also found that the GOC provides semi-finished steel inputs used to manufacture similar products for LTAR. In *Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel*, the

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35 Issues and Decision Memorandum accompanying *Forged Steel Fittings from the People's Republic of China*, 83 Fed. Reg. 50,342 (Dep't Commerce Oct. 5, 2018) (final affirm countervailing duty deter.) at 16.

36 *Id.* at 5.

Department found that GOC authorities provide steel rounds and steel billets for LTAR, resulting in *ad valorem* subsidy rates between 2.12 and 4.78 percent.[37]

In *Certain Corrosion-Resistant Steel Products from the People's Republic of China*, the Department found that GOC authorities provide hot-rolled steel for LTAR, resulting an *ad valorem* subsidy rate of 23.74 percent.[38] With respect to cut-to-length plate, the Department recently determined that GOC authorities provide plate for LTAR to Chinese large-diameter pipe producers with an *ad valorem* subsidy rate as high as 33.70 percent.[39] Hot-rolled steel and cut-to-length plate are not only possible direct inputs into FSS production, but also are the primary inputs into production of beams, angles, channels, and structural shapes that are used to manufacture FSS products.

The central economic characteristics of the Chinese steel industry that have supported the Department's LTAR findings in the recent investigations discussed above remain unchanged. The Department has recently explained that "{e}xcess capacity is a chronic problem in China's economy" and "is largely the result of government policies" including "subcentral authorities protecting industries that support local industrial activity and employment; weak enforcement of regulations; low input prices due to government policies; and fiscal imbalances that incentivize

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[37] Issues and Decision Memorandum accompanying *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China*, 82 Fed. Reg. 58,175 (Dep't Commerce Dec. 11, 2017) (final affirm countervailing duty deter.) at 15.

[38] Issues and Decision Memorandum accompanying *Certain Corrosion-Resistant Steel Products from the People's Republic of China*, 81 Fed. Reg. 35,308 (Dep't Commerce June 2, 2016) (final affirm. countervailing duty deter.) 10-11 ("*CORE from China* IDM") at 10-11.

[39] Issues and Decision Memorandum accompanying *Large Diameter Welded Pipe from the People's Republic of China*, 83 Fed. Reg. 30,695 (Dep't Commerce June 29, 2018) (prelim. affirm. countervailing duty deter.) at Appendix.

local government to attract excessive investment."[40] Overcapacity in the steel industry is particularly acute, at approximately 400 million metric tons, because "government authorities, rather than the market, effectively control entry and exit, extend financial support to non-viable and troubled firms, and negotiate with other government authorities over the extent of administratively determined capacity cuts."[41] Government supported excess capacity has caused China's "producer price index {to} continually decline."[42]

Recent industrial policy initiatives in the Chinese steel industry, moreover, suggest state-led efforts to guide excess supply of steel into downstream production of higher value-added products like FSS. The *Steel Industry Adjustment and Upgrading Plan (2016-2020)*, for example, "encourage{es} steel enterprises to actively strengthen coordination with downstream industries" to develop high-end steel products for downstream applications.[43] The *Plan* calls for "increasing the effective supply of steel," with an emphasis on steel products for high end applications, including FSS for offshore applications.[44] With respect to FSS in particular, it directs authorities to "support steel enterprises to actively participate in constructing steel structural industrial demonstration bases" and "develop and produce made-to-order, customized steel products," with the ultimate goal of "increasing production volume of steel for steel structural applications from

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40 Memorandum from Leah Wils-Owens to Gary Taverman, re: *China's Status as a Non-Market Economy* (Oct. 26, 2017) at 151, attached as **Exhibit VII-3**; *see* Michael Lelyveld, *China Steel Output Climbs Despite Capacity Cuts*, Radio Free Asia (Dec. 18, 2017), attached as **Exhibit VII-20**.

41 Memorandum from Leah Wils-Owens to Gary Taverman, re: *China's Status as a Non-Market Economy* (Oct. 26, 2017) at 155, attached as **Exhibit VII-3**.

42 *Overcapacity in China: An Impediment to the Party's Reform Agenda*, European Chamber of Commerce (2016) at 17, excerpts attached as **Exhibit VII-21**.

43 *Steel Industry Adjustment and Upgrading Plan (2016-2020)* at 20, attached as **Exhibit VII-9**.

44 *Id.* at 16-17.

50 million tons to 100 million tons."[45] While these plans to identify specific steel inputs, Petitioner reasonably believes that they would include the commonly used FSS inputs subject to this petition.

Both the GOC's established history of providing steel inputs for LTAR to the Chinese steel industry and the GOC's stated objectives with respect to the Chinese FSS industry in particular thus suggest that the GOC is providing steel inputs to FSS producers for LTAR. Based on the most common inputs in FSS production, the Department should initiate investigations of the GOC's provision of (i) wide flange beams, (ii) cut-to-length plate, (iii) steel channels, (iv) steel angles, (v) hollow structural shapes, and (vi) hot-rolled steel for LTAR.[46]

a. Provision of Steel Inputs for LTAR is a Countervailable Subsidy

(1) Financial Contribution

As the Department has determined in numerous countervailing duty investigations involving the Chinese steel industry, China's state-owned steel producers are authorities that provide a financial contribution in the form of the provision of goods or services within the meaning of section 771(5)(D)(iii) of the Act. Based on the language in the industrial policies related to the Chinese FSS industry discussed above, there is also reason to believe that any input supplier that is not an authority within the meaning of the Act is entrusted or directed to provide a financial contribution within the meaning of section 771(5)(B)(iii) of the Act.

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45 *Id.* at 20.

46 The Department may also include any similar inputs used by the respondents, if they differ from those explicitly included in this petition. *See* Issues and Decision Memorandum accompanying *Forged Steel Fittings from the People's Republic of China*, 83 Fed. Reg. 11,170 (Dep't Commerce Mar. 14, 2018) (final affirm. countervailing duty deter.) at Cmt. 2.

(2) Benefit

A benefit is conferred because GOC authorities or non-GOC steel producers that are entrusted or directed to provide a financial contribution supply FSS inputs for less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act. The Department has consistently determined that the Chinese steel market is significantly distorted by government involvement and has relied on world market benchmark prices to determine the benefit conferred by the GOC's provision of steel inputs for LTAR. Reasonably available price data show that Chinese prices for the products included in this petition, or a representative category of steel products, are substantially lower than world market prices. There is therefore reason to believe that the GOC's provision of steel inputs for LTAR confers a benefit.

(3) Specificity

This subsidy is specific because the actual recipients of the subsidy are limited in number on an enterprise or industry basis within the meaning of section 771(5A)(D)(iii)(I) of the Act.

2. Provision of Iron Ore for Less Than Adequate Remuneration

To mitigate the Chinese steel industry's reliance on imported iron ore, the Chinese government has sought to manipulate the allocation of domestic iron ore resources in favor of large, strategically important steel enterprises. The 2009 *Steel Industry Adjustment and Revitalization Plan*, for example, called for revising industrial policy in part by "clarifying requirements for the allocation of resources" by "prioritizing allocation in accordance with law of iron ore resources with reserves of five million tons or more to large domestic steel enterprises."[47] The objective of "allocating" domestic iron ore reserves to large steel enterprises was echoed in subsequent industrial policies as well. In 2010, the State Council's *Several Opinions Regarding*

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47 *Steel Industry Adjustment and Revitalization Plan* (Mar. 20, 2009) at 4(6), attached as **Exhibit VII-22**.

Further Expanding the Level of Energy Conservation and Emissions Reduction and Hastening Structural Adjustment in the Steel Industry called for "improving the allocation of iron ore resources by giving preference to allocation of iron ore resources to enterprises complying with the *Standard Conditions for Steel Industry Production Operations*."[48]

This priority "allocation" of iron ore resources has been implemented by local government policies as well, in some cases identifying specific steel enterprises. Inner Mongolia, for example, explained that the provincial government should "preferentially allocate the region's large iron ore resources to Baotou Iron and Steel (Group) Corp." and "support {the company} in strengthening resource exploration activities in Mongolia and other border countries . . . ."[49] The Henan provincial government likewise called for "preferentially allocating mining territory developed through budgetary investment to the provinces large steel enterprises" and for "supporting large steel enterprises in participating in acquisitions of existing iron ore mines."[50] In Hebei province, the government explained its objective to "improve the allocation of iron ore resources" by "preferentially allocating iron ore resources to enterprises complying with the *Standard Conditions for Steel Industry Production Operations*."[51]

It appears that the meaning of "allocation" in the context of these plans means that the Chinese government is simply transferring rights to iron ore mining resources to large steel

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48 *Several Opinions Regarding Further Expanding the Level of Energy Conservation and Emissions Reduction and Hastening Structural Adjustment in the Steel Industry*, Guo Ban Fa (2010) No. 34, State Council (June 4, 2010) at 7(11), attached as **Exhibit VII-23**.

49 *Implementing Opinion of the People's Government of Inner Mongolia Autonomous Region Regarding Thoroughly Carrying Out the National Priority Industry Adjustment and Revitalization Plan* (Dec. 25, 2009), attached as **Exhibit VII-24**.

50 *Notice of the Henan Province People's Government Regarding Publication of the Henan Province Steel Industry Adjustment and Revitalization Plan*, Yu Zheng (2009) No. 71 (Sept. 5, 2009) at 4(5), attached as **Exhibit VII-25**.

51 *No Approvals for New Large-Scale Steel Production Capacity Projects This Year or Next Year*, China Securities Journal (June 17, 2010), attached as **Exhibit VII-26**.

companies completely free of charge. According one report, the Hebei provincial government discovered iron ore reserves of more 1 billion tons, which it then "allocated" to Hebei Iron and Steel Group for exploitation.[52] Another report reveals similar "allocations" of newly discovered iron ore reserves to Shandong Iron and Steel by the government of Shandong Province.[53] Because these "allocations" have occurred pursuant to central government policy, it is reasonable to believe that they have occurred in other provinces as well. The central government has continued to call for "guiding resources {in major iron ore producing regions} to be concentrated in large-scale mining industry groups,"[54] which would include steel enterprises engaged in iron ore mining as a result of previous "allocations." Not only do these allocations result in substantial direct benefits to the recipient firms, they also necessarily allow iron ore producers to charge below-market prices to other steel enterprises by substantially reducing their costs. This allows the Chinese government to ensure that strategically important steelmakers throughout the industry have access to iron ore at prices less than they would otherwise pay on the market.

a. Provision of Iron Ore for Less Than Adequate Remuneration is a Countervailable Subsidy

(1) Financial Contribution

The provision of iron ore resources is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act because the Chinese government is providing goods or services other than general infrastructure when it "allocates" iron ore resources to steel enterprises. As noted above, the Chinese government has also sought to ensure that the nation's mineral resources,

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52 *Newly Discovered One Billion Ton Large Scale Iron Ore Allocated for Exploitation to Hebei Iron and Steel Group*, China Baike (Dec. 14, 2009), attached as **Exhibit VII-27**.

53 *Striking Back – Chinese Steel Enterprises Break Ground on Independent Mining Territory*, People (June 7, 2010), attached as **Exhibit VII-28**.

54 National Mineral Resources Plan (2016-2020) at 27, attached as **Exhibit VII-29**.

including iron ore, are concentrated in large, state-owned enterprises that operate under the control of central or sub-central governments.[55] Provision of iron ore by these companies is also a financial contribution because they are "authorities" within the meaning of section 771(5)(B) of the Act.

(2) Benefit

A benefit is conferred within the meaning of section 771(5)(E)(iv) of the Act in the amount of the value of the iron ore assets that are allocated free of charge. A benefit is also conferred to iron ore purchasers because the Chinese government's control over resource allocation results in prices that are less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act.

