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Sunset Review
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MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Non-Oriented Electrical Steel from The People's Republic China

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I. SUMMARY

We analyzed the substantive response provided by AK Steel Corporation (AK Steel), a domestic interested party, in the first sunset review of the countervailing duty (CVD) order on non-oriented electrical steel (NOES) from the People's Republic of China (China).[1] We did not receive a substantive response from the Government of China (GOC) or from any other interested party. As a result, pursuant to section 751(c)(3)(B) of Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department of Commerce (Commerce) conducted an expedited (120-day) sunset review of this *Order*.[2] We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of issues that we address in this expedited sunset review:

1. Likelihood of continuation or recurrence of a countervailable subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the subsidy

II. BACKGROUND

On December 3, 2014, Commerce published in the *Federal Register* the countervailing duty order on NOES from China. On November 1, 2019, Commerce published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as

[1] *See* AK Steel's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order On Non-Oriented Electrical Steel from The People's Republic Of China: Domestic Interested Party Substantive Response," dated November 27, 2019 (Domestic Party's Substantive Response).
[2] *See Non-Oriented Electrical Steel from the People's Republic of China and Taiwan: Countervailing Duty Orders,* 79 FR 71749 (December 3, 2014) (*Order*).

amended (the Act).[3] Commerce received a notice of intent to participate from a domestic interested party.[4] AK Steel is a manufacturer of the domestic like product and claimed status as an interested party under section 771(9)(C) of the Act.[5]

On November 27, 2019, AK Steel filed a substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i).[6] Commerce did not receive a substantive response from the Government of China or from any other interested party. In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C), because Commerce did not receive a substantive response from the GOC, pursuant to 19 CFR 351.218(e)(1)(ii)(B), or from a respondent party, pursuant to 19 CFR 351.218(e)(1)(ii)(C), we determine that the respondent interested parties did not provide an adequate response to the notice of initiation. Therefore, consistent with 19 CFR 351.218(e)(1)(ii)(B)(2) and 19 CFR 351.218(e)(1)(ii)(C)(2), we have conducted this sunset on an expedited (120-day) basis. This approach is consistent with Commerce's practice.

III. SCOPE OF THE ORDER

Imports covered by the *Order* are non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term "substantially equal" means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this order whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this order is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

[3] *See Initiation of Five-Year (Sunset) Reviews*, 84 FR 58687 (November 1, 2019).
[4] *See* AK Steel's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Non-Oriented Electrical Steel from The People's Republic Of China: Domestic Interested Party Notice Of Intent To Participate," dated November 15, 2019.
[5] *Id.*
[6] *See* Domestic Party's Substantive Response.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this order are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part *(i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. HISTORY OF THE ORDER

On October 14, 2014, the Commerce published the final determination in the CVD investigation of NOES from China[7] and no administrative reviews or new shipper reviews of this *Order* have been conducted. Commerce determined that countervailable subsidies within the meaning of section 701 of the Act were being provided by the GOC to Chinese manufacturers, producers, and exporters. We investigated one company and determined the following net countervailable subsidies:

Producers/Exporters	Net Subsidy (percent)
Baoshan Iron & Steel Co., Ltd	158.88
All Others	158.88

In the original investigation, we found that the 30 programs listed below conferred countervailable subsidies:

1. Policy Loans to the NOES Industry
2. Preferential Loans for State Owned Enterprises (SOE)
3. Preferential Export Financing from the Export-Import Bank of China
4. Treasury Bonds and Grants
5. Two Free, Three Half
6. Tax Reductions for Foreign-Invested Enterprises (FIEs) Purchasing Chinese-Made Equipment
7. Tax Reductions for FIEs in Designated Geographic Locations
8. Tax Reductions for Technology- or Knowledge-Intensive FIEs
9. Tax Reductions for FIEs that are also High- or New-Technology Enterprises (HNTEs)
10. Tax Reductions for HTNEs Involved in Certain Projects

[7] *See Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 61607 (October 14, 2014) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

