

Non-Confidential Attachment C-1.1.3

**Government of China Subsidy Programs applicable to
Chinese HSS Producers/exporters**

Government of China Programs Identified as providing countervailable benefits**Trade Measures Report No.148**

The Australian Customs and Border Protection Service ("Customs and Border Protection") has recently completed an investigation into the dumping and subsidisation of certain aluminium extrusions exported from the People's Republic of China ("China"). Customs and Border Protection's findings are contained in Report No.148.

It was established by Customs and Border Protection that the 19 programs identified as providing a benefit to producers /exporters in Report No.148, could be categorised into the following broad categories:

- (i) Reduced income tax based on location;
- (ii) Grants;
- (iii) Reduced income tax;
- (iv) Provision of goods at less than adequate remuneration; and
- (v) Tariff and VAT exemption.

The subsidy programs falling within each category are identified at Section 7.2 of Report No.148.

CBSA Statement of Reasons – Certain Carbon Steel Welded Pipe

The Canadian Border Services Agency (CBSA) identified a total of 31 Subsidy Programs which provided some form of benefit to companies in the Chinese Steel Industry. The four cooperative Chinese exporters in the CBSA investigation provided sufficient information to enable CBSA to identify nine subsidy programs that were used by the cooperative exporters (see first nine programs below). A further 22 subsidy programs were also identified (See Programs 10 to 31 below). HSS producers/exporters to Australia are understood to similarly qualify under the programs for HSS exported to Australia.

Each program identified by CBSA is summarised below (the first nine being those identified by cooperative exporters).

Program 1: Preferential Tax Policies for Enterprises with Foreign Investment established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones

Purpose: To encourage investment in Economic and Technical Development Zones (ETDZs) in open coastal cities and encourage some districts to take the lead in development.

Authorities: The granting authority is the State Administration of Taxation and the program is administered by local tax authorities. Under this program Foreign Invested Enterprises (FIEs) of a productive nature established in coastal economic open zones or in the old urban districts of cities where the SEZs or the ETDZs are located shall pay income tax at a reduced rate of 24 per cent.

Legal basis: The income tax reduction for FIEs under this program is provided for in Article 7 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to FIEs located in coastal economic open areas and the ETDZs were limited to particular enterprises.

Program 2: Preferential Tax Policies for Foreign Invested Enterprises – a reduced tax rate for productive FIEs scheduled to operate for a period not less than 10 years

Purpose: Established to encourage foreign investment. From the year an FIE begins to make a profit, it may apply for and receive an exemption from income tax in the first and second years and a 50% reduction in the third, fourth and fifth years of profitable operation.

Authorities: The granting authority responsible for this program is the State Administration of Taxation and the program is administered by the local tax authorities.

Legal basis: The income tax reduction and/or exemption for FIEs under this program are provided for in Article 8 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*. The program is administered in accordance with the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to FIEs were found to be limited to particular enterprises.

Program 3: Local Income Tax Exemption and/or Reduction

Purpose: Established to provide preferential tax treatment to FIEs to accelerate the development of local economies. Eligible FIEs enterprises that operate in an industry or undertakes a project that is encouraged by the State received exemptions and/or reductions in local income taxes.

Authorities: The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The program is described under Article 9 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to FIEs were found to be limited to a particular enterprise.

Program 4: Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan

Purpose: Promoting the strategy of industrial strong city and enterprise string city, promoting the transition of the structure of industrial enterprises towards higher level and moderate orientation to heavy industry, and elevating the industrial competitiveness and development level.

Authorities: Granting authority responsible is the Municipal Economic and Trade Bureau of Zhongshan.

Legal Basis: The grant is made available in the *Notice of Issuing "Method for Determination of Key Enterprises in Equipment Manufacturing Industry of Zhongshan"*, *Zhong Fu (2005) No.127*.

Specificity: Grants provided to enterprises in the equipment manufacturing industry located in Zhongshan City were found to be limited to a particular enterprise.

Program 5: Export Assistance Grant

Purpose: Program established to support the development of small to medium sized enterprises (SMEs), to encourage SMEs to join in the competition of international markets, to reduce the business risks to enterprises, and to promote the development of the national economy.

Authorities: Granting authority is the foreign trade and economic department and the program is administered at local levels.

Legal Basis: The international market development fund available to qualified SMEs is provided for in the *Circular of the Trial Measures of the Administration of International Market Development Funds for Small to Medium-sized Enterprises Cai Qi No. 467, 2000.*

Specificity: A grant provided under this program is an export subsidy as it is contingent in whole, or in part, on export performance.

Program 6: Research & Development (R&D) Assistance Grant of Wuxing District

Purpose: Established to encourage and support enterprises to develop new technologies and products, to promote energy savings, to enhance product quality, to improve export structure, and to develop and cultivate high tech industry and new pillar industry.