(3) Specificity

The provision of iron ore for less than adequate remuneration is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because actual recipients are limited to certain enterprises in the steel industry.

3. Provision of Electricity for Less than Adequate Remuneration

Like many of the direct subsidies benefitting Chinese industries, it is widely known that particular industries, including the steel industry, are eligible for discounted electricity rates in an effort to promote production.[56] The Department should investigate this program for the reasons detailed below.

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[55] *See also*, Memorandum from Leah Wils-Owens to Gary Taverman, re: *China's Status as a Non-Market Economy* (Oct. 26, 2017) at 57, attached as **Exhibit VII-3** (noting that the Chinese government has maintained "relatively strong controlling power" over both non-ferrous metals and minerals").

[56] *See, e.g.*, Usha C.V. Haley and George T. Haley, Subsidies to Chinese Industry: State Capitalism, Business Strategy, and Trade Policy (2013) at 69-70, excerpts attached as **Exhibit VII-30**.

The Department has previously determined that electricity rates differ across regions in China, and has indicated that it would continue to investigate the provision of electricity for LTAR.[57] In previous investigations, the Department has discovered that the National Development and Reform Commission establishes electricity rates for the provinces, and that the individual provinces do not establish these rates by themselves.[58] As the Department has explained: "The GOC's National Development and Reform Commission (NDRC), rather than individual provinces in the PRC, is responsible for setting provincial electricity rates. Such rates vary by location including between various provinces in the PRC. There is a reasonable basis to believe that the NDRC uses discounted electricity rates as an industrial policy tool to advantage favored steel producers over those that the government deems "obsolete" or "outdated."[59]

This is especially important with regard to specificity. Indeed, as the central government appears to establish different rates for different provinces and even for certain types of favored producers, the subsidy is regionally specific or specific to certain types of favored producers. In *Boltless Steel Shelving*, the Department therefore requested province-by-province information from the GOC on:

> (1) how increases in the cost elements in the price proposals led to retail price increases for electricity; (2) how increases in labor costs, capital expenses and transmission, and distribution costs are factored into the price proposals for increases in electricity rates; and (3) how the cost element increases in the price

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[57] *See* Issues and Decision Memorandum accompanying *Laminated Woven Sacks from the People's Republic of China*, 73 Fed. Reg. 35,639 (Dep't Commerce June 24, 2008) (final affirm. countervailing duty deter. and final affirm. deter., in part, of critical circumstances) ("*LWS from China* IDM") at 26-27; Issues and Decision Memorandum accompanying *Drawn Stainless Steel Sinks from the People's Republic of China*,78 Fed. Reg. 13,017 (Dep't Commerce Feb. 26, 2013) (final affirm. countervailing duty deter.) at 14-15.

[58] *Line Pipe from China* IDM at 29; Issues and Decision Memorandum accompanying *Certain Cold-Rolled Steel Flat Products from the* People's *Republic of China,* 81 Fed. Reg. 32,729 (Dep't Commerce May 24, 2016) (final affirm. countervailing duty deter. and final partial affirm. critical circumstances deter.) at Appendix II ("*CR Steel from China* IDM").

[59] *CR Steel from China* IDM at Appendix II.

proposals and the final price increases were allocated across the province and across tariff end-user categories.[60]

Consistent with the Department's prior findings regarding the Chinese government's provision of electricity to the steel industry, Petitioner has reason to believe that the NDRC employs preferential electricity rates as a policy tool to promote and encourage the development of China's FSS industry.

Subsidies, including subsidized energy, "exist in all industries that the Chinese state and provincial governments consider economically or strategically important,"[61] and the Chinese government has provided that the state should retain "absolute control" over electricity generation and the state grid.[62] In addition to the central government, many provinces and local governments in China have established policies that provide preferential electricity rates to attract investment to their respective areas. In particular, provincial and local governments have created special economic areas that offer numerous incentives to investors. In addition to tax incentives, investors often also receive additional concessions, including fee waivers for facilities, such as electricity.[63]

While data on the actual electricity rates paid by individual companies are unavailable, Petitioner reasonably believes that Chinese FSS producers benefitted from electricity for LTAR, given China's industrial policies favoring its steel and downstream steel product industries.

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60 Issues and Decision Memorandum accompanying *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China*, 80 Fed. Reg. 51,775 (Dep't Commerce Aug. 26, 2015) (final affirm. countervailing duty deter.) ("*Boltless Steel from China* IDM") at 7. The GOC did not provide the requested data.

61 *See China's WTO Compliance and Industrial Subsidies: Hearing Before the U.S.-China Economic and Security Review Commission*, 109th Congress (Apr. 4, 2006) at 47 (statement of Dr. Usha C.V. Haley, Director, Global Business Center, University of New Haven), excerpts attached as **Exhibit VII-31**.

62 *China Country Commercial Guide – 7 – State Owned Enterprises*, Export.gov (accessed Oct. 5, 2018), attached as **Exhibit VII-32**.

63 *See* Foreign Direct Investment in China: What the Figures Don't Tell Us, attached as **Exhibit VII-33**.

Accordingly, as it has done in numerous other recent CVD cases against China,[64] the Department should investigate this program.

a. The Provision of Electricity for LTAR is a Countervailable Subsidy

(1) The Provision of Electricity for LTAR is a Financial Contribution

As noted above, the Chinese government has retained "absolute control" over the electricity generation sector, such that Chinese electricity generators are "authorities" under section 771(5)(B) of the Act. As the Department has previously determined,[65] 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

As the Department has previously determined, GOC's provision of electricity constitutes the provision of a good or service "for less than adequate remuneration" under section 771(5)(E) of the Act.[66] Consistent with section 771(5)(E) of the Act, the Department should determine the benefit to subject producers by evaluating the "price, quality, availability, marketability,

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64 *See, e.g.*, Issues and Decision Memorandum accompanying *Hardwood Plywood Products from the People's Republic of China*, 82 Fed. Reg. 19,022 (Dep't Commerce Apr. 25, 2017) (prelim. affirm. countervailing duty deter., prelim. affirm. critical circumstances deter., in part, and alignment of final deter. with final antidumping duty deter.) ("*HWPW from China* IDM) at 36-37; Issues and Decision Memorandum accompanying *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China*, 81 Fed. Reg. 75,037 (Dep't Commerce Oct. 28, 2016) (final affirm. countervailing duty deter.) ("*IMTDC from China* IDM") at 44-46; *CORE from China* IDM.

65 *See HWPW from China* IDM; Issues and Decision Memorandum accompanying *Multilayered Wood Flooring* from the People's Republic of China, 76 Fed. Reg. 64,313 (Dep't Commerce Oct. 18, 2011) (final affirm. countervailing duty deter.) ("*MLWF from China* IDM") at 41-43; *Boltless Steel from China* IDM at 15-16; Issues and Decision Memorandum accompanying *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China*, 78 Fed. Reg. 63,166 (Dep't Commerce Oct. 23, 2013) (prelim. results of the countervailing duty admin. rev.; 2011) at 10-11; *see* Issues and Decision Memorandum accompanying *Certain Kitchen Shelving and Racks from the People's Republic of China*, 74 Fed. Reg. 37,012 (Dep't Commerce July 27, 2009) (final affirm. countervailing duty deter.) at 5-6, 8.

66 *See, e.g., HWPW from China* IDM at 31-32; *MLWF from China* IDM at 43.

transportation, and other conditions of purchase" in relation to the conditions available to other users of electricity in China and/or market principles. Petitioner also notes that Article 15 of China's WTO Accession Protocol allows the Department to "use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks."[67]

(3) Specificity

Under section 771(5A)(D)(iii) of the Act, the provision of discounted electricity is *de facto* specific because officials use their discretion to administer the discounted rates to a limited group of preferred enterprises and industries, specifically, priority industries such as the steel and downstream steel products industries. Petitioner believes that these decisions are made pursuant to policy directives and measures issued by the central and provincial governments. It is also Petitioner's belief that China's provincial and local governments provide industries (including the FSS industry) located in certain special economic areas with electricity at preferential rates. Accordingly, this program is also specific pursuant to section 771(5A)(D)(iv) of the Act because discriminatory pricing on a regional basis by a central government is specific under the statute.

4. Provision of Land for Less than Adequate Remuneration

As the Department has previously concluded, the Chinese government, "either at the national or local level, is the ultimate owner of all land in China."[68] 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.[69]

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67 *Accession of the People's Republic of China*, WTO Doc. WT/L/432 (Nov. 23, 2001), § I ¶ 15(b).

68 *Certain New Pneumatic Off-The-Road-Tires from the People's Republic of China*, 72 Fed. Reg. 71,360, 71,369 (Dep't Commerce Dec. 17, 2007) (prelim. affirm. countervailing duty deter.). *See also China – Protection of Property Rights*, export.gov (July 25, 2017), attached as **Exhibit VII-34** ("Land is entirely owned by the State.").

69 *Line Pipe from China* IDM at 16.

As the Department has explained, "government land agencies across the PRC control the allocation of land through the granting of land-use rights."[70] For example, Chinese national or local governments often take land from farmers without fair compensation and transfer the land to industrial users.[71]

Information relating to specific land-use rights by Chinese FSS producers is not reasonably available to Petitioner. However, publicly available information indicates that FSS producers use land that would have been acquired through the corrupt, opaque, and preferential land sale process prevalent in China. Specifically, China's policies instruct government agencies to provide such land-use rights to favored projects and producers, including producers in downstream steel industries, such as the FSS industry. For instance, the GOC's Decision No. 40 instructs "people's governments of all provinces, autonomous regions, and municipalities" to formulate policies on land in order to implement industrial policies, including those aimed at buttressing China's steel industries.[72] And the *Jiangmen City Economic and Social Development 12th Five-Year Plan* encourages the production of downstream steel products and provides for "land" support to achieve the plan's goals.[73]

Moreover, other FSS producers are eligible to receive discounted or free land-use rights due to their location in certain industrial zones. According to the GOC, a primary goal of these industrial zones is to implement "the strategy for the economic development of the coastal areas, to bring{} into full play the advantages of the coastal areas, to actively promot{e) an export-

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70 *CR Steel from China* IDM at Appendix II.

71 *Line Pipe from China* IDM at 16.

72 Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment," No. 40 (2005) at Preamble, excerpts attached as **Exhibit VII-35**.

73 Jiangmen City Economic and Social Development 12th Five-Year Plan, attached as **Exhibit VII-36**.

oriented economy, and to boost{} the modernization drive in building socialism in China."[74] In furtherance of these objectives, the GOC, including China's provincial and local governments, provide discounted land use rights to encourage key enterprises and industries to locate themselves in industrial zones and to promote their exports. For instance, according to a document prepared by China's Ministry of Commerce ("MOFCOM"), the GOC offers discounted land use rights to industrial companies located in the Caofeidian Industrial Zone.[75]

The GOC has recently applied similar principles specifically to promote development of the construction industry, with concurrent emphasis on the Chinese FSS industry. In 2016, for example, the State Council issued a *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*. The *Guiding Opinion* calls for "optimizing production of parts and components,"[76] and

> guiding rational distribution of enterprises producing parts and components for the construction sector, increasing the concentration of production, and nurturing a group of pillar enterprises and production bases with advanced technology, coherent specializations, and sufficient supervision.[77]

With respect to land, the *Guiding Opinion* explains, "With respect to the supply of land, the relevant demands of developing prefabricated construction may be included in land supply plans and implemented through land supply contracts."[78] It encourages local governments to "issue relevant policy measures supporting planning and approval, land supply, completion of basic

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74 GOC State Council, *Development Zones* (Mar. 18, 1988), attached as **Exhibit VII-37**.

