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Committee on Subsidies and Countervailing Measures

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SUBSIDIES

REQUEST FROM THE UNITED STATES TO CHINA PURSUANT TO ARTICLE 25.10 OF THE AGREEMENT

The following communication, dated 16 October 2015, is being circulated at the request of the Delegation of the United States.

The United States notes that China has submitted only two subsidy notifications under Article XVI:1 of the General Agreement on Tariffs and Trade 1994 (the GATT 1994) and Article 25.2 of the Agreement on Subsidies and Countervailing Measures (the Agreement) in its 14 years of WTO Membership and has not notified any subsidies provided after 2008. China submitted its first notification (G/SCM/N/123/CHN) in 2006; this notification covered the time period from 2001 to 2004. China submitted its second notification (G/SCM/N/155/CHN) in 2011; this notification covered the time period from 2005 to 2008. The United States and several other Members have expressed serious concerns about the lateness and incompleteness of these two notifications - including China's failure to notify any subsidy measures at the sub-central levels of government - and have repeatedly requested that China submit its overdue subsidy notifications under Article 25.2 of the Agreement for the periods subsequent to 2008.

Four years ago, in 2011, the United States filed a submission under Article 25.10 of the Agreement (G/SCM/Q2/CHN/42) listing nearly 200 subsidy measures that appeared as if they should have been notified by China. Although not required by the Agreement, translations of each of these measures were also made available. While China has questioned whether all the measures in the Article 25.10 submission were properly included, China has not questioned the vast majority of the measures at issue and to date has not notified any of these uncontested measures.

In 2012, the United States invoked Article 25.8 of the Agreement and made a written request for information on the nature and extent of numerous assistance programs granted or maintained by China (G/SCM/Q2/CHN/46). Despite its obligation under Article 25.9 of the Agreement to provide answers "as quickly as possible and in a comprehensive manner", China did not meaningfully respond to the United States' request. In light of China's failure to substantially respond, the United States sought out, collected copies of, and translated into English the measures that established or implemented the assistance programs addressed in the United States' Article 25.8 request and last fall filed its second submission under Article 25.10 of the Agreement (G/SCM/Q2/CHN/51).

In the spring of 2014, the United States invoked Article 25.8 of the Agreement again, and made a written request for information on the nature and extent of a comprehensive support regime for China's so-called "strategic emerging industries" (SEIs).¹ Although this support policy is perhaps China's primary industrial support policy for the 12th Five-Year planning period (2011-2015), it has not been notified. Once again, despite its obligation under Article 25.9 of the Agreement to provide answers "as quickly as possible and in a comprehensive manner", China to date has not meaningfully responded to the United States' request and has refused repeated requests to meet bilaterally to discuss the issue and the issue of subsidy notification more generally. In light of

¹ See, G/SCM/Q2/CHN/50.

China's failure to substantially respond, the United States, once again, has no other choice but to avail itself of the mechanism under Article 25.10.²

As we noted previously, in 2010, China's State Council announced its decision to support the development of SEIs through a wide range of support policies. Subsequently, China's central and sub-central authorities have issued dozens, if not hundreds of measures, for the 12th Five-Year planning period that target the development of the SEI sectors.

The United States notes that the list below is merely illustrative of the universe of SEI measures in China. The United States considers that these measures, along with any other additional measures implementing them, should be subject to notification to the Committee on Subsidies and Countervailing Measures (the Committee) under Article XVI:1 of the GATT 1994 and Article 25.2 of the Agreement, because they appear to provide specific subsidies within the meaning of Articles 1.1 and 2 of the Agreement.

The United States requests that China notify these measures to the Committee under Article 25.10 of the Agreement. Should a notification not be made promptly, the United States reserves its right to raise the alleged subsidies for discussion at the next regular meeting of the Committee.

I. State Council Decision on SEIs

1. *State Council Decision on Accelerating the Cultivation and Development of Strategic Emerging Industries*, State Council, Guo Fa [2010] No. 32 (10 October 2010).

II. Central Government SEI Funding Measures

2. *Notice on Advancing the Focus of Strategic Emerging Industries' Key Generic Technologies and Key Products (First Batch)*, Ministry of Industry and Information Technology, Gong Xin Bu Gui [2012] No. 318 (4 July 2012).

3. *Interim Measure on the Administration of the Strategic Emerging Industries Development Special Fund*, Ministry of Finance, National Development and Reform Commission, Cai Jian [2012] No. 1111 (31 December 2012).

4. *Guideline on Strategic Emerging Industries Special Bond Issuance*, National Development and Reform Commission, Fa Gai Ban Cai Jin [2015] No. 756 (31 March 2015).

III. Sub-Central SEI Funding Measures

5. *Beijing Municipality Opinion on the Implementation of Accelerating the Cultivation and Development of Strategic Emerging Industries*, Beijing Municipal People's Government, Jing Zheng Fa [2011] No. 38 (21 July 2011).

