

**THE AUSTRALIAN ANTI-DUMPING COMMISSION**

Non-Confidential and Suitable For Publication

**CERTAIN DEEP DRAWN STAINLESS STEEL SINKS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA  
(The Goods)**

**TASMAN SINKWARE PTY LTD  
(Australian Industry)**

**SUBMISSION OF THE AUSTRALIAN INDUSTRY IN RESPONSE TO:**  
Application for a Review of Measures - Deep Drawn Stainless Steel Sinks  
- Consideration of non-injurious price and lesser duty rule

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This submission is made on behalf of the Australian industry producing certain deep drawn stainless steel sinks in Australia, specifically the applicant to *Dumping and Countervailing Investigation ADC 238*, Tasman Sinkware Pty Ltd.

The Australian Industry makes this submission in response to Application for a Review of Measures - Deep Drawn Stainless Steel Sinks - Consideration of non-injurious price and lesser duty rule.

At the outset it is important to observe that subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975 (Dumping Duty Act)*, only requires the Minister to “have regard to the desirability” of applying the lesser duty rule. It is entirely open to the Minister, when having regard to the application of the lesser duty rule, to conclude that it is not a desirable outcome for the relevant Australian industry. Applied here, one reason as to why it may not be *desirable* for the Minister in her/his discretion to apply the lesser duty rule is because, in the original investigation, the normal value of the goods was not ascertained under subsection 269TAC(1) because of an assessment under the antecedent provisions of regulation 43(2)(b)(ii) of the *Customs (International Obligations)*

*Regulation 2015*<sup>1</sup> that the exporters'/producers' costs were not reasonably reflective of competitive market costs associated with the production or manufacture of like goods.

The question of whether or not the Minister is released from a *mandatory* consideration of the desirability of applying the lesser duty rule is a separate one. Applied here, the Minister applied to subsection 8(5BAAA)(c) of the *Dumping Duty Act* in the original decision to avoid the mandatory consideration of the lesser duty rule on the basis that the Government of China was determined by the Minister to have not submitted its WTO subsidy notification obligations during a determined compliance period.

Notification of subsidies refers to paragraph 1 of Article 25 of the ASCM (the Agreement on Subsidies and Countervailing Measures) which provides for WTO Members to submit annual notifications of subsidies. In current practice, the WTO Committee on Subsidies and Countervailing Measures (the body to be notified) allows for notification to be made every two years.

The compliance period is defined by legislative instrument made for the purpose under subsection 269T(1A) of the Customs Act. Currently, it is defined to be the two most recent biennial periods, ending prior to the date of initiation of a countervailing investigation.<sup>2</sup>

In order for the Minister to not have mandatory regard to the consideration of applying a lesser duty, in this case, the Minister must be satisfied that the government of the country of export has not submitted notification of its subsidies at least once in the compliance period.

The Australian industry observes from the 2015 World Trade Organization (WTO) *Report of the Committee on Subsidies and Countervailing Measures*, China has purposed to provide notification of subsidies for the 2011, 2013 and 2015 reporting years (compliance periods). However, mere notification does not imply compliance. Indeed, paragraph 1 of Article 25 of the SCM provides:

*"Members agree that, without prejudice to the provisions of paragraph 1 of Article XVI of GATT 1994, their notifications of subsidies shall be submitted not later than 30 June of each year **and shall conform to the provisions of paragraphs 2 through 6.**" [emphasis added]*

Relevantly, paragraphs 2 through 6 provides:

*"25.2 Members shall notify any subsidy as defined in paragraph 1 of Article 1, which is specific within the meaning of Article 2, granted or maintained within their territories.*

*"25.3 The content of notifications should be sufficiently specific to enable other Members to evaluate the trade effects and to understand the operation of notified subsidy programmes. In this connection, and without prejudice to the contents and form of the questionnaire on subsidies,... Members shall ensure that their notifications contain the following information:*

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<sup>1</sup> The antecedent provisions were subregulation 180(2), *Customs Regulations 1926*

<sup>2</sup> Subsidy Investigation No. 238 was initiated in March 2014, so relevantly the two most recent biennial periods are 2010-2011, and 2012-2013.

- (i) *form of a subsidy (i.e. grant, loan, tax concession, etc.);*
- (ii) *subsidy per unit or, in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy (indicating, if possible, the average subsidy per unit in the previous year);*
- (iii) *policy objective and/or purpose of a subsidy;*
- (iv) *duration of a subsidy and/or any other time-limits attached to it;*
- (v) *statistical data permitting an assessment of the trade effects of a subsidy.*

*“25.4 Where specific points in paragraph 3 have not been addressed in a notification, an explanation shall be provided in the notification itself.*

*“25.5 If subsidies are granted to specific products or sectors, the notifications should be organized by product or sector.*

*“25.6 Members which consider that there are no measures in their territories requiring notification under paragraph 1 of Article XVI of GATT 1994 and this Agreement shall so inform the Secretariat in writing.”*

Therefore, it would be a significant error of law for the Commissioner to recommend to the Minister that mere *notification* equates to *compliance* with the Article 25 requirement. The Commissioner is reminded that the language of paragraph (5BAAA)(c) of the *Dumping Duty Act*, positively requires compliances, not mere notification, inter alios:

*“(c) if a countervailable subsidy has been received in respect of the goods—the country in relation to which the subsidy has been provided has not **complied** with Article 25 of the Agreement on Subsidies and Countervailing Measures for the compliance period.” [emphasis added]*

The United States has formally contested the compliance of the Government of China’s obligations under Article 25, in summary, the United States asserts non-compliance as follows:

*“The United States appreciates China's efforts to notify its central government subsidy programmes. However, we note that subsidies provided at the sub-central government level were not included in China's notification and, indeed, China has never notified a sub-central program. Article 25 of the Agreement on Subsidies and Countervailing Duties (Subsidies Agreement) specifically requires that Members include in their notification information on any subsidies granted or maintained within their territory, which includes subsidies at both the central and sub-central levels. Please indicate when China will comprehensively notify subsidies provided at the sub-central level.”*

The United States then addresses issues of non-compliance of subsidies specifically relevant to the steel industry.

The Australian industry attaches a copy of the United States formal objection under the articles of the SCM as a NON-CONFIDENTIAL ATTACHMENT, hereto.

The Australian industry submits that the Minister ought not be satisfied that the Government of China has complied with its notification obligations under paragraph 1 of Article 25 of the SCM. As

such, the Government of China has not satisfied the obligations of compliance outlined in paragraph 8(5BAAA)(c) of the *Dumping Duty Act*, which means that the Minister is not obliged to have regard to the desirability of applying the lesser duty rule in this case.