75 MOFCOM, *Caofeidian Industrial Zone Overview* at 98-99, excerpts attached as **Exhibit VII-38**.

76 In the context of these plans, "parts and components" includes fabricated structural steel. *See, e.g.*, 13th Five Year Action Plan for Prefabricated Construction at 4, attached as **Exhibit VII-39**.

77 *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*, State Council (2016) No. 71, attached as **Exhibit VII-10**.

78 *Id.*

infrastructure, and financing for development of prefabricated construction."[79] In November 2017, the Ministry of Housing and Urban Development announced the first batch of 195 Prefabricated Construction Industry Bases in 30 cities, including for a number of Chinese FSS producers.[80] The 2017 annual report of FSS producer Anhui Fuhuang confirms that MOHURD has approved the company for a national prefabricated construction industrial base.[81] The *Steel Industry Adjustment and Upgrading Plan (2016-2020)* also directs governments to "support steel enterprises to actively participate in constructing fabricated steel structural industrial demonstration bases."[82] This suggests that the GOC has provided land for less than adequate remuneration to enterprises in the Chinese FSS industry pursuant to plans promoting the development of industrial bases in the FSS and prefabricated construction industry.

a. The Provision of Land for Less than Adequate Remuneration is a Countervailable Subsidy

(1) Financial Contribution

The provision of land by the GOC at the central of sub-central levels of government is a financial contribution in the form of the provision of goods or services, within the meaning of section 771(5)(D)(iii) of the Act.

(2) Benefit

A benefit is conferred to the extent that the GOC provides land for less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act. In previous investigations,

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79 *Id.*

80 *Ministry of Housing and Urban Development Circular Regarding Approval of the First Group of Prefabricated Construction Demonstration Cities and Industrial Bases*, MOHURD (2017) No. 771 (Nov. 9, 2017) at attachment 2, attached as **Exhibit VII-40**.

81 Anhui Fuhuang 2017 Annual Report at 12, attached as **Exhibit VII-41**.

82 *Steel Industry Adjustment and Upgrading Plan (2016-2020)* at 20, attached as **Exhibit VII-13**.

the Department has found that the GOC provides land for less than adequate remuneration because the GOC's land prices are not consistent with market principles within the meaning of 19 C.F.R. § 351.511(a)(2)(iii).[83] The Department has recently confirmed that "{p}rivate land ownership is prohibited in China,"[84] that "the Chinese government has also used its ownership and control over land to support state industrial policies,"[85] and that, "in practice, compensation provided for expropriated land-use rights in China in inadequate."[86] There is thus reasonable basis to believe that land allocated under industrial policies for the development of the Chinese FSS industry is likewise provided for LTAR.

(3) Specificity

The industrial policies discussed above call for providing land for the development of industrial bases in the FSS industry and the pre-fabricated construction industry, including FSS products. The GOC has identified 195 such "industrial bases" in 30 cities. There is thus reason to believe that the provision of land for LTAR is *de facto* specific because the recipients of the subsidy are limited on an enterprise and industry basis within the meaning of section 771(5A)(D)(iii)(I) of the Act. There is also reason to believe that the subsidy is limited to enterprises within designated geographical regions within the meaning of section 771(5A)(D)(iv) of the Act.

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83 *See, e.g., LWS from China* IDM at 58-59.

84 China MES Memo at 95, attached as **Exhibit VII-3**.

85 *Id.* at 111.

86 *Id.* at 105.

B. Subsidized Financing to the FSS Industry

1. Government Directed Debt Restructuring in the Chinese Steel Industry

In 2016, the Chinese government launched a massive program to restructure heavily indebted enterprises in the coal and steel industries, as well as selected strategically important SOEs.[87] While the program was ostensibly designed as a means of financing capacity cuts under the "supply side structural reform" initiative, it has operated in practice as an industrial bailout scheme in which state-owned and controlled banks have absorbed losses in order to keep politically important steel enterprises in business. According to one report, "Local governments hoping to save their steel mills and coal miners have announced a series of restructuring plans, enlisting the banks to take the hit by improving the terms of the loans or swapping them for bonds or equity in the struggling groups."[88]

The Chinese steel industry has been one of the primary beneficiaries of the GOC-led bailout program. In September 2016, for example, the government of Tianjin city directed a plan to bail out the local SOE Bohai Steel by shifting existing debt into newly created subsidiaries or asset management companies and forcing existing creditors to purchase new bonds in proportion to their share of debt holdings.[89] In December 2016, Sinosteel entered into a restructuring agreement with five state-owned banks after it was unable to make timely payments on bonds in

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87 *China Sets Aside $4 Billion to Finance Steel, Coal Capacity Cuts*, Reuters (May 19, 2016), attached as **Exhibit VII-42**; *China Launches $52.5 Billion Fund to Restructure State Enterprises*, Reuters (Sept. 26, 2016), attached as **Exhibit VII-43**.

88 Don Weinland, *Chinese Banks Braced Over Industrial Restructuring*, Financial Times (Aug. 28, 2016), attached as **Exhibit VII-44**.

89 Christian Shepherd, *China Outlines Rescue Plan for Bohai Steel*, Financial Times (Sept. 19, 2016), attached as **Exhibit VII-45**.

2015.[90] Under the plan, more than RMB 60 billion of Sinosteel's debt was restructured through conversion into convertible bonds held by a special purpose vehicle for repayment or conversion to equity in the future.[91] In August 2017, a local-government directed bailout of Dongbei Special Steel forced creditors holding more than RMB 500,000 in the company's debt to accept a debt-to-equity swap or cash repayment of 22.09% of face value.[92]

In some cases, bailouts have been accompanied by state-directed mergers, in which an enterprise with a more sustainable financial outlook has been tasked with absorbing and sustaining the productive assets of loss-making competitors. In December 2016, the State Council approved a merger between Baoshan Iron and Steel Group and Wuhan Iron and Steel Group to create the second-largest global steelmaker.[93] In advance of the merger, the SOCB China Construction Bank established a RMB 24 billion "transformation and development fund" to reduce Wuhan Iron and Steel's debt through debt to equity swaps.[94]

Reasonably available information suggests that the Chinese FSS industry has benefited from the GOC's steel industry debt restructuring program. Prior to its merger with Baosteel, for example, Wuhan Iron & Steel's business included structural steel.[95] Financial support received by

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90 *China Banks Agree Debt Restructuring Deal with Sinosteel: Bank of China*, Reuters (Dec. 9, 2016), attached as **Exhibit VII-46**.

91 Chun-Wei Yap, *Bank of China Leads Bailout of Troubled Steel Trader*, Wall Street Journal (Dec. 9, 2016), attached as **Exhibit VII-47**.

92 Zhang Yuzhe and Dong Tongjian, *Steel Company's Restructuring Draws Creditor Ire*, Caixin Global (Aug. 28, 2017), attached as **Exhibit VII-48**.

93 *China Completes Merger that Creates Nation's Biggest Steel Company*, Reuters (Dec. 1, 2016), attached as **Exhibit VII-49**.

94 Jiang Xueqing, *CCB Announces to Set Up Debt-to-Equity Swap Program*, China Daily (Oct. 12, 2016), attached as **Exhibit VII-50**.

95 Wuhan Iron & Steel Co. 2015 Annual Report, attached as **Exhibit VII-51**.

Wuhan Iron and Steel, including its FSS assets, would thus pass through to Baosteel and to Baosteel's wholly owned (and thus cross-owned) FSS subsidiary Baosteel Construction.[96]

a. Government Directed Debt Restructuring is a Countervailable Subsidy

(1) Financial Contribution

A financial contribution exists in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act because Chinese state-owned and controlled banks are "authorities" within the meaning of section 771(5)(B)(i) of the Act.[97] Under the Department's practice, loans that are restructured by state-owned and -controlled banks under a government program are treated as new financial contributions within the meaning of section 771(5)(D)(i) of the Act.[98] Debt-to-equity swaps are treated as equity infusions within the meaning of section 771(5)(D)(i) of the Act.[99]

(2) Benefit

A benefit is conferred within the meaning of section 771(5)(E)(ii) of the Act because there is reason to believe that the interest rates paid on restructured loans under the GOC's bailout program are lower than the rates that Chinese FSS producers would pay on comparable commercial loans. Because firms engaging in government-directed debt restructuring are likely financially distressed, there is also reason to believe that such firms are uncreditworthy within the

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96 Baosteel Construction Website – Company Background, attached as **Exhibit VII-52**; Issues and Decision Memorandum accompanying *Supercalendered Paper from Canada*, 80 Fed. Reg. 63,535 (Dep't Commerce Oct. 15, 2015) (prelim. affirm. countervailing duty deter.) ("*SC Paper from Canada* IDM") at 18-19.

97 *SC Paper from Canada* IDM at 16.

98 *See, e.g.*, Issues and Decision Memorandum accompanying *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, 81 Fed. Reg. 35,310 (Dep't Commerce June 2, 2016) (final affirm. countervailing duty deter.) at 29.

99 19 C.F.R. § 351.508(a).

meaning of the Department's regulations.[100] In the case of equity infusions, there is likewise reason to believe that financially distressed enterprises participating in a government-directed bailout program are not equity worthy, in which case there is a benefit in the amount of the equity infusion.[101]

(3) Specificity

GOC directed debt restructurings under this program are specific because they are limited to SOEs and to enterprises in the coal and steel industries. They are thus *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act. There is also reason to believe that actual recipients of the subsidy are limited in number on an enterprise or industry basis within the meaning of section 771(5A)(D)(iii)(I) of the Act.

C. Subsidies Under the State Capital Operating Budget

The Chinese government at the central and sub-central levels subsidizes state-owned enterprises through the State Capital Operating Budget ("SCOB"). The SCOB is a part of the public budget at the central or sub-central level of government and is administered primarily by the Ministry of Finance, with SASAC, or their sub-central counterparts, and other central departments that oversee state-owned enterprises responsible for organizing and planning the related activities of enterprises under their jurisdictions.[102] The SCOB's income is derived from (i) income paid as a designated percentage of the after-tax profits of wholly state-owned enterprises; (ii) capital gains and dividends paid on state-owned shares of partially state-owned enterprises; (iii) income earned on the transfer of assets of wholly state-owned enterprises or on

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100 19 C.F.R. § 351.505(a)(4).

101 *Id.* § 351.507(a)(6).

102 *Notice Regarding Publication of the Measures for Compilation and Reporting the Central State Capital Operating Budget*, Ministry of Finance {2017} No. 133 (Sept. 26, 2017) at Art. 2, attached as **Exhibit VII-53**.

the transfer of state-owned shares of partially state-owned enterprises; (iv) income from the liquidation of state-owned assets; and (v) other state-owned capital operating income.[103]

Expenditures from the SCOB are used "in service of the state's strategic objectives," including as capital infusions either directly into SOEs or into industrial investment funds to "guide central SOEs in more effectively serving the national strategy," with an emphasis on "important sectors and key spheres relating to national security and the lifelines of the people's economy."[104] In the past, the Ministry of Finance would issue draft recommendations for the subsequent year's SCOB expenditures, but the most recent draft recommendations that Petitioner has been able to locate apply to the 2015 SCOB. These recommendations, however, show that the SCOB's priorities are weighted heavily towards the government's industrial policy objectives, such as (i) "expenditures for structural adjustment of the state-owned economy," including "supporting strategic reorganizations and consolidations among SOEs," (ii) "expenditures for development of strategic industries," (iii) "expenditures to support science and technology," including "industrial transformation and upgrading," and (iv) "expenditures to safeguard national economic security," including "to increase national competitiveness and comprehensive national strength . . . ."[105]

The GOC has continued to provide massive amounts of financial support through the SCOB for industrial policy objectives such as these. According to the 2018 *Report on the Execution of the Central and Local Budgets for 2017 and on the Draft Central and Local Budgets for 2018*, "budgetary revenue from China's state capital operations totaled 257.869 billion yuan . . .

