PART C

SUPPLEMENTARY SECTION

APPLICATION FOR ANTI-DUMPING and COUNTERVAILING DUTIES

ALUMINIUM ROAD WHEELS exported from the People's Republic of China

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Executive Summary for Part C – Subsidy.

ROH has examined the Government of China's ("GOC") broad policy approach to encouraging investment in manufacturing (specifically, ARWs). The GOC has identified key industry sectors that it considers are essential to economic growth of the Chinese economy. The GOC's most recent 2007 *Catalogue for the Guidance of Foreign Invested Industries* nominates the "metal product industry" and "manufacturing of casting and forging blanks for cars" as encouraged industries.

The GOC has encouraged investment in industries where China does not have a comparative advantage.

The cost of production for Chinese manufacturers in sectors where the GOC has intervened is lower than it would otherwise be, resulting in artificially low selling prices – both domestic and export.

ROH has researched the GOC programs that provide benefits to enterprises engaged in the manufacture and export of ARWs in China.

The benefits ensure that the enterprises do not encounter the same establishment and ongoing business expenses that would apply if they were established in a normal market economy country. Importantly, the GOC programs provide incentives for enterprises to operate from within China from an artificially low cost base. The artificially low cost base translates into artificially low domestic and export selling prices, the latter being disruptive on global markets through price undercutting and loss of sales volumes by domestic manufacturers in importing countries, including ROH in Australia.

ROH has researched the broad range of benefits available to ARW enterprises whether foreign-invested enterprises ("FIEs") or local, that undertake activities and investments in accordance with the GOC programs.

ROH's listing of the range of subsidies includes identification of the scope of the subsidy program, the program title, legislative provision, authority for the program and, where possible, the source of the information together with an explanation of the quantifiable benefit. ROH has referred to numerous sources including the World Trade Organisation's library.

The subsidies identified are included in the following categories:

(i) Materials – for primary aluminium at less than adequate remuneration;
(ii) Policies for encouraged industries – details policy outlines and objectives;

(iii) Preferential taxation policies – range of taxation reductions/exemptions;
(iv) Geographical benefits – taxation benefits, grants and fees due to geographical location;
(v) Provincial and Zone benefits – administered by local and provincial governments;
(vi) Equipment and Capital benefits – exemptions/reductions on import duties, VAT and other;
(vii) Industry specific benefits – including reduced interest loans and preferential taxes;
(viii) VAT – specific exemptions;
(ix) Development and Technology – low interest loans and grants;
(x) Export and Brand – range of grants linked to performance.

ROH has identified five major exporters of ARWs to Australia including their respective related entities that are manufacturers, distributors and/or exporters of ARWs to Australia in 2009, and has linked GOC subsidy programs received or receivable by thirty-three Chinese ARW exporters.

ROH has identified the individual subsidies receivable by Chinese exporters of ARWs to Australia. The subsidies are specific subsidies, administered by the GOC under particular identified programs. The received subsidies provide a benefit to the manufacturing/exporting enterprise that permits export prices to Australia to be priced at levels lower than they otherwise would be and 'pass-through' of the specific subsidy is evident.

It is ROH's view that the aggregation of the individual subsidies for each exporter will be assessed at above negligible values and therefore will be countervailable.

C-1 Subsidy

1. **Identify the subsidy paid in the country of export or origin. Provide supporting evidence including details of:**
   (i) the nature and title of the subsidy;
   (ii) the government agency responsible for administering the subsidy;
   (iii) the recipients of the subsidy; and
   (iv) the amount of the subsidy.

Prior to addressing items (i) through (iv), ROH submits the following commentaries relating to PRC subsidies as they are considered directly relevant to the claims made by ROH of the existence of specific subsidies paid and payable by the GOC, and they provide relevant background about the subsidies identified by ROH.

1.1 - Excerpt from the minutes of the regular meeting of the Committee on Subsidies and Countervailing Measures held on 20 October 2009, to be circulated as document G/SCM/M/71.

World Trade Organisation G/SCM/M/71 5 February 2010 (10-0678)
www.wto.org/english/tratop_e/scm_e/scm_e.htm .

"TRANSITION REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.

The delegate of the United States indicated that, as the United States had highlighted in prior submissions to the Committee, provincial and local authorities in China played a very important role in implementing industrial policy, including subsidy policy. Recent academic literature, for example, indicated that local governments were responsible for nearly 20 per cent of China's investment, much of which was misdirected into sectors with excess capacity, such as steel. Therefore, the notification of sub-central government measures by China was imperative. The timeliness of China's subsidy notifications was also of obvious concern. China lagging behind for four years in providing its subsidy notifications was particularly troubling because some of China's subsidy programmes expired after two years. Given this fact, the delays in China's subsidy notifications effectively denied members' ability to analyze and meaningfully question China's subsidy programmes.

While China had provided some limited information with respect to its national five-year plans, it appeared as though it had not provided any information with respect to the industrial policies and programmes of sub-central government entities. The delegate of the United States therefore requested that China identify and provide citations to all of the current provincial five-year plans and current provincial programmes and policies at least for all sectors that the central government had deemed as basic, pillar, strategic or key industry (e.g., telecommunications, civil aviation, machinery, autos, steel, base metals, chemical, etc.).

The United States and other WTO Members had raised numerous questions over the years with respect to what had appeared to be unreported subsidy programmes at various levels of government that were contingent upon export performance or the use of domestic over imported goods. The United States continued to find these types of measures. It was particularly troubling, as the end of the period for the transitional review mechanism was approaching, to see China taking what seemed to be steps backward rather than forward, by implementing what appeared to be new prohibited subsidy programmes at nearly all levels of government.

A third obligation undertaken by China upon joining the WTO was that it would not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, as set forth in paragraph 46 of the Working Party on China's Accession. The delegate noted that the approximately 150 SOE holding companies owned by the State Assets Supervision and Administration Commission ("SASAC") controlled thousands of companies across a wide range of industries and accounted for most of the profits in the SOE sector. Further, as had been noted in the last transitional review exercise, the General Office of the State Council established a mechanism by which profits from SOEs would fund the re-organization of state-owned enterprises, consistent with national industrial policies and planning. China had not, in last year's trade review mechanism, addressed the fundamental issue of how state-owned enterprises could operate on a purely commercial basis when they had to make investment decisions in accordance with government industrial policy. If China's ownership and management decisions were not based on commercial considerations, subsidy issues could arise.

Finally, the delegate of the United States noted that China was obligated to notify to the Committee the application of any price controls and the reason for their use. In the context of the significant rise in international oil prices the last year, it had been widely reported and acknowledged by the Chinese Government that the price of oil products had been held down by the government and that Chinese refineries received significant subsidies to cover their losses.

The delegate of the European Communities noted that the EC trade defence investigating authorities continued to uncover subsidy schemes, in particular in the steel sector. The existence of these subsidies had been confirmed by a number of independent studies and by the rapid growth of China's steel exports in recent years.

China's continued failure to submit a complete subsidy notification in due time left WTO Members with only one of two options: to tolerate China's disregard for the legitimate interests of its trading partners regarding transparency and notification requirements; or to resort to formal dispute settlement proceedings – a path – one could assume – both sides would prefer to avoid. Moreover, China appeared to use a practice whereby it restricted the export of certain raw materials which in turn depressed the prices of those raw materials when used in the downstream manufacturing industry. This practice could effectively amount to a subsidization of inputs for certain downstream products, and was often coupled with various incentives for exports of the downstream product.

Canada shared the United States' concerns about China's industrial policies and their linkages with respect to subsidisation. Canada's concerns centred on the high degree of intervention of the Chinese government in the direction and decision-making regarding the allocation of resources into and out of its steel industry, including subsidisation. Canada therefore shared the United States' interest in learning more about the relationship between China's national five-year plans and specific government policies.

The delegate of China at this time had difficulties in providing a specific time schedule for the submission of a notification that contained sub-central measures, but noted that China's progress in submitting the first and second notifications had enhanced its confidence and would enable China to concentrate better its future efforts in fulfilling this difficult task.

With respect to industry policy administration, the delegate of China first provided explanations on China's national five-year plans. The national five-year plans were blueprints of the overall social and economic development of the nation to be achieved in every five years period. The plans were approved by the National People's Congress and implemented by the State Council or the Central Government. Likewise, local five-year plans of an administrative region at or above county level were approved by the corresponding local people's congresses.

The delegate of China explained that industrial policies were general guidelines for development of certain industries in order to achieve development goals envisaged in the five-year plans.

The delegate of China noted that local governments could draft their own industrial development plans, but that these plans had to be in line with the industrial policies at the national level. As general guidelines, industrial policies contained no specific subsidy programmes. For a subsidy programme to exist there would have to be an administrative measure specifying at least the financial contribution and its utilization.

In China's view, the observance of industrial policies by state-owned enterprises did not preclude such enterprises from operating on a commercial basis.

The delegate of China noted that the provision of free or underpriced land used to be a kind of subsidy offered by local authorities to investors, largely foreign investors, in the early years of China's opening up, but indicated that this had no longer been the case the delegate of the United States considered that it was particularly disturbing that China would not be notifying subsidies at the sub-central level in that notification, given that the United States had raised the issue in the Committee for several years and that notifying these is critically important. For these reasons, the delegate of the United States noted that it was disturbing that the central government was still unable to provide a timetable on when sub-central subsidy measures would be notified.

With regard to the five-year plans, the delegate of United States noted with interest the indication by the delegate of China that all five-year plans at all levels of government were available on the internet. The United States had been unable to find most provincial-level five-year plans, not to mention plans at more local levels and expressed interest in obtaining the websites from China.

While the United States accepted China's point that the five year plans were not exclusively about subsidy programmes, it noted that it was also clear to the United States that the five-year plans - especially at the sub-central levels – did in fact provide subsidies that needed to be notified to the SCM Committee.

In the view of the United States, science and technology funding programmes constituted potential actionable subsidies and hence were an appropriate subject for the SCM Committee.

The delegate of the European Commission expressed appreciation at China's efforts to include subsidies at sub-central level in the next notifications but regretted that China would not do so in its coming subsidy notification. The European Communities was especially concerned about subsidies in the steel sector and requested China to do its utmost to include subsidies to this sector at the sub-federal level in the next notification. The inclusion of subsidies at sub-federal level being part of China's obligations under the WTO Agreement, it was unacceptable that China had not been able to do so in its notifications, eight years after its accession to the WTO. The delegate of the European Communities also noted that the delegate of China had not commented on the European

Communities' last question concerning the practice (identified as part of EC trade defence investigations) which restricted the export of certain raw materials and which could confer a subsidy on the downstream product.

With respect to the question posed by the European Communities concerning export administration measures, China did not have a very clear position at this stage. In China's view, export administration measures were not an issue directly relevant to the SCM Agreement. Whether such measures might constitute subsidies to downstream industries was an issue to be further studied.

The delegate of the United States reiterated that the US delegation had not been able to identify all the relevant websites of provincial governments containing their five year plans even after conducting Chinese language research. The United States had been able to identify the websites for some of the relevant provinces, but not for most of them. In addition, locating plans below the provincial levels was extremely difficult. The delegate of the United States reminded China of its obligation, under its Protocol of Accession to provide these plans. The delegate of the United States suggested that the United States and China work informally through their Geneva representatives to obtain the website information.

The delegate of China considered that there was no need for future cooperation concerning the websites. The 32 provincial level regions in China's mainland all had their own official government websites, which were not difficult to locate. No further information was provided with respect to plans below the provincial level."

It is evident from the meeting notes of the WTO Committee on Subsidies and Countervailing Measures of October 2009 that the GOC has not been forthcoming with the identification of various subsidies that the Committee considers are actionable subsidies under the WTO Subsidies Agreement. The identification of the subsidies was a commitment that the GOC undertook to provide following its accession to the WTO in 2001.

1.2 - 2009 Report to Congress of the U.S.-China Economic and Security Review Commission, November 2009.

www.uscc.gov/annual_report/2009/annual_report_full_09.pdf

"CHAPTER 1, SECTION 3: CHINA'S INDUSTRIAL POLICY AND ITS IMPACT ON U.S. COMPANIES, WORKERS, AND THE AMERICAN ECONOMY.

Introduction.

China has a process to develop and implement Five-Year Plans that identify broad goals—such as attracting foreign investment. The process then develops tools to accomplish those objectives—such as providing subsidies to companies to spur investment in plants, equipment, and technology.

While China prefers to be considered a market-oriented economy, it continues to engage in comprehensive economic planning, direction, support, and control from the central government. This reality undermines China's claim that its economy is market driven rather than directed by government policy.

China's overall industrial policy for realizing this goal is characterized by three main parts: (1) the creation of an export-led and foreign investment-led manufacturing sector; (2) an emphasis on fostering the growth of industries such as high-technology products that add maximum value to the Chinese economy; and (3) the creation of jobs sufficient to reliably employ the Chinese workforce, thereby allowing the Chinese Communist Party to maintain control. China adopts, modifies, and abandons other economic policies in order to meet these primary goals.

China has designated certain industries that are to remain government owned and others that are to remain government controlled. Both are to be favoured with direct and indirect subsidies. (For more information on China's strategic industries, see chap. 1, sec. 2, of the Commission's 2007 Annual Report to Congress.)

China's goal of attracting foreign companies to invest in China has been combined successfully with its goal of nurturing state owned enterprises, most notably in the manufacturing of automobiles.

China transformed itself in just two decades from a nation of bicycles to the largest producer and consumer of cars in the world. Over the years, China has used subsidies and tax incentives both to attract foreign investment and to facilitate growth among favoured industries. At the same time, China has instituted a variety of barriers to trade in order to protect domestic industry from foreign competition.

Finally, China's currency, labor, and environmental practices and laws as well as other policies provide further support to domestic industries.

Governments at all levels in China are required to follow the State Council's Five-Year Plan creating an *actual advantage* for Chinese goods in the global marketplace.

China Promotes Domestic Industries.

China's policies for promoting domestic industries have evolved over the years from providing simple land and energy subsidies to offering sophisticated tax-reduction measures and technology transfer incentives, as well as a variety of other measures. China uses foreign direct investment to achieve greater domestic growth through exports but also for access to foreign technology.

The main driver of exports out of China has been foreign-invested enterprises (both foreign owned and joint ventures), which accounted for roughly 55 percent of the total exports in 2008 (or $790 billion), according to Terence Stewart, a Washington trade attorney who studies China's industrial policy and export promotion. For example, two-thirds of the growth in exports of electronic information products from China in 2007 originated from foreign-owned companies, and one-sixth was from joint ventures.

But it is also clear from China's industrial policy that promoting joint ventures and foreign investment is not Beijing's ultimate goal. A large and/or globally dominant state-owned and -controlled sector is the actual goal.

Subsidies.

China has long provided subsidized energy and water to many manufacturers, despite the fact that China must import large quantities of oil and gas and already has very limited supplies of water for agricultural purposes. Also, many manufacturers have been offered free or discounted land, particularly in the vast, government-run industrial parks. Today, China's subsidies still include free land and discounted electricity, but support for business is also growing more subtle and harder to detect. This support includes tax incentives for investment, funding for research and development, refunds of value added taxes (VAT) on exports, and the construction of strategically planned industrial parks in favoured locations.

China's desire to control and guide the development of key industries is singular, but the goals of this support vary substantially from industry to industry. In some cases, the Chinese government is seeking to upgrade the industry's technological sophistication, while in others it is trying to ensure that its companies have the financial means to secure needed resources for China. The study concludes that the Chinese government has the necessary leverage to compel firms to act, because usually the majority or primary owner of each firm is a state owned enterprise.

Industries identified by the People's Republic of China as "strategic" and "heavyweight" include :'

1. Armaments;
2. Machinery;
3. Power Generation & Distribution;
4. Automobiles;
5. Oil & Petrochemicals;
6. Information technology;
7. Telecommunications;
8. Construction;
9. Coal;
10. Iron, steel and non-ferrous metals;
11. Civil aviation;
12. Shipping.

Some subsidies are exclusive to domestic companies. For example, China's state-owned banking sector is directed by the Chinese government and by Chinese Communist Party officials to make loans directly to Chinese companies. These loans are offered at below-market interest rates and are issued without expectation of repayment.

China's export subsidies and the special treatment for Chinese owned companies violate China's obligations as a member of the World Trade Organization. The U.S. government has tried to deal with the distorting effect of Chinese subsidies, with some limited success. In December 2008, the United States, along with Guatemala and Mexico, initiated a WTO case concerning measures offering grants, loans, and other incentives in support of China's "Famous Brands" programs. The purpose of the "Famous Brands" program is to promote the recognition and sale of Chinese brand products overseas. The U.S. government charged that these programs utilize various export subsidies, including cash grant awards, preferential loans, research and development funding to develop new products, and payments to lower the cost of export credit insurance. At the time of the writing of this Report, the decision was still pending.

Starting in 2007, representatives of the U.S. paper, steel, tires, furniture, and chemical industries alleged injury from Chinese subsidies and petitioned the administration for relief in the form of countervailing duties. The U.S. Department of Commerce determined that certain Chinese subsidies violated U.S. countervailing duty laws, and by August of 2009, it initiated 19 investigations and issued 11 countervailing duty orders concerning China, with eight other investigations currently pending.

Income Tax Preferences.

For years, foreign investors in China have benefited from investment incentives such as tax holidays and grace periods. For years, the Chinese government has made income tax preferences available to foreign-invested firms in connection with their purchase of domestically manufactured equipment. A similar measure has made an income tax refund available to domestic firms for purchases of domestically manufactured equipment for technology upgrading. These measures have encouraged foreign investment and promoted the purchase of domestic goods over foreign imports.

In February 2007, the United States and Mexico requested consultations with China concerning measures granting refunds, reductions, or exemptions from taxes and other payments owed to the Chinese government by enterprises in China. The U.S. government argued that these Chinese government tax regulations constituted illegal (WTO inconsistent) import and export subsidies to various industries in China (such as steel, wood, and paper) that distort trade and discriminate against imports. This WTO dispute was settled with the signing of a memorandum of understanding in which China agreed to end all of these preferential tax incentives by January 1, 2008. At the time of the writing of this Report, there have been no complaints that China has not been fulfilling its obligations under this memorandum of understanding. (For more details about this case, see chap. 1, sec. 1, of this Report.)

In March 2007, China passed a new corporate income tax law to comply with the conditions of the memorandum of understanding. This law is also structured to steer the economy away from low skilled, labor-intensive manufacturing. The new law went into effect on January 1, 2008, imposing a unified, 25 percent corporate tax rate that applies to both foreign and domestic corporations. The uniform tax code will be phased in over a five-year period, raising the tax rate for foreign-invested enterprises from 15 percent in 2007 to 25 percent by 2012. However, the law includes exceptions in the application of the new rate on qualified, high-technology companies registered in special economic zones, or companies investing in agriculture, or public infrastructure projects, or environmental protection, or energy/water conservation projects. For those types of companies; the tax rate will still be 15 percent.

The Value Added Tax.

China has consistently used the value added tax as an instrument of industrial policy, applying the VAT selectively to penalize imports and to encourage exports. The VAT, which has been adopted by 140 countries, including most industrialized countries other than the United States, is applied to manufactured goods at each stage of production. China levies a 17 percent VAT on the value of most goods. However, this 17 percent rate is rebated selectively on exports and applied to all imports.

Based on the most recent data compiled by the Trade Lawyers Advisory Group, the VAT disadvantage to U.S. producers and exporters as a of China's discriminatory application of the VAT is estimated at $55 billion in 2008.

China applies different rules for rebating its VAT in order to promote select industries. Following are examples of other VAT rebate programs provided by the Chinese government with that intent, as they have been identified by the U.S. Department of Commerce in the course of subsidies investigations:

- The government of China refunds the VAT on purchases by foreign-invested enterprises of certain domestically produced equipment. Producers are only required to present documents showing foreign-invested enterprise status in order to receive the rebates.

- The Chinese government exempts both foreign-invested enterprises and certain domestic enterprises from the VAT and from tariffs on imported equipment used in their production facilities. The objective of the program is to encourage foreign investment and to introduce foreign advanced technology equipment and industry technology upgrades.

- High-technology or labor-intensive enterprises in select Economic Development Zones with investment over 3 billion Renminbi (RMB) ($438 million) and more than 1,000 local employees may be refunded 25 percent of the VAT paid on domestic sales (the percentage of the tax received by the local government) starting in the first year the company has production and sales. The VAT refund can continue for five years.

Starting in 2007, the Chinese government has been reducing the VAT rebate on exports of labor-intensive goods in an effort to direct the economy away from low-end production and more toward high value-added exports. However, this policy was reversed late in 2008 as part of China's stimulus program, to increase Chinese exports and to preserve jobs in low-end manufacturing, such as textiles and apparel. In particular, in December 2008 the Chinese government raised VAT rebates to 27.9 percent on 3,770 types of exported goods. Value-added taxes for businesses subsequently were cut 120 billion RMB ($17.5 billion), and rebates have been expanded to cover up to 30 percent of Chinese exported goods. Some excise taxes have also been reduced. (For more details on China's stimulus plan, see chap. 1, sec. 2, of this Report.)

China's Policies to Protect Domestic Industries.

Export Restrictions.

Export restrictions or export quotas, especially on energy and raw materials, have two general effects: First, they suppress prices in the domestic market for these goods, which lowers production costs for industries that use the export-restricted materials; and second, these restrictions increase the world price for the raw materials that are affected by limiting the world supply, thereby raising production costs in competing countries.

The USTR's 2009 report on foreign trade barriers concludes that "China's export restrictions affect U.S. and other foreign producers on a wide range of downstream products such as steel, chemicals, ceramics, semiconductor chips, refrigerants, medical imagery, aircraft, refined petroleum products, fiber optic cables, and catalytic converters, among many others."

In June 2009, the Obama Administration initiated a WTO case against China over export restraints on numerous important raw materials. U.S. officials have been concerned for years about export restraints on raw materials from China and, in cooperation with European and Japanese officials, have held regular bilateral and multilateral discussions with Chinese officials since China joined the WTO, before the WTO's Import Licensing Committee. The USTR reports that these efforts had no effect and that China in fact increased export restraints on raw materials over time. According to the USTR, "China's measures appear to be part of a troubling industrial policy aimed at providing a substantial competitive advantage for the Chinese industries using these inputs." Others have reported concerns that China's export restrictions are part of a larger effort to stockpile resources in order to insulate China from sudden fluctuations in global commodities markets and to increase China's ability to influence those markets.

Technology Transfers.

General Market Conditions that Favour Relocation to China.

China has made it profitable for companies from around the world to move production facilities to China and more recently to expand research and development there as well. "In particular," said Ralph E. Gomory, a research professor at New York University's Sloan School of Business, "China is wisely exploiting the fact that the capabilities of today's global corporations are available to the bidder who offers the highest profit." The result has been to create jobs in China, particularly in export industries.

Impact of China's Industrial Policy on the U.S. Economy.

One of the principal strengths of the U.S. economy has always been the ingenuity of its inventors, scientists, and engineers and the vigour of its entrepreneurs. As American ideas and inventions became commonplace around the world, new U.S. innovators came up with new ideas. Rather than depend on protecting national technologies from competition, the United States has instead relied on constant innovation.

China's industrial policy has had a profound effect on international trade and the U.S. economy. The explosive growth of exports out of China since the Deng Xiaoping reforms and the outsourcing of production by U.S. companies to China have been well documented by this Commission. China's trade balance with the United States went from a deficit of $2.7 billion in 1980 to a surplus of $268 billion in 2008. Since 1980, the United States has run a cumulative trade deficit with China of approximately $1.9 trillion. The effectiveness of China's industrial policy in creating an actual advantage for Chinese exporters while protecting China's import-sensitive industries can be seen, in part, by the growth of China's exports to the United States over the past 30 years and particularly since 2001. In a study conducted for the Commission by Charles McMillion of MBG Information Services, looking into total bilateral goods trade between the United States and China, U.S. producers enjoyed surpluses with China in only 27 industries in 2001 while suffering a deficit in 70. By 2008, U.S. surpluses existed in only 20 industries and deficits in 77.*

The impact of trade and competition with China has been devastating to specific industries and local communities throughout the United States. The Commission has held numerous hearings around the country on the impact of trade with China on local economies. For example, Chinese exports of textiles, clothing, and furniture to the United States have severely damaged North Carolina's three signature manufacturing industries. By 2003, China's share of the U.S. market for bedroom furniture was 53 percent, despite the great distance involved and the lack in Asia of the maple and oak that Americans prefer in their furniture. The Chinese advantage, however, was due largely to predatory pricing.

Conclusions.

- China's economic reforms were not based on traditional free market principles. China's policy during the past 30 years has instead relied on a government-directed industrial policy to promote certain segments of the economy over others and to promote export-led growth.

- China's more recent Five-Year Plans have shifted the emphasis away from labor-intensive operations and toward increasing the production of high-technology goods. China has matured as a manufacturer and assembler of advanced technology products and as a consumer of electronics and information technology products. The low cost of labor along with government investment in high-tech industrial parks—and a variety of direct and indirect subsidies—created an attractive environment for foreign companies to invest in China, particularly after China joined the WTO in 2001.

