



C-570-946  
Sunset Review  
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August 31, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Gary Taverman   
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Prestressed Concrete Steel Wire Strand from the People's Republic of China

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### Summary

The Department of Commerce ("Department") analyzed the responses of interested parties in the expedited sunset review of the countervailing duty ("CVD") *Order*<sup>1</sup> on prestressed concrete steel wire strand ("PC strand") from the People's Republic of China ("PRC"), and finds that revocation of the *Order* would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the "Final Results of Review" section of this notice. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues that we address in this expedited sunset review:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidy

### History of the Order

The Department published its final affirmative determination in the CVD investigation on PC strand from the PRC in the *Federal Register* on May 21, 2010.<sup>2</sup> In the *Final Determination* the Department found the following programs to confer countervailable subsidies:

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<sup>1</sup> See *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 75 FR 38977 (July 7, 2010) ("*Order*").

<sup>2</sup> See *Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From the People's Republic of China*, 75 FR 28557 (May 21, 2010) ("*Final Determination*") and accompanying Issues and Decision Memorandum ("*Final Decision Memorandum*").



1. Provision of Wire Rod from Less than Adequate Remunerations (“LTAR”)
2. Provision of Land Use Rights for LTAR to Foreign Invested Enterprises (“FIEs”) in Jiangxi and the City of Xinyu
3. Import Tariff and Value Added Tax Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
4. Subsidies for Development of Famous Export Brands and China World Top Brands at Central and Sub-Central Level
5. Implementing Measures on the Supporting Fund for Foreign Trade & Economic Development of Jiangxi Province (Implementing Measures)
6. Circular on Issuance of Management Methods for Foreign Trade Development Support Fund (Support Fund)
7. Research and Development (“R&D”) Funds Provided Under Cao Qi No. 479 Decree (Also Referred To As Grants Under Regulations for Export Product Research and Development Fund Management)
8. Rebates for Export and Credit Insurance Fee
9. Income Tax Benefits for FIEs Based on Geographic Location
10. Two Free, Three Half Tax Exemptions for FIEs
11. Local Tax Exemptions and Reduction Programs for “Productive:” FIEs
12. Federal Provision of Electricity for LTAR
13. Grants Under the Science and Technology Program of Jiangsu Province
14. Federal, Provincial, and Municipal Level Policy Lending to Producers of PC Strand
15. Income Tax Credits for Purchases of Domestically-Produced Equipment by Domestically Owned Firms
16. Assistance for Technology Innovation – R&D Project
17. Assistance for Optimizing the Structure of Import/Export of High-Tech Products
18. Jiangxi Provincial Environmental Protection Special Fund: Project Grants for Desulphuration by Wet Process of Hydroquinone, Dinuclear cobalt-phthalocyanine sulfonate; Ferrous sulphate (“HPF”) Coal Oven Gas
19. Jiangxi Provincial Environmental Protection Special Fund: Grant to Converter, One-Time De-Dusting
20. Xinhua Municipal Environmental Protection Special Fund: Grants for Pollution Control Facilities and Construction
21. National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems
22. 2008 National Science & Technology Support Fund
23. Important Structural Adjustment Program of Jiangsu Province
24. Jiangxi Provincial Wall Material Renovation Special Fund: Special Subsidies for New Wall Materials
25. Jiangxi Provincial Bulk Cement Special Fund: Transformation of Bulk Cement Facilities and Equipment

In the *Final Determination*, the Department calculated a net subsidy rate of 45.85 percent *ad valorem* for Xinhua Metal Products Company Ltd., Xinyu Iron and Steel Joint Stock Limited Company (“Xinyu”), and Xingang Iron and Steel Joint Stock Limited Liability Company

(collectively, “the Xinhua Companies”).<sup>3</sup> In the *Order*, the Department published its amended final determination, which included an amended net subsidy rate of 9.42 percent *ad valorem* for Fasten Group Corporation (“Fasten Corp.”), Fasten Group Import & Export Co., Ltd., Jiangyin Hongsheng Co. Ltd., Jiangyin Fasten Steel Products Co., Ltd., Jiangyin Hongyu Metal Products Co., Ltd., and Jiangyin Walsin Steel Cable Co., Ltd. (collectively, “the Fasten Companies”) and an amended All Others rate of 27.64 percent *ad valorem*.<sup>4</sup>

Since the issuance of the *Order*, the Department has not conducted an administrative review and there have been no scope rulings, circumvention findings, or changed circumstances determinations with respect to this *Order*.

