



Government Questionnaire People's Republic of China

Product: Steel Reinforcing Bar

From: People's Republic of China

Period of Investigation: 1 July 2014 to 30 June 2015

Response due by: 29 January 2016

Extended to 19 February 2016

Investigation case manager: Sanjay Sharma

Phone: +61 2 6276 1462

Fax: +61 3 8539 2499

E-mail: operations4@adcommission.gov.au

Anti-Dumping Commission website: www.adcommission.gov.au

Return completed questionnaire to: Anti-Dumping Commission
Level 10 Industry House
10 Binara Street
Canberra ACT 2600
Australia

Attention: Director Operations 4

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ABBREVIATIONS

the Act	the Customs Act 1901
the Applicant or OneSteel	OneSteel Manufacturing Pty Ltd
China	the People's Republic of China
CISA	China Iron and Steel Association
CIF	Cost, Insurance & Freight
the Commission	Anti-Dumping Commission
EPZ	Export Processing Zones
FOB	Free On Board
GOC	Government of China
the goods	the goods the subject of the application (steel reinforcing bar)
the investigation period	1 July 2014 to 31 December 2015
Rebar	Steel reinforcing bar
SAT	State Administration of Taxation
SASAC	the State-owned Assets Supervision and Administration Commission of the State Council
SEZ	Special economic zone
SIE	State-invested enterprise

BACKGROUND AND GENERAL INSTRUCTIONS

1. Background

On 23 December 2015, following an application by OneSteel Manufacturing Pty Ltd (OneSteel), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a countervailing investigation in respect of steel reinforcing bar (rebar) exported to Australia from the People's Republic of China (China). OneSteel alleged that the Australian industry has suffered material injury caused by rebar exported to Australia from China at subsidised prices.

Anti-Dumping Notice (ADN) No. 2015/152 outlining the details of the investigation and the procedures to be followed during the investigation was published on 23 December 2015 and can be accessed on the Commission's website at www.adcommission.gov.au

2. Goods under consideration

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at subsidised prices, are:

"Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating."

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh.

3. Tariff classification

The goods are typically classified to the following Subheadings in Schedule 3 of the *Customs Tariff Act 1995*.

- Tariff subheading 7213.10.00 with statistical code 42
- Tariff subheading 7214.20.00 with statistical code 47
- Tariff subheading 7227.90.10 with statistical code 69
- Tariff subheading 7227.90.90 with statistical code 42 until 31 Dec 2014
- Tariff subheading 7227.90.90 with statistical code 01, 02, 04 from 1 Jan 2015
- Tariff subheading 7228.30.10 with statistical code 70
- Tariff subheading 7228.30.90 with statistical code 40 from 1 Jan 2015
- Tariff subheading 7228.30.90 with statistical code 49 until 31 Dec 2014
- Tariff subheading 7228.60.10 with statistical code 72

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These goods, if imported from China under these tariff subheadings, are subject to a general rate of duty of 5 per cent

4. Investigation period

The existence and amount of any subsidy in relation to rebar exported to Australia from China will be determined on the basis of an investigation period of 1 July 2014 to 30 June 2015 (the investigation period).

The Commission will examine details of the Australian market from 1 July 2011 for injury analysis purposes.

5. Purpose of this questionnaire

The purpose of this questionnaire is to assist the Commission to obtain the information from the Government of China (GOC) it considers necessary for the countervailing investigation generally.

Please note that the subsidy/countervailing sections of this questionnaire focus on identified programs that the Anti-Dumping Commission is specifically investigating at this stage. However, the Commission may also investigate any additional subsidy program(s) that it considers may warrant investigation if additional information comes to light in relation to further programs.

Any additional questions may be posed to the GOC in the form of supplementary questionnaires.

A separate exporter questionnaire will be available for Chinese exporters of rebars to complete, if they chose to cooperate with the investigation. All known exporters have been sent notification of the investigation and advice how to access the Exporter Questionnaire.

The GOC does not have to complete this questionnaire. However, if the GOC does not respond, the Commission may be required to rely on information supplied by other parties (including information supplied by the Australian industry – the applicant for the countervailing measures).

Therefore, it is considered to be in the GOC's interests and the interests of Chinese exporters of rebars, to provide a complete response.

If the GOC chooses to respond to this questionnaire, the response is due by **29 January 2016**.

6. If you decide to respond

Should the GOC choose to provide a response to this questionnaire, please note the following:

For official use only and public record

If the GOC chooses to respond to this questionnaire, you are required to lodge a “for official use only” and a “public record” version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either “**FOR OFFICIAL USE ONLY**” or “**PUBLIC RECORD**” in the header and footer.

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All information provided to the Commission “for official use only” will be treated confidentially. The public record version of your submission will be placed on the public record, which all interested parties can access.

Your public record submission must contain sufficient detail to allow a reasonable understanding of the substance of the “for official use only” version. If, for some reason, you cannot produce a public record summary, contact the investigation case manager (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the GOC’s response is complete and correct. You must return the signed declaration of an authorised GOC official at last section of this questionnaire with the GOC’s response.

Consultants/parties acting on your behalf

If you intend to have another party acting on your behalf please advise the Commission of the relevant details.

The Commission will require a written authorisation from the GOC for any party acting on its behalf.

The GOC confirms that Moulis Legal acts on behalf of the GOC in this matter, and notes that written authorisation to that effect was provided to the Commission by Moulis Legal (email of 19 January 2016 refers).

Provision of documents

When providing documents, please indicate whether the documents:

- are currently in force;
- were in force during the investigation period; or
- have been repealed, revised or superseded.

Where the documents have been repealed, revised or superseded;

- indicate when this revision occurred;
- provide any notice of repeal;
- provide the revised version;
- provide the document that supersedes the requested document; and
- indicate whether the revised version was in force during the investigation period.

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents, even where not specifically requested in this questionnaire;

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- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

Please note that answers such as: "Not Applicable" or an answer that only refers to an exhibit or an attachment may not be considered by the Commission to be adequate. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, rather than merely pointing to supporting documents of varying degrees of relevance and reliability as your answer.

Lodgement

Lodgement by email is preferred. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email, you are still required to provide a "for official use only" and "public record" version of your submission by the due date.

You may also lodge your response by mailing it to the address shown on the front cover of this questionnaire. For questions requiring a response in a Microsoft Excel spreadsheet that cannot be emailed, please provide those spread sheets on a CD-ROM or on a USB device.

7. Future questions and verification

Please note that after receiving the GOC response to this questionnaire, the Commission may seek additional information from the GOC.

The Commission may also seek to carry out a visit to the GOC to examine relevant records and to verify the information provided. You will be contacted in advance of such a meeting to make arrangements.

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SECTION A: GENERAL QUESTIONS

1. Describe the nature and structure of the steel reinforcing bar industry in China. Without limiting your response include details of any government involvement in the rebar including upstream raw materials (i.e. coking coal, coke, iron ore and scrap steel). The response should include details of:
 - (a) distribution channels
 - (b) any vertical integration
 - (c) any changes over the last 5 years (such as mergers and acquisitions).

Introductory comments

The Commission's questions concerning the general market structure, distribution channels, and the general changes of government laws and regulations over a five year period, and the other questions in this section, are lacking in relevance for the purposes of a countervailing investigation such as this. Indeed, we note that these are the same questions which were asked in the questionnaire issued by the Commission in its parallel rebar anti-dumping investigation.

Before the GOC responds to these general questions, and to the specific questions relating to the alleged subsidy programs, the GOC first wishes to note the Commission's comments in the context of its "*particular market situation*" determination in the Statement of Essential Facts ("SEF 300"), in its parallel anti-dumping investigation concerning rebar exported from China:

2.2.2 Chinese Government subsidy programs

The nature of support provided by the Chinese Government to the Chinese steel industry is also documented through previous investigations undertaken by the Commission. While these investigations don't correspond with the investigation period, these measures directly contributed to the state of the Chinese steel industry and rebar market during the investigation period. Examples of the types of subsidies provided to the Chinese steel industry are set out below.⁸⁷

- *Steel inputs provided by the government at less than adequate remuneration.*
- *Coking coal and coke provided at less than adequate remuneration.*
- *Preferential Tax Policies for Enterprises with Foreign Investment.*
- *Preferential Tax policies for Specific Regions.*
- *Preferential Tax Policies for Foreign Invested Enterprises.*
- *Land Use Tax Deductions.*
- *Preferential Tax Policies for High and New Technology Enterprises.*
- *Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment.*
- *Research and Development (R&D) Assistance Grants.*

• *Special Support Funds for Non State-Owned Enterprises.*

87 Anti-Dumping Commission, 2013, Report Number 198: Dumping of Hot Rolled Plate Steel Exported from the People's Republic of China, Republic of Indonesia, Japan, The Republic of Korea and Taiwan and Subsidisation of Hot Rolled Plate Steel Exported from the People's Republic of China, pp 41-43. Australian Customs Service, 2013, Report Number 193: Alleged Subsidisation of Zinc Coated Steel And Aluminium Zinc Coated Steel, pp 40-41.

The GOC has deep concerns about the Commission's *anti-dumping* determination in SEF 300. This Government Questionnaire concerns *subsidisation*. The GOC's view is that it is inconsistent with the WTO Anti-Dumping Agreement and the WTO Subsidies and Countervailing Measures Agreement to attempt to address countervailing concerns in an anti-dumping procedure.

To the extent that the existence of certain countervailable subsidies can be said to be relevant to the Commission's determination in its parallel *anti-dumping* investigation, the GOC has some comments to offer. In so doing the GOC notes that it has consistently rejected, and will continue to reject, the proposition that there can be a mixing of the consideration of alleged subsidies in the Chinese "*iron and steel*" industry with a determination of a "*particular market situation*" in the Chinese market for rebar.

With respect, the passage we have quoted from SEF 300 suggests that the Commission has "the cart before the horse". SEF 300 acknowledges that the alleged subsidies to which it refers were not determined in respect of the investigation period to which SEF 300 applies. However, with respect, the Commission cannot just "pass over" the fact that alleged subsidies relevant to the Chinese rebar exported to Australia during the investigation period are presently being investigated by the Commission *in this investigation*. The Commission is presently collecting relevant information about the alleged subsidies from the GOC, with this Government Questionnaire response being part of that exercise. Regardless of this, SEF 300 uses conclusions about alleged subsidies - *conclusions that have not yet been made in this investigation* - to bolster the adverse findings made against the GOC and against the Chinese exporters concerned in SEF 300. This cavalier approach is quite flawed and extremely disappointing to the GOC.

Further, in the paragraph we have quoted from SEF 300, reference is made to previous decisions of Australian Customs and of the Commission concerning coated steel and plate steel, in Reports 193 and 198 respectively. These decisions are cited as "*examples of the types of subsidies provided to the Chinese steel industry*". In this regard, the GOC notes that in the case of the measures applicable to coated steel the Minister varied that part of the previous decision to impose countervailing duties in so far as it adopted the findings that the so-called "LTAR" (less than adequate remuneration) subsidies were countervailable. This was done, we believe, in response to this clear finding of the Anti-Dumping Review Panel:

The fact that the HRC suppliers are complying with the GOC's policies, plans and measures cannot of itself meet the criteria for finding that they are public bodies.¹

That finding would be equally applicable to the findings regarding "Programs 1 to 4" in Report 198, given that those findings are solely based on Report 193.

The Commission's usage of "non-subsidies" – subsidies found by the Minister not to

¹ Review of Decisions Regarding Dumping Duties and Countervailable Duties for Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel from the People's Republic of China (15 November 2013). See <http://www.adreviewpanel.gov.au/PastReviews/Documents/ADRPReviewReportMOFCOM-November2013AmendedFINAL.pdf>

exist in previous cases, and which have not been established in this investigation – for the purposes of expressing its views in SEF 300 is legally and procedurally flawed. It does not comply with the obligation of an investigating authority to rely on positive evidence, and contradicts the requirements, and the spirit, of cooperation. The GOC respectfully requests the Commission to reassess and accordingly reverse its findings in SEF 300. Failing that, and in so far as the information or views relied upon by the Commission in that procedure are said to be related to any alleged government subsidies or their impact, the Commission should defer the making of any recommendations to the Minister in the parallel anti-dumping investigation until the conclusion of this countervailing investigation.

GOC industry involvement

The GOC's "involvement" in the so called "steel reinforcing bar industry", is not different from its general involvement as a government in other industry sectors of the Chinese economy. The GOC passes and enforces laws, makes policies, collects taxes, operates border and customs controls, enters into trade agreements with other countries, and carries out all of the other functions customarily associated with the running of a sovereign state.

Given the size and scale of steel manufacturing in China, its impact on the environment, and its significance to the national and international economy, commercial steelmaking activities are naturally an important part of the GOC's macro-economic policy settings, in the same way as major industry is important to most governments internationally.

There is nothing unusual or special about the GOC's consideration of the steel sector, in its most general sense, as a very important part or a "pillar" of China's economy. The importance of China's steel sector is self-evident. For example, China is the largest steel producer in the world, producing 803.8 million tonnes of crude steel, which accounted for more than half of global output in 2015.² China is also the largest importer of iron ore, having imported 952 million tonnes in 2015, including 607 million tonnes from Australia (which accounts for 80% of Australia's total exports of iron ore).³

Accordingly, it should be considered to be neither surprising nor uncommon for the GOC to maintain oversight and to set out its visions and macro-economic objectives in relation to steel related industries and sectors. It has done this through publishing aspirational policy documents such as five year plans, and the National Steel Plan. Given the high-emission characteristics of the steel making sector, it must also be subject to international commitments and to the GOC's national policies in relation to climate change. Indeed, China has taken on an increasingly active role in promoting global solutions on climate change.⁴

As the world's second largest economy, the GOC's laws and regulations, and its economic, social and international policies will all more or less influence business and industry whether operating within China or in other countries, and in this regard the steelmaking sectors are no exception. Further, it is not only the GOC's policies that are relevant – the policies of all countries interact with each other to create the conditions under which all industries compete. However this does not mean that the competitive markets operating within these environments – not being free from government influences or "government involvement" – are therefore "distorted" or are subject to a "particular market situation". Enterprises operating in these environments do not become public simply because of a degree of State ownership, or that the companies that buy raw materials from these enterprises are somehow being "subsidised" in the form of being provided with inputs provided at "less than adequate remuneration".

² <https://www.worldsteel.org/statistics/crude-steel-production.html>

³ http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs2-02.htm

⁴ http://news.xinhuanet.com/english/2015-12/11/c_134907291.htm

With respect, no absolutely free market exist in the real world. Governments exist in the world and have a job to do. The opposing concept – that governments should have nothing to do with market regulation – is an anarchic concept that no right-minded person would accept. “Hands-off” government is not a pre-condition to WTO membership nor is it a pre-condition to the enjoyment of a Member’s WTO rights.

As the GOC has commented before, the Australian government itself has its own legislative instruments and policies which influence its steel sectors. For example:

- 1 The Australia Steel Transformation Plan 2012 (“AST”), created under the Steel Transformation Act 2011, provided for the payment of substantial amounts of money (totalling \$300 million) to:

...help OneSteel and BlueScope to adapt and modify their business models to ensure their long term sustainability in a low carbon economy.

The AST involved the payment of money to entities (which according to the relevant Minister’s own statement was limited to BlueScope and OneSteel) on the condition that the future activities of those entities was consistent with the Australian Government’s expressed policy objectives. This was achieved by requiring those business plans to be first presented to and then approved by the responsible Australian Minister, as a condition of access to the payments. In contrast, China’s National Steel Plan is not a legal document and no enterprise is required to commit to it or to follow it. The GOC has views about what would be best for national development, but it does not dictate that Chinese steel markets must behave in one way or another.

- 2 In contrast to the GOC’s policy goals to not encourage high-polluting and high-emission manufacturing, the Australian Government, through legislation, *exempts* its largest steelmaking companies from its Renewable Energy Target scheme.⁵⁶ This exemption relates to the proposition that the Applicant and BlueScope Steel Ltd are engaged in an “emissions-intensive trade-exposed activity”.
- 3 In October 2015, the New South Wales state government agreed to allow BlueScope Steel a deferral of AUD60 million in payroll tax otherwise due, in exchange for an assurance on BlueScope’s part that it would not close down its blast furnace at Port Kembla and would maintain its operations and employment levels.⁷
- 4 It is also reported that Arrium/OneSteel:

...receives royalty concessions for its iron ore mines in the state and pays no royalties on the feedstock directed into the steelworks at Whyalla. The cumulative tax breaks are bigger than BlueScope’s concessions from NSW.⁸

⁵ <http://www.cleanenergyregulator.gov.au/RET/Scheme-participants-and-industry/Industry-assistance>
⁶ “BlueScope Steel has said that the removal of the carbon tax and the Australian Government’s ongoing programme to cut red and green tape, as well as the Government’s exemption from the RET for emissions intensive trade exposed industries, have all helped increase its competitiveness”. See - <http://www.minister.industry.gov.au/ministers/macfarlane/media-releases/australian-government-working-illawarra-community-steel-future>
⁷ See *Payroll Tax Deferral (BlueScope) Bill 2015*, which includes the Payroll Tax Structured Payment Plan Deed. <http://www.austlii.edu.au/au/legis/nsw/bill/ptdsb2015371/http://www.afr.com/news/politics/bluescope-accused-of-hypocrisy-over-60m-handout-20151022-gkgfzu>
⁸ <http://www.afr.com/news/politics/bluescope-accused-of-hypocrisy-over-60m-handout-20151022-gkgfzu>

5	<p>Most recently, the South Australia government has announced policies to support the Australian steel industry, declared as follows:⁹</p> <p><i>South Australia will lead the charge to secure steelmaking's future in Australia with a new Steel Taskforce to work with Arrium and local fabricators to create a highly competitive and sustainable industry.</i></p> <p><i>In Whyalla today, Mineral Resources and Energy Minister Tom Koutsantonis announced that the Steel Taskforce team will coordinate action across government to give Arrium's mining, smelting and manufacturing operations in and around Whyalla every chance to thrive.</i></p> <p><i>Mr Koutsantonis also announced that all future State Government projects will be required to use steel which meets Australian Standards and certification, giving the local steel industry a competitive advantage against lower quality imports.</i></p> <p><u><i>The Steel Taskforce's \$4.3 million funding over four years includes \$320,000 to establish a third party audit, in collaboration with the Australian Steel Institute, to ensure State Government projects adhere to the new mandate.</i></u></p> <p><i>The funding will also assist the South Australian steel fabrication sector to become compliant with Steelwork Compliance Australia requirements.</i></p> <p>...</p> <p><i>"This State Government will not stand back and allow uncompetitive pressures to crush a strategic industry that has provided decades of jobs and prosperity for South Australians."</i></p> <p><u><i>Mr Koutsantonis said this State Government continues to stand by Arrium and the Whyalla community to ensure that steelmaking remains a major contributor to jobs and economic prosperity in South Australia.</i></u></p> <p><i>As a demonstration of that support, the State Government has already:</i></p> <ul style="list-style-type: none"><i><u>Extended for a further 10 years, the environmental authorisation provided to Arrium to operate its Whyalla Steelworks, to provide Arrium and its shareholders the regulatory certainty required to invest in the company's future.</u></i><i><u>Waived royalties on magnetite used to feed Arrium's Whyalla Steelworks.</u></i><i>Signed a Memorandum of Understanding with Arrium to work together toward creating a major multi-user port at Whyalla and generating new investment opportunities in the Upper Spencer Gulf.</i> <p><i>"This State Government firmly believes there is a future for Australia's steelmaking industry as long as we provide unwavering support during these difficult economic conditions," Mr Koutsantonis said.[underlining added]</i></p>
6	We also note that the Australian Parliament's initiation of a Senate Committee

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<http://www.premier.sa.gov.au/index.php/media-centre/19-tom-koutsantonis-mp/5131-high-powered-steel-taskforce-to-secure-whyalla-s-future>

inquiry into “the future of Australia’s steel industry”, specifically, “the future sustainability of Australia’s strategically vital steel industry and its supply chain”.¹⁰

Australia considers its steel industry to be “strategic” and “vital”. It maintains policies that directly and indirectly subsidise and influence Australian steel companies, including the Applicant. We do not expect that the Australian Government would hold the view that these policies and interventions are circumstances that would render Australian steel manufacturers as “public bodies”, or would render the markets into which they sell their products as being subject to a “particular market situation”.

The Australian Government is not alone in its regard for the economic significance of its steel industry and in setting out industry supporting policies. The Government of India has its own National Steel Policy, the latest being the *National Steel Policy 2012(Draft)*, the preamble of which reads as follows:¹¹

1.1 *Steel will probably remain the world’s one of the most important engineering materials for a long time to come. With strong backward and forward linkages, steel industry is an engine of economic growth and a symbol of economic prosperity. Moreover, steel is vital to the nation’s economic security as it is extensively used in strategic areas such as defence, power, atomic energy, and in creation of social and economic infrastructure of the country.*

...

1.6 *The development of domestic steel industry has to be guided by long-term national goals and perspectives. National Steel Policy has, therefore, to be dynamic taking into consideration the changing needs of the industry in view of significant changes in the domestic and global economic environment. The unfolding developments, both on the demand and supply sides, warranted a re-look at the different elements of the NSP and possibly some re-ordering of priorities and modifications in the targets and related policies. In particular, it was felt that a strong policy push is required to expedite creation of green-field steel capacity as growth in steel supply has not been keeping pace with rise in domestic demand for steel. It was also felt that policy making should address the issues related to sustainable growth especially related to long term availability raw materials, protection of environment, inclusive growth, quality of steel products and Research & Development (R&D) with greater focus.*

Similarly, the European Union introduced an *Action Plan for a competitive and sustainable steel industry in Europe* (“the Action Plan”) in 2013.¹² The aspirational goals set out in the EU’s Action Plan are similar to those expressed in India’s policy document, and in the GOC’s. For example, the Action Plan emphasises:

- the need for a strong and competitive industry;
- the need to reduce production capacity;
- climate policy and resource efficiency as an ‘important driver’ for technology changes;

¹⁰ http://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Economics/Australias_Steel_Industry

¹¹ <http://steel.gov.in/06112012%20National%20Steel%20Policy%20Draft.pdf>

¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0407&from=EN>

- the goals of increasing the use of recycled scrap material
- the implementation of additional energy efficiency measures in steelmaking;
- the diffusion of best available techniques (BATs);
- the need for a regulatory framework which promotes efficiency, innovation and competitiveness;
- the importance of supporting the construction industry to assist in boosting demand for steel products.

The Action Plan also openly recognises the importance of the steel sectors to the EU:

A strong and competitive steel sector is important for Europe's industrial base. The EU is the second largest producer of steel in the world, with an output of over 177 million tonnes of steel a year, accounting for 11% of global output. Steel also forms part of a number of industrial value chains and is closely linked to many downstream industrial sectors such as automotive, construction, electronics, mechanical and electrical engineering...

