

C-570-926
Investigation
~~PROPRIETARY DOCUMENT~~
Office 6: SC
Public Version

November 28, 2007

**OFFICE OF AD/CVD ENFORCEMENT
INITIATION CHECKLIST**

SUBJECT: Countervailing Duty Petition on Sodium Nitrite from the People's Republic of China

CASE NUMBER: C-570-926

PETITIONER:

General Chemical LLC.
90 East Halsey Road
Parsippany, New Jersey 07054

COUNSEL TO PETITIONER:

Barry E. Cohen
Matthew P. Jaffe
Sobia Haque
CROWELL & MORING LLP
1001 Pennsylvania Ave., N.W.
Washington, DC 20004-2595
202-624-2500

POTENTIAL RESPONDENTS:

1. **BORI International Enterprises Co., Ltd**
68 Jiankang Rd. Nanjing
Jiangsu Province, 210001
2. **Jiangsu International Economic-Technical Cooperation**
11F MinFang Mansion
189 Guangzhou Rd., Nanjing
Jiangsu Province, 210029
3. **Nanjing Chemical Reagent Co., Ltd.**
18 Yanyao Rd., Nanjing
Jiangsu Province, 210038
4. **Jiang Su Jincheng Reagent Co., Ltd.**
10 Luqianlu, Lujia Town, Kunshan
Jiangsu Province, 210038
5. **Jiangsu Chemical & Building Ltd.**
2/F Building 1, North 283
Zhongshan Rd., Nanjing
Jiangsu Province, 210003
6. **Lianyungang Yuantai International Trading Co., Ltd.**
No. 1-28 Tongguan South Road,
Lianyungang
Jiangsu Province
7. **Wuxi Feipeng Fine Chemical Co. Ltd.**
3 Nanhuan Rd., Zhoutie Town
Wuxi City, Jiangsu Province
8. **Jiangsu Qiangsheng Chemicals Co., Ltd.**
Baimao Industrial Park,
Changshu City,
9. **Jiangsu Fangzhou Chemical Co., Ltd.**
E 8th Floor, Deji Building
Changjiang Rd., Nanjing
Jiangsu Province, 210018
10. **Hongze Yin Zhu Chemical Group Co., Ltd.**
20 Renminbeilu, Hongze County
Jiangsu Province
11. **Wuxi Zhan Wang Chemical Co., Ltd.**
Guanlin Town, Yixing
Jiangsu Province, 214256
12. **Jiangsu Bohan Industry Trade Co., Ltd.**
5C & 5D Xinliji Mansion
No. 258-27 Zhongyang, Nanjing
Jiangsu Province, 210009
13. **Changzhou JiaYe Chemical Co., Ltd.**
No. 2-60 LaoDond West Road
Changzhou City
Jiangsu Province, 213001
14. **Rugao Jinling Chemical Co., Ltd.**
Lianluo New Village,
Huangshi Town, Rugao City
Jiangsu Province
15. **Xuzhou Morepharm Factory**
Menggou Industrial Park, Xuzhou
Xuzhou Economic Develop. Area
Jiangsu Province, 221004
16. **Ninbo Huaxun Chemical Co., Ltd.**
193 Zhongxing Rd., Ningbo

- Zhejiang Province, 315040
17. **Wenzhou Dongsheng Chemical Reagent Factory**
Xialingzhong Rd., Shuangyu Town
Lucheng District, Wenzhou City
Zhejiang Province
18. **Hangzhou Longshan Chemical Co., Ltd.**
Puyan, Bingjiang District, Hangzhou
Zhejiang Province, 310053
19. **Ningbo Free Trade Zone Chemical & Light Industry Co., Ltd.**
4F, 108 Zhenming Rd., Ningbo
Zhejiang Province
20. **Wenzhou Chemical Material Factory**
No. 33 Area, Yanjiang Industry Park
Wenzhou, Zhejiang Province 325008
21. **Fuyang Genebest Chemical Industry Co., Ltd.**
1 Jinboshi Road, Lishan Town
Fuyang City, Zhejiang Province
22. **Zhejiang Zhongxing Chemical Reagent Co., Ltd.**
No. 83 Kai Xuan Rd., Lanxi City
Zhejiang Province
23. **Hangzhou Xinlong Chemical Co., Ltd**
Hangzhou Jiangdong Economic &
Technical Development Zone
Zhejiang Province
24. **Wenzhou Huaqiao Chemical Reagent Co., Ltd.**
5-4-305 Shangdoumen Xincun
Wenzhou, Zhejiang Province 325027
25. **Lanxi Yida Chemical Reagent Co., Ltd.**
Zhangzegang, Lanxi Industrial Zone
Zhejiang Province 321100
26. **Lanxi Xincheng Fine Chemicals Co., Ltd**
27 Yuezhong Rd.
Zhejiang Economic, 321100
27. **Hangzhou Colorful Pigment Co., Ltd**
Shangzhuang Town, Yandu,
Yancheng, Jiangsu Province
28. **Wentong Group**
12 F, No. 985 Dongfang Rd.
Pudong, Shanghai 200122
29. **Shanghai Luyuan Fine Chemical Factory**
Wusonggang Bridge, Baihe Town
Qingpu, Shanghai 201709
30. **Shanghai Experimental Reagent Co., Ltd**
10-603, No. 555 Luding Rd.
(No. 1000 North Zhongshan Rd.)
Shanghai, 200070
31. **Shanghai Early-Bird Chemical Co., Ltd.**
302-75, No. 88 Weidi Rd.
Shanghai, 200444
32. **Shanghai Qingfeng Chemical Factory**
No. 3998 Beiqing Rd., Shanghai
33. **Shanghai Trustin Chemical Co., Ltd**
14D, No. 3998 Beiqing Rd.
Shanghai, 201705

34. **Shanghai Liming Industrial & Trade Co., Ltd**
#3, Alley 515, Hulan Road
Shanghai, 200431
35. **Shanghai Hao Hua Chemical Co., Ltd**
Floor 13, 2052 N. Zhongshan Street
Shanghai, 200063
36. **Shanghai Shiyi Chemicals Reagent Co., Ltd**
Room 1603, No. 2318
Zhongshan North Rd.,
Shanghai, 200063
37. **Datai Group Ltd.**
9E, Lancun Building
No. 1381 Dongfang Rd., Pudong
Shanghai, 200127
38. **Shanghai Xinbao Fine Chemicals Co., Ltd.**
South of the Wangxin Town Jiading
District, Shanghai
39. **Taiyuan Xinli Chemicals Co., Ltd**
Kexiang Building, Room 909
Hi-Tech Development Zone, Taiyuan
Shanxi Province
40. **Shanxi Jiaocheng Hongxing Chemicals Co., Ltd**
14th Floor, Shuigong Building
No. 368 Qinxian North Street
Taiyuan, Shanxi Province, 030001
41. **Taiyu Guangpu Chemical Co., Ltd**
No. 1, 3rd Row
No. 64 Shuangta South Alley
Taiyuan, Shanxi Province, 030045
42. **Shanxi Calcrete Chemical Co., Ltd.**
223 Yutailu, Yuci
Jinzhong, Shanxi Province
43. **Taiyuan Xinjida Chemical Co., Ltd**
Taihua Industrial Zone
No. 329, Third Sector, Jinci Road
Taiyuan, Shanxi Province 030021
44. **Shanxi Jiaocheng Sanxi Chemical Co., Ltd.**
Yiwang Industrial Zonem Yiwang
Jiaocheng, Shanxi Province
45. **Shanxi Dongxing Chemical Co., Ltd.**
No. 17, Third Sector, Jinci Road
Taiyuan, Shanxi Province, 03021
46. **Shanxi Fengxi Fertilizer Industry (Group) Ltd.**
No. 279 Huanghe Dadao
Yunchen, Shanxi Province, 044000
47. **Jiaocheng Kulan Chemical Co., Ltd.**
Room 510, Block One
New Taiyuan Building
No. 127 Xuefu West Street
Taiyuan, Shanxi Province, 030027
48. **Wenshui Zhenxing Fertilizer Co., Ltd.**
West of Nanguancun
Wenshui, Shanxi Province 032100
49. **Guangzhou Jinhuada Chemical Reagent Co., Ltd**
8th Floor, Heli Development Building
6 Jiang Yan South Road, Guangzhou
Guangdong Province, 510280
50. **Guangdong Xilong Chemical Co., Ltd.**
F21 DS Building, 538 North
Dezheng Rd., Guangzhou
Guangdong Province, 510280
51. **Hinic Group**
Guangfo Rd., Yanbu, Dali
Nanhai, Foshan City

- Guangdong Province, 528225
52. **Shenzhen Juzhi Chemical Co., Ltd**
Juzhi Industry Garden, Zhuzai Bay
Pinglong East Rd., Pinghu Town
Shenzhen, 518111
53. **Shenzhen Jinrisheng Chemical Co. Ltd**
No. 113 Building M16
China South International Industrial
Materials City, Shenzhen
54. **SinoChem Gunagzhou Import & Export Corp.**
15th Floor, 691 Ren Min Road North
Guangzhou, Guangdong Province
55. **Chiyuen International Trading Co.**
J-402 Dujuan, Wonderland, Bantian
Shenzhen
Guangdong Province, 518129
56. **Jinchang Holdings Ltd.**
Room 1206, Shenzhen Kerry Centre
Renminnan Lu, Shenzhen 518001
57. **China National Chemical Construction Shenzhen Co.**
5/F Shenzhen International Trade
Center Building
3002 Renminnan Rd.
Shenzhen, 518014
58. **Dongguan Siwei Chemical Co., Ltd**
9 Longchanglu, Longbeiling
Tangxia Town
Dongguan, 523710
59. **Shandong Lunguang Chemical Factory**
257 Linxiyi Rd. (Tongda Rd.)
Linyi City
Shandong Province, 276016
60. **Shandong Tianxin Chemical Co., Ltd.**
Wutai Town, Shouguang
Shandong Province, 262726
61. **Heze Chenggong Chemical Co., Ltd.**
8 Mudannan Rd., Heze
Shandong Province, 274008
62. **Zibo Defeng Chemicals Co., Ltd.**
Green Industry Park
Tianzhuang, Huantai, Zibo
Shandong Province, 256402
63. **Shandong Liaherd Chemical Industry Co., Ltd.**
No. 36 Dongfeng Rd.
Yiyuan County, Zibo
Shandong Province, 256120
64. **Zibo Chemical Reagent Factory**
Xiajiazhuang Rd., Boshan
District Zibo, Shandong Province,
255200
65. **Shandong Jinneng Coal Gasification Co., Ltd.**
No. 1 West Rd.
Qihe Industry District
Shandong Province, 251100
66. **Acroyali Holdings Qingdao Co., Ltd.**
A2 8/F Flagship Tower
No. 40 Hongkong Middle Rd.
Qingdao, Shandong Province
67. **Qingzhou Ailitong Chemicals Technical Co., Ltd.**
Putong Economic Develop. Zone
Qingzhou
Shandong Province, 262500
68. **Tianjin Chemical Reagent No. 1 Plant**
No. 186 Fukang Rd.