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103 *Id.* at Art. 5.

104 *Id.* at Art. 8.

105 *Notice of the Ministry of Finance Regarding Compiling and Reporting Draft Recommendations for the 2015 Central State Capital Operating Budget*, Ministry of Finance (2014) No. 175 (July 31, 2014), attached as **Exhibit VII-54**.

and budgetary expenditures through state capital operations totaled 201.093 billion yuan . . . ."[106] Of this total, RMB 100.171 billion was spent through the central government SCOB, and RMB 133.442 billion was spent through sub-central SCOBs.[107] Central government SCOB expenditures were expected to increase by 39% in 2018, "mainly for supporting state sector restructuring and forward-looking and strategic industry development, with an appropriate increase of spending on capital injections into central government enterprises . . . ."[108]

Several Chinese FSS producers are part of state-owned enterprise groups at either the central or local level of government and are therefore eligible to receive subsidies such as capital injections through the central or local government SCOBs. Baosteel Construction Company, for example, is a member of the China Baowu Iron and Steel Group, which is a central SOE.[109] Baowu's financial statement for the first half of 2018 explains that the company transferred approximately RMB 1.7 billion in funds received from the SCOB between 2008 and 2012 into paid in capital, after approval from SASAC.[110] China Construction Steel Structure is a member of the CSCEC Group, which is also a central SOE.[111] As discussed above, the FSS industry is also a primary focus of the GOC's industrial policy priorities for the steel industry during the 13th Five Year Plan period, such that there is reason to believe that the GOC would use SCOB expenditures to support FSS producers in accordance with national strategy.

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106 Ministry of Finance, *Report on the Execution of the Central and Local Budgets for 2017 and on the Draft Central and Local Budgets for 2018*, 1st Session of the 13th National People's Congress of the People's Republic of China (Mar. 5, 2018) at 5, attached as **Exhibit VII-55**.

107 *Id.*

108 *Id.* at 30-31.

109 *See* SASAC Central State-Owned Enterprise List, attached as **Exhibit VII-56**.

110 China Baowu Group 2018 First Half Financial Statement at 1, excerpts attached as **Exhibit VII-57**.

111 *Id.*

1. Capital Injections and Other Payments from the SCOB are Countervailable Subsidies

a. Financial Contribution

Payments from the SCOB constitute a direct transfer of funds from the government budget and are thus a financial contribution within the meaning of section 771(5)(D)(i) of the Act.

b. Benefit

Payments from the SCOB appear to be grants, such that a benefit is conferred in the amount of the payment, allocated over the AUL period.[112]

c. Specificity

Payments from the SCOB are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited by law only to SOEs.

D. Grant Programs

1. Foreign Trade Development Fund Grants

The Department has previously investigated and countervailed the GOC's provision of grants under the Foreign Trade Development Fund.[113] Pursuant to this program, the GOC provides grants to support projects undertaken by exporting companies to "improve the competitiveness of their exported products, to develop an export processing base, to support the registration of trademarks in foreign countries, to support the training of foreign trade professional, and to explore

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112 19 C.F.R. §§ 351.504(a)-(c).

113 *See, e.g.*, Issues and Decision Memorandum accompanying *Calcium Hypochlorite from the People's Republic of China*, 79 Fed. Reg. 74,064 (Dep't Commerce Dec. 15, 2014) (final affirm. countervailing duty deter.) at 17; *Line Pipe from China* IDM at 20.

international markets."[114] The GOC has recently notified the WTO of this subsidy program, which is intended to "accelerate the development of export-oriented economy in Liaoning" province.[115]

Exporting companies that are located in the Northeast Region of China, including Liaoning Province, are eligible to receive benefits under this program.[116] Because FSS producers such as Yingkou Steel Structure Sub-Co of Ansteel Construction Group are located in the Northeast Region of China, and Liaoning Province specifically, one or more FSS producers likely received benefits under this program during the POI.

a. Grants to Chinese FSS Producers Through the Foreign Trade Development Fund Constitute Countervailable Subsidies

(1) Financial Contribution

The Department has previously found that grants provided under this program constitute a financial contribution because they are direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.[117]

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114 *Line Pipe from China* IDM at 20.

115 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 Agreement on Subsides and Countervailing Measures: China: Supplement*, WTO Doc. G/SCM/N/95/CHN/Suppl.1, G/SCM/N/123/CHN/Suppl.1, G/SCM/N/155/ CHN/Suppl.1, G/SCM/N/186/CHN/Suppl.1, G/SCM/N/220/CHN/Suppl.1, G/SCM/N/253/CHN/Suppl.1, G/SCM/N/284/CHN/ Suppl.1, (July 29, 2016) at 71, excerpts attached as **Exhibit VII-58**. Note that China also notified the WTO of a "Support Fund for the Development of Foreign Trade" implemented by Shandong province, also in Northeast China. Id. at 72. It is unclear to Petitioner whether this refers to the same general subsidy program as the "Foreign Trade Development Fund Grants" discussed in this section. If the Department determines that this constitutes a subsidy program separate from the "Foreign Trade Development Fund Grants" program, it should also initiate an investigation of this Shandong program, as it provides a financial contribution and benefit and is specific for the same reasons as those set forth in this section.

116 *Line Pipe from China* IDM at 21. *See also* 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 Agreement on Subsides and Countervailing Measures: China: Supplement*, WTO Doc. G/SCM/N/95/CHN/Suppl.1, G/SCM/N/123/CHN/Suppl.1, G/SCM/N/155/CHN/Suppl.1, G/SCM/N/186/ CHN/Suppl.1, G/SCM/N/220/CHN/ Suppl.1, G/SCM/N/253/CHN/ Suppl.1, G/SCM/N/284/CHN/Suppl.1 (July 29, 2016) at 71-72, excerpts attached as **Exhibit VII-58**.

117 *Line Pipe from China* IDM at 20-21.

(2) Benefit

This program provides a benefit in the form of a grant under section 771(5)(E) of the Act. A benefit exists in the amount of the grant, allocated over the relevant AUL period.[118]

(3) Specificity

This program is specific because it is contingent upon exports within the meaning of section 771(5A) and (B) of the Act.

2. Export Assistance Grants

The Department has previously investigated and countervailed the GOC's provision of export assistance grants to Chinese companies.[119] As the Department concluded in its investigation of Galvanized Steel Wire from China, Chinese companies receive Export Assistance Grants to assist in the development of export markets or to recognize export performance.[120] Publicly available evidence indicates that a number of Chinese FSS producers are heavily export-oriented. For instance, Chinese FSS producer Baosteel Group, of Shanghai, boasts that "{their] premium products not only satisfy the demand on the domestic market but are also exported to more than forty countries and regions in Asia, Africa, Europe, and America."[121] In addition, Modern Heavy Industries Co., Ltd. speaks of its "worldwide clients,"[122] while Sinoma Tangshan

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118 19 C.F.R. §§ 351.504(a)-(c).

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

120 *Galvanized Steel from China* IDM at 17-18.

121 Baosteel Group Website – Profile – Brief Introduction, attached as **Exhibit VII-59**..

122 Modern Heavy Industries (Taicang) Co., Ltd Website – About Us, attached as **Exhibit VII-60**.

Port Equipment Manufacturing Co., Ltd. boasts that "98% of its products are exported to overseas markets."[123] The State Council's *Guiding Opinion Regarding Vigorously Promoting Prefabricated Construction*, moreover, emphasizes promoting "going out" by enterprises in the industry.[124] It is therefore likely that Chinese FSS producers received support under this program.

a. Provision of Export Assistance Grants to Chinese FSS Producers is a Countervailable Subsidy

(1) Financial Contribution

As the Department has found in previous cases, export assistance grants are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.[125]

(2) Benefit

Export assistance grants provide a benefit in the amount of the grants under section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a).[126]

(3) Specificity

Export assistance grants are contingent upon export performance and, therefore, are specific under sections 771(5A)(A) and (B) of the Act.[127]

3. Interest Payment Subsidies

In prior cases, the Department has investigated and countervailed the provision of export interest subsidies by provincial governments in China, including Guangdong, Zhejiang and

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123 Sinoma Tangshan Port Equipment Manufacturing Co., Ltd Website – Profile, attached as **Exhibit VII-61**.

124 *Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*, State Council (2016) No. 71, attached as **Exhibit VII-10.**

125 *Galvanized Steel from China* IDM at 17-18.

126 *Id.* at 17.

127 *Id.*

Liaoning Provinces.[128] For instance, in Welded Line Pipe from China, the Department's investigation was initially concentrated on programs implemented by the governments of Guangdong and Zhejiang Provinces.[129] However, during the course of its investigation, the Department discovered that Liaoning Province also provided export interest subsidies to the two mandatory respondents, and it concluded that the Liaoning Program was countervailable and that the mandatory respondents had each benefitted from export interest subsidies.[130] These benefits typically take the form of assistance in paying interest on bank loans.[131] While the source and purpose of the funds is not identified, Baosteel Group reports receiving approximately RMB 120 million in "special loan interest" subsidies in 2017, which could indicate support under this program.[132]

In addition to export interest subsidies, the Chinese government provides import interest subsidies for enterprises that import certain types of "encouraged" products and equipment.[133] Specifically, importers of products included in the *Catalogue of Products and Technology Encouraged for Import* may receive interest payment discounts of up to RMB 30 million.[134] Reasonably available information indicates that Chinese FSS producers or their cross-owned

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128 *See Seamless Pipe from China* IDM at 36; *Galvanized Steel from China* IDM at 22; *Line Pipe from China* IDM at 22-23.

129 Initiation Checklist, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China* (DOC Case No. C-570-936) (Apr. 23, 2008) at 24-25, attached as **Exhibit VII-62**.

130 *Line Pipe* IDM at 22-23; *see* Department of Finance of Liaoning Province, Provisional Administrative Measures on Hi-Tech Products and Equipment Manufacturing Products Export Financial Assistance of Liaoning Province (Liaocaiqi 2004 No. 671) (Dec. 16, 2004), attached as **Exhibit VII-63**.

131 *See Line Pipe from China* IDM at 22-23.

132 Baoshan Iron & Steel 2017 Annual Report at 163, excerpts attached as **Exhibit VII-64**.

133 *See Notice of the Ministry of Finance and the Ministry of Commerce Regarding Publication of the Measures for the Administration of the Export Interest Subsidy Fund*, Ministry of Finance (2012) No. 142 (June 11, 2012), attached as **Exhibit VII-65**.

134 *Id.*

affiliates have received benefits under this program. Beijing Shougang, a cross-owned affiliated of FSS producer Beijing Shougang Mining Construction Co., Ltd., reports receiving approximately RMB 18 million in interest subsidies on two import items in 2017.[135]

a. Interest Payment Subsidies Constitute Countervailable Subsidies

(1) Financial Contribution

The Department has previously found that interest subsidy programs constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act because governments in China directly transfer funds to recipients under such programs.[136]

(2) Benefit

A benefit is conferred within the meaning of section 771(5)(E) of the Act in the amount of the grant.[137]

(3) Specificity

Interest payment subsidies are specific because, in the case of export interest subsidies, they are contingent on export within the meaning of section 771(5A)(A) of the Act, and, in the case of import interest subsidies, eligibility is limited by law within the meaning of section 771(5A)(D)(i) of the Act.

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

The GOC at the central and sub-central levels of government provides grants to companies identified as "famous brands" or "China World Top Brands." The General Administration of

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135 Beijing Shougang 2017 Annual Report at 121-122, excerpts attached as **Exhibit VII-66**; *see id.* at 143 (showing common control of Beijing Shougang and Beijing Shougang Mining Construction by the same parent company).