The Commission considers it essential that Europe remains an important steel producing region for economic, social and environmental reasons as well as for security of supply.[emphasis in original]

The GOC calls upon the Commission to discontinue the discriminatory approach it has exhibited up to now towards Chinese steel exporters. The situation has become unacceptable.

Chinese SIEs have been unfairly accused of being arms of the State, and all exporters - whether SIEs or not - have been treated as if they operated in an entirely non-market economy. The fact is that Australia has long recognised the market economy status of China, including China's steel sectors, and of Chinese SIEs operating in those sectors and markets.

Governments inevitably influence markets and businesses located in their jurisdictions, and outside their jurisdictions, because governments must "do their job" in an environmental and social context. The WTO system, and more specifically the trade remedy regimes, are not intended to operate within a government-free environment, or in an environment in which every Member must have exactly the same economic and market conditions. Indeed, the GOC considers that one of the fundamental principles of the WTO system is "comparative advantage". The approach taken by the Commission in recent cases in which Chinese exporters have been penalised using concepts such as "less than adequate remuneration", "particular market situation" and "reasonably reflect competitive market costs" is simply designed to negate the comparative advantage of Chinese exporters. Comparison and substitution of costs due to the selection of other-market "benchmarks" is a serious derogation of the promises made to China on its entry into the WTO regime.

Notwithstanding these serious concerns of the GOC, and in the spirit of cooperation, we now wish to provide relevant commentary about the product under investigation and some of the raw material inputs as are mentioned in the questionnaire, to allow the Commission to gain a better understanding of the competitive nature of the Chinese rebar market.

Steel reinforcing bar

As is the case in Australia, the steel reinforcing bar industry in China is highly linked to demand in the construction and infrastructure sectors, as rebar is mostly considered

to be a construction steel.

The “steel reinforcing bar industry in China” is not a well-defined “industry” in itself. This is because the “rebar industry” has complex and intertwining relationships with some of its neighbouring industrial sectors. According to the China Iron and Steel Association (“CISA”), a major Chinese rebar manufacturer typically produces rebar in an integrated process, meaning that the rebar manufacturing process would start from steelmaking. The raw material for this would be either iron ore or scrap steel. Given the predominance of blast furnaces over electric arc furnaces in China, the former is more common. Further, producers of the goods under consideration (“GUC”) may also produce non-GUC, such as rod in coil. It is common for integrated producers to produce a range of input materials/semi-finished products, and to produce a range of related or unrelated steel finish products. For an example in this regard, please refer to the list of products produced by Jiangsu Yonggang Group Co., Ltd at Attachment 1.

By any measure, the Chinese rebar market operates under vigorous demand and supply side factors, factors that are the indispensable and balancing parts of any market price-setting mechanism. The markets are typified by diversity, multiplicity, dynamism and openness on both the demand and the supply sides. Generally speaking, rebar is considered as a low value-added product amongst steel sectors, with a relatively low market entry threshold. The relatively low value-added nature of the product means that rebar prices correlate to prices in the upstream supply chain, which in the case of rebar is mainly iron ore.

On the demand side, due to its main usage as a construction steel, rebar is highly exposed to the ebbs and flows of the construction market, and its seasonal nature. The competitive situation of the Chinese rebar market is exacerbated by the extraordinary number of producers, both large and small, and the large number of privately owned manufacturers.

The Chinese market for rebar is fiercely competitive. According to the National Bureau of Statistics of China (“NBS”), in 2015 there were 297 above-scale rebar producers in China.¹³. Amongst the 297, there were [CONFIDENTIAL TEXT DELETED - number] privately-owned producers, [CONFIDENTIAL TEXT DELETED - number] were foreign owned, and [CONFIDENTIAL TEXT DELETED - number] have some State investment. Thus, the non-SIE rebar producers accounted for over 80% of the total number of producers. In terms of production volume, non-SIE producers accounted for over 66% of the [CONFIDENTIAL TEXT DELETED - number] million tonnes of rebar production (again, according to the NBS data). That is, in 2015 the rebar produced by above scale Chinese non-SIEs alone was higher than the total crude steel production of North America, and only slightly under that of the total crude steel output of the European Union.

This fierce competition, coupled with over-capacity in the global steel market, means that neither the GOC nor the Chinese steelmakers themselves, whether SIE or not, have any incentive or ability whatsoever to either further suppress market prices of rebar, or to subsidise domestic competitors by way of providing input materials, such as steel billet, “*at less than adequate remuneration*”. This is especially the case for rebar, given that rebar is typically produced in an integrated process, requiring the manufacturers to produce their own steel billet as a semi-finished feed material for rebar. It would be illogical and unrealistic for an integrated producer to sell steel billet to its rebar competitors at less than its own costs, or in any form which would render its own rebar to be less competitive in the market.

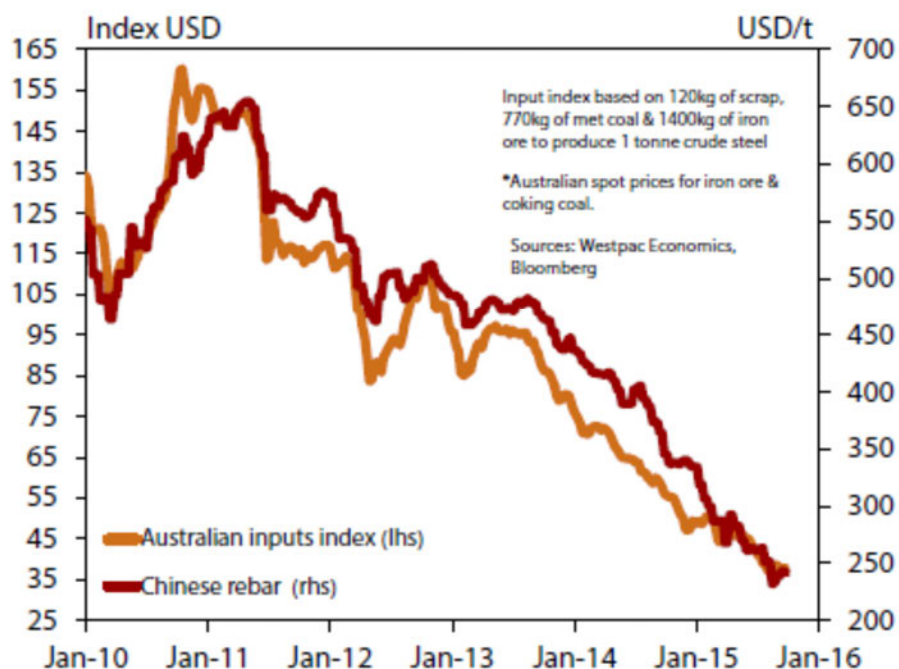
Based on the GOC’s understanding, Chinese rebar producers typically sell rebar to customers in the construction sectors directly, or sell to traders. The rebar prices are

¹³ NBS only collects data from industry manufacturing enterprise of annual main business revenue above CNY20,000,000, and this is what is meant by “above scale”.

highly reflective of iron ore prices and the activity level of the construction industry.

The China Resources Quarterly has charted Chinese rebar prices with an Australian input index (spot prices for iron ore and coking coal), and in so doing has demonstrated a close correlation between the two.¹⁴

Figure 15: The rebar price and input costs



Iron ore

China is the largest iron ore importing country in the world. The iron ore market in China is well penetrated by imports from a number of countries, most notably Australia and Brazil. It is undisputable that iron ore prices in China are highly competitive. Indeed, the general condition of China's steelmaking sectors, and its iron ore consumption, are generally considered as a key factor for international iron ore prices.¹⁵ It is well established, and verified by the Commission, that iron ore costs represent a significant part of the cost of making rebar.

Coking coal and coke

China accounts for over 50% of the total world production and over 60% of total world consumption of coking coal. China is also a net importer and the largest importer of coking coal, representing 21% of world trade in that product.¹⁶ It is also reported that

¹⁴ See, China Resources Quarterly 2016 - <http://www.industry.gov.au/Office-of-the-Chief-Economist/Publications/Documents/crq/China-Resources-Quarterly-Southern-summer-Northern-winter-2016.pdf>

¹⁵ For example, see <http://www.ironorefacts.com/the-facts/iron-ore-global-markets/>, and http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs2-02.htm, which states: The Chinese economy now consumes about 80 per cent of Australia's iron ore exports and the cut in production by Chinese steelmakers in early 2015 was a key factor behind the price declines.

¹⁶ See, China Resources Quarterly 2016, at page 16. <http://www.industry.gov.au/Office-of-the-Chief-Economist/Publications/Documents/crq/China-Resources-Quarterly-Southern-summer-Northern-winter-2016.pdf>

exports from Australia accounted for over 50% of China's total importation of metallurgical coal in 2015, at [CONFIDENTIAL TEXT DELETED - number] million tonnes, with Mongolia being the second largest source of China's imports. Based on Chinese Customs' data, China's total coking coal importation during 2014 was [CONFIDENTIAL TEXT DELETED - number] million tonnes and in 2015 was [CONFIDENTIAL TEXT DELETED - number] million tonne. The GOC provides this import data in Attachment 2 [CONFIDENTIAL ATTACHMENT].

The GOC advises that there have been some changes to the import and export tariffs applicable to coking coal during the investigation period. Effective from 1 January 2015, China's export tariff on coking coal was reduced from 10% to 3%. Effective from 15 October 2014, the import duty was resumed to 3% from the previously applicable interim duty position of 0%. The 3% import tariff has now been eliminated, on and from 1 January 2016, in relation to imports from Australia, giving effect to the *China Australia Free Trade Agreement*.

Domestic coking coal production is vibrant and highly competitive in China. In 2014, China produced [CONFIDENTIAL TEXT DELETED - number] million tonnes of coking coal. The majority number of those producers are privately owned companies. Despite the large number of coking coal mines, the demand for coke within China is so high that coking coal still needs to be imported from other countries. Please see Attachments 2 and 3 [CONFIDENTIAL ATTACHMENTS] for further import and export information relating to coking coal.

According to NBS, there were about 700 coke producers in China during 2015, with over 80% of them being non-SIE enterprises accounting for over 60% of the total coke production volume.

Of course, coke is not only used for the production of steel products. It is also used for the following applications:

- the smelting of phosphate rock in the production of elemental phosphorus;
- the production of calcium carbide;
- ferrochrome production;
- the production of manganese alloys;
- the production of soda ash;
- the production of carbon electrodes; and
- domestic fuel.¹⁷

The high level of production of coking coal, mixed with China's obvious reliance on imports of coking coal to satisfy domestic demand, ensure that the price of coking coal can neither be inflated nor depressed by any policy measures in the domestic Chinese market.

In recent years, China has also become the largest exporter of coke, reportedly accounting for two thirds of global seaborne supply in 2014.¹⁸

The GOC can also confirm that the operational import and export tariff for coke has

¹⁷ Response of the GOC to Further Questions of the Australian Customs and Border Protection Service, 19 November 2012, page 3.

¹⁸ <http://www.platts.com/latest-news/metals/singapore/chinas-may-metallurgical-coke-exports-rise-23-26116570>

been 0% since 1 January 2013.

Please see Attachments 4 and 5 [CONFIDENTIAL ATTACHMENTS] for further import and export information regarding coke.

Scrap steel

We note that “scrap steel” is not a material mentioned by the Australian industry applicant in its subsidy allegations. So far as the GOC is aware, none of the Chinese exporters cooperating with the Commission’s anti-dumping investigation, or with this subsidy investigation, use steel scrap as the main raw material for their steelmaking production. If scrap steel is used, it would be used only as an ancillary material.

In comparison to iron ore, ferrous scrap is not a widely traded commodity. In 2014, there were only 78.3 million tonnes of ferrous scrap imported globally.¹⁹ The GOC considers it likely that the majority of an economy’s scrap demand is fulfilled domestically, either by steel producers re-using scrap by-product from their production processes, or by purchasing scrap from scrap traders which has been recycled and sold.

The GOC does not see it to be necessary to maintain data on such activities, and believes that information relating to scrap steel is insignificant and irrelevant to the current inquiry.

As a general comment, the GOC notes that the iron ore price plummeted during the investigation period, thereby making it much more likely for manufacturers to favour iron ore based steelmaking over steel scrap.

Lastly, the GOC confirms that none of the raw materials mentioned above are subject to export quota. The GOC does not control or regulate the price of any of the input materials, and certainly does not control or regulate the price of rebar. Price discovery at all levels – GUC and input materials – takes place under conditions of open and vigorous competition.

The GOC can also advise, contrary to what the Australian industry applicant may try to depict, that Chinese rebar manufacturers are not favoured by the GOC, and that they are not subsidised in their key raw material and funding options, whenever a SIE is involved. The Chinese industries that manufacture rebar and its input materials are fully marketised and highly dynamic. At the same time, the GOC has been encouraging a more “eco-friendly” steel industry through policies that encourage the dismantling of heavily-polluting and energy-inefficient production facilities and discourage the new building of such facilities. The GOC’s policy goal to encourage capacity reduction is well documented and well known to the Commission. The GOC has no incentive to somehow direct or control State-invested raw material input and electricity suppliers in the various industries, in an attempt to provide such inputs to rebar manufacturers at less than adequate remuneration. This would only serve to further depress Chinese and global steel markets, and worsen the over-capacity situation.

Distribution channels

The GOC does not impose any special regulations on the distribution channels or commercial direction of manufacturers of rebar, whether of steel, or of its input materials, or of any other every-day products.

The GUC and its input materials are normally traded as and with other iron and steel-related goods, although traders or distributors may choose to focus on some or other of them in line with company-specific requirements from time to time. The

¹⁹

Source - China Customs statistics.

manufacturers may distribute the relevant goods they produce via their own subsidiaries or by out-sourced channels (agents and buyers) in domestic and foreign markets as appropriate. Firms in China make their own choices on product portfolio and distribution channels. The GOC places no restriction on these choices and the activities which flow from them.

Vertical integration

The GOC does not impose any special regulations on vertical integration in steel or its input materials, whether to force or to prevent such integration. Nor does the GOC measure the instances of such integration.

The manufacturers may establish their own sales branches or subsidiaries or use sales channels controlled by them, or operated jointly with or independently by others in the domestic and foreign market as appropriate. There is no restriction on the choice by enterprises of their business portfolio in accordance with their business registration. A firm can choose any kind of business portfolio as long as the business is not prohibited from operation. They may also further fabricate rebar into downstream building products.

As mentioned above, the GOC has been advised that Chinese rebar manufacturers are typically integrated steel producers, producing their own semi-finished or raw feed materials such as coke and steel billet.

Merger and acquisition

The GOC does not impose any special regulations on mergers and acquisitions in steel or its input materials, whether to force or prevent such mergers and acquisitions.

There are many enterprises in the five identified industrial sectors. They include SIEs and fully private-owned enterprises, of varying shareholdings. Enterprises, whether State-invested or not, can also be foreign invested, and some private enterprises are wholly foreign invested. Business activities like mergers and acquisitions are matters for the individual enterprises to consider and implement if and when it is deemed to be beneficial to their business. The GOC plays no part in the making of these decisions.

Regarding the Commission's inquiry about changes over the last five years, the GOC would like to mention the following:

- At the end of the investigation period iron ore prices had declined by more than 60% from their peak level of USD160 in early 2013.²⁰
- Oil prices halved during the investigation period, from above USD100 per barrel level to under USD50 at the beginning of 2015, and fell further after the investigation period.
- Similarly, coking coal prices also fell sharply from 2013.
- Changes to China's export and import tariffs for coking coal and coke have occurred since the last time GOC provided the relevant data to the Commission (in 2013) - please see our above advice in this regard.

(d) any changes to the government laws and regulations after 1 January 2011

The GOC clarifies that there are no special laws or regulations regarding rebar or the

²⁰ See above at 12, at page 12.

input materials referred to by the Commission.

In terms of general laws and regulations, the following are notable:

- 1 Amendments to the *Law of the People's Republic of China on Prevention and Control of Occupational Diseases* were adopted on 31 December 2011. Relevantly, Articles 8 and 21 were amended. These Articles explicitly regard “equipment” as one of the objects among “technologies”, “processes”, and “materials” that may be “restricted in use or eliminated” where they are found to have caused serious occupational disease hazards. This further clarifies the legal basis of some industry guidance catalogues that promote the elimination of particular types of unsafe and outmoded “equipment” and/or “processes”.
- 2 The *Law of the People's Republic of China on Promotion of Cleaner Production* came into effect on 1 July 2012. The law improves the “cleaner production examination” system and makes provisions regarding the system’s compulsoriness and its specific implementation procedure. It explains the concept of “duty of control”, that is, “enterprises discharging pollutants beyond the national or local discharge limits shall control pollution in accordance with relevant laws regarding environmental protection” (Article 27, paragraph 3 of the new Law). In addition, the law further clarifies the legal basis of some industry guidance catalogues that curtail investment in unsustainable types of “equipment” and/or “processes”.
- 3 The *Administrative Compulsion Law* (Attachment 6) came into force as of 1 January 2012. It provides that “administrative compulsion shall be set and implemented according to the statutory authority, extent, conditions and procedures” (see Article 4). It also provides that administrative compulsion without any basis in law or regulation cannot be implemented (or, if implemented, how it shall be corrected), and that the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law (see Article 61). This law makes it clear that “guiding” policies that are not laws or regulations do not have any administrative compulsory legal effect.
- 4 The *Company Law* has been amended since 1 March 2014, further liberalising the regime governing the activities of all enterprises doing business in China, by way of replacing the “paid-up capital” regime for company registration, to a registered capital regime, and removing the requirement for phased payments of capital for foreign invested enterprises. See Attachment 7 for the new *Company Law*.
- 5 Through amendment of the *Regulation of Company Registration*, also taking effect from 1 March 2014, the GOC has refined the transparency of market entities by requiring registered legal person businesses, including both SIEs and non-SIEs, to disclose their annual reports. In this way markets can make better informed decisions about risk and investment. Please refer to Article 58 of the new *Regulation of Company Registration* at Attachment 8.
- 6 Businesses in China have been better positioned to defend their legitimate rights since the *Law of Administrative Procedures* was amended in 2014. The newly amended law broadens the scope of matters that may be brought to the courts against any government agency by explicitly listing 12 categories of matters (there were formerly only eight categories). The newly added controversies that enterprises may challenge include administrative decisions regarding appropriation, and compensation for such appropriation, and any abuse of administrative power to monopolize the market or to create monopolistic power in any market. Please refer Article 12 of the new *Law of*

Administrative Procedure, provided at Attachment 9.

- 7 The GOC has further advanced its policy of adjusting the structure of State capital and assets in the economy by encouraging the investment of more private capital into SIEs, and by seeking to attract more private investment and involvement in the important and costly infrastructure and network industries. As advised above, the Chinese rebar sector was dominated by non-SIEs in 2015.
- 8 The GOC has opened the Chinese market to foreign investment to an even greater extent than before. For example, in 2015 China signed free trade agreements with Australia and Korea, and upgraded its existing free trade agreement with ASEAN. These followed the signing of the China-Iceland and China-Switzerland Free Trade Agreements in 2014. The China-Australia Free Trade Agreement lowered the tariff rates of more than 80% of the goods traded between the two countries.
- 9 The GOC has also repealed a great number of licensing/approval processes for doing business in a range of sectors and business lines. For example, to obtain an official VAT invoice for sales and sales revenue, enterprises previously had to achieve taxation registration, which in turn was subject to an approval by the relevant taxation authority. However from late 2013, this prior approval requirement for taxation registration has been repealed. Enterprises may now register directly with the relevant taxation authority. Please refer to Attachment 10 - *Shortlist of deregulations since 2011* for a list of selected licensing/approval requirements that have been repealed since 2012.

On the subject of “government laws and regulations”, we have noticed that two policy instruments are referred to in SEF 300 as “planning directives”, viz:

- *Guiding Opinions on Pushing Forward Enterprise M&A and Reorganisation in Key Industries (2013)*.
- *Steel Industry Adjustment Policy (2015 Revision)*

The GOC wishes to reiterate that government policies are not laws. They are not enforceable, as is the case in any country, including Australia. The *Guiding Opinions* document was issued by the MIIT to other government agencies. It is not a “directive” by the government to Chinese companies, whether they are in the steel, coal or coke sectors or for that matter any other. As the articles referred to by the Commission state, these policy opinions are nothing new, they are unenforced, and they are historically ineffective:

China’s central planners have been talking about consolidation for decades... A plan was announced in 2001, but then the number of steel enterprises doubled between 2002 and 2006 as firms saw profits rise and piled in. From a hefty 3,000 ferrous metals firms at the start of the decade, there were 7,000 by 2005, 8,000 by 2010 and - after a brief pullback in 2011 - currently around 11,000 (Figure 1). The top three are world-scale but accounted for only 14 percent of the total production in 2005, while in Japan, South Korea and the United States the top three control well over half the market.²¹

In relation to the *Steel Industry Adjustment Policy (2015 Revision)*, the GOC advises that there is no such policy. On 20 March 2015 MIIT issued a document entitled *Steel Industry Adjustment Policy (2015 Revision) (Draft for comment)*. As the title (which is not fully cited in SEF 300) suggests, it is a draft document for the purpose requesting comments from the general public. This is not an official policy document and certainly

is not a “directive”. The GOC can also advise that MIIT has not issued or reissued any official *Steel Industry Adjustment Policy (2015 Revision)*.

The GOC is concerned about the use of this draft and unofficial “policy directive” by the Commission in purported support of the preliminary findings reached in SEF 300. It is even more concerning that SEF 300 appears to defer its own decision making to the opinions of foreign steel associations.²² Those foreign steel associations are formed, naturally, to express the views and to promote the interests of their own members. That self-interest and bias must be taken into account by the Commission, whose task is to objectively assess the issues in accordance with Australian legal requirements and those of the relevant WTO agreements. It is well-known that most of the associations that together constitute the “group of eight steel industry associations” have a hostile stance against China and Chinese exporters due to the competition posed by Chinese exporters. They have vocally opposed recognition of China’s market economy status in their own jurisdictions. The Commission is requested to demonstrate independence and impartiality in its consideration of the views and advocacies presented by those foreign industrial associations.

The GOC’s laws and policies demonstrate its vision, commitment and responsibility towards important issues at both the domestic and the international levels. The GOC has the oversight of the world’s largest steel sector and the world’s second largest economy. The GUC, as well as the raw material inputs that go into the production of rebar such as coking coal, coke and steel billets, are all created through emissions-intensive production. The more demand there is for these products from outside China, the more pollution occurs within China. Exporting more goods produced by processes which are heavily polluting “relocates” those processes from foreign countries to China. This effectively involves China in “importing pollution” from abroad. Therefore, an environment-friendly policy cannot be effective without requiring the highest levels of technology and without making good judgements about sustainability, infrastructure usage and industrial efficiency. The GOC notes that environmental policies may inevitably cause an economic burden on businesses within China, but that this is no different to the situation anywhere else in the world.