Further or in the alternative, if the Commissioner, errs in his interpretation of the provisions of the *Dumping Duty Act*, and recommends to the Minister that she/he is required by law to “have regard to the desirability” of applying the lesser duty rule, then without prejudice to the Australian industry’s rights at review, the Australian industry submits that the construction approach to determine the Unsuppressed Selling Price having regard to the Australian industry’s cost to make and sell plus an amount for profit should be applied. The Australian industry welcomes the opportunity for the Commission to present its revised cost to make and sell the like goods and demonstration of the required rate of return to retain and attract capital in the domestic industry.



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Committee on Subsidies and Countervailing Measures

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## SUBSIDIES

### QUESTIONS FROM THE UNITED STATES REGARDING THE NEW AND FULL NOTIFICATION OF CHINA<sup>1</sup>

The following communication, dated 25 January 2016, is being circulated at the request of the Delegation of the United States.

#### GENERAL

1. The United States appreciates China's efforts to notify its central government subsidy programmes. However, we note that subsidies provided at the sub-central government level were not included in China's notification and, indeed, China has never notified a sub-central program. Article 25 of the Agreement on Subsidies and Countervailing Duties (Subsidies Agreement) specifically requires that Members include in their notification information on any subsidies granted or maintained within their territory, which includes subsidies at both the central and sub-central levels. Please indicate when China will comprehensively notify subsidies provided at the sub-central level.

2. When answering questions on its previous notification, China clarified that the phrase "Financial appropriations" effectively means that grants are provided under the program. Is this true in all instances in which the phrase "Financial appropriations" is used in China's most recent notification?

#### QUESTIONS REGARDING NOTIFIED PROGRAMS

3. The United States has identified numerous programs included in China's submission that do not appear to meet the notification requirements of Article 25.1 of the Subsidies Agreement. The United States has previously highlighted what it considers to be "over-reporting" of subsidy programs by China in its prior notifications.<sup>2</sup> By including such programs in its notification, China artificially inflates the number of programs it has notified. The United States considers that up to one-quarter of the programs contained in China's third subsidy notification are reported on questionable basis. These include, *inter alia*, programs that do not appear to be specific to an enterprise, industry or groups thereof; do not benefit industrial enterprises; are provided to individuals; or constitute support for general infrastructure or disaster relief. Examples of these programs include:

- Program 12 -- Special Fiscal Fund to Alleviate Poverty
- Program 23 -- Preferential tax treatment for the public buses and trolleybuses purchased by urban public transportation enterprises
- Program 28 -- Preferential VAT policies for enterprises that employ disabled people

<sup>1</sup> G/SCM/N/220/CHN - G/SCM/N/253/CHN - G/SCM/N/284/CHN.

<sup>2</sup> G/SCM/N/123 CHN; G/SCM/N/155 CHN; G/SCM/N/186 CHN; G/SCM/N/220/CHN; G/SCM/N/253/CHN; G/SCM/N/284/CHN.

- Program 29 -- Preferential tax treatment for imported products exclusively used by the disabled people
- Program 44 -- Fund for subsidizing the training of rural migrant labor force
- Program 60 -- Preferential tax treatment for endangered wild animals and plants as well as their products returned by foreign governments, by the government of Hong Kong SAR, China or the government of Macao SAR, China to China.
- Program 82 -- Subsidy fund for producing goods specially needed by the ethnic minorities.
- Program 86 -- Preferential tax treatment for anti-HIV-AIDS medicine.

The United States has specific questions concerning these programs, which are as follows:

**Program 12 – Special Fiscal Fund to Alleviate Poverty**

4. Please explain the criteria for eligibility that individuals or other organization must meet to receive funding under this program. How is "industry with distinctive characteristics in poverty stricken areas" defined under this program?

5. Are there certain activities that recipients of funding under this program must perform?

**Program 23 -- Preferential tax treatment for the public buses and trolleybuses purchased by urban public transportation enterprises**

6. Are commercial entities, *e.g.*, industrial manufacturers of goods, eligible for the assistance provided under this program?

**Program 28 -- Preferential VAT policies for enterprises that employ disabled people**

7. Is any enterprise that employs disabled people, in any industry and without regard to location, eligible for assistance under these programs? How many enterprises received or were eligible for assistance under these programs each year covered by the reporting period?

**Program 29 -- Preferential tax treatment for imported products exclusively used by the disabled people.**

8. What enterprise or industry in China benefits when an imported product used exclusively by disabled people receives preferential tax treatment?

**Program 44 -- Fund for subsidizing the training of rural migrant labor force.**

9. Please explain the criteria for eligibility that individuals, training institutions or other organization must meet to receive funding under this program. What is the nature of the financial contribution(s) provided under this program?

10. Are commercial entities, *e.g.*, industrial manufacturers of goods, eligible for the assistance provided under this program?

**Program 60 -- Preferential tax treatment for endangered wild animals and plants as well as their government of Macao SAR, China to China.**

11. What are the eligibility criteria of this program?

12. Who are the recipients of the assistance under this program? Are commercial entities, *e.g.*, industrial manufacturers of goods, eligible for the assistance.

**Program 82 -- Subsidy fund for producing goods specially needed by the ethnic minorities.**

13. Please explain the nature of the financial contribution(s) provided under this program, *e.g.*, grants, loans, etc.

14. How many enterprises received assistance under this program during the reporting period?

**Program 86 -- Preferential tax treatment for anti-HIV-AIDS medicine.**

15. What is the value of imported anti-HIV-AIDS medicine during the years included in the reporting period? What is the value of such domestically produced medicine during the same period?

16. What commercial enterprise or industry in China benefits from preferential tax treatment for anti-HIV-AIDS medicine?

**OTHER PROGRAMMES**

*Steel*

17. The ***Steel Industry Development Policy***, National Development and Reform Commission, Order No. 35 (8 July 2005) as well as the revised 2015 draft for comment, outlines policy measures for supporting steel enterprises and provides policy guidance on steel capacity and production, including support through preferential taxation, interest subsidies, and research funding. Specifically, the 2005 policy states:

*Article 16* We should support and organize the implementation of equipment localization of the iron and steel industry, enhance the research and development as well as designing and manufacture levels of major technical equipment of our iron and steel industry. For a major iron and steel project that is based on home-made equipment as newly developed, the state shall grant policy supports in such aspects as taxation, interest subsidy and scientific research funds.