- Xiqing District, Tianjin, 300384
69. **Tianjin Xinxin Chemical Plant**
Donglantuo Village
Wangwenzhuang Town
Xiqing District, Tianjin 300383
70. **Tianjin Kermel Chemical Reagent Co., Ltd.**
11 Xinguan Rd.
Xianshuigu Industry
Tianjin, 300350
71. **Jinboke (Tianjin) International Co., Ltd.**
Room B-1202, Bintai Flat No. 11
Binshui Rd., Hexi District
Tianjin, 300061
72. **Tianjin Youngshining Chemicals Co., Ltd.**
Xiqing Economic Development
Zone
Tianjing, 300000
73. **Damao Chemical Reagent Factory**
Dabizhuang Storage Company
Dongli District, Tianjin 300300
74. **Beijing Hengye Zhongyuan Chemical Co., Ltd.**
Rm. 901 Block D Soho Modern City
88 Jianguo Rd., Chaoyang District
Beijing
75. **Norbright Industry Co., Ltd.**
E 7602+03, Binhai Jinrongjie
20 Guangchandong Rd., Teda
Tianjin, 300457
76. **Beijing Ouhe Technology Co., Ltd**
19 Minhanglu, Haidian
Beijing, 100097
77. **China National Chemical Construction**
Kai Kang Mansion Building No. 15
- Sanqu, Anzhenxili Chaoyang District
Beijing, 100029
78. **Beijing Huateng Chemical Co., Ltd.**
1 Anding Nanjie
East Industry Zone, Anding Town
Daxing District, Beijing
79. **Hebei Smart Chemical Co., Ltd.**
9-2-101 Xiyayuan, Lianmengqu
Youyi North Street, Shijiazhuang
Hebei Province
80. **Sinochem Hebei Qinhuangdao Import & Export Corp.**
Sinochem Hebei Building
19 Yanshan Street, Qinhuangdao
Hebei, Province, 066001
81. **Shijiazhuang Jihua Chemical Textile Co., Ltd.**
72 Changzheng Street
Qiaodong District, Shijiazhuang
Hebei Province, 050000
82. **Dahua Group Dalian Chemical Industry Co., Ltd.**
Gongxing Rd.
Ganjingzi District, Dalian
Liaoning Province
83. **DahuaChem International Economic & Trade Corp.**
Ganxin Street
Ganjinzi District, Dalian
Liaoning Province, 116031
84. **Anshan Pan-Asia Import & Export Co., Ltd.**
35 Zhuhe Street
Zhongshan District, Dalian
Liaoning Province, 116001
85. **Mudanjiang FengDa Chemicals**

Import & Export Corp.
167 Aimin Street
Xian District, Mudanjiang
Heilongjiang Province, 157000

86. Chongqing Fuyuan Chemical Co., Ltd.

Yantai Town, Dianjiang County
Chongqing, 408324

87. Xiamen Meddi Chemical Industry Co., Ltd.

12 Layer, 1209 Lixin Street
90 Hubin South Rd., Siming Area,
Xiamen, Fujian Province

88. Allway Chem-Pharm International

Jiateng Building, 108 Heping Rd.
Xian, Shanxi Province, 710016

89. Hunan Xinyu Native Produce & Animal By-Products Import & Export Co., Ltd.

183 Yuandayi Rd., Changsha
Hunan Province, 410001

90. Ronas Chemicals Industry Co., Ltd.

3 Qingjiang East Rd., Qingyang
District, Chengdu Sichuan Province,
610072

SCOPE: (See Attachment I.)

IMPORT STATISTICS:

China	2004	2005	2006	2006 (Jan-Sept)	2007 (Jan-Sept)
Volume (kilograms)	121,000	235,452	473,542	237,010	637,385

Value (\$US)	41,795	81,624	171,299	78,159	262,261 (\$US/lb)
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Source: U.S. International Trade Commission, Dataweb (HTSUS 2834.10.1000).

APPROXIMATE CASE CALENDARS:

Event	No. of Days	Date of Action	Day of the Week
Countervailing Duty Investigation			
Petition Filed	0	November 8, 2007	Thursday
Initiation Date	20	November 28, 2007	Wednesday
ITC Preliminary Determination	45	December 23**** (December 24), 2007	Sunday (Monday)
ITA Preliminary Determination*	85	February 1, 2008	Friday
ITA Final Determination*	160	April 16, 2008	Wednesday
ITC Final Determination**	205	May 31**** (June 2), 2008	Saturday (Monday)
Publication of Order***	212	June 7**** (June 9), 2008	Saturday (Monday)

*This will take place only in the event of a preliminary affirmative determination from the ITC.

**This will take place only in the event of a final affirmative determination from the Department.

***This will take place only in the event of a final affirmative determination from the Department and the ITC.

****Where the deadline falls on a weekend the approximate date is the next business day (e.g., Monday).

Note: ITA preliminary and final determination dates may be extended.

Note: ITC final determination will take place 45 days after a final affirmative ITA determination.

Note: Publication of order will take place approximately 7 days after an affirmative determination by the ITC.

INDUSTRY SUPPORT: (See Attachment II for discussion.)

Do the petitioners and supporters of the petitions account for more than 50% of production of the domestic like product?

Yes
 No

If No, do those expressing support account for the majority of those expressing an opinion and at least 25% of domestic production?

Yes
 No--do not initiate
 Not Applicable

Describe how industry support was established - specifically, describe the nature of any polling or other step undertaken to determine the level of domestic industry support.

See Attachment II.

Was there opposition to the petitions?

Yes
 No

Are any of the parties who have expressed opposition to the petitions either importers or domestic producers affiliated with foreign producers?

Yes
 No
 Not applicable

INJURY ALLEGATION: (See Attachment III to this checklist, "Analysis of Allegations and Evidence of Material Injury and Causation.")

We received a copy of the action notice from the Director of the Office of Investigations, ITC, on November 8, 2007. It indicates that the ITC has instituted investigations to determine whether there is a reasonable indication that the sodium nitrite industry in the United States is materially injured or threatened with material injury. (See Attachment IV.)

Does the petition contain evidence of causation? Specifically, does the petition contain information relative to:

volume and value of imports (See Volume I of the Petition at pages 34, 37-38, and Exhibits V-2 and V-5, and Supplement to the Petitions, dated November 19, 2007, at pages 2-5, and Exhibits 2 and 3)

US market share (*i.e.*, the ratio of imports to consumption) (See Volume I of the Petition at pages 37-38, 40-41, and Exhibits V-2 and V-5, and Supplement to the Petition, dated November 19, 2007, at pages 4-5, and Exhibits 1 and 3)

actual pricing (*i.e.*, evidence of decreased pricing) (See Volume I of the Petition at pages 38-39, 42-43, and Exhibits V-3 and V-4)

relative pricing (*i.e.*, evidence of imports under-selling U.S. products) (See Volume I of the Petition at pages 38-39, and Exhibits V-3 and V-4)

PETITION REQUIREMENTS:

Does the Petition contain the following?:

the names, address and telephone number of the petitioner. (*See* Volume I of the Petition at page 2.)

N/A the names, addresses, and telephone numbers of all domestic producers of the domestic like product known to the petitioning company. (*See* Volume I of the Petition at page 2.)

the volume of the domestic like product produced by the petitioner and each domestic producer identified for the most recently completed 12 month period for which data is available. (*See* Volume I of the Petition at page 3.)

Was the entire domestic industry identified in the Petition?

Yes (*See* Volume I of the Petition at page 2).

No

a clear and detailed description of the merchandise to be investigated, including the appropriate Harmonized Tariff Schedule numbers. (*See* Volume I of the Petition at page 5.)

the name of each country in which the merchandise originates or from which the merchandise is exported. (*See* Volume I of the Petition at page 6.)

the identity of each known exporter, foreign producer, and importer of the merchandise. (*See* Volume I of the Petition at pages 6-7 and Exhibit I-4.)

a statement indicating that the Petition was filed simultaneously with the Department of Commerce and the International Trade Commission. (*See* Cover Letter to the Petition, dated November 8, 2007.)

an adequate summary of the proprietary data. (*See* Cover Letter to the Petition, dated November 8, 2007.)

✓ a statement regarding release under administrative protective order. (*See* Cover Letter to the Petition, dated November 8, 2007.)

✓ a certification of the facts contained in the Petition by an official of the petitioning firm and its legal representative. (*See* Cover Letter to the Petition, dated November 8, 2007.)

✓ import volume and value information for the most recent two-year period. (*See* Volume I of the Petition at page 8.)

COUNTERVAILING DUTY ALLEGATIONS

The proposed period of investigation (POI) is January 1, 2006 - December 31, 2006.

The petition was filed on November 8, 2007. We issued a deficiency letter on November 15, 2007 regarding the alleged programs. We received the response to this inquiry on November 20, 2007.

CONSULTATIONS:

In accordance with section 702(b)(4)(A)(ii) of the Tariff Act of 1930, as amended (the Act), and Article 13.1 of the Agreement on Subsidies and Countervailing Measures, on November 9, 2007, we invited the Government of the People's Republic of China (hereinafter the GOC) for consultations regarding the countervailing duty (CVD) Petition.

The consultations with the GOC were held on November 26, 2007. See the Memorandum to The File, entitled, "Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petition: Sodium Nitrate from the People's Republic of China" (November 26, 2007) (public document on file in the CRU of the Department of Commerce, Room B-099).

INJURY TEST:

Because the People's Republic of China is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the

People's Republic of China materially injure, or threaten material injury to, a U.S. industry.

COUNTERVAILING DUTY INVESTIGATION INITIATION STANDARD

Section 702(b) of the Act states that a petitioner must allege the elements necessary for the imposition of a countervailing duty under section 701(a) of the Act, *i.e.*, the existence of countervailable subsidies and material injury, or threat of material injury, by reason of the subsidized imports. Section 702(b)(1) of the Act requires that these allegations be supported by information reasonably available to the Petitioner.

Petitioner alleges that producers/exporters of sodium nitrite in the People's Republic of China benefitted from countervailable subsidies bestowed by the GOC.

We recommend investigating the following programs. For each program, the petitioner has alleged the elements of a subsidy—financial contribution, benefit, and specificity. We find that the Petitioner's allegations are supported by adequate and accurate information that was reasonably available to them.

GOC Loan Program

1. Loans and Interest Subsidies Related to the Northeast Revitalization Program

Description: Petitioner alleges that the GOC provides export credits and interest subsidies to revitalize old industries or restructure state-owned enterprises (SOEs) located in the Liaoning, Jilin, and Heilongjiang provinces in order to enter global markets. Petitioner provided evidence that sodium nitrite producers are eligible to receive this funding if they are located in the old industry area or are an SOE that is being restructured. According to Petitioner, Dahua Group Dalian Chemical Industry Co., Ltd. ("Dahua") is a sodium nitrite producer located in Liaoning province that has been producing products in the chemical industry for over 74 years.

Financial Contribution: Petitioner alleges that the export credits and interest subsidies provide a financial contribution in the form of the direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

Specificity: Petitioner alleges that the program is specific in accordance with section 771(5A)(D)(iv) of the Act since participation is limited to companies located in the designated geographical region.

Benefit: Petitioner states that the benefits are the export credits and interest subsidies offered to qualifying companies within the meaning of 19 CFR 351.505.

Support: Petitioner cites an article titled "Senior Official's Speech on Revitalizing Northeast China in 2004" (March 3, 2005) (Supplemental Questionnaire Response at Exhibit 10, dated November 20, 2007). A copy of a government notification from the Special Commissioner's Office in Dalian titled "China Export-Import Bank Offers Loan of Five Billion to Help

Enterprise in Northeast China to Go Abroad” (May 24, 2007) (Volume 4 of the Petition at Exhibit IV-46).

Team’s Recommendation: Petitioner provided information indicating that at least one sodium nitrite producer has facilities in one of these three provinces during the POI. Therefore, we recommend investigating the Northeast Revitalization Program.