China is a country with a population of 1.35 billion people. The scale of China’s steel sector, and of many of its other economic sectors, cannot be denied. The fact that there is a global overcapacity issue in the steel market – and as in many other commodity markets and sectors, especially mining – is not a justification to discriminate against Chinese exporters using cost surrogation and subsidy benefit excuses. Market competition in China is fierce, at all levels of the production and sale of rebar and of its upstream inputs and downstream derivations. All producers and sellers must look to innovate in their raw materials, production techniques, trading and distribution, and the application of technology.

The GOC rejects attempts to label purchases by its manufacturers as being at “less than adequate remuneration” and to “surrogate” or “benchmark” the prices and costs recorded in the financial records of Chinese exporters. This practice is not justified by the facts, not permitted by the WTO agreements to which China is a party.

In summary, there can be no reason to deny the competitiveness of Chinese steel markets, or to ignore the market-based price and cost data of Chinese manufacturers of rebar.

2. At all levels of government (central, provincial, regional, municipal, special economic zone (SEZ), etc.) identify the names of the government departments, bureaus or agencies that are responsible for the administration of any the GOC measures concerning the rebar and / or the iron and steel industry.

²² SEF 300, at pages 79 and 80.

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The GOC draws the Commission's attention to the fact that the various central government agencies identified below are not exclusively dedicated to the administration of policies which may impact on the steel industry. In each case they have much broader administrative duties and responsibilities under the Chinese government framework.

The GOC does not have any central government agency that is exclusively assigned the task of administering "measures" concerning either the rebar or the steel industry. Also, local government authorities are not exclusively dedicated to the administration of "measures concerning the steel industry" either.

In this context, the GOC submits that Articles 3.4 and 110.2 of the Constitution of China are relevant.

Article 3.4 states:

The division of functions and powers between the central and local state organs is guided by the principle of giving full play to the initiative and enthusiasm of the local authorities under the unified leadership of the central authorities.

Article 110.2 states:

Local people's governments at different levels are responsible, and report on their work, to the state administrative organs at the next higher level. Local people's governments at different levels throughout the country are state administrative organs under the unified leadership of the State Council and are subordinate to it.

The GOC has a keen desire to fully cooperate with the Commission in relation to this matter, and in light of the above comments the GOC now provides the information requested for the relevant agencies in the localities of the key companies under investigation.

The GOC also notes that its comments set out above, when addressing substantive issues about the context and relevance of Commission's questions, apply to the answers below as appropriate.

Include information relating to the following areas:

- supervision of rebar State-invested enterprise (SIE) senior management and administration;

The GOC, as a whole, supervises all entities, both real and legal, within China, to ensure they comply with the laws of China. This is true of every government.

In relation to the concept of "supervision", SASAC's supervisory role only applies to senior managers in wholly and majority State-invested enterprises. This "supervision" is in the nature of a careful watch over behaviour with regard to legal probity and the shareholder interests of the GOC.

The GOC does not "supervise" the senior management of non-designated majority-owned SIEs. The senior management of the great majority of SIEs is subject to the "supervision" of the board of supervisors selected by the shareholders themselves, with that board being ultimately responsible to the shareholders.

For more detail, the GOC respectfully requests that attention be paid to the GOC's

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responses to the questions in Section B of this GQ.

- consolidation of domestic rebar and/or iron and steel producers;

Consolidation of business entities is a commercial decision for enterprises to consider. These are decisions that are ultimately made by boards of enterprises on the advice of their senior management and with the best interests of the shareholders firmly in mind. Merger and acquisition in China is subject to the same considerations as those that must be considered by companies in Australia.

There is no agency of the GOC that is charged with the function of administering any “consolidation of domestic rebar and/or iron and steel producers”.

- industrial policy and guidance on the rebar and/or the iron and steel sectors;

Central Government

Department: National Development and Reform Commission (“NDRC”)
Mailing address: 38 South Yuetan Street, Xicheng District, Beijing 100824
Phone number: 86-10-6850 1428
Fax number: 86-10-6850 2999

Department: Ministry of Industry and Information Technology (“MIIT”)
Mailing address: 13 West Changan Street, Xicheng District, Beijing 100804
Phone number: 86-10-6601 1228
Fax number: 86-10-6601 1228

The NDRC is China’s high-level macro-economic and social development strategy planning agency. It has been responsible for introducing and facilitating the implementation of China’s macro-economic and overall social development strategies.

MIIT is a central government agency with the general responsibilities of articulating and coordinating the dissemination of industry policy, proposing and optimising industrial location and structure, and introducing appropriate consultation and approval processes and instruments.

Provincial Government Authorities

Department: Shandong Province Development and Reform Commission
Mailing address: 1 Shen Fu Qian Street, Jinan 250011
Phone number: 86-531-8691 5719
Fax number: 86-531-8691 5719

Department: Jiangsu Province Development and Reform Commission
Mailing address: 70 Beijing West Road, Nanjing 210013
Phone number: 86-25-8339 2402
Fax number: 86-25-8339 2402

Department: Hunan Province Development and Reform Commission
Mailing address: 8 Xiangfu West Road, Changsha 410004
Phone number: 86-731-8999 1088
Fax number: 86-731-8999 1088

- market entry criteria for the rebar and/or the iron and steel industry;

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Central Government

Department: NDRC
Mailing address: 38 South Yuetan Street, Xicheng District, Beijing 100824
Phone number: 86-10-6850 1428
Fax number: 86-10-6850 2999

Department: MIIT
Mailing address: 13 West Changan Street, Xicheng District, Beijing 100804
Phone number: 86-10-6601 1228
Fax number: 86-10-6601 1228

Responsibilities

The steel industry is understood to be a usual, albeit significantly important, industry, where market pricing, competition and general commercial law mechanisms play the major role in industry regulation. The industry's importance arises from the scale and effect of the present and proposed operations of steel-making companies, and the effect of proposals on China's resources, both physical and social.

The NDRC has played a supervisory and consultative role, at the macro-economic level, in relation to the development of many of the major industries in China. This supervisory function has been progressively transferred to the MIIT, reflecting the fact that the industry and its markets have become more highly developed.

On and from 31 October 2014 the administration form of any new investment plan in the steel industry was further deregulated, from an approval system to a registration system. However, on and from July 2014 the GOC has advised proponents of new or expanded facilities that it would not consider the registration of new steel capacity investments in the absence of evidence that capacity of the same or similar scale had departed the industry. This has been advised in consideration of the serious excessive capacity in the steel industry, and the pressures that this has placed on China's environment and infrastructure.²³

The issues addressed in the context of the GOC's involvement concerning market entry and investment are primarily related to issues such as the size and design of facilities, environmental protection, and the efficient use of energy and natural resources. None of these initiatives are designed to artificially affect prices, whether by reducing them or increasing them. Efficient energy and resource utilisation is geared towards sustainable development, which is an important macro-economic and long-term policy consideration for any responsible government.

- environmental enforcement for the rebar and /or iron and steel industry;

Central Government

Department: Ministry of Environmental Protection ("MEP")
Mailing address: 115 Nanxiao Street, XizhimenNei, Beijing 100035
Phone number: 86-10-6655 6163
Fax number: 86-10-6655 6165

MEP is responsible for China's environment protection administration. It does not specifically promote or regulate the steel industry. The industry is subject to the

²³

This is akin to the way in which matters of national environmental significance would be required to be taken into account by the Commonwealth under the Australian *Environment Protection and Biodiversity Conservation Act 1999*.

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general application of environmental laws, regulations and policies.

Provincial/Municipal Government Authorities

Department: Shandong Province Environmental Protection Admin Bureau
Mailing address: 3377 Jingshi Street, Jinan 250101
Phone number: 86-531-8610 6112
Fax number: 86-531-8610 6112

Department: Jiangsu Province Environmental Protection Administration Bureau
Mailing address: 176, Jiangdong North Road, Nanjing 210036
Phone number: 86-25-86557655
Fax number: 86-25-86557655

Department: Hunan Province Environmental Protection Administration
Mailing address: 118, Wanjiali Mid Road, Changsha 410014
Phone number: 86-731-85698005
Fax number: 86-731-85698005

- management of land utilization;

Central Government

Department: Ministry of Land and Resources
Mailing address: 64 Funei Avenue, Xicheng District, Beijing 100812
Phone number: 86-10-6655 8424
Fax number: 86-10-6655 8004

The Ministry of Land and Resources is responsible for the general administration of land utilisation.

Provincial/Municipal Government Authorities

Department: Shandong Province Office of Land and Resources
Mailing address: 5948 East Road, 2nd Ring Road, Lixia District, Jinan 250014
Phone number: 86-531-8858 3604
Fax number: 86-531-8858 3604

Department: Jiangsu Province Office of Land and Resources
Mailing address: 58, Shuiximen Avenue, Jianye District, Nanjing 210017
Phone number: 86-25-86599900
Fax number: 86-25-86599900

Department: Hunan Province Office of Land and Resources
Mailing address: 8, Xiangfu West Road, Tianxi District, Changsha 410004
Phone number: 86-731-89991392
Fax number: 86-731-89991392

- banking regulations in relation to rebar and /or the iron and steel industry;

Agency: China Banking Regulatory Commission ("CBRC")
Mailing address: 15 Financial Avenue, Xicheng District, Beijing 100800
Phone number: 86-10-6627 9378
Fax number: 86-10-6629 9144

The CBRC is responsible for the regulation of banks in China. It is not involved in the

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regulation or administration of the steel industry in any manner. The CBRC has no department or division which is responsible for the steel industry. Functions of the CBRC are not specific to any single industry, other than the regulation of the financial services industry.

- investigation and inspection of rebar manufacturing facilities;

The GOC submits that many administrative departments can be involved in the investigation and expansion of new steel facilities. It is difficult to know how to list these, and their relevance to this investigation would have to be quite remote. The subject matter dealt with by agencies involved in the investigation and inspection of facilities will include such things as construction certification; construction safety; land surveying; and environmental compliance.

The Commission is invited to direct the GOC's attention to any specific area of interest, by way of supplemental request.

- the section in the National Development and Reform Commission that is responsible for the rebar and / or the iron and steel sector;

The NDRC is responsible for the promotion and regulation of the Chinese economy at the national level. This role includes the development of policies relating to the steel industry. The steel industry falls within the regulatory scope of the Department of Industry of the NDRC. The relevant contact details of NDRC have been provided as above.

Generally speaking, the direction of the GOC's government restructuring reform in this regard is to focus the NDRC on its key duties of macro-level economic and social development strategy, and to remove it from direct regulatory involvement.

Provincial/Municipal Government Authorities

Department: Shandong Province Development and Reform Commission
Mailing address: 1 Shen Fu Qian Street, Jinan 250011
Phone number: 86-531-869 15719
Fax number: 86-531-8691 5719

Department: Jiangsu Province Development and Reform Commission
Mailing address: 70 Beijing West Road, Nanjing 210013
Phone number: 86-25-83392402
Fax number: 86-25-83392402

Department: Hunan Province Development and Reform Commission
Mailing address: 8 Xiangfu West Road, Changsha 410004
Phone number: 86-731-89991088
Fax number: 86-731-89991088

- import licensing for raw materials used in rebar manufacture;

Department: Ministry of Commerce
Mailing address: 2 Dongchang'an Road, Beijing, 100731
Phone number: 86-10-6519 7107
Fax number: 86-10-6519 7447

On and from 1 July 2013, the import licensing requirement for iron ore was lifted. All

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importation is now subject to an automatic licensing regime. There are no import licensing requirements on the other key raw materials used in rebar manufacturer.

- export regulations, export licensing, “guidance prices”, free trade export zones, etc.; and

There is no export licensing of steel exports. For the purpose of collecting macro-level statistics, there is a framework in place for reporting on exports for statistical purposes. Statistical collection of information in this way neither limits quantity nor does it influence steel prices. The legal status or qualification of companies to export is not examined in this process.

There are no “guidance prices” in China for steel products, and no government control of prices at the regional or local level.

- taxation - especially export taxes; export tax rebates and value added tax (including any rebates).

The General Administration of Customs is responsible for the administration of export tariffs. Tax rebates and VAT are administered through taxation system.

Department: General Administration of Customs
Mailing address: No.6 Jianguomennei Street, Beijing 410114
Phone number: 86-10-65194114
Fax number: 86-10-65194114

The Chinese taxation system is divided into two parts: the State taxation system and the local taxation system. The central government is responsible for enactment and promulgation of tax policies, and regional governments are the bodies which implement such policies. Provincial and city state taxation bureaus have a vertical reporting relationship with the State Administration of Taxation (“SAT”) and are seen as local branches of the SAT.

The local taxation system has no vertical reporting relationship with the SAT, but can seek advice and information assistances from the SAT. We provide the details of local tax authority for the areas that the Respondents are located.

Department: Shandong Province Administration Bureau of State Taxation
Mailing address: 155 Yingxiongshan Road, Shizhong District, Jinan 250021
Phone number: 86-531-8565 6000
Fax number: 86-531-8565 6000

Department: Jiangsu Province Administration Bureau of State Taxation
Mailing address: 55 Zhongshan North Road, Nanjing 210000
Phone number: 86-25-83101888
Fax number: 86-25-83101888

Department: Hunan Provincial Administration Bureau of State Taxation
Mailing address: 6 Huanbao West Road, Yuhua District, Changsha 410114
Phone number: 86-731-85530318
Fax number: 86-731-85530318

Ensure that your response includes contact information regarding the government officials responsible for the listed areas listed along with their full mailing addresses, phone numbers, email addresses and fax numbers.

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3. Describe the ownership structure of the Chinese rebar industry, identifying what proportion of the industry is represented by SIEs, foreign-invested enterprises (FIEs), and Chinese domestic-owned private enterprises.

For each business where the GOC is a shareholder in the business, provide the name and percentage GOC ownership of the enterprise.

Please see the GOC's comment above at A-1, providing the NBS statistics regarding rebar producers in China. Please see Attachment 11 [CONFIDENTIAL ATTACHMENT] for further details of the NBS data.

4. Complete the attached spreadsheet A-4 (using Microsoft Excel format) listing all manufactures/traders of rebar and upstream raw material (steel billet, coking coal, coke, iron ore and scrap steel) providers in China including the following details:
- (a) name of the business entity;
 - (b) location of the business entity;
 - (c) function of the business (e.g. manufacturer, trader, exporter);
 - (d) type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise or other (please specify));
 - (e) whether the business is a manufacturer of rebar;
 - (f) production quantity of rebar;
 - (g) value of total benefit provided to each company
 - (h) whether GOC is a shareholder in the business, and
 - (i) if so the percentage of GOC holdings; and
 - (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

The GOC notes that most of the information requested above bears little or no relevance to a countervailing investigation. It is neither necessary nor desirable for the GOC to provide the detailed commercial information such as name and location, ownership information and production quantity, for each and every manufacturer and trader of rebar and of "upstream raw materials".

The GOC is also not aware of any allegation of a "pass-through" subsidy allegation in this investigation – therefore the information requested in relation to upstream manufacturers and traders cannot be relevant to an inquiry about subsidies allegedly received by a manufacturer of rebar.

In relation to the question concerning the "value of total benefit provided to each company", if this means the value of any subsidy as alleged by the applicant, and as is being presently investigated by the Commission, the GOC advises that it has provided detailed responses in relation to the amount of any particular subsidy as received by the respondent companies under each of the alleged subsidy programs at Section B of

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this questionnaire.

In relation to the issue of whether any SIE raw material supplier is a “public body” that is capable of providing a subsidy to a rebar manufacturer by way of providing raw material at less than adequate remuneration, the GOC again notes that it is now well-established that State ownership in a company is neither a sufficient nor determinative factor. The GOC’s response in relation to the applicant’s specific “less than adequate remuneration” subsidy allegations is provided in Section B of this questionnaire.

As already advised above, according to NBS there are over 297 above scale producers of rebar in China, with more over 80% being non-SIEs, accounting for more than 66% of total production.

In terms of raw materials for rebar, available NBS data show over 700 producers of coke in China, with over 80% being non-SIEs and accounting for more than 63% of total production. In the case of iron ore, there are over 1,171 iron ore producers in China, over 90% being non-SIEs accounting for more than 70% of total production. As advised above, the Chinese market for coking coal, coke and iron ore are all well penetrated by import sources.

Nonetheless, the GOC does intend to respond to this question, again in the interests of cooperation.

The only form of GOC “representation” in any of the entities is that which would apply in the case of SIEs. By their very nature, an SIE has government representation, insofar as the GOC is a shareholder in that entity. The role of shareholder or “capital contributor” is undertaken by the State-owned Assets Supervision and Administration Commission (“SASAC”).

In this role SASAC’s functions are those of a shareholder in the normal sense of the term. As an institution (non-natural person) it cannot attend a shareholders’ meeting or a general assembly of shareholders convened by a company (majority state-holding company or minority state-holding company). To efficiently perform its “contributors” functions, it must appoint a representative to attend these meetings. The specific role of these representatives is to put forward proposals, present opinions and exercise the voting right under the instructions of the appointing body, and to report the performance of his duties and results thereof to the appointing body promptly.

SASAC is obliged to exercise its ownership rights in a manner as provided by law, and not in a way which is dictated by any GOC party or instrumentality. No other parts of the GOC have any authority to intervene contrary to that legal stipulation. The primary and ruling considerations for a SASAC representative to consider in asset management are commercial operation and fair value. SASAC’s role is simply that of a shareholder. Investors will always take into account commercial, legal, political (“sovereign”) and social risks in managing their investments, and SASAC is no different in this regard.

For other information regarding the GOC’s involvement and the operation of SASAC please see the GOC’s responses in A1, A2, and Section B.

GOC provides the following information in relation to rebar producers in China and the available statistics in relation to the raw material inputs.

- list of rebar manufacturers and/or exporters as provided by CISA, at Attachment 12 [CONFIDENTIAL ATTACHMENT];
- NBS statistics for rebar production in 2014 and 2015, at Attachment 11 [CONFIDENTIAL ATTACHMENT];

- NBS statistics for coke production in 2014 and 2015, at Attachment 11 [CONFIDENTIAL ATTACHMENT];
- NBS statistics for iron ore production in 2014 and 2015, at Attachment 11 [CONFIDENTIAL ATTACHMENT];

The GOC has been advised by NBS that statistics are not available in relation to “coking coal” as a separate category of goods.

In relation to steel billet and scrap please refer to the GOC’s responses at A-1 above.

For each business where the GOC is a shareholder and/or there is the GOC representations in the business provide:

- (a) the complete organisational structure, including subsidiaries and associated businesses; and
- (b) copies of annual reports of the business for the last 2 years.

The GOC respectfully draws the Commission’s attention to Articles 7 and 10 of the *Interim Measures for the Supervision of and Administration of the Assets of State-Owned Enterprises*, which note the separation between the GOC and any entities in which it has an investment.

The GOC does not collect the information requested by the Commission in this question, nor does the GOC consider that information to be relevant to the question of whether any of the alleged subsidies exists or - if this be one intent of the question - whether a situation exists in the market for rebar that would render sales in that market unsuitable for determining dumping margins under Section 269TAC(1).

We again refer to the NBS data concerning rebar producers in China as provided in Attachment 11 [CONFIDENTIAL ATTACHMENT], which indicates that there are 53 SIEs producing rebar in China amongst the 297 above scale rebar producers. It is not clear to the GOC whether each and every one of these enterprises publishes an “annual report” for general circulation. The GOC understands that some of the Respondents to this investigation are SIEs, and the GOC would expect that they have already provided the requested information.

5. Which industry associations represent rebar manufacturers?

Please provide names, address and contact details including their websites of the relevant industry associations. Include all national, provincial and regional producer organisations that represent the interests of rebar manufacturers and traders in China.

The GOC understands that rebar manufacturers who are members of CISA might be represented by CISA. The address of CISA is No.46, Dongsu West Street, Beijing. Its telephone number is +86 10 65133322.

6. The GOC Questionnaire Response to INV 277 (hollow structural sections - alloy) identified the China Iron and Steel Association (CISA) as the relevant industry association that represents hollow structural sections manufacturers. Indicate whether the CISA also represent any of the following sectors:

- (a) iron ore and coking coal, miners, billet manufacturers, importers and traders;
- (b) coke producers, importers and traders; and/or

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(c) scrap metal producers, importers and traders.

If there are other industry associations that represent the above business types, provide names, address and contact details including the websites of the relevant industry association.

The GOC does not understand the relevance of this question in this investigation.

The laws of China confer no rights on the GOC to constitute, sponsor or administer industrial associations except for regular legal entity registration or regulation. CISA is an organisation that is independent of the GOC.

In order to cooperate with the investigation, the GOC clarifies that, to the best of its knowledge, besides the CISA, there are other industry associations in China having some roles on behalf of the industries concerned and their members.

The GOC provides a list of relevant associations in Attachment 13 [CONFIDENTIAL ATTACHMENT]. For other information concerning relevant industry associations, please inquire of the respondent firms.

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SECTION B: SUBSIDIES

The applicant alleges that producers of rebars in China have benefited from a number of subsidies granted by the GOC, and that these subsidies are countervailable.

INVESTIGATED PROGRAMS

Table 1 below lists all the alleged countervailable subsidy programs for rebars that are being investigated.

Note: the below titles of programs are to the best of the Commission's knowledge and in some cases may simply be descriptions of the program. Consequently, the below titles may not exactly reflect any official titles that the GOC has in place.

The GOC is requested to provide information on each program, regardless of the year the benefit was granted by the GOC or the year that the benefit was received by the recipient company, as well as those further identified by the GOC, where the program benefits impact on the production and sale of rebars during the investigation period.