*Article 18* The policies of imported technologies and equipment: enterprises are encouraged to use home-made equipment and technologies and reduce export. For any equipment or technology that cannot be produced domestically or fails to meet the demand and, thus, must be introduced from abroad, the introduced equipment or technology shall be advanced and practical. For the equipment in large amount and big scope, we should organize and implement the localized production thereof from now on. Enterprises are prohibited from adopting any second-handed backward production equipment of iron and steel from home or abroad that has been eliminated.

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.<sup>3</sup>

18. The ***Steel Industry Adjustment and Revitalization Plan***, Guo Fa [2009] No. 6 (20 March 2009)<sup>4</sup> outlines policy measures for supporting steel enterprises. For example:

IV. Policy measures

...

(III) Strengthen input in technological progress and technical reconstruction.

Special funds are available for the investment in capital construction within the central budget, and loans for supporting the technical reconstruction of steel enterprises (excluding the renovation of power-saving technology), technological R&D and technology introduction, to push forward the technological progress of steel industry. Adjust the steel structure to improve the quality of steel products. Further increase

<sup>3</sup> See also, G/SCM/Q2/CHN/15, 13 October 2005.

<sup>4</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #2.

the financial incentive for power-saving technology to encourage and support the steel enterprises to positively carry forward the renovation of power-saving technology.

...

(IX) Implement financing policy.

Strengthen financial support for backbone steel enterprises. Give support to the projects which are subject to the environmental protection, agrarian law and portfolio management requirements, and enterprises which implement the merger, reorganization; go global, and make technological progress in terms of issuing stock, corporate bond, middle-term bill, short term financing and bank loan as well as absorbing the privately collected equities. Avoid the capital chain rupture of the large-sized backbone enterprises. If necessary, make available loan and discounts, and continuously implement financing restrictions for projects without approval and the enterprises with backward productive capacity.

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

19. The **Anhui Province Steel and Iron Industry Adjustment and Revitalization Plan**, Wan Zheng [2009] No. 56 (18 August 2009)<sup>5</sup> outlines policy measures for supporting the provinces steel enterprises. For example:

IV. Policy Measures

...

(II) Set up finance and tax interest allocation mechanisms in locations with resources and locations where processing is occurring, intensify prospecting and direct mineral resources to advantaged enterprises like MA Steel. Preferentially allocate proven reserves of exploitable iron ore (4 billion tons, mainly around Ningwu, Huoqiu and Lujiang) in Anhui to advantaged enterprises like MA Steel, allow no new mining claims in the areas around the mines of advantaged enterprises like MA Steel, and support MA Steel in integrating and developing iron ore resources. Encourage MA Steel to take part in earlier-stage exploration of iron ore resources in Anhui and add to its resource reserves.

a. Please describe the preferential allocation of iron ore under this measure.

b. Given the language of the cited measure, please explain why this measure and implementing measures were not notified pursuant to the notification requirements of Article 25 of the Subsidies Agreement.

20. The **Qinghai Province Opinions on the Implementation of Steel and Iron Industry Adjustment and Revitalization**, Qing Zheng [2009] No. 33 (25 June 2009)<sup>6</sup> outline policy measures for supporting steel enterprises in the province. For example:

V. Major Policies

...

(III) Strengthen fiscal and taxation policy support. Strengthen fiscal input into technical progress and upgrading, and apply funds primarily toward preliminary project work, interest discounts for independent innovation and technical progress, and energy conservation and emissions reductions etc. while guiding enterprises to increase their input and speed up industrial upgrades and transformation. Promote development of high-quality new special steel products, promote utilization of low-grade iron ore, and promote development of direct reduced iron. Actively carry out the implementation of relevant supplementary policies such as the reform of the

<sup>5</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #6.

<sup>6</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #11.



national taxation system on enterprise income taxes and value-added taxes, etc., and guarantee the implementation of various preferential policies; research and formulate relevant supplementary fiscal and taxation policies and support the development of key industries according to the taxation policies supporting industrial development that have been formulated by the state and the practical conditions of the province.

(IV) Strengthen financial service and support. The financial department shall take the initiative to strengthen communication and coordination with enterprises, and do well in its financial service. Strengthen credit support for key technical upgrades, energy-saving technical upgrades, energy conservation and emission reduction, and construction of key projects to guarantee project construction.

(V) Improve the withdrawal mechanism for backward production capacity. Support iron and steel enterprises to properly relocate employees, shift their enterprise production and deal with debt resolution etc. during the elimination of backward production capacity, and promote social harmony and stability. Meanwhile, grant interest discounts or investment subsidies to projects that adopt new technology for energy-saving technological upgrades. Strictly carry out a responsibility system for energy conservation, emissions reductions, and elimination of backward production capacity; strengthen supervision and inspection of the elimination of backward production capacity. Relevant departments shall not process any paperwork for projects that are inconsistent with the rules, nor those that belong to projects with high energy consumption and high emissions.

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

21. China has never notified a steel subsidy program at either the central or sub-central level. Is it China's position that it has never provided a specific subsidy to the steel industry since becoming a WTO Member?

#### *Non-ferrous Metals*

22. The State Council ***Non-Ferrous Metals Industry Adjustment and Revitalization Plan***, Guo Fa [2009] No. 14 (12 May 2009)<sup>7</sup> outlines guiding principles and policy measures for supporting the non-ferrous metals industries including tax rebates, special funds, and financing support. For example:

Article 4.2 Work out plans for further expanding the scale of state purchase and storage of non-ferrous metals based on situational needs...

Article 4.3 Allocate a special fund for the newly added central government investments to support the technology research and development and technology transformation in the non-ferrous metals industries through the means of discount interest loans. Increase the support of financial rewards for the transformation of energy saving technologies, encourage and guide enterprises to vigorously advance the transformation of energy saving technologies.

Article 4.4 Promptly promote the launch of direct power-purchase pilot projects. The focus of support goes to backbone electrolytic aluminum enterprises that are conducive to industrial restructuring and meet the national environmental and land laws and investment management regulations to reduce production cost and inject greater vitality into enterprises...

Article 4.9 Increase support to the financing of backbone non-ferrous metal enterprises. For projects that meet industrial policies, environmental and land laws and regulations, and investment management provisions as well as enterprises that conduct merger, reorganization, "go global", and technological transformation, give support in terms of stock, enterprise bond, corporate liability, and bank loans...

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<sup>7</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #22.