GOC Grant Programs

2. The State Key Technology Renovation Project Fund

Description: In accordance with State Circular Guojingmao Touzi (1999) No. 886, this program is set up to promote technological renovations and improvements in “key industries, key enterprises and key products by means of increasing the issuance of financial bonds . . .” Companies (i.e., large-sized state-owned enterprises, large-size state holding enterprises, 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries) receive payments in the form of “project investment facility” grants covering two years’ worth of interest payments on loans to fund improvement projects, or up to three years for enterprises located in the northeast, central, or western areas of the country. The National Economy and Trade Committee identified the “fine chemical industry,” which includes food additives, as one of its primary targets of the Key Technology Fund. The Department found this program to be not used in Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 72 FR 60645 (October 25, 2007), and accompanying Issues and Decision Memorandum (CFS Paper) at 15.

Financial Contribution: Petitioner alleges that this program provides a financial contribution because it represents a direct transfer of funds in accordance with section 771(5)(D)(i) of the Act.

Specificity: Petitioner alleges that this program is specific because it is limited as a matter of law to certain enterprises within the meaning of section 771(5A)(D)(i) of the Act.

Benefit: Petitioner alleges that the this program provides a non-recurring benefit in the form of a grant to the recipient in accordance with 19 CFR 351.504(a).

Support: A copy of State Circular Guojingmao Touzi (1999) No. 886 (Volume 4 of the Petition at Exhibit IV-41). A copy of the National Economy and Trade Committee’s Directive under the “Shuang Gao Yi You” Project (Volume 4 of the Petition at Exhibit IV-42).

Team’s Recommendation: We recommend investigating the State Key Technologies Renovation Project Fund.

3. Grants to Loss-Making State-Owned Enterprises

Description: Petitioner alleges that, in an effort to maintain employment, the GOC offers grants and tax benefits to SOEs. This program is administered by the Ministry of Finance (MOF) at the national level. Petitioner also alleged a similar program administered by the MOF in conjunction with local governments at the local level. Petitioner has identified a number of sodium nitrite producers that are SOEs. In addition, Petitioner provided specific evidence that a sodium nitrite

producer, Dahua, is an SOE that has been operating at a loss since 2006.

Financial Contribution: Petitioner has provided information that this program is countervailable because it provides a direct transfer of funds in accordance with the meaning of section 771(5)(D)(i) of the Act. The tax benefits also provide a financial contribution in the form of revenue foregone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: The program is specific under section 771(5A)(D)(i) of the Act because it is limited by law to SOEs.

Benefit: The program provides a benefit in the amount of the grant from the program in accordance with 19 CFR 351.504(a) and in the amount of tax savings in accordance with 19 CFR 351.509(a).

Support: Annex 5A to the Protocol on the Accession of the People's Republic of China to the World Trade Organization at I and II (Volume 4 of the Petition at Exhibit IV-43). Chart of Chinese Producers of Sodium Nitrite (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the Grants to Loss-Making State-Owned Enterprises Program.

GOC Provision of Goods or Services for Less than Adequate Remuneration

4. Provision of Electricity to SOEs for Less than Adequate Remuneration

Description: Petitioner alleges that the GOC provides cut-rate electricity to SOEs in energy-intensive or highly polluting industries like the sodium nitrite industry. Petitioner notes that the GOC acknowledged in its WTO accession documents that it provides subsidies on energy inputs to special industrial sectors. Petitioner provided evidence that some sodium nitrite producers are SOEs.

Financial Contribution: Petitioner alleges that this program provides a financial contribution because the GOC provides discounted electricity within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of electricity to SOEs in energy-intensive or highly polluting industries does not fall within the "general infrastructure" exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution "created for the broad societal welfare," as required by 19 CFR 351.511(d).

Specificity: Petitioner alleges that the preferential provision of electricity is specific because the GOC offers reduced rate electricity to a group of enterprises (i.e., SOEs) within the meaning of section 771(5A)(D)(iii) of the Act.

Benefit: Petitioner has submitted information that electricity is provided by the GOC for less than adequate remuneration within the meaning of 19 CFR 351.511(a)(2), and that the GOC provides a benefit according to section 771(5)(E)(iv) of the Act.

Support: A copy of the article "China to Act on Pollution, Warming Gases," China Daily (April 28, 2007) (Volume 4 of the Petition at Exhibit IV-54). Statement by Usha C.V. Haley to U.S. House Ways and Means Committee – University of New Haven, February 15, 2007 (Volume 4 of

the Petition at Exhibit IV-53). Annex 5A to the Protocol on the Accession of the People's Republic of China to the World Trade Organization at I and II (Volume 4 of the Petition at Exhibit IV-43). Chart of Chinese Producers of Sodium Nitrite (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the GOC's Provision of Electricity to SOEs for Less than Adequate Remuneration Program.

5. Provision of Land to SOEs for Less than Adequate Remuneration

Description: Petitioner alleges that the GOC provides discounted land to SOEs, and to favored industries and companies in key strategic industrial sectors. As noted above, Petitioner provided evidence that some sodium nitrite producers are SOEs.

Financial Contribution: Petitioner alleges that this program provides a financial contribution because the GOC provides discounted land to the producers of subject merchandise within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of land to SOEs and favored industrial sectors does not fall within the "general infrastructure exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution "created for the broad societal welfare," as required by 19 CFR 351.511(d).

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(D)(iii) of the Act because the GOC has provided discounted land to a group of enterprises (*i.e.*, SOEs).

Benefit: Petitioner has submitted information that land is provided by the GOC for less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act.

Support: A copy of the article "China to Act on Pollution, Warming Gases," China Daily (April 28, 2007) (Volume 4 of the Petition at Exhibit IV-54). Statement by Usha C.V. Haley to U.S. House Ways and Means Committee – University of New Haven, February 15, 2007 (Volume 4 of the Petition at Exhibit IV-53). Annex 5A to the Protocol on the Accession of the People's Republic of China to the World Trade Organization at I and II (Volume 4 of the Petition at Exhibit IV-43). Chart of Chinese Producers of Sodium Nitrite (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the GOC's Provision of Land to SOEs for Less than Adequate Remuneration Program.

GOC Income Tax Programs

6. Income Tax Exemption for Export-Oriented FIEs

Description: Petitioner alleges that, pursuant to Article 75(7) of Decree 85 of the State Council of 1991, certain export-oriented FIEs may receive a 50 percent tax reduction/exemption after the period specified in the "Two Free, Three Half" program. Export-oriented FIEs are FIEs with exports exceeding 70 percent of the total value of products. Petitioner provided information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive

benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises (export-oriented FIEs). Since the tax reduction is contingent upon export performance, this program is also specific within the meaning of section 771(5A)(B) of the Act.

Benefit: Petitioner alleges that the benefit is the amount of tax savings consistent with 19 CFR 351.509(a)(1).

Support: A copy of the Detailed Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises and Foreign Enterprises Decree (June 30, 1991) No. 85 of the State Council, art. 75(7) (Volume 4 of the Petition at Exhibit IV-13). A copy of PRC Notification, G/SCM/N/123/CHN, at Item II (April 13, 2006) (Volume 4 of the Petition at Exhibit IV-14). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1). Petitioner also cites to CFS Paper and Issues and Decision Memorandum at 11.

Team's Recommendation: We recommend initiating an investigation of the Income Tax Exemption for Export-Oriented FIEs Program.

7. Preferential Tax Policies for Foreign Invested Enterprises (FIEs) (Two Free, Three Half Program)

Description: Petitioner alleges that under Article 8 of the Foreign Invested Enterprise and Foreign Enterprise Income Tax Law (FIE Tax Law) of 1991, an FIE that is "productive" and is scheduled to operate for not less than ten years may be exempt from income tax in the first two years of profitability and may pay income taxes at half the standard rate for the next three years. This is known as the "Two Free, Three Half" program. Petitioner provided information demonstrating that several sodium nitrite producers qualify as FIEs and likely receive benefits under this program. In addition, Petitioner noted that the Department found this program to be a countervailable subsidy in CFS Paper. As noted above, Petitioner provided information demonstrating that at least two sodium nitrite producers may be FIEs.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this program is specific because it is limited to FIEs within the meaning of section 771(5A)(D)(i) of the Act.

Benefit: Petitioner alleges that the benefit is the difference between the amount of taxes paid and taxes otherwise due in the absence of the program, within the meaning of 19 CFR 351.509(a)(1).

Support: A citation to CFS Paper. A copy of Foreign Invested Enterprise and Foreign Enterprise Income Tax Law, article 8 (April 9, 1991) (Volume 4 of the Petition at Exhibit IV-12). No. 85 of the State Council, article 72 of the Detailed Implementation Rules of the Income Tax Law of the

People's Republic of China of Foreign Investment Enterprises and Foreign Enterprises Decree (June 30, 1991) (Volume 4 of the Petition at Exhibit IV-13).

Team's Recommendation: We recommend initiating an investigation of the Preferential Tax Policies for Foreign Invested Enterprises (FIEs) (Two Free, Three Half Program).

8. Reduced Income Tax Rates for FIEs Based on Location

Description: Petitioner alleges that FIEs located in special designated locations (e.g., coastal economic development zones, special economic zones, and economic and technical development zones) pay income tax at reduced rates. Petitioner submitted information demonstrating that the following provinces may have special zones designated under this program: Guangdong, Fujian, and Hainan. Petitioner has also submitted information that at least one sodium nitrite producer is located in Shenzhen city of Guangdong province, and that at least two sodium nitrite producers may be FIEs.

Petitioner notes that under Article 7 of the FIE Tax Law and Article 71 of the Implementation Rules of FIE Tax Law, productive FIEs located in these designated locations pay corporate income tax at a reduced rate. In addition, Petitioner noted that the Department found this program to be a countervailable subsidy in CFS Paper.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue otherwise due constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises (productive FIEs). Since this program is also geographically limited to coastal economic development zones, special economic zones, and economic and technical development zones, this program is also regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner alleges that the benefit is the amount of tax savings consistent with 19 CFR 351.509(a)(1).

Support: A copy of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, article 10 (April 9, 1991) (Volume 4 of the Petition at Exhibit IV-12). A copy of the Detailed Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises and Foreign Enterprises Decree, No. 85 of the State Council, articles 80-82 (June 30, 1991) (Volume 4 of the Petition at Exhibit IV-13). Chart of Chinese Producers of Sodium Nitrite (Volume 4 of the Petition at Exhibit IV-1)

Team's Recommendation: We recommend initiating an investigation of the Reduced Income Tax Rates for FIEs Program based on location. Petitioner has established that at least one of the alleged producers of sodium nitrite is located in one of the provinces that contain these special designated zones.

9. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises

Description: Petitioner alleges that FIEs that re-invest profits into themselves or use those

profits to establish another FIE can receive a 40 percent refund of income tax paid on the invested amount, or a full refund where the reinvestment is for an export-oriented enterprise. Petitioner provided information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner notes that under Article 81 of the “Detailed Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign Investment Enterprises and Foreign Enterprises,” (cited to in the petition among the legal authorities for this program), if the reinvestment is for establishing or expanding an export-oriented enterprise, then the refund is 100 percent, instead of 40 percent. Thus, Petitioner concludes that the program is contingent upon export performance within the meaning of section 771(5A)(B) of the Act. This program is also specific within the meaning of section 771(5A)(D)(i) of the Act because the program is limited to a group of enterprises, in this case FIEs.