Table 1: INVESTIGATED PROGRAMS

The following are programs that the Commission is currently investigating:

Category	Program (number and description)
Part C-1 Provision of goods (Programs 1-4)	1. Billet provided by the Government of China at less than adequate remuneration
	2. Coking coal provided by the Government of China at less than adequate remuneration
	3. Coke provided by the Government of China at less than adequate remuneration
	4. Electricity provided by the Government of China at less than adequate remuneration
Part C-2 Preferential tax policies (Programs 5-9)	5. Preferential Tax Policies for High and New Technology Enterprises
	6. Preferential Tax Policies in the Western Regions
	7. Land Use Tax Deduction
	8. Tariff and VAT Exemptions on Imported Materials and Equipment
	9. VAT refund on comprehensive utilisation of resources
Part C-3 Financial grants (Programs 10-42)	10. One-time Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" and "Famous Brands of China";
	11. Matching Funds for International Market Development for small and medium size enterprises (SMEs)
	12. Superstar Enterprise Grant
	13. Research and Development (R&D) Assistance Grant

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Category	Program (number and description)
	14. Patent Award of Guangdong Province
	15. Innovative Experimental Enterprise Grant
	16. Special Support Fund for Non-State-Owned Enterprises
	17. Venture Investment Fund of Hi-Tech Industry
	18. Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
	19. Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan
	20. Water Conservancy Fund Deduction
	21. Wuxing District Freight Assistance
	22. Huzhou City Public Listing Grant
	23. Huzhou City Quality Award
	24. Huzhou Industry Enterprise Transformation & Upgrade Development Fund
	25. Wuxing District Public List Grant
	26. Anti-dumping Respondent Assistance
	27. Technology Project Assistance
	28. Transformation technique grant for rolling machine
	29. Grant for Industrial enterprise energy management - centre construction demonstration project Year 2009
	30. Key industry revitalization infrastructure spending in 2010
	31. Provincial emerging industry and key industry development special fund
	32. Environmental protection grant
	33. Environmental protection fund
	34. Intellectual property licensing
	35. Financial resources construction - special fund
	36. Reducing pollution discharging and environment improvement assessment award
	37. Grant for elimination of out dated capacity
	38. Grant from Technology Bureau

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Category	Program (number and description)
	39. High and New technology Enterprise Grant
	40. Independent Innovation and High Tech Industrialization Program
	41. Environmental Prize
	42. Jinzhou District Research and Development Assistance Program
Part C-4 Equity programs (Programs 43-45)	43. Debt for equity swaps
	44. Equity infusions
	45. Unpaid dividends
Part C-5 Preferential loans	46. Preferential loans and interest rates to producers/exporters of steel reinforcing bar
Part C-6 Miscellaneous programs (Programs 47-86)	47. "Project: Shortage of Coke oven gas heat efficient return Development and Application Technology"
	48. "Project: Finance Bureau of Independent Innovative technology funds"
	49. "Project: The first batch of industry and information technology development funds FY2014"
	50. "Project: Second five special funds for national support program"
	51. "Project: Major technical equipment special plate manufacturing support fund"
	52. "Project: The second batch of key industrial adjustment and revitalisation and transformation funds FY2009"
	53. "Project: Industrial enterprise energy management center demonstration project construction FY2009"
	54. "Project: Coke ovens 1-5 Gas desulfurization renovation project"
	55. "Project: Industrial park wastewater treatment and reuse project funding"
	56. "Project: 2011 environmental protection special fund"
	57. "Project: Special funds for energy conservation"
	58. "Project: Coke oven gas desulfurization improvement project"
	59. "Project: Special promotion with steel caster reconstruction funds for support"
	60. "Project: Water reuse project"
	61. "Project: 2010 Key Industry revitalization and transformation"
	62. "Project: Energy power plant waste heat heating reconstruction project grants"

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Category	Program (number and description)
	63. "Project: 320 sintering flue gas desulfurization project environmental protection fund"
	64. "Project: 400 sintering desulfurization funds"
	65. "2012 annual special funds for energy"
	66. "Coke oven No.1,2 & 5 tampers top-loading change project"
	67. "Project: 2010 provincial emerging industries and key industries Development Special Fund Project"
	68. "Regional Government economic incentives"
	69. "Set aside safely production capital Jinan City Bureau of Finance"
	70. "Nanshi Bureau of Water Resources water consumption units appraisal award funds"
	71. "City key projects mentioned standard award"
	72. "E420 marine platform steel research and application projects"
	73. "Xuejiadao financial and tax refund payments"
	74. "Jinan City Bureau of Finance Cleaner Production special funds"
	75. "Security special funds"
	76. "Patent Development Grant funds"
	77. "Shandong Huimin Technology Development Co. Ltd R&D Funding"
	78. "National Pillar Program special funds"
	79. "Government allocated Industry Enterprises Award"
	80. "Enterprise workers vocational training allowance"
	81. "Municipal Export trade and economic development guide funds"
	82. "Income received from Commerce Bureau in 2012 to guide the development of foreign trade financing "
	83. "2013 annual export credit insurance subsidies 9.12"
	84. "2013 municipal foreign trade development guide funds"
	85. "Two by one guarantee funds to support foreign trade "
	86. "The financial return of funds"

In responding to this questionnaire, if the GOC is unfamiliar with the title given to a program, but is aware of the existence of a similar program or one that it appears is being referred to, please identify this (including providing the official title of any such program) and respond to

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the questionnaire in relation to that program.

ANY OTHER PROGRAM NOT PREVIOUSLY ADDRESSED

If the GOC, any of its agencies, or any other authorised non-governmental body provides any other assistance programs not previously addressed (including market development assistance programs or any domestic support programs related to the manufacture of subject goods) to manufacturers of (rebars) in China, identify these program(s). Such assistance programs are those that constitute a subsidy as defined in the attached Glossary of Terms.

The GOC is requested to provide the information requested for each of the programs identified above and any additional programs the GOC has identified. In addition, please respond to the program-specific information requested.

The GOC will respond to the questions in relation to Programs 1, 2, 3, 4 and 46 by way of rebuttal, and in relation to other “programs” only if the Chinese exporters of rebar participating in this investigation (hereinafter “Respondent/s”) have reported usage of them. For those other “programs” which the GOC is not aware of any usage by Respondent, the GOC has nonetheless provided explanatory notes and comments in so far as the GOC is able to identify those programs, in order to assist the Commission’s consideration.

1. For **all programs under investigation** provide any amendments to law, regulations or policy that makes a particular program redundant for this investigation. Provide all documentary evidence.

Program 1 – Steel billet provided by the government at less than adequate remuneration

The GOC advises that there is no such program.

The Commission’s consideration report makes the following comments in response to the alleged Program 1:

The Commission has not previously made a finding regarding the provision of billet at less than adequate remuneration, nor is it aware that such a finding has been made by any other anti-dumping authority. The Commission notes the following concerning the applicant’s arguments regarding the provision of billet at less than adequate remuneration:

- The Chinese companies referred to by the applicant are vertically integrated in producing billet that is then used to produce rebar. However to the extent that not all Chinese producers of rebar are vertically integrated, the provision of billet at less than adequate remuneration from SIE producers of billet may be a countervailable subsidy; and*
- The applicant has cited the WTO Appellate Body Report in United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (DS436) in support of its reasoning that Chinese billet suppliers are public bodies (see the definition of ‘subsidy’ at Section 269T) because the GOC exercises meaningful control over them. However the Appellate Body in DS436 rather overturned a decision by the WTO Panel that relied too heavily on the ‘meaningful control’ indicia as one of the three indicia to be considered in assessing whether an entity possesses, exercises or is vested with governmental authority (DS436 at paragraph 4.36).*

The Commission proposes to further consider, during the course of the investigation, whether the supply of billet at less than adequate remuneration is a countervailable subsidy.

Appear to be reasonable grounds

Accordingly, the Commission accepts that, at least for coke, coking coal and electricity, there is a sufficient basis for the Commissioner to be satisfied, having regard to the matters in the application and to other relevant information that there appear to be reasonable grounds that the programs for provision of goods described by the applicant are countervailable subsidies.

Programs for provision of billet at less than adequate remuneration may only be applicable to rebar producers that purchase billet, not integrated producers of billet and rebar. [footnote omitted]

Quite apart from the non-presence of “public bodies” in China’s steel industry, and quite apart from any question of whether a “benefit” would be found if there were, the GOC welcomes the Commission’s statement that:

Programs for provision of billet at less than adequate remuneration may only be applicable to rebar producers that purchase billet, not integrated producers of billet and rebar.

The GOC considers that the allegation that a fully integrated rebar producer could somehow be subsidised by itself, by way of producing and fully costing its steel billet, as a stage in the production of rebar, is plainly illogical.

The GOC respectfully disagrees with the Commission’s decision to initiate any investigation concerning the alleged “Program 1”, in light of the fact that the allegation does not achieve any reasonable *prima facie* threshold for initiation. In this regard the GOC notes the allegation in the application is that all of the Chinese exporters of rebar identified in the application are “integrated” steel producers that produce steel billet, and that three out of the four rebar exporters claimed by the Applicant are SIEs.²⁴ The Application does not provide any evidence that any Chinese rebar exporters that exported rebar during the investigation period were not integrated producers of rebar. Nor was any evidence provided to demonstrate whether any of the rebar exported from China to Australia during the investigation period was indeed made from steel billet supplied by SIEs. Accordingly, the Application contained no evidence of the *prima facie* existence of the alleged Program 1 subsidy in so far as it concerns “non-integrated” Chinese rebar producers who exported rebar to Australia during the investigation period.

Further, in relation to the “legal basis” of the “public body/government” element of the alleged subsidy, the Application:

- stated that nine of the top 10 *crude steel* producers in China are SIEs and account for less than 40% of total Chinese output;
- referred to the importance of the Chinese iron and steel industry as a “fundamental or pillar” industry;
- cited the Appellate Body’s views regarding what constitutes a “public body” in DS436.

The GOC notes that the first two points have no direct relevance to the Applicant’s allegation that all Chinese SIEs who supplied steel billet to rebar producers are public bodies. As to the third point, the reference to the Appellate Body’s report in DS436 as legal supporting the allegation is simply a misrepresentation. None of the points cited by the Applicant as being “*guiding principles*” of the Appellate Body’s decision represent the Appellate Body’s view in DS436.²⁵ As the Commission’s Consideration Report points out, the alleged “*guiding principles*” were indeed overturned and were not supported by the Appellate Body in DS436.

Accordingly, it is not apparent that the Application contained any “reasonable

²⁴

²⁵

This claim is incorrect, as Yonggang Group Co., Ltd is a private company. The first dot points referred to in the Application was actually the Panel’s view which ultimately not supported by the Appellate Body in DS436. The other dot points were plainly misquotation as they were not from the AB report at all.

grounds”, whether from a factual or legal perspective, to support the existence of the alleged Program 1 subsidy, nor any benefit that the Chinese exporters of rebar may have enjoyed under that subsidy.

The GOC respectfully requests the Commission to terminate its investigation in relation to the “Program 1” subsidy immediately, as the legal requirement under the SCM Agreement and its equivalent under Australian law for the initiation of the countervailing investigation were not met.

Programs 2 and 3 – Coking coal and coke provided by government at less than adequate remuneration

The GOC advises that there are no such programs.

The GOC notes that the sole basis relied upon by the Applicant was the Commission’s decisions in Reports 193 and 198 (with the latter basically repeating the decision in Report 193).

Report 198 was published on 19 December 2013, together with the Minister’s decision to accept the Commission’s recommendation in that Report. That included the recommendations to find that the alleged Programs 2 and 3, being the same Programs 2 and 3 as those in the current investigation, amounted to countervailable subsidies.

The basis of the Commission’s findings in Report 198 was the findings in Report 193 made by the Commission’s predecessor agency, the Australian Customs and Border Protection Service, hereinafter “Customs”. However, those Customs findings were challenged by the GOC before the Anti-Dumping Review Panel (“the ADRP”). The ADRP ruled that Customs had erred in finding that the alleged provision of steel inputs in the form of hot rolled coil (being “Program 1” in Report 193), and raw materials in the form of coking coal and coke (being Program 2 and Program 3 in Report 193) by SIEs were countervailable subsidies.

This resulted in the Minister *removing* the subsidy duties in relation to Programs 1, 2 and 3 from the dumping duty notice for coated steel from China. The Minister’s decision was published on 20 February 2014 – *after* the publication of Report 198.

Accordingly, there are clear defects in the grounds relied in the Application concerning the existence of the so called Programs 2 and 3 – given that the reasoning and the determination upon which those grounds relied were ruled to be unlawful by the ADRP, and overturned by the Minister. It follows that the Commission’s finding that there appears to be “*reasonable grounds to be satisfied that the provision of coke and coking coal to rebar suppliers at less than adequate remuneration are countervailable subsidies*”, and to initiate an investigation concerning the so called “Programs 2 and 3”, on the basis that it had previously made such a determination, are also flawed.

The fact – and the law in Australia – is that State-invested enterprises producing and supplying coking coal and coke in China are not public bodies. For the purposes of a countervailing investigation the question of whether coking coal and coke are supplied by those enterprises at “less than adequate remuneration” is not reached and is not relevant.

Program 4 – electricity provided by government at less than adequate remuneration

There is no such subsidy program.

The GOC rejects the claims:

- that electricity supplier enterprises with State investment are “public bodies”;
- that sales of electricity constituted any “financial contribution” or conferred any “benefit” on the Respondents during the investigation period;
- that the alleged “program” is capable of conferring a subsidy that is “specific” to the Respondents.

The evidence referred to by the Applicant in relation to the “less than adequate remuneration” and “specificity” elements of the claim are clearly flawed.

In the Commission's Report 237 concerning silicon metal exported from China, the Commission formed the view that the electricity supplied to the cooperating Chinese exporters was at less than adequate remuneration, on the basis that the electricity provided was less than the "other large industry" tariff:

The Commission determined that the most reasonable option available for a benchmark is the tariff rate for 'Other Large Industry' as indicated on the schedule of tariff rates provided by the GOC. This is considered the most reasonable benchmark as it represents a competitive market cost in China for all other industries in the relevant provinces, that is, those where the cooperating exporter conducts its manufacturing activities.

Rebar production does not fall under any "silicon" or "ferroalloy" tariff category, nor under any other electricity tariff categories which specify a lower tariff rate than for "other large industry". Based on the information provided by the respondent exporters, rebar producers are not subject to any "preferential" electricity tariff rate, when compared with the applicable "other large industry" rate in the relevant region.

Accordingly the Commission should find that the available information does not establish that there is any provision of electricity by government at less than adequate remuneration, and should terminate the investigation in so far as it relates to this program immediately.

We also mention that the Applicant's claims concerning the "public body" element of the alleged subsidy are entirely based upon the Commission's finding in Report 237. In this regard, the conclusion in Report 237 that Chinese SIEs providing electricity were "meaningfully controlled" by the GOC was influenced by the Commission's interpretation of the WTO Panel report in DS436. The GOC notes that the WTO Panel's views concerning the determination of "meaningful control" as part of public body consideration were overturned by the Appellate Body. Therefore the analysis in Report 237 cannot properly be relied upon as a basis for the Applicant's claim in the current investigation.

The following question relates to Programs 1, 2 and 3

2. In INV 277, Commission was provided with a copy of the 'Law of the People's Republic of China on State-Owned Assets of Enterprises'. Confirm whether this law is current and has not been superseded or supplemented by other laws. Provide any superseding or supplementary laws to the 'Law of the People's Republic of China on State-Owned Assets of Enterprises'.

This law has not been superseded or supplemented by other laws.

The GOC notes that it was required to give the same confirmation in its response to the Government Questionnaire in INV 193, in relation to which the GOC commented as follows:

The GOC notes that in INV177, Article 36 of this law was misinterpreted by Australian Customs as evidence that the GOC directs SIEs to carry out a government function.

The GOC disagrees with such interpretation and treatment of this law. As the TMRO pointed out in its review of Australian Customs finding in INV177:

Customs substantially relied on s 36 of the Company Law, which requires SIEs making investments to comply with National Industrial Policies. But in my view this section requires no more than compliance with the policies of the Government of China. It falls short of establishing that State-Invested HRC producers are invested with the power to control, compel, direct or command private bodies and persons.

...the GOC advises that compliance with governmental policies by enterprises does not equate to the exercise of government function or

authority.

The GOC would also like to point out that the scope of Article 36 is limited. It only relates to the making of certain investments, and does not relate to the purchase or sales of goods or raw materials concerned in this investigation. Further, Article 36, if read in the context, mainly regards the security of State assets. It does not suggest any government intervention in the business affairs of the enterprises concerned. This context is more apparent when Article 36 is to be read as a whole. The second half of the provision states:

...and shall conduct a transaction on a fair and paid basis, and obtain a reasonable consideration.

The GOC and the TMRO's view was further supported by the ADRP in its review of Report 193:

...the TMRO considered that active compliance with governmental policies and/or regulation does not equate to the exercise of governmental functions or authority. I agree with this view... it does not evidence the essential element of exercising a power of government over third persons.²⁶ [underlining supplied]

...Compliance with government policy does not of itself evidence that an entity possesses, exercises or is vested with government authority. This is the overriding test established by the Appellate Body.²⁷

The GOC does not understand how it is that the Australian investigating authority and its Minister can flout the rule of law and of legal process in Australia on this matter by taking no notice of the findings of the review bodies that supervise the legality of their actions. Article 13 of the Anti-Dumping Agreement provides as follows:

Each Member whose national legislation contains provisions on anti-dumping measures shall maintain judicial, arbitral or administrative tribunals or procedures for the purpose, inter alia, of the prompt review of administrative actions relating to final determinations and reviews of determinations within the meaning of Article 11. Such tribunals or procedures shall be independent of the authorities responsible for the determination or review in question.

An administrative procedure for the review of anti-dumping decisions cannot comply with Article 13 if its outcomes are repeatedly ignored by the investigating authorities concerned.

3. Outline how each of the following is determined for the entities identified in Section A, Question 6 above **and** for manufacturers of rebars in China (where this differs across enterprise or type (e.g. SIEs, FIEs), describe this differently):
- (a) suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials);
 - (b) purchase prices of raw material inputs;
 - (c) allocation of inputs into production process, including raw materials and labour costs;
 - (d) quality by volume and value;
 - (e) selling prices;
 - (f) customers (including restrictions on entities that can purchase goods produced from the enterprise);

²⁶ ADRP report re Report 193, at page 21, HSS TMRO report, para 245.

²⁷ ADRP report re Report 193, at page 22

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- (g) production output (detail any restrictions on production output);
- (h) safety standards; and
- (i) electricity/energy costs.

Please refer to the GOC's responses to questions B-1 above in relation to Programs 1 to 3. The GOC is neither responsible nor authorised to hold and provide such detailed information about individual enterprises.

The abovementioned matters, except for matters of product or safety standards in some cases, are the business operation of the enterprises. As a matter of principle and fact, the GOC adopts a separation of government function from the operation of business and a non-interference approach. The GOC does not "determine" or "set" any of the above matters for enterprises.

Nonetheless, for the purpose of full cooperation, the GOC provides the following answers based on the information provided by the Respondents with our general comments.

Suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials)

From an operational and legal point of view, enterprises choose their suppliers of raw materials. There is no law or government policy on how enterprises in the rebar industry, iron ore industry, coking coal industry, coke making industry or scrap steel industry should determine their suppliers of raw material inputs. There are no restrictions on the acquisition or supply of rebar or the raw material inputs concerned under the laws of China. Enterprises are entitled to independently determine their suppliers or acquirers, as well as the specifications, quantities and prices thereof, in doing their business.

According to Article 4 of the Contract Law of the People's Republic of China:

...parties have the right to lawfully enter into a contract of their own free will in accordance with the law, and no unit or individual may illegally interfere therewith.

Please refer to Attachment 14 - *Contract Law of the People's Republic of China*. Therefore, enterprises choose their suppliers of raw material inputs independently and without any interference from the GOC, whether they are SIEs or not.

Purchase prices of raw material inputs

From an operational and legal point of view, the GOC does not control or interfere with purchase prices of these raw materials. The prices are determined by individual companies in their negotiations with prospective customers. An enterprise has the right to negotiate prices of its raw material inputs independently with the other party to the transaction based on market conditions under various laws.

The GOC advises that there are no specific laws or regulations (regardless of nomenclature) in China relating to the pricing of the raw material inputs concerned (ie. iron ore, coke, coking coal, steel scrap and steel billet). These raw materials are not subject to any price controls.

Please refer to the *Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council* in Attachment 15. As can be seen from this official instrument, none of the raw material inputs concerned are subject to any price controls or guidelines. The GOC notes that it has already provided this explanation and the Catalogue in its response to the Government Questionnaires in INV 177, INV 180, INV 190, INV 193, INV 198 and Review 263.

Allocation of inputs into production process, including raw materials and labour costs

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The GOC advises that there are no laws or regulations that explicitly specify any conditions or requirements as to how enterprises shall allocate inputs into their production processes. Enterprises independently determine the allocation of inputs for their production. Chinese enterprises independently make decisions to establish their own internal business administration organization. Article 46 of the Company Law provides that the board of directors shall exercise the functions of making decisions on the establishment of the company's internal management departments. Such decisions may be deemed as an indirect "allocation of inputs into production process". Please refer to Attachment 7 *Company Law of the People's Republic of China*.

In SEF 300, being the Statement of Essential Facts for the parallel investigation concerning the alleged dumping of rebar, it is alleged that Chinese exporters' steel billet costs should somehow be disregarded due to alleged "government influence". The GOC strongly objects to such approach. As advised in this response, and by each of the Respondents, the GOC does not regulate how the enterprises should record the costs of their inputs. The costs of steel billet as recorded by Chinese exporters, so far as they are recorded in accordance with the generally accepted accounting principles of China, are not influenced by the GOC. Companies producing rebar are no different from any companies manufacturing any other products in China, in that they are required to operate within the legal and market environment of China, and abide with various laws of China concerning corporate governance, taxation, industrial relations, environmental protections, etc.

The suggestion that a Chinese rebar manufacturer's own cost of production of steel billet and rebar can be disregarded is a poorly veiled attack on China's market economy status and ignores the terms of China's membership of the WTO.

Quality by volume and value

This question is not clearly understood by the GOC. In any case, so far as Chinese rebar manufacturers are concerned, the quality/quantity/volume/value of its products are entirely determined by the enterprise/s themselves.

Selling prices

The GOC advises again that it does not participate in the setting, controlling or guiding of selling prices of the rebar or the raw materials concerned, so far as the goods are not listed in the *Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council*.

To the GOC's knowledge, the market in which the entities concerned belong in the ordinary course of trade, namely the markets for rebar, steel billet, iron ore, coking coal and coke, are all competitive markets within China's market economy. The GOC therefore states that the selling prices are determined by the enterprises concerned according to their own business decisions based on market principles.

Further, as stated above, the GOC understands that the Respondents either did not purchase or purchased very minor volumes of steel billet from external sources. Instead, where steel billets were used by the Respondents in their production of rebar, they were self-produced. Accordingly, the question regarding selling prices of steel billets has no relevance so far as the Respondents are concerned.

Customers (including restrictions on entities that can purchase goods produced from the enterprise)

From a legal point of view, Chinese enterprises are free to choose their customers under various laws. According to Article 4 of the *Contract Law of the People's Republic of China*:

The parties have the right to lawfully enter into a contract of their own free will in accordance with the law, and no unit or individual may illegally interfere therewith.

Please refer to Attachment 14 *Contract Law of the People's Republic of China*. Therefore, the enterprises can choose customers independently without any

interference from the GOC or any other parties.

In relation to “including restrictions on entities that can purchase goods produced from the enterprise”, It is not clear what information is required for this part of the question. The GOC advises that for the enterprises and the goods concerned in this investigation, there are no laws, regulations or policies which impose restrictions on what enterprises can purchase the goods sold by other enterprises, or what enterprises from whom an enterprise must make its purchase. Of course there are laws which impose restrictions on transactions relating to dangerous articles, such as guns, ammunition, explosives and smuggled goods, However the GOC does not consider those to be relevant for this investigation.