- a. Please explain the mechanism under which non-ferrous metals were bought and stored under this measure. Was the objective of the mechanism to support prices on non-ferrous metals in China? Please describe how this mechanism operated.
- b. Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

23. The ***Hunan Province Non-Ferrous Metals Industry Revitalization Implementation Plan (2009-2011)***, Hunan Provincial People's Government, Xiang Zheng Fa [2009] No. 17 (3 June 2009)<sup>8</sup> outlines policy measures for supporting the non-ferrous metals industries in Hunan province. For example:

Article 4.3 Increase credit availability, reduce the threshold for working capital loans, and ensure reputable enterprises that have orders receive credit support in time. Give greater credit support to enterprises undertaking major construction projects ...

Article 4.4 ... Build a provincial non-ferrous metal purchase and storage system. By way of 'government control, bank loan, financial support, enterprise storage,' provincial financial [shall] coordinate, focusing on the purchase and storage of non-ferrous metals including copper, aluminum, zinc, tungsten, antimony, bismuth, and indium. The scale of the first phase of purchase and storage is RMB 1 billion to RMB 1.5 billion.

- a. Please explain the mechanism under which non-ferrous metals were bought and stored under this measure. Was the objective of the mechanism to support prices for non-ferrous metals in China? Please describe how this mechanism operated. How many phases of the program were there and what was the total amount purchased?
- b. Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

24. The ***Jiangsu Province Non-Ferrous Metals Industry Adjustment and Revitalization Plan Outline*** (Jiangsu Provincial People's Government, Su Zheng Fa [2009] No. 86 (31 May 2009)<sup>9</sup> outlines policy measures for supporting the non-ferrous metals industries in Jiangsu province. For example:

Article 4.1 Practically implement all national and provincial policies for preferential treatment of the non-ferrous metal industry and strive to solve development problems and questions that exist currently... give support to key enterprises that fit with national industrial policies in terms of funding, electricity use, land use, and other such factors. Strive to develop and open a more direct power supply in our province for key aluminum smelting enterprises.

Article 4.2 Make vigorous and positive use of indigenously-developed advanced and applied technologies to transform the industry... various financial programs should be made available to support key large-scale projects, key technologies, energy savings, emissions reduction, and elimination of outdated equipment.

- a. Please describe the support provided to key enterprises for electricity use.
- b. Given the language of the cited measure, please explain why this measures and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

25. The ***Qinghai Province Opinions for the Implementation of Non-Ferrous Metals Industry Adjustment and Revitalization***, Qinghai Provincial People's Government, Qing Zheng

<sup>8</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #27.

<sup>9</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #28.

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[2009] No. 31 (25 June 2009)<sup>10</sup> outlines policy measures for supporting the non-ferrous metals industries in Qinghai province. For example:

Article 4.1 Practically implement all national and provincial policies for preferential treatment of the non-ferrous metal industry ... give support to key enterprises that fit national industrial policies in terms of funding, electricity use, land use, and other such factors. Strive to develop and open a more direct power supply in our province for key aluminum smelting enterprises.

Article 4.4: Strengthen financial services and support. Financial institutions are to take the initiative to strengthen communication between local governments and banks and emphasize strongly the focus on industrial financial services. Increase the focus on technological innovation, energy transformation, energy conservation projects, and key industrial credit support to ensure project completion. Achieve further innovation in financing methods, continue strengthening bank-government and bank-industry cooperation, and encourage enterprises to expand the scale of corporate bond financing through the issuance of enterprise bonds, short-term financing bonds, medium-term notes, and other means. Also support competitive enterprises with public financing and guide existing public companies to further expand the scale of financing."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

26. China has never notified a non-ferrous subsidy program at either the central or sub-central level. Is it China's position that it has never provided a specific subsidy to the non-ferrous industry since becoming a WTO Member?

#### *Semiconductors*

27. In June 2014, the State Council released the Guidelines to Promote National Integrated Circuit (IC) Industry Development. Under these Guidelines, the State Council approved the establishment of a National IC Investment Fund Co. Ltd (IC Fund), pursuant to the State Council Notification Regarding National Integrated Circuits Industry Investment Fund Establishment Approval (Guo Han [2014] No. 48). The two largest shareholders of the IC Fund are the Ministry of Finance (MOF), and the China Development Bank. According to an official Ministry of Industry & Information Technology (MIIT) report, the remaining shareholders, all state-owned enterprises, invested in the Fund under the guidance of their respective administrative management agencies, including both MIIT and MOF. The IC Fund operates under the direction of the National IC Industry Leading Small Group, which is chaired by a Vice Premier of the State Council. The MIIT Electronics Information Department and the MOF Economic Construction Department are responsible for operational oversight including "guiding the operations of the IC Fund," such as directing and monitoring key investments and projects undertaken by the IC Fund.

The purpose of the IC Fund is to promote the growth of China's IC industry in line with the strategic objectives of the State outlined in the Guidelines, with the funding provided in the form of an equity stake ownership to allow the government to take an active role as a shareholder. The State Council has required that "no less than 60%" of the IC Fund be invested into the IC manufacturing sub-sector. Public sources report that this will allow the government to monitor the investee's management decision making process and will assist the government in balancing its national strategy for the development of this industry. Under these Guidelines, it has been reported that China will provide 120 billion yuan between 2014 -2017 and that local governments will also create their own IC Investment Funds. It has also been reported that the IC Fund will not impose strict return requirements on the firms receiving these investment funds. For example, MOF and CBD officials have said that "strategic investments" made by the IC Fund will not be made based on market conditions. Executives of the IC Fund and its affiliated entities have publicly stated that "the IC Fund is not a pure financial investment, it is a policy tool." (See, e.g., Asia Semiconductor Sector; SEMICON China Showcases the Emerging Local Ecosystem from Credit Suisse (23 March 2015) at pages 3-7, MIIT 2015 Annual Electronics Industry Work Meeting, and public reports of the March 19 Shanghai IC Equipment Industry Development Form) The

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<sup>10</sup> See also, G/SCM/Q2/CHN/51, 14 October 2014, program #29.

2014 Guidelines to Promote National Integrated Circuit (IC) Industry Development appear to provide a financial contribution and benefit under Article 1 of the Subsidies Agreement because there is a provision of government funds and the government investment is based upon national policy goals for the development of the IC industry without the expectation of specific rates of return. In addition, this program appears to be specific under Article 2 of the Subsidies Agreement because the funds are provided to the IC industry.

Please explain why this measure and related implementing measures were not notified pursuant to the notification requirements of Article 25 of the Subsidies Agreement.