## **Background**

On May 1, 2015, the Department initiated a sunset review of the *Order* pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the “Act”) and 19 CFR 351.218(c).<sup>5</sup> On May 15, 2015, the Department received a timely notification of intent to participate from Insteel Wire Products Company and Sumiden Wire Products Corporation (collectively, “Domestic Parties” or “Petitioners”), filed in accordance with 19 CFR 351.218(d)(1)(i). On June 1, 2015, the Department received a substantive response from Petitioners, timely filed in accordance with 19 CFR 351.218(d)(3)(i).<sup>6</sup> The Department did not receive a substantive response from the Government of China (“GOC”) or company respondent interested parties.

Pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2) and section 751(c)(3)(B) of the Act, when there are inadequate responses from respondent interested parties, the Department will conduct an expedited sunset review and, not later than 120 days after the date of publication in the *Federal Register* of the notice of initiation, issue final results of review based on the facts available. The Department did not receive a substantive response from the GOC or any PRC producers or exporters. Accordingly, we conducted an expedited (120-day) sunset review of the *Order*.

## **Scope of the Order**

The scope of the *Order* is PC strand. PC Strand is steel wire strand, other than of stainless steel, which is suitable for use in, but not limited to, pre-stressed concrete (both pre-tensioned and post-tensioned) applications. The scope of the *Order* encompasses all types and diameters of PC strand whether uncoated (uncovered) or coated (covered) by any substance, including but not limited to, grease, plastic sheath, or epoxy. This merchandise includes, but is not limited to, PC strand produced to the American Society for Testing and Materials (ASTM) A-416 specification, or comparable domestic or foreign specifications. PC strand made from galvanized wire is excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft<sup>2</sup> standard set forth in ASTM-A-475.

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<sup>3</sup> See *Final Determination*, 75 FR at 28559.

<sup>4</sup> See *Order*, 75 FR at 38977-38978.

<sup>5</sup> See *Initiation of Five-Year “Sunset” Review*,” 80 FR 24900 (May 1, 2015).

<sup>6</sup> See Letter to the Department, entitled “Prestressed Concrete Steel Wire Strand from the PRC: Five-Year (“Sunset”) Review of Countervailing Duty Order,” dated June 13, 2015 (“Domestic Producers’ Response”).

The PC strand subject to the *Order* is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.<sup>7</sup>

### **Discussion of the Issues**

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

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

### **1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy**

#### **Domestic Parties’ Comments**

The Domestic Parties contend that the Department should determine that revocation of the *Order* would likely lead to the continuation or recurrence of countervailable subsidies to PRC producers/exporters of PC strand.<sup>8</sup> The Domestic Parties note that the net countervailable All Others subsidy rate determined in the original investigation was a substantial rate of 27.64 percent. The record of this proceeding remains unchanged from the original investigation. Accordingly, there is no evidence to indicate that any subsidy program found to be countervailable in the original investigation has been discontinued, modified or eliminated.<sup>9</sup> Absent any information to the contrary, the Domestic Parties argue that the Department should find that all of the countervailable programs continue to exist and, thus, there is a strong likelihood that subsidies will continue if the *Order* is revoked.<sup>10</sup>

#### **Department’s Position**

Section 752(b)(1) of the Act directs the Department in determining the likelihood of continuation or recurrence of a countervailable subsidy to consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying

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<sup>7</sup> See *Order*, 75 FR at 38977.

<sup>8</sup> See Domestic Parties’ Response, at 7.

<sup>9</sup> *Id.*, at 8-9.

<sup>10</sup> *Id.*, at 9-10.

the Uruguay Round Agreements Act (“SAA”), the Department will consider the net countervailable subsidies in effect after the issuance of the order and whether the relevant subsidy programs have been continued, modified, or eliminated.<sup>11</sup> The SAA adds that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.<sup>12</sup> Additionally, the presence of programs that have not been used, but also have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.<sup>13</sup> Where a subsidy program is found to exist, the Department will normally determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.<sup>14</sup>

As indicated above, there have been no administrative reviews since issuance of the *Order*, and no party submitted evidence to demonstrate that the subsidy programs found to be countervailable in the *Final Determination* have expired or been terminated without a replacement program or residual benefits. Based on the facts on the record, the Department determines that there is a likelihood of continuation or recurrence of countervailable subsidies because the record in this proceeding indicates that the subsidy programs found countervailable during the investigation continue to exist and be used.

## **2. Net Countervailable Subsidy Likely to Prevail**

### Domestic Parties’ Comments

The Domestic Parties argue that because no subsidy programs have been terminated since the original investigation, subsidization is likely to continue at the rates established in the original investigation. They argue that this approach is consistent with the SAA and that standard policy directs the Department to rely upon the net subsidy rate of 9.42 percent *ad valorem* for the Fasten Companies, 45.85 percent *ad valorem* for the Xinhua Companies, and 27.64 percent *ad valorem* for all other PRC producers and exporters of PC strand.