- China provides subsidized land, energy, and water to many foreign manufacturers who relocate their operations in China. By providing these benefits, along with a cheap labor force without the ability to bargain collectively or join independent unions, the Chinese government has created a low-cost haven for foreign manufacturers. China's subsidies have grown over the years and now include tax incentives and preferential loans, which further reduce the cost of investing in China.

- China has consistently used a 17 percent value added tax (VAT) as an instrument of industrial policy. China selectively rebates the VAT when a domestic manufacturer exports but imposes it on imports. The United States, on the other hand, does not use the VAT and is not allowed by WTO rules to rebate income taxes on exports. China's VAT policy therefore places U.S. exports at a distinct disadvantage.

- The U.S. government has filed a variety of WTO cases against China's barriers to trade. These WTO cases, while important, are very industry specific, time consuming, and fail to have an impact on the trade-distorting aspects of China's industrial policy or to deal with the underlying causes of the U.S.-China trade deficit. Tackling the systemic trade imbalances between China and the United States through WTO mechanisms will not address broader issues such as environmental pollution or workers' rights abuses. The U.S. government will have to find alternative venues in which to address such matters.

* For more details, see MBG's study, "China's Soaring Commercial and Financial Power: How it is affecting the US and the World," posted on the Commission's Web site at http://www. *uscc.gov/researchpapers/2009/MBG%20Info%20Svs%20US-China%20Trade%20Report%20I%20 FINAL%20June%202009.pdf.*"

ROH considers that the United States Senate has identified the key instruments that the GOC utilises to promote certain industrial sectors via the alteration of the enterprise tax rate, the VAT rebate rate applicable to products, the provision of land etc., that have contributed to Chinese manufacturers being able to sell domestically and for export at artificially low prices.

1.3 - Foreign investment catalogues and investment environment in China.

China Law Update March 19, 2009. www.lawrwx.fyfz.cn

"On 23 December 2008, the National Development and Reform Commission ("**NDRC**") and Ministry of Commerce ("**MOFCOM**") of People's Republic of China jointly issued "Catalogue of Foreign Investment Advantageous Industries in Central and Western China" ("**Central and Western Catalogue**"), which became effective on 1 January 2009. This marks the second revision to the Central and Western Catalogue since its first promulgation in 2000 (the previous revision occurred in 2004). The Central and Western Catalogue was issued to supplement the *Foreign Investment*

Industrial Guidance Catalogue ("**Guidance Catalogue**") which was jointly revised by NDRC and MOFCOM on 31 October 2007 and became effective on 1 December 2007. Guidance Catalogue was first promulgated in 1995 with updating in 1997, 2002, 2004 and most recently in 2007.

Guidance Catalogue and Central and Western Catalogue are the basic blueprint for foreign investment in China. Sectors falling within different categories have different investment policies for foreign-invested enterprises. There are three basic categories in the Guidance Catalogue: "encouraged", "restricted", "prohibited". Industries not listed in Guidance Catalogue are deemed to be "permitted", all industries listed in Central, and Western Catalogue shall be deemed as encouraged categories. In addition, the aforementioned two catalogues have different application scope, Guidance Catalogue is applicable in full China, Central and Western Catalogue is only applicable in 21 provinces, autonomous regions and municipalities located in central and western China.

Catalogues Consequences.

The two catalogues affect the tax incentives, approval requirements and market entries for foreign investors dramatically by classifying the sectors in which foreign investors intend to invest.

1. Tax Incentives.

Foreign-invested enterprises in the sectors falling into encouraged categories can enjoy certain tax preferences. Foreign-invested enterprises engaged in the industries falling into the encouraged categories of Guidance Catalogue or listed in Central and Western Catalogue can enjoy exemption from customs duty for imported equipment for self-use, including the corresponding technology, accessories and spare parts. Moreover, foreign-invested enterprises in central and western China belonging to the industries listed in the Central and Western Catalogue can enjoy the reduced income tax rate of 15% from 2001 to 2010, provided that their major business income at least account for 70% of their total income.

Catalogues Changes.

1. Guidance Catalogue.

There are 478 sectors in sum listed in Guidance Catalogue including 351 encouraged sectors, 87 restricted sectors and 40 prohibited sectors. Compared with its 2004 counterparts, 94 encouraged sectors, 9 restricted sectors and 5 prohibited sectors have been added in the Guidance Catalogue.

In order to update China's industry structure, Guidance Catalogue paid more attention on high-end technology and value added industries. For example, "manufacturing of the coloured metal materials with new and high technology" has been added into the encouraged categories. In contrast, certain manufacturing industries in which Chinese enterprise have obtained strong capacity would no longer be encouraged or permitted for foreign investors, e.g., the sector of "repairing, designing and manufacturing of the common ship" has been downgraded into restricted categories from encouraged categories.

The *Catalogue for the Guidance of Foreign Invested Industries,* amended in 2007, was promulgated by the National Development and Reform Commission and the Ministry of Commerce, on October 31, 2007 and effective as of December 1, 2007.

The **2007 Guidance Catalogue** identified the following encouraged industries:

(18) Manufacturing of casting and forging blanks for cars and motorcycles.

16. Metal Product Industry (1) Production of lightened and environment-protecting new materials for motorcycles and automobiles (bodywork aluminum board, aluminum magnesium alloy materials, motorcycle aluminum alloy) OR 16. Production of lightened car, automobile and environment protecting new materials (bodywork aluminum board, aluminum magnesium alloy materials, automobile aluminum alloy frame and so on)."

http://www.fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/MinisterialRulings/P020071121358108121219.pdf .

The following extract is from an article by David Carnes that details the range of tax incentives to encourage foreign investment, including incentives offered in investment parks and by local governments.

1.4 - Investing In China: Tax incentives offered by the Chinese Government.

David Carnes. http://www.thefreelibrary.com/Investing+in+China+Tax+Incentives-a01073787262

"The People's Republic of China offers a variety of tax breaks and financial incentives to encourage inbound investment.

National government incentives vary based on how much money you are investing and whether or not your project is located in one of China's special economic zones; local incentives vary by jurisdiction according to relative bargaining power. The tendency in recent years has been for China's central and western provinces, who have been starved of foreign investment in comparison with well-fed coastal cities like Shanghai and Beijing, to offer incentive packages that are considerably more generous than those offered to foreign investors 'back east'. The national government is now actively encouraging foreign investors to pour money into China's relatively undeveloped hinterlands in order to spread wealth more evenly throughout the country and stem the flow of economic migrants to the coast.

China's standard corporate tax rate is set at 30%. However, in certain locations the rate can decrease dramatically. Enterprises located in certain areas designated as "open to foreign investment" pay only 24%. The favoured children among overseas investors, however, are enterprises located in national-level economic and technical development zones, such as certain industrial parks like Suzhou Industrial Park (near Shanghai) and California Industrial City (in central China). They enjoy a permanent corporate tax rate of only 15% – but even that rate only kicks in during the sixth profit-making year. The rate is zero for these enterprises during their first two profit-making years, and rises to only 7.5% for the following three years, before returning to 15% for the sixth year. Any enterprise classified by the P.R.C. government as a "Technologically Advanced Enterprise" or an "Export Oriented Enterprise" (an enterprise with an export value of at least 70% of its production value during any given year) enjoy a corporate tax rate of only 10% for their sixth through tenth profit-making years.

China offers further tax incentives for enterprises that reinvest their profits domestically, and these incentives operate in addition to rather than in replacement of the above tax incentives. In particular, enterprises that reinvest their profits to increase their own capital or to establish or invest in another foreign invested enterprise in China are eligible for a refund of 40% of the corporate taxes already paid on those reinvested profits. The refund rate rises to 100% if the enterprise in which profits are reinvested is classified as a Technologically Advanced Enterprise or Export Oriented Enterprise. This refund must be returned, however, if the reinvested finds are withdrawn within five years.

The foregoing description is not exhaustive – China offers various other investment incentives. That was the good news; the better news is that incentives are offered not only by the national government but also by provincial and local governments that compete fiercely with each other for a slice of China's lucrative foreign investment pie."

Incentives Offered By Local Governments.

David Carnes

http://www.thefreelibrary.com/Investing+in+China+Incentives+Offered+by+Local+Governments-a01073787246

"China's national government offers a tempting variety of financial incentives designed to lure inbound foreign investment, some of which were introduced by this author in the article "Investing in China: Tax Incentives". However, additional incentives offered by provincial and local governments significantly sweeten the investor's overall incentive package. These incentives tend to become more generous as one moves westward from the investment-saturated coastal provinces to China's heavily populated interior, allowing the investor to cash in on China's fierce domestic competition.
Central China's Henan province, for example, offers manufacturing-oriented Foreign Invested Enterprises (FIEs) 100% waivers of business tax and a variety of local administrative fees. Furthermore, FIEs engaged in technology transfer, development work, and related consulting may apply for a full refund of business tax already paid.

Municipal governments, however, are often even more generous than provincial governments. Although various incentives are offered by Chinese municipal governments, the city of Zhengzhou (a metropolis of about 4.4 million people in central China) makes a good case study, if for no reason other than that the author is more familiar with its policies.

Zhengzhou rewards local FIEs in various ways:

- Tax Breaks for Local Reinvestment of Profits Local FIEs that reinvest their profits within Zhengzhou will receive a 30% refund of the locally retained portion of corporate income tax actually paid on these reinvested profits (the national government offers an even bigger tax refund applicable to the nationally retained portion).

- Investment in "Pillar" Industries and State-owned Enterprises Zhengzhou offers a three-year, 50% refund of the locally retained portion of corporate income tax paid on FIE funds invested in certain designated "pillar industries". It also offers a financial incentive for investing in and reorganizing provincially administrated state-owned enterprises, and this incentive is magnified if the FIE retains a certain percentage of the enterprise's original employees after reorganization.

- Inward Remittance of Export Earnings - Zhengzhou offers export incentives in the form of cash payouts of approximately 0.2% to 0.5% of every dollar of hard currency export earnings remitted inward (the highest payouts are reserved for the export of technologically advanced products).

- Matching Funds - the Zhengzhou municipal finance administration will provide one-to-one matching funds for the international market development funds of small and medium-sized export enterprises that are supervised at the provincial level (whether an enterprise is supervised at the provincial level or the national level depends on how much money has been invested in the enterprise, i.e., its "Registered Capital").

- Anti-Dumping Insurance - Zhengzhou will assist FIEs in responding to anti-dumping initiatives, and will also subsidize expenses arising from participation by exporting enterprises in anti-dumping responses, as long as these initiatives are not otherwise subsidized by national and provincial authorities (which they often are). It may seem strange for an American company to establish a subsidiary in China, be sued for dumping by the United States, and then receive subsidies from the Chinese government for the expenses necessary to defend against the suit, but it's possible.

- Interest Subsidies for Loans Secured by Tax Refund Accounts - Zhengzhou will subsidize an amount equal to 70% of the interest due on loans secured by a tax refund account. If the FIE has no such loans, Zhengzhou will grant a subsidy equal to 50% of the interest that would have been paid on such a loan had it been taken out the Zhengzhou municipal government will even provide the fund from which the interest is subsidized. Enterprises with an export volume of five million US dollars or more in the previous year that are verified by the National Tax Bureau to have increased tax refunds due for the current year will enjoy a 100% interest subsidy.

Export Incentives - an export enterprise with either (i) a yearly export volume of at least ten million US dollars or more and actual export growth of more than 25% over the previous year, or (ii) a yearly export volume of at least five million US dollars, actual export growth of more than 40% over the previous year, and inward remittances from exports of at least 80%, will be designated a "Zhengzhou City Advanced Foreign Exchange Generating Export Enterprise" and awarded 30,000 RMB (roughly $3,500 US dollars) as long as it has not committed any serious regulatory violations during the same year.

Although a few of the foregoing incentives represent relatively small payouts, they are numerous and can make a significant difference when combined with the broad range of incentives offered by the national government."

David A. Cames is a California attorney currently working as a legal advisor for California Industrial City (Zhengzhou) Development Co., Ltd. in Zhengzhou, China. His website is http://www.chinacompanystartupguide.com .

Manipulation of the VAT rebate to discourage exports of a labour-intensive nature and encouraging exports of high value-added products, including the identification of aluminium profiles (i.e. aluminium alloy wheels).

1.5 - China increases the export value-added tax refund rates for textile products, certain electronic products and other commodities.

LehmanBrown, 29 April 2009, Insights Newsletter, issue 6.
http://www.lehmanbrown.com/Newsletters/20090410/index.htm

"In order to alleviate the financial difficulties faced by enterprises under the current global economic crisis, the PRC Ministry of Finance and State Administration of Taxation jointly issued a notice, Caishui [2009] No.43 (hereafter referred to as "Circular 43") on 27 March 2009. Circular 43 sets out the type of commodities such as textile products, certain electronic products and other commodities, which can enjoy a higher export VAT refund rates since 1 April 2009.

For enterprises which export commodities listed in Circular 43 and with an export date stipulated in the Export Commodity Customs Declaration Form (solely used for export VAT refund purpose) of 1 April 2009 or thereafter, they can enjoy the higher export VAT refund rates.

This is the sixth time the Chinese government has increased export VAT refund rates since the second half of 2008. Under Circular 43, the adjustment affects a number of commodities amongst 3,802 HS codes. The further raising of export VAT refund rates demonstrates the Chinese government's determination to make economic growth a top priority.

Commodities affected by Circular 43.

Under Circular 43, the following commodities can enjoy higher export VAT refund rates:

- Export refund rates for certain chemical products such as sodium hexafluoroaluminate, perfume, certain rubber products, certain leather products, paper products such as envelopes, articles made with porcelain or china, certain glass products such as glass moulds for CRT display, steel products such as precise welded steel, non-ferrous metal products such as aluminum profiles, certain rock drilling tools and metal furniture would be raised to 13%;

The detailed list of commodities, which can enjoy higher export VAT refund rates, is annexed to Circular 43.

Our Observation and Suggestion.

The increase of VAT export refund rates would reduce the production costs of exported-oriented enterprises and strengthen their competitive capability. At the same time, enterprises should pay attention to their VAT compliance for the purposes of complying with the latest PRC tax regulations and fulfilling the requirements of PRC tax authorities.

Enterprises should be diligent in presenting sufficient and valid documentation such as export invoices, customs clearance records, foreign exchange receipts and verification / cancellation forms etc. to the PRC tax authorities so as to obtain VAT export refund.
Besides tax compliance, enterprises may wish to evaluate the mix of their domestic sales and export sales, the location of their operations, the flow of their supply chain, and other factors in order to make maximum use of preferential tax treatments.

Enterprises are recommended to consult tax advisors so as to devise a tax efficient operational structure and to perform regular tax health checks."

The foregoing highlights provincial government involvement in the application of various regional subsidies.

1.6 - Shanghai incentives to attract foreign investments.

LehmanBrown, 20 June 2009, Insights Newsletter, issue 9.
http://www.lehmanbrown.com/Newsletters/20090620/index.htm

"Recently, in conjunction with changes to various taxation and customs regulations the Shanghai authorities have also undertaken measures to further attract foreign investment and trade.

In addition to the above stimulus, there are several economic zones located in suburban parts of Shanghai and these are still providing incentives to enterprises that choose to register there. Foreign investors can take this opportunity to check and update their business strategy and take advantage of such incentives. Such measures as, decoration or fit-out allowances along with various rebates are being offered.

Outlined below are some further examples of other possible allowances that are applicable from time to time, though it should be noted that these are being constantly updated.
In Qingpu, high and new technology enterprises can be refunded with land usage fee and exempted from utility fees during the construction period for any new buildings being erected.

The high-tech intangible assets that are to be treated as part of the capital injection of a company are allowed to be valued as high as 35% of the capital when compared to companies establishing outside of Qingpu. The intangible assets contribution as part of the capital injection is normally limited to no higher than 20%.

In Jinshan, an export company and/or a high-tech enterprise can enjoy the same low-price utility fees as a state-owned enterprise. In addition, these types of enterprise may establish a loan with a smoother process through a green channel, after approval confirmation from the People's Bank of China.

Besides the above mentioned items companies may be eligible for tax refunds or rebates in the various economic zones. This is based on the collection and ownership of the various taxes and the below table indicates who collects and owns the various tax amounts. Local government then decides how these funds are utilized.

Chart 1 - Ownership proportion of taxes

	Turnover Tax		Corporate Income Tax
	VAT	Business Tax	
National Government	75%	0%	60%
Local Government	25%	100%	40%

Shanghai is composed of ten urban districts and eight suburban districts. Each of them has sub-level government, and these various levels of government take part in the tax re-distribution.

Below is a chart to reflect the tax incentives provided in various districts of Shanghai.

Chart 2 - Tax incentives in various districts in Shanghai

	Possible Tax Refund Rate (% of that paid)		
	VAT	Business Tax	Corporate Income Tax
Chongming Island	8% ~ 10%	45% ~ 50%	18%
Jinshan & Fengxian	6% ~ 8%	30% ~ 35%	16% ~ 18%
Minhang, Jiading, Quingpu, Nanhui & Songjiang	4% ~ 6%	15% ~ 25%	10% ~ 16%

The tax refund rate is flexible based on the investment dimensions of the registered capital and business nature of the company that is being established etc. Foreign investors are able to take advantage from all these incentives when investing in a zone. The same incentives are not usually available for investment outside of these special zones.

Therefore, despite the various changes which are trying to standardise the various regulations it can be seen from the above examples that there are possibilities for companies to take advantage of various rebates and allowances that are still being used to attract investment into China."

The following extract highlights the reliance on less-than-adequate market prices for energy consumed by manufacturers in the aluminium industry in China.

1.7 - Alliance for American Manufacturing - Shedding light on energy subsidies in China: An analysis of China's Steel Industry from 2000~2007.

Usha C. V. Haley Ph.D., January 8, 2008. http://www.americanmanufacturing.org/files/energy-subsidies-in-china-jan-8-08.pdf

- "In 2007, China is the largest producer and consumer of steel in the world, with 40% of the global market. Much has changed in the last 5 years. In 2005, China went from a net steel importer to a steel exporter. In 2006, China became the largest steel exporter in the world by volume, up from fifth largest in 2005.

- [Energy] subsidies surged in 2004 and continued to grow exponentially till today, along with China's rise as the largest producer and exporter of steel in the world, and with steel's designation as a strategic industry for China. From 2000 to 2006, total energy subsidies grew by 1,365%. In 2007, energy subsidies to Chinese steel are estimated at approximately $15.7 billion, showing a 3,800% increase since 2000; similarly, in 2007, Chinese production of steel and Chinese global steel exports are estimated to grow by 289% and 1,276% from 2000.

- Statistical analysis shows that energy subsidies have a very strong correlation with Chinese steel exports and US steel imports from China. Indeed, one can almost perfectly predict China's steel exports from its energy subsidies.

- To summarize, under true market conditions, China would undoubtedly have had a large and diverse steel industry, but not one that has grown to account for a staggering 34% of total world steel production in three years. The Chinese steel industry in its current form is the creation of the Chinese government. It has benefitted from massive direct and indirect subsidies, many of which violate the

WTO's Subsidies Agreement, China's obligations under its WTO accession agreement, or both. The Chinese government has also adopted an official policy that requires it to continue to provide the steel industry with massive subsidies.

- In 2006, when Beijing announced its nationwide campaign to raise electricity prices to energy-consuming industries, officials in the Ningxia province worked to evade the requirements. *Fearing the impact on the local economy, the provincial government brokered a special deal for the Qingtongxia Aluminum Group which accounts for 20% of the province's industrial consumption and 10% of its GDP. Provincial officials removed the company from the national electricity grid and supplied electricity directly to it, exempting it from expensive fees. Consequently, Qingtongxia continued to get its electricity at the lowest price available.*

- The central government's removal of subsidies often results in the provincial government's increasing them.

- These subsidies have contributed directly to the ballooning of Chinese steel exports and have affected the global and US steel industries. The Chinese central government's policies on consolidating their steel industry appear to have limited or no effect on the province's subsidies. Future policy initiatives from both the USA and China regarding China's steel exports and compliance with WTO standards may need to accommodate these provincial realities to enhance effectiveness."

1.8 - *China's exports, subsidies to state owned enterprises and the WTO.*

Richard S. Eckaus, Massachusetts Institute of Technology, Department of Economics, Working Paper Series, Working Paper 04-35, April 22, 2004.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=611941

"1. Introduction.

The extraordinary growth in China's exports since the beginning of its reforms is well known. It is also no secret that state owned enterprises (SOEs) in China have received substantial subsidies from government budgets. Indeed these subsidies have been considered to be a major drain on government resources.

The question to be examined in this paper is whether there is a relation between these facts and their relation to China's commitments to the World Trade Organization (WTO), which bars export subsidies.

The next section will present a survey of China's exports and SOE subsidies. The relationship between them will be examined in the following section. Following that there will be a brief review of the obligations to the WTO that China has assumed.

2. An overview of China's exports and SOE subsidies.

The growth in China's exports has been among the most remarkable features of its remarkable economic growth after the beginning of its economic reforms in 1978. Although there were some ups and downs in the rate, the overall growth was exceptional, as shown in Figure 1, in which, for purposes of comparison, indices of China's exports of goods and services and of total world exports, both measured in constant 1995 U.S. dollars, are compared. China's foreign trade growth was a transformation from an almost autarchic economy to one intensively involved with foreign trade. Chart 2 shows that transformation and compares the export/GDP ratios of China and the U.S. from 1970 to 1998.

Without trying to quantify and rank them in order of importance, there have clearly been a number of influences driving that transformation: a comparative advantage in relatively labor intensive production, due to a relatively well educated labor force available at low wages, high rates of both domestic and foreign investment, foreign sponsored technological change and effective entrepreneurship, both foreign and domestic. In addition, the government's encouragement for exports progressed far beyond permissiveness and has, at times, included foreign exchange privileges, preferential access to bank loans, tax and tariff relief and other privileges. Although the real exchange rate of the Yuan versus the dollar actually rose from1980 to 1994, it did not forestall the expansion of exports. In 1994 there was a devaluation of the Yuan which substantially lowered the real exchange rate, but only for a short period, due to a high rate of domestic inflation. Chinese exports have risen from a negligible role in world trade before the beginnings of its economic reforms in 1978 to become a major factor, more than a third as large as U.S. exports, for example.

The total amounts of government subsidies to SOEs, either direct or indirect, are not reported in any source that could be found. However, direct government subsidies to, "loss making enterprises," have been reported, with a minus sign, as part of government revenues. Those subsidies as a share of government expenditures are shown in Figure 3. The share declined from a high of 25 per cent in 1985 to about 2 per cent in 2000. The subsidies to loss making SOEs alone constituted 2.6 per cent of the total profits of all SOEs in 2001 and were more important in previous years.

The China Statistical Yearbook for 2003 provided some detail on the sources of the subsidies to loss making SOEs and their distribution among sectors, as shown in Table 1. **Local governments were, by far, the largest source of the subsidies** *(emphasis added)*, with the largest portion going to, "Other enterprises." The definitions of the sectoral distinctions were not provided. Since the total amounts of all subsidies are not known, it is impossible to know the significance of the sectoral distributions.

The direct subsidies of the central and local governments are only one of the means by which SOEs may be subsidized. Other fiscal devices have included include tax relief and government contracts with payments well above costs and privileged use and retention of foreign exchange earned from exports. In addition both central and local governments have directed banks to provide loans to SOEs. These loans are reported to be unpayable, to some considerable extent, and are, therefore, a major burden to the banking system.

However, perhaps for good reason, no information on the magnitude of these loans seems to be available, as that might be an acute embarrassment to the banking system.

In addition, since local governments often have both managerial and fiduciary authority over the SOEs in their region, they can provide direct subsidies to them. They may want to do so for various reasons, including the maintenance of local employment, partly because unemployment insurance often does not exist at all or is quite limited. On the other hand, local governments have been blamed for some of the financial problems of state owned enterprises due to their frequent and often arbitrary imposition of levies."

The following extract relates to Chinese SOEs and their impact on the Chinese economy.

1.9 - Chinese state-owned enterprises and U.S.-China bilateral investment.

Derek Scissors, Research Fellow in Asia Economics, The Heritage Foundation Testimony before the U.S.–China Economic and Security Review Commission, published 1 April 2011.
http://www.heritage.org/research/testimony/2011/04/chinese-state-owned-enterprises-and-us-china-economic-relations

"The Fall and Rise of Chinese State-Owned Enterprises.

There are two basic observations concerning state-owned enterprises in China:
(i) The large majority operate very differently than they did 20 or even 15 years ago, and
(ii) They account for far more of the economy than popularly believed.

These observations serve to reconcile debates over the state sector. It is certainly true that there has been an important and considerable change in the Chinese economy as a result of changes in state-owned enterprises (SOEs). However, it is not true that SOEs have faded into the background or that they are no longer "state-owned enterprises." In fact, the state sector and non-market behaviour still predominate on most measures.

History Sketch.