11. Tax Reductions for Export-Oriented FIEs
12. Reduction of Taxable Income for Enterprises Comprehensively Utilizing Resources
13. Additional Deduction of Taxable Income for Research and Development Expenses on New Technologies, New Products, and New Techniques
14. Tax Offsets for R&D at FIEs
15. Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment
16. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
17. Shanghai Municipal Tax Refund for High-tech Achievement Commercialization Projects
18. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
19. VAT Rebates on FIE Purchases of Chinese-Made Equipment
20. Exemptions from Administrative Charges for Companies in Industrial Zones and the Provision of Land-Use Rights for LTAR – Certain Industrial and Special Economic Zones (SEZs)
21. VAT Rebates on Domestically Produced Equipment
22. Provision of Land-Use Rights for LTAR – Allocated Land Use Rights for SOEs
23. Provision of Electricity for LTAR
24. The State Key Technology Renovation Fund
25. Famous Brand Awards
26. Special Fund for Energy Saving Technology Reform
27. Grants for Listing Shares
28. Grants to Baoshan
29. Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction
30. GOC Purchases of NOES for MTAR

Following the International Trade Commission's (ITC) affirmative finding that a domestic industry was materially injured by imports of NOES from China,[8] Commerce published the countervailing duty order on December 3, 2014.[9] Since the issuance of the order, no interested parties have requested an administrative review.

V. DISCUSSION OF THE ISSUES

Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider (1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

[8] *See Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan*, 79 FR 71446 (December 2, 2014); *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan*, Inv. Nos. 701-TA-506 and 508 and 731-TA-1238-1243, USITC Pub. 4502 (November 2014).
[9] *See Order*.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement).

Below we address the comments of the interested party.

1. Revocation of the Order is Likely to Lead to a Continuation or Recurrence of a Countervailable Subsidy

Domestic Interested Party Comments[10]

AK Steel contends that Commerce should find that revocation of the *Order* would likely lead to a continuation or recurrence of countervailable subsidies because the subsidy programs at issue during the original investigation have not been terminated or suspended.[11] According to AK Steel, because no administrative reviews or new shipper reviews of this *Order* have been conducted and because respondent interested parties have failed to demonstrate that all programs have been terminated and/or that all benefit streams have been fully allocated, Commerce should find that subsidization is likely to continue or recur.[12] They claim that, because none of the programs have been terminated or suspended, the subsidy rates found in the original investigation should remain in place for all exporters.[13]

Commerce's Position:

In determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there have been any changes in a program found to be countervailable that are likely to affect that net countervailable subsidy. According to the Statement of Administrative Action (SAA), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.[14] The SAA further states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.[15] The continued existence of programs that have not been used, and have not been terminated without residual benefits or replaced, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.[16] Where a subsidy program is found to exist, Commerce normally will

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[10] *See* Domestic Party's Substantive Response at 3.
[11] *Id*.
[12] *Id*.
[13] *Id*.
[14] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) at 888 (SAA).
[15] *Id.*
[16] *See*, *e.g.*, *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying IDM at Comment 1.

determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.[17]

Consistent with prior determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.[18] In order to determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.[19] Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.[20] Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence and was not granted as part of a broader, government program.[21]

Because the GOC provided no documentation in the original investigation concerning termination of programs and no administrative reviews or new shipper reviews of this *Order* have been conducted, and the GOC has not provided any further information concerning these programs in this sunset review, we find that the following subsidy programs continue to exist:

1. Policy Loans to the NOES Industry;
2. Preferential Loans for SOEs;
3. Preferential Export Financing from the Export-Import Bank of China
4. Treasury Bonds and Grants;
5. Two Free, Three Half
6. Tax Reductions for FIEs Purchasing Chinese-Made Equipment;
7. Tax Reductions for FIEs in Designated Geographic Locations;
8. Tax Reductions for Technology- or Knowledge-Intensive FIEs;
9. Tax Reductions for FIEs that are also High- or New-Technology Enterprises (HNTEs);
10. Tax Reductions for HNTEs Involved in Certain Projects;
11. Tax Reductions for Export-Oriented FIEs;
12. Reduction of Taxable Income for Enterprises Comprehensively Utilizing Resources;
13. Additional Deduction of Taxable Income for R&D Expenses on New Technologies, New Products and New Techniques;
14. Tax Offsets for R&D FIEs;
15. Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment;

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[17] *Id.*

[18] *See Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 83 FR 62839 (December 6, 2019) and accompanying IDM at 11; *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006) and accompanying Preliminary Decision Memorandum at 5-7 (unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006)).

[19] *See, e.g.*, *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying IDM at Comment 1.

[20] *See, e.g.*, *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying IDM at Comment 7.

[21] *See, e.g.*, *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying IDM at Comment 1.

16. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises;
17. Shanghai Municipal Tax Refund for High-tech Achievement Commercialization Projects;
18. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries;
19. VAT Rebates on FIE Purchases of Chinese-Made Equipment;
20. Exemptions from Administrative Charges for Companies in Industrial Zones and the Provision of Land Use Rights – Certain Industrial and Special Economic Zones;
21. VAT Rebates on Domestically Produced Equipment;
22. Provision of Land Use Rights for LTAR – Allocated Land Use Rights for SOEs;
23. Provision of Electricity for LTAR:
24. The State Key Technology Renovation Fund;
25. Famous Brands Awards;
26. Special Fund for Energy Saving Technology Reform;
27. Grants for Listing Shares;
28. Grants to Baoshan;
29. Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction;
30. GOC Purchases of NOES for MTAR.[22]

Because the continued existence of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies, we determine that revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies to Chinese producers and exporters of the subject merchandise.

2. Net Countervailable Subsidy Rates that Are Likely to Prevail

Interested Party Comments

AK Steel contends that Commerce should follow the instructions set forth in the SAA which provides that Commerce normally will select the rates determined in the original investigation, "because that is the only calculated rate that reflects the behavior of exporters…without the discipline of an order or suspension agreement in place."[23] Specifically, AK Steel argues that Commerce should find that the following net subsidy rates used in the original investigation are likely to prevail:

Producer/Exporter	Net Countervailable Subsidy (Percent)
Baoshan Iron & Steel Co., Ltd.	158.88
All Others	158.88

Commerce's Position:

Commerce normally will provide to the ITC the net countervailable subsidy rates that were determined in the investigation as these are the rates likely to prevail if the order is revoked

[22] *See Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 61607 (October 14, 2014) and accompanying IDM at 8-9.

[23] *See* Domestic Party's Substantive Response at 5 (citing SAA at 890).

because these are the only calculated rates that reflect the behavior of exporters and foreign governments without the discipline of the order in place.[24] Section 752(b)(1)(B) of the Act provides, however, that Commerce will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy rate. Therefore, although the SAA provides that Commerce normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs that were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.[25]

However, because there has not been an administrative review of the *Order* and Commerce has not received evidence that any of the subsidy programs found in the original investigation have been terminated or that there has been a change in any of the programs, Commerce finds that the rates for each of the 30 programs found in the original investigation are likely to prevail, if the *Order* is revoked.

On this basis, Commerce finds that the net countervailable subsidy rates that are likely to prevail are above *de minimis*. Consistent with section 752(b)(3) of the Act, Commerce will provide to the ITC the net countervailable subsidy rates that are likely to prevail if the *Order* is revoked. The net countervailable subsidy rates which Commerce determines are likely to prevail upon revocation of the *Order* are provided in the "Final Results of Review" section of this memorandum.

3. Nature of the Subsidies

Consistent with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of the subsidy, and whether the subsidy is a subsidy as described in Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired effective January 1, 2000.

A. Article 3

In this sunset review, there are seven programs that fall under Article 3.1 of the SCM Agreement, which states that the following subsidies "shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance," and "(b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods."

Preferential Export Financing from the Export-Import Bank of China[26]

[24] *See* SAA at 890.
[25] *See, e.g., Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying IDM at Comment 2.
[26] *See Final Determination* IDM at 10.

PRC exporters of NOES are eligible to receive special export financing because the production of silicon steel, such as NOES, is encouraged by the GOC. The Export-Import Bank of China is a state-owned policy bank that supports the exports of Chinese electromechanical products and high-tech products.

Tax Reductions for FIEs Purchasing Chinese-Made Equipment[27]

The GOC permits FIEs to obtain tax credits of up to 40 percent of the purchase value of domestically-produced equipment in certain circumstances. The credit is available to FIEs (and other firms with foreign ownership) engaged in projects which are classified in either the Encouraged or Restricted B categories of the *Catalog of Industrial Guidance for Foreign Investment,* and applies to any domestically-produced equipment so long as the equipment is not listed in the Catalog of *Non-Duty-Exemptible Articles of Importation.*

Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment[28]

The GOC offers preferential income tax policies to domestic enterprises if these enterprises upgrade their manufacturing operations with Chinese-made equipment. Specifically, domestic enterprises which upgrade technology consistent with the GOC industrial policies may deduct 40 percent of the cost of equipment from their next year's income tax obligation, and in those circumstances where the income tax due is less than the 40 percent of the cost of machinery, the remainder of the cost may be deducted in subsequent years, for a period up to five years.