28. In *Tianjin Economic and Technological Development Area Interim Measure on Promoting Integrated Circuit Design Industry Development* (Tianjin Economic and Technological Development Area Management Commission (19 June 2013)) various support measures are described. These include:

Article 4. [Special Fund] ... Set up a "IC Design Industry Promotion Special Fund", used for service platform software and hardware environmental construction, operations expenditure support, and design enterprise R&D, tapes, and industrialization financial support and other expenditure subsidies.

Article 10. [R&D Support] To enterprises that participate in multi-project wafer (MPW) products, give the project expenditure 50% subsidies; to enterprises that use service platform EDA [Electronic Design Automation] software, give complete reduction or waiving of expenditures; for other R&D expenses, beginning from the year of enterprises' establishment within 5 years, give 10% support subsidies to enterprises R&D expenses; the above support and subsidy fees does not exceed RMB 5 million at the highest every year.

Article 12. [Industrialization Support] Beginning the month the enterprises pays VAT, give financial support that is equivalent to the enterprise's paid VAT, and every enterprises' subsidy does not exceed 3 years, and the accumulated amount in 3 years does not exceed RMB 5 million.

Given the provisions cited above, please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

29. In *Shanghai Municipality Measure for the Administration of the Software and Integrated Circuit Industry Development Special Fund* (Shanghai Municipality Economic and Informatization Commission, Shanghai Municipality Bureau of Finance, Hu Jing Xin Fa [2012] No. 965 (28 December 2012)) various support measures are described. These include:

Article 9 (Support Method)

The special fund uses the methods of free subsidies and rewards to be arranged and used.

Article 10 (Support Standards)

The special fund's support is applicable to be used for the following standards:

(1) To projects that have obtained national electronic information industry development fund support, give 50% accompanying support.

(2) The support fund's support quota usually does not exceed 30% of the project's total financing, and at maximum does not exceed RMB 8 million.

(3) To common service platform construction and demonstration use projects, the special fund usually gives support not exceeding 50% of total investment, and the support fund completely subsidies industry development and policy research projects.

(4) To IC design enterprises that utilize our city's IC production line and carry out the first round of engineering product tapes adhering to certain requirements, the special fund gives support not exceeding 30% of tape expenditures, and at maximum does not exceed RMB 5 million.

Given the provisions cited above, please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

30. In ***Beijing Several Policies on Further Promoting the Software Industry and Integrated Circuit Industry Development*** (Beijing Municipality People's Government, Jing Zheng Fa [2014] No. 6 (8 February 2014)) various support measures are described. These include:

## II. IC Industry Policy

...

(16) Innovate IC industry investment and financing methods...Expand venture capital funding and other financial channels, encourage and attract structure investors, industry capital, and overseas capital to participate and establish IC industry development funds, and use equity shares investment and other methods to support IC industry to develop in coordination with other links, and promote key enterprise M&As and industry park construction.

(18) Support high-end IC production project construction. To newly constructed or expanded production lines for 12 inches above with linewidth smaller than 65 nm...encourage and guide industry development funds, and social capital [should] give equity investment to these products, and city and district (county) governments give construction of building or interest discount support.

Given the provisions cited above, please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

### *Investment and Interest Rate Subsidies*

31. There appears to be a general investment system in China funded from the Central Budget (See, ***Interim Measures for the Administration of Central Budget Investment Subsidy and Interest Discount Projects***, National Development and Reform Commission, Order No. 31 (8 June 2005); ***Interim Measures for the Administration of Central Budget Investment Subsidy and Interest Discount Projects***, National Development and Reform Commission, Order No. 3 (15 June 2013).<sup>11</sup>

Article 3 of the 2013 measure states:

Investment subsidies mentioned in these measures refer to investment subsidies given to local governments and investment subsidy projects given by the National Development and Reform Commission to qualifying enterprises.

Interest discounts mentioned in these measures refer to loan interest subsidies given by the National Development and Reform Commission to qualifying investment projects that utilize mid- to long-term bank loans.

Investment subsidies and investment discounts are gratis investments.

Article 4 of the 2013 measure lists as one of the focuses of this program as "Investment projects for ... industrialization of high and new technologies." Article 23 states that projects that do not have confidentiality requirements "shall be open to the public".

<sup>11</sup> See also, G/SCM/Q2/CHN/51, 14 October 2104, program #42 and 43.

- a. Please explain why this program and other related implementing measures have not been notified pursuant to Article 25 of the Subsidies Agreement.
- b. Please describe the industries and sectors that have benefitted under these measures.
- c. Article 7 of the 2005 measure placed limits on the amount of the investment subsidy. The 2013 measure does not have similar limits described. Are there limits on the amount of the investment subsidy under the 2013 measure? If so, please describe.

32. There also appears to be an investment system for China's state-owned enterprises. In 2013, Article 2.1 of the ***Interpretation on 2013 Central State-owned Capital Management Budget*** states:

Expenditures for structural adjustment of the state-owned economy [account for] 37.988 billion yuan, [which is] used to support strategic mergers and reorganizations between central enterprises, sort out equity relations in companies with multiple investor entities, sustain and strengthen central enterprises' controlling force on major subsidiaries that affect national security and national economy lifelines, as well as resolve the historical legacy problem of central enterprises.

Article 2.3 of the same 2013 budget document states:

Expenditures for industrial upgrading and development [account for] 17.676 billion yuan, [which is] used to enhance central enterprises' indigenous innovation ability, push forward major technology innovation and industrialization of scientific and technological achievements, carry out the "12th Five-Year" energy saving and emission reduction targets and tasks, support central enterprises' energy saving and emission reduction work, and support central enterprises' internal industrial integration. ...

For 2014, Article 2.1 of the ***Interpretation on 2014 Central State-owned Capital Management Budget*** states:

Expenditures for structural adjustment of the state-owned economy [account for] 61.51 billion yuan, [which is] used to provide key support to major structural adjustment mainly in the areas of optimizing industrial structure and capital layout, including central enterprises' strategic mergers and reorganizations and equity restructuring.

Article 2.3 of the same 2014 budget document states:

Expenditures for industrial upgrading and development [account for] 15.425 billion yuan, [which is] used mainly to support important industries involving the lifeline of the national economy and industrial upgrading and development projects in key areas, including breakthroughs in industrial development bottlenecks, breakthroughs in technology bottlenecks, integration of industry and research, and development of new industries.