### Department’s Position

Consistent with the SAA and legislative history, the Department normally will provide the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked, because it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.<sup>15</sup>

Section 752(b)(1)(B) of the Act provides, however, that the Department will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy. Therefore, although the SAA and House Report provide that the

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<sup>11</sup> See Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, 2d Session, Vol. 1 (1994) at 888.

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010) and accompanying Issues and Decision Memorandum (“IDM”) at Comment 1.

<sup>14</sup> *Id.*

<sup>15</sup> See SAA at 890, and House Report, H.R. Rep. No. 103-826 (1994) (“House Report”), at 64.

Department normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.<sup>16</sup>

In this instance, however, the Department conducted no administrative reviews of the *Order* and no evidence has been provided that would warrant making a change to the net countervailable subsidy rate found for PRC producers and exporters in the investigation. Accordingly, consistent with our practice, we will not adjust the rates from the investigation to account for additional subsidies, program-wide changes or terminated programs, and will provide to the ITC the net countervailable subsidy rates found in the investigation, as shown in the section entitled “Final Results of Review” below.

### **3. Nature of the Subsidy**

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

#### Export Subsidies

As indicated in the *Final Determination*, the following programs fall within the definition of an export subsidy under Article 3.1 of the ASCM, as receipt of benefits under these programs may be contingent upon export activity.

1. Subsidies for Development of Famous Export Brands and China World Top Brands at Central and Sub-Central Level

The Famous Brand program, which is administered at the central, provincial, and municipal government level, provides grants to firms with the “famous brand” designation. Among the requirements that firms must meet in order to qualify for the designation is a “high ability” to earn foreign exchange. The Department found this program to be contingent upon export activities.<sup>17</sup>

2. Implementing Measures on the Supporting Fund for Foreign Trade & Economic Development of Jiangxi Province (Implementing Measures)

Under the Implementing Measures, the Government of Jiangxi Province provides grants to firms with positive growth rates that export between \$10 million and \$20 million worth of high-tech

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<sup>16</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010) and accompanying IDM at Comment 2.

<sup>17</sup> See Final Decision Memorandum at 28.

mechanical or electrical products. These grants were contingent upon export and are considered specific. The Department found this program to be contingent upon export activities.<sup>18</sup>

3. Circular on Issuance of Management Methods for Foreign Trade Development Support Fund (Support Fund)

Under the Support Fund, firms with an annual export value of \$1,000,000 to \$5,000,000 are eligible to receive grants from the Ministry of Foreign Trade and Economic Cooperation. The Department found this program to be contingent upon export activities.<sup>19</sup>

4. R&D Funds Provided Under Cao Qi No. 479 Decree (also referred to as Grants Under Regulations for Export Product Research and Development Fund Management)

Under this program, the GOC's Ministry of Finance provides grants to firms that are engaged in export activities. The Department found this program to be contingent upon export performance.<sup>20</sup>

5. Rebates for Export and Credit Insurance Fee

Under this program, the GOC provides grants to assist firms in repaying export and credit insurance fees. The Department found this program to be contingent upon export performance.<sup>21</sup>

6. Assistance for Technology Innovation – R&D Project

Under this program, grants are provided are contingent upon export activities.<sup>22</sup>

7. Assistance for Optimizing the Structure of Import/Export of High-Tech Products

Under this program, grants are provided are contingent upon export activities.<sup>23</sup>

8. Jiangxi Provincial Wall Material Renovation Special Fund: Special Subsidies for New Wall Materials

Under this program, grants are provided are contingent upon export activities.<sup>24</sup>

9. Jiangxi Provincial Bulk Cement Special Fund: Transformation of Bulk Cement Facilities and Equipment

Under this program, grants are provided are contingent upon export activities.<sup>25</sup>

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<sup>18</sup> *Id.*, 29.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*, at 30.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*, at 39.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*, at 41-42.

<sup>25</sup> *Id.*, at 42.