Tax Reductions for Export-Oriented FIEs[29]

An FIE may continue to pay income tax at half the standard rate following the expiration of the five-year term of the "Two Free, Three Half" program if its exports constitute 70 percent of sales. Additionally, export-oriented enterprises in special economic and other specially designated zones already eligible to pay half the standard income tax rate may have their rate further reduced through this program pursuant to *Decree 85.*

Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises[30]

FIEs that re-invest profits into the same FIE, or use those profits to establish another FIE (or high-technology company), are eligible for complete refunds of the corporate income tax already paid on the invested amount, so long as the recipient of the investment is export-oriented and scheduled to operate for at least five years.

VAT Rebates on FIE Purchases of Chinese-Made Equipment[31]

The GOC refunds the VAT on FIE purchases of certain domestically-produced equipment.

[27] *Id.*
[28] *Id.*at 12.
[29] *Id.*
[30] *Id.*
[31] *Id.*

VAT Rebates on Domestically Produced Equipment[32]

The GOC provides FIEs with VAT refunds for purchases of certain domestically produced equipment.

B. Article 6.1

The following subsidy programs do not fall within the meaning of Article 3.1 of the SCM Agreement, but they may be subsidies described in Article 6.1 of the SCM Agreement, if the amount of the subsidy exceeds five percent, as measured in accordance with Annex I of the SCM Agreement. The subsidies may also fall within the meaning of Article 6.1 if they constitute debt forgiveness, a grant to cover debt repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record to make such a determination. We are, in any case, providing the ITC with the following program descriptions:

Policy Loans to the NOES Industry[33]

The GOC has encouraged the development of the specialty steel industry, which includes producers of NOES, through financial support from state-owned commercial banks and Policy Banks. National and local authorities are directed to support the "encouraged" specialty steel producers of NOES through "financial policies" including, *inter alia*, policy lending.

Treasury Bonds and Grants[34]

The GOC annually announces that certain projects will receive financial support through Treasury bond proceeds.

Preferential Loans for SOEs[35]

The GOC provides preferential lending to SOEs, and certain NOES producers that are, or have been, state- or collectively-owned enterprises.

Two Free, Three Half [36]

A FIE that is "productive" and is scheduled to operate for more than ten years may, *inter alia*, be exempted from income tax in the first two years of profitability and pay income taxes at half the standard rate for the next three years.

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[32] *Id* at 13.
[33] *Id.* at 10.
[34] *Id.*
[35] *Id.*
[36] *Id.*

Tax Reductions for FIEs in Designated Geographic Locations[37]

The GOC uses special tax rates to encourage FIEs to locate in designated coastal economic development zones, special economic zones, and economic and technical development zones. Under Article 7 of the *FIE Tax Law* and Article 71 of *Decree 85*, "productive" FIEs located in the designated economic zones pay enterprises income tax at a reduced rate of either 15 or 24 percent, depending on the zone.

Tax Reductions for Technology- or Knowledge-Intensive FIEs[38]

This program is available to FIEs that qualify as technology-intensive or knowledge-intensive and have major products listed in the *Catalogue of High and New Technology Products of China*. The GOC authorizes a reduced income tax rate of 15 percent for "productive" FIES located in coastal economic zones, special economic zones, or economic and technical development zones if they undertake technology-intensive or knowledge-intensive projects. Additionally, FIEs having qualified products that account for 50 percent or more of total revenue pay a reduced income tax rate of 15 percent.

Tax Reductions for FIEs that are also HNTEs[39]

The GOC provides tax benefits to FIEs recognized as HNTEs established in state high- or new-technology industrial development zones, and for advanced technology enterprises with foreign investment. FIEs designated as HNTEs established in high- or new-technology industrial development zones pay income tax at the reduced rate of 15 percent. Additionally, Sino-foreign joint ventures scheduled to operate for at least ten years and designated as HNTEs established in high- or new- technology industrial development zones pay no income tax for their first two years of profitability and at half the normal rate for the next three years. Finally, FIEs in high- and new-technology industrial development zones are also eligible to benefit from additional tax preferences administered by the governments of the zones themselves.

Tax Reductions for HNTEs Involved in Certain Projects[40]

Enterprises that are qualified as HNTEs are entitled to a reduced tax rate of 15 percent instead of 25 percent. Additionally, certain HNTEs located in a SEZ or in the Pudong New District of Shanghai are exempt from income taxes for the first two years after earning income from production and pay only half of the standard tax rate for the next three years.