Benefit: Petitioner alleges that the benefit is the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, article 10 (April 9, 1991) (Volume 4 of the Petition at Exhibit IV-12). A copy of the Detailed Implementation Rules of the Income Tax Law of the People’s Republic of China of Foreign Investment Enterprises and Foreign Enterprises Decree, No. 85 of the State Council, articles 80-82 (July 1, 1991) (Volume 4 of the Petition at Exhibit IV-13). A copy of the Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies to be Enjoyed by Enterprises with Foreign Investments Which Increases Investments (June 1, 2002) (Volume 4 of the Petition at Exhibit IV-15). A copy of the Supplementary Circular of the State Administration of Taxation Concerning the Preferential Policy of Enterprise Income Tax Rate for Enterprises with Foreign Investment with Additional Investment, GuoShuiHan No. 368 (March 28, 2003) (Volume 4 of the Petition at Exhibit IV-16).

Team’s Recommendation: We recommend initiating an investigation of the Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises Program.

10. Reduced Income Tax Rate for New or High Technology Enterprises

Description: Petitioner alleges that the GOC provides tax benefits to enterprises established in designated national new- or high-technology industrial development zones, as well as to FIEs established in designated national new- or high-technology industrial development zones. Under this program, these designated companies operating in high- or new-technology industrial development zones pay income tax at a reduced rate of 15 percent. In addition, such enterprises and FIEs scheduled to operate for at least ten years pay no income tax for their first two years of profitability and at half the normal rate for the next three years. Such FIEs are also eligible to benefit from additional tax preferences administered by the legal authority administering the zones. Petitioner argues that at least one sodium nitrite producer, Hangzhou Longshan Chemical Co., Ltd., may have received benefits under this program because it claims to be a high

technology enterprise as noted on its website.

Financial Contribution: Petitioner alleges that this program provides a reduction or exemption of income tax for certain enterprises or FIEs recognized as high- or new-technology enterprises, in the form of revenue foregone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises, namely FIEs. It may also be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to LWS producers located in designated new or high technology industrial development zones.

Benefit: Petitioner alleges that this program provides a benefit to the recipient in the amount of the tax savings from the program in accordance with 19 CFR 351.509(a)(1).

Support: A copy of China's Notification Pursuant to article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures (Volume 4 of the Petition at Exhibit IV-14). A copy of the Circular of the Ministry of Finance and State Administration of Taxation on the Preferential Policies for Enterprise Income Taxes on Technical Innovation Enterprises, No. 88 (September 8, 2006) (Volume 4 of the Petition at Exhibit IV-17). Website printout, Hangzhou Longshan Chemical Co., Ltd. (Supplemental Questionnaire Response at Exhibit 1, dated November 20, 2007).

Team's Recommendation: We recommend investigating the Reduced Income Tax Rate for New or High Technology Enterprises Program for enterprises or FIEs recognized as high- or new-technology enterprises.

11. Preferential Tax Policies for Research and Development By FIEs

Description: Petitioner alleges that the GOC provides tax benefits to FIEs engaged in research and development (R&D). This program is authorized by SAT Circular Guo Shui Fa No. 173 of 1999. Under this program, an FIE's expenses for R&D conducted in the PRC may be offset 150 percent from that year's taxable income (if such expenses have increased by at least ten percent over the previous year). Petitioner provided information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that this program provides a reduction or exemption of income tax for FIEs in the form of revenue foregone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this program is specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to a group of enterprises, namely FIEs.

Benefit: Petitioner alleges that this program provides a benefit to the recipient in the amount of the tax savings from the program in accordance with 19 CFR 351.509(a)(1).

Support: A copy of PRC Notification, G/SCM/N/123/CHN, at VII and XXVII (April 13, 2006) (Volume 4 of the Petition at Exhibit IV-14). Summary Table of Chinese companies (Volume 4 of

the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the Preferential Tax Policies for Research and Development by FIEs Program.

12. _____ Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies

Description: According to China's WTO subsidies notification, the GOC offers preferential income tax policies to domestic enterprises that upgrade their manufacturing operations with Chinese-made equipment. Domestic enterprises that 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. In cases where the income tax due is less than the 40 percent of the cost of the equipment, the remainder of the cost may be deducted in subsequent years, for a period of up to five years.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue otherwise due constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the subsidy is specific because it is an import substitution program within the meaning of section 771(5A)(C) of the Act. Only the purchase of Chinese-made equipment renders a company eligible for benefits.

Benefit: Petitioner alleges that this program provides a benefit in the amount of tax savings that would otherwise be due in the absence of the program within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of PRC Notification, G/SCM/N/123/CHN, at LIX (April 13, 2006) (Volume 4 of the Petition at Exhibit IV-14). A copy of Circular of the Interim Measure for Domestic-

Produced Equipment Purchase Offsetting Enterprise Income Tax, MOF Cai Shui No. 290 (July 1, 1999) (Volume 4 of the Petition at Exhibit IV-18).

Team's Recommendation: We recommend initiating an investigation of the Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies Program. We note that the Department found this program to be countervailable in CFS Paper.

13. _____ Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs

Description: Petitioner alleges that FIEs and foreign-owned enterprises whose projects are classified in either Encouraged or Restricted B categories of the Catalogue of Industrial Guidance can receive tax credits of up to 40 percent for the purchase of domestically-produced equipment that is not listed in the Catalog of Non-Duty-Exemptible Articles of Importation. In addition, the Catalogue of Encouraged Foreign Investment Industries specifically includes the fine chemical industry, which includes food additives. Petitioner provided information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the receipt of benefits under the program is contingent upon the use of domestic over imported goods within the meaning of section 771(5A)(C) of the Act. The law is also specific to certain enterprises, in this case FIEs; therefore, it is specific within the meaning of section 771(5A)(D)(i) of the Act.

Benefit: Petitioner alleges that the income tax credit confers a recurring benefit in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the Order of the State Development and Reform Commission, the Ministry of Commerce of the People's Republic of China No. 24, Catalogue for the Guidance of Foreign Investment Industries (Amended in 2004), at III 11 (Volume 4 of the Petition at Exhibit IV-6). A copy of GUOSHUIFA (1999) No. 171, Circular of the State Administration of Taxation Concerning the Proposed Management Methods for Tax Refund to Foreign-Funded Enterprises for Their Domestic Equipment Purchases (Volume 4 of the Petition at Exhibit IV-19). A copy of PRC Notification, G/SCM/N/123/CHN, at LVIII (April 13, 2006) (Volume 4 of the Petition at Exhibit IV-14). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend initiating an investigation of the Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs Program.

14. Reduced Income Tax Rate for FIEs Under the West Revitalization Program

Description: Petitioner alleges that FIEs located in the western region, which includes Shannxi and Sichuan provinces, as well as Chongqing Municipality, receive a reduced income tax rate of 15 percent for three years under this preferential tax policy. Petitioner identified a number of sodium nitrite producers that are located in these provinces within this designated western region.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises (productive FIEs). Since the tax reduction is limited to companies located in the designated geographical region, this program is also specific in accordance with section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner alleges that the benefit is the amount of tax savings consistent with 19 CFR 351.509(a)(1).

Support: A cite to an article posted on the website of the Ministry of Commerce of the People's Republic of China, "The Development of Western China," (November 8, 2005), <http://preview.english.mofcom.gov.cn/aarticle/topic/bizchina/politicsandsociety/200511/20051100738121.html>. Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend initiating an investigation of the Reduced Income Tax Rate for FIEs Under the West Revitalization Program.

15. Income Tax Reduction or Exemption for Export-Oriented or High Technology Enterprises Under the West Revitalization Program

Description: Petitioner alleges that recently established export-oriented or high-technology enterprises located in the western region, which includes Shannxi and Sichuan provinces, as well as Chongqing Municipality, qualify for an exemption or reduced income tax rate of 10 percent for two years under this preferential tax policy. Petitioner has identified at least one sodium nitrite producer (Chongqing Fuyuan Chemical Co., Ltd.) that is located in Chongqing municipality.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(B) because it is contingent on export performance. Since the tax reduction is limited to companies located in the designated geographical region, this program is also specific in accordance with section 771(5A)(D)(iv) of the Act. This program is also specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises (high-technology enterprises).

Benefit: Petitioner alleges that the benefit is the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the Chongqing Chemical Industrial Park Preferential Policies (Volume 4 of the Petition at Exhibit IV-33).

Team's Recommendation: We recommend initiating an investigation of the Income Tax Reduction or Exemption for Export-Oriented or High-Technology Enterprises Under the West Revitalization Program.

16. Preferential Tax Policies Under the West Revitalization Program

Description: Petitioner alleges that under the West Revitalization Program, the GOC promotes domestic enterprises engaged in encouraged industries, and established economic and development areas through several preferential policies. Petitioner states that domestic enterprises engaged in encouraged industries, and enterprises located in certain economic development zones receive preferential income tax rates of 15 percent through 2010. For encouraged industries located in these areas, Petitioner alleges that they receive a preferential tax rate of 7.5 percent, provided that 70 percent of the company's income originates from production. Petitioner has identified at least one sodium nitrite producer in Chongqing municipality, Sichuan province, and Shanxi province, which are located in the western region covered under this program.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that this program is specific within the meaning of section 771(5A)(D)(iv) because the tax reduction is limited to companies located in designated geographic regions. This program is also specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to a group of enterprises (domestic enterprises in encouraged industries).

Benefit: Petitioner alleges that the benefit is the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the Circular of the Implementations of the West Revitalization Preferential Tax Policies for Industries and Economies, Issued By Chongqing Municipal Taxation Administration (July 22, 2005) (Volume 4 of the Petition at Exhibit IV-31).

Team's Recommendation: We recommend initiating an investigation of the Preferential Tax Policies Under the West Revitalization Program.

GOC Indirect Tax Programs and Import Tariff Programs

17. Value Added Tax (VAT) Rebate for FIE Purchases of Domestically Produced Equipment

Description: Petitioner states that FIEs receive refunds on the VAT paid for purchases of domestically produced equipment that is classified in the Encouraged Category and the Restricted B Category of the Directive Category of Foreign-Funded Industries as well as purchases from domestic markets for investment projects listed in the Catalogue of Key Industries, Products and Technologies Encouraged for Development by the State, which includes the chemical industry. Petitioner provided information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that the foregoing of tax revenue constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: The program is specific because the rebate is contingent upon the use of domestic over imported goods within the meaning of section 771(5A)(C) of the Act. The law is also specific to certain enterprises, in this case FIEs; therefore, it is also specific within the meaning of section 771(5A)(D)(i) of the Act.

Benefit: The program provides a benefit to the recipient in the form of tax savings within the meaning of 19 CFR 351.510(a)(1).

Support: A copy of the Interim Regulations of the People's Republic of China on Value-Added Tax, at article 27 (Volume 4 of the Petition at Exhibit IV-19). A copy of the Catalogue of Key Industries, Products, and Technologies Encouraged for Development by the State, article 16 (December 31, 1997) (Volume 4 of the Petition at Exhibit IV-38). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the VAT Rebate for FIE Purchases of Domestically Produced Equipment Program.

18. VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

Description: The State Councils's Circular on Adjusting Tax Policies on Imported Equipment (Guofa No. 37) exempts both FIEs and certain domestic enterprises from paying import tariffs and VAT payments on imported equipment provided that these goods are not for resale. The domestic enterprises must be engaged in activities listed in the Catalogue of Key Industries, Products, and Technologies Encouraged for Development by the State. Petitioner provides information demonstrating that the following sodium nitrite producers may be FIEs, and thus may receive benefits under this program: Wuxi Feipeng Fine Chemical Co., Ltd., and Hongze Yinzhu Chemical Group Co., Ltd.