Production output (detail any restrictions on production output)

From a legal point of view, enterprises are responsible for determining their production output both from their own commercial perspective and under various laws. Pursuant to Article 46 of the *Company Law of the People's Republic of China*, the board of directors shall be responsible for the shareholders' meeting and determine the company's business and investment plans. Please refer to Attachment 7 *Company Law of the People's Republic of China*. Production output is determined by the board of directors of the enterprise, according to the market demand, market prices, capacity and other market factors. The GOC does not impose any restrictions on their production output

Safety standards

The safety standards of enterprises in China are subject to various legal requirements under relevant laws. For example, the safety standards of enterprises must conform to the *Production Safety Law of the People's Republic of China*. Pursuant to Article 4 of the law:

Production and business operation entities shall abide by this Law and other laws and regulations concerning work safety, strengthen work safety control, establish and improve the responsibility system and rules and regulations for work safety, improve the conditions for work safety, promote the standardization of work safety and improve the level of work safety so as to ensure work safety.

Energy costs

The GOC understands that the cost of electricity and the cost of burning coal may be considered as “energy costs” for the enterprises concerned.

As already mentioned above, only the prices of certain goods or services are subject to legal requirements under the laws of China.

According to Article 18 of the *Price Law of China*:

The government shall issue government-set or guided prices for the following merchandises and services if necessary:

- 1. The few merchandises that are of great importance to development of the national economy and the people's livelihood;*
- 2. The few merchandises that are in shortage of resources;*
- 3. Merchandises of monopoly in nature;*
- 4. Important public utilities;*
- 5. Important services of public welfare in nature.*

Please see Attachment 15 - *Price Law of the People's Republic of China*.

Electricity is an important public utility and has a significant influence on national welfare and the people's livelihood. For more details, please refer to Attachment 16 - *Catalogue of Regulated Prices*.

However, as advised in other places in this Government Questionnaire, electricity

prices for the industries concerned are the same as that applicable to other large industries. In addition, electricity price regulation is not relevant to controlling or guiding prices of rebar and the raw material inputs in the sectors concerned by any level of government. As advised, selling prices in the industries concerned, whether raw material inputs or finished goods, are not subject to any government control or guidance. For more information regarding the price setting of electricity, please refer to question (ii) below.

The price of coal is not subject to government price guidance or controls. Coal prices are negotiated by the enterprises and energy suppliers based on market principles. Further Chinese coal market is also well penetrated by imported coals.

The following questions relate to Programs 1-4

- (i) Complete the attached spreadsheet B-2 (using Microsoft Excel format) listing all electricity providers and spreadsheet B-3 listing all other key raw materials suppliers who service those entities identified in question A-4 including the following details:
- name of the business entity
 - location of the business entity
 - type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise or other (please specify))
 - whether GOC is a shareholder in the business, and if so the percentage of GOC holdings
 - whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

Given the findings of the Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (“DS379”), the GOC cannot see how this information would be relevant to the subsidy investigation. As was noted at paragraph 318 of that report:

the mere fact that a government is the majority shareholder of an entity does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority

Further, in DS436, the Appellate Body stated:

...that “the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority”. Instead, “[a]n investigating authority must, in making its determination, evaluate and give due consideration to all relevant characteristics of the entity and, in reaching its ultimate determination as to how that entity should be characterized, avoid focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant”. Thus, the mere ownership or control over an entity by a government, without more, is not sufficient to establish that the entity is a public body. [footnotes omitted]

Nonetheless, on the same basis as before, the GOC does intend to respond to this question.

The only form of GOC “representation” in any of the entities is that which would apply in the case of SIEs. By their very nature, an SIE has government representation, insofar as the GOC is a shareholder in that entity. The role of shareholder or “capital contributor” is undertaken by the State-owned Assets Supervision and Administration Commission (“SASAC”).

In this role SASAC's functions are those of a shareholder in the normal sense of the term. As an institution (non-natural person) it cannot attend a shareholders' meeting or a general assembly of shareholders convened by a company (majority state-holding company or minority state-holding company). To efficiently perform its "contributors" functions, it must appoint a representative to attend these meetings. The specific role of these representatives is to put forward proposals, present opinions and exercise the voting right under the instructions of the appointing body, and to report the performance of his duties and results thereof to the appointing body promptly.

SASAC is obliged to exercise its ownership rights in a manner as provided by law, and not in a way which is dictated by any GOC party or instrumentality. No other parts of the GOC have any authority to intervene contrary to that legal stipulation. The primary and ruling considerations for a SASAC representative to consider in asset management are commercial operation and fair value. SASAC's role is simply that of a shareholder. Investors will always take into account commercial, legal, political ("sovereign") and social risks in managing their investments, and SASAC is no different in this regard.

For the purposes of full cooperation, GOC provides the information requested in relation to the electricity suppliers for the respondent at Attachment 17. The GOC also provide the electricity tariff schedules for Laiwu city, and Jiangsu Province, at Attachments 18 and 19. As can be seen in the tariff schedule, the normal "large industry" rate would be applicable to steel manufacturers.

- (ii) In relation to program 4, The Commission understands that China's National Development and Reform Council regulate prices for electricity.

- How does the government regulate electricity prices at national, provincial or local levels?

Electricity is an important public utility and has a significant influence on national welfare and the people's livelihood. Electricity rates are mainly subject to government price settings. The GOC refers Customs to the Attachment 16 - *Catalogue of Regulated Prices*. Prices for electricity are basically composed of the actual cost of electricity generation and distribution, expense, tax and reasonable amount of profit. The primary basis on which prices for electricity are adjusted is the changes on coal prices, cost of transmission and distribution of electricity and the operation position of power generation enterprises. For example, because much of the electricity in China is produced by burning coal, the price for electricity tends to correlate with the price of coal. Where hydro-electricity is the main power source, the electricity price may also be affected by seasons and weather.

Electricity prices are different depending on the type of end users. Normally there are broad categories of electricity prices covering residential use, agricultural use, industrial, commercial and other use, and provinces may have particular categories and sub-categories in some cases. With a very few exceptions, all end users in each of the categories, such as the large scale industries, must pay the same electricity price. The electricity prices applicable to rebar producers are the same as that applicable to other users in the large industries category.

The GOC has limited powers to guide the price of a small number of goods and services, including electricity prices, when that is strictly necessary.

The Price Law protects market pricing, except in exceptional and limited circumstances. As we have already mentioned, Article 18 of the Price Law states that:

The government shall issue government-set or guided prices for the following merchandises and services if necessary:

- *The few merchandises that are of great importance to development of the national economy and the people's livelihood;*

- *The few merchandises that are in shortage of resources;*
- *Merchandises of monopoly in nature;*
- *Important public utilities;*
- *Important services of public welfare in nature.*

Through Article 18 the GOC has retained the power to influence the price of a limited number of goods and services where it is necessary to protect against social and economic harm and to maintain fair and proper competition. However, electricity prices for the industries concerned are the same as that applicable to other large industries. In addition, electricity price regulation is not relevant to controlling or guiding prices of rebar and the raw material inputs in the sectors concerned by any level of government. As advised, selling prices in the industries concerned, whether raw material inputs or finished goods, are not subject to any government control or guidance.

The Catalogue contains limited circumstances in which the GOC may influence the prices of 13 goods and services. The Catalogue is subject to and is limited by the terms of Article 18. The goods and services can only be subject to influence by the Government if it is found to be necessary under the limited and strict conditions in Article 18. The Catalogue does not stipulate that all the 13 goods and services will be influenced. Only in the limited circumstances listed in Article 18 can the government influence them to achieve the ends listed in that Article, including protecting market competition from monopolies.

Article 18 is unremarkable in the context of similar powers held and exercised by responsible governments throughout the world. For example, reference is made to the regulation of electricity in Australia by the Australian Energy Regulator.²⁸

The GOC notes that the Australian Government's Energy White Paper refers to the following examples of electricity pricing and policy support that will be implemented by the Government:²⁹

The Australian Government will lead work through the Council of Australian Governments (COAG) Energy Council to support the introduction of appropriate electricity use price signals for consumers, and to support the removal of cross-subsidies.

A national energy productivity improvement target will be determined as part of the development of a National Energy Productivity Plan, which will drive further improvement.

\$476 million Industry Skills Fund, which will enable Australia to have the highly skilled workforce needed to adapt to new business growth opportunities, rapid technological change and market-driven structural adjustment.

\$484.2 million Entrepreneurs' Infrastructure Programme, which will provide Australian companies with structural and strategic support to capitalise on growth opportunities.

...encourage the rapid adoption of new energy technologies, improvements to existing technologies and new energy sources where adoption will support economic growth, productivity and affordability.

\$5 billion Asset Recycling Initiative, which will encourage states and territories to free up capital to invest in additional economic infrastructure by privatising state and territory-owned assets.

The Australian Government is considering research priorities, including energy and resources, and transport, for the \$9.2 billion annual investment in research, focusing on solving local issues, competitive advantage, and industry capability to commercialise research.

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<http://www.aer.gov.au>

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<http://ewp.industry.gov.au/>

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The Australian Government is providing over \$1 billion toward research, development and demonstration of renewable energy projects and half a billion to low emissions fossil fuel projects.

The GOC would not expect it to be concluded that these powers, and the threat of their use in any particular circumstance, interfere with price setting in respect of the goods and services offered on the market by Australian companies.

- Provide names of all the agencies in each region, province or special economic zone responsible for electricity price regulation.

Local Development and Reform Commissions, in coordination with the NDRC, are responsible for electricity price regulation

The following local Development and Reform Commissions are responsible for the price setting of electricity for the provinces where Respondents are located respectively:

Department: Shandong Province Development and Reform Commission
Mailing address: 1 Shen Fu Qian Street, Jinan 250011
Phone number: 86 531 869 15719
Fax number: 86 531 8691 5719

Department: Jiangsu Province Development and Reform Commission
Mailing address: 70 Beijing West Road, Nanjing 210013
Phone number: 86 25 83392402
Fax number: 86 25 83392402

Department: Hunan Province Development and Reform Commission
Mailing address: 8 Xiangfu West Road, Changsha 410004
Phone number: 86-731-89991088
Fax number: 86-731-89991088

- How does the government's electricity policy apply to or promote the steel manufacturing industry?

The electricity price faced by the steel industry is the same as that faced by any other industry. The GOC does not use its power to set electricity prices under the Price Law to promote the steel industry.

(iii) Provide full details of Programs 1, 2 and 3 including the following:

- a. policy objective and/or purpose of the program
- b. legislation under which the subsidy is granted
- c. nature or form of the subsidy
- d. when the program was established
- e. duration of the program
- f. how the program is administered and explain how it operates
- g. to whom and how is the program provided
- h. the eligibility criteria in order to receive benefits under the program

There are no such programs. Please refer to the GOC's response to B-1 above.

(iv) Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports published since 1 January 2011 pertaining to Programs 1, 2 and 3.

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There are no such programs. Please refer to the GOC's response to B-1 above.

In relation to the alleged Programs 2 and 3, and the issue of "public body" in the "iron and steel" industry, the GOC refers to the following reports and decisions published since 1 January 2011:

- TMRO Report concerning *Certain Hollow Structural Sections exported from the People's Republic of China, the Republic of Korea, Malaysia, Taiwan, and the Kingdom of Thailand*, published on 18 January 2013;³⁰ and
- ADRP Report concerning *Zinc Coated Steel and Aluminium Zinc Coated Steel exported from China*, published on 20 February 2014.³¹

China has a very large body of law directed towards achieving and fostering the precisely opposite outcome to that of supplying any goods "at less than fair market value". They include laws on companies, partnerships, sole proprietorship, Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures, wholly foreign-owned enterprises, private enterprises, state-owned enterprises, contract, UN convention on sales contract, general principles of commercial contracts, general principle of civil procedure, prices, anti-unfair competition, anti-monopoly, futures market regulation, foreign trade, securities and investment, banking, insurance, maritime matters, taxation, property, bankruptcy, arbitration, litigation, administrative, environmental, civil procedure and their associated regulations, amongst others.

Some Chinese laws actively prohibit below cost selling behaviour – conduct which is referred to as "predatory pricing" in some jurisdictions. For example, Article 14 of the Price Law prohibits business operators from engaging in the making of sales (except the cases of sales of fresh and live merchandises, seasonal merchandises and stockpiled merchandises at discount) at below cost prices in order to obtain an upper hand over rivals or to dominate the market and disrupt normal production and market operation. Please refer to Attachment 15 – *Price Law of the People's Republic of China*.

In the period since the GOC last responded to the Commission (then Customs), the GOC has further liberalised the regime governing the activities of all enterprises doing business in China. This has equalised SIEs and private enterprises to an even greater extent than before, and facilitated greater competition between all companies in all sectors.

In other words, a further liberalisation of the business practices of SIEs has been brought about by changes to the structural requirements for all enterprises and by reinforcing and promoting the private sector of the economy.

- (v) Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

There are no such programs. Therefore, there is no GOC department or agency that administers the "programs".

Please see the GOC's comments in relation to Programs 1 to 3 at B-1 above.

- (vi) Identify which of the companies in your response to Section A- Question 4 applied for, accrued or received benefits under programs 1, 2 and 3 during the investigation period.

Provide, on an annual basis, the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under programs 1, 2 and 3.

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<http://adreviewpanel.gov.au/PastReviews/>

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<http://adreviewpanel.gov.au/PastReviews/Pages/20120912HHSChinaKoreaMalaysiaTaiwanThailand.aspx>

<http://adreviewpanel.gov.au/PastReviews/Pages/20140220GAZCSteelChina.aspx>

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There are no such programs. Therefore, there is no GOC department or agency that administers the “programs”.

Further, we understand that the Respondents either did not purchase or purchased very minor amount of steel billets during the investigation period. In any case, as mentioned in Section A, in relation to the key raw material for steel billet production, China is the largest importing country of iron ore and coking coal in the world. China is also the largest producer and exporter of coke.

The following questions relate to Programs 5 - 86 identified above.

To the best knowledge of the GOC, the Respondents may have enjoyed tax benefits or received grants from the following investigated programs according to the list in this questionnaire and the description provided by the Applicant in the Application for this investigation:

- 5. Preferential Tax Policies for High and New Technology Enterprises
- 7. Land Use Tax Deduction
- 8. Tariff and VAT Exemptions on Imported Materials and Equipment
- 9. VAT refund on comprehensive utilisation of resources
- 36. Reducing pollution discharging and environment improvement assessment award
- 41. Environmental Prize
- 56. "Project: 2011 environmental protection special fund"
- 58. "Project: Coke oven gas desulfurization improvement project"
- 62. "Project: Energy power plant waste heat heating reconstruction project grants"
- 63. "Project: 320 sintering flue gas desulfurization project environmental protection fund"
- 76. "Patent Development Grant funds"
- 78. "National Pillar Program special funds"
- 83. "2013 annual export credit insurance subsidies 9.12"

The GOC will provide program specific answer for these programs, one by one.

The GOC notices that Questions 8 and 9 below comprise many specific questions regarding performance measurement and profit distribution of SIE and any possible performance of the GOC's governmental function by an enterprise, no matter whether the enterprise is an SIE, FIE or private company. In the GOC's view, these questions are not related to any specific subsidy programs under investigation but to the finding of a “particular market situation”. The GOC provides a uniform answer to Question 8 and 9 below, and will not “re-answer” these questions in the separate sets of questions about each of the above listed programs.

4. Provide full details of the programs including the following.
- (a) policy objective and/or purpose of the program.
 - (b) legislation under which the subsidy is granted.
 - (c) nature or form of the subsidy.
 - (d) when the program was established.
 - (e) duration of the program.

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- (f) how the program is administered and explain how it operates.
 - (g) to whom and how is the program provided.
 - (h) the GOC department or agency administering the program.
 - (i) the eligibility criteria in order to receive benefits under the program.
5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.
6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.
7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars
 - (e) Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.
8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.
- (a) How are the operations of the enterprise funded?

The GOC is neither responsible nor authorised to hold and provide such detailed information about individual enterprises. Further, each enterprise will have different funding mechanisms and structures. The Commission is requested to contact the individual companies directly to acquire such information if it is considered necessary.

China has established a modern and increasingly sophisticated corporate finance legal framework where all the market players (including State-owned companies) are equally subject to corporate finance legislation. Companies in China are generally financed through the commercial banking system, capital markets, equity raising, corporate bond issuance, etc.

As an example of how an enterprise handles its own funding needs, please see Attachment 20 News on Baosteel Co., Ltd, indicating it had successfully issued USD500 million in overseas bonds.

- (b) Provide details of any debts or other liabilities the enterprise has with any banks or financial institutions in which the GOC holds an interest.

The GOC is neither responsible nor authorised to hold and provide such detailed information about individual enterprises. Therefore, the GOC is not in a position to advise the “details of any debts or other liabilities the enterprise has with any banks or

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financial institutions in which the GOC holds an interest”.

The Commission is requested to contact each of the individual companies directly to acquire such information if it is considered necessary. Further, for enterprises which are publicly listed companies, such information can be accessed from the relevant information filed with the stock exchange.

In addition, the GOC would like to emphasize that the question is totally beyond its capacity, for the following reasons.

First, the range of "other liabilities" mentioned in this question is too broad and too complex. Commercial banks can carry out various kinds of commercial activities which may give rise to a variety of "liabilities" with the relevant enterprises.

For example, from a legal perspective, a commercial bank may have the following businesses in part or in whole:

- absorbing public deposits;
- offering short-term, medium-term and long-term loans;
- arranging settlement of both domestic and overseas accounts;
- handling acceptance and discount of negotiable instruments;
- issuing financial bonds;
- issuing, cashing and undertaking the sale of government bonds as agents;
- buying and selling government bonds or financial bonds;
- undertaking inter-bank borrowing or lending;
- buying and selling foreign exchange by itself or as agents;
- engaging in bank card business;
- offering L/C services and guarantee;
- handling receipts and payments and insurance business as agents;
- providing safe boxes services; and
- other businesses as approved by the banking regulatory organ of the State Council.

Secondly, the scope of the word "interest" mentioned in the question is also very ambiguous. To the GOC's knowledge, holding shares in a company may be considered as holding an interest, but other conduct that may give rise to a legal or equitable claim in a company may also be deemed as "holding an interest".

Thirdly, the scope of the "GOC" mentioned in the question is also very complicated, as there are five levels of governments in China. Apart from the central government, each of the other level contains a large number of governments. Although the central government does not directly hold interests in a bank, it is possible that governments at other levels may hold an interest in the form of a shareholding in a bank or by investing by other means.

According to the statistics published by the China Banking Regulatory Commission, at the end of 2014 there were 4,091 banking institutions in China. Most of these can offer loans and carry out other kinds of financial business according to law. It is impossible for the GOC to check out whether any of the SIEs have a loan or loans from any of the 4,091 banks or financial institutions where a government of China may or may not hold an interest.

- (c) How is the performance of the enterprise measured? For example, profitability, employment, output, social wellbeing, etc.

The GOC is neither responsible nor authorised to hold and provide such detailed information about individual enterprises.

As stated above, the relationship between the GOC and State-invested enterprises is that of a shareholder and the company in which it holds a share. From a legal perspective, according to Article 3 of the Company Law:

A company is an enterprise legal person, which has independent legal person property and enjoys the right to legal person property. It shall bear the liabilities for its debts with all its property. For a limited liability company, a shareholder shall be liable for the company to the extent of the capital contributions it has paid. For a joint stock limited company, a shareholder shall be liable for the company to the extent of the shares it has subscribed to.

From this it can be inferred that an enterprise measures its performance by the amount of "legal person property" it owns.

According to Article 4 of the Company Law:

The shareholders of a company shall be entitled to enjoy the capital proceeds, participate in making important decisions, choose managers and enjoy other rights.

Therefore, it can also be inferred that the shareholders measure the performance of the enterprise by the amount of "capital proceeds" they can receive.

Generally, the key measurement for every company is the company's financial results in accordance with the Company Law, including Chapter VIII of that Law.

For more details, please refer to Attachment 7 Company Law of the People's Republic of China.

(d) Provide details and explain how the State-owned Assets Supervision and Administration Commission of the State Council (SASAC) or any other government entity inspects or evaluates enterprise performance, including:

- output and quality performance;
- performance of employees/directors/managers; and
- financial performance.

If any other GOC entity plays such a role, provide a detailed explanation of this entity and the role it plays with regard to SIEs.

As stated above (and as qualified below) the role of SASAC in a State invested enterprise is the same as that of a shareholder of a company. Therefore, SASAC may evaluate the performance of an SIE as a shareholder would, as discussed in the response to other questions above. In essence, SASAC will assess the performance of an enterprise with State investment based on its commercial and financial performance, in line with industry averages.

There is no essential difference between the methods which SASAC adopts to inspect and evaluate enterprise performance and those adopted by other shareholders to inspect and evaluate business performance of private enterprises.

The performance of managers of State-invested enterprises is evaluated according to the *Law on State Owned Assets* and more specifically, the *Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises* which

provides the evaluation method guideline. Please see Attachments 21 and 22.

Lastly, we do wish to point out that SASAC must have certain specific considerations in mind when exercising its shareholders' rights, which may not be shared by some ordinary private shareholders. However, these features do not change the nature of the SASAC as a shareholder to the enterprise. From the legal perspective, SASAC is required to perform its contributor's function consistently with Article 14 of the *Law of the People's Republic of China on the State-Owned Assets of Enterprises*:

Bodies performing the contributor's functions shall perform the contributor's functions according to laws, administrative regulations and enterprise bylaws, safeguard the contributor's rights and interests, and prevent the loss of state-owned assets.

In relation to the question of "other GOC entity" - if this refers to government entities that might perform the contributor's functions as SASAC does, then the GOC confirms that only SASAC performs that function. No "other GOC entity" other than SASAC is responsible for inspecting or evaluating enterprise performance.

- (e) Provide details of any official reporting mechanisms that the enterprise must comply with.

There is no substantial difference between the reporting mechanisms for a non-State invested enterprise on the Chinese market and that for a State-invested enterprise. The difference is more dependent upon whether the company is public listed.

SASAC must perform its contributor's functions according to the *Company Law*. According to Article 37 of the *Company Law*, examples of official reporting mechanisms by the enterprises to shareholders may include reporting during the course of shareholders' meetings, putting forward reports orally or in writing. For details, please refer to Attachment 7 *Company Law of the People's Republic of China*.

The GOC clarifies that State-invested enterprises – like other companies– do not report every matter relating to their daily operation to their shareholder SASAC. They do not need to do that and are not compelled to do that.