Tax Offsets for Research and Development at FIEs[41]

The GOC maintains preferential tax policies for research and development at FIEs. Specifically, research and development expenses of FIEs conducted in the PRC that have increased ten

[37] *Id.* at 11.
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *Id.*

percent or more from the previous year, may be offset by 50 percent from the taxable income of the year.

Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries[42]

The GOC exempts both FIEs and certain domestic enterprises in encouraged industries from paying VAT and tariffs on imported equipment not for resale. The objectives of this program are to encourage foreign investment, introduce advanced equipment from abroad into the PRC, and upgrade domestic industrial technology.

Exemptions from Administrative Charges for Companies in Industrial Zones[43]

Producers of subject merchandise that are located in certain industrial zones are likely to benefit from exemptions from GOC administrative charges.

Provision of Land-Use Rights for LTAR – Allocated Land Use Rights for SOEs[44]

NOES producers are eligible to benefit from the GOC's provision of land-use rights for LTAR through their status as SOEs.

Provision of Land-Use Rights for LTAR – Certain Industrial and SEZs[45]

The GOC provides land use rights at preferential rates to enterprises located in special economic zones.

Provision of Electricity for LTAR[46]

NOES producers receive electricity from the GOC for LTAR.

The State Key Technology Renovation Fund[47]

This program is intended to promote: (a) technological renovation in key industries, enterprises, and products; (b) technology upgrades; (c) improvements in product structure; (d) improvements in quality; (e) increases in supply; (f) the expansion of domestic demand; and, (g) further development of the state economy. Under this program, companies apply for funds to cover the cost of financing specific renovation projects, and payments are disbursed in the form of "project investment facility" grants covering two years of interest payments on loans to fund the project, or up to three years for enterprises located in the northeast, central, or western areas of the PRC.

[42] *Id.* at 12.
[43] *Id.*
[44] *Id.* at 13.
[45] *Id.*
[46] *Id.*
[47] *Id.*

Famous Brands Awards[48]

The GOC, at both the national and provincial levels, provides "Famous Brands" awards to promote the competitiveness of Chinese industries.

Special Fund for Energy Saving Technology Reform[49]

The GOC provides awards to support certain enterprises undertaking energy saving technology reform projects.

Grants for Listing Shares[50]

The GOC offers grants to companies that list their shares on public exchanges.

Grants to Baoshan Iron & Steel Co., Ltd.[51]

Baosteel's 2012 annual report indicates receipt of numerous grants from the GOC.

GOC Purchases of NOES for MTAR[52]

As part of its policy to assist in the development and expansion of the NOES industry, the GOC implemented a program to purchase steel from Chinese producers at prices that exceed world market prices. These procurements are specific financial contributions that result in a significant benefit to the PRC's NOES producers.

Reduction of Taxable Income for Enterprises Comprehensively Utilizing Resources[53]

Enterprises use the resources stipulated in the "Catalogue for Comprehensive Utilization of Resources Qualified for Enterprise Income Tax Preferential Treatment" as major raw materials in products that are not restricted or prohibited by the GOC and satisfy relevant criteria, ten percent of such income may be excluded from taxable income.

Additional Deduction of Taxable Income for R&D Expenses on New Technologies, New Products, and New Techniques[54]

The GOC provides tax benefits to enterprises that invest in R&D related to new technologies, new products, or new techniques, whereby enterprises may reduce taxable income by an additional 50 percent of the amount of the relevant expenditures where an intangible asset is not formed, and by an additional 150 percent of the amount of the relevant expenditures where an intangible asset is formed.

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[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.* at 14.
[52] *Id.*
[53] *Id.*
[54] *Id.*

Shanghai Municipal Tax Refund for High-Tech Achievement Commercialization Projects[55]

The Shanghai municipal government refunds certain taxes and provides special funds to support enterprises investing in high and new technology achievement transfer projects.

Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction[56]

The Shanghai municipal government has established a special fund to subsidize coal-fired power plants in its jurisdiction for installing high-efficiency desulfurization facilities.

VI. FINAL RESULTS OF REVIEW

As a result of this sunset review, Commerce finds that revocation of the *Order* would likely lead to a continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/Exporter	**Net Countervailable Subsidy Rate (percent)**
Baoshan Iron & Steel Co., Ltd.	158.88
All Others	158.88

VII. RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the *Federal Register* and notify the ITC of our findings.

☒ ☐

Agree Disagree

2/20/2020

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

[55] *Id.*
[56] *Id.*