Phase 1 (1979-1986): SOEs, broadly understood, are allowed to move beyond the plan;
Phase 2 (1987-1992): Partly commercial entities arise;
Phase 3 (1993-2001): The state sector shrinks; the truly private sector expands;
Phase 4 (2002-2007): Restructuring of SOEs; contraction ends;
Phase 5: (2008-present) Active re-enlargement of state sector;
Phase 6: (2014?): SOEs exert greater political influence.

Disputes over the historical progression of SOEs are unavoidable, but it is clear much has changed. There were no true commercial entities in China in 1975, because there were no markets in which to operate. In the latter half of the 1970s, agricultural cooperatives (effectively rural SOEs) in certain counties were permitted to act independently if they first met planned economy requirements. This independence was formalized at the fall 1978 Communist Party plenum, signifying the start of the reform period.

By the mid-1980s, quasi-state entities began appearing. These included town and village enterprises and firms with minority foreign ownership. These were technically controlled by the state but they had commercial latitude. In some ways, they were the forerunner of current SOEs. This type of firm grew in number and importance for more than a decade.

For much of the 1990s, many SOEs were partly or entirely sold. They were replaced in some cases by quasi-state enterprises which looked much like the old SOEs utilizing some commercial operating principles. However, they were replaced in other cases by private firms, including foreign majority-controlled companies and the first domestic genuinely private firms with more than just a few employees. 1

The sale of public assets was slowed by economic duress from the Asian financial crisis and political criticism in the late 1990s. Shrinking the state sector was replaced by "reform." This reform has been widely misconstrued. It consisted of converting most SOEs into share-holding entities, which had explicit state entities as majority holders but also sold stock in Shanghai, Hong Kong, or elsewhere.

These share-holding firms took on multiple characteristics of truly commercial operations, including some form of profit orientation and public reporting, but they were still state-controlled and directed. 2

At some (disputable) point in the mid-2000s, the reform process was reversed entirely and SOEs began to wax again. The reversal can reasonable be dated to late 2006, when the State Council formally set aside the core of the economy for SOEs, 3

> [T]he State should solely own, or have a majority share in, enterprises engaged in power generation and distribution, oil, petrochemicals and natural gas, telecom and armaments. The State must also have a controlling stake in the coal, aviation, and shipping industries.... Central SOEs should also become heavyweights in sectors including machinery, automobiles, IT, construction, iron and steel, and non-ferrous metals.

This omits state dominance in banking, insurance, and the rest of finance, media, tobacco, and railways. This was a daunting list, representing a wide swath of the economy set apart for state distortions. The reversal was codified by Wu Bangguo, second in the Party hierarchy, when he listed privatization with other intolerable developments.4

> *"We have made a solemn declaration that we will not employ a system of multiple parties holding office in rotation; diversify our guiding thought; separate executive, legislative and judicial powers; use a bicameral or federal system; or carry out privatization."*

SOE Features.

The discussion of SOEs has been undermined by a fundamental error: the conflation of restructured, share-holding firms with the truly private sector. Share-holding SOEs are manifestly not private actors and assessments of the corporate sector that assume so are fatally flawed from the outset. The origin of this mistake is historical. As quasi-state entities emerged and proliferated, it was clear some sort of separate treatment was necessary and the concept of "non-state" was created. This was never intended to indicate "private"—quite the opposite: it was meant to signify that the creation of corporate forms quite different from SOEs could occur without privatization and its ideological pitfalls.

The meaning of "non-state" is very well understood by the Chinese government. The (sometimes wilful) misunderstanding outside China rests on two shaky pillars. The first is a mis-rendering of "non-state"—where the PRC sees the opposite of state as non-state, many foreign observers see the opposite of state as "private" and simply re-label accordingly. The second is more sophisticated and based on the share-holding change.

Neither specification of share-holders nor sale of stock by itself does anything to alter state control. The large majority of firms listed on domestic stock markets are specifically designated as state-owned.5 The sale of small minority stakes on foreign exchanges could be construed as recasting mainstays such as CNPC (through its list vehicle PetroChina), China Mobile, and Chinalco as non-state entities of some form. However, they are still centrally directed SOEs, as explicitly indicated by the Chinese government.

More broadly, firms are defined by inputs and outputs. Most Chinese firms sell in a market environment that is unrecognizably different from the operating environment in 1975 and sharply different even from the one in 1995. In this sense almost none of them are still traditional Chinese SOEs. On the output side, however, the requirement that the state predominate in so many sectors is meant to sharply confine competition, so that SOEs operate within markets but they operate primarily within state-controlled markets. This regulatory protection is the most powerful subsidy many SOEs receive.

The input side also continues to distinguish SOEs clearly from foreign or domestic private companies. Production inputs comprise labor, capital, land, and other physical resources such as energy. For SOEs, including those which have completed share-holding reform, all of these show the state's overwhelming role. It is routine for Chinese officials to bounce back and forth from corporate to government posts at the behest of the Party, no less so at China Mobile and the like than anywhere else.6

In stark contrast to private firms, which often cannot buy land at any price, SOEs have immediate call on free land, which is all technically owned by the state. The main barrier to SOEs acquiring land is other SOEs. SOEs as a matter of course also receive hefty power and other input subsidies not available to genuinely private firms.

As for capital, every aspect is dominated by the state. All large financial institutions are state-owned, the People's Bank assigns loan quotas every year, and, within these quotas, lending is directed according to state priorities. Interest rates are also controlled, and last year real borrowing costs were barely above zero. Conveniently, then, loan quotas and bank practices strongly inhibit non-state borrowing. Securities markets are also dominated by the state. As an illustration, the volume of government bond issuance utterly dwarfs corporate bonds and is growing relentlessly, crowding out private firms.

SOE Investment Share.

The popular question regarding SOEs is what portion of the economy do they comprise? The one clear answer is: significantly smaller than the 100 percent share 35 years ago, as well as smaller than the somewhat uncertain share 20 years ago.

Beyond that, the State Statistical Bureau (SSB) provides insufficiently precise data. Even the number of SOEs is not published. There are fewer than 120 centrally controlled SOEs, and the number is still slowly shrinking. These, however, typically each have dozens of subsidiaries, including nearly all the Chinese companies most people are familiar with. There are also thousands of provincially and municipally controlled SOEs. Meanwhile, truly private firms number in the tens of millions, though are comparatively very small. There are also millions of firms of mixed or unclear status.

Data provision for urban fixed investment was considerably enhanced starting in 2004. For the PRC, urban fixed investment is critical, because it drives the economy. In 2004, urban investment stood at 5.9 trillion Yuan and was equivalent to 43 percent of GDP. Just six years later, it was a stunning 24.1 trillion Yuan and equivalent to 61 percent of GDP.7 The Chinese economy was formerly driven by exports; it is now driven by urban investment (2010 rural investment was only 3.7 trillion Yuan).

Table 1: Urban Investment Shares (percent)

	State-owned	Limited liability Corp.	Domestic private	Wholly foreign-owned	Partly foreign-owned	Share-holding	Other mixed ownership
2004	44.0	20.8	11.1	4.5	7.3	9.3	3.0
2007	36.9	23.6	18.3	5.2	5.2	7.8	3.1
2010	38.0	24.3	21.1	3.3	3.3	6.7	3.4

Because urban investment has almost quadrupled, all raw figures have increased and even the clearly waning foreign role represents greater absolute investment. Volume comparisons over time are thus misleading. An unmistakable trend is dynamic growth in what the SSB labels as private investment. Domestic private investment may have been undercounted in 2004 but, regardless, it is now in excess of one-fifth of total investment.

Against that, what the SSB labels as the state-owned share is not quite two-fifths. This figure corroborates claims that the non-state sector comprises 60 percent or more of the economy. But it hardly indicates the private sector is anything like that large—with wholly owned foreign investment, the genuinely private share is a bit short of 25 percent. The other 38 percent often called "private" is of various kinds of mixed ownership.

Within this mixed grouping, there are three lesser categories. To qualify as partly foreign owned, a firm need be only 25 percent foreign-invested, even if the majority partner is state or private. Yet this figure is still small and declining. Shareholding is larger but also declining. "Other" ownership is small. The bulk of the mixed ownership category is limited liability corporations (LLC), which are approximately equal in share to what is officially designated as the private—domestic plus foreign—sector.

What is this last group? It is manifestly not private. It has always been treated separately from domestic private companies. It includes subsidiaries of centrally controlled state giants such as Sinochem. Most important, it necessarily overlaps greatly with sectors that are required or admitted to be dominated by the state. The best single characterization of this group is that it is organized and behaves in a way that is starkly different than the SOEs of 1990, but that the bulk of LLC investment is still controlled by the state.

In sum, the verifiable private sector accounts for one-fourth of urban investment. That share has risen since 2004, though the rate of climb has more recently slowed.

Other Measurements.

Beyond investment, information is scattered. Chinese industrial production data are often used to represent GDP and then to divine state and private shares of the economy. This is a mistake for several reasons, the most immediate being that the production data do not even accurately portray production. They have always been internally inconsistent and, starting in 2006, were split into categories seemingly chosen to obfuscate.

The best guess is that the truly private share of industrial production is somewhat higher than it is for investment. As private firms are universally accepted— even by the Chinese government—to be more efficient than SOEs, their share of inputs such as investment and employment will be higher than their share of outputs such as production or sales. A reasonable range for the genuinely private share of production is thus 30-35 percent.

Elsewhere, reporting by SOEs is notoriously bad. However, it is suggestive, at least, that China National Petroleum and China Mobile claim more 2009 profits than the top 500 firms combined. The State-owned Assets Supervision and Administration Commission indicates that the assets of its firms have grown from the equivalent of 60 percent of GDP 6 in mid-2003 to 62 percent of GDP in mid-2010, despite the rapid GDP gains during that period.

Official data on employment are again limited to cities but not as detailed as for investment. Through the third quarter of 2010, the explicit state share of employment was 57 percent, though that is well below the 74 percent announced seven years earlier. Unfortunately, the non-state share is here designated only as "other," which obscures whether this includes restructured firms that are still manifestly state-controlled, as in the investment categories. The sectors which SOEs must or plainly do dominate accounted for 80 percent of the capitalization of domestic stock exchanges at the end of 2010. Similarly, tax revenue from private domestic firms is less than 15 percent of the total.[9]

Trade is an area of private sector strength. Domestic private firms generated 30 percent of exports in 2010. In addition, foreign-funded enterprises account for over half of total trade. [10] However, since "foreign-funded" can still include a private or state majority owner, these numbers cannot simply be added. Still, the combined private share of trade is considerably higher than it is in investment and may exceed 40 percent of volume.

In contrast, SOEs utterly dominate outward investment. The Heritage Foundation's China Global Investment Tracker provides information on the size and originating company, among other aspects, for large Chinese non-bond investments since the start of 2005. [11] It corresponds well to official figures but contains far more information.

On Heritage data, total non-state investment appears to be below $13 billion since 2005, which is less than 6 percent of the total. The four largest investors—China National Petroleum, China National Petrochemical, China Investment Corp. (CIC), and China Aluminum—alone accounted for half of Chinese investment through the end of 2010. All are centrally controlled, with CIC one of the two sovereign funds.

All large investors, such as such as China Minmetals and Industrial and Commercial Bank of China, are centrally controlled. This reflects the national champion concept, that the PRC should have national firms with economies of scale sufficient to be competitive on global markets. Almost all firms that might qualify as national champions are SOEs.

Can SOEs Be Rolled Back ?

A distinct policy related to the status of SOEs is consolidation—shrinking the number of firms in an industry to curb "disorderly competition." Industries range from autos to yarn. 12 Where market concentration is high, the State Development and Reform Commission preserves it. For example, to avoid competition cutting into crude oil profits and driving out inefficient suppliers, it hiked taxes for crude on the state giants but subsidized them in refining where they face competitors. 13 This ensured state involvement at all points, so the suppression of competition fit perfectly with the all-too-visible hand.

The suppression of competition coincident with regulatory protection of SOEs combine to guarantee SOEs will have relatively more weight. Optimists correctly point out that SOEs shrank in importance for most of the reform period and current pro-state policies can be reversed (again). That is certainly true, but may be quite difficult.

The national champions concept began to be discussed in China in the late 1990s. At that time, there was no question about the hierarchy involved: the government would consider creating national champions and SOEs so blessed would remain entirely subservient, as they had for the previous fifty years. That hierarchy is no longer so clear.

Some SOEs are now truly gigantic, not just on a national scale but a global one. The steel industry is grotesquely oversized in the international economy. National banks are on some measures the world's largest, as are Chinese telecoms. 14 The oil majors provide large chunks of national tax revenue. And State Grid dwarfs them all. They are the PRC's global representatives, provide the government with much of its money and, more important, generate massive and steady employment. They are also run by high-level Party cadres or, in some cases, their children. When the next economic reformer takes the reins as Premier and pushes the SOEs, they will push back powerfully.

The situation presents a severe challenge to the U.S. In most sectors, there is no market of 1.3 billion. Instead, there is what is left after the SOEs are handed the bulk. This applies, of course, to American companies looking to serve the Chinese market. It is no surprise that official data indicate the foreign investment share has plummeted in the past few years. The truncated market extends to U.S. exports. The various forms of subsidy provided to SOEs are far bigger barriers to American goods than the Yuan's peg to the dollar. Subsidization has been and can be increased to offset currency changes.

More generally, massive bilateral economic imbalances are on the Chinese side caused by overinvestment and underconsumption. The PRC overinvests precisely to enable SOEs to retain dominant positions despite their inefficiency. To sustain this overinvestment, consumption must effectively be taxed. The regulatory suppression of competition discourages consumers and generates additional profit to finance SOE investment. Capital subsidies also finance investment and, though the state-run banking system, transfer income from households to SOEs via controlled interest rates.

In the new five-year plan, the PRC is once again touting rebalancing. It has done so since 2004 and matters have only worsened. There is a very good reason for this: rebalancing would undermine SOEs, when the thrust of policy is to exalt them. For China to actually rebalance, Beijing will have to accept a retrenchment of SOEs and this process will be stridently opposed. It is strongly in America's interest to assist, by reorienting bilateral economic policy toward making retrenchment of SOEs by various means the top goal."

1 Yasheng Huang, Capitalism with Chinese Characteristics: Entrepreneurship and the State (Cambridge: Cambridge University Press, 2008).

2 OECD, "China: Defining the Boundary Between the Market and the State," 2009, at http://www.oecd.org/dataoecd/35/45/42390089.pdf

3 Zhao Huanxin, "China names key industries for absolute state control," China Daily, December 19, 2006, at http://www.chinadaily.com.cn/china/2006-12/19/content_762056.htm

4 Michael Sainsbury, "China Rules Out Political Reform," The Australian, March 14, 2011, at http://www.theaustralian.com.au/news/world/china-rules-out-political-reform/story-e6frg6so-1226020720813З

5 Vincent Fernando, "Here's Why Chinese Stocks Remain a State-Controlled Façade," Business Insider, June 22, 2010, at http://www.businessinsider.com/heres-why-chinese-stocks-are-a-state-controlled-facade-2010-6

6 Chen Jialu, "CEO Reshuffles Signal New View of Watchdog," China Daily, August 24, 2010, at http://www.chinadaily.com.cn/bizchina/2010-08/24/content_11194717.htm4

7 All figures in this section, including the table, are taken from China Monthly Statistics, Volume 12, 2004 – Volume 1, 2011, National Bureau of Statistics, Beijing

8 Zhou Xin and Simon Rabinovitch, "China Inc Gets New Chairman as State-Owned Firms' Clout Grows," Reuters, September 6, 2010, at http://uk.reuters.com/article/2010/09/06/business-us-china-economy-stateidUKTRE68514720100906 and "China state giants outstrip private firms," Channel News Asia, August 30, 2010, at http://www.channelnewsasia.com/stories/afp_asiapacific_business/view/1077996/1/.html

9 China Monthly Statistics Volume 1, 2011 National Bureau of Statistics Beijing and "China Stimulus Plan Criticized for 'Crowding Out' Private Sector," China Stakes, August 7, 2009, at http://www.chinastakes.com/2009/8/china-stimulus-plan-criticized-for-crowding-out-private-sector.html

10 Wang Xiaotian, "Private Enterprise Exports Skyrocket," China Daily, February 9, 2011, at http://www.chinadaily.com.cn/business/2011-02/09/content_11967514.htm and Ministry of Commerce, People's Republic of

China, "China's Absorption of FDI," July 21, 2010, at http://english.mofcom.gov.cn/aarticle/statistic/foreigninvestment/201008/20100807086430.html

11 Derek Scissors, "China Global Investment Tracker: 2011," The Heritage Foundation, January 10, 2011, at http://www.heritage.org/research/reports/2011/01/china-global-investment-tracker-2011 7

12 "Measures to Stop Disorderly Competition," People's Daily Online, March 2, 2005, at http://english.peopledaily.com.cn/200503/02/eng20050302_175221.html and Vivian Wai-yin Kwok, "Beijing Redeploys Its Carmakers For Global Race," Forbes.com, March 23, 2009, at http://www.forbes.com/2009/03/23/china-auto-stimulus-markets-equity-consolidation.html

13 Zhu Qiwen, "Time to Take a Fresh Look at Oil Subsidies," China Daily, March 21, 2008, at http://www.chinadaily.com.cn/opinion/2008-03/21/content_6554797.htm

14 Philip Lagerkranser, "China Banks Surge to World's Largest May Be Too Good to Be True," Bloomberg.com, April 29, 2009, at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aueh06DOY37A and Janet Ong, "China Tells Telecom Companies to Merge in Overhaul (Update 1), Bloomberg.com, May 25, 2008, at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aYQo0d5NANkM8

The following extract provides a detailed outline of the type of subsidies available to enterprises in China that are considered actionable under the WTO Subsidies and Countervailing Agreement. ROH has identified the relevant programs applicable to ARW exporters further below.

1.10 - China's laws, regulations and practices in the areas of technology transfer, trade related investment measures, subsidies and intellectual property protection which raise WTO compliance concerns.

Trade Lawyers Advisory Group, September 2007. U.S. – China Economic and Security Review Commission.

http://www.uscc.gov/researchpapers/2008/TLAG%20Report%20-%20China's%20Laws,%20Regulations,%20Practices%20in%20Areas%20of%20Technology%20and%20WTO%20Non-Compliance.pdf

"Members have also complained that there are indications that subsidies are continuing to be provided by the central and provincial government that were "contingent upon export performance or upon the use of domestic over imported goods."130 China was asked to clarify why some regional benefits were only given to "export oriented enterprises" which was defined as "enterprises whose product export volume accounts for over 50 per cent of its annual sales volume and who has a surplus of foreign exchange and has made a profit during the year."131

In 2004, the U.S. alleged that China was administering programs "that may provide subsidies contingent upon export performance, which are prohibited under Article 3.1(a) of the SCM Agreement" and programs that "are contingent upon the use of domestic over imported goods, which are prohibited under Article 3.1(b) of the SCM Agreement."[132] In July 2006, pursuant to Article 25.7 of the SCM Agreement, China submitted its Notification of information on subsidy programs granted or maintained by the central government between 2001 and 2004.[133] China's notification contained seventy-eight programs.

However, the Notification did not include any government programs at the sub-central level.[134] Immediately, the U.S. and other countries asked China to explain how certain programs that appeared to give export-oriented foreign enterprises preferential tax treatment were "consistent with China's obligations under Article 3 of the SCM."

As many of the programs appear to be "contingent upon export or the use of domestic over imported goods" they potentially violate Article 3 of the SCM Agreement, Article 2.1 and 2.2 of the TRIMs Agreement, paragraph 1 of Article XI of GATT 1994, and Article III:4 of GATT 1994.

D. Article 3.1 of the Agreement on Subsidies and Countervailing Measures.

Article 3.1 of the Agreement on Subsidies and Countervailing Measures provides that prohibited subsidies include:

(a) subsidies contingent, in law or in fact,198 whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I;

(b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.[199]

Article 3.1(a) has been interpreted by the Appellate Body to mean that the subsidy must be "contingent," meaning "conditional" or "dependent on something else."200 Thus, the "grant of a subsidy must be 'tied to' export performance."201 The Article "prohibits *any* subsidy that is contingent upon export performance, whether that subsidy is contingent 'in law or in fact.'"[202]

Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments.

After receiving China's first "long-overdue" subsidies notification to the WTO Subsidies Committee in 2006, the U.S. pressed China to withdraw subsidies that appeared to be prohibited by the WTO.[277] After China was unwilling to commit to the immediate withdrawal of these subsidies, the U.S. initiated a challenge to these subsidies under the WTO's dispute settlement procedures.[278]

On February 7 2007 the United States filed with the Dispute Settlement Body. a request for consultation with China over various subsidy programs.[279] In March 2007, the United States held consultations with China and learned that China had repealed one of the subsidy programs listed in the U.S. request for consultation and had recently adopted a new Enterprise Income Tax Law.280 Although the changes to the Enterprise Income Tax Law included many improvements over the former law, the new law does not go into effect until January 1, 2008 and Article 57 of the new law allows established enterprises to receive preferential tax treatment for five additional years beginning from the date the law goes into effect.281 The U.S. and China held consultations again in June 2007, but, after those consultations did not resolve the dispute, the United States filed a request for the establishment of a panel on the following programs.282

(1) *Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refunds to Enterprises with Foreign Investment for Their Domestic Equipment Purchases*, Order No. 171 GuoShiFa [1999] No. 171 (20 August 1999)283 read in conjunction with the *Circular of the State Administration of Taxation and the National Development and Reform Commission of the People's Republic of China, on Printing and Issuing the Trial Measures for the Administration of Tax Rebate for the Purchase of Domestically-Produced Equipment in Foreign Investment Projects* GuoShuiFa [2006] No. 111 (24 July 2006).284

The purpose of the measure is to "encourage enterprises with foreign investment to use domestic equipment." Under Article 3 of Circular No. 171, enterprises with foreign-investment accounting for more than 25 percent of total investment are eligible to receive value-added-tax refunds on certain equipment purchased. For a company to get a VAT rebate, the company must have documents showing that it is in fact a foreign invested enterprise.285 Article 4 provides that the equipment eligible for the VAT exemption must fall under the Encouraged and Restricted B categories listed in the *Notice of the State Council Concerning the Adjustment of Taxation Policies for Imported Equipment (No. 37(1997))*. Additionally, under Article 4, the measure applies only to unused "domestic equipment" purchased after September 1999. The Article defines domestic equipment as "those manufactured by the enterprises within the territory boundaries of China."

Similarly, Circular No. 111 encourages the use of domestic equipment in foreign projects.286 The measure gives local governments some responsibility in approving tax refunds to "encouraged foreign-funded projects" that purchase certain domestic equipment. Foreign funded projects of less than $30 million must receive a project confirmation letter and an attached list of approved equipment from local governments, while those projects greater than $30 million receive a confirmation letter and an equipment list from the National Development and Reform Commission.

The Department of Commerce examined Circular No. 171 in its preliminary determination in *Coated Free Sheet Paper from the PRC*. The Department found that the VAT rebate in this program did in fact confer a countervailable subsidy.287 Although the Chinese Government claimed that the goal of the program was to "equalize the tax burden on the purchase of domestically produced and imported equipment" by foreign-invested enterprises, since under another program foreign enterprises are exempt from paying VAT on imported equipment, the Department found that the Chinese Government was unable to show that the programs were linked. 288 In its analysis, the Department determined that the VAT rebates were a financial contribution in the form of revenue foregone, providing a benefit to the recipients in the amount of the tax savings, and that the rebates were specific in that they were contingent upon use of domestic equipment and benefited a specific group.289

This program gives preferential treatment that is conditioned on an enterprise purchasing domestic goods over imported goods. Thus it appears to be inconsistent with Articles 3.1(b) and 3.2 of the SCM Agreement. As advantages are given to enterprises that purchase domestic equipment over imported equipment, the measures accord imported products treatment less favorable than that accorded "like" domestic products, which is inconsistent with Article III:4 of GATT 1994 and Article 2.1 and Annex 1, paragraph 1(a), of the TRIMs Agreement. Similarly, the measures are not consistent with China's obligations under paragraphs 7.2-7.3 and 10.3 of Part I of its Protocol of Accession and paragraph 1.2 of Part I of the Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party.

(2) *Circular of the Ministry of Finance and the State Administration of Taxation Concerning the Issue of Tax Credit for Business Income Tax for Homemade Equipment Purchased by Enterprises with Foreign Investment and Foreign Enterprises*, CaiShuiZi [2000] No. 49 (14 January 2000) 290 read in conjunction with *Circular of the State Administration of Taxation on Printing and Distributing the Measures Concerning Business Income Tax Credit on the Investment of Enterprises with Foreign Investment and Foreign Enterprises by Way of Purchasing Homemade Equipment*, GuoShuiFa [2000] No. 90 (18 May 2000) 291 Subsidies under this program will continue to be granted under the *Enterprise Income Tax Law of the People's Republic of China*, of the President of the People's Republic of China [2007] No. 63 (16 March 2007)292, by virtue of Article 57 of that Law.