Further, amongst SIEs, the reporting requirement may be different according to the type of enterprise and the level of State investment, as well as whether the company is publicly listed. *For example, see Articles 32, 33, 34 of the Law on State Owned Assets of Enterprises.*

- (f) Provide an explanation of the systems that exist for assessing the performance of administrators of SIEs. Provide examples of recent appraisals of SIE administrators of the enterprise.

The GOC notes that not all administrators of State-invested enterprises are assessed according to the *Law on State Owned Assets of Enterprises*, which provides the basic principles for such assessment (at Chapter IV). Only the administrators of a wholly State-owned enterprise, or of an enterprise with majority State-holding, are subject to the performance assessment of the body performing the capital contributor's function.

The method of evaluation is solely related to the commercial and financial performance of the enterprise.

- (g) How are profits of the enterprise distributed and to whom?

The GOC is not authorised by law to govern or interfere with the business operations of

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enterprises, whether with State investment or not. The opposite is true – the GOC is positively excluded from doing so.

The GOC expects that profits of enterprises are distributed in light of its Articles of Association and Part VIII of the *Company Law*. There are no special rules on how a SIE is to distribute its profit.

- (h) Outline what action, if any, is taken by SASAC or any other government entity if the enterprises makes a loss or under-performs.

Performance of an enterprise is a critical aspect of its existence and of the directors, managers and employees of the enterprise. Therefore performance is taken into account by any shareholders - including that of the State *via* SASAC - in participating in decision making about the company or in making proposals regarding the future management of the enterprise. Some senior members of the management, such as the directors and senior managers of the enterprise will be held liable in the terms of remuneration and promotion if the enterprise makes a loss or under-performs.

- (i) Over the past 10 years, has the GOC provided any payment or made any injection of funds to the enterprise, including but not limited to:
- grants;
 - prizes;
 - awards;
 - stimulus payments and rescue type payments;
 - injected capital funds;
 - purchasing of shares.

The question is too broad for the GOC to answer. The GOC objects to such questions which are not supported by any *prima facie* evidence or direction.

- (j) If so, provide details, indicating the amount, circumstance, and purpose of any such payment or injection of funds, as well as whether they were tied to any past or future performance, direction or action of the enterprise.

For information about alleged “subsidies”, please refer to the GOC’s response to other questions of this section.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions:

- (a) Provide a list of functions the enterprise performs.

What information is required by this question is unclear to the GOC.

As indicated in the above responses to questions A3 and A4 there are more than 297 enterprises involved in the production and supply of the relevant products identified by this questionnaire. The functions of the enterprise are commercial business, and each as producer/supplier of the products in relation to which they are identified.

In any event, the GOC can advise that it has not allocated any special or governmental function to any of the 297-plus enterprises whether they are enterprises with State

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investment or not. Government powers are not shared or bestowed or vested on or in commercial entities.

According to the laws of China, government function must be separated from that of enterprises. As Article 6 of *Law of the People's Republic of China on the State-Owned Assets of Enterprises* provides:

The State Council and the local people's governments shall, according to law, perform the contributor's functions, based on the principles of separation of government bodies and enterprises, separation of the administrative functions of public affairs and the functions of the state-owned assets contributor, and non-intervention in the legitimate and independent business operations of enterprises.

Further, Article 14 of the law provides

Bodies performing the contributor's functions shall protect the rights legally enjoyed by the enterprises as the market participants, and shall not intervene in the business activities of enterprises except to legally perform the contributor's functions.

- (b) Provide details of any government policies the enterprise administers or carries out on behalf of the GOC.

The GOC would like to clarify that governmental policies are not legal instruments. They are not enforceable, and are aspirational in nature.

No government policies are administered or carried out on behalf of GOC by any enterprises, nor are they expected to be carried out. *The Law on State Owned Assets* explicitly requires a strict separation of government function from the operation of business.

Whether or not individual enterprises conduct their business in light of or in line with any government policy is another matter of fact and the GOC cannot comment on behalf of the enterprises.

The enterprises may carry out business decision which reflect or are in line with governmental policies. Likewise, governmental policies are often designed to promote further economic growth and commercial development which the enterprises/market participants share a common interest in the broad sense. For example, a governmental policy to encourage market competition, or to encourage “innovation”, does not make every business which also engages in market competition or which strives to be innovative, an administrator of the government policy.

Similarly, it is a governmental policy of China to encourage enterprises to reduce their energy use and carbon emission. This policy is not mandatory, however enterprises may act in conform with such a policy as it is also a sensible commercial decision.

- (c) Indicate whether any of the enterprise's functions are considered to be governmental in nature.

No enterprise functions are considered to be governmental in nature.

- (d) Indicate whether the enterprise has been trusted, tasked, vested with any government authority. Provide details of this authority including how it is exercised or administered, as well as copies of relevant statutes or other legal

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instruments that vest this authority.

No enterprise relevant to this investigation has been so “trusted”, “tasked” or “vested”.

- (e) Indicate whether the enterprise has the authority or power to entrust or direct a private body to undertake responsibilities or functions.

What information is required by this question is unclear to GOC.

As answered above, the GOC is not aware of any enterprise relevant to this investigation which has been trusted, tasked, vested with governmental authority, and no enterprises relevant to this investigation are considered to be carrying out any governmental function. Therefore no enterprise can have the authority or power to entrust or direct another body, private or not, to undertake any governmental function.

On the other hand, an enterprise, as a legal person, may entrust or direct another entity, to undertake certain non-governmental “responsibilities or functions” according to the relevant civil law or contract law principles.

- (f) Explain whether the enterprise is in pursuit of, or required to support governmental policies or interests.

As stated above, governmental policies are not enforceable or mandatory. Accordingly, enterprises are not required or expected to support governmental policies or interests.

The GOC is not in the position to comment on behalf of any enterprises in terms of whether they develop business plans which reflect governmental policies or interests, or whether they take a contrary view. This is a matter of individual business operation and choice.

On the other hand, it is clearly every government’s desire for its policies to be supported and that the goals set out in the policies to be achieved – which is why the policies are issued at the first place. Further, we note that the notion of “governmental interests” is very broad – for example, it is almost every government’s interest to have a crime-free society and those persons and companies are certainly required to not commit a crime. It is also a governmental interest to increase revenue by collecting income taxes, and every enterprise is required to pay tax according to tax laws.

Further, the GOC is also not in the position to advise whether enterprises are “in pursuit of” governmental policies or interests. This is because that the GOC cannot and does not interfere with the every-day business operation of enterprises, due to the fact that is simply not the GOC’s interest or desire, as reflected in the legal principle which requires the separation of government and enterprises.

However, it is possible that what an enterprise is “in pursuit of” will coincide with certain governmental interests. For example, it is an interest of most governments in the world to ensure that the people of their country have a better living standard, and to create the conditions in which the enterprises of their country can prosper and can be of benefit to the country itself. Commercial companies that maximise their profits and pay more income tax are pursuing their own commercial interest in doing so - but that commercial interest coincides with broad governmental interests. Likewise, every single economic entity in China makes a contribution to the broad governmental policy of developing the Chinese market economy, whether as a natural person or as a business, by participating in that economy. However, those entities do not become “public bodies” simply because they supported such government policies or acted in a

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way which serves a governmental interest. Plainly, development is a recognised right of a nation and its people.

The GOC considers that if some government policies are formulated in accordance with the interests of its citizens or the economy in general, including that of the resident enterprises as legal persons, the enterprises may pursue or support the policy actively. However, they are not compelled to pursue or support such policy.

For example, to follow policies on environmental protection and energy conservation may also help increase productivity and profits of the enterprises. The fact that law permits enterprises to support some governmental policies does not mean that the enterprises must pursue or are compelled to support governmental policies. Voluntary behaviours are ultimately driven by commercial interest.

Further, performing social responsibilities by the enterprises may also be in line with government policies or interests. Nowadays, social responsibilities of enterprises are well recognised as a key element of corporate management. For example, please refer to Attachment 23 OECD Guidelines for Multinational Enterprises. The GOC notes that more and more enterprises in China are willing to undertake social responsibilities as an act of goodwill and to “give back” to the society in which they operate and prosper.

- (g) Provide examples of any ‘social responsibilities’ the enterprise undertakes or is involved in (reference is made to Article 17 of the Law on State Owned Assets)?

From the legal point of view, the *Company Law* encourages all Chinese companies to undertake social responsibilities. In other words, all enterprises are encouraged to engage in community acts.

In particular, Article 5 of the *Company Law* provides that:

when conducting business operations, a company shall comply with the laws and administrative regulations, social morality, and business morality. It shall act in good faith, abide the supervision of the government and general public, and bear social responsibilities.

Please refer to Attachment 7 - *Company Law of the People's Republic of China*. However, these are aspirational provisions and are not enforceable. Chinese companies are free to choose to undertake any type of social responsibility as part of their social participation as a legal person.

Further, the GOC advises that the reference to “social responsibility” provided in the *Law on State Owned Assets of Enterprises* is no more than a recognition and encouragement of best practice. As already mentioned above, social responsibility is a well-recognized element in corporate management – not just for SIEs.

As an example, we refer to a brief introduction on the engagement of Jiangsu Shagang, a private company, in social responsibility. Please see Attachment 24.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.
11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.
 - (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
 - (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
 - (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.
 - (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).
12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.
13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The following questions relate to Programs 5 - 86 identified above.

Program 5: Preferential Tax Policies for High and New Technology Enterprises

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To support and encourage development of high and new technology enterprise.

- (b) legislation under which the subsidy is granted.

Article 28 of Corporate Income Tax Law of the People's Republic of China and Article 93 of Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China.

- (c) nature or form of the subsidy.

The standard corporate income tax rate is 25%. For qualified advanced and new technology enterprises accessing this program, the corporate income tax is levied at a reduced rate of 15%.

- (d) when the program was established.

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1 January 2008

(e) duration of the program.

From 1 January 2008 until now.

(f) how the program is administered and explain how it operates.

This tax incentive is administered by the State Administration of Taxation and other relevant departments, and local tax bureau is responsible for implementation. Enterprises which intend to apply for such incentive shall file application to relevant competent tax administration and submit relevant materials to prove it meets the criteria regulated by laws and regulations. Competent tax administration shall grant such incentive to the applicant upon examination and confirmation that the applicant meets all criteria.

(g) to whom and how is the program provided.

The standard corporate income tax rate is 25%. This tax incentive allows the key advanced and new technology enterprises supported by the country to pay the corporate income tax at a reduced tax rate of 15%.

(h) the GOC department or agency administering the program.

This tax incentive is administered by the State Administration of Taxation and other relevant departments, and local tax bureaus are responsible for implementation.

(i) the eligibility criteria in order to receive benefits under the program.

This program is open to enterprises which have obtained independent intellectual property for the core technology of its key products and/or services and meet all of the following criteria:

- 1. The products or services fall under the eligible scope;**
- 2. The percentage of the total amount of expenditure for research and development in the total amount of sales revenue shall not be lower than a regulated percentage;**
- 3. The revenue from high-tech products (services) constitutes more than a regulated percentage of the total revenue of the enterprise;**
- 4. The technical personnel constitute more than a certain regulated percentage of the total number of employees of the enterprise;**
- 5. Other criteria regulated by Administrative Measures on Accreditation of High-tech Enterprises.**

For more detailed criteria, please refer to Article 10 of *Administrative Measures on Accreditation of High-tech Enterprises* in Attachment 25.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- Attachment 25 - *Administrative Measures on Accreditation of High-tech Enterprises*.**
- Attachment 26 - *Corporate Income Tax Law of the People's Republic of China*;**
- Attachment 27- *Implementation Regulations for the Corporate Income Tax Law***

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of the People's Republic of China;

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The competent tax administrator for specific enterprise, i.e. the local state tax bureau keeps records related to this tax incentive, including certificate of advanced and new technology enterprise and corporate income tax return of enterprise.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars
- Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please see the GOC's response to the same question above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please see the GOC's response to the same question above

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Enterprises which intend to apply for this program shall file an application with the relevant competent tax administration and submit relevant materials to prove it meets the criteria. The competent tax administration shall grant such incentive to the applicant upon examination and confirmation that the applicant meets all criteria.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.
- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several

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other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This tax incentive program allows qualified advanced and new technology enterprise to pay corporate tax at a reduced rate. Their products or services shall fall under the scope stipulated in the Areas of Strongly Supported Advanced Technologies by the State. Those areas include electronic information technology, biotechnology and new medicine technology, aerospace technology, new material technology, high technology service industry, new energy and energy conservation technology, resources and environment technology and new and high technology transforming traditional industries.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

This program is established by the laws and regulations or other official documents. No contractual agreements between the Government of China and an enterprise receiving a benefit under the program are needed or contemplated.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The GOC does not keep such data by industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for the *Corporate Income Tax Law of the People's Republic of China* and *Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China*. The *Administrative Measures on Accreditation of High-tech Enterprises 2008* has been replaced by *Administrative Measures on Accreditation of High-tech Enterprises 2016* since 1 January 2016, being after the investigation period.

Program 6: Preferential Tax Policies in the Western Regions

The GOC understands that the Respondents are located in Shandong Province, Jiangsu Province and Hunan Province respectively. None of them is located in the Western

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Regions of China. Thus, this program is not applicable to these Respondents.

Program 7: Land Use Tax Deduction

4. Provide full details of the programs including the following.

(a) policy objective and/or purpose of the program.

To reduce the taxation burden of taxpayers facing financial difficulty due to serious natural disaster or other force majeure factors or suffering serious financial loss due to engaging in public welfare activities

(b) legislation under which the subsidy is granted.

This subsidy is granted under:

- Article 7 of *Interim Regulations of the People's Republic of China on Urban and Town Land Use Tax*;
- *Notice of State Administration of Taxation on Relevant Matters Regarding Delegating the Approval Right for Reduction and Exemption of Urban and Town Land Use Tax Due to Difficulty* (Public Notice of SAT No.1/2014);
- Article 9 of *Implementation Measure of Urban and Town Land Use Tax of Hunan Province* (No.217 order of the People's Government of Hunan Province); and
- *Public Notice of Local Taxation Bureau of Hunan Province on Certain Issues Regarding Reduction and Exemption of Property Tax and Conduct Tax* (Public notice of Local Taxation Bureau of Hunan Province No.2/2015).

(c) nature or form of the subsidy.

Exemption from paying land use tax.

(d) when the program was established.

1 November 1988.

(e) duration of the program.

Since 1 November 1988 until now.

(f) how the program is administered and explain how it operates.

The exemption of land use tax is approved annually. The tax payer in difficulty and intending to apply for tax exemption shall submit a written application and relevant materials to the competent tax administration. According to *Public Notice of Local Taxation Bureau of Hunan Province on Certain Issues Regarding Reduction and Exemption of Property Tax and Conduct Tax* (Public notice of Local Taxation Bureau of Hunan Province No.2/2015), applications for an exemption of CNY300,000 or less shall be approved by the local tax administration at the county/city level, and applications for an exemption of over CNY300,000 shall be approved by local tax administration at the provincial level.

(g) to whom and how is the program provided.

This program provides land use tax exemption to tax payers which have difficulty

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paying their land use tax and which apply for an exemption.

(h) the GOC department or agency administering the program.

State Administration of Taxation and Local Taxation Bureau of Hunan Province.

(i) the eligibility criteria in order to receive benefits under the program.

Enterprises which by reason of suffering serious loss due to:

- natural disaster;
- other *force majeure* factors; or
- engaging in public welfare activities
- would encounter financial hardship as a result of paying their land use tax in full

are eligible to be considered for a deduction under this program.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- **Attachment 28 - *Interim Regulations of the People's Republic of China on Urban and Town Land Use Tax*;**
- **Attachment 29 - *Notice of State Administration of Taxation on Relevant Matters Regarding Delegating the Approval Right for Reduction and Exemption of Urban and Town Land Use Tax Due to Difficulty* (Public Notice of SAT No.1/2014);**
- **Attachment 30 - *Implementation Measure of Urban and Town Land Use Tax of Hunan Province* (No.217 order of the People's Government of Hunan Province) [CONFIDENTIAL ATTACHMENT];**
- **Attachment 31 - *Public Notice of Local Taxation Bureau of Hunan Province on Certain Issues Regarding Reduction and Exemption of Property Tax and Conduct Tax* (Public notice of Local Taxation Bureau of Hunan Province No.2/2015) [CONFIDENTIAL ATTACHMENT].**

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local Taxation Bureau of Hunan Province retains the application and approval table for tax exemption, the application and report of the tax payer and relevant materials proving the financial difficulty of the tax payer.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;

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(d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Exemption applications are approved annually. The taxpayer in difficulty and intending to apply for tax exemption shall submit a written application and relevant materials to the competent tax administration. The local tax administration approves or rejects the application based on the specific situation of the applicant. No application fee is charged by the government authority.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The administrative authority does not limit the eligibility to enterprises or industries located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program provides a land use tax exemption to taxpayers which have difficulty in paying land use tax and request exemption. For further information, please see the

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response to 4(i) above.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for arranging such exemption.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The administrative authority does not retain such data from industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this grant.

Program 8: Tariff and VAT Exemptions on Imported Materials and Equipment

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To encourage the introduction of advanced technology and equipment from abroad.

- (b) legislation under which the subsidy is granted.

Notice of the State Council on the Adjustment of Tax Policies for Imported Equipment (Guo Fa [1997] No.37)

- (c) nature or form of the subsidy.

Exemption of import tariff and import VAT.

- (d) when the program was established.

1 January 1998.

- (e) duration of the program.

For exemption of import tariff, from 1 January 1998 until now. For exemption of import VAT, from 1 January 1998 until 31 December 2008.

- (f) how the program is administered and explain how it operates.

Qualified enterprises receive a certificate either directly from the National Development and Reform Commission ("NDRC") or its provincial branch depending on the scale of the enterprise and other factors, including whether the project was reviewed by NDRC

before business registration.

Enterprises present the certificates and other customs clearance documents to their local customs authorities in order to receive tariff and VAT exemptions on eligible equipment imports.

(g) to whom and how is the program provided.

This program is available to all enterprises. FIEs are eligible if the project is covered under the preferential or restrictive-B categories of the *Catalogue for the Guidance of the Foreign Investment Industries 2007*. Domestic enterprises are eligible if the project falls within the *Catalogue of Encouraged Development of Key Industries, Products and Technologies*.

Qualified enterprises can be exempted from paying tariffs and/or VAT on purchases of selected imported equipment if it is for self-use and the equipment is not listed in the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects* or the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects*.

(h) the GOC department or agency administering the program.

NDRC and General Administration of Customs.

(i) the eligibility criteria in order to receive benefits under the program.

For domestic enterprises, the equipment relating to the project concerned must be listed in the *Current Catalogue of Key Industries, Products and Technologies the Development of Which is Encouraged by the State*. In addition, the equipment must be for the applicant's own use and the value of the equipment must be within the total amount of investment in the domestic project. Finally, any equipment that is imported and listed in the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Domestic Invested Projects* is not eligible for exemption under this program.

For foreign invested enterprises, the equipment relating to the project concerned must align with projects listed in the "encouraged" category of the *Catalogue for the Guidance of the Foreign Investment Industries*. In addition, the equipment must be for the applicant's own use and the value of the equipment must be within the total amount of investment in the foreign project. Finally, any type of equipment that is imported and listed in the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Foreign Invested Projects* is not eligible for exemption under this program.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Attachment 32 provides Notice of the State Council on the Adjustment of Tax Policies for Imported Equipment.

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The local development department retains the certificate, and the competent Customs office retains the declaration document for importing equipment.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):

(a) the business' address (including the city, province and region);

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- (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
- (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

The competent authority examines the application forms submitted by enterprises.
Applications are approved or denied based upon whether the applicants have adequately documented both the project eligibility and the imported article eligibility under the program. If the application is in order, it will be approved and the applicant will receive a certificate.
There are no application fees charged by the authority.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any

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industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program does not limit the applicant but only provides exemption of import tariff and import VAT for importing equipment qualified for certain industries and certain catalogue of products.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for enjoying the exemption under this program.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The administrative authority does not retain such data by industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

For exemption of import tariff, there is no anticipated change.

The exemption of import VAT was terminated on 1 January 2009 under Announcement No. 43 of General Administration of Customs 2008. The last day that a company could receive benefits under this program was 31 December 2008. Please see Attachment 33 for a copy of this Announcement.

Program 9: VAT refund on comprehensive utilisation of resources

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To support comprehensive utilization of resources and to encourage energy conservation and emission reduction.

- (b) legislation under which the subsidy is granted.

The VAT exemption for building materials produced with waste and used resources is first established under *Notice of Ministry of Finance and State Administration of Taxation on Exemption of VAT for Certain Products Comprehensively Utilizing Resources* (CaiShuiZi [1995] No.44).

This was then repealed in 2008, but reinstated in 2011 under *Notice of Ministry of Finance and State Administration of Taxation on Adjustment and Improvement of VAT Policy for Products and Services with Comprehensive Utilization of Resources* (CaiShui [2011] No.115), for products with comprehensive utilization of resources.

From 1 July 2015, the VAT refund or exemption scheme for production and labour services which comprehensively utilise resources. are now consolidated under the *Notice of Ministry of Finance and State Administration of Taxation to Print and Issue Catalogue of Products and Labour Services with Comprehensive Utilization of*

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Resources (CaiShui [2015] No.78).

(c) nature or form of the subsidy.

Preferential tax treatment.

(d) when the program was established.

1995.

(e) duration of the program.

From 1995 until now.

(f) how the program is administered and explain how it operates.

Prior to 1 July 2015, the taxpayer applying for the program would be required to file the relevant data and quality testing report for products and labour services to competent tax authority. The competent tax authority would verify the taxpayer's claims in relation to their production and operation, tax declaration and VAT refund declaration through investigating particular claims on an irregular basis. The preferential tax treatment is provided in three forms, i.e. direct exemption of VAT for certain goods or labour services, refund of VAT after collection, and refund of VAT after collection (tax authority first collects VAT fully, then the competent financial department partially or fully refunds tax paid).

From 1 July 2015, when dealing with a VAT refund matter, the taxpayer shall provide to the competent tax authority a written declaration of its technical standards and other relevant conditions regulated by *Catalogue of Products and Labour Services with Comprehensive Utilization of Resources*. If the taxpayer fails to provide such written declaration or provides false material, the tax authority shall not grant a VAT refund. The tax authority at the provincial level, autonomous regions, municipalities directly under the central government, and municipalities with independent planning status publicize the following information for each taxpayer within its jurisdiction which received a VAT refund in the last year on its website before the end of February each year: name of taxpayer, identification number of taxpayer, name and quantity of comprehensively utilized resources and name of products and labour services comprehensively utilizing resources.

(g) to whom and how is the program provided.

**Tax payer whose production or labour service comprehensively utilises resources.
Please also see responses above at (f).**

(h) the GOC department or agency administering the program.

Ministry of Finance and State Administration of Taxation are responsible for formulating relevant regulations and rules for administering this program. Local competent state tax authority is responsible to implement the VAT refund policy pursuant to relevant regulations and rules.