Although outside of the relevant reporting period, in 2015, Article 3.4 of the ***Interpretation on 2015 Central State-owned Capital Management Budget*** states:

State-owned capital injections [account for] 53.6 billion yuan, including: 26.5 billion yuan expenditures for structural adjustment of the state-owned economy, [which is] used to sort out equity relations and support enterprise structural adjustment.

Moreover, Article 3.5 describes an 8.8 billion yuan subsidy policy for state-owned enterprises.

- a. Please explain why these programs have not been notified.
- b. What type of subsidy (e.g., grant, equity infusion) was provided under the subsidy policy described in Article 3.5 in 2015? What types of industries have received support under this policy?
- c. What state-owned companies received capital injections and funds for restructuring in 2009-2014?
- d. Are any of the funds under the above budget items provided under the **Ministry of Finance Notice on Issuing the Measure for the Administration of the Central State-Owned Capital Management Budget Key Industries Transformation Upgrading and Development Fund**, Ministry of Finance, Cai Qi [2013] No. 389 (29 November 2013)? Please identify any measures relevant to the distribution of funds under the budget provisions cited above. What industries benefited from these funds?

*Wild Capture Fisheries*

33. The State Council measure titled, **Certain Opinions of the State Council Concerning the Promotion of the Sustainable and Healthy Development of the Marine Fishing Industry** (Guo Fa [2013] No. 11)<sup>12</sup> includes the following provision:

VII. Strengthening guarantee measures ...

20) Increasing the degree of financial support: Subsidies for fishing populace production and occupation transfer and oil price subsidization policies for the fishing industry are to be comprehensively considered and improved. Research is to be done on raising the subsidy standards for production and occupation transfer and on adjusting the method of oil price subsidization so that there is coordination with fisheries resources protection and industrial restructuring. Marine salvage policies for the fishing industry are to be continued to be implemented. Funding is to be provided for supporting fisheries administration, resources survey, variety resources protection, disease prevention and control, and quality and safety monitoring. Policies subsidizing reproduction and release and aquaculture ecological environment restoration are to be continued to be implemented. The degree of support for scientific and technological innovation and results transformation in areas such as aquatic product breeding, disease prevention, resources conservation, and fishing industry equipment is to be increased.

Please explain why this measure and other implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

34. A provincial measure related to the measure cited above titled **Guangdong Provincial People's Government's Opinion on Promoting the Transformation and Upgrading of Marine Fishery to Improve the Level of Marine Fishery Development** (Yue Fu [2013] No. 67) includes the following provision:

(XXI) Increase the degree of support. Continue to implement the policy of providing subsidies for the purchase of fishery machinery and gear, and to incorporate fishing industry into the scope of preferential policy of agricultural land, electricity, water, and so on. For those distant water fishing enterprises that obtain the "Distant Water Fishing Enterprise Qualification Certificate" issued by the Ministry of Agriculture, and engaged in distant water fishing business during the validity period, they are exempted from paying the corporate income tax. All local governments shall incorporate marine fishery into the public financial support system, increase the investment amount, and provide priority support. Continue to implement the fishermen switching jobs project, to broaden fishermen's sources of income. Vigorously promote the policy of fishery insurance, timely carry out aquaculture insurance policy pilot, in order to improve the fishery risk protection mechanism. Provide fishermen with subsidies during the fishing (ban) moratorium.

<sup>12</sup> See, G/SCM/Q2/CHN/52, #2.2(b).

Please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

35. A municipality measure, related to the above two measures, titled ***Notice on the Issuance of Shenzhen Municipal Interim Measures for Supporting the Development of Distant Ocean Fishing through the Special Fund for Agricultural Development***; Shenzhen Municipal Economy, Trade and Information Technology Commission and Shenzhen Municipal Finance Commission, (Shenzhen Economy Trade Information Ocean Doc [2014] No. 22) includes the following provisions:

Article III. Enterprises shall be encouraged to organize modern distant ocean fleets:

(I) Support shall be provided for the building of tuna seiners, ultra-low temperature tuna longliners, fiberglass tuna longliners, steel tuna longliners, saury fishing vessels and large squid fishing vessels and other distant ocean fishing vessels that are in line with the State's aid regulations. Proactive assistance shall be provided to the enterprises in their application for state aid. For those vessels for which aid has already been received from the state, supporting aid in the amount equivalent to 20% of the state aid shall be provided from the special fund, and they shall not be eligible for repeat aid from other sources for fishing vessels.

(II) For large tuna seiners (with fishing quota, with total tonnage of 1,500 per vessel or more and under 20 years old), large saury fishing vessels and large squid fishing vessels (with total tonnage of 1,000 per vessel and under 15 years old), ultra-low temperature tuna longliners (with fishing quota, with total tonnage of 350 per vessel or more, and under 15 years old), newly built or purchased used by enterprises, aid in an amount equivalent to 25% of the total investment (including investment in the vessel purchase and equipment renovation) shall be extended from the special fund, and the maximum aid per vessel shall not exceed respectively 8 million Yuan, 3 million Yuan and 2 million Yuan.

(III) Large trawl processing vessels (with total tonnage of 7,000 per vessel and under 20 years old) newly built or purchased used by enterprises shall be entitled to aid in an amount equivalent to 25% of the total investment (including the investment in the vessel purchase and equipment renovation) from the special fund, and the maximum amount of aid per vessel shall not exceed respectively 10 million Yuan.

(IV) Large support vessels for distant ocean fishing (with total tonnage of 2,000 per vessel and under 15 years old) and other distant ocean fishing vessels (with total tonnage of 100 per vessel or more and under 10 years old) newly built or purchased used by enterprises shall be entitled to aid in an amount equivalent to 10% of the total investment (including the investment in the vessel purchase and equipment renovation) from the special fund, among which the maximum amount of aid per vessel for large support vessels for distant ocean fishing newly built or purchased used shall not exceed respectively 8 million Yuan and 6 million Yuan, while the maximum amount of aid per vessel for large vessels for distant ocean fishing newly built or purchased used shall not exceed respectively 500,000 Yuan and 400,000 Yuan.

(V) For a large vessel for distant ocean fishing newly built or purchased used by an enterprise, after the three certificates, namely Nationality Certificate for a Chinese Fishing Vessel, Certificate of Ownership and the Vessel Inspection Certificate are obtained, the ratio between the annual amount of maritime product capture from distant ocean transported back to our municipality and the annual capacity of the enterprise's fishing vessel must reach the following number: For tuna, the quantity shipped back shall not be less than 10% and not less than 60% for other fish types for the above vessel to be eligible for aid. The monetary aid (including the State aid for shipping) shall be paid out in the ratio of 20%, 20%, 20%, 20%, and 20% respectively over a five-year period. If the amount shipped back falls below the above requirement, vessel aid for the subsequent period shall be terminated.