The Measure allows for foreign-owned enterprises to receive a tax credit for purchasing "homemade equipment." The Chinese government has claimed that the purpose of the program is to attract foreign investment.293 Production equipment covered by the measure includes: machines, transportation vehicles, appliances and tools referred to in Circular 49 "and which are maintained as fixed assets for production or business purposes." Under Circular 49 the enterprise must fall under the Encouraged or Restricted B categories of the Catalog of Industrial Guidance for Foreign Investment, but must not be listed in the Catalog of Non-Duty Exemptible Articles of Importation. 294 The measure provides that 40 percent of the investment for "homemade equipment" purchases is refundable, but may not exceed the incremental increase in income tax from the previous year. The credit may be deducted over a maximum seven year period if taxes paid do not exceed the amount of the deduction. To receive the income tax credit, eligible enterprises must submit an application to local tax authorities within two months of purchasing the equipment.

In its preliminary determination in *Coated Free Sheet Paper from the PRC*, the Commerce Department determined that the income tax credits were a countervailable subsidy.[295] Furthermore the tax credits were found to be a financial contribution as revenue foregone by the local governments that provide a benefit to the recipients in the amount of the tax savings.[296] Finally, the tax credits were found to be "contingent upon use of domestic over imported goods."[297]

As the income tax credits give preferential treatment to enterprises on the condition that domestic machinery is purchased over foreign machinery, they appear to be inconsistent with Articles 3.1(b) and 3.2 of the SCM Agreement. As advantages are given to enterprises that purchase domestic equipment over imported equipment, the measures accord imported products treatment less favorable than that accorded "like" domestic products, which is inconsistent with Article III:4 of GATT 1994 and Article 2.1 and Annex 1, paragraph 1(a), of the TRIMs Agreement. Similarly, the measures are not consistent with China's obligations under paragraphs 7.2-7.3 and 10.3 of Part I of its Protocol of Accession and paragraph 1.2 of Part I of the Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party.

(3) *Circular on Distribution of Interim Measures Concerning Reduction and Exemption of Enterprise Income Tax for Investment in Domestically Made Equipment for Technological Renovation*; CaiShui [1999] No. 290 (8 December 1999). 298 Subsidies under this program will continue to be granted under the *Enterprise Income Tax Law of the People's Republic of China*, Order No. 63 [2007] of the President of the People's Republic of China (16 March 2007) by virtue of Article 57 of that Law.

The purpose of the program is to encourage and support investment in domestic technology and machinery. The measure provides for income tax refunds on domestic equipment purchased to upgrade equipment and technology. It is available to all enterprises with investment in technological transformation projects that conform to the state industrial policy. Under the measure 40 percent of the investment in domestic equipment may be offset in the year of investment from the increase in income tax from the previous year. The measure does not apply to foreign enterprises or foreign-invested enterprises. The Canadian Border Services Agency has found this income tax refund to be a prohibited subsidy for being contingent, in whole or part, on the use of domestic goods.[299]

This tax refund program conditions preferential tax treatment on the purchase of domestic equipment over foreign equipment, thus according imported products treatment less favorable than that accorded "like" domestic products. Thus, the program appears to be inconsistent with Articles 3.1(b) and 3.2 of the SCM Agreement, with Article III:4 of GATT 1994, and Article 2.1 and Annex 1, paragraph 1(a), of the TRIMs Agreement. Similarly, the measures are not consistent with China's obligations under paragraphs 7.2-7.3 and 10.3 of Part I of its Protocol of Accession and paragraph 1.2 of Part I of the Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party.

(4) Articles 75(7) and 75(8) of the *Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Order No. [1991] 85 Decree of the State Council (30 June 1991)300; read in conjunction with Articles 8 and 9 of the *Provisions of the State Council on the Encouragement of Foreign Investment*, Order No. [1986] 95 GuoFa (11 October 1986) 301 ; and Articles 6 of the *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Order [1991] No. 45 of the President of the People's Republic of China (9 April 1991).302 Subsidies under this program will continue to be granted under the *Enterprise Income Tax Law of the People's Republic of China*, Order No. [2007] 63 of the President of the People's Republic of China (16 March 2007) by virtue of Article 57 of that Law.

This measure gives preferential tax treatment to enterprises that are export-oriented or those that are in technological and economic development zones. Under Article 75(7) of Order No. 85 and Article 8 of Order No. 95, export-oriented enterprises that export 70 percent or more, according to value, of their output may, after the period of other exemptions or reductions has expired, pay a tax rate 50 percent lower than what is mandated under the tax law. Enterprises in economic and technological development zones are able to reduce their tax liability from 15 percent to 10 percent. Article 75(8)

of Order No. 95 and Article 8 of Order No. 85 provides that foreign advanced technology enterprises that remain advance technology enterprises after other tax exemptions and reductions have expired, may, for an additional three years, pay at fifty percent of the enterprise income tax rate, as specified in the Income Tax Law.

Article 6 of the Income Tax Law states that the State shall "guide the orientation of foreign investment and encourage the establishment of enterprises with foreign investment which adopt advanced technology and equipment and export all or greater part of their products."303

As these tax preferences are conditioned on export performance they violate Articles 3.1(a) and 3.2 of the SCM Agreement, and consequently paragraph 10.3 of Part I of China's Protocol of Accession, and paragraph 1.2 of Part I of its Protocol, to the extent that it incorporates paragraph 167 of the Report of the Working Party.

(5) Article 73(6) of the *Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Decree [1991] No. 85 of the State Council (30 June 1991); read in conjunction with Articles 7 of the *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Order [1991] No. 45 of the President of the People's Republic of China (9 April 1991); and Section XIII of the *Catalogue for the Guidance of Foreign Investment Industries*, Order [2004] No. 24 of the State Development and Reform Commission, the Ministry of Commerce of the People's Republic of China (30 November 2004).304 Subsidies under this program will continue to be granted under the *Enterprise Income Tax Law of the People's Republic of China*, Order No. [2007] 63 of the President of the People's Republic of China (16 March 2007) by virtue of Article 57 of that Law.

This measure gives preferential tax treatment to certain foreign enterprises and enterprises with foreign investment that are established in Special Economic ones.305 The measure reduces the tax rate for such enterprises to the reduced income tax rate of fifteen percent.306 Special Economic Zones include: coastal economic open zones, special economic zones, and economic and development zones in old urban districts of municipalities that are involved in projects encouraged by the State. Under Article XIII of the Catalogue, permitted projects are those "whose products are to be wholly exported directly."

As this tax benefit is conditioned on products being "wholly exported" and thus conditioned on export performance, it violates Articles 3.1(a) and 3.2 of the SCM Agreement, and consequently paragraph 10.3 of Part I of China's Protocol of Accession, and paragraph 1.2 of Part I of its Protocol, to the extent that it incorporates paragraph 167 of the Report of the Working Party.

(6) Article 81 of the *Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises* Order No. 85 [1991] Decree of the State Council (30 June 1991); read in conjunction with Articles 10 of the *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Order [1991] No. 45 of the President of the People's Republic of China (9 April 1991). Subsidies under this program will continue to be granted under the *Enterprise Income Tax Law of the People's Republic of China*, Order No. [2007] 63 of the President of the People's Republic of China (16 March 2007) by virtue of Article 57 of that Law.

The measure gives preferential treatment to encourage foreign investors to reinvest profits made from the enterprise to create more investment in enterprises that are export-oriented, technologically-advanced, or operating in certain special economic zones.307 The measure reduces the income tax levied on such enterprises by forty percent of paid income tax on the amount that is reinvested for five years.308 Under Article 81 of the Income Tax Rules for Implementation, reinvested enterprises must, within three years, have "achieved the standards with respect to export-oriented enterprises or have not continued to be confirmed as advanced technology enterprise" or they must repay sixty percent of the taxes refunded.

The measure also gives tax preferences to infrastructure projects in certain economic zones. Infrastructure projects in certain economic zones where the period of operation is fifteen years or more are exempt for the first five years that the enterprise is profit making and then pay at fifty percent of the applicable enterprise income tax rate from the sixth through the tenth year.

As the benefit of this subsidy is contingent on enterprises being export-oriented, it violates Articles 3.1(a) and 3.2 of the SCM Agreement, and consequently paragraph 10.3 of Part I of China's Protocol of Accession, and paragraph 1.2 of Part I of its Protocol, to the extent that it incorporates paragraph 167 of the Report of the Working Party.

(7) Article 3 of the *Provisions of the State Council on the Encouragement of Foreign Investment*. GuoFa [1986] No. 95 (11 October 1986)

Article 3 provides that export enterprises and technologically-advanced enterprises "shall be exempt from payment to the State of all subsidies to staff and workers, except for the payment or allocation of funds for labor insurance, welfare expenses and housing subsidies for Chinese staff and workers in accordance with the provisions of the State."

As this benefit exempts enterprises from paying certain subsidies to workers, conditioned on the enterprise being an export enterprise or technologically advanced enterprise, it violates Article 3.1(a) of the SCM Agreement, Article 2 of the TRIMs Agreement, and paragraph 1 of Article XI of GATT 1994. The measure also appears not to comply with China's obligations under paragraphs 7.3 of Part I of its Accession Protocol, as well as paragraph 1.2 of Part I of its Accession Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party.

(8) *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment*, GuoFa [1997] No. 37 (29 December 1997) read in conjunction with Section XIII of the *Catalogue for the Guidance of Foreign Investment Industries*, Order [2004] No. 24 of the State Development and Reform Commission, the Ministry of Commerce of the People's Republic of China (30 November 2004).

The measure gives preferential tax treatment by exempting both foreign-invested enterprises and certain domestic enterprises from VAT and tariffs on imported equipments used in the development of investment projects encouraged by the State in the "Catalogue for the Guidance of the Foreign Investment Industries" and those that are funded by loans granted by foreign governments and international financial organizations. The purpose of the program is to encourage foreign investment in technical advancement and to introduce foreign advanced technology equipment that promotes the development of the economy. To be eligible, the foreign business investment project must transfer technology and be consistent with the category of encouragement and the restricted B category under the Catalogue of Industries Guidance for Foreign Business. The measure also allows for technologies and matching components and parts imported for the project to be exempt from tariffs and import-linked VAT. Under Article XIII of the Catalogue, encouraged foreign investments are "Permitted foreign invested projects whose products are to be wholly exported directly."[309]

As this benefit is conditioned on the project being export-oriented and transferring technology, it violates Article 3.1(a) of the SCM Agreement, Article 2 of the TRIMs Agreement, and paragraph 1 of Article XI of GATT 1994. The measure also appears not to comply with China's obligations under paragraphs 7.3 of Part I of its Accession Protocol, as well as paragraph 1.2 of Part I of its Accession Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party.

(9) Article 25, 28, and 31 of the *Enterprise Income Tax Law of the People's Republic of China*, Order [2007] No. 63 of the President of the People's Republic of China (16 March 2007); read in conjunction with Section XIII of the *Catalogue for the Guidance of Foreign Investment Industries*, Order [2004] No. 24 of the State Development and Reform Commission, the Ministry of Commerce of the People's Republic of China (30 November 2004)

As mentioned above, Section XIII of the Catalogue for the Guidance of Foreign Investment Industries lists, for encouraged foreign investment industries, "Permitted foreign invested projects whose products are to be wholly exported directly."[310] Article 25 of the Enterprise Income Tax Law states that the "important industries and projects whose development is supported and encouraged by the state shall enjoy the preferential treatments in enterprise income tax." Article 28 provides that enterprises with a meager profit pay a reduced rate of 20 percent and "important high-tech enterprises necessary to be supported by the state" have a reduced rate of 15 percent.[311] Article 31 gives startup investment enterprises that engage in "important startup investments necessary to be supported and encouraged by the state" a deduction of a certain proportion of the investment amount from taxable income.

As these programs give benefits conditioned on the projects being export oriented, they violate Article 3.1(a) of the SCM Agreement, Article 2 of the TRIMs Agreement, and paragraph 1 of the Article XI of GATT 1994. The measures also appear not to comply with China's obligations under paragraphs 7.3 of Part I of its Accession Protocol, as well as paragraph 1.2 of Part I of its Accession Protocol, to the extent that it incorporates paragraph 203 of the Report of the Working Party."

126 *Committee on Subsidies and Countervailing Measures, Questions Posed by Japan to the People's Republic of China*, G/SCM/Q2/CHN/3 (23 October 2002).

127 *Working Party Report*, Annex 5B, at pages 164-166.

128 *Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China*, G/SCM/Q2/CHN/8 (6 October 2004) at 3.

129 *Id.*

130 *Transitional Review Mechanism Pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China*, G/SCM/Q2/CHN/7 (23 September 2004) at 1.

131 *Committee on Subsidies and Countervailing Measures, Questions Posed by European Communities to the People's Republic of China*, G/SCM/Q2/CHN/5 (2 October 2003) at 2.

277 See National Trade Estimate 2007 at 105.

278 China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for Consultation by the United States, WT/DS358/1 (7 February 2007)

279 Id.

280 China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for Further Consultations by the United States, WT/DS358/1/Add.1 (2 May 2007).

281 Enterprise Income Tax Law of the People's Republic of China, Order No. 63 [2007] of the President of the People's Republic of China (16 March 2007).

282 *China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for the Establishment of a Panel by the United States*, WT/DS358/13 (13 July 2007), attached as Exhibit 8.

283 Attached as Exhibit 9.

284 Attached as Exhibit 10.

285 Department of Commerce, International Trade Administration, *Coated Free Sheet Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 17484 (April 9,2007).
286 *Circular of the State Administration of Taxation and the National Development and Reform Commission of the People's Republic of China, on Printing and Issuing the Trial Measures for the Administration of Tax Rebate for the Purchase of Domestically-Produced Equipment in Foreign Investment Projects* GuoShuiFa [2006] No. 111 (24 July 2006).

287 Department of Commerce, International Trade Administration, *Coated Free Sheet Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 17484, 17496 (April 9, 2007).

288 *Id.*

289 *Id.*

290 Attached as Exhibit 11.

291 Attached as Exhibit 12.

292 Attached as Exhibit 13.

293 *Id.*; Program LVIII.

294 *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment*,

GuoFa [1997] No. 37 (29 December 1997).

295 Department of Commerce, International Trade Administration, *Coated Free Sheet Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 17484, 17495 (April 9, 2007).

296 *Id.*

297 *Id.*

298 Attached as Exhibit 14 (Chinese original and English summary).

299 *Statement of Reasons Concerning the making of a final determination with respect to the dumping of Certain Copper Pipe Fittings Originating in or exported from the United States of America, the Republic of Korea and the People's Republic of China and the making of a final determination with respect to the subsidizing of Certain Copper Pipe Fittings Originating in or exported from the People's Republic of China*, February 2, 2007, *available at* http://www.cbsa-asfc.gc.ca/sima/anti-dumping/ad1358-fd-de-eng.html .

300 Attached as Exhibit 15.

301 Attached as Exhibit 16.

302 Attached as Exhibit 17.

303 Article 6, *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises; Order No. 45*

304 Attached as Exhibit 18.

305 Article 7, *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises; Order No. 45.*

306 Article 73(6) of the *Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Decree [1991] No. 85 of the State Council (30 June 1991).

307 *Article 81 of the Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises*, Decree [1991] of the State Council (30 June 1991).

308 Article 10, *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises; Order No 45.*

309 Section XIII of the *Catalogue for the Guidance of Foreign Investment Industries*, Order [2004] No 24 of the State Development and Reform Commission. The Ministry of Commerce of the People's Republic of China (30 November 2004)

310 Section XIII of the *Catalogue for the Guidance of Foreign Investment Industries*, Order [2004] No. 24 of the State Development and Reform Commission, the Ministry of Commerce of the People's Republic of China (30 November 2004).

311 Article 28 of the *Enterprise Income Tax Law of the People's Republic of China*, Order [2007] No. 63 of the President of the People's Republic of China (16 March 2007).

The following extract provides additional details of the sectoral subsidies and preferential tax policies available to enterprises in China that are considered actionable under the WTO Subsidies and Countervailing Agreement. ROH has identified the relevant programs applicable to ARW exporters further below.

1.11 - Sectoral incentives.

UNCTAD/ITE/IPC/Misc.3, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Geneva, ASIT Advisory Studies, No. 16 : Tax Incentives and Foreign Direct Investment A Global Survey. http://www.unctad.org/en/docs/iteipcmisc3_en.pdf

- "Foreign investment enterprises scheduled to operate for at least 10 years, and engaged in production-oriented activities, are entitled to an exemption from income tax for two years, starting with the first profit-making year. This is followed by a 50 per cent reduction of the usual income tax rate (30 per cent, 15 per cent, or 24 per cent) over the subsequent three years. However, the State Council is authorized to issue separate exemption and reduction regulations for FIEs engaged in the exploitation of resources such as petroleum, natural gas and rare or precious metals.

- Those FIEs that the Ministry of Foreign Trade and Economic Cooperation has certified to be technologically advanced enterprises may be granted a 50 per cent reduction of the usual income tax rate in the three years following the expiration of the initial tax exemption and reduction period, provided they remain technologically advanced. A technologically advanced enterprise must possess technologically advanced production techniques and equipment, and these techniques and equipment must either be in short supply in China or the enterprise must develop new products, products that replace existing domestic products, or products that will expand exports or serve as import substitutes.

- A Chinese-foreign equity joint venture with a scheduled term of operation of at least 10 years that is confirmed as a high- or new-technology enterprise and that is established in a high- and new-technology development zone may, on approval by the local tax authorities, be granted an exemption from income tax for two years, starting with the first profit-making year.

- Subject to conditions, tax exemption and reduction periods are also available to Chinese foreign equity joint ventures engaged in harbour and wharf construction, and to foreign bank branches and Chinese-foreign joint venture banks set up in SEZs, FIEs established in the Pudong new development area and engaged in construction projects, and FIEs engaged in infrastructure projects or agricultural development in the Hainan SEZ.

Export incentives and free trade zones.

- Export-oriented enterprises (FIEs that produce goods mainly for export and balance their foreign exchange revenue and expenditure or that earn a foreign exchange surplus) may also be entitled to further tax reductions after the expiration of the initial tax exemption and reduction period. In any year in which the FIE exports at least 70 per cent of its total output, it may be granted a 50 per cent reduction of the usual income tax rate. If, however, the FIE is established in a SEZ or ETDZ in which the rate is already 15 per cent, it will pay tax at 10 per cent instead of at 7.5 per cent.

Other incentives.

- A foreign investor that directly reinvests its share of profits derived from a FIE may obtain a refund of 40 per cent of the tax already paid by the FIE on the reinvested amount, subject to the approval of the tax authorities. To obtain the refund, the foreign investor must either use its share of the profits (before the profits have been distributed) to increase the capital of the FIE or use the profits (after distribution) as capital to establish another FIE. The profits must be reinvested for at least five years. If the reinvested amounts are withdrawn within five years, the foreign investor must repay the tax refunded. A 100 per cent tax refund is granted to foreign investors if profits are reinvested in an export-oriented enterprise or a technologically advanced enterprise.

Tax incentives legislation highlights.

- Income tax law of the People's Republic of China for enterprises with foreign investment and foreign enterprises, Articles 7 to 10.

- Detailed rules for implementation of FEIT Law, Articles 69, 73, 75, and 80-82.

Statutory tax rate.

- The standard income tax rate applicable to enterprises with foreign investment in China is 30 per cent. The local governments and municipalities levy a 3 per cent tax on net taxable income in all areas other than the SEZs. This may be waived or reduced at the discretion of the local governments. The effective corporate tax rate is therefore 33 per cent (30 per cent income tax plus 3 per cent municipal tax).

- In principle, withholding tax at the rate of 20 per cent is levied on dividend income received by foreign companies, enterprises and other economic organizations that do not have permanent establishments or sites in China. However, dividends received from FIEs are exempt from tax on that income which is not effectively connected with a permanent establishment.

- Withholding tax on interest is 20 per cent. Interest payments made to international finance organizations on loans granted to the Government of China or China's state banks, and on interest payments made to foreign banks on loans granted at a preferential interest rate (as defined) to China's state banks may be exempt from tax.

- The rate of withholding tax on royalties is 20 per cent. Royalties paid for the use of technology that is held to be advanced, or provided on preferential terms, may be exempt from tax. The rate is reduced to 10 per cent on royalties paid for the use of certain proprietary technology for specific important development areas and paid by foreign investment enterprises located in specified investment zones."

An array of subsidies is available to both domestic and foreign-invested enterprises manufacturing and exporting ARWs, according to their geographical location and zoning. ROH identifies the relevant programs applicable to ARW exporters further below. Whilst some State policies may appear to have been repealed or re-written, the original subsidised benefits continue on-foot under transitional and grandfathering rules. (See *ARW Subsidy Menu*, page 50 in this section for further details.)

1.12 - Reduced income tax based on location.

Free Trade Zone and Port Hinterland Development, United Nations Economic and Social Commission for Asis and the Pacific (UNESCAP), Transport Division, UNESCAP reference no. ST/ESCAP/2377. http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2377/pub_2377_ch4.pdf

"In the early 1980s, China jump-started its economy by encouraging manufacturing and trade in Special Economic Zones. The Special Economic Zones started in 14 coastal cities in which special incentives such as decreased tax rates and exemptions from other government fees and duties were offered to foreign investors to encourage investment.

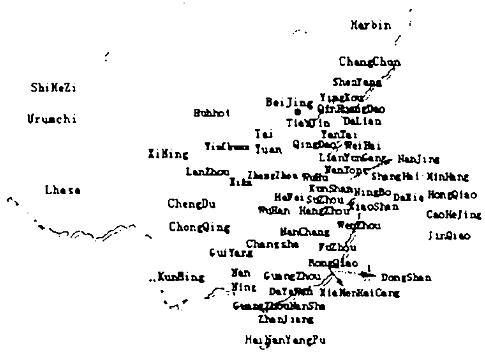
Since then, the government has developed new and more specialized forms of industrial zones to encourage particular industries or groups of investors. There are now several types of industrial parks and zones in China, and it is estimated that there are now more than 4,500 industrial zones in the country.

Types of Zones.

While all zones can offer a good deal to the right investors, most zones have particular industries that they encourage (and offer greater incentives to). The government has created four primary types of zones designed to encourage different kinds of investment:

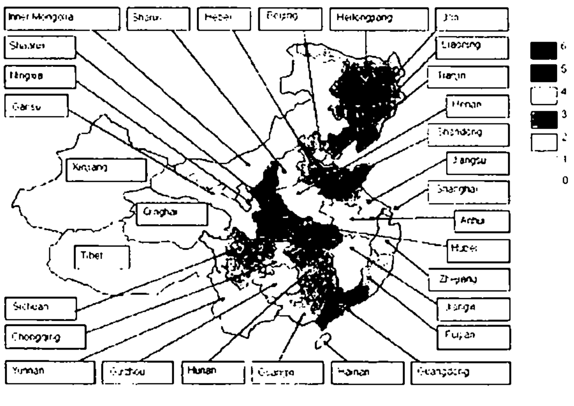
· **Economic and Technological Development Zones (ETDZ)** – these are the most broadly defined zones and generally welcome the widest spectrum of investors. Some ETDZ, such as the Nantong ETDZ will have several more specialised subsidiary zones, such as dedicated chemical or other industry specific zone, and an EPZ.

Figure 1 ETDZs in China (Ministry of Commerce of the People's Republic of China, online)



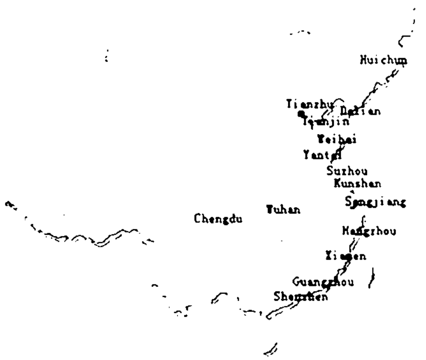
High and New Technological Development Zones (High Tech Parks) – these zones encourage investment in high technology businesses by offering incentives to enterprises who commit to developing new technology and employing highly trained staff. An example of a High Tech Park in the Shanghai area is the Caohejing Hi-Tech Park

Figure 2 High technology industrial development zones (UNESCAP Secretariat)



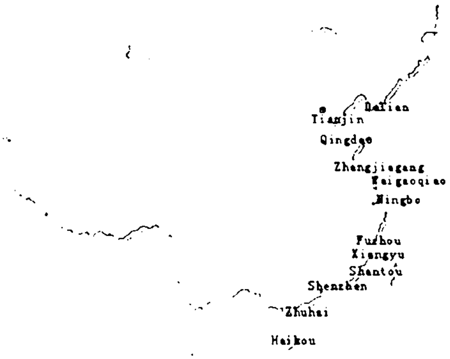
Export Processing Zones (EPZ) – the advantage of the EPZ is to eliminate or streamline most customs procedures for businesses which are primarily involved in manufacturing for export.