Authorities: Granting authority is the People's Government of Wuxing District and the program is administered by the Science and Technology Bureau of Wuxing District.

Legal Basis: Grant is provided for in the *Circular of the Office of the People's Government of Wuxing District concerning Printing and Distributing the Administrative Measures of the Use of Science and Technology Three Types of Funds of Wuxing District.*

Specificity: Grants provided to selective enterprises located in Wuxing District.

Program 7: Innovative Experimental Enterprise Grant

Purpose: Program established to promote the technology development of Zhejiang province.

Authorities: The granting authority responsible for this program is the Science and Technology Department of Zhejiang Province.

Legal Basis: Grants available to innovative experimental enterprises are provided for in the *Circular of the Implemental Scheme for Constructing the Innovative Enterprises of Zhejiang Province, Zhe Ke Fa Zheng (2007) No. 172.*

Specificity: Grants provided to 150 enterprises located in Zhejiang Province were found to be limited to a particular enterprise.

Program 8: Superstar Enterprise Grant

Purpose: Enterprises located in Huzhou City and selected as "Superstar Enterprises" may receive grants from the local government. In order to qualify, total annual sales must reach threshold level.

Authorities: Granting authority is the People's Government of Huzhou City.

Specificity: Grants provided to superstar enterprises located in Huzhou City.

Program 9: Hot Rolled Steel Provided by Government at Less Than Fair Market Value

Purpose: Provision of hot rolled steel by State Owned Enterprises (SOEs) at less than market prices whether directly or indirectly through private trading companies.

Specificity: Benefit provided to enterprises by SOEs through the sale of key raw material at less than market value.

Please note: CBSA has conducted a further investigation into HRS exported from China (refer re-investigation of Certain Steel Plate, concluded on 16 July 2010) where CBSA re-affirmed its position re HRC/HRS is received by value-add producers in China at less than adequate remuneration).

I. SPECIAL ECONOMIC ZONE (SEZ) INCENTIVES AND OTHER DESIGNATED AREAS

Program 10: Preferential Tax Policies for Enterprises with Foreign Investment Established in Specific Economic Zones (excluding Shanghai Pudong Area)

Purpose: Established to absorb foreign investment, expand the "open-up policy" and enhance development in Special Economic Zones (SEZs). Under this program non-wholly foreign owned FIEs established in SEZs and Foreign Enterprises (wholly foreign owned FIEs) established in SEZs engaging in production or business operations shall pay income tax at a reduced rate of 15 per cent.

Authority: Granting authority is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: Income Tax reduction for FIEs under this program is provided for in Article 7 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to FIEs located in SEZs are limited to particular enterprises.

Program 11: Preferential Tax Policies for Enterprises with Foreign Investment Established in the Pudong Area of Shanghai

Purpose: This program was established in order to encourage foreign investment in the Pudong area of Shanghai. Under this program, FIEs, Foreign Enterprises, joint venture Domestically Invested Enterprises (DIEs) and single investor DIEs established in the Pudong New Area of Shanghai shall pay income tax at a reduced rate of 15%.

Authority: Granting authority is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: Income tax reductions for FIEs and Foreign Enterprises specifically provided for in Article 7 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to enterprises located in the Pudong area of Shanghai are limited to particular enterprises.

Program 12: Preferential Tax Policies in the Western Regions

Purpose: This program was established in order to encourage investment in the western region of China.

Authority: The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: Income tax reductions specifically provided for in Article 1 of the *Circular of the Ministry of Finance, State Administration of Taxation and General Administration of Customs on the Preferential Tax Policy of Development of the Western Region.*

Specificity: Preferential income tax rates provided to enterprises located in the western regions and other specified locations, limited to particular enterprises. Under this program all eligible enterprises may receive a reduced corporate income tax rate of 15%.

Program 13: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas

Purpose: This program was established to absorb investment in SEZs and designated areas to take the lead in their economic development.

Authority: The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The income tax reduction for FIEs under this program is provided for in *Article 73 of the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises.*

Specificity: Preferential tax rates provided to FIEs were limited to particular enterprises.

Program 14: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas

Purpose: Enterprises located in SEZs and other designated areas may receive exemptions and/or reductions of land tax and land use fees.

Authority: Not available, although local provincial authorities likely to be involved.

Legal Basis: Not available.

Specificity: The reduction/exemption of land tax and land use fees is only available to a limited number of enterprises.

Program 15: Tariff and Value-Added Tax (VAT) Exemptions on Imported Materials and Equipment

Purpose: The program was established to absorb investment in SEZs and encourage districts to take the lead in development. Under this program, machinery and equipment, spare parts, raw and semi-processed materials, means of transportation and other capital goods necessary for production that are imported by enterprises in SEZs shall be exempted from import duties.