6. *Fujian Province Plan on the Implementation of Accelerating the Development of Strategic Emerging Industries*, Fujian Provincial People's Government, Min Zheng [2011] No. 104 (10 December 2011).

7. *Jiangxi Province Interim Measure on the Administration of the Strategic Emerging Industries Investment Guidance Fund*, Jiangxi Provincial People's Government (27 March 2012).

8. *Shandong Province 12th Five-Year Plan on Strategic Emerging Industries Development*, Shandong Provincial People's Government, Lu Zheng Fa [2012] No. 42 (2 November 2012).

9. *Shanghai Municipality Measure on the Administration of the Strategic Emerging Industries Development Special Fund*, Shanghai Municipal Development and Reform Commission, Shanghai Municipal Department of Finance, Hu Fu Fa [2012] No. 72 (4 August 2012).

² In April of 2015, the United States also submitted Article 25.8 questions to China regarding numerous fishery support programs (See, G/SCM/Q2/CHN/52). To date, these questions have not been answered.

10. *Opinion on the Implementation of State Council Deployment of Accelerating the Cultivation and Development of Strategic Emerging Industries*, Guangdong Provincial People's Government, Yue Fu [2011] No. 87 (20 July 2011).
11. *Gansu Province Plan on the Implementation of the Strategic Emerging Industries Development Overall Campaign*, Gansu Provincial People's Government, Gan Zheng Fa [2014] No. 87 (15 September 2014).
12. *Gansu Province Measure for the Administration of the Strategic Emerging Industries Development Provincial-Level Financial Funding Investment*, Gansu Provincial People's Government, Gan Zheng Ban Fa [2014] No. 176 (3 November 2014).
13. *Zhejiang Province Interim Measure on the Administration of the Strategic Emerging Industries Finance Special Fund*, Zhejiang Province Department of Finance, Zhe Cai Qi [2012] No. 152 (22 May 2012).
14. *Ningbo City Rule on the Strategic Emerging Industries Development Special Administration (Trial)*, Ningbo City Accelerating the Cultivation and Development of Strategic Emerging Industries Work Leading Small Group Office, Yong Xin Ling Ban [2013] No. 2 (9 April 2013).
15. *Ninghai County Opinion on the Implementation of Accelerating the Cultivation and Development of Strategic Emerging Industries*, Ninghai County People's Government, Ning Dang Fa [2013] No. 27 (16 August 2013).
16. *Ninghai County Notice on Transmitting Down the 2015 Ningbo City Strategic Emerging Industries Development Special Financial Subsidies*, Ninghai County Development and Reform Bureau, Ninghai County Finance Bureau, Ning Fa Gai [2015] No. 23 (22 May 2015).
17. *CPC Wenzhou City Ouhai District Commission and Wenzhou City Ouhai District People's Government Opinion on the Implementation of Accelerating the Cultivation and Development of Strategic Emerging Industries (Trial)*, CPC Wenzhou City Ouhai District Commission, Wenzhou City Ouhai District People's Government, Ou Wei Fa [2012] No. 91 (20 July 2012).
18. *Ouhai District Measure on the Administration of the Cultivation and Development of Strategic Emerging Industries Special Fund (Trial)*, Wenzhou City Ouhai District People's Government, Wen Ou Zheng Ban Fa [2013] No. 79 (9 May 2013).
19. *Sichuan Province Measure on the Use and Administration of the Strategic Emerging Industries Development Special Fund*, Sichuan Provincial People's Government, Chuan Ban Fa [2012] No. 22 (11 April 2012).
20. *Sichuan Province Rule on the Implementation of the Measure on the Use and Administration of the Strategic Emerging Industries Development Special Fund*, Sichuan Province Industrialization and Urbanization Work Leading Small Group, Chuan Gong Cheng [2012] No. 1 (4 June 2012).
21. *Jiangsu Province Interim Measure on the Administration of the Provincial-Level Strategic Emerging Industries Development Special Fund*, Jiangsu Provincial People's Government, Su Zheng Ban Fa [2012] No. 172 (25 September 2012).
22. *Heilongjiang Province 12th Five-Year Plan on Strategic Emerging Industries Development*, Heilongjiang Provincial Development and Reform Commission (19 August 2015).
23. *Xinjiang Uyghur Autonomous Region Interim Measure on the Administration of the Strategic Emerging Industries Special Fund*, Xinjiang Uyghur Autonomous Region Department of Finance, Xinjiang Uyghur Autonomous Region Economic and Informatization Commission, Xin Cai Jian [2011] No. 728 (29 November 2011).

IV. SEI Guiding Catalogues

24. *Collection of Public Comment for the Catalogue on Strategic Emerging Industries Classification*, Ministry of Industry and Information Technology Operations Monitoring and Coordination Department (12 November 2012).