Figure 3 Locations of EPZs approved by the State Council in April 2000 (China Development Zones, online)



· **Free Trade Cooperation Zones (FTZ)** – Free Trade Zones are intended to encourage investment by bringing down tariff barriers. The FTZ in China offer many of the same tax advantages as the EPZ, however, investors are not restricted to producing for export only. However, some important EPZ advantages such as immediate refund of customs duties are not available to FTZ investors.

Figure 4 Locations of FTZs in China



Enterprises in FTZs can basically enjoy almost same preferential policies with those of other special zones in China.

Due to the unique advantage of treating FTZs together with EPZs as outside of Customs supervision areas, FTZs provide more incentives compared to those of other special zones in China. Major preferential policies are as follows (*China Business Review* 2003; DTZ Debenham Tie Leung)

Tax incentives:

- The prime income tax rate for foreign-invested enterprise (FIE) is 15% of profit.
- The national government has standardized most preferential policies for FTZs, including a package of tax incentives.
- For the first two years of operations, companies are exempt from enterprise income tax. During the next three years, companies are taxed at 50% of the normal FIE tax rate of 15%. After five years, in-zone enterprises pay the full FIE tax rate.
- If more than 70% of the finished product is re-exported outside China territory, any remaining product is taxed at a reduced rate based on the original imported components.

Customs duty incentives:

- There are duty exemptions on all construction or infrastructure imports necessary for production and on all equipment, parts, and components imported for self use.
- Imports entering the FTZ from outside China proper are exempt from customs duties and VAT (value-added tax); customs duties and VAT are assessed only after the finished products leave the FTZ for regions outside the bonded area.
- All finished goods 'imported' from the FTZ into China proper will have customs duty and VAT assessed based on a ratio of locally sourced inputs to imported components.

Local level incentives:

- Each zone can, and often does, offer its own incentives on top of the central government ones.
- Local authorities can establish land-use or utility incentives and may also decide to exempt in-zone enterprises from local income tax.

Beside encouraging particular industries, all zones will have other industries that are restricted from activity in the zone.

The advantages of the various zone types are outlined in the following chart. To be certain of which industries are encouraged or restricted in a particular zone, "investors should contact the zones directly or enquire through their agents".

	Economic & Technological Development Zones (ETDZ)	High-Tech Industrial Development Zones (HIDZ)	Free Trade Zones (FTZ)	Export Processing Zones (EPZ)
Corporate Income Tax Rate (For high tech enterprises)	15% instead of 25%	Same	Same	Same
Corporate Income Tax Rate (For export oriented enterprises)	For enterprises whose export ratio is more than 70% in each fiscal year corporate income tax will be 10% instead of 15%	Same	Same	Same
Custom Duty & Value Added Tax (VAT) (on self-use equipment and spare parts)	Custom duty and VAT exempted for encouraged industries.	Custom duty and VAT exempted for encouraged industries.	Exempted	Exempted
Custom Duty and VAT (on raw materials and parts)	Only enterprises involved in the processing trade are exempted.	Only enterprises involved in the processing trade are exempted.	Exempted	Exempted
VAT Tax Rate	17%	Same	Same	Same
VAT Rate Licences for equipment, raw materials and office equipment (for processing enterprises)	For enterprises in the category of encouraged industries, licenses are exempted	For enterprises in the category of encouraged industries, licenses are exempted	Licenses not required for all processing trade enterprises	Licenses not required for all processing trade enterprises
Tax on finished products using duty-free raw materials.	Levy on finished products	Levy on finished products	Levy on imported raw materials and parts only	Levy on finished products
VAT Refund for finished products using domestic raw materials.	VAT will be refunded following export of shipment	VAT will be refunded following export of shipment	VAT will be refunded following export of shipment	Immediate VAT refund for domestic raw materials upon entering the zone
Ratio Between Export and Domestic Sales.	No restriction as long as projects are excluded from export license and quota management.	No restriction as long as projects are excluded from export license and quota management	No restriction	Exact percentage varies between zones
Transport of products in the zone	Unrestricted	Unrestricted	Only by a transport company licensed in the zone and registered with customs	Only by a transport company licensed in the zone and registered with customs
Bonded cargo control	Not applicable	Not applicable	Bonded warehouse receiving register (EDI with the customs house)	Export processing zone border crossing cargo record statement (EDI with the customs house)

ROH's research reveals that the provincial governments play a significant role in the provision of subsidies and incentives, with the following additional policies promulgated at the local level.

1.13 - Other regional policies & incentives.

Table C-1.1.13

CODE	English Version of Preferential Policies
	Shanghai
SH01	Central China Foreign Investment Promotion Plan (2009–2014) - Launched by Central Government
SH02	Notice about the name list on adjust the Import Tax of important and technical equipment
SH03	Notice about the process of approval on take back investment ahead of schedule
SH04	Notice about the Audit and Approve Method on free or drawback the tax of the equipment which using in the research and develop center for foreign investment
SH05	This is a notice of the benefit to Japanese investment.
SH06	Notice about the Close and Stop the preferential policies on the Income Tax for Foreign Investment
SH07	Notice about Cancel some process of Tax audit and approve.
SH08	Notice about the Reduce VAT on the importing equipment which the project investment is loan from Foreign government or international finance organizations
	Jiangsu
JS01	The Updated Version of Preferential Policies on Foreign Investment Utilize of Jiangsu Province
SZ01	The List of execute preferential policies for import equipment in Suzhou
SZ02	National encouraged industry list for foreign investment
SZ03	The List for foreign investment
	Suzhou
SZ04	The Preferential Policies on Foreign Investment in the High-Tech Zones of Suzhou
SZ05	The Preferential Policies for Foreign Investment in Suzhou Industrial Park
SZ06	The encourage and important industrial List for foreign investment of Suzhou
	Changshu
CS01	Preferential Policies
CS02	Preferential Policies on employ jobless person
	Zhejiang
ZJ01	Policy for Encourage Foreign Investment directly
ZJ02	Policy for Encourage Taiwan Investment
ZJ03	Policy for Promote the Foreign Investment Environment
ZJ04	Policy for Encourage Overseas Chinese Invest to Zhejiang
	Some other additional important policies of Zhejiang (we found when we surfing on the web, wish it help to you.)
ZJ05	The Regulations on utilize the foreign investment to re-organize state owned enterprise
ZJ06	The Regulations on foreign investment merge Chinese enterprise
ZJ07	Preferential Policies of Zhejiang Province
ZJ08	Catalogue of Restricted Foreign Investment Industries
ZJ09	Catalogue of Prohibited Foreign Investment Industries
ZJ10	Industrial Policies of Zhejiang Province
	Ningbo
NB01	Suggestion for upgrade utilize the foreign investment launched by State Department
NB02	Ningbo Simplized process for foreign trade
NB01	Suggestion for upgrade utilize the foreign investment launched by State Department
NB02	Ningbo Simplized process for foreign trade
NB03	Preferential Policy on Technology Development for foreign investment enterprise
NB04	Some Regulations on encouraging foreign investment in Ningbo Science & Technology Zone

NB05	Preferential Policy on foreign investment in Jiangdong District
NB06	Preferential Policy on foreign investment in Zhenhai District
NB07	Preferential Policy on foreign investment in Xiangshan District
NB08	Preferential Policy on foreign investment in Ningbo Science & Technology Zone
NB09	Preferential Policy on foreign investment in Ningbo Economic & Technology Development Zone
NB10	Preferential Policy on foreign investment in Ningbo Daxie Development Zone
NB11	Preferential Policy in Ningbo Export & Processing Zones
NB12	Preferential Policy in Ningbo Boned Area
NB13	Tax Decrate on Declaring Technology Contract by Foreign Invest Company

Non-Confidential Attachment C-1.1.13 provides translated copies of these State and provincial policies including Changshu, Jiangsu, Ningbo, Shanghai, Suzhou and Zhejiang.

See also : Commission Regulation (EU) No 404/2010 of 10 May 2010, imposing a provisional anti-dumping duty on imports of certain aluminium wheels originating in the People's Republic of China, *("40) For one group, there are clear distortions in relation to land use rights and acquisition of fixed assets for several companies and most companies belonging to the group have benefitted from preferential tax regimes, tax refunds and subsidies which constitute distortions carried over from the non-market economy system. These distortions were significant, measured for example in terms of turnover."*

The following extract demonstrates the magnitude of some of the government subsidies available to ARWs in China.

1.14 - Example of subsidy – L.K. Technology Holdings Limited ~ Shanghai Arays Hardware Manufacturing Co., Ltd., FIE exporting ARWs to Australia = around A$5.5 million in 2009/10.

Consolidated Statement of Cash Flows

For the year ended 31 March 2010

	Note	2010 HK$'000	2009 HK$'000
Investing activities			
Payments for intangible assets		**(4,363)**	(6,065)
Purchases of property, plant and equipment		**(74,435)**	(224,356)
Deposits for acquisition of property, plant and equipment		**(7,853)**	(4,602)
Payment for land use rights		**(40,102)**	(8,566)
Deposits for acquisition of land use rights		**(19,049)**	–
(Increase)/decrease in restricted bank balances		**(6,286)**	34,449
* Government subsidy received for acquisition of property, plant and equipment		* **39,236**	–
Proceeds from disposals of property, plant and equipment		**651**	2,165
Proceeds from disposal of a jointly controlled entity		**2,773**	–
Interest received		**1,678**	3,921
Interest in an associate		**–**	(55,261)
Interest in a jointly controlled entity		**–**	(3,086)
Acquisition of a subsidiary	44	**–**	5,607
Purchase of available-for-sale financial assets		**–**	(9,091)
Proceeds from disposal of available-for-sale financial assets		**–**	952
Net cash used in investing activities		**(107,750)**	(263,933)
Financing activities			
Proceeds from issue of shares		**5,741**	1,059
Inception of new bank loans		**250,005**	773,458
Repayment of bank loans		**(258,000)**	(423,797)
Net increase/(decrease) in trust receipt and other loans		**46,064**	(56,951)
Increase in amount due to holding company		**40,000**	–
Capital contribution from minority shareholders of subsidiaries		**1,273**	17,700
Dividends paid		**–**	(27,346)
Net cash from financing activities		**85,083**	284,123
Net increase in cash and cash equivalents		**66,034**	157,319
Effect of foreign exchange rates changes		**1,775**	2,161
Cash and cash equivalents at beginning of year		**330,265**	170,785
Cash and cash equivalents at end of year		**398,074**	330,265

Note:

During the year, patents of HK$3,420,000 included in intangible assets were contributed by a minority shareholder of a subsidiary as capital contribution.

1.15 - Identification of Chinese aluminium road wheel (ARW) manufacturers and exporters to Australia.

ROH has identified Chinese ARW manufacturers (and exporters) of the goods the subject of this application, by location in China. The exporter's supply to the particular market segment (i.e. original equipment ("OE") and/or after-market ("AM")), along with the type of entity (i.e. SOE or FIE) are also nominated.

Table C-1.1.15

PRC ARW manufacturers by province.		Exports to Australia ?	Province Ranking by Value of Exports to Australia	Individual Company Ranking by Value of Exports to Australia	Segment	Type
Hebei (3)	**Citic Dicastal Wheel Manufacturing Co., Ltd.**	**Yes**	1	1	OE	SOE
	Baoding Lizhong Wheel Manufacture Co., Ltd. (See also China Wheel).	**Yes**		14	AM	SOE
	Zendawn Alloy Wheel Co	**Yes**				
Jiangsu (20)	AOK Wheels Co Ltd		2			
	Chinese Alloy & Steel Wheel Group Co Ltd	**Yes**				
	Enkei Aluminum Products (China) Co., Ltd.					
	Futek Alloy (Changshu) Co., Ltd.	**Yes**		1	AM	FIE
	Jiangsu Dare World Light Alloy Co					
	Jiangsu Kaite Automobile Parts Co Ltd					
	Jiangsu Shenzhou Wheel Hub Manufacturing Co Ltd	**Yes**		10	AM	FIE
	Jiangsu Sunon Industry & Trade Co Ltd					
	Jiangsu Yaozhong Aluminium Wheel Factory					
	Jiangsu Yuantong Auto Parts Co., Ltd					
	Kunshan Anka Wheel Co Ltd	**Yes**		9	AM	FIE
	Liufeng Machinery Industry Co., Ltd.					
	Lioho Light Metal (Kunshan) Co., Ltd.					
	Liuhe Light Alloy (Kunshan) Co Ltd	**Yes**		8	AM	FIE
	Nanjing Huashun Aluminum Wheels Co Ltd	**Yes**		4	AM	FIE
	Spark Auto Parts Manufacturing Co., Ltd.					
	Topwell International Limited					
	Trade Union (Nantong) Aluminum Alloy Co. Ltd.					
	Wuxi Wanxuan Metal Products Co Ltd					
	YHI Advanti Manufacturing (Suzhou) Co Ltd	**Yes**		2	AM	FIE
Zhejiang (37)	AITL Manufacturing Inc		3			
	Asia Wheel Holdings Ltd					
	Butwe Kinauto Parts Co., Ltd.					
	Baosh Auto Parts Co Ltd / Baosh Wheel					
	China Zhejiang Kent Auto Wheel Co., Ltd.					
	DRV Industry Co Ltd					
	Fortune Smart Industrial Limited					
	Freeman Racing Wheels Inc					
	Highway Wheels Co Ltd					
	Longway Auto Wheel Co Ltd					

	Ningbo Chong Guang Century Wheels Co					
	Ningbo Freeman Wheels					
	Ningbo Ju Yuan Wheel Co.,Ltd.					
	Ningbo Motor Industrial Co Ltd					
	Ningbo Pilotdoer Wheel Co Ltd			7	AM	FIE
	Ningbo Tiau Auto Parts Co Ltd					
	Ningbo Waywell Machinery Co Ltd					
	Ningbo Wheel Manufacturing Co Ltd					
	Ningbo Yongqi Aluminium Wheel Manufacturing Ltd	**Yes**		3	AM	FIE
	Rizo Wheels Inc					
	Tianshen Wheel					
	Tide Industry Co., Ltd.					
	Tila Wheel Group					
	United Wheel	**Yes**				
	UFO Wheels					
	Zhejiang Wanfeng Auto Wheel Co Ltd	**Yes**				SOE
	Zent Group					
	Zhejiang Dawning Wheels Co Ltd	**Yes**		6	AM	FIE
	Zhejiang Feihu Aluminium Wheel Co Ltd					
	Zhejiang Jinfei Machinery Group Co., Ltd					SOE
	Zhejiang Jujiu Wheel Co., Ltd.					
	Zhejiang Tailong Aluminum Wheel Co Ltd					
	Zhejiang Tianbo Alloy Wheel Co Ltd					
	Zhejiang Wheepow Industry Corp Ltd					
	Zhejiang Yongle Alloy Wheel Co					
	Zhejiang Yueling Co Ltd					
Shanghai (15)	Shanghai Xuan Tian Co Ltd		4			
	Jamda Automobile Parts Co . Ltd.					
	Master Pacific The Wheel Group					
	Min-Shian Industrial Company					
	Ningbo Universal Luxury Collections					
	Orizz	**Yes**				FIE
	Realux					
	Seyen Heavy Industries Shanghai Co Ltd	**Yes**				.
	Shanghai Arays Hardware Manufacturing Co Ltd	**Yes**		11	AM	FIE
	Shanghai Midtec Metal Products Co., Ltd.					
	Shanghai Mingqi Aluminium Industry Co., Ltd	**Yes**		15	AM	FIE
	Shanghai Fervent Alloy Wheel Manufacturing Co Ltd					
	Taichi Automotive Co Ltd					
	YHI International Marketing (Shanghai) Co Ltd	**Yes**		2	AM	FIE
	Shanghai Oiled Wheel Co					
Guang Dong (12)	**Baoding Lizhong Wheel Manufacture Co., Ltd. (See also China Wheel).**	**Yes**	5	14	AM	FIE
	Guangdong Nanhai Zhongnan Aluminum Wheel Co					
	Stonewell International Corporation					
	China Zhonglv Alloy Wheel Co Ltd					
	Dailydepot Inc					
	Foshan Pioneer Enterprise					
	Foshan Nanhai Zhongnan Aluminium Wheel Co Ltd					
	Guangzhou KCTH Trading Co. , Ltd.					
	Huatao Trading Co., Ltd.					
	JRD (Qing Yuan) Co.,Ltd					

	Protech Wheel Industry Co Ltd (P&W Wheels)	Yes		5	AM	FIE
	Quansheng Wheels Company	Yes				
Hubei (4)	Baoding Lizhong Wheel Manufacture Co., Ltd. (See also China Wheel).	Yes	6	14	AM	FIE
	Fracing Wheels Co., Ltd.					
	Kinghwa Toptrue Wheel Co	Yes		12	AM	FIE
	Sinontrans Huangshi International Trade Co Ltd	Yes		13	AM	FIE
Fujian (2)	Fujian Shenlika Aluminum Industry Development Co	Yes	7			
	Xiamen Ascending Business Power Co., Ltd					
Anhui (1)	Wuhu Huangyan Wheels Co Ltd	Yes	8			FIE ?
Beijing (1)	Beijing Reach Automobile Tech Co Ltd		9			

1.16 - Available incentives for FIE ARWs in the Singapore Suzhou Industrial Development Park and Zhejiang.

ROH research 2010. (See also Non-Confidential Attachment C-1.2.7)

Enterprise income tax 15%, reduced from 25%, PLUS:

1. General exemption from 3% local income tax ;

2. If the period of operation exceeds 10 years then as above. In addition, 2 years exemption plus 3 years half enterprise tax at the further reduced rate of 7.5% from the first profit-making year. Income tax paid from the 3rd to 5th profitable year will be refunded.

3. If exporting then as above and after the first 5 years of enjoying the additional tax incentive, if the value of exports in any year exceeds 70% of output value, enterprise tax is reduced to 10%.

4. If technologically advanced enterprise then as above and after the first 5 years of enjoying the additional tax incentive, a further 3 years of enterprise tax at 10%. Third and fifth-year income tax will be refunded.

5. When the granted incentives term has expired, export-oriented enterprises with 70% of products exported will continue to enjoy the reduced enterprise tax of 10%.

6. Enterprises of a production nature are exempted from local 3% income tax for 5 years starting from the first profitable year. Export-oriented and high-tech enterprises are exempted from local income tax.

VAT:

1. The current rate of rebate on most manufactured goods is 13% to 17%.

2. The local portion of VAT (1.7%) will be rebated for projects with an operation term in excess of 10 years.

Business Tax:

1. Projects with an operation term in excess of 10 years will be refunded 50% of the business tax payable in the 1st to 5th years, starting from when the registered capital is contributed.

Real Estate or Property Tax:

1. Investors who construct a new building for their own use can be exempted this tax for 5 years.

Land transfer and volume increasing fees for power supply, water, steam etc.:

1. High-tech projects approved by the Zhejiang provincial government can be exempted during the construction phase.

Export duty and 17% VAT:

1. Products manufactured for export are free from export tax and VAT.

Import duty and VAT on imports:

1. FIEs engaged in encouraged industries enumerated in the "*Catalogue for the Guidance of Foreign Investment Industries*" may import production equipment, related technology, auxiliary materials and spare parts without paying customs duty and VAT.

Tax rebates for re-investment:

1. Re-investments in the same enterprise or a new FIE will receive a 70% rebate of the enterprise tax that has been paid on the sum re-invested.

2. Re-investment in export-oriented or advanced technology enterprises will receive a 100% rebate of the enterprise tax that has been paid on the sum re-invested.

Withholding Tax:

1. Dividends remitted to foreign shareholders will receive 100% exemption.

2. 10% tax rate on interests, rental, leasing payments, capital gains or franchise fees, which may be further reduced after payment of 5% business tax, depending on Double Taxation Agreements signed between the PRC and other countries.

1.17 - Response to ROH from the Ningbo Foreign Trade and Economic Cooperation Bureau, 1 July 2010.

ROH research 2010. (See also Non-confidential Attachment C-1.1.17)

"From 2008 the high and new zone finance arranges special fund of RMB 10,000,000 to use for introducing the study abroad talented person to work in Ningbo every year."

Additional incentives include:

1. Financial support;
2. Discount loans and grants;
3. Financing guarantee;
4. Intellectual property shares;
5. Tax rebates and subsidies;
6. Office business space rental subsidy;
7. Housing subsidy;
8. Other premium services.

Yinzhou districts may have better incentives.

Key export-oriented industries to be promoted include auto parts.

Ningbo Free Trade Zone (for example) is the strategic key area for development identified by the GOC.

1.18 - Response to ROH from Changshu City Commerce Bureau, 9 June 2010, regarding available subsidy programs for FIEs.

ROH research 2010. (See also Non-confidential Attachment C-1.1.21).

1. 14% refund of corporate income tax in the 1^{st} to 5^{th} years;
2. 8.25% refund of VAT in the 1^{st} to 5^{th} years;
3. 32.5% refund of property tax in the 1^{st} to 5^{th} years;
4. 14% refund of individual income tax in the 1^{st} to 5^{th} years;
5. Import duty will be free if imports are classified as encouraged category;
6. VAT export allowance : according to specific products, part or all of the paid VAT can be refunded;
7. Municipal government talent incentive : RMB 80,000 for each PhD and RMB 30,000 for each Master;
8. Domestic and foreign R&D centres : Research aid fund of RMB 1 million for dependant facilities and RMB 2 million for independent facilities ;
9. Assistance with recruitment;
10. Energy subsidy – on application;
11. Water subsidy – on application;
12. Sewerage subsidy – on application;
13. Natural gas subsidy – on application;
14. Steam subsidy – on application.

1.19 - Preferential treatment for FIEs located in the Xinzhuang Industrial Zone, Shanghai.

See: http://www.zsyzw.cn/news/2/46/list/329934.htm

This is the location of YHI Manufacturing (Shanghai) Co., Ltd.

"Shanghai Xinzhuang Industry Park was established in August 1995 with the approval of the Shanghai Municipal government.

The Administrative Committee of Shanghai Xinzhuang Industry Park and the Economic & Technological Development Co., Ltd., authorised by the Minhang District Government, are in charge of the park.

Preferential Policies:

1. Manufacturing FIEs whose taxes are collected by Minhang District could enjoy the encouragement as three-year exemption and four-year half rate of corporate income tax from the first profitable year of local production.
2. The companies registered with capital over US$10 million in Minhang district, or their predominant party of foreign investment listed in Fortune 500 in or after 2002, could enjoy the encouragement as three-year exemption and six-year half rate of corporate income tax from the first profitable year for local production.
3. For foreign investors to reinvest as second phase investment after incentive ended up, if the amount of new increasing investment of the manufacturing enterprises exceeds US$ 1 million, and the business has been run for more than 5 years, the first reinvestment regarding the company income tax of the year before increasing as coefficient, 70% of the exceeding part which is local proportion be returned as bonus to FIEs for next 5 years.

Preferential Policy on Regional Headquarters:

1. Tax Incentive Plans Adopt case by case policy.
2. Foreign Currency Freely wire transfer foreign currency in China.
3. Foreign Trade Joint Venture Engaged in foreign trade, wholesale and retail.
4. Finance Centralised internal management system Establish financial co. To offer financial support and management to subsidiary co.
5. Customs Bonded warehouse Expressway for Customs clearance.
6. Distribution Sell products manufactured by either subsidiary or related co.
7. Import equipments required by production of subsidiary co.
8. Export all commodities except that involved in quota and export license.

Preferential Policies for Foreign-invested R&D Centers:

1. Self-use equipment and matching technology, parts and components imported within the total amount of investment shall be exempted from the import tariff and the import-stage taxes, if they are used only by laboratories that do not reach a production scale or fall into the scope of intermediate experiment.
2. For technology renovation by way of using their own funds, imports of self-use equipment and matching technology, parts and components with the previously approved scope of business that meet the conditions specified in the preceding paragraph shall be exempted from the import tariff and import-stage taxes.
3. Proceeds obtained from transfer of technology developed as a result of their own research and development shall be exempted from the business tax.
4. If the expenditure for technology development increases by over 10 percent (including 10 percent), 50 percent of the actual amount of technology development expenditure can be used to deduct the current years amount of taxable income with the approval of the taxation authorities.
5. Other incentives are provided by the state."

1.20 - Preferential treatment for FIEs located in Weihai state-level development zones.

See: http://www.business-in-asia.com/Investment_guide.html

This is the location of Weihai Wanfeng Auto Wheel Co., Ltd.

"The taxes applicable presently for enterprises with foreign investments, foreign enterprises, and foreigners are the following: the income tax for foreign enterprises or enterprises with foreign investments (including local income tax), the increment tax, the consumption tax, the business tax, land increment tax, the resources tax, stamp tax, the slaughter tax,, the city real estate tax, the license plate tax for vehicles and ships, and the income tax for individuals.

According to the business and operation scope of a foreign enterprise only some of the above maybe applicable to be paid as taxes.

Foreign Enterprises and Enterprises with Foreign Investment must, however, pay income tax and the increment taxes for enterprises.

Income Tax.