(i) the eligibility criteria in order to receive benefits under the program.

Prior to 1 July 2015, tax payers who engage in the sales of certain products produced using recycled resources as raw materials or for provide services related to waste treatment, is eligible to apply for VAT exemption or refund under this program.

From 1 July 2015, eligible applicant shall work on the projects comprehensive utilizing

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resources listed in the *Catalogue of Products and Labour Services with Comprehensive Utilization of Resources* and meet the following criteria:

- Is an ordinary VAT payer.
- The product and service sold is not under the prohibited or restricted items in the *Guideline Catalogue on Adjustment of Industrial Structure*.
- The product and service sold is not a “high pollution, high environmental risk” product or of heavy pollution technology as stated in *Comprehensive Catalogue on Environmental Protection* issued by Ministry of Environmental Protection.
- If the comprehensively utilized resource is hazardous waste listed in the *National Catalogue on Hazardous Wastes issued by Ministry of Environmental Protection*, the tax payer shall obtain the Certificate for Operation of Hazardous Waste issued by environmental protection department on provincial or higher level, and the scope of certificate shall cover the utilization of such hazardous waste.
- The tax credit rating shall not be on C or D class assessed by tax authority.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- Attachment 34 - *Notice of Ministry of Finance and State Administration of Taxation on Exemption of VAT for Certain Products Comprehensively Utilizing Resources* (CaiShuiZi [1995] No.44).
- Attachment 35 - *Notice of Ministry of Finance and State Administration of Taxation on VAT Policy for Comprehensive Utilization of Resources and Other Products* (CaiShui [2008] No.156).
- Attachment 36 - *Notice of Ministry of Finance and State Administration of Taxation on Adjustment and Improvement of VAT Policy for Products and Services with Comprehensive Utilization of Resources* (CaiShui [2011] No.115).
- Attachment 37 - *Notice of Ministry of Finance and State Administration of Taxation to Print and Issue Catalogue of Products and Labour Services with Comprehensive Utilization of Resources* (CaiShui [2015] No.78).

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Prior to 1 July 2015, local tax authorities kept the data for record, quality testing report and VAT tax return of tax payer applying for enjoying tax preference.

Since 1 July 2015, local tax authority keeps written declaration and VAT tax return of tax payer applying for enjoying tax preference.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;

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(d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Tax payer submits data for record and VAT tax return to apply for enjoying tax preference. No approval is required from competent tax authority. The authority does not collect any application fee.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Please see the GOC's responses at above in relation to eligibility.

Eligible recipient is not limited by industries. Eligibility is based on the utilization of designated recycled resource for the production. The designated recycled resource is very broad, including paragenic ore, associated ore resources, waste residue, waste water (liquid), exhaust gas, renewable resources, and agricultural and forestry

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leftovers. Thus the eligibility is not limited to certain industry or enterprise.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for enjoying this tax preference.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The administrative authority does not keep such data by industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this tax preference.

Program 10: One-time Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” and “Famous Brands of China”

The legal basis referred to in the Application, *Notice concerning the promulgation of the ‘Guiding opinions on supporting the development of famous export brands’* (Shang Mao Fa 2005, No. 124) has been abolished since 2 April 2009. Moreover, as the GOC understands, during the period of investigation none of the Respondents of this investigation received any grant which could correspond to the name of this program.

Program 11: Matching Funds for International Market Development for small and medium size enterprises (SMEs)

The legal basis referred to in the Application, *the Notice on Promulgation of Administrative Measure on Fund of Exploring International Market by Small and Medium Size Enterprises* (Cai Qi [2010] No.87) has been abolished since 9 April 2014. Moreover, as the GOC understands, during the period of investigation none of the Respondents of this investigation received any grant which could correspond to the name of this program.

Program 12: Superstar Enterprise Grant

According to the description in the Application for this investigation, this program is applicable to enterprises located in Huzhou City of Zhejiang Province. Since none of the Respondents is located in Huzhou City, this grant is not applicable to any of them.

Program 13: Research and Development (R&D) Assistance Grant

According to the description of the Application on this program, this program is applicable to enterprises located in Wuxing District Huzhou City of Zhejiang Province or in Jinzhou District Dalian City of Liaoning Province. Since none of the Respondents is located in Huzhou City or Liaoning City, this grant is not applicable to any of them.

Program 14: Patent Award of Guangdong Province

According to the description of the Application on this program, this program is applicable to enterprises located in Guangdong Province. Since none of the Respondents case is located in Guangdong Province, this grant is not applicable to any of them.

Program 15: Innovative Experimental Enterprise Grant

According to the description of the Application on this program, this program is applicable to enterprises located in Zhejiang Province. Since none of the Respondents case is located in Zhejiang Province, this grant is not applicable to any of them.

Program 16: Special Support Fund for Non-State-Owned Enterprises

According to the description of the Application on this program, this program is applicable to enterprises located in Yunnan Province. Since none of the Respondents is located in Yunnan Province, this grant is not applicable to any of them.

Program 17: Venture Investment Fund of Hi-Tech Industry

According to the description of the Application on this program, this program is applicable to enterprises located in Chongqing Municipality. Since none of the Respondents is located in Chongqing Municipality, this grant is not applicable to any of them.

Program 18: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

The legal basis of this program mentioned in the Application, *the Notice on Promulgation of Provisions of Guangzhou City on Encouraging Establishment of Headquarter and Regional Headquarter of Foreign Investment* (Hui Fu Ban [2006] No.34) has been abolished since 16 January 2010. Moreover, according to the description of the Application on this program, this program is applicable to enterprises located in Guangzhou City of Guangdong Province. Since none of the Respondents is located in Guangdong Province, this grant is not applicable to any of them.

Program 19: Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan

According to the description of the Application on this program, this program is applicable to enterprises located in Zhongshan City of Guangdong Province. Since none of the Respondents is located in Guangdong Province, this grant is not applicable to any of them.

Program 20: Water Conservancy Fund Deduction

The legal basis mentioned for this program in the Application, the *Notice of Local Tax Bureau of Zhejiang Province on Further Strengthening Relevant Issues on Administration of Reduction and Exemption of Special Fund for Water Conservancy Construction* (Zhe Di Shui Fa [2007] No.63) has been abolished since 1 September 2014. Moreover, according to the description of the Application on this program, this program is applicable to enterprises located in Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 21: Wuxing District Freight Assistance

According to the description of the Application on this program, this program is applicable to enterprises located in Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 22: Huzhou City Public Listing Grant

According to the description of the Application on this program, this program is applicable to enterprises located in Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 23: Huzhou City Quality Award

According to the description of the Application on this program, this program is applicable to enterprises located in Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 24: Huzhou Industry Enterprise Transformation & Upgrade Development Fund

According to the description of the Application on this program, this program is applicable to enterprises located in Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

them.

Program 25: Wuxing District Public List Grant

According to the description of the Application on this program, this program is applicable to enterprises located in Wuxing District Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 26: Anti-dumping Respondent Assistance

According to the description of the Application on this program, this program is applicable to enterprises located in Wuxing District Huzhou City of Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 27: Technology Project Assistance

According to the description of the Application on this program, this program is applicable to enterprises located in Zhejiang Province. Since none of the Respondents is located in Zhejiang Province, this grant is not applicable to any of them.

Program 28: Transformation technique grant for rolling machine

According to the description of the Application on this program, this program is applicable to enterprises located in Jinan City of Shandong Province. Since none of the Respondents is located in Jinan City of Shandong Province, this grant is not applicable to any of them.

Program 29: Grant for Industrial enterprise energy management - centre construction demonstration project Year 2009

The description in Application on this program is too vague for the GOC to further identify this program. However, as the GOC acknowledges, none of the Respondents of this investigation once received any grant which could correspond to the name of this program in 2009.

Program 30: Key industry revitalization infrastructure spending in 2010

According to the description of the Application on this program, this program is applicable to enterprises located in Shandong Province. However, The GOC has been informed, the two Respondents which are located in Shandong Province have not received any grant which could correspond to this grant.

Program 31: Provincial emerging industry and key industry development special fund

According to the description of the Application on this program, this program is applicable to enterprises located in Shandong Province. However, as the GOC acknowledges, neither of the two Respondents which are located in Shandong Province ever received any grant which could correspond to this grant during the period from 2010 to June 2015.

Program 32: Environmental protection grant

The description in Application on this program is too vague for the GOC to further identify this program. However, the GOC has provided answer to grants related with environmental protection under the program of No.36, 41, 58, 62 and 63. Please refer to the response to these grant programs.

Program 33: Environmental protection fund

According to the description of the Application on this program, this program is applicable to enterprises located in Jinan City of Shandong Province. Since none of the Respondents is located in Jinan City of Shandong Province, this grant is not applicable to any of them.

Program 34: Intellectual property licensing

According to the description of the Application on this program, this program is applicable to enterprises located in Shandong Province. However, as the GOC acknowledges, neither of the two Respondents which are located in Shandong Province ever received any grant which could correspond to this grant during the period from 2010 to June 2015.

Program 35: Financial resources construction - special fund

According to the description of the Application on this program, this program is applicable to enterprises located in Jinan City of Shandong Province. Since none of the Respondents is located in Jinan City of Shandong Province, this grant is not applicable to any of them.

Program 36: Reducing pollution discharging and environment improvement assessment award

4. Provide full details of the programs including the following.
 - (a) policy objective and/or purpose of the program.

To strengthen the environmental monitoring of key enterprises for pollutant discharge;

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to objectively, accurately and in a timely manner observe changes in sources of pollution and to prevent pollution related accidents.

(b) legislation under which the subsidy is granted.

Environmental Protection Law of the People's Republic of China, Administrative Measure on Automatic Monitoring of Source of Pollution (No.28 order of former State Environmental Protection Administration), and Administrative Measure on Automatic Monitoring of Source of Pollution of Hunan Province (No.203 order of the People's Government of Hunan Province).

(c) nature or form of the subsidy.

One-time grant for construction of automatic monitoring systems on the site of an enterprise's pollution sources.

(d) when the program was established.

2008.

(e) duration of the program.

From 2008 to 2010.

(f) how the program is administered and explain how it operates.

Pursuant to the list of key source of pollution under national control of Hunan Province of 2008, the provincial financial department provided one-time grant of 20% of an estimated construction budget for on-site automatic pollution monitoring systems. The funds are transferred to financial departments at the city level and then issued to relevant enterprises.

(g) to whom and how is the program provided.

The grant was provided to the enterprises whose industries are on the list of key sources of pollution under national control of Hunan Province of 2008. The fund was administered by provincial financial departments.

(h) the GOC department or agency administering the program.

Financial and environmental protection departments at various levels of Hunan provincial government.

(i) the eligibility criteria in order to receive benefits under the program.

The enterprises whose industry is on the list of key sources of pollution under national control of Hunan Province of 2008.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- ***Attachment 38 - Environmental Protection Law of the People's Republic of China;***
- ***Attachment 39 - Administrative Measure on Automatic Monitoring of Source of Pollution (No.28 order of former State Environmental Protection***

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Administration);

- **Attachment 40 - Administrative Measure on Automatic Monitoring of Source of Pollution of Hunan Province (No.203 order of the People's Government of Hunan Province) [CONFIDENTIAL ATTACHMENT].**

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local financial department retains fund allocation notices and fund allocation records.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

The grant was arranged according to the list of key sources of pollution under national control of Hunan Province of 2008 and the construction situation of on-site automatic monitoring systems at the enterprise. Enterprises did not need to apply.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.
- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

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- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The provincial government of Hunan does not limit the grant to enterprises located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

The grant is provided to the enterprises whose industries are on the list of key sources of pollution under national control of Hunan Province of 2008. But there is no specific limit to certain type of enterprise or industry.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract was needed for accessing the grant.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The administrative department does not retain such data by industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

This grant was only instituted in 2008, and no similar grants were instituted after that. The last day a company could receive benefits under this program was 31 December 2010.

Program 37: Grant for elimination of out dated capacity

According to the description of the Application on this program, this program is applicable to enterprises located in Shandong Province. However, as the GOC understands, neither of the two Respondents which are located in Shandong Province ever received any grant from the Financial Bureau of Shandong Province which could correspond to this grant during the period from 2010 to June 2015.

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Program 38: Grant from Technology Bureau

According to the description of the Application on this program, this program is applicable to enterprises located in Shandong Province. However, as the GOC acknowledges, neither of the two Respondents which are located in Shandong Province ever received any grant from the Financial Bureau of Shandong Province which could correspond to this grant during the period from 2010 to June 2015.

Program 39: High and New technology Enterprise Grant

The description in Application on this program is too vague for the GOC to further identify this program. However, the GOC has provided answer to preferential tax program related with high and new technology enterprise under the program of No.5. [CONFIDENTIAL TEXT DELETED – details any benefit received under this program]

Program 40: Independent Innovation and High Tech Industrialization Program

The description in Application on this program is too vague for the GOC to further identify this program. However, as the GOC acknowledges, none of the Respondents of this investigation once received any grant which could correspond to the name of this program during the period from 2010 to June 2015.

Program 41: Environmental Prize

The GOC has been informed [CONFIDENTIAL TEXT DELETED – details and amount of benefit received], which is considered similar to this program, and thus we provides responses for this grant.

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To accelerate the construction of resource-saving and an environmentally friendly society, to support technical development and environmental protective ability of enterprise, and to promote the development and upgrade of traditional industry.

- (b) legislation under which the subsidy is granted.

Environmental Protection Law of the People's Republic of China.

- (c) nature or form of the subsidy.

Direct grant.

- (d) when the program was established.

The grant was a one-time support which was provided in December 2011.

- (e) duration of the program.

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The grant was a one-time support which was provided in December 2011.

- (f) how the program is administered and explain how it operates.

The grant was provided based on assessment of expenditure of enterprise related to technical development to support environmental protection and control and disbursed according to the development status of enterprise.

- (g) to whom and how is the program provided.

The grant was provided to [CONFIDENTIAL TEXT DELETED – identity of recipient] upon its application, and through research.

- (h) the GOC department or agency administering the program.

Financial Department of Hunan Province.

- (i) the eligibility criteria in order to receive benefits under the program.

The technical development of the enterprise has met requirements in environmental protection and control.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Attachment 38 provides *Environmental Protection Law of the People's Republic of China*.

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Electronic record of disbursements on financial payment network.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions

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regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

[CONFIDENTIAL TEXT DELETED – details and amount of benefit received]

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for accessing the grant.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The grant was a one-time support which was provided in December 2011.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

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The grant was a one-time support which was provided in December 2011.

Program 42: Jinzhou District Research and Development Assistance Program

According to the description of the Application on this program, this program is applicable to enterprises located in Jinzhou District Dalian City of Liaoning Province. Since none of the Respondents is located in Liaoning Province, this grant is not applicable to any of them.

Program 43: Debt for equity swaps

The GOC has been informed, none of the Respondents of this investigation ever engaged in a debt for equity swap during the period from 2005 to June 2015.

Program 44: Equity infusions

[CONFIDENTIAL TEXT DELETED – financial information concerning Respondents]

Program 45: Unpaid dividends

The GOC has been informed that during the period of investigation, [CONFIDENTIAL TEXT DELETED – financial information concerning Respondents].

Program 46: Preferential loans and interest rates to producers/exporters of steel reinforcing bar

The GOC advises there is no such subsidy program.

The GOC notes that the Applicant has not provided any information or evidence which is applicable to the investigation period. The European Commission's findings concerning organic coated steel from China referred to by the Applicant – arrived at in an investigation which took place five years ago – are not evidence of its claim.

The GOC rejects the claim that Chinese State-invested commercial banks are public bodies. The allegation by the applicant in relation to “preferential loans” lacks legal basis. The industry policies that the GOC issues are aspirational in nature and are not mandatory on stakeholders. Commercial banks in China will take those industry policies into consideration when evaluating whether a loan is to be provided to a company, but they are not the decisive factor and certainly do not dictate the behaviour of the banks. The most critical factors the commercial banks are considering in that process are commercial terms and the ability of the borrower to pay interest and to repay the principal, and they are completely market oriented in this undertaking. The interest rate is determined on the basis of market conditions when the situation is being evaluated.

Further, the allegation that Chinese rebar exporters were provided with loans by State invested banks which have a “lower” interest rate, thereby constituting a subsidy, are simply not true. Differential interest rates are not proffered by Chinese banks to rebar or

steel industry enterprises when compared to other industries, unless there is a commercial risk differential to be taken into account.

Moreover, in case it is alleged that interest rates in China are “artificially low” in international terms, we note that a simple examination of the interest rates published by major central banks indicates that interest rates in China in overall terms are higher than rates in many of its counterparts. For example, the Chinese central bank rate is 4.35%. Other current central bank interest rates include Australia at 2.0%, US and Canada at 0.5%, EU at 0.05%, Japan at 0%, and Switzerland at negative 0.75%.

The GOC understands that during the period of investigation, the Respondents obtained loans from various financial institutions, including private owned and foreign owned banks, both from China and other countries, and not only from Chinese state-invested commercial banks. The Commission is invited to compare the interest rates provided to the Respondents, and to examine whether the loans interests offered by Chinese State invested commercial banks were “preferential”.

Contrary to the Applicant’s claim that Chinese banks are somehow directed by the GOC to provide loans to Chinese steel companies, the GOC notes that the Commission has already made observation in its SEF 300 that:

With regard to financing, the Commission holds that the ability of Chinese steel producers to undertake capital investment required to restructure has been constrained by a combination of weak profitability and reduced support from traditional funding sources. For example, in August 2015 the China Iron & Steel Association noted that during the first half of 2015 Chinese banks had cut loans to steel makers by around USD 15 billion or by six per cent (on a year on year basis).

These observations do not paint a picture of Chinese state invested banks being requested by the GOC to give “preferential” loans to Chinese steel companies.

Further, we note the Applicant’s claim that “all firms in China” should be accorded with a “non-investment grade” of BB. This claim has no factual or legal basis whatsoever and must be rejected. As mentioned above the GOC provided an example of one Chinese steel company, Baosteel, successfully issuing overseas bonds for financing purposes (see Attachment 20). In particular, the media release of Baosteel states:

...three big international credit rating agencies including Standard & Poor's, Moody's and Fitch rating respectively granted Baosteel Co., Ltd an A-, A3 and A-long-term credit rating, with a stable outlook.

The GOC respectfully requests the Commission to terminate its investigation insofar as it concerns this program immediately.

Miscellaneous Programs

According to the description of the Application, all of the programs under this category come from the “programs involving governmental grant” disclosed in the 2014 annual report of Shandong Iron and Steel Co., Ltd. Although Shandong Iron and Steel Co., Ltd is not a respondent of this investigation, the GOC has still provided response to programs of No.56, 58, 62, 63, 76, 78 and 83 which are considered similar to the grants received by certain Respondents. Please refer to the answer to these programs below.

In relation to the other programs identified by the Applicant as “Miscellaneous programs disclosed in the annual report of Shandong Iron and Steel Co., Ltd”, the GOC respectfully advises that it is unable to identify those alleged subsidies based only on accounting records and the transaction descriptions provided by the Applicant. Further, the GOC considers that the claims made by the Applicant in relation to those “programs” do not provide any legal or prima facie evidences that these so called “projects” and “funds” are subsidies.

Program 56: "Project: 2011 environmental protection special fund"

The GOC has been informed [CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program], which is considered similar to this program, and thus the GOC provides a response for this grant.

4. Provide full details of the programs including the following.

(a) policy objective and/or purpose of the program.

To implement the industry policy and environmental protection policy of higher government and Zhangjiagang City, and to reduce emissions, and prevent regional environmental pollution, and to encourage enterprises and public institutions to prevent pollution and protect ecology through subsidies or awards.

(b) legislation under which the subsidy is granted.

Administrative Regulation on Collection and Use of Sewage Charge (No.369 order of the State Council) and *Interim Administrative Measure on Special Fund for Environmental Protection of Zhangjiagang City* (Zhang GuiHuanZi [2013] No.2).

(c) nature or form of the subsidy.

Direct grant.

(d) when the program was established.

1 August 2013.

(e) duration of the program.

From 1 August 2013 until now.

(f) how the program is administered and explain how it operates.

The main source of funds for the program is sewage charges. An enterprise will propose an environmental protection project to the Financial Bureau and Environmental Protection Bureau. After a project proposal is accepted, an application for funding is organized. A specific percentage, normally 20% of total investment for an environmental protection project, will be provided to applicants whose projects meet the criteria.

(g) to whom and how is the program provided.

The grant is to compensate or award key pollution prevention and control project, ecological culture construction project and environment monitoring capability construction project. All project undertakings which meet relevant criteria can obtain a grant upon application. The financial department at city level transfers the grant to the account of the environmental department at city level first, then the environmental department at city level issues the grant to specific projects.

(h) the GOC department or agency administering the program.

The Financial Bureau and Environmental Protection Bureau of Zhangjiagang City jointly administer this grant.

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- (i) the eligibility criteria in order to receive benefits under the program.

- | | |
|----------|---|
| 1 | The applicant shall be an independent legal entity and have independent financial accounting. |
| 2 | The applicant shall within a reasonable time apply for sewage discharge license and within a reasonable time pay the sewage discharge fully. |
| 3 | The project under application shall be completed and accepted upon inspection. |

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- **Attachment 41 - Administrative Regulation on Collection and Use of Sewage Charge (No.369 order of the State Council); and**
- **Attachment 42 - Interim Administrative Measure on Special Fund for Environmental Protection of Zhangjiagang City (Zhang GuiHuanZi [2013] No.2) [CONFIDENTIAL ATTACHMENT].**

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The annual budget documentation, notices issuing grants and grant disbursement documents are retained for this grant.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):

- (a) the business' address (including the city, province and region);
- (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
- (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.

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After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

The environmental protection project undertakings in each town/district are notified, filtered and organized and invited to prepare an application and file it with Environmental Protection Bureau. These applications are jointly reviewed with the Financial Bureau. The two bureaus jointly issue documents to provide grants of a certain percentage. The government does not charge any application fee during this process.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The administrative authority does not limit the grant to enterprises located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. Any enterprise or industry which meets the criteria provided in the administrative measure for this grant is eligible for this grant.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for accessing this grant.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

Please find the data summarized by the administrative authority for the period from 2013 (when the fund was established) until end of the investigation period as follows (Unit: CNY10,000).

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under this program]

13. For all programs listed in Table 1, describe any anticipated changes in the program.

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Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this grant.

Program 58: "Project: Coke oven gas desulfurization improvement project"

Please refer to the response for Program 63 for information regarding this program.

Program 62: "Project: Energy power plant waste heat heating reconstruction project grants"

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program], thus the GOC provides responses for this grant.

4. Provide full details of the programs including the following.

(a) policy objective and/or purpose of the program.

To control atmospheric pollution and to improve the quality of the environment.

(b) legislation under which the subsidy is granted.