42. *12th Five-Year Plan on Integrated Circuit Industry Development*, Ministry of Industry and Information Technology, Gong Xin Bu Gui [2011] No. 565 (5 December 2011).
43. *12th Five-Year Plan on Telecommunications Industry Development*, Ministry of Industry and Information Technology (4 May 2012).
44. *12th Five-Year Plan on Software and Information Technology Services Industry Development*, Ministry of Industry and Information Technology (6 April 2012).
45. *12th Five-Year Plan on Biotechnology Development*, Ministry of Science and Technology, Guo Ke Fa She [2011] No. 588 (14 November 2011).
46. *12th Five-Year Plan on Medical Technology Development*, Ministry of Science and Technology, Ministry of Health, State Food and Drug Administration, State Administration of Traditional Chinese Medicine, Ministry of Education, National Population and Family Planning Commission, Chinese Academy of Sciences, China Academy of Engineering, National Science Foundation of China, People's Liberation Army General Logistics Department and Health Department, Guo Ke Fa Ji [2011] No. 552 (28 October 2011).
47. *12th Five-Year Plan on High-end Equipment Manufacturing Industry Development*, Ministry of Industry and Information Technology (7 May 2012).
48. *12th Five-Year Plan on New Materials Industry Development*, Ministry of Industry and Information Technology (4 January 2012).
49. *12th Five-Year Special Plan on High-Performance Membrane Materials Technology Development*, Ministry of Science and Technology, Guo Ke Fa Gao [2012] No. 895 (21 August 2012).
50. *12th Five-Year Plan on Energy-Saving and New Energy Automotives Industry Development (2012-2020)*, State Council, Guo Fa [2012] No. 22 (28 June 2012).
51. *12th Five-Year Special Plan on Electric Vehicles Technology Development*, Ministry of Science and Technology, Guo Ke Fa Ji [2012] No. 195 (27 March 2012).
52. *12th Five-Year Special Plan on High Quality Specialized Steel Technology Development*, Ministry of Science and Technology (6 August 2012).
53. *Semiconductor Light Energy-Saving Industry Plan*, National Development and Reform Commission, Ministry of Science and Technology, Ministry of Industry and Information Technology, Ministry of Finance, Ministry of Housing and Urban Development, General Administration of Quality Supervision, Inspection, and Quarantine, Fa Gai Huan Zi [2013] No. 188 (30 January 2013).

VI. Sub-Central SEI 12th Five-Year Plans

54. *Zhejiang Province 12th Five-Year Plan on Energy Technology Equipment Industry Development*, Zhejiang Provincial Development and Reform Commission, Zhe Fa Gai Gui Hua [2012] No. 489 (7 May 2012).
55. *Beijing Municipality 12th Five-Year Plan on Biological and Pharmaceutical Industry Development*, Beijing Municipal Commission of Economy and Information Technology (October 2011).
56. *Guangdong Province 12th Five-Year Plan on LED Industry Development*, Guangdong Provincial People's Government, Yue Ke Han Gui Hua Zi [2011] No. 487 (2011).
57. *Jiangsu Province 12th Five-Year Plan on the Cultivation and Development of Strategic Emerging Industries*, Jiangsu Provincial People's Government, Su Zheng Fa [2011] No. 186 (28 December 2011).

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58. *Shanghai Municipality 12th Five-Year Plan on Strategic Emerging Industries Development*, Shanghai Municipal People's Government, Hu Fu Fa [2012] No. 1 (4 January 2012).
59. *Guangdong Province 12th Five-Year Plan on Strategic Emerging Industries Development*, Guangdong Provincial People's Government, Yue Fu Ban [2012] No. 15 (6 March 2012).
60. *Sichuan Province 12th Five-Year Plan on Strategic Emerging Industries Development*, Sichuan Provincial People's Government, Chuan Ban Fa [2011] No. 74 (11 November 2011).
61. *National Development and Reform Commission, Ministry of Finance Opinion on the Guidance of Pushing Forward Area Strategic Emerging Industries' Cluster Development Pilot Work (Trial)*, National Development and Reform Commission, Ministry of Finance, Fa Gai Gao Ji [2012] No. 3438 (31 October 2012).
62. *National Development and Reform Commission, Ministry of Finance Notice on Organizing and Implementing Strategic Emerging Industries Area Cluster Development Pilots*, National Development and Reform Commission, Ministry of Finance, Fa Gai Gao Ji [2014] No. 1179 (4 June 2014).
63. *Notice on Transmitting the Guangdong Province Strategic Emerging Industries Area Cluster Development Pilot Project Fund Arrangement Plan*, Guangdong Province Development and Reform Commission, Guangdong Province Economic and Informatization Commission, Guangdong Province Department of Science and Technology, Guangdong Province Department of Finance (17 November 2014).
64. *Anhui Provincial People's Government Opinion on Accelerating the Construction of Strategic Emerging Industries Cluster Development Bases*, Anhui Provincial People's Government, Wan Zheng [2015] No. 48 (25 April 2015).
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