1. Rate of tax: the rate for productive enterprises with foreign investment is 24%.

2. Favorable policies for the reduction and exemption of the income tax exist and are as follows:

1) For productive enterprises with foreign investment, if the real operation period is more than 10 years, the enterprise will be free from this tax for the 1st 2 years, and they could pay half of the income tax of the enterprise from the 3rd year to the 5th year. No tax is payable until the enterprise becomes profitable and this starts the above period running. The above is the so called "exemption for 2 years and half-reduction for 3 years" tax policy.

2) The following enterprises can pay the income taxes according to the rate of 15% and be exempted from local income tax after approval: the projects that are technology-concentrated and knowledge-concentrated projects, the projects that the investment is more than 30 million USD, and the recovery period is long, the construction projects of energy, traffic infrastructure and ports, etc.

3) The enterprises that are established in the Economic Development Zones will pay income taxes according to the rate of 15% and be exempted from local income tax.

The enterprises that are established in the Torch High-tech Development Zone, if they pass the confirmation review required for designation as an advanced technology enterprise, will pay income tax under the rate of 15%.

4) Enterprises with foreign investment that are product-exporting, may be authorized legal reduction and exemption of tax, if the value of exported products is more than 70% of the total productive value. If this condition is met, the company can pay half of the regulated rate of tax; if the enterprises are paying tax under the rate of 15%, and can reach the abovementioned conditions, they will pay under the rate of 10%, at the same time, be exempted from local income tax.

The foreign-funded enterprises with advanced technology, after the period of legal reduction and exemption of tax, if the technology could be confirmed as advanced, the enterprises may pay half of the legal tax for another 3 years. If the rate is lower than 10%, the enterprises should pay under the rate of 10%, and they are free for local income tax. NOTE: This means the rate would be 10% if the above conditions can be reached.

5) If the foreign investor returns the profit of the enterprise as added registered capital, or puts in additional money so as to open another enterprise with foreign investment, and the operating time is more than 5 years, after the application of the investor, and the approval of the tax authority, 40% of the devoted tax will be returned. If the new-establishment can be classified as an export enterprise or advanced technology enterprise, all the paid income tax for the enterprise will be returned.

6) If the Enterprise with foreign investment invests in technical innovation or to produce high-tech products, 40% of purchase will be deducted from the income tax of last year of the enterprise.

7) If the enterprise invests with private capital or bank loans in a project classified by the government as nation-promoting and applicable for national technical innovation policy, 40% of income tax will be deducted.

8) All the profit gained from the enterprises with foreign investment will be free from income.

Local Income Tax.

The rate of local income tax is 3%. After approval, this can be exempted in appropriate cases.

Value Added Tax.

The rate of VAT for industrial products is 17%.

For export products, the VAT will be exempted, deducted, or returned, so that they will be free from VAT.

Favorable Policies for Imported Equipment and Purchase of Domestic Equipment.

Effective the 1st day of 1998, the import of equipment for encouraged projects, noted in the scope of regulation, will be free from the tariff and import increment tax.

1). For projects that belong to the encouraged category or the limited category B, if there is a technology transfer, all the equipment used by the enterprise, or the suit parts and spare parts will be free from the tariff and import increment tax except for that included in "The category of prohibited commodities for projects with foreign investment". The following imports will be covered under this item: the import of self-using equipment of the project of government-loaned or internationally-loaned projects, the free equipment offered by processing trade merchants or the suit parts and spare parts imported with the equipment.

2). For the established enterprises with foreign investment, the research and development center with foreign investment, or the high-tech and product-export enterprises with foreign investment which are listed on the encouraged category or the limited category B, for high-tech or product-export enterprises that are conducting technical renovation, the enterprises could import self-use equipment or technology, spare parts without paying for tariffs and import increment tax.

3). For the enterprises with foreign investment which is belonging to the encouraged category or the limited category B, if they purchase domestic equipment with the investment capital, and the equipment belongs to duty-free category, all the increment tax of the equipment will be returned.

4). If the research and development center with foreign investment import the equipment, technology, parts or spare parts that could not be manufactured in China or the features of the native products could not reach the technical demand, the imported products will be free from tariff and import increment tax.

Note : The price of land-use rights can be reduced if the investment is large or the technology planned for use by the enterprise is advanced."

1.21 Energy subsidies available to ARWs.

As noted elsewhere in this application, ROH submits that the ARW industry in China receives substantial direct and indirect energy subsidies including in the form of aluminium supplied at less than adequate remuneration. (See also Non-confidential Attachment C-1.2.7 – Material subsidy)

The following excerpts are extracted from the executive summary of "*Shedding Light on Energy Subsidies in China : An Analysis of China's Steel Industry from 2007~ 2007*", Usha C.V. Haley, Ph.D., January 8, 2008, prepared for the Alliance of American Manufacturing. ROH submits that energy subsidies to the PRC steel industry mirror those to the PRC aluminium industry.

- *Energy subsidies fell in 2002 and 2003, after China joined the WTO. However, the subsidies surged in 2004 and continued to grow exponentially till today, along with China's rise as the largest producer and exporter of steel in the world, and with steel's designation as a strategic industry for China. From 2000 to 2006, total energy subsidies to steel grew by 1,365 percent.*

In 2007, energy subsidies to Chinese steel are estimated at approximately $15.7 billion, showing a 3,800 percent increase since 2000; similarly, in 2007, Chinese production of steel and Chinese global steel exports (including to the USA) are estimated to grow by 289 percent and 1,276 percent from 2000.

- *Every Chinese province and region wants its own steel mill, and local governments provide lavish benefits to their steel industries.*

- *Statistical analysis shows that energy subsidies have a very strong correlation with Chinese steel exports and US steel imports from China. Indeed, one can almost perfectly predict China's steel exports from its energy subsidies.*

- *The NDRC determines both the price at which the generators can sell power to the grid and what the grid can charge different categories of users. The NDRC sets these prices province-by-province in consultation with local price bureaus and tries to accommodate provincial stakeholders' interests.*

- *Yet, provinces continue to subsidise routinely the cost of electricity for steel and metal production. In 2006, when Beijing announced its nationwide campaign to raise electricity prices to energy-consuming industries, officials in Nongxia province worked to evade the requirements. Fearing the impact on the local economy, the provincial government brokered a special deal for the Qingtongxia Aluminium Group which accounts for 20 percent of the province's industrial consumption and 10 percent of its GDP. Provincial governments removed the company from the national electricity grid and supplied electricity directly to it, exempting it from expensive fees. Consequently, Qingtongxia continued to get its electricity at the lowest price available.*

1.22 – European Commission ARW investigation, 2010.

The recent European Commission inquiry into ARWs exported from China identified[1] "*clear distortions in relation to land use rights and acquisition of fixed assets for several companies ....have benefited from preferential tax regimes, tax refunds and subsidies which constitute distortions*" afforded to Chinese ARW producers/manufacturers that the Commission considered "*the impact of*

[1] EU Commission Regulation No 404/2010, 10 May 2010, paragraphs 40, 50.

those schemes is significant if measured in terms of turnover". The Commission further observed that the:

"*...advantages enjoyed by the companies in the present case can be considered as company-specific because they are all targeted to a certain type of companies: e.g. being a foreign company, being established in a given area and having carried out ad hoc negotiations with the local authorities to receive subsidies, purchasing domestic equipment, technology upgrading, participation on fairs, R&D investments, etc.*"

and

"*....income tax exemptions and deductions for foreign companies.........imply the involvement of the State in shaping the business environment through measures.....such as discriminatory taxes*".

The Commission considered that certain Chinese ARWs producers/manufacturers received benefits from the government of China that are recognised as subsidies. ROH considers that Customs and Border Protection's findings in relation to programs available to Chinese aluminium extrusions producers/manufacturers similarly apply to Chinese producers/manufacturers of ARWs as confirmed in the Commission's final findings published in October 2010 in respect of ARWs exported from China.

1.23 U.S. Aluminium Extrusions investigation, 2010.

The following evidence is extracted from the *Petition for the Imposition of Antidumping and Countervailing Duties in the matter of Aluminum Extrusions from the People's Republic of China*, International Trade Administration, United States Department of Commerce and the United States International Trade Commission, Public Document Inv. No. C-570-968, March 31, 2010.

"China's *National Economic and Social Development 10th Five-Year Plan* established the development of alumina as a national objective and first step in the promotion of aluminum and aluminum industries generally. To implement this and other policies the GOC announced that it would "comprehensively utilize planning, fiscal financing and other means, exert the functions of pricing, taxation, interest rate, exchange rate and other levers, and strengthen and improve the macro control. *(page 4)*

The *11th Five-Year Plan* further provided that the GOC would use the various economic means including taxation, credit and land to promote the development of the industry. *(page 5)*

The GOC announced additional policies for the aluminum extrusion industry in the *Notice of Guidelines on Accelerating the Adjustment of Aluminum Industry Structure* (the "*Aluminum Industry Structure Notice*"). This document urges the development of high value-added aluminum products, calls for increasing the proportion of aluminum extrusion products relative to total aluminum production, and further singles out aluminum extrusions as among those products eligible for preferences including policy loans. The *Aluminum Industry Structure Notice* also calls on financial institutions to allocate credit in conformity with the state's industrial policies – that is, to provide policy loans to aluminum extrusions producers. Similarly, the *Special Development Plan for the Aluminum Industry* and the *Industrial Development Policy for the Aluminum Industry* call for cooperation with electricity companies in order to promote the development of processed aluminum products like extrusions. *(page 6)*

The GOC's issuance of policies relevant to aluminum extruders continued into the presumptive POI with the *Nonferrous Metal Industry Adjustment and Revitalisation Plan.* The purpose of this document was to provide additional assistance to the Chinese non-ferrous metal industry during the financial crisis, and to further boost the already rapid development and expansion of China's aluminum industry. The *Nonferrous Metal Industry Adjustment and Revitalisation Plan* provides that the GOC will build between three and five large metal producers by 2011, with the largest ten companies controlling 70 percent of aluminum production in China. To accomplish these goals, the GOC stated that it will facilitate mergers and restructurings. The plan also states that the GOC will support exports of processed aluminum products through special tax rates, policy loans, interest subsidies, electricity subsidies, and funds for research. In addition, the State Council instructs the entities subordinate to it to "enrich and perfect policies and measures, speed up the innovation of systems and mechanisms and fully carry out and implement the industrial adjustment and revitalization plan{s} in bid to make new breakthrough progress on the basis of raising the quality and efficiency of industrial growth. *(page 7)*

The GOC's administrative system ensures that provincial and local policy goals and objectives are in conformity with the central government's policy goals and objectives. This is particularly important because local governments have significant influence over banks and use that influence to ensure the country's industrial plans and programs, including those for the aluminum extrusions industry, are carried out. *(pages 7 & 8)*

It should be clear from the preceding paragraphs that the aluminum industry is particularly encouraged by the GOC, especially with regard to the production of downstream aluminum products. *(page 9)*

The GOC has in the past invited foreign entities to participate in the growth and development of China's aluminum extrusion industry. In this regard, the NDRC and the Chinese Ministry of Commerce ("MOFCOM") jointly publish the *Catalogue for the Guidance of Foreign Investment Industries*. This catalogue specifies whether certain projects are encouraged, restricted, or prohibited by foreigners. The GOC's most recent version of the catalogue, the *2007 Catalogue for the Guidance of Foreign Investment Industries*, designates numerous aluminum projects as encouraged, including the manufacture of automobile components, (*ROH note* : and production of lightened car, automobile and environment protecting new materials (bodywork aluminum board, aluminum magnesium alloy materials, automobile aluminum alloy frame and so on, manufacturing of casting and forging work-blanks for cars, and manufacturing of key spare parts for automobiles as well as research and development of key technologies).

These references to aluminum projects...have a number of consequences in China's industrial planning regime. Among other things, *Decision No. 40 of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"* (*Decision no. 40*) calls for providing financing and other benefits to the designated projects. *Decision No. 40* is explicit regarding the mandates for all levels of government to assist in the development of China's encouraged industries including the aluminum industry :

> The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government shall take the promotion of industrial structure adjustment as an important reform and development task at present and within a period in the future...lay emphasis on implementation and shall, in accordance with the "Interim Provisions"...formulate specific measures, rationally guide the investment directions, encourage and support the development of advanced production capacities...All relevant administrative departments shall speed up the formulation and amendment of policies on public finance, taxation, credit, land, import, export, etc., effectively intensify for coordination and cooperation with industrial policies, and further improve and promote the policy system on industrial structure adjustment.

Taken as a whole, the policies described above demonstrate that the manufacture and sale of aluminum extrusions is especially encouraged by the GOC and, as a result, eligible for a number o subsidy benefits. Given this support, it should be no surprise that annual aluminum extrusion capacity in China tripled between 1997 and 2010, and now stands at nearly 7 million tons. *(page 11)*"

ROH has been unable to obtain copies of the *Guidelines on Accelerating the Adjustment of Aluminum Industry Structure* or the *Nonferrous Metal Industry Adjustment and Revitalisation Plan*. However, ROH asserts that the guidelines and plan extend to ARWs as the ARW industry in China is a substantial consumer of aluminium. ROH requests that Customs and Border Protection obtains copies of these documents from the GOC.

1.24 China's 12th Five-Year Plan.

In December 2010, the GOC released its 12th five-year plan – a framework that is reflective of the command economy principles of directing the economy to achieve desired outcomes and objectives. The plan is aimed at providing overall objectives and goals related to social and economic growth and industrial planning in key sectors and regions.

The twelfth five-year plan is intended to compliment earlier initiatives. In particular and as noted by APCO Worldwide in their report *'China's 12th Five-Year Plan – How it actually works and what's in store for the next five years.'*, the plan "***represents a complex web of Chinese policy-making, containing previously-implemented regional and long-term development plans and hundreds of targeted policy initiatives, all of which undergo constant review and revision over the course of the five-year cycle***". It is therefore evident that the new plan will extend and continue investment incentives that have previously applied to the manufacturing sector, including 'grandfathering' of incentives. It is noted that promotion of the new five-year plan strategically identifies research and development initiatives targeted at redefining China's manufacturing hub as hi-tech wherein innovation and technology subsidies await the successful applicant.

It is ROH's understanding that the initiatives contained in the new five-year plan will extend the GOC's subsidy programs to enterprises on the basis that the enterprise is 're-badged' as a high technology or technologically-advanced entity, enabling continuing entitlement to an array of benefits in the form of tax incentives, exemptions, subsidies and grants provided by the State, thereby ensuring implementation of the initiatives of the 12th five-year plan, including through the SOEs that operate in the key strategic and encouraged industry sectors.

Please refer to Non-Confidential Attachment C-1.1.24 for a translated copy of the 12th Five Year Plan and a copy of APCO Worldwide's report dated 10 December 2010.

1.25 WTO Appellate Body Report on Public Bodies.

In March 2011, the WTO Appellate Body published report WT/DS379/AB/R concerning a dispute by China against the USA's inference on State influence via SOEs in a number of recent USA decisions involving Chinese exports, including circular welded carbon quality steel pipe, certain new pneumatic off-the-road tires, light-walled rectangular pipe and tube, and laminated woven sacks.

The US administration concluded that the GOC was able to implement its policy initiatives via its state-ownership in the relevant industry sector. It was argued by China that ownership did not constitute control and that the USA's approach was inconsistent with WTO rules. The Appellate Body agreed with China that it was "*not sufficient to establish that an entity is a public body*" and regard was required as "*to whether the entity exercises authority on behalf of the government*".

Whilst the US authority may have limited its analysis to who-owns-whom, it is clear that State ownership extends beyond mere shareholding to include the control, direction and implementation of State policies via the SOEs within the ARW industry in China.

As noted in the October 2009 minutes of the Committee on Subsidies and Countervailing Measures, (WTO G/SCM/M/71 5 Feb-10, 10-0678 – see also C-1.1.1 at page 3 of this section) :

"...provincial and local authorities in China played a very important role in implementing industrial policy, including subsidy policy. Recent academic literature, for example, indicated that local governments were responsible for nearly 20 per cent of China's investment, much of which was misdirected into sectors with excess capacity, such as steel.

"The delegate noted that the approximately 150 SOE holding companies owned by the State Assets Supervision and Administration Commission ("SASAC") controlled thousands of companies across a wide range of industries and accounted for most of the profits in the SOE sector. Further, as had been noted in the last transitional review exercise, the General Office of the State Council established a mechanism by which profits from SOEs would fund the re-organization of state-owned enterprises, consistent with national industrial policies and planning. China had not, in last year's trade review mechanism, addressed the fundamental issue of how state-owned enterprises could operate on a purely commercial basis when they had to make investment decisions in accordance with government industrial policy. If China's ownership and management decisions were not based on commercial considerations, subsidy issues could arise.

> *"Canada shared the United States' concerns about China's industrial policies and their linkages with respect to subsidisation. Canada's concerns centred on the high degree of intervention of the Chinese government in the direction and decision-making regarding the allocation of resources into and out of its steel industry, including subsidisation. Canada therefore shared the United States' interest in learning more about the relationship between China's national five-year plans and specific government policies."*

And as further noted in the 2009 Report to Congress of the U.S.–China Economic and Security Review Commission, (see also C-1.1.2 at page of this section) :

> *"While China prefers to be considered a market-oriented economy, it continues to engage in comprehensive economic planning, direction, support, and control from the central government. This reality undermines China's claim that its economy is market driven rather than directed by government policy.*
>
> *"China's overall industrial policy for realizing this goal is characterized by three main parts: (1) the creation of an export-led and foreign investment-led manufacturing sector; (2) an emphasis on fostering the growth of industries such as high-technology products that add maximum value to the Chinese economy; and (3) the creation of jobs sufficient to reliably employ the Chinese workforce, thereby allowing the Chinese Communist Party to maintain control. China adopts, modifies, and abandons other economic policies in order to meet these primary goals.*
>
> *"China has designated certain industries that are to remain government owned and others that are to remain government controlled. Both are to be favoured with direct and indirect subsidies. (For more information on China's strategic industries, see chap. 1, sec. 2, of the Commission's 2007 Annual Report to Congress.)*
>
> *"... China's currency, labor, and environmental practices and laws as well as other policies provide further support to domestic industries.*
>
> *"Governments at all levels in China are required to follow the State Council's Five-Year Plan creating an actual advantage for Chinese goods in the global marketplace.*
>
> *"China's policies for promoting domestic industries have evolved over the years from providing simple land and energy subsidies to offering sophisticated tax-reduction measures and technology transfer incentives, as well as a variety of other measures. China uses foreign direct investment to achieve greater domestic growth through exports but also for access to foreign technology.*

> *"The main driver of exports out of China has been foreign-invested enterprises (both foreign owned and joint ventures), which accounted for roughly 55 percent of the total exports in 2008 (or $790 billion), according to Terence Stewart, a Washington trade attorney who studies China's industrial policy and export promotion. For example, two-thirds of the growth in exports of electronic information products from China in 2007 originated from foreign-owned companies, and one-sixth was from joint ventures.*
>
> *"But it is also clear from China's industrial policy that promoting joint ventures and foreign investment is not Beijing's ultimate goal. A large and/or globally dominant state-owned and -controlled sector is the actual goal."*

China has adopted a range of policies aimed at promoting domestic industries and encouraging rapid export growth. The ARW sector is one key segment of the strategic domestic automobile sector where the GOC targets investment initiatives to encourage rapid expansion. The GOC is able to achieve its objectives of increased output in downstream value-added products via strategic ownership and control of key raw material input manufacturing processes (i.e. primary aluminium), accompanied by tailored investment incentives (taxes and grants). In the ARW industry for example, the purchase of alloy aluminium from SOEs at prices that are lower than globally-traded prices demonstrates that the GOC has achieved low-cost raw material inputs for downstream manufacturers through incentives and benefits that assist the Chinese SOE raw-material manufacturers. The artificially low raw material input prices enable the ARW industry which is dominated by the SOE ARW manufacturers to export at low prices and undercut non-Chinese producers and exporters on the global market.

As further noted in the 2009 Report to Congress:

> *"China's desire to control and guide the development of key industries is singular, but the goals of this support vary substantially from industry to industry. In some cases, the Chinese government is seeking to upgrade the industry's technological sophistication, while in others it is trying to ensure that its companies have the financial means to secure needed resources for China. The study concludes that the Chinese government has the necessary leverage to compel firms to act, because usually the majority or primary owner of each firm is a state owned enterprise."*

Customs and Border Protection's investigations in Report No.148 determined that the Chinese primary aluminium industry involved substantial government ownership. Customs and Border Protection also established that Chinese domestic prices for primary aluminium sold at prices that were below the rest-of-the-world LME-traded price. ROH considers that the GOC's role in the primary aluminium sector through its ownership and role as a significant purchaser of primary aluminium enabled it to achieve its objectives of providing low-priced primary aluminium for value-adding in local downstream manufacturing. It is plainly evident that State ownership and control enables the GOC to implement its policy objectives.

ROH has further noted Customs and Border Protection's findings contained in Report No.175 concerning its *Reinvestigation of Certain Findings In Report No.148*[2]. In particular, it is noted that Customs and Border Protection was required to reinvestigate whether it was satisfied "*that the policies of, and level of control exercised by, the Chinese Government in relation to primary aluminium producers who were also enterprises with state investment (formerly known as SOEs), was such as to cause these entities to possess, exercise or be vested with government authority, and those primary aluminium producers exercise such authority in the performance of governmental functions, specifically, the performance of the Chinese Government's industrial development policies*".

Just as ROH has highlighted that the GOC has been able to effect implementation of its policies via SOEs in both the primary aluminium and ARW industries (both being 'encouraged industries' within the Chinese economy), Customs and Border Protection has affirmed its original findings that the GOC exercises meaningful control over those '*enterprises with state investment*'. Report 175 identifies the extent of direct and indirect State ownership in the Chinese primary aluminium producers[3] and, in particular, the level of GOC ownership in CHALCO, the primary aluminium supplier nominated by all selected aluminium extrusion exporters.

It is ROH's assessment that the implementation of the GOC's policies to rapidly expand manufacturing and exports has been achieved via its ownership and control exercised by SOEs that dominate the Chinese raw material aluminium sector as well as the downstream Chinese ARW industry, culminating in ARW exports at dumped and subsidised prices that also significantly undercut non-Chinese producer's prices.
"*The suppression of competition coincident with regulatory protection of SOEs combine to guarantee SOEs will have relatively more weight. In most sectors, there is no market of 1.3 billion. Instead, there is what is left after the SOEs are handed the bulk.*" (See also B-4.1.13, page 33 of this application.)

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[2] Report No. 175, published on 15 August 2011.

[3] Refer Report No.175, Pages 17 & 18.

1.26 WTO Panel Report: China – Measures related to the exportation of various raw materials (5 July 2011).

ROH notes the recently released WTO Panel Report that confirms the use of export duties, export quotas, export licensing requirements, etc. in respect of certain strategic raw materials (including rare earth products) as inconsistent with the WTO rules.

ROH reiterates that the export taxes on primary aluminium and certain other raw materials used in alloy aluminium production (e.g. silicon) also contribute to reduced alloy aluminium prices in China and must also be considered WTO inconsistent and therefore actionable under the WTO Subsidies and Countervailing provisions.

C-1.2 – Subsidies applicable to Chinese ARW exports to Australia

2.1 – Introduction.

The foregoing outlines the environment in which Chinese manufacturers benefit from a range of subsidies to invest in manufacturing that ultimately results in artificially low export prices of goods produced from the beneficial manufacturing facilities.

The subsidies are provided by State and/or provincial levels of government in China. Foreign Invested Enterprises (FIEs) and State-Owned Enterprises (SOEs) are major beneficiaries through a range of reductions or exemptions in an array of taxes, including income tax, local taxes, value-added tax and import duties. Benefits are payable and dependent upon location i.e. whether the entity is located in an Economic and Technical Development Zone (ETDZ), a High-Tech Industrial Development Zone (HTIDZ), a Free Trade Zone (FTZ), or an Export Processing Zone (EPZ).

Customs and Border Protection has recently undertaken investigations into aluminium extrusions exported from China and identified a range of subsidy programs applicable[4] from which Chinese manufacturers received quantifiable benefits. ROH recognises that some of the subsidy programs identified in Statement of Essential Facts No. 148 may also be applicable to certain exports of Chinese ARWs to Australia, however, ROH has undertaken its own research to identify the

[4] Refer Statement of Essential Facts No. 148, pp 38-40.

applicability of the range of identifiable subsidies (including reductions or exemptions in tax, grants to enterprises, and other benefits received), to Chinese ARW exporters to Australia.

2.2 – GOC subsidies providing benefits to Chinese ARW producers.

ROH has examined the GOC's broad policy approach to encouraging investment in manufacturing, specifically ARWs. The GOC has identified key industry sectors that it considers are essential to economic growth of the Chinese economy. The GOC's most recent 2007 *Catalogue for the Guidance of Foreign Invested Industries* nominates the "metal product industry" and "manufacturing of casting and forging blanks for cars" as encouraged industries. (See Non-confidential Attachment C-1.2.2).

The Chinese ARW industry has evolved over the last decade to become the predominant participant in the global ARW market. To achieve this rapid advance China has implemented policies to attract investment to its ARW industry.