Financial Contribution: Petitioner alleges that VAT and tariff exemptions on imported equipment provide financial contributions in the form of revenue foregone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the program is specific because it is limited by law to certain enterprises, in this case FIEs and certain domestic enterprises, within the meaning of section 771(5A)(D)(i)(I) of the Act.

Benefit: Petitioner alleges that this program confers a benefit in the amount of VAT and tariff savings per 19 CFR 351.524(c)(1).

Support: A copy of China's Notification Pursuant to article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures (Volume 4 of the Petition at Exhibit IV-14). A copy of the Catalogue of Key Industries, Products, and Technologies Encouraged for Development by the State, article 16 (December 31, 1997) (Volume 4 of the Petition at Exhibit IV-38). A copy of the Catalogue of Non-Duty Exemptible Article of Importation for Foreign Invested Enterprise (2002) (Volume 4 of the Petition at Exhibit IV-40). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend investigating the VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries Program.

Provincial Loan Program

19. Reduced Interest Rate Loans Provided by Liaoning Province

Description: Petitioner alleges that Liaoning Province's Five-Year Framework policy provides assistance to develop certain products, among which "fine chemical engineering" is identified as a key area. Petitioner alleges that such assistance includes loan interest subsidy earmarks by the Liaoning Province Financial Bureau, discounted loans to non-state owned enterprises as directed by the Liaoning Provincial government, and loan interest subsidies for enterprises in certain industries and coastal industrial parks. Petitioner notes that the following sodium nitrite producers are located in the Liaoning province: Dahuachem International Economic and Trade Corp. and Anshan Pan-Asia Import & Export Company Ltd.

Financial Contribution: This provincial policy lending program provides a financial

contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

Specificity: This program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to enterprises in certain industries. Since this program is also geographically limited to coastal industrial parks, this program is specific within the meaning of section 771(5A)(D)(iv) of the Act.

Benefit: Pursuant to section 771(5)(E)(ii) of the Act, the benefit from any discounted loan is equal to the difference between what the recipient paid on the government-provided loan and the amount the recipient would have paid for a comparable commercial loan, including any difference in guarantee fees.

Support: A copy of “Policies and Advice on the Issue of Financial Assistance for the Reform and Development of Enterprises,” from Liaoning Finance and Businesses (November 24, 2004) (Part II of the Petition at Exhibit IV-48). Copy of Dahua Group Dalian Chemical Industry Co., Ltd Webpage (Part I of the Petition at Exhibit IV-2). A copy of “Liaoning Provincial Government, Liaoning Province: the Financial Assistance This Year is Focused on the Economy at the County Level,” (February 2, 2007) (Volume 4 of the Petition at Exhibit IV-49).

Team’s Recommendation: We recommend initiating an investigation of the Reduced Interest Rate Loans provided by Liaoning Province.

Provincial Grant Programs

20. Provincial Export Interest Subsidies (Guangdong and Zhejiang Provinces)

Description: Petitioner alleges that the government of Zhejiang province provides local enterprises with export subsidies amounting to \$1,250 for enterprises with more than \$1 million in exports. According to Petitioner, the subsidy amount increases as the value of the exports increase, and can reach up to \$12,500 for \$5 million in exports. Petitioner further alleges that the provincial government also provides enterprises with subsidies ranging from \$1,250 to \$10,000 for technologically innovative projects. Petitioner notes that Wenzhou Municipality, which is located in Zhejiang Province, also provides subsidies to encourage technological innovation through its Innovation Fund for Small and Medium Enterprises. Petitioner has provided information indicating that sodium nitrite producers are located in Zhejiang province.

According to Petitioner, export interest subsidies are also provided to enterprises located in Shenzhen (Guangdong Province). Exports of less than \$15 million are eligible for subsidies that provide \$0.03 for every \$1.00 worth of exports of general merchandise procured in Shenzhen. Petitioner has provided information indicating that sodium nitrite producers are located in Guangdong Province.

Financial Contribution: Petitioner alleges that this program provides a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

Specificity: Petitioner alleges that this program is an export subsidy within the meaning of section 771(5A)(B) because it is contingent upon export performance.

Benefit: Petitioner alleges that the program provides a benefit in the amount of the grant provided in accordance with 19 CFR 351.504(a).

Support: A copy of Questions from the European Communities to China with regard to China's Transitional Review Mechanism on Subsidy Practices (October 20, 2006) (Volume 4 of the Petition at Exhibit IV-56). A copy of Export Interest Subsidy for Shenzhen Enterprises Raised (May 1, 2004) (Volume 4 of the Petition at Exhibit IV-57). A copy of Preferential Policies of Zhejiang Province (December 7, 2006) (Volume 4 of the Petition at Exhibit IV-55). A copy of Questions from the EU to China Concerning Subsidies and Price Controls, G/SCM/Q2/CHN/24, at 3 (October 20, 2006) (Volume 4 of the Petition at Exhibit IV-56). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend initiating an investigation of the Export Interest Subsidy Funds provided by Guangdong and Zhejiang Provinces.

21. Guangdong Province Funds for Outward Expansion of Industries

Description: Petitioner alleges that eligible private enterprises in Guangdong province may apply for special funding for the development of export activities. Payments can be for market exploration, export credit insurance, loan interest on offshore processing trade projects, export research and development, responding to antidumping duties, export rebate account loan interest payments and outward-looking enterprises development funds. Petitioner has provided information indicating that sodium nitrite producers are located in Guangdong province.

Financial Contribution: Petitioner alleges that this program provides a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

Specificity: Petitioner alleges that this program is specific within the meaning of section 771(5A)(B) of the Act because it is limited to companies engaging in export activities.

Benefit: Petitioner claims that this program provides a benefit in the form of grants for "outward expansion," in accordance with 19 CFR 351.504(a).

Support: A copy of article "China, Guangdong Supports Private Enterprises to Expand Outward," Business Alert (March 1, 2004) (Volume 4 of the Petition at Exhibit IV-58). A copy of Guangdong Xilong Chemical Co., Ltd. Webpage. Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend initiating an investigation on the Guangdong Province Funds for Outward Expansion of Industries Program.

Provincial and Local Provision of Goods for Less than Adequate Remuneration

22.____Provision of Land for Less than Adequate Remuneration (Jiangsu Province, Zhejiang Province, and Chongqing Municipality)

Description: Petitioner alleges that the Changzhou National High-Tech District (CND) located

in Jiangsu province, provides discounts on land rates as an enticement to locate in certain zones. Petitioner has provided information indicating that sodium nitrite producers are located in Jiangsu province. In addition, Petitioner claims that the government of Zhejiang province offers land discounts to newly-established enterprises in the Hangzhou Bay Fine Chemical Park, where an enterprise is entitled to a discount ranging from five to 20 percent depending on the amount of land purchased as long as the enterprise pays the fees in full at the time of purchase. Petitioner has provided information indicating that sodium nitrite producers are located in Zhejiang province. Finally, Petitioner alleges that the Chongqing municipal government offers a preferential price on the cost of land to developers in the Chongqing Chemical Industrial Park. Petitioner has provided information indicating that sodium nitrite producers are located in Chongqing Municipality.

Financial Contribution: Petitioner alleges that the provision of discounted land provides a financial contribution within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of land in designated geographical regions does not fall within the “general infrastructure” exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution “created for the broad societal welfare,” as required by 19 CFR 351.511(d).

Specificity: Because the provision of discounted land is limited to companies located in designated geographical regions within the provinces or municipality, these programs are specific in accordance with section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner alleges that the provision of land for less than adequate remuneration provides a benefit within the meaning of section 771(5)(E)(iv) of the Act.

Support: A copy of Circular of Preferential Policies for Improving the Investment Environment in Zhejiang Province Hangzhou Bay Fine Chemical Park (August 31, 1999) (Volume 4 of the Petition at Exhibit IV-22). A copy of article “Changzhou, a Modern Industrial City in China Seeks More U.S. Manufacturing Enterprises; Primary Goal: High-Tech Industries for Export and Domestic Markets,” PR Newswire US (September 15, 2005) (Volume 4 of the Petition at Exhibit IV-52). A copy of the Chongqing Chemical Industrial Park Preferential Policies (Volume 4 of the Petition at Exhibit IV-33). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team’s Recommendation: We recommend initiating an investigation on the Provision of Land for Less than Adequate Remuneration Program in Jiangsu Province, Zhejiang Province, and Chongqing Municipality.

23. Provision of Electricity for Less than Adequate Remuneration (Jiangsu Province and Zhejiang Province)

Description: Petitioner alleges that the Changzhou National High-Tech District (CND) located in Jiangsu Province, provides discounts on electricity rates as an enticement to locate in certain zones. According to Petitioner, the advanced chemical industry was identified as a new focus of industry development within the CND. Petitioner has provided information that indicates that sodium nitrite producers are located in Jiangsu Province.

Petitioner alleges that the Hangzhou Gulf Fine Chemical Zone located in Zhejiang province, offers productive enterprises located in the zone discounted rates on water use, and exempts

enterprises located in the zone from water and electricity registration fees. Petitioner has provided information indicating that sodium nitrite producers are located in Zhejiang province.

Financial Contribution: Petitioner alleges that the provision of discounted electricity provides a financial contribution within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of electricity in designated geographical regions does not fall within the “general infrastructure” exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution “created for the broad societal welfare,” as required by 19 CFR 351.511(d).

Specificity: Since the provision of discounted electricity is limited to companies located in designated geographical regions within these provinces, these programs are specific within the meaning of section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner alleges that the provision of electricity for less than adequate remuneration provides a benefit within the meaning of section 771(5)(E)(iv) of the Act.

Support: A copy of Zhejiang Hangzhou Gulf Fine Chemical Zone, Preferential Policies (2005) (Volume 4 of the Petition at Exhibit IV-24). A copy of Provisions of the State Council on the Encouragement of Foreign Investment, article 5, GuoFa [1986] No. 95 (October 11, 1986) (Volume 4 of the Petition at Exhibit IV-51). A copy of article “China must push through reforms in its energy section – especially price reform,” The China Business Review (September – October, 2005) (Volume 4 of the Petition at Exhibit IV-50). A copy of Annex 5A to the Protocol on the Accession of the People’s Republic of China to the World Trade Organization, article XV, (Volume 4 of the Petition at Exhibit IV-43). A copy of article “Changzhou, a Modern Industrial City in China Seeks More U.S. Manufacturing Enterprises; Primary Goal: High-Tech Industries for Export and Domestic Markets,” PR Newswire US (September 15, 2005) (Volume 4 of the Petition at Exhibit IV-52). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team’s Recommendation: We recommend initiating an investigation on the Provision of Electricity for Less than Adequate Remuneration Program in Jiangsu Province and Zhejiang Province.

24. Provision of Water for Less than Adequate Remuneration (Zhejiang Province)

Description: Petitioner alleges that the Hangzhou Gulf Fine Chemical Zone offers productive enterprises located in the zone discounted rates on water use, and exempts enterprises located in the zone from water registration fees. Petitioner has provided information indicating that sodium nitrite producers are located in Zhejiang Province.

Financial Contribution: Petitioner alleges that the provision of discounted water provides a financial contribution within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of water in designated geographical regions does not fall within the “general infrastructure” exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution “created for the broad societal welfare,” as required by 19 CFR 351.511(d)

Specificity: Since the provision of discounted water is limited to companies located in a designated geographical region, this program is specific in accordance with section 771(5A)(D)(iv) of the Act.

