

Dated: February 13, 2007.

**C.W. Di Bella,**

*Acting Executive Director, Nuclear Waste Technical Review Board.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-358]

### WTO Dispute Settlement Proceeding Regarding China—Certain Measures Granting Refunds, Reductions or Exemptions From Taxes and Other Payments

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that on February 2, 2007, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), the United States requested consultations regarding certain measures granting refunds, reductions or exemptions from taxes and other payments owed to the government by enterprises in China. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS358/1. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the consultations, comments should be submitted on or before March 12, 2006 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0507@ustr.eop.gov](mailto:FR0507@ustr.eop.gov), with “China Prohibited Subsidies (DS358)” in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

**FOR FURTHER INFORMATION CONTACT:** Arun Venkataraman, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC (202) 395-5694.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. In

an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (“DSU”). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

### Major Issues Raised by the United States

On February 2, 2007, the United States requested consultations with China regarding certain measures granting refunds, reductions or exemptions from taxes and other payments owed to the government by enterprises in China. These measures include the following, as well as any amendments and related or implementing measures:

1. Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refunds to Enterprises with Foreign Investment for Their Domestic Equipment Purchases;

2. Circular of the Ministry of Finance and the State Administration of Taxation Concerning the Issue of Tax Credit for Business Income Tax for Homemade Equipment Purchased by Enterprises with Foreign Investment and Foreign Enterprises, read in conjunction with Circular of the State Administration of Taxation on Printing and Distributing the Measures Concerning Business Income Tax Credit on the Investment of Enterprises with Foreign Investment and Foreign Enterprises by Way of Purchasing Homemade Equipment;

3. Circular on Distribution of Interim Measures Concerning Reduction and Exemption of Enterprise Income Tax for Investment in Domestically Made Equipment for Technological Renovation;

4. Articles 75(7) and 75(8) of the Rules for Implementation of the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, read in conjunction with Articles 8 and 9 of the Provisions of the State Council on the Encouragement of Foreign Investment and Articles 6 and 8 of the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises;

5. Article 73(6) of the Rules for Implementation of the Income Tax Law

of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, read in conjunction with Articles 6 and 7 of the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises and Section XIII of the Catalogue for the Guidance of Foreign Investment Industries;

6. Article 81 of the Rules for Implementation of the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, read in conjunction with Articles 6 and 10 of the Income Tax Law of the People’s Republic of China on Enterprises with Foreign Investment and Foreign Enterprises and Article 10 of the Provisions of the State Council on the Encouragement of Foreign Investment;

7. Article 3 of the Provisions of the State Council on the Encouragement of Foreign Investment;

8. Articles 3 and 6 of the Circular of the People’s Bank of China, the State Administration of Foreign Exchange, the Ministry of Foreign Trade and Economic Cooperation and the State Administration of Taxation Concerning Printing and Distribution Detailed Rules on Rewarding and Punishment Concerning Provisional Regulations over Examination of Export Collections of Foreign Exchange;

9. Circular of the State Council Concerning the Adjustment in the Taxation Policy of Imported Equipment, read in conjunction with and Section XIII of the Catalogue for the Guidance of Foreign Investment Industries;

The above laws and regulations of China appear to constitute subsidies prohibited under WTO rules. Specifically, the first three items above appear to be import substitution subsidies, conditioning income tax and value-added tax refunds on the recipient’s purchase of domestic over imported goods. The last six items appear to be export subsidies, to the extent that they offer refunds, reductions or exemptions from taxes and other payments owed to the government, on the condition that the beneficiary enterprises meet certain export performance criteria.

Furthermore, by conditioning financial incentives on an enterprise’s purchase of domestic over imported equipment, the three import substitution subsidies also appear to treat imported products less favorably than domestic products.

USTR believes these measures are inconsistent with China’s obligations under Article 3 of the Agreement on Subsidies and Countervailing Measures, Article III of the General Agreement on

Tariffs and Trade 1994, Article 2 of the Agreement on Trade-Related Investment Measures, as well as Parts I.1.2, I.7.2–7.3, and I.10.3 of the Protocol on the Accession of the People's Republic of China, including paragraphs 167 and 203 of the Working Party Report.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to [FR0507@ustr.eop.gov](mailto:FR0507@ustr.eop.gov), with "China Prohibited Subsidies (DS358)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and "BUSINESS CONFIDENTIAL" must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged also to provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ASUBMITTED IN CONFIDENCE at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS–358, China Prohibited Subsidies Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

#### Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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### SMALL BUSINESS ADMINISTRATION

#### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before April 23, 2007.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Carol Fendler, Systems Accountant, Office of Investment, Small Business Administration, 409 3rd Street, SW., 6th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carol Fendler, Systems Accountant, Office of Investment 202–205–7559 [carol.fendler@sba.gov](mailto:carol.fendler@sba.gov). Curtis B. Rich,

Management Analyst, 202–205–7030 [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** "Size Status Declaration".  
**Description of Respondents:** New Licensees.

**Form No.:** 480.

**Annual Responses:** 4,200.

**Annual Burden:** 700.

**Title:** "Stockholders' Confirmation (Corporation); Ownership Confirmation (Partnership)".

**Description of Respondents:** Newly Licensed SBIC'S.

**Form Nos.:** 1405, 1405A.

**Annual Responses:** 600.

**Annual Burden:** 600.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Sandra Johnston, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC 20416.

#### FOR FURTHER INFORMATION CONTACT:

Sandra Johnston, Program Analyst, Office of Financial Assistance 202–205–7528 [sandra.johnston@sba.gov](mailto:sandra.johnston@sba.gov). Curtis B. Rich, Management Analyst, 202–205–7030 [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** "CDC Annual Report Guide".  
**Description of Respondents:** Certified Development Companies.

**Form No.:** 1253.

**Annual Responses:** 1.

**Annual Burden:** 7,500.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Leo Sanchez, Senior Analyst, Office of Government Contracting & Business Development, Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Leo Sanchez, Senior Analyst, Office of Government Contracting & Business Development 202–205–7528 [leo.sanchez@sba.gov](mailto:leo.sanchez@sba.gov). Curtis B. Rich, Management Analyst, 202–205–7030 [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** "8(a) SDB Paper and Electronic Application".

**Description of Respondents:** 8(a) SDB Companies.