2. Evidence

The post-2000 developments described above with respect to evidence apply equally in the CVD context, except for the discussion of standard commerce questionnaires. Evolution of the template for countervail questionnaires reflected substantive developments such as the coverage of imports from China and the adoption of new methodologies on issues like pre-privatization subsidies.

3. Product Coverage

The post-2000 developments described above with respect to product coverage apply equally in the CVD context. However, the treatment of enriched uranium imports likely merits a separate discussion. The uranium-related litigation discussed above involved challenges to both AD and CVD measures. The countervail order on uranium imported from France was based on a finding by DOC that the Government of France had entered into a uranium-enrichment contract with Eurodif, thereby providing a "financial contribution," and under that contract had paid more than adequate remuneration, thereby conferring a "benefit." DOC concluded that the resulting subsidy should be offset through countervailing duties on enriched uranium imported from France. The Court of Appeal for the Federal Circuit[12] held that since the enrichment contract specified a purchase of services as opposed to goods by the Government of France, and since purchasing services is excluded from the definition of a "financial contribution,"[13] DOC's subsidy finding was erroneous. Unlike the Court's concurrent decision on AD law, this ruling was not appealed, and accordingly stands as a definitive interpretation of the relevant statute.

4. Determination of Subsidization

(a) Financial contribution. The standards used by DOC to determine whether particular programs and transactions meet the "financial contribution" requirement of Section 771(5)(D) of the Tariff Act have not changed meaningfully since 2000. Some cases have arisen in which applying these standards proved to be challenging, either factually or legally. These include, for example, DRAMs from Korea (2003), CFS Paper from Indonesia (2007) and some of the programs at issue in Softwood Lumber from Canada. However, DOC has sought to hold its analytical method steady, and the results in the cases above, two of which were tested by WTO dispute settlement, were roughly predictable.

The U.S.-Export Restraints WTO case, with its nuanced outcome, resulted in no evident change in DOC's application of the financial contribution requirement. In fact, DOC in CFS Paper from Indonesia (2007) found that Indonesia's log export ban satisfied the "entrusts or directs" standard for an indirect subsidy and otherwise met the requirements for

12 Eurodif, SA v. United States, 411 F.3d 1355 (Fed. Cir. 2005).

13 Section 771(5)(D) of the Tariff Act.