Article 8 of *Environmental Protection Law of the People's Republic of China*, which provides "Organisations and individuals with outstanding achievements in environmental protection and improvement shall be rewarded by People's Governments.", as well as the *Decision of the People's Government of Laiwu City on Rewarding the Atmospheric Standard Upgrading of Major Projects* (Lai Zheng Zi [2014] No51.

(c) nature or form of the subsidy.

Reward of grant.

(d) when the program was established.

September 1, 2014.

(e) duration of the program.

This program provides one-time reward in the form of a grant. This grant was publicised on 1 September 2014 and was provided on 15 October 2014.

(f) how the program is administered and explain how it operates.

In 2014, the People's Government of Laiwu City assessed the whether atmospheric pollution targets of the undertakings within its city were being met. The People's Government then decided to provide a reward grant to 10 major projects for meeting their atmospheric pollution targets. Grants were provided on undertakings that the grant would be used specifically on projects concerning management of

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atmospheric pollutants.

(g) to whom and how is the program provided.

The reward grants were provided to the 10 major projects of Laiwu City for reaching atmospheric pollution targets.

(h) the GOC department or agency administering the program.

The People's Government of Laiwu City.

(i) the eligibility criteria in order to receive benefits under the program.

The major projects must reach standards set in the *Comprehensive Emission Standards for Regional Atmospheric Pollution in Shandong Province*. These standards were issued in September 2013, and to be eligible for the grant, enterprises needed to consistently meet the emission standards prescribed therein.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to:

- **Attachment 38 - *Environmental Protection Law of the People's Republic of China*; and**
- **Attachment 43 - *Decision of the People's Government of Laiwu City on Rewarding the Atmospheric Standard Upgrading of Major Projects* (Lai Zheng Zi [2014] No51) [CONFIDENTIAL ATTACHMENT].**

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The People's Government of Laiwu City keeps the notification of reward grant and accounting record for disbursement of the reward grant.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

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Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

The People's Government of Laiwu City independently assessed which pollution reduction schemes were able to meet the standards referred to in our response to question 4 above. The People's Government of Laiwu City then awarded grants to the top 10 major pollution reduction projects. The enterprises managing those pollution reduction schemes did not need to apply. No application fee was charged by the government.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The administrative authority does not limit the grant to enterprises or industries located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. Any enterprise, regardless of industry, which implemented a pollution reduction project which conformed with the standards referred to in question 4 above was eligible to be considered for this grant.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract was needed for accessing this grant.

12. Provide the total amounts of benefits received by each type of industry in each region

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in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The sum of all grants provided under this program was [CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program].

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

This program was a one-off grant provided in 2014. It is no longer operative, and therefore there are no anticipated changes.

Program 63: "Project: 320 sintering flue gas desulfurization project environmental protection fund"

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

4. Provide full details of the programs including the following.

(a) policy objective and/or purpose of the program.

To protect the environment by preventing and controlling atmospheric pollution.

(b) legislation under which the subsidy is granted.

Provisional Administrative Measure on Special Fund of Shandong Provincial Level for Environmental Protection and Prevention and Control of Atmospheric Pollution (Lu Cai Jian [2014] No.38).

(c) nature or form of the subsidy.

Various forms including "eco-compensation," rewards, project grants and general transfer payments. In this context, eco-compensation is a mechanism by which taxes are levied on polluters, and this revenue is used to compensate enterprises which have incurred losses by implementing pollution reduction measures.

(d) when the program was established.

29 September 2014.

(e) duration of the program.

From 29 September 2014 until now.

(f) how the program is administered and explain how it operates.

The Shandong Provincial Financial Department and Environmental Protection Department conducts comprehensive measurements and calculations based on project investment and emission reduction programs of each city/county and allocates the fund accordingly. The city/county level financial bureau and environmental protection bureau issue the funds to specific projects. In addition

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to the provincial fund, a national fund of similar purpose issued by the Ministry of Finance and Ministry of Environmental Protection to Shandong Province is also allocated at the city/county level under this same program.

The provincial fund is operated in a marketized way to attract capital investment from private enterprises, financial institutions as well as non-government institutions. Provincial financial departments allocate funding to the program on an annual basis.

(g) to whom and how is the program provided.

The provincial special fund supports the following activities:

- 1 Pollution prevention and control including atmospheric, water and solid waste and chemical and radioactive waste.
- 2 Formulation of environmental protection measures, plans and standards.
- 3 Environmental protection monitoring, building of supervision and law enforcement ability and ensuring systematic operation.
- 4 Regional ecological environmental protection and restoring of protected areas, rural areas and lakes.
- 5 Study, demonstration and promotion of major environmental protection technology.
- 6 Other major projects for pollution prevention and control determined nationally and provincially.

The fund is provided in various forms including eco-compensation, rewards, project grants and general transfer payments.

(h) the GOC department or agency administering the program.

The Shandong Provincial Financial Department and Environmental Protection Department are responsible for formulating the *Provisional Administrative Measure on Special Fund of Shandong Provincial Level for Environmental Protection and Prevention and Control of Atmospheric Pollution*, and for allocating the national fund and provincial fund to the city/county level. The city/county level financial bureau is responsible for disbursing the fund to projects.

(i) the eligibility criteria in order to receive benefits under the program.

The fund is provided within the scope of activities as answered for above Question (g). In addition to that, the following projects are excluded from the support scope of the fund:

- 1 The environmental protection facilities built as an auxiliary to a newly built commercial project.
- 2 Projects for which is identified by environmental impact assessment as having apparent adverse effect on society or the natural environment.
- 3 Infrastructure project within a city environment such as urban greening and environmental sanitation, urban sewage treatment, urban garbage treatment, city gas and central heating, as well as other projects which are not directly related to pollution prevention and control.
- 4 Projects which are not supported or explicitly ordered to be eliminated or prohibited by the national industry policy.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

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Please refer to Attachment 44 - *Provisional Administrative Measure on Special Fund of Shandong Provincial Level for Environmental Protection and Prevention and Control of Atmospheric Pollution* (Lu Cai Jian [2014] No.38).

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The city/county level environmental protection bureau retains application and fund disbursement records for each project.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Different forms of fund utilisation require different application, evaluation and approval procedures. Taking the project grant which is utilised by the respondent as an example, the city/county level financial bureau and environmental protection bureau at the location of the project jointly apply to the provincial financial department and environmental protection department., The provincial authority performs comprehensive measurements and calculations based on project investment and emission reduction projects of each city/county and allocates the fund to various cities/counties. The city/county level financial and environmental protection bureaus then issue the fund to the specific project. The provincial authority may also offer to assist enterprises with funding particular projects when the authority wishes to showcase new pollution treatment technologies.

11. Answer the following questions regarding eligibility for and actual use of the benefits

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provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The administrative authority does not limit the fund to enterprises or industries located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. The provincial authority allocates the fund based on assessment of the effect of specific environmental protection projects, taking into account environmental quality improvement, and accomplishment of emissions reduction targets, regardless of which industry or under which enterprise the treatment project will occur.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for accessing this fund.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

The administrative authority does not retain such data from industries, because not only various industries may be granted with this fund, but various other activities use this fund, such as automotive vehicle pollution management projects.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this fund.

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Program 76: "Patent Development Grant funds"

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program] thus the GOC provides responses for this grant.

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To assist enterprises develop an intellectual property strategy, to promote innovation within the economy, and to promote the spread and application of patented technology.

- (b) legislation under which the subsidy is granted.

Administrative Measure on Special Fund for Patent of Zhangjiagang City (Zhang Zheng Fa Gui [2010] No.8).

- (c) nature or form of the subsidy.

Direct grant.

- (d) when the program was established.

1 August 2010.

- (e) duration of the program.

From 1 August 2010 until now.

- (f) how the program is administered and explain how it operates.

The People's Government of Zhangjiagang City established this fund, and the Zhangjiagang City Intellectual Property Bureau (Science and Technology Bureau) and Financial Bureau jointly administer this fund. The Intellectual Property Bureau is responsible for reviewing application material and determining whether a grant shall be provided. The Intellectual Property Bureau accepts applications for grants all year round and grants are provided every six months.

- (g) to whom and how is the program provided.

The special fund for patent is provided to legal entities and other organizations in Zhangjiagang City and citizens whose residence is in Zhangjiagang City who meet the criteria established by the *Administrative Measure on Special Fund for Patent of Zhangjiagang City*. This program is a generalised award which provides funds to all applicants which meet the criteria, including foreign individuals and foreign enterprises.

- (h) the GOC department or agency administering the program.

The Zhangjiagang City Intellectual Property Bureau (Science and Technology Bureau) and Financial Bureau jointly administer this fund.

- (i) the eligibility criteria in order to receive benefits under the program.

The fund is provided to patent projects meeting the following criteria:

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1	It is a patent project of <ul style="list-style-type: none">• patent for invention• patent for utility models of high technical content and good market prospect, or• design patent of high design level and good market prospect.
2	The title of the intellectual property is clear.
3	The applicant shall be the first applicant for the patent jointly applied for by two or more applicants.
4	If the patent is to be granted in a foreign jurisdiction, it must have suitable commercial prospects in the foreign market.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to Attachment 45 - *Administrative Measure on Special Fund for Patent of Zhangjiagang City* [CONFIDENTIAL ATTACHMENT].

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Zhangjiagang City Intellectual Property Bureau retains application forms for grants, proof of identity of applicants, application documents for patents and approval documents for grants issued.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):

- (a) the business' address (including the city, province and region);
- (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
- (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.

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After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

The applicant submits application to Zhangjiagang City Intellectual Property Bureau including application for the grant, proof of identity of applicant and application documents for the proposed patent. Zhangjiagang City Intellectual Property Bureau reviews the application and determines whether the application meets the criteria set by Administrative Measure on Special Fund for Patent of Zhangjiagang City and decides whether to approve the application. The government does not charge any application fee.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. The administrative authority does not limit the fund to enterprises or industries located in any designated regions within its administrative jurisdiction.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. The purpose of this program is to encourage innovation. Any enterprise or industry which meets the criteria provided in the administrative measure for this fund is eligible for this grant, including foreign individuals and foreign enterprises.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for accessing this grant.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

Please find below the table showing grants provided to different industries during 2011 to 2014. Data for 2015 is not currently available. Figures are in [CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the

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program]

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this grant.

Program 78: "National Pillar Program special funds"

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program], and thus the GOC provides responses for this grant.

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To solve the major scientific issues in the development of the economy and society and to provide support to the harmonized development of Chinese economy and society.

- (b) legislation under which the subsidy is granted.

Administrative Measure on National Science and Technology Support Scheme.

- (c) nature or form of the subsidy.

Assistance under this program is generally provided as a grant. However, other forms including reimbursement and venture investment are also available.

- (d) when the program was established.

2011.

- (e) duration of the program.

From 2011 until now.

- (f) how the program is administered and explain how it operates.

This scheme is financed at the Central Government level. The administration of the scheme includes soliciting potential recipients, planning and refining projects with enterprises on a consultative basis, feasibility studies, project approval, implementation and process monitoring, and performance evaluation. The accounts for particular projects and tasks are required to be independently recorded to ensure funds are not used for other purposes.

The scheme includes two levels, i.e. project and task. A project is composed of several tasks. The administering entities include the Ministry of Science and Technology ("MOST"), the entities which planned the project, and the entities executing the tasks. MOST is responsible for management of the program generally. The project planning entity is responsible for ensuring project deadlines and goals are achieved, and task executing entity is responsible for completing their assigned task and ensuring it has its intended effect.

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- (g) to whom and how is the program provided.

The grant is provided to project/task undertaking entities, including scientific research institutions, colleges/universities and enterprises. For projects and tasks undertaken by enterprises, the enterprise shall invest at least 50% of the total budget for the project/task.

- (h) the GOC department or agency administering the program.

The Ministry of Science and Technology ("MOST") is responsible for administering this scheme.

- (i) the eligibility criteria in order to receive benefits under the program.

For reimbursements, the project/task shall be examined within 6 months after completion. The MOST may decline to provide a reimbursement. If the target of project/task was completed according to standards agreed at the planning stage, and invested money was reasonably used, the project/task will be approved by MOST, and a reimbursement will be provided.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to Attachment 46 - *Administrative Measure on National Science and Technology Support Scheme*.

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

MOST retains correspondence relating to project/task approval, documentation related to project and task planning, and the annual implementation report filed by the entities undertaking the project/task.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):
- (a) the business' address (including the city, province and region);
 - (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
 - (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
 - (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program]

8. For each entity identified in your response to Question 7 above that is an SIE, answer the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions

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regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.

After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

MOST publicly gauges demand for and seeks suggestions on projects, conducts preliminary reviews and selects some projects to record in a project database. MOST further refines and consolidates the projects in database and organizes experts to provide suggestion. MOST finally selects which projects and entities to support based on the feature of different projects. The project organizing entity prepares a feasibility report and determines which entity will perform the tasks for the project. Upon the approval of MOST on setting up of project, the project organizing entity signs task paper with task undertaking entity. Upon approval by MOST of such paper, the task is implemented by undertaking entity.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

- (j) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. According to the *Administrative Measure on National Science and Technology Support Scheme*, the only requirement for project applicant is that they be one of "enterprises, research institutes, or universities, which are registered in mainland China and have strong research capacity and conditions, standard operations and management and independent legal personality."

- (k) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

The project organizing entity signs task paper with ask undertaking entity. Upon approval of MOST on such paper, the task is implemented by undertaking entity.

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12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2015.

These projects are frequently cross-sectoral and involve multiple industries. As such the GOC cannot estimate the value each industry type has received.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There is no anticipated change for this scheme.

Program 83: "2013 annual export credit insurance subsidies 9.12"

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program], and thus the GOC provides responses for this grant.

4. Provide full details of the programs including the following.

- (a) policy objective and/or purpose of the program.

To accelerate the scientific development of the commercial sector and to promote development and growth of foreign trade.

- (b) legislation under which the subsidy is granted.

Notice of Financial Department and Department of Commerce of Jiangsu Province to Print and Issue the Implementing Rules on Special Fund for Commercial Development of Jiangsu Province to Support Transformation and Upgrading of Foreign Trade (Revised in 2013) (Su Cai Gong Mao [2013] No.90. Under Article 3, headed "(II) Import and export credit insurance" it states "To provide grant of not more than 30% of actually paid premium to enterprise at city/county level".

The basis for disbursement is the Notice of Financial Department and Department of Commerce of Jiangsu Province to Issue Budget for Support Fund for Export Credit Insurance Premium for the Year of 2013 (Su Cai Gong Mao [2014] No.67).

- (c) nature or form of the subsidy.

Direct grant.

- (d) when the program was established.

1 August 2013.

- (e) duration of the program.

From 1 August 2013 to 25 June 2014.

- (f) how the program is administered and explain how it operates.

For the export credit insurance grant, enterprises which purchased export credit insurance did not need to apply. Instead, the relevant insurance company provided

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relevant export credit insurance purchase records to the Financial Department and the Department of Commerce of Jiangsu Province. After review, the Financial Department and the Department of Commerce of Jiangsu Province issued disbursement documents, a list of projects, and funds to the Commercial Bureau at the city/county level (which in this specific case was Zhangjiagang City). The Commercial Bureau of Zhangjiagang City informed the enterprise and collected receipts from the enterprise, delivered them to the Financial Bureau of Zhangjiagang City for review prior to a disbursement to the enterprise.

(g) to whom and how is the program provided.

This grant was provided to enterprises at the city/county level which bought export credit insurance.

(h) the GOC department or agency administering the program.

The Department of Commerce of Jiangsu Province was responsible for administering this grant.

(i) the eligibility criteria in order to receive benefits under the program.

The enterprise had to purchase export credit insurance to be eligible for this grant.

5. Provide translated copies in English of the decrees, laws and regulations relating to the programs and any reports pertaining to the programs.

Please refer to Attachment 47 - Notice of Financial Department and Department of Commerce of Jiangsu Province to Issue Budget for Support Fund for Export Credit Insurance Premium for the Year of 2013 (Su Cai Gong Mao [2014] No.67) [CONFIDENTIAL ATTACHMENT].

6. Identify and explain the types of records maintained by the relevant government or governments (e.g. accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The Commercial Bureau of Zhangjiagang City retains receipts for insurance purchases from enterprises, proof of payment, and a list of disbursements provided.

7. Identify all companies that accrued or received benefits under the programs during the investigation period. Include the following details in the spreadsheet provided as B-7 (or in a Microsoft Excel compatible format):

- (a) the business' address (including the city, province and region);
- (b) the ownership structure of the business, including indirect ownership through associated companies (i.e. SIE, private, co-operative, FIE or joint venture);
- (c) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (d) whether the entity produces steel reinforcing bars

Provide on an annual basis the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the programs.

[CONFIDENTIAL TEXT DELETED – details of amount and benefit received under the program].

8. For each entity identified in your response to Question 7 above that is an SIE, answer

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the following questions regarding their performance and profits.

Please refer to the GOC's response to question 8 for all alleged subsidies, above.

9. For each entity identified in Question 7 above, answer the following questions regarding enterprise functions.

Please refer to the GOC's response to question 9 for all alleged subsidies, above.

10. Describe the application process (including any application fees charged by the government agency or authority) for the program.
- After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

No application was made by the enterprise, nor were any fees charged. Insurance companies provided insurance records to the Financial Department and the Department of Commerce of Jiangsu Province. These departments assessed these records, and then notified any enterprises eligible for a grant under this program.

11. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

Yes. This was only available to enterprises which purchased export credit insurance.

- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No.

- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No.

- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No.

- (e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contract is needed for accessing this grant.

12. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from

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1 January 2011 to 30 June 2015.

The administrative authority does not retain such data from industries.

13. For all programs listed in Table 1, describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

This grant as terminated on 25 June 2014 because the Notice of Financial Department and Department of Commerce of Jiangsu Province to Print and Issue the Implementing Rules on Special Fund for Commercial Development of Jiangsu Province to Support Transformation and Upgrading of Foreign Trade (Revised in 2013) (Su Cai Gong Mao [2013] No.90. as repealed by the Notice of Financial Department and Department of Commerce of Jiangsu Province to Print and Issue the Implementing Rules on Provincial Special Fund for Commercial Development to Support Transformation and Upgrading of Foreign Economy and Trade (Su Cai Gong Mao [2014] No.75).

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LIST OF ATTACHMENTS

No	Document Title	Language
1.	List of products produced by Jiangsu Yonggang Group Co., Ltd.	BI
2.	Imports of coking coal in 2014 and 2015	EN
3.	Exports of coking coal in 2014 and 2015	EN
4.	Imports of coke in 2014 and 2015	EN
5.	Exports of coke in 2014 and 2015	EN
6.	Administrative Compulsion Law	BI
7.	Company Law of the People's Republic of China.	BI
8.	New Regulation for Business Registration of Company	BI
9.	Law of Administrative Procedure	BI
10.	Short list of deregulations since 2011	BI
11.	NBS data on rebar industry	EN
12.	List of rebar suppliers	EN
13.	List of industry associations	EN
14.	Contract Law of the People's Republic of China	BI
15.	Price Law of the People's Republic of China	BI
16.	Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council	BI
17.	List of electricity providers	EN
18.	Electricity tariff of Laiwu since 1 December 2011	EN
19.	Electricity tariff of Jiangsu since April 2015	EN
20.	Baosteel News on Issuing Bonds	EN
21.	Law of the People's Republic of China on State-Owned Assets of Enterprises	BI
22.	Interim Measures for Administration of Comprehensive Performance Evaluation of Central Enterprises	BI
23.	OECD Guidelines for Multinational Enterprises	EN

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No	Document Title	Language
24.	Shagang news on social responsibility	EN
25.	Administrative Measures on Accreditation of High-tech Enterprises	BI
26.	Corporate Income Tax Law of the People's Republic of China	BI
27.	Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China.	BI
28.	Interim Regulations of the People's Republic of China on Urban and Town Land Use Tax	BI
29.	Notice of State Administration of Taxation on Relevant Matters Regarding Delegating the Approval Right for Reduction and Exemption of Urban and Town Land Use Tax Due to Difficulty (Public Notice of SAT No.1/2014)	BI
30.	Implementation Measure of Urban and Town Land Use Tax of Hunan Province (No.217 order of the People's Government of Hunan Province)	BI
31.	Public Notice of Local Taxation Bureau of Hunan Province on Certain Issues Regarding Reduction and Exemption of Property Tax and Conduct Tax (Public notice of Local Taxation Bureau of Hunan Province No.2/2015)	BI
32.	Notice of the State Council on the Adjustment of Tax Policies for Imported Equipment	BI
33.	Announcement No.103 of General Administration of Customs in 2008	BI
34.	Notice of Ministry of Finance and State Administration of Taxation on Exemption of VAT for Certain Products Comprehensively Utilizing Resources (Cai Shui Zi [1995] No.44)	BI
35.	Notice of Ministry of Finance and State Administration of Taxation on VAT Policy for Comprehensive Utilization of Resources and Other Products (Cai Shui [2008] No.156)	BI
36.	Notice of Ministry of Finance and State Administration of Taxation on Adjustment and Improvement of VAT Policy for Products and Services with Comprehensive Utilization of Resources (Cai Shui [2011] No.115).	BI
37.	Notice of Ministry of Finance and State Administration of Taxation to Print and Issue Catalogue of Products and Labour Services with Comprehensive Utilization of Resources (Cai Shui [2015] No.78)	BI

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No	Document Title	Language
38.	Environmental Protection Law of the People's Republic of China	BI
39.	Administrative Measure on Automatic Monitoring of Source of Pollution	BI
40.	Administrative Measure on Automatic Monitoring of Source of Pollution of Hunan Province (Hunan Provincial People's Government Decree No. 203)	BI
41.	Administrative Regulation on Collection and Use of Sewage Charge	BI
42.	Interim Administrative Measure on Special Fund for Environmental Protection of Zhangjiagang City (Zhang Huan Gui [2013] No.2)	BI
43.	Decision of the People's Government of Laiwu City on Rewarding the Atmospheric Standard Upgrading of Major Projects (Lai Zheng Zi [2014] No51)	BI
44.	Provisional Administrative Measure on Special Fund of Shandong Provincial Level for Environmental Protection and Prevention and Control of Atmospheric Pollution	BI
45.	Administrative Measure on Special Fund for Patent of Zhangjiagang City	BI
46.	Administrative Measure on National Technology Supporting Plan	BI
47.	Notice of Financial Department and Department of Commerce of Jiangsu Province to Issue Budget for Support Fund for Export Credit Insurance Premium for the Year of 2013 (Su Cai Gong Mao [2014] No.67)	BI

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DECLARATION

DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

19 February 2016

Date



Signature of authorised official

(Mr) Wang Jianfeng

Name of authorised official

Deputy Director
Bureau of Trade Remedy Investigation
Ministry of Commerce
People's Republic of China

Title of authorised official