136 *Line Pipe from China* IDM at 23.

137 19 C.F.R. §§ 351.504(a)-(c).

Quality Supervision, Inspection and Quarantine of the People's Republic of China ("AQSIQ"), a ministerial administrative body directly under the State Council, is responsible for the organization as well as implementation of state measures and polices on "the promotion . . . strategy of Famous Brand Names."[138] This Famous Brands Program was instituted by the GOC in 1992 to increase exports,[139] and the GOC recently listed a number of "Incentive Funds for Famous-Brand Products" in its WTO subsidy notification.[140]

As USTR has summarized in the past, 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."[141] USTR has also stated that because these subsidies are explicitly tied to exports, they constitute prohibited subsidies under the WTO Agreement on Subsidies and Countervailing Measures.[142]

In prior cases, the Department has determined that famous brand awards provide countervailable subsidies,[143] and it should do so in this case as well. Publicly available information

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138 *General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China*, IP Channel, (Feb. 9, 2010), attached as **Exhibit VII-67**; *see General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China*, (last accessed July 24, 2017) (website excerpt) attached as **Exhibit VII-68**.

139 *See* Opinions about Expeditious Implementation of Famous Brand Strategy of General Administration of Quality Supervision, Inspection and Quarantine of The People's Republic of China (June 26, 2006), attached as **Exhibit VII-69**.

140 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 Agreement on Subsides and Countervailing Measures: China: Supplement*, WTO Doc. G/SCM/N/95/CHN/Suppl. 1, G/SCM/N/123/CHN/Suppl. 1, G/SCM/N/155/ CHN/Suppl. 1, G/SCM/N/186/CHN/ Suppl. 1, G/SCM/N/220/CHN/Suppl. 1, G/SCM/N/253/CHN/Suppl. 1, G/SCM/N/284/CHN/ Suppl. 1, (July 29, 2016) at 15-17, 22-23, 28-29, 41-46, 52, 56-63, 85-96, 99-112, 117-119, excerpts attached as **Exhibit VII-58**.

141 *WTO Dispute Settlement Proceeding Regarding China – Grants, Loans, and Other Incentives*, 74 Fed. Reg. 7494 (USTR Feb. 17, 2009).

142 *See id.* at 7496.

143 *See, e.g.*, Issues and Decision Memorandum accompanying *Certain Frozen Warmwater Shrimp From the People's Republic of China*, 78 Fed. Reg. 50,391 (Dep't Commerce Aug. 19, 2013) (final affirm. countervailing duty

indicates that Chinese FSS producers have received benefits under this program. For instance, Sinohydro Jiajiang Hydraulic Machinery Co., Ltd. has been designated a Chinese "famous brand."[144] Accordingly, as it did in the IMTDCs from China and Hardwood Plywood from China investigations, the Department should investigate this program.[145]

a. Grants Through the Famous Brands and China World Top Brands Programs are Countervailable Subsidies

(1) Financial Contribution

As the Department has previously determined,[146] funds disbursed under this program constitute financial contributions under section 771(5A)(D)(i) of the Act.

(2) Benefit

The Department has also previously determined that these programs provide a benefit to recipients under section 771(5)(E) of the Act.[147] Specifically, the grants and other funds provided by the GOC pursuant to these programs allow Chinese FSS producers to increase exports and lower their costs of producing and selling subject merchandise. The benefit is equal to the amount of the grant as defined under 19 C.F.R. § 351.504(a).[148]

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deter.) at 20-21 ("*Warmwater Shrimp from China* IDM"); Issues and Decision Memorandum accompanying *Aluminum Extrusions from the People's Republic of China*, 79 Fed. Reg. 106 (Dep't Commerce Jan. 2, 2014) (final results of CVD admin. rev.; 2010 and 2011) ("*Aluminum Extrusions from China* IDM") at 30-31; Issues and Decision Memorandum accompanying *Citric Acids and Certain Citrate Salts From the People's Republic of China*, 74 Fed. Reg. 16,836 (Dep't Commerce Apr. 13, 2009) (final affirm. countervailing duty deter.) ("*Citric Acid from China* IDM (2009)") at 13-14.

144 Sinohydro Jiajiang Hydraulic Machinery Co., Ltd. website – About JHMW, attached as **Exhibit VII-70**.

145 Initiation Checklist, *Certain Iron Mechanical Transfer Drive from the People's Republic of China* (DOC Case No. C-570-031) (Nov. 17, 2015) at 13-14, attached as **Exhibit VII-71**.

146 *See, e.g.*, *Warmwater Shrimp from China* IDM at 20-21; *Aluminum Extrusions from China* IDM at 18; *Citric Acid from China* IDM at 31.

147 *Warmwater Shrimp from China* IDM at 20; *Aluminum Extrusions from China* IDM at 31.

148 *Citric Acid from China* IDM (2009) at 13.

(3) Specificity

The Department has previously determined that these subsidy programs are specific under sections 771(5A)(A) and (B) of the Act, given that grants provided under these programs are contingent on export activity.[149]

5. State Key Technology Fund Grants

The Department has countervailed the State Key Technology Renovation Project Fund programs in past investigations.[150] The program was "created pursuant to circular *Guojingmao Touzi* (1999) No. *886* ("Circular No. 886"), and operates under regulatory guidelines including the *Measures for the Administration of National Debt Special Fund for National Key Technology Renovation Project* ("Special Fund Measures"), *Guojingmao Touzi (1999) No. 122*, *Guojingmao Touzi (1999) No. 1038*, and *Guojingmao Touzi (2000) No. 822*."[151] According to the GOC, the program is intended to promote: (a) technological renovation in key industries; (b) technology upgrades; (c) improvements in product structure; (d) improvements in quality; (e) increases in supply; (f) the expansion of domestic demand; and (g) further development of the state economy.[152]

Under this program, companies can apply for funds to cover the cost of financing specific renovation projects. Payments are disbursed in the form of grants covering two years of interest payments on loans to fund the project, or up to three years for enterprises located in the Northeast,

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149 *See, e.g., Aluminum Extrusions from China* IDM at 31.

150 *See, e.g.*, Issues and Decisions Memorandum accompanying *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 73 Fed. Reg. 40,480 (Dep't Commerce July 15, 2008) (final affirm. countervailing duty deter. and final negative deter. of critical circumstances) ("*OTR Tires from China* IDM") at 23-24; *OCTG from China* IDM at 15-16.

151 *See Coated Free Sheet Paper From the People's Republic of China*, 72 Fed. Reg. 17,484, 17,491 (Dep't Commerce Apr. 9, 2007) (amended prelim. affirm. countervailing duty deter.).

152 *Id.*

Central, or Western areas of China.[153] Under Article 11 of the Special Fund Measures, Key Technology Program funds may also be disbursed as "loan interest grants," which are calculated with reference to the amount of the project loans and prevailing interest rates during the period of one to two years.[154] This program has also been implemented by provincial authorities.[155]

Publicly available evidence indicates that one or more Chinese FSS producers likely benefited from this subsidy program. Available financial reports from FSS producer Anhui Fuguang Steel Structure Co., Ltd. reveals government subsidies related to a "technology innovation policy fund," as well as multiple grants related to steel structure production lines, which are likely related to renovating or upgrading production equipment.[156] Likewise, Baoshan Iron & Steel's 2017 annual report shows approximately RMB 776 million in grants for "priority industry revitalization and comprehensive technology renovation projects," approximately RMB 19 million in "high technology subsidy funds," and approximately RMB 110 million in "special loan interest subsidies."[157] Accordingly, the Department should investigate this program.

a. Funds Provided Through the State Key Technology Fund are Countervailable Subsidies

(1) Financial Contribution

This program provides direct transfer of funds and constitutes a financial contribution under section 771(5)(D)(i) of the Act.

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153 *See* Notice Concerning the Promulgation and Circulation of "Measures for the Administration of National Key Technological Renovation Projects" and "Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects" Guo Jing Mao Touzi 1999 No. 886 (Sept. 10, 1999), attached as **Exhibit VII-72**.

154 *See id.*

155 *See, e.g.*, Rules of Jiangxi Province on the Administration of Industrial Enterprise Technology Renovation Project Loan Interest Subsidy Fiscal Fund (July 15, 2002), attached as **Exhibit VII-73**.

156 Anhui Fuhuang 2017 Annual Report at 156, excerpts attached as **Exhibit VII-41**.

157 Baoshan Iron & Steel 2017 Annual Report at 163, excerpts attached as **Exhibit VII-64**.

(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

In previous investigations, the Department has found that this subsidy program is specific under section 771(5A)(B) of the Act because it is limited as a matter of law to certain enterprises or industries.[158]

6. Grants for Energy Conservation and Emissions Reduction

In 2015, the Ministry of Finance issued the *Provisional Measures for the Administration of Subsidy Funds for Energy Conservation and Emissions Reduction*.[159] The measure provides for payments in the form of grants, awards, and interest payment subsidies to support projects related to (i) innovations in structures and mechanisms for energy conservation and emissions reduction, (ii) basic capabilities and building public platforms for energy conservation and emissions reduction, (iii) comprehensive standardization of energy conservation and emissions reduction financial policies, (iv) energy conservation and emissions reduction in priority spheres, priority sectors, and priority regions, (v) demonstration, popularization, renovation and upgrading related to key priority energy conservation and emissions reduction technologies, and (vi) other relevant items.[160] Funds are to be allocated to the fund from the central government budget, or through similar funds established by sub-central levels of government.[161]

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158 *See, e.g., CR Steel from China* IDM at Appendix II, no. 34.

159 *Provisional Measures for the Administration of Subsidy Funds for Energy Conservation and Emissions Reduction*, Ministry of Finance (2015) No. 161 (May 12, 2015), attached as **Exhibit VII-74**.

160 *Id.*

161 *Id.*

The GOC has made support for energy conservation and emissions reduction a priority for the steel industry, largely by providing government support for upgrading production technologies. The *Steel Industry Adjustment and Upgrading Plan (2016-2020)*, for example, calls for "implementing green renovations and upgrading" by "hastening popularization and application and comprehensively universalizing advanced, mature, and reliable energy-saving and environmentally friendly industrial processes, technologies, and equipment."[162] There is thus reason to believe that subsidy funds for energy conservation and emissions reduction are directed heavily towards industrial upgrades in high-emissions, priority industries like steel. The Department has found that Chinese steel producers have received benefits from energy conservation and emissions reduction grants in previous investigations.[163] Reasonably available information also suggests that Chinese FSS producers have also benefited from grants under this program. Beijing Shougang's 2017 annual report, for example, shows approximately RMB 1.3 million in government grants for an energy conservation and emissions reduction award.[164] The Department should therefore initiate an investigation of this program.

a. Grants for Energy Conservation and Emissions Reduction are Countervailable Subsidies

(1) Financial Contribution

Grants for Energy Conservation and Emissions Reduction are a financial contribution within the meaning of section 771(5)(D)(i) of the Act because they are a direct transfer of funds from the government.

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162 *Steel Industry Adjustment and Upgrading Plan (2016-2020)* at 20, attached as **Exhibit VII-9**.

163 *See, e.g.*, Issues and Decision Memorandum accompanying *Stainless Steel Sheet and Strip from the People's Republic of China*, 82 Fed. Reg. 9,714 (Dep't Commerce Feb. 8, 2017) (final affirm countervailing duty deter.) ("*Stainless Steel from China* IDM") at 9.

164 Beijing Shougang 2017 Annual Report at 124 at **Exhibit VII-66**.

(2) Benefit

A benefit exists in the amount of the grant, pursuant to 19 C.F.R. § 351.504(a).