The GOC has encouraged investment in industries where China does not have a comparative advantage. For example, it is apparent from various industry and non-industry sources that the cost of electricity (a major input into aluminium production) in China is comparatively high in global terms and is subsidised across many Chinese industry sectors, thereby ensuring that Chinese manufacturers are more than globally competitive. The cost of production for Chinese manufacturers in sectors where the GOC has intervened is lower than it would otherwise be in the rest-of-the-world, resulting in artificially low selling prices for both domestic and export sales.

ROH has researched the GOC programs that provide benefits to manufacturers and exporters in the Chinese ARW industry. The programs are broad and varied. Benefits are available to FIEs who are encouraged to establish operations in China and, in particular, within designated investment parks or economic zones. The benefits ensure that the enterprise does not encounter the same establishment and ongoing business expenses that would apply if the enterprise were established in a normal market economy country. Importantly, the GOC programs provide incentives for enterprises to operate from within China from an artificially low cost base. The artificially low cost base translates into artificially low domestic and export selling prices – the latter being disruptive on global markets through price undercutting and loss of sales volumes by domestic manufacturers in importing countries, including ROH in Australia.

Customs and Border Protection has previously examined certain GOC subsidy programs in earlier inquiries[5]. In the recent aluminium extrusions investigation, Customs and Border Protection indicated that it had been advised that certain programs of the GOC had expired in 2007. ROH has found that whilst certain programs did indeed expire, the GOC extended or "grandfathered" the benefits under the expired program via new or transitional programs. ROH's research indicates that claims by entities that assert certain programs have expired cannot be accepted, as the GOC has introduced alternate programs and grandfathering of existing programs continues to provide benefits to ARW manufacturers and exporters.

The Chinese economy is guided by the State's five-year national plans. The five-year plans are supported by broad economic policies that include the identification of industry sectors as "Encouraged Industries" where the GOC has identified that it seeks to develop value-adding (and therefore employment generating) manufacturing within China. In conjunction with the provincial governments the GOC has identified key locations for investment for manufacturing. These locations include Economic and Technical Development Zones, High Tech Industrial Development Zones, Free Trade Zones and Export Processing Zones. To attract investment to these locations, the GOC provides a range of investment incentives that provide benefits to investing enterprises. The offered incentives include reductions or exemptions of certain taxes, one-off grants or awards, concessional loans, reductions in fees, and other benefits.

ROH has researched the broad range of benefits available to enterprises whether SOE, FIE or non-State, that undertake investments in accordance with the GOC programs. ROH has further identified the subsidy programs that apply to Chinese ARW manufacturers who export ARWs to Australia. The broad range of subsidy programs is included at Non-confidential Attachment C-1.2.2 – "PRC ARW Subsidy Menu". ROH's listing of the range of subsidies includes identification of the scope of the subsidy program, the program title, legislative provision, authority for the program, and where possible the source of the information and an explanation of the quantifiable benefit. The subsidies are included in the following categories:

(i) Materials – for aluminium at less than adequate remuneration;
(ii) Policies for encouraged industries – details policy outlines and objectives;
(iii) Preferential taxation policies – range of taxation reductions/exemptions;
(iv) Geographical benefits – taxation benefits, grants and fees due to geographical location;

[5] Toilet Tissue and Aluminium Extrusions exported from China.

(v) Provincial and Zone benefits – administered by local and provincial governments;
(vi) Equipment and Capital benefits – exemptions/reductions on import duties, VAT and other;
(vii) Industry specific benefits – including reduced interest loans and preferential taxes;
(viii) VAT – specific exemptions;
(ix) Development and Technology – low interest loans and grants;
(x) Export and Brand – range of grants linked to performance.

Please refer to Non-Non-confidential Attachment C-1.2.7.

ROH's research has enabled it to identify the subsidy programs that Chinese ARW manufacturers and exporters of ARWs to Australia have either received or are eligible to receive. ROH has also obtained "Credit Reports" for each of the major ARW exporters to Australia to gain an understanding of the entity's financial position and company background. This information has enabled ROH to identify those subsidy programs that have aided the Chinese ARW manufacturer/exporter's low export prices to Australia.

2.3 - Guiding Policies for encouraged industries.

ROH has identified the following GOC policy that classifies the manufacture, sale and export of ARWs as an encouraged industry :

Title :	**Catalogue for the Guidance of Foreign Investment Industries – amended in 2007.**
Legislation :	Decree No 57 of 2007.
Source :	
Authority :	NDRC & MOFCOM.
Detail :	Encouraged foreign invested enterprises include manufacturing of casting and forging blanks for cars, production of lightened new materials for automobiles and production of lightened automotive parts.
	See ROH non-confidential attachment C-1.2.7 *Policies for Encouraged Industries P5.*

2.4 - Guiding Policies for foreign invested enterprises (FIEs).

ROH has identified the following additional GOC policies that it understands encourage, foster and support foreign invested enterprises (FIEs) engaged in the manufacture, sale and export of ARWs :

Title :	**Implementing several opinions of the State Council on further handling well the utilization of foreign investment.**
Legislation :	Guo Ban Han No. 128 of 2010
Source :	www.fdi.gov.cn
Authority :	Relevant departments of the State Council : MOST, MOF, SAT, NDRC, MOFCOM and MIIT.
Detail :	Foreign investment shall be encouraged in hi-tech industries. Preferential policies for business income tax shall be continuously subject to qualified domestic and foreign-funded enterprises in the central and western area to maintain the good trend of absorbing foreign investment. Investment promotion shall be stepped up. See ROH non-confidential attachment C-1.2.7 *Policies for Encouraged Industries P2.*

Title :	**Circular of the NDRC on doing a good job of delegating power to approve foreign-invested projects.**
Legislation :	Fa Gai Wai Zi No. 914 of 2010.
Source :	www.fdi.gov.cn
Authority :	The Development & Reform Commissions of provinces and autonomous regions.
Detail :	Development & Reform Commissions at various levels shall encourage foreign investments in high-end manufacturing. Development & Reform Commissions at various levels shall seize this opportunity of power delegation to guide and regulate sound development of development zones for FIEs. See ROH non-confidential attachment C-1.2.7 *Policies for Encouraged Industries P3.*

Title :	**Central China foreign investment promotion plan, 2009 ~ 2014.**
Source :	www.fdi.gov.cn
Authority :	Department of Foreign Investment Administration of MOFCOM, the Chinese Academy of International Trade and Economic Cooperation of MOFCOM, and the foreign investment authorities of Shanxi, Anhui, Jaingxi, Henan, Hubei and Hunan provinces.
Detail :	The central region should be generously supported financially by the Central and Provincial Governments, including setting aside a larger proportion from the Central

Foreign Trade Development Fund. Priority on manufacturing including in the economic belts along the Yangtze River and Beijing-Guangzhou Railway and city circles identified by the six provinces respectively, as well as areas that are closely linked with the Yangtze River Delta, Pearly River Delta and the Bohai Bay Rim.

See ROH non-confidential attachment C-1.2.7 *Policies for Encouraged Industries P4.*

2.5 China's policies for the auto sector.

U.S. Department of Commerce Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Anti-Dumping Duty Determination – Certain Steel Wheels exported from the People's Republic of China. *(Federal Register / Vol. 76, No 172 / Tuesday September 6, 2011 / Notices)*

In its' preliminary affirmative countervailing determination regarding certain steel wheels from China, the U.S. Department of Commerce ("USDOC") determined that *"record evidence demonstrates that the GOC, through its directives, has highlighted and advocated the development of the automotive and steel wheels industry. At the national level, the GOC has placed an emphasis on the development of high-end, value added automotive products through foreign investment as well as through technological research, development, and innovation. In laying out this strategy, the GOC has identified specific products selected for development. For example, the GOC implemented the Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment for Implementation (No. 40 (2005)) (Decision 40) in order to achieve the objectives of the 11th Five-Year Plan. Decision 40 references the Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue), which outlines the projects which the GOC deems "encouraged," "restricted," and "eliminated," and describes how these projects will be considered under government policies. For the "encouraged" projects, Decision 40 outlines several support options available from the government, including financing.*

The GOC's Industrial Catalogue includes as "encouraged investment industries" within the auto industry the "design and development of auto, motorcycle, and their engines and key parts," "manufacturing of such key auto parts and components as automatic transmission box, transmission box for heavy-duty cars and advanced and appropriate auto and engine with independent property rights," and "precision forging, multiple workplace molding and forging of key auto parts."

Other industrial plans also discuss the development and encouragement of the PRC's automotive and auto parts industries. For example, the GOC's "Catalogue of Industry, Product and Technology Key Supported by the State at Present" (Key Industry Catalogue) lists, as investment projects, the *"development of key automotive parts," "precision forging, ferrous casting and nonferrous casting and rough blanks of important auto components," and "development systems for complete vehicles, complete motorcycle and engines, components and parts."*

The "Formal Policy on the Development of the Automobile Industry" (Formal Automobile Policy) similarly states that the GOC aims to make the PRC's automobile industry a "pillar industry."

The Formal Automobile Policy also states under Chapter III—Structure of the Industry, that auto parts manufacturers meeting certain production and technology development requirements shall enjoy the following benefits enumerated under Article 12:

1. Zero rate of orientation regulation tax for its investment in fixed assets;

2. Priority for it to issue and list its shares and debentures;

3. Active support in bank loans;

4. Priority for its use of overseas funds in the foreign funds use plan;

5. Policy-based loans will be arranged for projects of economic cars, auto parts and components, die sets and casting and forging mills; and

6. The financial company within an enterprise group may expand its business scale after approval of relevant State departments. Id.

Further, under Chapter V— Investment and Financial Policy for the Formal Automobile Policy—it states:

Article 22: The State guides the enterprises or enterprise groups possessing technological and management advantages to coop with localities which have a good investment environment and an ample supply of fund to develop key products of automotive industry in accordance with the overall State plan.

Article 24: The State will formulate the corresponding policy to encourage interregional or inter-department flow of investment and protect legal rights and interests of investors.

Article 26: Under approval of the State Council, automobile enterprises may apply for pilot capitalization of the State debts. Id.

In addition, under Chapter XII— Industrial Policies, Program and Project Management Formal Automobile Policy states:

Article 56: The State guides development of the automotive industry through the automotive industry policy and program. All the localities and departments should support development of the automotive industry in accordance with the automotive industry policy and program promulgated by the State Council. Id.

The GOC claims that it ceased its Formal Automobile Policy in 2004. See the GOC's July 5, 2011, questionnaire response at Exhibit 54. However, even accepting the GOC's claim, we preliminarily determine that the successor industrial policy for the PRC's automotive industry, the Policy on the Development of the Automotive Industry of 2004 (Automotive Industry Policy), indicates the GOC's goal of targeting the PRC's automotive and auto parts industries for development. For example, Chapter I—Aim of Policy the Automotive Industrial Policy states:

Article 1: The principle of combining the fundamental role of market allocation of resources with the macro-control of the government shall be adhered to so as to create a market environment of fair competition and unification, and improve the administrative system of rule by law on automotive industry. The functional departments of the governments shall, in accordance with the mandatory requirements of the administrative laws and regulations and the technical specification, implement administration on the enterprises undertaking the production of automobiles, farming transportation vehicles (low speed cargo trucks and tri-cars, the same hereinafter), motorcycles and components and parts, and the products thereof, and regulate market acts of various economic bodies in the field of automotive industry.

Under Chapter VIII—Components and Parts and Relevant Industries of the policy states:

Article 31: A special development plan for the components and parts shall be made to give guidance and support to the products of automobile components and parts through classification, and to guide the public funds to invest into the field of production of automobile components and parts, and impel the enterprises of components and parts that have comparative advantages to form the ability of specialization, large batch of production and modularization goods supply. *For those enterprises undertaking the production of components and parts, which can support several independent enterprises that undertake the production of the whole vehicles and which enter into the international system of procurement of automobile components and parts, the state shall support them in priority in such aspects as the introduction of technology, technological transformation, financing and merger and reorganization, etc.* The enterprises undertaking the production of the whole automobiles shall stock components and parts from the society by ways of electronic commerce, or net procurement step by step. Id., *emphasis added. The Automotive Industrial Policy also states under Chapter X—Investment administration that only "approved" projects shall receive financing from state-owned banks:*

Article 51: Where the investment projects subject to approval fail to obtain the notice of approval, the departments of land administration shall not handle land requisition, the state-owned banks shall not issue loans, the customs shall not handle tax exemption, the securities regulatory commission shall not approve the issuance of stocks and listing, and the administrative departments for industry and commerce shall not handle formalities for the registration of newly established enterprises. The relevant departments of the state shall not accept the admission application of the production enterprises and their products. Id.

In addition, the Restructuring and Revitalization Plan of Auto Industry (Restructuring and Revitalization Plan) also indicates that the GOC has targeted the PRC's automotive and auto parts industries for development support.

The Restructuring and Revitalization Plan states that the "auto industry is an important pillar industry of the national economy." See Restructuring and Revitalization Plan Memorandum at 2. Under "Main Tasks of Industrial Restructuring and Revitalization," the plan states that "{b}ackbone auto parts enterprises will be supported to enlarge scale and raise market share in domestic and foreign markets through merger and reorganization." *Id.* at 4. *Under "Implement the Strategy of Proprietary Brands" the plan states.*

Pertinent policies will be formulated in such aspects as technical development, government procurement and financing channels to steer auto makers to regard the development of proprietary brands as their strategic emphasis, and support them to develop proprietary brands by means of independent development, joint development, domestic and overseas M&A and so on.

Id. at 5. Under "Implement Auto Product Export Strategy" the plan states:

We will accelerate the construction of national auto and auto parts export bases and establish auto export information, product certification, generic technology development, test and detection, training and other public service platforms. Id. at 5–6. Under "Intensify Investment in Technical Progress and Upgrading" the plan states:

In next three years, RMB10 billion of fund will be allocated from the increased central investment. This fund will be used as a special fund for technical progress and upgrading and mainly support auto makers to upgrade products and raise the level of the key technologies for energy conservation, environmental protection and safety; develop the key assembly products, * * * establish auto and auto parts generic technology R&D and testing platforms; and develop AEVs and the parts dedicated to them. *Id.* at 7.

Lastly, under "Implement the Plan," the provinces are instructed to formulate "concrete" steps in order to carry out the goals established in the Restructuring and Revitalization Plan. Id. At 8. "

ROH contends that it is self evident that GOC policies supporting the auto sector extend also to the ARW industry. China's ARW industry is no different from China's steel wheel industry insofar as the GOC "through its directives, has highlighted and advocated the development of the automotive and (steel) wheels industry". As such, China's ARW industry continues to benefit from a range of incentives, preferences and subsidies extended to it in accordance with GOC policies, including provision of aluminium for less than adequate remuneration.

2.6 – Further note regarding raw material supplied for less than adequate remuneration.

U.S. Department of Commerce Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Anti-Dumping Duty Determination – Certain Steel Wheels exported from the People's Republic of China. *(Federal Register / Vol. 76, No 172 / Tuesday September 6, 2011 / Notices)*

On 6 September 2011, the U.S. Department of Commerce ("USDOC") published a preliminary affirmative countervailing determination in respect of certain steel wheels exported from China. Whilst ROH would contend that USDOC has again correctly confirmed that Chinese domestic prices should not be used as a basis for normal values in dumping and/or countervailing inquiries, it is also noted that USDOC has considered that the Government of China ("GOC") did not provide sufficient cooperation and made "adverse" determinations in respect of certain raw material inputs (used in the manufacture of the exported goods) in assessing whether the raw material inputs were sold at less than adequate remuneration ("LTAR") in China.

ROH asserts that, for the purposes of its application concerning ARWs exported from China, the key raw material input – alloy aluminium – has been sold at LTAR. ROH draws to Customs and Border Protection's attention particular questions that USDOC raised with the GOC in its "initial questionnaire" to the GOC. These questions related to the issue of state-ownership and whether the producers could be considered "public bodies".

The questions were relevant to establishing ownership of hot-rolled steel ("HRS") producers supplying HRS as a raw material used in the production of the exported goods from China. The USDOC requested specific information in respect of the following categories:

- For producers that were majority owned by the government (that USDOC infers operate as '*government authorities*'), information that could demonstrate that these producers were not in fact '*authorities*';

- Where it was claimed that an entity was "*100 per cent owned by individual persons during the POI*", information was required that could substantiate ownership (for example, translated copies of source documents that identified the producer's ownership during the POI[6], such as capital verification reports, articles of association, share transfer agreements, or financial statements and identification of the owners, members of the board of directors, or managers of the suppliers who were also government or Chinese Communist Party ("CCP") officials during the POI); and

- For HRS producers with direct corporate ownership or less than majority state ownership, information requested included *inter alia*, the total level of state ownership of the companies' shares; the names of all government entities that own shares, either directly or indirectly, in the company; information on whether any of the owners are considered "state-owned enterprises" by the government; and the amount of shares held by each government owner.

- Information was also requested as to whether the owners of the input producers were members of the CCP and the extent to which CCP officials influenced the manner in which they conducted their firms' operations.

ROH contends that Customs and Border Protection must request the same information of Chinese ARW exporters to Australia (and their raw material alloy aluminium producers in China) to fully establish the ownership and level of influence and control of the GOC in providing raw material aluminium at LTAR.

*(USDOC found the GOC's provision of hot rolled steel for LTAR to be a domestic subsidy and that the subsidy was specific. USDOC calculated LTAR net subsidy rates ranging from 24.67% to 43.02%. **See non-confidential attachment C-1.2.6**)*

[6] Period of investigation ("POI").

2.7 – China's ARW subsidy menu.

The following table provides the details of the subsidies, grants and preferential tax treatments identified by ROH, available to SOE, FIE and non-State ARW manufacturers and exporters in China in the categories noted at C-1.2.2. ROH contends that each of the following subsidies is specific and countervailable.

Details of the relevant legislation or decree, the authority and the document source are contained in Non-Confidential Attachment C-1.2.2, including printed copies of the parent legislation or policy, where available.

Table C-1.2.7

(I) Materials.

Subsidy	Scope	Title	Quantifiable benefit
1	Aluminium provided by government at less than fair market value.	Primary and pre-alloyed A356 & A356.2 aluminium supplied by SOEs at less than adequate remuneration.	Aluminium supplied by SOEs producing primary aluminium, either directly or to private intermediaries that then trade to the exporters of ARWs, at prices that are 30% to 40% below fair market value. ***See also : Petition for the Imposition of Antidumping and Countervailing Duties, Aluminum Extrusions from the People's Republic of China, Volume III : Countervailing Duty Allegations, March 31, 2010***, International Trade Administration, United States Department of Commerce and the United States International Trade Commission, Public Document Inv. No. C-570-968. Also available at www.importerhelp.com/investigations/aluminum-extrusions/petition-cvd.pdf

(iii) Preferential tax policies.

1	Transitional preferential tax policies for tax resident enterprises.	State Administration of Taxation circular to further clear that the enterprise income tax preferential policies for the implementation of the transition period caliber issues.	Starting from January 1, 2008, enterprises which have enjoyed preferential tax treatment at a low rate shall gradually transfer to implementation of the statutory tax rate in five years. Enterprises which have enjoyed fixed-term preferential tax treatment of two years of tax exemption and three years of 50% tax reduction, and five years of tax exemption and five years of 50% tax reduction shall continue to enjoy the preferential tax treatment until the term is due according to the former law. The preferential tax policy for enterprise income tax (EIT) for western development stipulated in the Circular on Preferential Tax Policy for Western Development shall continue. Enterprises can choose the best preferential policy.
2	Preferential policies on Enterprise Income Tax.	Circular on some issues concerning execution of preferential policies on Enterprise Income Tax.	Enterprises that enjoy the transitional preferential policies as provided in the Circular of the State Council on Implementation of the Transitional Preferential policies on EIT (Guo Fa No. 39 of 2007), and the preferential policies of the western development, may pay half of the tax payable within the half-regulation period of regular tax reduction and exemption. With respect to the branch of an enterprise, which was established before Mar.16, 2007, and has separately enjoyed relevant tax preferences, the branch may separately enjoy the transitional preferential policies on EIT.
3	Preferential income tax for hi-tech enterprises.	Circular of the State Administration of Taxation on the issues concerning implementation of the preferential income tax for hi-tech enterprises.	Any qualified hi-tech enterprise may apply for preferential 15% EIT from the year of approval.

4	Preferential tax policies for western development. "Go West" strategy.	Reply of the State Administration of Taxation on issues concerning applicable catalogues to the Enterprise Income Tax preference policies for western development. AND the Circular of the MOF, SAT and the General Administration of Customs on Issues concerning Tax Preference Policies for the Western Development.	The enterprise income tax preference policies for the Western Development as provided in the Circular of the MOF, SAT and the General Administration of Customs on Issues concerning Tax Preference Policies for the Western Development (Cai Shui No. 202 of 2001) shall continue to be executed until expiration.
9	Preferential tax policies for FIEs established in the coastal economic open areas and in the economic and technological development zones.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises. Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises.	Reduced enterprises income tax rate of 15% or 24%
10	Reduced tax rate for productive FIEs scheduled to operate for a period not less than 10 years. *"two years of exemption and three years fifty per cent reduction"*.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises. Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises.	Exemption from income tax for the first 2 profitable years, 7.5% tax rate in years 3, 4 and 5 and 15% thereafter.
11	Preferential tax policies for FIE export enterprises whose annual output value of all export products amounted to 70% or more.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises. Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises.	Reduced income tax rate of 15%. Exemption from income tax for the first 2 profitable years and 50% reduction in years 3, 4 and 5 to 7.5% and 15% thereafter. If located in the SEZs or ETDZs reduced income tax rate of 10%.

12	Preferential tax policies for FIEs which are technology-intensive and knowledge-intensive.	Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises, decree 85 June 30 1991.	Reduced enterprises income tax rate of 15% ***See also : Petition for the Imposition of Antidumping and Countervailing Duties, Aluminum Extrusions from the People's Republic of China, Volume III : Countervailing Duty Allegations, March 31, 2010,*** International Trade Administration, United States Department of Commerce and the United States International Trade Commission, Public Document Inv. No. C-570-968. Also available at www.importerhelp.com/investigations/aluminum-extrusions/petition-cvd.pdf .
16	Preferential tax policies for FIEs in State high or new technology industrial development zones, and for advanced technology enterprises invested in and operated by FIEs.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises	Enterprise income tax reduced rate of 15%. Also two years of exemption. FIEs in Special Economic Zones (SEZs) and Economic & Technological Development Zones (ETDZs) shall be governed by the preferential tax provisions. Advanced technology FIEs which remain advanced technology enterprises after the expiry of enterprise income tax exemption or reduction may continue to pay 50% enterprise income tax for an additional 3 years.
17	Direct reinvestment.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises. Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises.	100% refund of income tax paid on the reinvested amount.

(iv) Geographical.

1	Preferential tax policies for FIEs in central and western China.	Catalogue of advantaged industries for foreign investment in the Central-Western region (amended in 2008).	Exemption from customs duty for imported equipment for self-use, including corresponding technology, accessories and spare parts. FIEs can enjoy reduced income tax rate of 15%. FIEs that gained approval before the effective date can continue to enjoy the relevant incentives, including the reduced tax rate of 15% on expiry of the current favorable tax period. ***Note*** : The GOC's *Report on the Implementation of the 2008 Plan for National Economic and Social Development and on the 2009 Draft Plan for National Economic and Social Development*, (GOV.cn, March 5, 2009), foreign direct investment in the western and central regions increased by 79.8% and 36.4% respectively in 2008.
2	Preferential tax policies for FIEs established in Pudong area of Shanghai.	Rules for Implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises.	Reduced enterprises income tax rate of 15% or 24%.
4	Preferential tax policies in the western regions - domestic companies and FIEs.	Preferential tax policies in the western regions - domestic companies and FIEs.	Reduced enterprises income tax of 15% ; exemption from income tax in the first 2 profitable years and a 50% reduction in years 3, 4 and 5 ; exemption from tariff and VAT on imported equipment ; reduced enterprises income tax rate of 15% following the expiration of the period for "two years exemption and three years of 50% reduction".
10	Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment.	Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment.	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.

(v) Provincial & zone.