Authority: The granting authority responsible for this program is the General Administration of Customs and is administered by local customs authorities.

Legal Basis: The import duty exemption is detailed in *Article 13 of the Regulations on Special Economic Zones in Guangdong Province.*

Specificity: Import duty exemptions provided to enterprises in SEZs of Guangdong province were limited to particular enterprises.

Program 16: Income Tax Refund where Profits Re-invested

Purpose: This program was established to encourage the re-investment of profits into businesses located in the SEZs of Guangdong Province.

Authority: The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: Provided for in Article 16 of the *Regulations on Special Economic Zones in Guangdong Province*.

Specificity: Amounts of tax refunded (which is otherwise due) on basis of individual enterprises.

Program 17: Goods and Services Provided by Government at Less Than Fair Market Value to Enterprises Located in SEZs and Other Designated Areas

Purpose: Under this program, the GOC may be providing good and/or services other than general infrastructure to steel pipe & tube producers located in SEZs and other designated areas.

Authority: Not available.

Legal Basis: Not available, however understood to be arranged between SEZ administration and local government authorities.

Specificity: Goods and services provided by government to pipe & tube producers located in SEZs and other designated areas are limited to particular enterprises.

II. GRANTS PAYABLE

Program 18: The State Key Technology Renovation Projects

Purpose: The purpose of this program is to include technological renovation in key industries, enterprises and products, facilitation of technology upgrades, improvement of product structure, improvement of quality, promotion of domestic production, increase of supply, expansion of domestic demand, and promotion of continuous and health development of the state economy.

Authority: The granting authority is the State Economic & Trade Commission (SETC). This office was abolished in 2003 and no administrative body now exists for this program.

Legal Basis: Grants provided under the State Key Technology Renovation Projects are provided for in Article 4 of the *Administrative Measures on the State Key Technological Renovation Projects*.

Specificity: Grants provided to particular enterprises on the basis of eligibility.

Program 19: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments.

Purpose: Pipe & tube producers located in Guangdong and Zhejiang provinces may receive reimbursement of anti-dumping and/or countervailing legal fees.

Authority: Direct refunds by local authorities.

Legal Basis: Not available, likely to be discretionary.

Specificity: Reimbursement of legal expenses incurred by enterprises associated with anti-dumping and/or countervailing proceedings.

III. Equity Infusions/Debt-to-Equity Swaps

Program 20: Debt-to-Equity Swaps

Purpose: The debt-to-equity swap is one of the most significant measures used in the financial restructuring of China's SOEs and state-owned banks. Pursuant to the Regulations of Asset Management Companies (promulgated by decree on November 20, 2000), the State Council established four asset management companies (AMCs) that were directed to purchase certain non-performing loans from state-owned banks. One of the authorised business activities available for the management of the non-performing loans purchased by the AMCs is the debt-to-equity swap.

Authority: Asset Management Companies.

Legal Basis: Regulations of Asset Management Companies.

Specificity: Equity infusions by government AMCs in the form of debt-to-equity swaps have been provided predominantly, if not exclusively, to a limited number of SOEs.

IV. PREFERENTIAL LOANS

Program 21: Preferential loans provided under the Northeast revitalisation Program

Purpose: Enterprises located in the northeast region of China may receive preferential loans in the form of interest subsidy the Northeast Revitalisation program.

Authority: Coordinated by local authorities and GOC.

Legal Basis: Not available.

Specificity: The provision of a preferential loan under this program is specific to a particular enterprise.

V. Preferential Income Tax Programs

Program 22: Preferential Tax Policies for Foreign Invested Export Enterprises

Purpose: This program was established to expand foreign economic cooperation.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: Income tax reduction for foreign invested export enterprises under this program is provided for in Article 8 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises* and is administered in accordance with Article 75.7 of the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with foreign Investment and Foreign Enterprises*.

Specificity: Preferential tax rates provided to foreign invested enterprises on the basis of export performance.

Program 23: Preferential Tax Policies for Enterprises with Foreign Investment which are Technology Intensive and Knowledge Intensive

Purpose: This program was established to further utilize foreign capital, introduce foreign advanced technology and equipment and accelerate industry structural adjustment. Under this program, production oriented enterprises with foreign investment established in the coastal economic open zones, SEZs, and in the old urban districts of municipalities where ETDZs are located and which are engaged in technology intensive and knowledge intensive projects, may receive a reduced income tax rate of 15%.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The income tax reductions are provided for in Article 7 of the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises* and is administered in accordance with Article 73(1)(a) of the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with foreign Investment and Foreign Enterprises*

Specificity: Preferential tax rates provided to production enterprises with foreign investment limited to particular enterprises.