(3) Specificity

As noted above, the measure pursuant to which the subsidy is granted limits the subsidy to six types of applications, suggesting that the actual recipients of the subsidy are limited in number within the meaning of section 771(5)(A)(D)(iii)(I) of the Act. In addition, the GOC's industrial policy emphasis on reducing emissions through industrial upgrades in the steel industry suggests that energy conservation and emissions reduction funds are predominately or disproportionately received by a limited number of high-emission industries, including the steel industry. This program would therefore be specific within the meaning of sections 771(5)(A)(D)(iii)(II)-(III) of the Act.

7. Grants for Retiring Outdated Capacity

The GOC at the central and sub-central levels provides grants to enterprises that "eliminate outdated capacity" in overcapacity sectors such as steel. In 2007, the Ministry of Finance issued the *Provisional Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity.*[165] The *Provisional Measures* delegated responsibility for eliminating outdated capacity to local governments and provided that the central government would allocate award funds according to the scale of eliminated capacity for distribution by local authorities in accordance with their circumstances.[166] Award funding was restricted to eliminating outdated capacity in certain overcapacity sectors.[167] Local governments were also instructed to

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165 *Provisional Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity*, Ministry of Finance (2007) No. 873 (Dec. 11, 2007), attached as **Exhibit VII-75**.

166 *Id.*

167 *Id.* at Art. 4.

allocate local award funds to be used in tandem with award funds from the central budget.[168] The Ministry of Finance replaced the 2007 *Provisional Measures* in 2011 with the *Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity*.[169] This measure operates in the same manner as discussed above. According to reports, funds received for closing outdated capacity in the steel industry are frequently used to replace them with newer, larger facilities that are no longer considered "outdated" under relevant industrial policy requirements.[170]

The Department has found in recent investigations that Chinese steel producers have received payments under this program.[171] It is likely that Chinese FSS producers or their cross-owned affiliates have also benefitted from grants to eliminate outdated capacity.

a. Grants for Retiring Outdated Capacity are Countervailable Subsidies

(1) Financial Contribution

Grants under central or sub-central government funds for eliminating outdated capacity are a financial contribution within the meaning of section 771(5)(D)(i) of the Act because they are direct transfers of funds from central or sub-central government budgets.

(2) Benefit

A benefit is conferred in the amount of the grant, pursuant to 19 C.F.R. § 351.504(a).

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168 *Id.* at Art. 16.

169 *Notice Regarding Publication of the Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity*, Ministry of Finance (2011) No. 180 (Apr. 20, 2011), attached as **Exhibit VII-76**.

170 *See, e.g.*, *Overcapacity in China: An Impediment to the Party's Reform Agenda*, European Chamber of Commerce (2016) at 17, excerpts attached as **Exhibit VII-21**.

171 *Stainless Steel from China* IDM at 9.

(3) Specificity

Grants for retiring outdated capacity are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to certain overcapacity industries enumerated in the measure pursuant to which the program operates.

E. Tax Benefit Programs

The GOC at the central and sub-central levels provides a variety of tax exemptions, reductions and credits that directly benefit China's FSS producers. These programs, detailed below, have provided and continue to provide a financial contribution to FSS producers in the form of revenue foregone by the Chinese government, and are countervailable subsidies under section 771 of the Act.

1. Income Tax Reductions for High and New Technology Enterprises

The Enterprise Income Tax Law of the People's Republic of China ("EIT") was adopted on March 16, 2007 by the 5th Session of the 10th National People's Congress of the People's Republic of China and came into effect on January 1, 2008.[172] The EIT allows for certain enterprises to reduce their tax liability by up to 10 percent.[173] According to Article 28 of the EIT, "{e}nterprise income tax for State-encouraged high and new technology enterprises shall be levied at a reduced rate of 15%."[174] The standard corporate tax rate in China is 25 percent.[175] "Under this program, an enterprise must undergo an application, designation and certification process, and

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172 *Enterprise Income Tax Law of the People's Republic of China*, No. 63 (Mar. 16, 2007), attached as **Exhibit VII-77**.

173 *See id.*

174 *Id.*

175 *Id.*

upon approval by the relevant authorities, is then issued a High and New Tech Enterprise Certificate, before it can claim the tax benefits under Article 28."[176]

Available financial information for Chinese FSS producers shows that they have benefitted from this tax program. Specifically, Anhui Fuhuang's 2017 annual report reveals that it has been approved as a "high and new technology enterprise" by authorities in Anhui province and Jiangxi province.[177] It is likely that other FSS producers have benefited from this program as well.

a. Income Tax Reductions for High and New Technology Enterprises are 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, firms designated as important high- and new-technology enterprises.[178]

2. Tax Offsets for Research and Development under the EIT

As the Department found in the past, Article 30 of the EIT allows enterprises to deduct research expenditures incurred in the development of new technologies, products, and

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176 *Steel Wheels from China* IDM at 34.

177 Anhui Fuhuang 2017 Annual Report at 122, attached as **Exhibit VII-41**.

178 *See Enterprise Income Tax Law of the People's Republic of China*, No. 63 (Mar. 16, 2007) at arts. 25, 28, attached as **Exhibit VII-77**.

processes.[179] Article 95 of Regulation 512 provides that, if eligible research expenditures do not "form part of the intangible assets value," an additional 50 percent deduction from taxable income may be taken on top of the actual accrual amount.[180] Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150 percent of the intangible assets costs.[181] The Department has found that this program is specific because it is limited to research and development in eligible high-technology sectors.[182]

Reasonably available information suggests that Chinese FSS producers likely took advantage of this program. Although company-specific tax returns are not reasonably available, FSS producer Anhui Fuhuang reports significant research and development expenditures and total income tax payments of less than 10% of total profit in 2017, compared to the standard enterprise income tax rate of 25% (or 15% for high and new technology enterprises).[183] Anhui Fuhuang also emphasizes that "structural steel is part of a technology intensive sector, with high technological demands."[184] This suggests that Anhui Fuhuang and other Chinese FSS producers have high research and development expenditures and benefit from their ability to claim tax deductions for those expenditures. The Department should therefore initiate an investigation of this program.

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179 *See id.* at art. 30. *See also* Issues and Decision Memorandum Accompanying *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China*, 77 Fed. Reg. 63,788 (Dep't Commerce Oct. 17, 2012) (final affirm. countervailing duty deter.) ("*Solar I from China* IDM") at 17; Issues and Decision Memorandum accompanying *Utility Scale Wind Towers from the People's Republic of China*, 77 Fed. Reg. 75,978 (Dep't Commerce Dec. 26, 2012) (final affirm. countervailing duty deter.) ("*Wind Towers from China* IDM") at 18-19.

180 *See Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

181 *Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

182 *Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

183 Anhui Fuhuang 2017 Annual Report at 19, 94, excerpts attached as **Exhibit VII-41**. (showing research and development expenditures of approximately RMB 10 million, and income tax payments of approximately RMB 7.8 million on comprehensive profit of approximately RMB 79.5 million).

184 *Id.* at 12.

a. Tax Offsets for Research and Development Under the EIT Constitute Countervailable Subsidies

(1) Financial Contribution

Consistent with the Department's prior determinations, tax offsets for research and development provide a financial contribution in the form of revenue foregone by the Chinese government, pursuant to section 771(5)(D)(ii) of the Act.[185]

(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).[186]

(3) Specificity

As the Department recently concluded, these benefits are specific under section 771(5A)(D)(i) of the Act because the recipients are limited as a matter of law to certain enterprises, namely those with R&D in eligible high-technology sectors.[187]

3. Preferential Income Tax 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;[188] and (2) lessen the period of

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185 *See Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

186 *Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

187 *Solar I from China* IDM at 17; *Wind Towers from China* IDM at 18.

188 *See* Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004), attached as **Exhibit VII-78**; *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), attached as **Exhibit VII-79**.

amortization of intangible assets by up to 40 percent for tax purposes, resulting in a larger annual tax deduction for amortization expense.[189] As the GOC acknowledges, the Northeast Tax Preference Policy significantly reduces a company's tax liability. Indeed, the GOC's official news agency, Xinhua, reported that tax exemptions granted to the first company to receive benefits under the policy equaled RMB 96.84 million for a single quarter alone.[190]

Specific information concerning the income taxes paid and the tax deductions taken by the FSS producers located in the Northeast Region is not reasonably available to Petitioner. Yingkou Steel Structure Sub-Co. of Ansteel Construction Group, however, is located in Liaoning Province.[191] If other Chinese FSS producers are located in Liaoning, Jilin and Heilongjiang provinces, it is likely that they benefitted from this program.

a. Preferential Income Tax Rates for Enterprises in the Northeast Region are Countervailable Subsidies

(1) Financial Contribution

The Northeast Tax Preference Policy provides a financial contribution in the form of revenue foregone by the GOC, under section 771(5)(D) of the Act. Specifically, the Northeast Tax Preference Policy permits a company in the Northeast Region to deduct a larger amount of depreciation and amortization expenses, thereby reducing the company's income tax.[192]

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189 *See* Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004) attached as **Exhibit VII-78**; *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) attached as **Exhibit VII-79**.

190 *See Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 Million Yuan of Taxes Waived*, Xinhua (Oct. 22, 2004), attached as **Exhibit VII-80**.

191 *See* List of Chinese FSS Producers, attached as **Exhibit I-7** to Volume I of this petition.

192 *See* Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004) attached as **Exhibit VII-78**; *see also* Notice of the Ministry of Finance and the State Administration of Taxation on the Assets Depreciation and the Implementation

(2) Benefit

The effect of the Northeast Tax Preference Policy is to lower the tax burden on eligible companies. Accordingly, it confers a benefit on the recipient companies within the meaning of section 771(5)(E)(ii) of the Act. Such benefit arises on the date on which the recipient firm would otherwise have had to pay the taxes in question.[193]

(3) Specificity

The subsidies provided by the Northeast Tax Preference Policy are available only to companies located in the Liaoning, Jilin and Heilongjiang provinces.[194] As a result, such benefits are limited to a designated geographical region within the jurisdiction of the GOC and are therefore specific under section 771(5A)(D)(iv) of the Act.

4. Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China

Pursuant to the Notice of the Ministry of Finance and the State Administration of Taxation on Exempting the Tax Arrears of the Enterprises in the Old Industrial Bases of Northeast China ("Northeast Tax Forgiveness Program") enacted in June 2006, the GOC has directed provincial and local governments to forgive the tax arrears of enterprises located in the "{o}ld {i}ndustrial {b}ases of Northeast China."[195] Specifically, the Northeast Tax Forgiveness Program forgives all

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Caliber of Amortization Policy in the Northeast Old Industrial Base, Caishui {2005} No. 17 (Feb. 2, 2005) attached as **Exhibit VII-79**.

193 *See Countervailing Duties*, 63 Fed. Reg. 65,348, 65,375-65,376 (Dep't Commerce Nov. 25, 1998) (final rule); *see also Stainless Steel Plate in Coils from Belgium*, 64 Fed. Reg. 15,567, 15580-15581 (Dep't Commerce Mar. 31, 1999) (final affirm. countervailing duty deter.) (cmts. 21-22).

194 *See* Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004) attached as **Exhibit VII-78**; *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) attached as **Exhibit VII-79**.

195 *See* Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State

tax liabilities incurred prior to December 31, 1997 that have not been paid by enterprises located in the Liaoning, Jilin and Heilongjiang provinces.[196] The scope of the tax forgiveness also includes "surcharges for overdue tax payment" – e.g., interest and penalties on the overdue taxes.[197] Significantly, the tax forgiveness applies to both state-owned and private enterprises.

As noted above, Yingkou Steel Structure Sub-Co. of Ansteel Construction Group is located in Liaoning Province.[198] The company is therefore eligible for, and may have benefitted from, this program.

a. Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China is a Countervailable Subsidy

(1) Financial Contribution

The tax exemptions and reductions provided under this program constitute financial contributions in the form of revenue foregone by the GOC consistent with section 771(5)(D)(ii) of the Act.