Benefit: Petitioner alleges that the provision of water for less than adequate remuneration provides a benefit within the meaning of section 771(5)(E)(iv) of the Act.

Support: A copy of Zhejiang Hangzhou Gulf Fine Chemical Zone, Preferential Policies (2005) (Volume 4 of the Petition at Exhibit IV-24). Summary Table of Chinese companies (Volume 4 of the Petition at Exhibit IV-1).

Team's Recommendation: We recommend initiating an investigation on the Provision of Water for Less than Adequate Remuneration Program in Zhejiang Province.

Provincial and Local Income Tax Programs

25. Jiangsu Province Tax Programs

Description: Petitioner alleges that the Jiangsu provincial government provides reduced income tax rates to FIEs established in the Nanjing Chemical Industry Park. Petitioner claims that FIEs operating in this chemical park are eligible to receive reduced income tax rates in the manner authorized by the GOC FIE tax laws including: tax reductions for high-technology FIEs and for productive enterprises, the Two Free and Three Half program, *etc.* Petitioner further alleges that Jiangsu province established a special industrial park, the Su Yu North District, to encourage the development of local chemical enterprises. According to Petitioner, Article 8 of the "Preferential Policies for Chemical Projects in Su Yu North District, Jiangsu province," dated April 28, 2005, provides that chemical and high-technology companies that meet certain criteria will be eligible for tax rebates from the local government. Petitioner has provided information indicating that sodium nitrite producers are located in Jiangsu province.

Financial Contribution: Petitioner claims that the Jiangsu province tax programs provides a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Jiangsu province tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (FIEs and chemical companies).

Benefit: Petitioner states that the Jiangsu province tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Nanjing Chemical Industry Park and its Preferential Policies Presented by Nanjing Municipal Service Center for Foreign Investment (2004) (Volume 4 of the Petition at Exhibit IV-20). A copy of Preferential Policies for Chemical Projects in Su Yu North District, Jiangsu Province (April 28, 2005) (Volume 4 of the Petition at Exhibit IV-21).

Team's Recommendation: We recommend initiating an investigation of the Jiangsu Province Tax Programs.

26. Zhejiang Province Tax Programs

Description: Petitioner alleges that enterprises in the Hangzhou Bay Fine Chemical Park are

exempted from or pay reduced Enterprise Income Taxes, based on investment size or standing with regard to tax payment status. Petitioner claims that companies located in this park also receive a 10 percent rebate of VAT from local financial agencies in the first and second years of production. Petitioner further claims that chemical R&D companies are exempted from paying Enterprise Income Tax for seven years. Petitioner also alleges that newly established enterprises in the Hangzhou Gulf Fine Chemical Zone receive a 100 percent refund of their paid income tax in the first three years of production, and a 50 percent income tax refund in the fourth and fifth years of production from local financial administrations. Additionally, according to Petitioner, new enterprises in the Chemical Zone may also be exempted from paying income taxes based on the size of its investment and technical upgrades. Petitioner has provided information indicating that sodium nitrite producers are located in Zhejiang province.

Financial Contribution: Petitioner claims that the Zhejiang province tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Zhejiang province tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (chemical R&D companies and newly established enterprises).

Benefit: Petitioner states that the Zhejiang province tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Government of Shangyu Municipal Office, Circular of Preferential Policies for Improving the Investment Environment in Zhejiang Province, Hangzhou Bay Fine Chemical Park (August 31, 1999) (Volume 4 of the Petition at Exhibit IV-22). A copy of Zhejiang Provincial Government, Circular of Implementation for Fully Advanced Reforms of R&D Institutions in Zhejiang Province, Zhe Zen No. 1 (2000) (Volume 4 of the Petition at Exhibit IV-23). A copy of Zhejiang Hangzhou Gulf Fine Chemical Zone, Preferential Policies (2005) (Volume 4 of the Petition at Exhibit IV-24).

Team's Recommendation: We recommend initiating an investigation of the Zhejiang Province Tax Programs.

27. Guangdong Province Tax Programs

Description: Petitioner alleges that FIEs in Guangdong province receive a reduced income tax rate of 15 percent, while non-FIEs are taxed at a rate of 30 percent. Petitioner further alleges that productive FIEs operating for more than 10 years may be exempted from paying Enterprise Income Tax for the first two years of production, and are entitled to a 50 percent reduction of this tax for an additional three years. Petitioner also claims that productive FIEs that reinvest their profits into the same FIE, or into other enterprises, may receive a 40 percent tax refund, or a 100 percent tax refund if profits are reinvested in export-oriented or high-technology companies. Petitioner has provided information indicating that sodium nitrite producers are located in Guangdong province.

Financial Contribution: Petitioner claims that the Guangdong province tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Guangdong province tax programs are specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (FIEs, export-oriented or high-technology companies).

Benefit: Petitioner states that the Guangdong province tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Adjustment of Preferential Policies for Foreign Investment in Guangdong Province (Volume 4 of the Petition at Exhibit IV-25).

Team's Recommendation: We recommend initiating an investigation of the Guangdong Province Tax Programs.

28. Shandong Province Tax Programs

Description: Petitioner alleges that enterprises located in the Qilu Chemical Industry Park (QCIP) are entitled to preferential tax policies conferred on New and High Technological Development Zones by the Central Government. Petitioner further alleges that the municipal government of Zibo City and the Linzi district have exempted “new increased local taxes for five years” for enterprises in the QCIP. Additionally, Petitioner claims that newly established enterprises in the QCIP with fixed investment over RMB 10,000,000 will be exempted from Enterprise Income Tax for the first two years of production, and will also receive a 50 percent reduction of this income tax for the third through fifth years of production. Petitioner has provided information indicating that sodium nitrite producers are located in Shandong province.

Financial Contribution: Petitioner claims that the Shandong province tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Shandong province tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (newly established enterprises).

Benefit: Petitioner states that the Guangdong province tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the article “Introduction to the Qilu Chemical Industry Park,” (Volume 4 of the Petition at Exhibit IV-26).

Team's Recommendation: We recommend initiating an investigation of the Shandong Province Tax Programs.

29. Beijing Municipality Tax Programs

Description: Petitioner alleges that enterprises located in Beijing's Fine Chemical Base are exempted from paying income tax to the District Finance authority for 15 years, and that established enterprises receive a 50 percent income tax refund of the operations tax paid to the District Finance authority. Petitioner further alleges that FIEs located in Beijing Municipality are

eligible for the national “Two Free and Three Half” program, and that companies located in the municipality will receive a full refund of their income tax, operation tax, and VAT that is paid to the District Finance authority for the first three years of operation, and a 50 percent VAT tax refund for the following two years. Petitioner has provided information indicating that sodium nitrite producers are located in Beijing Municipality.

Financial Contribution: Petitioner claims that the Beijing municipality tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Beijing municipality tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (FIEs).

Benefit: Petitioner states that the Beijing municipality tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Beijing Daxing District Development and Reform Commission, “Olympic Promotional Report on Beijing Daxing District Beijing Fine Chemical Industry Base,” (April 27, 2007) (Volume 4 of the Petition at Exhibit IV-27).

Team’s Recommendation: We recommend initiating an investigation of the Beijing Municipality Tax Programs.

30. Tianjin Municipality Tax Programs

Description: Petitioner claims that productive enterprises, high-technology enterprises, and export-oriented enterprises located in Tianjin’s Fine Chemical Industrial Park are provided a 15 percent tax reduction by the Tianjin Municipality government. Petitioner further claims that productive FIEs are exempted from income taxes levied by the district administration, and that enterprises that are in operation for 10 or more years receive a tax rate similar to the Central Government’s “Two Free and Three Half” program. Finally, petitioner alleges that high-technology and export-oriented enterprises are eligible to receive a reduced income tax rate of 10 percent. Petitioner has provided information indicating that sodium nitrite producers are located in Tianjin municipality.

Financial Contribution: Petitioner claims that the Tianjin municipality tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Tianjin municipality tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (FIEs and chemical companies).

Benefit: Petitioner states that the Tianjin municipality tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of the article “TianJin Economic Technological Development Area-Chemical Industrial Park,” (2005) (Volume 4 of the Petition at Exhibit IV-28).

Team’s Recommendation: We recommend initiating an investigation of the Tianjin Municipality Tax Programs.

31. Shanghai Municipality Tax Programs

Description: Petitioner alleges that FIEs located in the Shanghai Chemical Industry Area (SCIA) receive a full exemption from the Enterprise Income Tax for the first and second years of operation, and a 50 percent exemption for the third to the fifth year of operation. Petitioner further alleges that the Shanghai Municipal government provides income tax exemptions to export-oriented FIEs, income tax refunds for reinvestment of FIE profits, reduced income tax rates for new or high-technology FIEs, and income tax credits for FIEs on purchases of domestically produced equipment. Additionally, Petitioner alleges that productive FIEs located in the Hongqiao, Minhang or Caohejing Economic and Technological Development Zones, FIEs located in Pudong New Area, and product-export enterprises and technologically advanced FIEs established in the Shanghai municipality will continue to receive preferential tax rates until the end of 2007. Petitioner has provided information indicating that sodium nitrite producers are located in Shanghai municipality.

Financial Contribution: Petitioner claims that the Shanghai municipality tax programs provide a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Shanghai municipality tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because these programs are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (FIEs).

Benefit: Petitioner states that the Shanghai municipality tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Notice of Shanghai Municipality Bureau of Local Taxes on the Renewal of Relevant Local Income Tax Preferential Policies for Some Foreign-funded Enterprises in Shanghai Until the End of 2007 (February 28, 2007) (Volume 4 of the Petition at Exhibit IV-30.)

Team’s Recommendation: We recommend initiating an investigation of the Shanghai Municipality Tax Programs.

32. Chongqing Municipality Tax Programs

Description: Petitioner alleges that chemical companies located in the Chongqing Chemical Industrial Park, in the Chongqing municipality, receive refunds for Enterprise Income Tax retained for the government at the district level. Petitioner claims that the refund schedule is 100 percent for the first and second years of production, 50 percent for the third to fifth year of production, and 50 percent from the sixth to the tenth year of production if the companies’ exports exceed 60 percent of the total sales income. Petitioner has provided information indicating that sodium nitrite producers are located in Chongqing municipality.

Financial Contribution: Petitioner claims that the Chongqing municipality tax programs provide

a financial contribution in the form of revenue forgone by the provincial government within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that the Chongqing municipality tax programs are specific within the meaning of section 771(5A)(D)(iv) of the Act because these programs are limited to enterprises located in designated geographic areas. Petitioner has also alleged that some of these programs may also be specific within the meaning of section 771(5A)(D)(i) of the Act because they are limited to a group of enterprises (chemical companies).

Benefit: Petitioner states that the Chongqing municipality tax programs provide a benefit to the recipient in the amount of tax savings within the meaning of 19 CFR 351.509(a)(1).

Support: A copy of Chongqing Municipal Taxation Administration, Circular of the Implementations of the West Revitalization Tax Policies for Industries and Economies (July 22, 2005) (Volume 4 of the Petition at Exhibit IV-31). A copy of the article “Chong Qing Chemical Industrial Park,” <http://www.investcq.gov.cn/2006bak/en/jttx.asp?id=171>, (Volume 4 of the Petition at Exhibit IV-32). A copy of Chongqing Chemical Industrial Park Preferential Policies (Volume 4 of the Petition at Exhibit IV-33).