1	Preferential tax treatments for new hi-tech enterprises (NHTEs) in special zones.	Notification of the State Council on providing transitional preferential tax treatments to high-tech enterprises newly set up in special economic zones and in Pudong New District of Shanghai.	2 years tax exemption and 3 years half the statutory tax rate of 25% in Shenzen, Zuhai, Shanou, Xiamen and Hainan Special Economic Zones and Pudong New Area.
2	Preferential policies in industrial zones in China including Economic & Technological Development Zones (ETDZ), High & New Technological Development Zones (High Tech Parks), Export Processing Zones (EPZ), Special Economic Zones (SEZ), Free Trade Cooperation Zones (FTZ), Industrial Zones (IZ) and Export Processing Zones (EPZ).	Provinces include Beijing, Dalian, Fujian, Guangdong, Guangzhou, Lianyungang, Nantong, Ningbo, Qingdao, Qinhuangdao, Shanghai.	15% EIT instead of 25%. 10% EIT for exports. First two years exemption followed by 3 years at 7.5%. Extended tax reduction (7.5%) for a further 3 years for hi-tech classification. VAT exempt for export. Duty exemption on machinery and spare parts.
3	Preferential policies in Xinzhuang Industrial Zone, Shanghai	Xinzhuang Industrial Zone	Manufacturing FIEs exempted from taxes collected by the Minhang District including three year exemption and four year half rate from the first profitable year. Companies registered with over US$10 million capital can enjoy three year exemption and six year half rate. Second phase reinvestment attracts 70% return of company income tax as a bonus for the next 5 years. Other tax incentives are adopted on a case-by-case policy. Regional headquarters attract financial support and management. R&D centers attract tax free equipment imports, tax free transfer of technology. Other incentives are provided by the State.
4	Preferential policies in Shanghai	Minhang, Qingpu and Songjiang districts	Up to 8% VAT refund, 25% business tax refund and 16% income tax refund.
5	Preferential policies in Weihai Economic Development, High-tech Industry Development and Export Processing zones, Shandong province.	Weihai website	**Enterprise Income Tax** [1] The income tax rate of the productive FIE is 24%. A reduced rate of 15% is granted in the EIT for the technology-intensive and knowledge-intensive projects, projects with the foreign investment over US$30 million, projects with a long return period and for the projects of energy, communications and harbor construction. [2] A reduced rate of 15% in EIT and exemption from local income tax are granted for the productive FIEs located in the Economic and Technical Development Zone. A reduced rate of 15% is granted in EIT for FIEs that are confirmed to be high and new technology enterprises set up in High and New Technology Development Zone. [3] The productive FIEs with actual operation term of over 10 years are exempt from the EIT for the first two years and are granted a 50% reduction of the EIT for the third through fifth

			year since the first profit-making year. [4] After the period of exemption and reduction of EIT granted in accordance with the stipulations of the tax law, a reduction of 50% is granted in the EIT for the export-oriented FIEs whose value of exported products accounting for over 70% of the output value of the products in the same year. The enterprises that accord with the above demands may pay EIT at the reduced rate of 10% if they have paid tax at a rate of 15%, and at the same time they are exempt from local income tax [5] Technology-advanced FIEs may continue to enjoy the extended three-year-period of a 50% reduction in EIT when they are still technology-advanced enterprises after the period of exemption from or reduction of EIT granted according to the stipulations of the tax law. If the tax rate is lower than 10% when the enterprises enjoy a 50% reduction, they should pay the EIT at a rate of 10%, and at the same time they can enjoy an exemption from local income tax. [6] With the application of the enterprises and the approval of the tax authorities, 40% of the EIT already paid for the reinvestment shall be returned to the foreign investors in case the foreign investors invest into the existing enterprises so as to increase the registered capital or set up another FIE by means of the shared-profit. If the direct reinvestment is for the establishment or expansion of an export-oriented and a technology-advanced enterprise, the total of the EIT already paid for the reinvestment shall be returned. [7] The foreign investors are exempt from income tax for the profits gained from the foreign-funded enterprises, no matter if they remit the money out of China **Local Income Tax** [8] The foreign-funded enterprises are exempt from the local income tax if they are related with the projects of energy, communications and harbor construction and with the projects belonging to any of the following industries : machinery building and electronics; metallurgy, chemistry and building materials; light industry, textiles and packing, medical apparatus & instruments and medicine production; agriculture, forestry, animal husbandry, cultivating & processing; architecture **Taxation on the Imported Equipment** [9] For the foreign-invested project belonging to the encouraged or restricted B project of the guiding catalogue for the foreign-invested industry and involving the technology transferring, the imported equipment with the price less than the total investment of the project can be exempt from the customs duty and the import VAT except for those equipment listed in the catalogue of the non-duty free imported commodities.
9	Tax incentives for manufacturing FIEs in Jiangsu province		15% tax rate. 2 years exemption and 5 years at 7.5% from the first profit making year. Exemption from local corporate income tax. Exporting enterprises and technologically advanced enterprises enjoy 10% tax rate following reduction/exemption period. 100% rebate of tax paid on reinvestments. Exemption from withholding tax on dividends remitted to foreign shareholders.
18	Preferential tax rates in Guangzhou, Guangdong province.	Guangzhou website.	High/new tech enterprises 15% tax rate. VAT refund on exports. Exemption from urban real estate tax for 3 years from the date completed or purchased by FIEs. Duty exemption and import VAT exemption on self-use imported equipment. Reduced [13%] rate of VAT on local sales.

(vi) Equipment & Capital.

3	Termination of tax refund policies for FIEs on their purchase of domestically manufactured equipment.	Circular on terminating tax refund policies on purchase of domestically-manufactured equipment by foreign-invested enterprises.	With respect to the domestically-manufactured equipment purchased by FIEs before June 30, 2009, the former provisions for VAT refund policies may apply at discretion including "home-made" equipment.
8	Exemption of tariff and import VAT for imported technologies and equipments.	Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment. Ministry of Finance and the General Administration of	Exemption from tariffs and VAT on imported equipment, related technologies, components and parts.

		Customs.	
9	100% refund of VAT to FIEs on purchasing unused domestic equipment with currency in China.	100% refund of VAT to FIEs on purchasing unused domestic equipment with currency in China.	100% refund of VAT to FIEs on purchasing unused domestic equipment with currency in China.

(vii) Industry Specific.

2	Preferential tax treatment for casting and forging products.	Preferential tax treatment for casting and forging products.	35% VAT refund on casting and forging products which are used in producing machinery.
3	Preferential tax treatment to dies products.	Preferential tax treatment to dies products.	75% VAT refund on dies products.

(viii) VAT Exemptions.

1	Preferential tax treatment for exported goods.	Circular of State Administration of Taxation on disseminating the export tax refund rate library of 2007.	The exported goods that are exempted from 17% VAT.
2	VAT exemption on exported goods.	Interim regulations of the PRC on value added tax.	For taxpayers exporting goods, the tax rate shall be 0% unless otherwise specified by the State Council.
3	Wheels retain 17% export rebate.	Noted also by the E.C. investigation of ARWs from China.	17% export rebate for ARWs

(ix) Development & Technology.

2	Matching funds for international market development for SMEs.	Provincial governments.	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.
7	Innovative Experimental Enterprise Grant	Innovative Experimental Enterprise Grant.	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.
8	Special Support Fund for non-State-owned enterprises (NSOEs).	Special Support Fund for non-State-owned enterprises (NSOEs).	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.
9	Venture Investment Fund for Hi-Tech Industry.	Venture Investment Fund for Hi-Tech Industry	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.

(x) Export & Brand.

1	Superstar Enterprise Grant.	Provincial governments.	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.
2	One-time awards to enterprises whose products qualify for "Well-Known Trademarks of China" or "Famous Brands of China".	Provincial governments.	Refer *"Certain Aluminium Extrusions Exported to Australia from the People's Republic of China"* SEF No. 148, 1 March 2010, Australian Customs & Border Protection Service.

For further evidence of China's preferential tax incentive policies, refer also to : ***"Tax Incentive Policies for Foreign-Invested Enterprises in China and their Influence on Foreign Investment", LI, Qun (2008)*** Revenue Law Journal, Volume 18, Issue 1, Article 5, available at huttp://epublications.bond.edu.au/rlj/vol18/iss1/5 . See Non-confidential Attachment C-1.2.3 .

2.8 – Applicable subsidies for ARW exporters to Australia.

The relentless increase in ARW volumes from China is a direct consequence of the equally relentless decline in ARW export prices since 2004. ROH has selected thirty-three exporters of ARWs to Australia in 2009, including their respective related entities that are manufacturers, distributors and/or exporters of ARWs, and has linked GOC subsidy programs received or receivable by each of them. According to CCIC, the largest Chinese ARW exporters to Australia in 2009 were:

1. CITIC Dicastal Wheel Manufacturing Co., Ltd
2. Futek Alloy (Changshu) Co. Ltd
3. Ningbo Yongqi Aluminium Wheel Manufacture Co., Ltd
4. YHI Advanti Manufacturing (Shanghai) Co. Ltd
5. YHI Advanti Manufacturing (Suzhou) Co. Ltd.

The YHI Advanti Manufacturing entities have separate manufacturing facilities located in separate investment parks located in Shanghai and Suzhou, each benefiting from the subsidies identifiable to those locations.

Subsidies identifiable with each Chinese ARW exporting to Australia are included below, with subsidy reference number sourced from Non-confidential Attachment C-1.2.2 – "ARW Subsidy Menu", which details the identified GOC subsidies and programs.

Note also that, according to the GOC's "*Report on the Implementation of the Central and Local Budgets for 2010 and on the Draft Central and Local Budgets for 2011*", (www.GOV.cn , March 5, 2011), "*We will implement preferential tax policies that are beneficial for ... creating new jobs.*"

CITIC Dicastal Wheel Manufacturing Co. Ltd – State Owned Enterprise.

Related entities include:

Citic Dicastal Wheel Manufacturing Co., Ltd.
Dicastal Xinglong Wheel Manufacturing Co.,Ltd.
Qinhuangdao Dicamry Wheel Co., Ltd.
Sanmenxia Dicastal Wheel Manufacturing Co., Ltd.
Wuxi Dicastal Wheel Manufacturing Co., Ltd.
Guangzhou Dicastal Asahi Aluminium Co., Ltd.

- commenced operations in 1988.
- plants located in Hebei, Henan, Jiangsu and Guangdong provinces.
- is 71.9% owned by CITIC Investment Holdings Limited - a PRC State Owned Enterprise.
- 22.3% owned by Hong Kong Great Success Limited, and 5 7% by Hong Kong Energy Automobile Co., Ltd
- understood that CITIC International is a trading arm of CITIC Dicastal Wheel Manufacturing
- in 2009 CITIC Dicastal and CITIC International accounted for 49% of Chinese ARW exports to Australia
- largest wheel hubs manufacturing base in China
- has a Hong Kong equity partner thereby qualifying for benefits as an Foreign Investment Enterprise (FIE)
- according to Dicastal's Credit Report, it paid tax at the rate of 24 per cent in 2007, and 28 per cent in each of 2008 and 2009.
- Dicastal (a predominantly-owned SOE) has purchased aluminium ingot domestically It has a purchasing relationship with its supplier for 9 years.

Subsidies, grants and/or benefits likely available to CITIC Dicastal

Type of subsidy	**Subsidy menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9,18
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1, 2

According to the GOC's "*Report on the Implementation of the Central and Local Budgets for 2010 and on the Draft Central and Local Budgets for 2011*", (www.GOV.cn , March 5,2011), the State spent 12.196 billion Yuan in subsidies in 2010, to reform central government enterprises and make them profitable.

Futek Alloy (Changshu) Co. Ltd – FIE.

- commenced operations in June 2005
- located in the Changshu SouthEast Economic Development Zone , Suzhou City, Jiangsu Province
- owned by Futex Alloy Co. Ltd of Brunei
- administered from a Taiwan based management office
- operation ran at a loss in 2007, a profit in 2008 (no company tax paid), and a further loss in 2009
- Futek's bank is the Shanghai Pudong Development Bank
- claimed that all production is exported. Parent company in Taiwan sells all Futek production and exports to markets such as Japan, Denmark, Europe and USA
- all aluminium ingot purchased domestically from supplier in Henan Province
- a monthly production rate of about 30,000 units according to Futek's Credit Report.

Subsidies, grants and/or benefits likely available to Futek Alloy

Type of subsidy	Subsidy menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Ningbo Yongqi Aluminium Wheel Manufacture Co., Ltd – FIE.

- commenced operations in August 2003
- located in the Jishigang Industrial Park, Yinzhou District, Ningbo City, Zhejiang Province
- is 100.0% owned by Master Rich International Investment Limited (Hong Kong)
- has a Hong Kong equity partner thereby qualifying for benefits as an Foreign Investment Enterprise (FIE)
- according to Ningbo's Credit Report, it operated at a loss in 2008 and 2009
- sells both domestically and on export markets, although mainly for export
- Ningbo purchases aluminium domestically from suppliers in Yangtze River Delta Region

Subsidies, grants and/or benefits likely available to Ningbo Yongqi

Type of subsidy	Subsidy menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

YHI Advanti Manufacturing (Shanghai) Co. Ltd – FIE.

Related entities include:

- YHI International Marketing (Shanghai) Co Ltd
- YHI Manufacturing (Shanghai) Co Ltd
- YHI Advanti Manufacturing (Shanghai) Co Ltd
- commenced operations in 2004

- located in the Xinzhuang Industrial Zone, Minhang District, Shanghai
- a wholly owned foreign enterprise (hence qualifies for Foreign Investment Enterprise benefits)
- owned by YHI Advanti Manufacturing (Singapore) Pte. Ltd (whose parent company is YHI International Limited)
- Parent company established in 1948 and is one of the largest tyre and aluminium alloy wheel rim distributors in Southeast Asia
- Australia listed as an export destination for YHI Advanti products including 38.9 per cent of all exports to date in 2010
- a subsidiary of YHI Advanti Manufacturing (Singapore) and sister company of YHI Advanti Manufacturing (Suzhou) Co Ltd
- nearly all production is exported (with significant proportions to Australia and New Zealand)
- production premises rented from related party YHI Aluminium (Shanghai) Co., Ltd. Annual capacity is understood to be 1,080,000 pcs
- all raw material aluminium purchased domestically from suppliers in the Pearl River Delta Region
- bank is Agricultural Bank of China - a government-owned Bank

Subsidies, grants and/or benefits likely available to YHI Advanti Shanghai

Type of subsidy	Subsidy menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17

Geographical	2,10
Provincial & Zone	1,2,3,4
Equipment & Capital	3,8,9
Industry Specific	2,3.
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

YHI Advanti Manufacturing (Suzhou) Co. Ltd – FIE.

- commenced operations in June 2005
- located in the New & High Tech District of Suzhou City, Jiangsu Province
- a wholly owned foreign enterprise (hence qualifies for Foreign Investment Enterprise benefits)
- owned by YHI Advanti Manufacturing (Singapore) Pte. Ltd (whose parent company is YHI International Limited)
- Parent company established in 1948 and is one of the largest tyre and aluminium alloy wheel rim distributors in Southeast Asia
- Australia listed as an export destination for YHI Advanti products
- another subsidiary of YHI Advanti Manufacturing (Singapore)is YHI Advanti Manufacturing (Shanghai) Co Ltd located in Shanghai
- YHI Advanti Suzhou commenced production in September 2006 with 3 production lines. By end of 2007, 6 production lines in operation (each with annual production capacity of 180,000 pcs).
- YHI Advanti Suzhou aiming to have 12 production lines (i.e. 12 * 180,000 units) operational by end of 2010.
- all raw material aluminium purchased domestically from suppliers in Jiangsu Province and surrounding areas
- bank is Industrial and Commercial Bank of China - a government-owned Bank
- it appears that exports of US$33.9 in 2009 represent approximately more than 85 per cent of total sales value (RMB 242,003,000)

Subsidies, grants and/or benefits likely available to YHI Advanti Suzhou

Type of subsidy	Subsidy menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

2.9 - Other Chinese exporters to Australia.

ROH has identified the subsidy programs for other ARW exporters from China to Australia as follows:

Anhui province.

Wuhu Huangyan Wheels Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Fujian province.

Fujian Shenlika Aluminum Industry Development Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Guangdong province.

Baoding Lizhong Wheel Manufacture Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,18
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3

Development & Technology	2,7,8,9
Export & Brand	1,2

Ningbo Motor Industrial Co Ltd

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Protech Wheel Industry Co Ltd (Taishan City Wheeltech Aluminum Industry Co Ltd)

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,18
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Quansheng Wheels Company

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,18
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Guangzhou province.

Baoding Lizhong Wheel Manufacture Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,18
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Hebei province.

Baoding Lizhong Wheel Manufacture Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Zendawn Alloy Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Hubei province.

Kinghwa Toptrue Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Sino-trans Huangshi International Trade Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Jiangsu province.

Chinese Alloy & Steel Wheel Group Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Jiangsu Shenzhou Wheel Hub Manufacturing Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Kunshan Anka Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Liuhe Light Alloy (Kunshan) Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Nanjing Huashun Aluminum Wheels Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,9
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3

Development & Technology	2,7,8,9
Export & Brand	1,2

Seyen Heavy Industries Shanghai Co Ltd

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,4
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Mongolia

Baoding Lizhong Wheel Manufacture Co Ltd

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Shandong province.

Baoding Lizhong Wheel Manufacture Co Ltd

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Shandong Vesteon Automotive Parts Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,5
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Weihai Wanfeng Auto Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,3
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Yure Wheel

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Shanghai province.

Master Pacific The Wheel Group

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2,5
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Shanghai Arays Hardware Manufacturing Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,4,10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Shanghai Mingqi Aluminium Industry Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	1,2,4
Provincial & Zone	1,2,4
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Zhejiang province.

Longway Auto Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Ningbo Auto Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

United Wheel

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Zhejiang Dawning Wheel Co Ltd

Subsidy	Subsidy Menu #
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2

Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

Zhejiang Wanfeng Auto Wheel Co Ltd

Subsidy	**Subsidy Menu #**
Materials	1
Preferential taxation	1,2,3,4,9,10,11,12,16,17
Geographical	10
Provincial & Zone	1,2
Equipment & Capital	3,8,9
Industry Specific	2,3
VAT	1,2,3
Development & Technology	2,7,8,9
Export & Brand	1,2

2.10 – Request for investigation of subsidies.

ROH has identified the individual subsidies receivable by Chinese exporters of ARWs to Australia. The subsidies are specific subsidies administered by the GOC under particular identified programs. The subsidies provide a benefit to the manufacturing/exporting entity that permits export prices to Australia to be priced at levels lower than they otherwise would be i.e. 'pass-through' of the specific subsidy is evident.

The recent reinvestigation findings contained in Report 175 indicate that the GOC exercises meaningful control over enterprises with state investment in order to implement its policy objectives, i.e. the range of subsidy programs promulgated. ROH submits that the benefit available to Chinese ARW manufacturers through primary aluminium at less than adequate remuneration is consistent with Customs and Border Protection's findings in Report No. 148 and affirmed in Report No.175. It is ROH's view that the low-priced aluminium available to Chinese ARW producers constitutes an actionable subsidy (as was the case in Report No.148) under Australia's Countervailing provisions.

ROH requests Customs and Border Protection to examine each of the identified subsidies paid/payable to Chinese exporters of ARWs to Australia. Further, it is ROH's view that the aggregation of the individual subsidies for each exporter will be assessed at above negligible values and therefore will be countervailable.

ROH notes the existence of "grandfathering" provisions for certain preferential tax policies and requests that Customs and Border Protection investigates any allocable subsidies granted prior to the change in the *Enterprise Income Tax* law in 2007.

ROH also notes that the average useful life of renewable physical assets in the aluminium extrusion industry is twelve years, as noted in the recent U.S. aluminium extrusions investigation. Assuming that the period of investigation (POI), is calendar year 2010, ROH requests that Customs and Border Protection investigates any allocable, non-recurring subsidies granted during the period 1999 through 2010, as well as any outstanding loans or recurring subsidies provided during the presumed POI.

2.11 – Evidence of subsidies elsewhere.

From ROH's research it is evident that :

(1) Provincial governments in China compete with each other to secure employment and to build U.S. dollar reserves by way of state-owned enterprises and FIEs, and their respective export activities;
(2) To achieve these objectives, government-owned land and numerous preferential subsidies are extended to the ARW industry as well as to the upstream aluminium industry and these are, of necessity, replicated from province to province;
(3) From time to time the GOC preferential policies that give rise to these preferential subsidies are re-written, however they are ultimately re-birthed at State and/or provincial level such that the primary objectives and their long-term detrimental effects on the Australian ARW industry (as just one example in Australia's manufacturing sector), continue *ad naseum*.
(4) For these reasons, ROH requests that Customs and Border Protection investigates each of the identified subsidies – and any others that might turn up during the course of the investigation – as being applicable to every ARW in China regardless of ownership or location, the extent of which being not diminished in-part or in-whole by a semblance of apparent cooperation.

C-2. Threat of material injury

Address this section if the application relies solely on threat of material injury (ie where material injury to an Australian industry is not yet evident).

1. **Identify the change in circumstances that has created a situation where threat of material injury to an Australian industry from dumping/subsidisation is foreseeable and imminent, for example by having regard to:**

1. **the rate of increase of dumped/subsidised imports;**
2. **changes to the available capacity of the exporter(s);**
3. **the prices of imports that will have a significant depressing or suppressing effect on domestic prices and lead to further imports;**
4. **inventories of the product to be investigated; or**
5. **any other relevant factor(s).**

This application is not based solely on a "threat of material injury" but rather material injury already experienced by the Australian industry manufacturing ARWs. ROH considers that further material injury is likely in the absence of dumping and/or subsidy measures applicable on future exports of ARWS from China.

Imports of ARWs from China are at very low prices which significantly undercut any price offered by the Australian industry in the OEM and Aftermarket sectors.

Subsidisation and dumping of ARWs exported from China constitutes a threat of further injury to the Australian injury. The price pressure and subsequent loss of volumes has caused the Australian industry significant distress. In the absence of measures, production and employment in the Aftermarket sector will stop. In the absence of measures, production and employment in the OEM sector may ultimately stop as it is not possible for the Australian industry (or the rest-of-the-world) to compete with level of dumping and subsidisation of aluminium road wheels from China.

The link between the Australian industry's injury and the level of import volumes (and low prices) of ARWs from China is evidenced by the loss of large volume OEM contracts and the significant decline in the Australian industry's participation in and share of the Australian aftermarket.

As noted in the recent E.C. investigation of ARWS from China, '*China has an excess production capacity of aluminium wheels that goes far beyond domestic demand and can also not be absorbed by the demand in other major markets* (including) *the Community.*" (See also table B-4.1.15 on page 35, Section B.)

2. **If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that the threat is both foreseeable and imminent.**

This question is not applicable as ROH can demonstrate material injury experienced as a result of dumped and subsidised ARWs exports from China.

C-3. Close processed agricultural goods

Where it is established that the like (processed) goods are closely related to the locally produced (unprocessed) raw agricultural goods, then – for the purposes of injury assessment – the producers of the raw agricultural goods may form part of the Australian industry. This section is to be completed only where processed agricultural goods are the subject of the application. **Applicants are advised to contact the Dumping Liaison Unit before completing this section ☎ (02) 6275-6066 Fax (02) 6275-6990**.

1. **Fully describe the locally produced raw agricultural goods.**

   ARWs are not considered close processed agricultural goods.

2. **Provide details showing that the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.**

   ARWs are not considered close processed agricultural goods.

3. **'Provide details showing that the processed agricultural goods are derived substantially or completely from the raw agricultural goods.**

   ARWs are not considered close processed agricultural goods.

4. **Provide information to establish either:**
   - **a close relationship between the price of the raw agricultural goods and the processed agricultural goods; or**
   - **that the cost of the raw agricultural goods is a significant part of the production cost of the processed agricultural goods.**

   ARWs are not considered close processed agricultural goods.

C-4. Exports from a non-market economy

1. **Provide evidence the country of export is a non-market economy. A non-market economy exists where the government has a monopoly, or a substantial monopoly, of trade in the country of export and determines (or substantially influences) the domestic price of like goods in that country.**

   China is not considered a non-market economy country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

2. **Nominate a comparable market economy to establish selling prices.**

   China is not considered a non-market economy country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

3. **Explain the basis for selection of the comparable market economy country.**

   China is not considered a non-market economy country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

4. **Indicate the selling price (or the cost to make and sell) for each grade, model or type of the goods sold in the comparable market economy country. Provide supporting evidence.**

   China is not considered a non-market economy country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

C-5 Exports from an 'economy in transition'.

1. **Provide information establishing that the country of export is an 'economy in transition'.**

   China is not considered an 'economy in transition' country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

2. **A price control situation exists where the price of the goods is controlled or substantially controlled by a government in the country of export. Provide evidence that a price control situation exists in the country of export in respect of like goods.**

   China is not considered an 'economy in transition' country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

3. **Provide information (reasonably available to you) that raw material inputs used in manufacturing/producing the exported goods are supplied by an enterprise wholly owned by a government, at any level, of the country of export.**

   China is not considered an 'economy in transition' country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

4. **Estimate a 'normal value' for the goods in the country of export for comparison with export price. Provide evidence to support your estimate.**

   China is not considered an 'economy in transition' country for the purposes of Australia's anti-dumping and countervailing provisions. This question is not applicable.

C-6 Aggregation of Volumes of dumped goods

Only answer this question if required by question B.1.5 of the application and action is sought against countries that individually account for less than 3% of total imports from all countries (or 4% in the case of subsidised goods from developing countries). To be included in an investigation, they must collectively account for more than 7% of the total (or 9% in the case of subsidised goods from developing countries).

	Quantity	%	Value	%
All imports Australia		100%		100%
Total				

Imports of ARWS to Australia from China account for more than 3 per cent of total import volumes in the most recent twelve month period ending 30 September 2010.

APPENDICES

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