(2) Benefit

The effect of the Northeast Tax Forgiveness Program is to lower the tax burden on eligible enterprises located in the Northeast Region. The program, therefore, provides a benefit to the recipient in the amount equal to the taxes saved by the recipients under 19 C.F.R. § 351.509(a)(1).

Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004) attached as **Exhibit VII-78**; *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) attached as **Exhibit VII-79**.

196 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) at 1-2, attached as **Exhibit VII-79**.

197 *Id.* at 2.

198 List of Chinese FSS Producers, attached to Volume I of this petition as **Exhibit I-7**.

(3) Specificity

These benefits are specific under section 771(5A)(D)(iv) of the Act because the recipients are limited as a matter of designated geographical region, i.e., those enterprises that are located in the Liaoning, Jilin, and Heilongjiang provinces in Northeast China.

5. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment

Pursuant to China's WTO subsidies notification, the GOC offers preferential tax policies to domestic enterprises if they upgrade their manufacturing operations with Chinese-made equipment.[199] The notification provides that domestic enterprises which upgrade technology consistent with the GOC's industrial policies may deduct 40 percent of the purchase price of the domestic equipment from their next year's income tax obligation.[200] In those circumstances where the income tax due is less than 40 percent of the price of the equipment, the remainder of the price may be deducted in subsequent years, for a period of up to five years.[201] Although information on the ownership of Chinese FSS producers is not publicly available, Petitioner reasonably believes that at least several are domestically owned companies that likely purchase domestically produced equipment.

Petitioner notes that the GOC has claimed that this program was terminated effective January 1, 2008, pursuant to the *Circular on Relevant Issues with Respect to Ceasing Implementing of Income Tax Credit to Purchase of Domestically Produced Equipment by Enterprises*.[202]

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199 Committee on Subsidies and Countervailing Measures, *New and Full Notification Pursuant to Article XVI:1 of GATT 1994 and Article of the SCM Agreement for the People's Republic of China*, WTO Doc. G/SCM/N/123/CHN (Apr. 11, 2006), attached as **Exhibit VII-81**.

200 *Id.*; *see Line Pipe from China* IDM at 25.

201 Committee on Subsidies and Countervailing Measures, attached as **Exhibit VII-81**.

202 *Line Pipe from China* IDM at 25.

However, the Department should examine whether benefits under this program have terminated or whether benefits continue under a new name. To this end, the Department has previously determined that the GOC has not established that the program was terminated or that no benefits provided pursuant to it would continue to be countervailable in subsequent years as residual benefits.[203] Finally, while tax programs are generally treated as recurring subsidies,[204] there is reason to believe that this tax program should be treated as a non-recurring subsidy because it is contingent on one-time purchases of capital assets such that "the recipient cannot expect to receive additional subsidies under the same program on an ongoing basis from year to year."[205] Benefits received prior to the program's termination would therefore be allocable to the AUL period, including the POI in an investigation here.

a. Tax Credits for Purchasing Domestically Produced Equipment are Countervailable Subsidies

(1) Financial Contribution

The income tax credits in question constitute a financial contribution in the form of revenue foregone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

(2) Benefit

The income tax credits confer a benefit to the recipient in the amount of the tax savings from the program pursuant to section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1).

(3) Specificity

Because they are offered contingent upon the use of domestic over imported goods, the income tax credits are specific under section 771(5A)(C) of the Act.

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203 *Id.* at 78-79; *see IMTDC from China* IDM at 53.

204 *See* 19 C.F.R. § 351.525(c)(1).

205 *Id.* § 351.525(c)(2)(i).

F. Export Credit Subsidies

The Export-Import Bank of China provides export-contingent loans at preferential rates, and these programs appear to have grown in recent years. As a report of the U.S. Export-Import Bank recently found: "As two of the primary entities supporting {the One Belt, One Road strategy}, Sinosure and CEXIM are expected to continue providing significant volumes of official export credit in order to ease domestic oversupply and to help Chinese companies gain international experience and move up global value chains . . . ."[206] The Chinese FSS industry, moreover, expects to play a major role in the implementation of the One Belt, One Road strategy, one focus of which is using GOC investment in overseas infrastructure to create demand for relevant Chinese industries. Anhui Fuhuang, for example, explains in its 2017 Annual Report that "China's overall investment in 'One Belt, One Road' is expected to increase substantially, with basic infrastructure construction an important aspect, which will play a significant role in promoting Chinese sectors like construction materials and rebar, concrete, and glass."[207] According to recent reports in official media, the One Belt, One Road initiative has already led to significantly increased exports for the Chinese FSS industry, and the Export-Import Bank is actively supporting the efforts of Chinese FSS producers to expand in foreign markets, including in the United States.[208]

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

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206 Export-Import Bank of the United States, *Report to the U.S. Congress on Global Export Credit Competition* (June 2018) at 21, excerpts attached as **Exhibit VII-82**.

207 Anhui Fuhuang 2017 Annual Report at 31, excerpts attached as **Exhibit VII-41**.

208 *One Belt, One Road Helps Chinese Structural Steel Enterprises*, Xinhua (May 18, 2016), attached as **Exhibit VII-83**; *Export-Import Bank Shanghai Branch Issues Export Credit to Help Chinese Enterprises' Structural Steel Products 'Going Out'*, Shanghai Gov't Website (Sept. 18, 2018), attached as **Exhibit VII-84**.

loans are highly concessional.[209] 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.[210] 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.[211] A 2010 *Washington Post* investigation confirmed that such loans continue to be available with extremely low interest rates and terms beyond 20 years.[212] Further, 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."[213]

1. Export Seller's Credit

China's Export-Import Bank provides assistance to exporters through a variety of mechanisms, including an export seller's credit.[214] 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."[215]

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209 *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, excerpts attached as **Exhibit VII-85**; Takaaki Kobayashi, *Evolution of China's Aid Policy*, JBICI Working Paper (Apr. 2008), at 20, excerpts attached as **Exhibit VII-86**.

210 *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, excerpts attached as **Exhibit VII-85**.

211 *See* Takaaki Kobayashi, *Evolution of China's Aid Policy*, JBICI Working Paper (Apr. 2008) at 20, excerpts attached as **Exhibit VII-86**.

212 *See* John Pomfret, *China Invests Heavily in Brazil, Elsewhere in Pursuit of Political Heft*, The Washington Post (July 26, 2011), attached as **Exhibit VII-87**.

213 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, excerpts attached as **Exhibit VII-88**.

214 Export-Import Bank of China, Annual Report 2017 at 35, excerpts attached as **Exhibit VII-89**.

215 *See* Export-Import Bank of China, *Export Seller's Credit*, (website excerpt) attached as **Exhibit VII-90**.

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."[216] In addition, it has described the export seller's credit as "a loan with large amount, long maturity, and preferential interest rate."[217]

The export seller's credit is available for producers of new- and high-tech products, products with indigenous intellectual rights, self-owned brands, high value-added products, software products, and mechanical products.[218] To qualify for this credit, an exporter must have achieved $3 million in annual exports of listed products.[219] As of 2017, the Chinese Export-Import Bank's outstanding balance for export seller's credits was over RMB 250 billion.[220]

2. Export Buyer's Credit

The Export-Import Bank of China also assists FSS exporters through an export buyer's credit. As explained on the Export-Import Bank of China's website: "The Bank provides export buyers' credit to foreign companies for their import of Chinese product, technology and service. The loan is provided both in Chinese yuan and in foreign currencies."[221] In 2017, China EX-IM Bank's outstanding balance for export buyers' credits was nearly RMB 95 billion Export Buyer's Credits.[222] The export buyer's credit does not appear to be limited by type of credit, but the bank

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216 *Id.*

217 *Id.*

218 *Id.*

219 *See id.*

220 *See* Export-Import Bank of China Annual Report 2016 at 33, excerpts attached as **Exhibit VII-91**.

221 Export-Import Bank of China, *Export Buyers' Credit*, (website excerpt) attached as **Exhibit VII-92**.

222 Export-Import Bank of China Annual Report 2017 at 35, excerpts attached as **Exhibit VII-89**.

requires that the Chinese content of exported goods used in the project comprise no less than half of the contract's value.[223]

Additional information regarding FSS producers' customers' receipt of Export Buyer's Credits is not reasonably available to Petitioner. Indeed, as a result of the Government of China's repeated failures to cooperate in prior investigations, even the Department has been unable to fully understand the operation of the program.[224] However, as noted above, recent reports in the Chinese media confirm that the Chinese FSS industry is a major beneficiary of the Export-Import Bank's efforts to promote the One Belt, One Road initiative. The Department has investigated this program in many prior proceedings and should initiate an investigation of the program in this case as well.

3. 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(5)(D)(i) of the Act. The Department considers loans provided by special purpose government policy banks as direct loans from the government and thus direct financial contributions under the Act.[225]

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

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223 *See* Export-Import Bank of China Annual Report 2010 at 28, excerpts attached as **Exhibit VII-93**.

224 Issues and Decision Memorandum accompanying *Truck and Bus Tires from the People's Republic of China*, 82 Fed. Reg. 8606 (Dep't Commerce Jan. 27, 2017) (final affirm. countervailing duty deter., final affirm. critical circumstances deter., in part) at 30.

225 *CFS Paper from China* IDM at 8-9.

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."[226]

c. Specificity

The benefits conferred under these programs are specific as a matter of law under section 771(5A)(B) of the Act 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.

VIII. CONCLUSION

As discussed above, Chinese FSS producers are benefiting from countervailable subsidies that are causing material injury to the domestic FSS industry. Petitioner therefore requests that the Department initiate a countervailing duty investigation on imported FSS products 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.

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226 *Accession of the People's Republic of China*, WT/L/432 (Nov. 23, 2001) § I ¶ 15(b).