Team’s Recommendation: We recommend initiating an investigation of the Chongqing Municipality Tax Programs.

Alleged Programs We Do Not Recommend Investigating

GOC Loan Program

1. Government Policy Lending

Description: Petitioner alleges that the GOC has targeted the chemical industry for policy loans and that sodium nitrite is part of the chemical industry. Petitioner has provided the relevant Chinese tariff provisions which indicates that the GOC considers sodium nitrite to be an inorganic chemical that is part of the chemical industry. Thus, according to the Petitioner, any policy loans targeted towards the chemical industry would be available to sodium nitrite producers.

According to Petitioner, the GOC’s Five-Year Plans for the chemical industry establish an average growth rate and set forth policy measures necessary to achieve the goals outlined in the plan. As producers in an encouraged industry under the Five-Year Plans, chemical companies such as sodium nitrite producers may benefit from the provision of discounted loans from state-owned commercial banks (SOCBs) as part of the GOC’s policy to encourage and advance the chemical industry. Petitioner notes that the Department found in CFS Paper that SOCBs are used as instruments by which the GOC implements its preferential policy lending. In addition, Petitioner argues that the China Commercial Banking Law requires SOCBs to lend under the guidance of the GOC industrial policies. Petitioner submitted information that shows that the GOC has used the banking system to keep afloat money-losing SOEs by pressuring state banks to provide low interest loans. Petitioner cites to specific evidence that a sodium nitrite producer, Dahua, is an SOE that has been operating at a loss since 2006 and has received “vigorous support from the state, provincial and municipal governments.” Based on this evidence, Petitioner alleges that Dahua has benefitted from the GOC policy lending program.

Financial Contribution: Petitioner states that the policy lending program provides a financial

contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

Specificity: Petitioner argues that the program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to the chemical industry.

Benefit: Pursuant to section 771(5)(E)(ii) of the Act, the benefit from any SOCB loan is equal to the difference between what the recipient paid on the government-provided loan and the amount the recipient would have paid for a comparable commercial loan, including any difference in guarantee fees.

Support: A copy of the Catalogue of Key Industries, Products, and Technologies Encouraged for Development by the State, article 16 (December 31, 1997) (Volume 4 of the Petition at Exhibit IV-38). A copy of the National Development and Reform Commission's Directory Catalogue on Readjustment of Industrial Structure, No. 40, article IX (December 2, 2005) (Volume 4 of the Petition at Exhibit IV-5). A copy of the PRC Civilian Economy and Social Development 10th Five-Year Plan Outline, 4th Conference of National People's Congress (March 15, 2001) (Volume 4 of the Petition at Exhibit IV-4). Premier's Speech at the 4th Conference of National People's Congress (March 15, 2001) on the 10th Five-Year Plan for National Economic and Social Development (Volume 4 of the Petition at Exhibit IV-44). A copy of the Tenth Five-Year Plan of the Chemical Industry and Its Development, article 1(1) (September 16, 2005) (Volume 4 of the Petition at Exhibit IV-7). A copy of the Outline of the Eleventh Five-Year Plan of the Chemical Industry and Its Development (September 9, 2006) (Volume 4 of the Petition at Exhibit IV-8). Cite to CFS Paper and Issues and Decision Memorandum at 60. A copy of Congressional Research Service Report IB98014: China's Economic Conditions (April 11, 2003) (Supplemental Questionnaire Response at Exhibit 7, dated November 20, 2007). A copy of the Law of the PRC on Commercial Banks, Order No. 47 of the President of the PRC (May 10, 1995) article 34 (Supplemental Questionnaire Response at Exhibit 9, dated November 20, 2007). Dalian Chemical Industry website article, "Cradle of Chinese Chemical Industry" (September 10, 2007), <http://en.dahuagf.com> (Supplemental Questionnaire Response at Exhibit 5, dated November 20, 2007).

Team's Recommendation: For purposes of the initiation, we find that the Petitioner has not provided sufficient information to show that the chemical industry has been targeted for policy loans by the GOC. Petitioner alleges that under the GOC's National Tenth Five-Year Plan and the Tenth and Eleventh Five-Year Plans of the Chemical Industry, sodium nitrite producers may benefit from the provision of loans by state-owned commercial banks as part of the GOC's policy to encourage and to advance the chemical industry. In support of its allegation, Petitioner provided translated copies of the "Tenth Five-Year Plan for National Economic and Social Development," and the "Tenth Five-Year Plan of the Chemical Industry and Its Development," and a short, translated excerpt of the "Eleventh Five-Year Plan of the Chemical Industry and Its Development." Our review of these documents did not indicate that financing or loans were available to be used in the development of the chemical industry. Accordingly, we find that petitioner has not provided sufficient information to warrant initiation of an investigation of this program.

GOC Provision of Goods for Less than Adequate Remuneration

2. Provision of Natural Gas to SOEs for Less than Adequate Remuneration

Description: Petitioner alleges that the GOC provides natural gas for less than adequate remuneration by way of reduced natural gas rates to SOEs. Petitioner notes that the GOC

acknowledged in its WTO accession documents that it provides subsidies on energy inputs to special industrial sectors.

Financial Contribution: Petitioner alleges that this program provides a financial contribution because the GOC provides discounted natural gas to the producers of subject merchandise within the meaning of section 771(5)(D)(iii) of the Act. In addition, the preferential provision of natural gas to SOEs in energy-intensive or highly polluting industries does not fall within the “general infrastructure” exception to section 771(5)(D)(iii) of the Act because it cannot be construed as a financial contribution “created for the broad societal welfare,” as required by 19 CFR 351.511(d).

Specificity: Petitioner alleges that the preferential provision of natural gas is specific because the GOC exercises discretion in deciding whether to offer natural gas to a particular enterprise, such as SOEs, within the meaning of section 771(5A)(D)(iii) of the Act.

Benefit: Petitioner alleges that natural gas is provided by the GOC for less than adequate remuneration within the meaning of 19 CFR 351.511(a)(2), and that the GOC provides a benefit according to section 771(5)(E)(iv) of the Act.

Support: Statement by Usha C.V. Haley to U.S. House Ways and Means Committee – University of New Haven, February 15, 2007 (Volume 4 of the Petition at Exhibit IV-53).

Team’s Recommendation: We recommend not investigating the provision of natural gas for less than adequate remuneration. Petitioner has not submitted any supporting documentation to indicate that natural gas is being provided by the GOC for less than adequate remuneration. The document cited by Petitioner at Exhibit IV-53, does not include any references to reduced or discounted natural gas rates to SOEs.

3. Provision of Water to SOEs for Less than Adequate Remuneration

Description: Petitioner alleges that the GOC provides an unlimited water supply at preferential water prices in order to promote SOEs in the chemical industry.

Financial Contribution: Petitioner alleges that this program provides a financial contribution because the GOC provides cheap water to the producers of subject merchandise within the meaning of section 771(5)(D)(iii) of the Act.

Specificity: Petitioner alleges that the preferential provision of water is specific because the GOC exercises discretion in deciding whether to offer water at lower rates to a particular enterprise, such as SOEs, within the meaning of section 771(5A)(D)(iii) of the Act.

Benefit: Petitioner alleges that water is provided by the GOC for less than adequate remuneration within the meaning of 19 CFR 351.511(a)(2), and that the GOC provides a benefit according to section 771(5)(E)(iv) of the Act.

Support: None.

Team’s Recommendation: We recommend not investigating the provision of water for less than adequate remuneration because this allegation is not supported by any documentation.

4. VAT Exemptions on Exports

Description: Petitioner alleges that the GOC enterprises are exempted from paying import tariffs and VAT payments on imported equipment provided that these goods are not for resale. Petitioner notes that in certain cases, a full 17-percent VAT exemption will apply upon export. Petitioner states that the program, by definition, is conditioned upon export performance, and therefore, is an export subsidy. Petitioner further alleges that this is a prohibited export subsidy if the exemption or reduction of indirect taxes on the exported product exceeds the indirect taxes levied on the inputs into the exported product.

Financial Contribution: Petitioner alleges that this VAT exemption on exports provides a financial contribution through the foregoing of revenue otherwise due to the GOC, within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: Petitioner alleges that since the VAT rebate is only available to exporters, it is contingent upon export performance and thus, specific under section 771(5A)(B) of the Act.

Benefit: The benefit conferred under this program by the exemption of VAT upon export exists to the extent that the amount exempted exceeds the amount levied with respect to the production and distribution of the like products when sold for domestic consumption, within the meaning of 19 CFR 351.517(a).

Support: A copy of the Interim Regulations of the People's Republic of China on Value-Added Tax, Decree No. 134 of the State Council, at article 1 (December 13, 1993) (Volume 4 of the Petition at IV-34). A copy of the Circular of the State Administration of Taxation on Some Tax Issues Concerning Export Goods of Enterprises with Foreign Investment, GUOSHUIFA No. 189, article 1 (October 8, 1999) (Volume 4 of the Petition at Exhibit IV-35).

Recommendation: Petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not recommend investigating this program.

OTHER ISSUES:

None.

RECOMMENDATION:

We have examined the accuracy and adequacy of the evidence provided in the petition, and recommend determining that the evidence is sufficient to justify the initiation of a countervailing duty investigation. We also recommend determining that the petition has been filed by, or on behalf of, the domestic industry.

ATTACHMENTS:

- I. Scope
- II. Industry Support
- III. Analysis of Allegations and Evidence of Material Injury and Causation
- IV. Action Letter from the ITC (paper copy only - not included)

Attachment I

Scope of the Investigations

The merchandise covered by each of these investigations is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is NaNO_2 and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name “sodium nitrite” to sodium nitrite. The CAS registry number is 7632-00-0. While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

ATTACHMENT II

Analysis of Industry Support for the Petitions Covering Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China

Background_____

Sections 702(c)(4)(A) and 732(c)(4)(A) of the Tariff Act of 1930, as amended (“the Act”), state that the administering authority shall determine that a petition has been filed by or on behalf of the industry if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. The above-referenced petitions claim that both ratios are met because the petitioner¹ accounts for greater than 50 percent of total production of the domestic like product.

Section 771(4)(A) of the Act defines the “industry” as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001), citing Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 644 (1988), aff’d 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation,” *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

While the Department is not bound by the criteria used by the ITC to determine the domestic like product in answering this question, we have reviewed these factors as presented by the petitioner. The criteria are: 1) physical characteristics and uses; 2) interchangeability; 3) channels of distribution; 4) customer and producer perceptions; 5) common manufacturing facilities, processes, and employees; and 6) price. See Fujitsu Ltd., v. United States, 36 F. Supp. 2d 394, 397 (CIT 1999); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted in the petitions, we have determined that the domestic

¹ The petitioner is General Chemical LLC.

like product consists of sodium nitrite in any form and purity level. Please see the “Analysis of Domestic Like Products” section below for a detailed analysis and discussion.

Analysis of Domestic Like Products

The petitioner addresses the six criteria used by the ITC to determine the domestic like product on pages 30-34 of Volume I of the petitions and on page 1 of the November 19, 2007, Supplement to the petitions. The petitioner makes the following arguments:

1) Physical characteristics and uses

The petitioner states that sodium nitrite is a white to slightly yellowish crystalline granular or flake material that is very soluble in water. According to the petitioner, sodium nitrite is sold in crystalline form (granular, flake, or prill) or in liquid form. With regard to uses, the petitioner notes that sodium nitrite has many industrial and commercial uses, including the following: as an ingredient in the manufacture of dyes and other chemicals, as a corrosion inhibitor in liquids such as automobile antifreeze and paints, and as an additive in the manufacture of synthetic rubbers and in wastewater treatment. Sodium nitrite is also used in human and veterinary medicine as a vasodilator, a bronchodilator, an intestinal relaxant or laxative, and as an antidote for cyanide poisoning. See Volume I of the petitions at pages 30-31. The petitioner further described the uses for each grade and type of sodium nitrite in the November 19, 2007, Supplement to the petitions at page 1.