Please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement. Why were the measures cited China's last trade



policy review report and in the United States' Article 25.8 request<sup>13</sup> not included in China's latest notification?

36. China has never notified a wild capture fisheries subsidies program at either the central or sub-central level. Is it China's position that it has never provided a specific subsidy to the wild capture fisheries industry since becoming a WTO Member?

*Textiles*

37. The ***Shanghai Municipality Plan to Carry Out the Implementation of the Textile Industry Adjustment and Revitalization Plan*** (Hu Fu Fa [2009] No.53)<sup>14</sup> categorizes the textile industry to be a "traditional pillar" industry. The entire plan, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"Strengthen the supportive efforts of special funds for the independent name brand enterprises of Shanghai that are to be used for light industry and the textile industry. On the basis of relevant regulations, focus on giving rewards to those enterprises that have earned the title of national brand (Chinese world brands, Chinese brands, Famous Trademarks of China, and brands that are the most competitive in the market). Give funds to help improve the quality of well-known name brand enterprises and promote excellent performance and engage in other brand projects. Give funds to "old and famous" Chinese enterprises... ."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

38. The ***Notice on Issuing the Anhui Province Textile Industry Adjustment and Revitalization Plan*** (Wan Zheng [2009] No. 55)<sup>15</sup>, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"Increase textile and clothing export support. The export credit insurance premium subsidy budgeted for by the provincial government; export stock and incremental incentives and corporate policies such as international market development funds; give priority to supporting textile and garment enterprises. At the same time, encourage qualified textile enterprises to "step out", and actively strive to achieve the optimal configuration of sales, research and development and all aspects of production on a global scale. Encourage foreign trade enterprises to export provincial textile products."

Given the language of the cited measure, please explain why this measure and other related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

39. The ***Notice of the People's Government of Shandong Province on Printing and Distributing the Shandong Province Textile Industry Adjustment Revitalization Plan*** (Lu Zheng Fa [2009] No. 48)<sup>16</sup> categorizes the textile industry to be a "pillar" industry. The entire plan, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"Policy Support is increasing based on the nationwide implementation of the policy of driving internal demand. The State Council issued the Textile Industry Adjustment and Revitalization Plan, giving greater fiscal, tax and financial support. ... credit support is given to enterprises which have good fundamentals but are troubled with operational and financial difficulties temporarily; greater help is given to small- and medium-sized textile enterprises and guarantee institutions are encouraged to provide credit guarantee and financing service to ease burdens on textile enterprises. In addition ...

<sup>13</sup> G/SCM/Q2/CHN/52.

<sup>14</sup> G/SCM/Q2/CHN/51, 21 October 2014; See program # 20.

<sup>15</sup> G/SCM/Q2/CHN/51, 21 October 2014; See program # 21.

<sup>16</sup> G/SCM/Q2/CHN/51, 21 October 2014; See program # 22.

technical transformation interest subsidy policies have been issued to provide policy support to industry transformation and upgrading."

"Give Greater Support Concerning Fiscal and Taxation Policies. First, take concrete measures to carry out preferential fiscal and taxation policies. Exert greater efforts in policy publicity and implementation, actively guide enterprises to make good and full use of preferential fiscal and taxation policies, and strengthen supervision and inspection over policy execution, so that the preferential policies will be employed fully, properly and flexibly. At the same time, fiscal and taxation departments at all levels shall fully play their role, actively studying and formulating supporting fiscal and taxation policies and tax administration measures to boost industry adjustment and revitalization. Second, actively integrate special fiscal funds ..."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

40. The *Notice of the People's Government of Henan Province on Printing and Distributing the Henan Province Textile Industry Adjustment Revitalization Plan* (Yu Zheng [2009] No. 75)<sup>17</sup> categorizes the textile industry to be a "strategic pillar" industry. The entire plan, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"Give Greater Fiscal and Taxation Support ... comprehensively use special provincial fiscal funds to support structure adjustment, technical transformation and energy conservation and emission reduction projects of textile enterprises."

"... support policies intended to grant incentives to enterprises by making use of local retained part of the VAT and income tax revenues imposed on newly established textile and garment enterprises in industrial cluster areas."

"... attach importance to the construction of about 30 specialized textile and garment parks, and give greater support in terms of land, fiscal and tax policy, financing and environmental protection to improve industry transfer accommodating capability. Support specialized textile and garment parks in their efforts to establish public service platforms with respect to product test, R&D, logistics and employee training to promote cluster-style industry transfer. The special investment promotion fund of the Province will grant reward to major textile industry transfer projects."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

41. The *Guangdong Province Textile Industry Adjustment and Revitalization Plan* (Yue Fu [2009] No. 164)<sup>18</sup> categorizes the textile industry to be a "traditional competitive" industry. The entire plan, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"(II) Give Greater Credit Support to Textile Enterprises. Properly implement relevant policies issued by the State and give greater support to textile enterprises regarding working capital for production and operation purpose. ... expand direct-financing channels for them, encourage financial institutions to develop innovative credit products, improve the SME guarantee system, and give priority support to small and medium-sized textile enterprises that meet industry policies and that have markets, technologies and development prospects."

"(III) Give Greater Financial Support to Textile Industry Structure Adjustment. Make good use of all special funds in an overall view to support energy conservation and

<sup>17</sup> G/SCM/Q2/CHN/51 21 October 2014; See program # 23.

<sup>18</sup> G/SCM/Q2/CHN/51 21 October 2014; See program # 24.

emission reduction, public service platform, technical innovation, technical transformation and brand construction of the textile industry..."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

42. The Document of the Jiangsu Provincial People's Government (Su Zheng Fa [2009] No. 84) ***Notice of the Provincial Government on Printing and Issuing the Jiangsu Province Textile Industry Adjustment and Revitalization Plan Outline***<sup>19</sup> categorizes the textile industry as a "conventional pillar" industry. The entire measure, which includes guiding principles and policies, appears to be specific to the textile industry and describes particular financial benefits that will be provided to the industry. For example:

"(I) Strengthen credit support. Carry out state credit policies for the textile industry, encourage financial institutions to strengthen their credit support for textile enterprises, and grant support for circulating funds for enterprises with a good basic situation but with temporary financial difficulties. Grant more sufficient credit support for fixed assets to important technical upgrade projects that conform to industrial policy. Encourage guarantee authorities to provide credit guarantees and financing service for textile enterprises."