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-1	Simon Denyer, *Smog and mirrors? China's steel capacity cuts were fake, report says,* Washington Post (Feb. 13, 2017)	Public
VII-2	United States Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers* (2017)	Public
VII-3	Memorandum from Leah Wils-Owens to Gary Taverman, re: *China's Status as a Non-Market Economy* (Oct. 26, 2017)	Public
VII-4	*Policies for Development of Iron and Steel Industry*, Order of the National Development and Reform Commission No. 35 (July 8, 2005)	Public
VII-5	A Blueprint for Steel Adjustment and Revitalization Plan (Mar. 2009)	Public
VII-6	Wiley Rein LLP, The Reform Myth: How China Is Using State Power To Create The World's Dominant Steel Industry (Oct. 2010)	Public
VII-7	Lingna Yan, *China Issues 13th Five Year Plan for the Steel Industry*, King & Spalding (Nov. 22, 2016)	Public
VII-8	*Made in China 2025*, State Council (July 7, 2015)	Public
VII-9	*Steel Industry Adjustment and Upgrading Plan (2016-2020)*	Public
VII-10	*Guiding Opinion Regarding Vigorously Developing Prefabricated Construction*, State Council (2016)	Public
VII-11	*Guiding Opinion Regarding Hastening and Promoting the Development of Structural Steel Construction*, Anhui Office of Housing and Urban Development (Oct. 19, 2016)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-12	*Implementation Opinion of the General Office of the People's Government of Henan Province Regarding Vigorously Developing Prefabricated Construction*, Henan People's Gov't (2017) No. 153 (Dec. 7, 2017)	Public
VII-13	*Gansu Hastens Promotion of Development and Application of Structural Steel Construction*, Gansu Daily (Mar. 4, 2016)	Public
VII-14	*Guiding Opinion of the General Office of the People's Government of Guangxi Zhuang Autonomous Region Regarding Hastening the Expansion of Application of Structural Steel for Construction*, Guangxi People's Gov't (2016) No. 134 (Oct. 21, 2016)	Public
VII-15	*Guiding Opinion of the Sichuan Province People's Government Regarding Promoting Modernization and Development of the Construction Industry*, Sichuan People's Gov't (2016) No. 12 (Mar. 23, 2016)	Public
VII-16	*Guiding Opinion of the People's Government of Chongqing Municipality Regarding Hastening Expansion of Application of Structural Steel and Industrial Innovation and Development*, Chongqing People's Gov't (2016) No. 2 (Jan. 7, 2016)	Public
VII-17	*Implementing Opinion Of the People's Government of Nanjing Municipality Regarding Hastening and Promoting Modernization and Spurring Transformation and Upgrading of the Construction Industry*, Nanjing People's Gov't (2015) No. 246 (Dec. 1, 2015)	Public
VII-18	WTO, *Committee on Subsidies and Countervailing Measures: Request from the United States to China Pursuant to Article 25.10 of the Agreement*, G/SCM/Q2/CHN/53 (Oct. 19, 2015)	Public
VII-19	Dep't Treasury, Internal Revenue Service, Pub. 946 "How to Depreciate Property" (Feb. 28, 2018)	Public
VII-20	Michael Lelyveld, *China Steel Output Climbs Despite Capacity Cuts*, Radio Free Asia (Dec. 18, 2017)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-21	*Overcapacity in China: An Impediment to the Party's Reform Agenda*, European Chamber of Commerce (2016)	Public
VII-22	*Steel Industry Adjustment and Revitalization Plan* (Mar. 20, 2009)	Public
VII-23	*Several Opinions Regarding Further Expanding the Level of Energy Conservation and Emissions Reduction and Hastening Structural Adjustment in the Steel Industry*, Guo Ban Fa (2010) No. 34, State Council (June 4, 2010)	Public
VII-24	*Implementing Opinion of the People's Government of Inner Mongolia Autonomous Region Regarding Thoroughly Carrying Out the National Priority Industry Adjustment and Revitalization Plan* (Dec. 25, 2009)	Public
VII-25	*Notice of the Henan Province People's Government Regarding Publication of the Henan Province Steel Industry Adjustment and Revitalization Plan*, Yu Zheng (2009) No. 71 (Sept. 5, 2009)	Public
VII-26	*No Approvals for New Large-Scale Steel Production Capacity Projects This Year or Next Year*, China Securities Journal (June 17, 2010)	Public
VII-27	*Newly Discovered One Billion Ton Large Scale Iron Ore Allocated for Exploitation to Hebei Iron and Steel Group*, China Baike (Dec. 14, 2009)	Public
VII-28	*Striking Back – Chinese Steel Enterprises Break Ground on Independent Mining Territory*, People (June 7, 2010)	Public
VII-29	National Mineral Resources Plan (2016-2020)	Public
VII-30	Usha C.V. Haley and George T. Haley, Subsidies to Chinese Industry: State Capitalism, Business Strategy, and Trade Policy (2013)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-31	*China's WTO Compliance and Industrial Subsidies: Hearing Before the U.S.-China Economic and Security Review Commission*, 109th Congress (Apr. 4, 2006) at 47 (statement of Dr. Usha C.V. Haley, Director, Global Business Center, University of New Haven)	Public
VII-32	*China Country Commercial Guide – 7 – State Owned Enterprises*, Export.gov	Public
VII-33	Foreign Direct Investment in China: What the Figures Don't Tell Us	Public
VII-34	*China – Protection of Property Rights*, export.gov (July 25, 2017)	Public
VII-35	Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment," No. 40 (2005)	Public
VII-36	Jiangmen City Economic and Social Development 12th Five-Year Plan	Public
VII-37	GOC State Council, *Development Zones* (Mar. 18, 1988)	Public
VII-38	MOFCOM, *Caofedian Industrial Zone Overview*	Public
VII-39	13th Five Year Action Plan for Prefabricated Construction	Public
VII-40	*Ministry of Housing and Urban Development Circular Regarding Approval of the First Group of Prefabricated Construction Demonstration Cities and Industrial Bases*, MOHURD (2017) No. 771 (Nov. 9, 2017)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-41	Anhui Fuhuang 2017 Annual Report	Public
VII-42	*China Sets Aside $4 Billion to Finance Steel, Coal Capacity Cuts*, Reuters (May 19, 2016)	Public
VII-43	*China Launches $52.5 Billion Fund to Restructure State Enterprises*, Reuters (Sept. 26, 2016)	Public
VII-44	Don Weinland, *Chinese Banks Braced Over Industrial Restructuring*, Financial Times (Aug. 28, 2016)	Public
VII-45	Christian Shepherd, *China Outlines Rescue Plan for Bohai Steel*, Financial Times (Sept. 19, 2016)	Public
VII-46	*China Banks Agree Debt Restructuring Deal with Sinosteel: Bank of China*, Reuters (Dec. 9, 2016)	Public
VII-47	Chun-Wei Yap, *Bank of China Leads Bailout of Troubled Steel Trader*, Wall Street Journal (Dec. 9, 2016)	Public
VII-48	Zhang Yuzhe and Dong Tongjian, *Steel Company's Restructuring Draws Creditor Ire*, Caixin Global (Aug. 28, 2017)	Public
VII-49	*China Completes Merger that Creates Nation's Biggest Steel Company*, Reuters (Dec. 1, 2016)	Public
VII-50	Jiang Xueqing, *CCB Announces to Set Up Debt-to-Equity Swap Program*, China Daily (Oct. 12, 2016)	Public
VII-51	Wuhan Iron & Steel Co. 2015 Annual Report	Public
VII-52	Baosteel Construction Website – Company Background	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-53	*Notice Regarding Publication of the Measures for Compilation and Reporting the Central State Capital Operating Budget*, Ministry of Finance [2017] No. 133 (Sept. 26, 2017)	Public
VII-54	*Notice of the Ministry of Finance Regarding Compiling and Reporting Draft Recommendations for the 2015 Central State Capital Operating Budget*, Ministry of Finance (2014) No. 175 (July 31, 2014)	Public
VII-55	Ministry of Finance, *Report on the Execution of the Central and Local Budgets for 2017 and on the Draft Central and Local Budgets for 2018*, 1st Session of the 13th National People's Congress of the People's Republic of China (Mar. 5, 2018)	Public
VII-56	SASAC Central State-Owned Enterprise List	Public
VII-57	China Baowu Group 2018 First Half Financial Statement	Public
VII-58	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 Agreement on Subsides and Countervailing Measures: China: Supplement*, WTO Doc. G/SCM/N/95/CHN/Suppl.1, G/SCM/N/123/CHN/Suppl.1, G/SCM/N/155/CHN/Suppl.1, G/SCM/N/186/CHN/ Suppl.1, G/SCM/N/220/CHN/Suppl.1, G/SCM/N/253/CHN/Suppl.1, G/SCM/N/284/CHN/ Suppl.1, (July 29, 2016)	Public
VII-59	Baosteel Group Website – Profile – Brief Introduction	Public
VII-60	Modern Heavy Industries (Taicang) Co., Ltd Website – About Us	Public
VII-61	Sinoma Tangshan Port Equipment Manufacturing Co., Ltd Website – Profile	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-62	Initiation Checklist, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China* (DOC Case. No. C-570-936) (Apr. 23, 2008)	Public
VII-63	Department of Finance of Liaoning Province, Provisional Administrative Measures on Hi-Tech Products and Equipment Manufacturing Products Export Financial Assistance of Liaoning Province (Liaocaiqi 2004 No. 671) (Dec. 16, 2004)	Public
VII-64	Baoshan Iron & Steel 2017 Annual Report	Public
VII-65	*Notice of the Ministry of Finance and the Ministry of Commerce Regarding Publication of the Measures for the Administration of the Export Interest Subsidy Fund*, Ministry of Finance (2012) No. 142 (June 11, 2012)	Public
VII-66	Beijing Shougang 2017 Annual Report	Public
VII-67	*General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China*, IP Channel, (Feb. 9, 2010)	Public
VII-68	*General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China*, (last accessed July 24, 2017	Public
VII-69	Opinions about Expeditious Implementation of Famous Brand Strategy of General Administration of Quality Supervision, Inspection and Quarantine of The People's Republic of China (June 26, 2006)	Public
VII-70	Sinohydro Jiajiang Hydraulic Machinery Co., Ltd. Webside – About JHMW	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-71	Initiation Checklist, *Certain Iron Mechanical Transfer Drive from the People's Republic of China* (DOC Case No. C-570-031) (Nov. 17, 2015)	Public
VII-72	*See* Notice Concerning the Promulgation and Circulation of "Measures for the Administration of National Key Technological Renovation Projects" and "Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects" Guo Jing Mao Touzi 1999 No. 886 (Sept. 10, 1999)	Public
VII-73	Rules of Jiangxi Province on the Administration of Industrial Enterprise Technology Renovation Project Loan Interest Subsidy Fiscal Fund (July 15, 2002)	Public
VII-74	*Provisional Measures for the Administration of Subsidy Funds for Energy Conservation and Emissions Reduction*, Ministry of Finance (2015) No. 161 (May 12, 2015)	Public
VII-75	*Provisional Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity*, Ministry of Finance (2007) No. 873 (Dec. 11, 2007)	Public
VII-76	*Notice Regarding Publication of the Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity*, Ministry of Finance (2011) No. 180 (Apr. 20, 2011)	Public
VII-77	*Enterprise Income Tax Law of the People's Republic of China*, No. 63 (Mar. 16, 2007)	Public
VII-78	Notice of Implementation of Preferential Policies Regarding Enterprise Income Tax for Revitalization of Enterprises in the Old Industrial Bases in the North-Eastern Region by The Ministry of Finance and State Administration of Taxation, Cai Shui {2004} No. 153 (Sept. 20, 2004)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-79	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)	Public
VII-80	*Preferential Income Tax Policy for Northeastern Enterprises Became Effective, 96.84 Million Yuan of Taxes Waived*, Xinhua (Oct. 22, 2004)	Public
VII-81	Committee on Subsidies and Countervailing Measures, *New and Full Notification Pursuant to Article XVI:1 of GATT 1994 and Article of the SCM Agreement for the People's Republic of China*, WTO Doc. G/SCM/N/123/CHN (Apr. 11, 2006)	Public
VII-82	Export-Import Bank of the United States, *Report to the U.S. Congress on Global Export Credit Competition* (June 2018)	Public
VII-83	*One Belt, One Road Helps Chinese Structural Steel Enterprises*, Xinhua (May 18, 2016)	Public
VII-84	*Export-Import Bank Shanghai Branch Issues Export Credit to Help Chinese Enterprises' Structural Steel Products 'Going Out'*, Shanghai Gov't Website (Sept. 18, 2018)	Public
VII-85	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)	Public
VII-86	Takaaki Kobayashi, *Evolution of China's Aid Policy*, JBICI Working Paper (Apr. 2008)	Public
VII-87	John Pomfret, *China Invests Heavily in Brazil, Elsewhere in Pursuit of Political Heft*, The Washington Post (July 26, 2011)	Public
VII-88	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)	Public

EXHIBIT LIST		
EXHIBIT NO.	**DESCRIPTION**	**STATUS**
VII-89	Export-Import Bank of China, Annual Report 2017	Public
VII-90	The Export-Import Bank of China, *Export Seller's Credit*, (website excerpt)	Public
VII-91	Export-Import Bank of China, Annual Report 2016	Public
VII-92	The Export-Import Bank of China, *Export Buyers' Credit*, (website excerpt)	Public
VII-93	Export-Import Bank of China Annual Report 2010	Public