2) Interchangeability

The petitioner states all sodium nitrite has the same basic chemical structure; therefore, sodium nitrite of the same quality grade is interchangeable regardless of its physical form (whether granular, liquid, flake or prill). In addition, the petitioner notes that there are two primary quality grades of sodium nitrite (technical grade and food grade). According to the petitioner, sodium nitrite that meets only the technical grade specifications should not be used in food products; however, sodium nitrite that meets food grade specifications can be substituted for technical grade sodium nitrite. Furthermore, the petitioner notes that no other single chemical can substitute for sodium nitrite in all its end uses. See Volume I of the petitions at page 31.

3) Channels of Distribution

The petitioner states that all grades of sodium nitrite are often sold through distributors, but large U.S. customers tend to purchase their sodium nitrite requirements directly from manufacturers. The petitioner also notes that all sodium nitrite is then used by manufacturers to make intermediate or finished products. See Volume I of the petitions at page 31.

4) Customer and Producer Perceptions

According to the petitioner, neither producers nor customers perceive sodium nitrite of the same quality grade to be distinguishable. The petitioner further notes that customers interchangeably use sodium nitrite of the same quality grade from different sources. In addition, the petitioner

states that sodium nitrite producers use the same production facilities to produce all grades and forms of sodium nitrite even though some grades require additional production steps that are not applicable to other grades. See Volume I of the petitions at page 32.

5) Common Manufacturing Facilities, Production Processes, and Production Employees

The petitioner notes that all sodium nitrite is produced commercially by reacting sodium hydroxide (caustic soda) or soda ash and ammonia. The petitioner also states that sodium nitrite producers use the same production facilities and employees to produce sodium nitrite of different quality grades and physical forms. See Volume I of the petitions at pages 32-33.

6) Price

The petitioner states that prices for sodium nitrite vary depending on the product grade, with the prices for technical grade sodium nitrite generally being lower than the prices for other grades. See Volume I of the petitions at pages 33-34.

Industry Support Calculation

A petitioner has standing if those domestic workers and producers who support the petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. To determine whether the petitioner in this case has standing, we conducted the following analysis.

We considered the industry support data contained in the petitions with reference to the domestic like product as discussed above. The petitioner states that, based on its knowledge of the industry, General Chemical is the only sodium nitrite producer in the United States.² See Volume I of the petitions at page 3 and Exhibit I-1.

The petitioner produced [* * *] short tons of sodium nitrite in calendar year 2006.³ See Volume I of the petitions at page 3. Because the petitioner, General Chemical, is the only known producer of the domestic like product in the United States, the petitioner determined that it accounts for 100 percent of total production of the domestic like product. See Volume I of the petitions at page 3 and Exhibit I-1.

Challenge to Industry Support

None.

Findings

We relied on information provided by the petitioner, as described above, to establish total 2006 domestic production of sodium nitrite. Using these data, as demonstrated above, we find

² General Chemical acquired Repauno Products, LLC, the only other producer of sodium nitrite, in July 2006.

³ This production quantity includes both General Chemical's and Repauno Products, LLC's 2006 production.

Contains Business Proprietary Information

domestic producers who support the petitions account for at least 25 percent of the total production of the domestic like product. We further find the domestic producers who support the petitions account for more than 50 percent of the production of the domestic like products produced by that portion of the industry expressing support for, or opposition to, the petitions. Therefore, we find that there is adequate industry support within the meaning of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

We conducted a search of the internet and have been unable to locate information that contradicts the petitioner's information. We believe that the petitioner has provided data that are reasonably available. For these reasons, we find that there is adequate industry support for initiating these investigations. Accordingly, we find that the petitions have met the requirements of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

ATTACHMENT III

Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China

I. Introduction

When making a determination regarding the initiation of an antidumping or countervailing duty investigation, the Department examines whether a petition alleges the elements necessary for the imposition of antidumping or countervailing duties and contains information reasonably available to the petitioners that support the allegations. See sections 702(c)(1)(A)(i) and 732(c)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act). This attachment analyzes the sufficiency of the allegations and supporting evidence regarding material injury and causation.

II. Definition of Domestic Industry

The domestic industry is described with reference to producers of the domestic like product, as provided for in section 771(4)(A) of the Act. The petitions define the domestic industry as producers of sodium nitrite. See Volume I of the petitions at page 34. The petitioner identified itself, General Chemical LLC (the petitioner), the sole producer of the domestic like product, as the company constituting the domestic like product industry in the United States. See Volume I of the petitions at pages 2, 3, and 34, and Exhibit I-I. For a discussion on the domestic like product, see Attachment II, "Analysis of Industry Support," to this Checklist.

III. Evidence of Injury

Section 771(7)(C)(iii) of the Act states that:

In examining the impact {of imports on domestic producers}, the {ITC} shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

- (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
- (II) factors affecting domestic prices,
- (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment,
- (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry..., and
- (V) in {an antidumping proceeding}, the magnitude of the margin of dumping.

The petitions allege that the domestic industry has experienced the following types of injury by reason of imports from the Federal Republic of Germany (Germany) and the People's Republic of China (the PRC):

- Reduced market share (Volume I of the petitions at pages 37-38, 40-41, and Exhibit V-5,

- and Supplement to the petitions, dated November 19, 2007, at pages 4-5, and Exhibit 3)
- Lost sales (Volume I of the petitions at pages 38-39, 42-43, and Exhibits V-3 and V-4)
- Reduced production, capacity, and capacity utilization rate (Volume I of the petitions at pages 40-41, and Exhibit V-6)
- Reduced shipments (Volume I of the petitions at pages 40-41)
- Underselling and price depressing and suppressing effects (Volume I of the petitions at pages 38-39, and Exhibits V-3 and V-4)
- Lost revenue (Volume I of the petitions at pages 39, 42-43, and Exhibits V-3 and V-4)
- Reduced employment (Volume I of the petitions at page 42)
- Decline in financial performance (Volume I of the petitions at pages 39-40, 42, and Exhibit V-7)
- Increase in import penetration (Volume I of the petitions at pages 37-38, 40-41, and Exhibit V-5 and Supplement to the petitions, dated November 19, 2007, at pages 4-5, and Exhibit 3)

The petitions also allege that the domestic industry could be threatened with further injury by reason of imports from Germany and the PRC:

- Increase of subject imports (Volume I of the petitions at page 44)
- Low barriers to entry (Volume I of the petitions at page 44)
- Excess production capacity (Volume I of the petitions at pages 43-44)
- Price depression or suppression (Volume I of the petitions at page 44, and Exhibit V-4)

The information from the petitions provides the Department with a sufficient basis to conclude that the allegations of material injury and threat of material injury as a result of imports of subject merchandise is adequately supported.

IV. Cumulation

Section 771(7)(G)(i) of the Act requires the ITC to cumulate imports from all countries for which petitions were filed on the same day if such imports compete with each other and with the domestic like product in the United States market. On November 8, 2007, the petitioner filed petitions against the two subject countries in these investigations. The petitions allege that cumulation is appropriate. See Volume I of the petitions at pages 35-36.

In determining whether cumulation is appropriate, the Commission uses a framework of four factors. These factors, along with the sections of the petitions in which they are addressed, are listed below.

- The degree of fungibility between imports from the three subject countries and between the imports and the domestic like product.

The petitioner states that “{s}odium nitrite is a chemical product manufactured to standard industry specifications and, as such, is a fungible product.” See Volume I of the petitions at page 35. The petitioner explains further that while imported sodium nitrite might vary in its physical form “it is imported within the same range of grades and is used for the

same general end uses by the same end users as the domestic like product.” See Volume I of the petitions at page 35.

- The presence of sales or offers for sale of the imports and the domestic like product in the same geographic markets.

The petitioner comments that “{t}here is complete geographic overlap of markets for U.S.-produced and imported sodium nitrite as both are sold throughout the United States.” See Volume I of the petitions at page 36.

- Whether the imports and the domestic like product are handled in common or similar channels of distribution.

The petitioner states that “both subject imports and the domestic like product are sold in most cases directly to end-users.” See Volume I of the petitions at page 35.

- Whether the imports are present in the U.S. market simultaneously.

The petitioner explains that “imports of sodium nitrite from Germany and China have maintained a presence in the U.S. market in each of the past three years, as well as during the interim 2007 period. Likewise the domestic product was sold to U.S. purchasers throughout the period of investigation.” See Volume I of the petitions at page 36, and Exhibit V-2, and Supplement to the petitions, dated November 19, 2007, at pages 2-4, and Exhibits 1 and 2.

V. Negligibility

Section 771(24)(A)(i) of the Act states that “imports from a country of merchandise corresponding to a domestic like product identified by the Commission are ‘negligible’ if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which the data are available. . . .” The petitioner submits that data in the petitions demonstrate that “imports from each of the subject countries significantly exceed the statutory negligibility threshold. . . .” See Volume I of the petitions at page 34 and Exhibit V-2, and Supplement to the petitions, dated November 19, 2007, at pages 3-4, and Exhibit 1.

VI. Causation of Material Injury

The petitions claim that the material injury to the domestic industry has been caused by the cumulated impact of the allegedly dumped and/or subsidized imports from Germany and the PRC. In support of this argument, the petitioner provided information on the historical trend of the volume of the allegedly dumped and/or subsidized imports focusing on the period beginning with 2004 through 2007 year-to-date. See Volume I of the petitions at pages 34, 37-38, and

Exhibit V-2, and Supplement to the petitions, dated November 19, 2007, at pages 2-4, and Exhibit 2. In the petitions, the petitioner demonstrated the effect of these import volumes, and their respective value, on domestic prices, production, market share, and the consequent impact on the domestic industry, specifically on sales and revenue. The petitioner provides evidence to exhibit that increasing imports of the subject merchandise at prices substantially lower than price offers from the U.S. producers results in lost sales and revenues, which then leads to a decline in the U.S. industry profitability and market share.

In making a determination regarding causation, the ITC is directed to evaluate the volume of subject imports (section 771(7)(B)(i)(I) of the Act) and the effect of those imports on the prices of domestically-produced products (section 771(7)(B)(i)(II) of the Act) and their impact on the domestic operations of U.S. producers (section 771(7)(B)(i)(III) of the Act). The petitioner based its allegations of causation of current injury upon trends in increasing import volumes, the effect of such imports on domestic prices, and significant price underselling of the subject imports.

The allegations of causation of material injury are based upon the factors indicating current injury as noted above. The factors related to causation presented in the injury section of the petitions are the types of factors that the ITC is directed to consider for the purpose of evaluating causation under sections 771(7)(C) and 771(7)(F) of the Act.

VII. Conclusion

In order to assess the accuracy and adequacy of the evidence relating to the allegations regarding material injury and causation, the information presented in the petitions was examined and compared with information that was reasonably available (e.g., import data on the ITC website, and additional industry and press reports available online). The comparison showed that reasonably available information corroborated the information provided in the petitions.

The information in the petitions demonstrates a sufficient showing of injury to the producer of sodium nitrite. Therefore, we find the overall evidence of injury included in the petitions to be adequate to initiate the investigations of sodium nitrite from Germany and the PRC.