## Other Subsidies

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

### 1. Provision of Wire Rod for LTAR

The Department determined that producers of wire rod in the PRC were authorities and sold wire rod to the mandatory respondents for LTAR. The Department further determined that GOC government authorities sold the wire rod to a limited number of industries and, thus, the subsidy was *de facto* specific.<sup>26</sup>

### 2. Provision of Land Use Rights for LTAR to FIEs in Jiangxi and the City of Xinyu

The Department determined that the GOC sold land to the mandatory respondents for LTAR in a manner that was limited to designated geographic regions.<sup>27</sup>

### 3. Import Tariff and Value Added Tax Exemptions for FIES and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries

The Department determined that the GOC provides tariff and value added tax (“VAT”) exemptions under this program to a limited number of industries and, therefore, is specific.<sup>28</sup>

### 4. Income Tax Benefits for FIEs based on Geographic Location

This program provides tax incentives for enterprises located in special zones. The Department found the program specific because the GOC limits tax incentives provided under the program to firms located in designated geographical areas.<sup>29</sup>

### 5. “Two Free, Three Half” Tax Exemptions for FIEs

Under this program FIEs that are “productive” and scheduled to operate not less than 10 years are exempt from income tax in their first two profitable years and pay half of their applicable tax rate for the following three years. The Department found this program is limited to certain enterprises, “productive” FIEs, and, thus, is specific.<sup>30</sup>

### 6. Local Tax Exemptions and Reduction Programs for “Productive” FIEs

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<sup>26</sup> *Id.*, at 24.

<sup>27</sup> *Id.*, at 26.

<sup>28</sup> *Id.*, at 27.

<sup>29</sup> *Id.*, at 30-31.

<sup>30</sup> *Id.*, at 32.

Under this program, local provinces can establish eligibility criteria and administer the application process for local income tax reductions or exemptions for “productive” FIEs, effectively extending the tax exemptions or reductions that are allowed to FIEs by the national “Two Free, Three Half” program. The Department found this program is limited to certain enterprises, “productive” FIEs, and, thus, is specific.<sup>31</sup>

7. Federal Provision of Electricity for LTAR

Pursuant to section 776(b) of the Act, the Department determined that the GOC provided electricity for LTAR to the mandatory respondents. The Department further determined that the GOC limited the provision of electricity for LTAR to firms in designated geographic areas and, thus, was specific.<sup>32</sup>

8. Grants Under the Science and Technology Program of Jiangsu Province

The Government of Jiangsu Province provides grants to firm under the science and technology program. Pursuant to section 776(b) of the Act, the Department determined that the GOC’s disbursements of grants under the program is limited to certain enterprises and industries and, thus, is *de facto* specific.<sup>33</sup>

9. Federal, Provincial, and Municipal Level Policy Lending to Producers of PC Strand

The Department determined that loans received by members of the PC strand industry from state-owned commercial banks and policy banks were made pursuant to government directives. The Department further determined that the receipt of such loans were limited to members of the PC strand industry and, thus, were specific.<sup>34</sup>

10. Income Tax Credits for Purchases of Domestically-Produced Equipment by Domestically Owned Firms

The Department determined that under the program a domestically invested company may claim tax credits on the purchase of domestic equipment if the project is compatible with the industrial policies of the GOC. The Department further determined that a tax credit up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year. The Department found this program was specific because receipt of the tax benefit is contingent upon the use of domestic goods over imported goods.<sup>35</sup>

11. Jiangxi Provincial Environmental Protection Special Fund: Project Grants for Desulphuration by Wet Process of HPF Coal Oven Gas

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*, at 33.

<sup>33</sup> *Id.*, at 35.

<sup>34</sup> *Id.*, at 37.

<sup>35</sup> *Id.*, at 38.

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>36</sup>

12. Jiangxi Provincial Environmental Protection Special Fund: Grant to Converter, One-Time De-Dusting

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>37</sup>

13. Xinhua Municipal Environmental Protection Special Fund: Grants for Pollution Control Facilities and Construction

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>38</sup>

14. National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>39</sup>

15. 2008 National Science & Technology Support Fund

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>40</sup>

16. Important Structural Adjustment Program of Jiangsu Province

Pursuant to section 776(b) of the Act, the Department determined that the program is limited to certain enterprises or industries and, thus, is specific.<sup>41</sup>

### **Final Results of Review**

The Department finds that revocation of the *Order* would likely to lead to continuation or recurrence of countervailable subsidies of 9.42 percent *ad valorem* for the Fasten Companies, 45.85 percent *ad valorem* for the Xinhua Companies, and 27.64 percent *ad valorem* for all other manufacturers/producers/exporters of PC strand from the PRC.

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<sup>36</sup> *Id.*, at 40.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, at 41.

<sup>41</sup> *Id.*

**RECOMMENDATION**

Based on our analysis of the substantive responses received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review in the *Federal Register*, and notify the ITC of our findings.

AGREE ✓

DISAGREE \_\_\_\_\_

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

31 AUGUST 2015  
Date