Program 24: Preferential Tax Policies For Research and Development by FIEs

Purpose: This program was established to encourage research and development by FIEs.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities. Under this program, certain foreign investment enterprises may offset their taxable income by 150% of their R&D expenses for the same year, not to exceed the taxable income for the year.

Legal Basis: Provided for in Article 1 of the *Circular of the State Administration of Taxation on the Issues Related with the Offset Taxable Income on Technology Development Fee for Foreign Investment Enterprises (Guo Shui Fa [1999] No. 173)*.

Specificity: The reduction of income tax is limited to particular enterprises.

Program 25: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Established or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment

Purpose: This program was established to attract foreign investment and support technology renovation. Under this program, 40% of the expenses incurred by certain FIEs and foreign enterprises on purchasing domestically produced equipment are deducted from the increment of income tax of that year compared to the previous year.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The income tax refund for certain FIEs and foreign enterprises is provided for in Article 1 of the *Circular of the Ministry of Finance and 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.

Specificity: The reduction of income tax is limited to particular enterprises.

Program 26: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purposes

Purpose: This program was established to encourage domestic investment and support the technology upgrading of enterprises. Under this program, all enterprises with the investment on the technological transformation projects conforming to the State Industrial policy in the nation, 40% of the expenses incurred by certain FIEs and foreign enterprises on purchasing domestically produced equipment are deducted from the increment of income tax of that year compared to the previous year.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The income tax refund for domestic enterprises is provided for in *Article 2 of the Circular Concerning Printing and Distributing Interim Measures on Business Income Tax Credit Applicable to Technological Transformation Domestic Equipment Investment.*

Specificity: The income tax refund for purchasing domestic equipment is available to particular enterprises.

Program 27: Income Tax Refund for Re-investment of FIE Profits

Purpose: This program was established in order to encourage reinvestment of profits into FIEs in China. FIEs who reinvest profits into that FIE by increasing its registered capital, or use FIE derived profits to establish another FIE which is planned to operate for a period not less than 5 years, are eligible to receive a refund of the income tax already paid on the profit that was reinvested.

Authority: The granting authority for the program is the State Administration of Taxation and the program is administered by local tax authorities.

Legal Basis: The income tax refund for FIEs under this program is provided for in *Article 10 of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises* and is administered in accordance with *Articles 80, 81 and 82 of the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with foreign Investment and Foreign Enterprises*

Specificity: The income tax refund is limited to particular enterprises.

Program 28: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps

Purpose: This program was established in order to exert further efforts for the debt-to-equity work and support the reform of enterprises. Eligible enterprises are exempted from paying VAT.

Authority: The granting authority for the program is the State Administration of Taxation.

Legal Basis: The tax exemption under this program is provided for in *Article 1 of the Notice on the Tax Policies for Debt-to-Equity Swap Enterprises, Ca Shui (2005) No.29.*

Specificity: The tax exemptions provided to enterprises adopting debt-to-equity swaps are limited to eligible enterprises.

VI. Relief from Duties and Taxes on Materials and Machinery

Program 29: Exemption of Tariff and Import VAT for Imported Technologies and Equipment

Purpose: This program was established to further expand foreign capital utilisation, attract technologies and equipment from abroad, promote structural adjustments in industry and technological advancement and to maintain the sustained, rapid and healthy development of the national economy. Eligible enterprises apply for exemptions of VAT and import duties on imported equipment and related technology, components and parts.

Authority: The granting authorities responsible for this program are the Ministry of Finance and the General Administration of Customs and the program is administered by local provincial and municipal customs branches.

Legal Basis: The VAT exemption is in accordance with the *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*.

Specificity: Duty and Vat exemptions are specific to eligible enterprises.

Program 30: Relief from Duties and Taxes on Imported Materials and other Manufacturing Inputs

Purpose: Pipe & Tube producers (as well as other industries) may be eligible for relief from duties and taxes on imported raw materials (e.g. hot rolled steel).

Authority: Local provincial authorities.

Legal Basis: Not available.

Specificity: The exemption of import duties and taxes on imported ram materials is limited to particular enterprises.

VII. Reduction in Land Use Fees

Program 31: Reduction in Land Use Fees

Purpose: This program was established to attract foreign investors by providing a land use exemption fee to those enterprises with foreign investment that have acquired their lands from the GOC and have paid the transferring fee.

Authority: The granting authority responsible for this program is the Administrative Office of the State Council.

Legal Basis: Article 4.5 of the Circular on Further Encouraging Foreign Investment Opinions of the Ministry of Foreign Trade and Economic Cooperation and Other Ministries Transmitted by the General Office of the State Council.

Specificity: The land use fee exemption is limited to particular eligible enterprises.