"(II) Carry out a brand strategy. Formulate relevant policies for supporting and protecting brands, support advantageous enterprises to establish R&D centers, and vigorously promote construction of independent brands. Make full use of various national and provincial dedicated funds supporting the development of foreign and economic trade, support the export of indigenous-brand textiles..."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

#### *Renewable Energy*

43. The ***Renewable Energy Law, adopted by the 14th Session of the Standing Committee of the 10th National People's Congress***<sup>20</sup> appears to target the development and utilization of renewable energy for energy development. The law is specific to the renewable energy which includes non-fossil energy of wind, solar, water, biomass, geothermal and ocean energies and describes particular financial benefits that will be provided to the industry. For example:

- "[Article 24] The state finance shall set up an exclusive fund for the development of renewable energy to support the following activities..."
- "[Article 25] As for the projects of development and utilization of renewable energy...the financial institutions may provide preferential loans with financial interest payments."
- "[Article 26] The State shall give preferential taxation to projects listed into the catalogue of guidance for industrial development of renewable energy. The specific measures thereof shall be enacted by the State Council."

Given the language of the cited measure, please explain why this measure and implementing programs were not notified pursuant to Article 25 of the Subsidies Agreement.

44. The ***Auto Industry Adjustment and Revitalization Plan***<sup>21</sup> appears to be specific to the automobile industry and describes particular financial benefits that will be provided to the industry. For example:

<sup>19</sup> G/SCM/Q2/CHN/51 21 October 2014; See program # 25.

<sup>20</sup> G/SCM/Q2/CHN/42 11 October 2011; See program # 1.

<sup>21</sup> G/SCM/Q2/CHN/42 11 October 2011; See program # 25 page 4.

- "Intensify investment in technology advancement and transformation. In the next three years, arrange RMB 10 billion in the newly added central budget to be used as technology advancement and transformation special fund, to provide key support for auto manufacturing enterprises to upgrade products... "

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

45. The ***Interim Measures for Administering the Special Fund of the Renewable Energy Development in Yunnan Province [No. 237]***<sup>22</sup> appears to be specific to the renewable energy industry and describes particular financial benefits that will be provided to the industry. For example:

- "Article 2 Yunnan Province Special Fund of Renewable Energy Development" (hereinafter "the Special Fund") referred to in this document means the special fund arranged by provincial fiscal budget, and specifically used to support the development of renewable energy."
- "Article 7 The Special Fund provides support in the forms of free grant and loan interest subsidies."
- "Article 8 Science and technology research, standard formulation, and renewable energy resources exploration, evaluation and relevant information system construction for renewable energy key technology transformation projects that are listed in national and provincial top research projects, shall usually receive appropriate support in the form of free grant."
- "Article 9 Renewable energy development and utilization projects or demonstrative projects that are listed in national renewable energy industry development guidance catalogue and meet the credit terms, shall usually receive appropriate support in the form of loan interest subsidies."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

#### *High and New Technology Zones*

46. The ***Tianjin Economic-Technological Development Zone Provision on Promoting the Development of High and New Technology Sectors***<sup>23</sup> appears to be specific to the high and new technology industries located in a designated area and describes particular financial benefits that will be provided to the industry. For example:

- "[Special Fund] The Administrative Commission allocates 5% of the disposable fiscal revenue each year to set up the Tianjin Economic Technological Development Area (TEDA) Scientific and Technological Development Fund. Supporting policies, funds, and awards....."
- "[Rent Subsidies]....production houses rented by high and new technology enterprises at the initial stage in the Development Zone... we shall give them up to three years rent subsidy, and the total amount of the subsidy is not to exceed a million yuan."
- "[Special Fund for Software and Integrated Circuit Design Industries] Every year, set up a special fund of 5 million yuan for the software industry to support the building of public service platforms of software technology and the development of the software industry; every year, set up a special fund of 10 million yuan for the IC design industry is to give priority support to the building of IC design public service platforms and the development of the IC design industry."

<sup>22</sup> G/SCM/Q2/CHN/42 11 October 2011; See program # 30 page 4.

<sup>23</sup> G/SCM/Q2/CHN/51 21 October 2014; See program # 99.

- "[Credit Guarantee] The Development Zone is to set up a special fund of 20 million yuan for special risks in credit guarantees to provide services such as circulating funds, financing, and guarantees to small-and medium-size high and new technology enterprises through the TEDA small enterprise credit guarantee center."
- "[Loan Discounts]For scientific and technological industrialization projects of start-up type for high and new technology enterprises, [we]encourage and support interest subsidizing and bank loans to expand their production scale. [We shall] give enterprises subsidies in line with the annual interest of the loan that is calculated in accordance with the benchmark interest rate. The longest interest subsidy term is three years, and the upper limit of the total amount of the interest subsidy is three million yuan."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

47. The *Notice of People's Government of Beijing Municipality on Printing and Issuing the Several Provisions on Further Promoting High and New Technology Industry Development No. 38*<sup>24</sup> appears to be specific to the high and new technology industry and describes particular financial benefits that will be provided to the particular industry. For example:

- "II. The municipal government establishes a special fund for encouraging the development of new and high-tech industries."
- "The municipal government sets up technological innovation funds for supporting the transformation of new and high-tech achievement. The investment institutions that are established and guided with funding from departments including the Municipal Finance Bureau, Municipal Science and Technology Commission, Municipal Planning Commission, and Administrative Committee of the Zhongguancun Science and Technology Park, and the government raises funds through multiple channels. These investment institutions promote the transformation of new and high-tech achievements by way of market research input, project development, venture investments, loans with discounted interest, and loan guarantees."
- "The municipal government sets up special funds for the development of the Zhongguancun Science and Technology Park, with an emphasis on supporting the construction of infrastructure within the park as well as the transformation of new and high-tech achievements."
- "The Municipal Economic Commission and the Municipal Science and Technology Commission are to allocate no less than 50% of the technological transformation funds, restructuring funds, and science and technology funds annually to support new and high-tech achievements, transformation projects, and joint implementation projects for industry, education and research by way of interest subsidy, capital fund injections, and ... research and development subsidy."

Given the language of the cited measure, please explain why this measure and related implementing measures were not notified pursuant to Article 25 of the Subsidies Agreement.

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<sup>24</sup> G/SCM/Q2/CHN/51 21 October 2014; See program # 103.