



KEMENTERIAN PERDAGANGAN ANTARABANGSA DAN INDUSTRI
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY
Menara Perdagangan Antarabangsa dan Industri
No. 7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur
Malaysia



Tel : 603 8000 8000
Faks (Fax) : 603 6202 3446
Laman Web (Web) : www.miti.gov.my
E-mel (E-mail) : webmiti@miti.com.my

Mr. Gavin Crooks
Anti-Dumping Commission
GPO Box 1632, Melbourne
Victoria 3000, Australia

5 October 2016

Dear Sir,

Submission of the Government Questionnaire Relating to the Anti-Dumping and Countervailing Investigation on Imports of Aluminium Extrusions from Malaysia

Reference is made to Notice No.2016/77 regarding the initiation of an investigation into the alleged dumping and subsidisation with respect to aluminium extrusions exported from Malaysia into Australia.

2. Please find attached herewith the submission of responses by the Government of Malaysia (GOM) and the accompanying appendices, for your further action.
3. Additionally, the Ministry of International Trade and Industry (MITI) would also like to convey some concerns of the GOM regarding this investigation, namely:

i. **Alleged subsidy programmes**

The GOM would like to refute claims that it provided subsidies to Malaysian aluminium extrusion producers, which resulted in exports which have caused material injury to the domestic industry in Australia.

In accordance with the requirements of Article 11.2 of the WTO Agreement on Subsidies and Countervailing Measures, sufficient evidence of the existence of (a) subsidy and, if possible, its amount, (b) injury within the meaning of Article VI of GATT 1994, and (c) a causal link between the subsidised imports and the alleged injury were not adequately proven in this investigation.

ii. **Procedures prior to the initiation of the investigation**

The initiation of this combined investigation did not follow the requirements as provided for under Article 13.1 of the WTO SCM Agreement. The obligation under this Article as well as the spirit of the bilateral Malaysia-Australia FTA (MAFTA) is for the Australian Government to consult the affected government with a view to clarify the situation and reach a mutually agreed solution.

The GOM was not properly informed ahead of time and was taken by surprise by the initiation of the anti-dumping and countervailing investigations against Malaysia. This denied us the opportunity to discuss the claims which could have avoided the initiation of this countervailing investigation which we deemed unnecessary. Even the Australian High Commission in Kuala Lumpur was not aware of this investigation.

iii. **Injury suffered by the domestic industry in Australia**

Based on the petition filed by Capral, the GOM intends to highlight observations on claims pertaining to the injury factors as follows:

- the Australian domestic industry is deemed not to have been materially injured since there was strong evidence in the Petition that the production, sales volume and value, and profitability of the domestic industry have been on the rise since 2012 to 2016;
- injury, if any, to the Australian domestic industry could be contributed by other factors, and not imports from Malaysia, namely:
 - drop in demand for aluminium extrusions products in the local market due to overall weakening of the economy and softening demand for such products;
 - self-inflicting injury i.e. uncompetitive pricing of Capral's (the Petitioner's) goods due its ineffective cost to make and sell strategy; and
 - unforeseen developments such as the current cyclical global downturn for the aluminium industry (based on the Australian Anti-Dumping Commission's recent Analysis on Steel and Aluminium Markets).
- Article 15.4 of the WTO SCM Agreement, stipulates that the investigating authority shall examine all relevant elements in determining that the subsidised imports have had an adverse effect on the state of their domestic industry.

4. In conclusion, MITI on behalf of the GOM urges the Australian Anti-Dumping Commission to thoroughly and objectively assess the factors causing injury to the domestic industry in Australia. It is hoped that the Commission would ensure that the investigation be conducted in a manner consistent with the WTO Agreements on Subsidies and Countervailing Measures as well as Anti-Dumping.

5. We truly appreciate the Australian Anti-dumping Commission would make fair analysis and decision on the investigation.

Thank you.

Yours sincerely,



(WONG SENG FOO)
for Secretary General
Ministry of International Trade and Industry

CC:

- i. Ambassador
Australian High Commission
6 Jalan Yap Kwan Seng
50450 Kuala Lumpur
- ii. Secretary General
Ministry of Foreign Affairs of Malaysia
Wisma Putra, No.1 Jalan Wisma Putra
Precint 2, 62602 Putrajaya
- iii. High Commissioner of Malaysia
High Commission of Malaysia
7, Perth Avenue, Yarralumla, ACT 2600, Australia
- iv. Senior Director
Market Access and International Partnership Division
MATRADE, Menara MATRADE,
Jalan Sultan Haji Ahmad Shah,
50480 Kuala Lumpur
- v. Consulate General of Malaysia
Trade Section (MATRADE)
Level 7, 432 St Kilda Road,
Melbourne 3004, Victoria, Australia



Australian Government
Department of Industry,
Innovation and Science

**Anti-Dumping
Commission**

GOVERNMENT QUESTIONNAIRE - MALAYSIA

PRODUCT CONCERNED: CERTAIN ALUMINIUM EXTRUSIONS

INVESTIGATION PERIOD: 1 JULY 2015 TO 30 JUNE 2016

RESPONSE DUE BY: 6 OCTOBER 2016

CASE MANAGER: Gavin Crooks

PHONE: +61 3 8539 2418

FAX: +61 3 8539 2499

E-MAIL: operations3@adcommission.gov.au

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

**Return completed
questionnaire to:**

Preferably via email to:

operations3@adcommission.gov.au

OR mail to:

Anti-Dumping Commission
GPO Box 1632
Melbourne
Victoria 3000
Australia

Attention: Director Operations 3

TABLE OF CONTENTS

TABLE OF CONTENTS.....2

SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS3

SECTION B: GENERAL QUESTIONS 11

SECTION C: SUBSIDIES14

SECTION D - DECLARATION 19

GLOSSARY OF TERMS20

APPENDIX A.....23

SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS

1. Background

On 16 August 2016, following an application by Capral Limited (Capral), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping and countervailing investigation in respect of certain aluminium extrusions (aluminium extrusions) exported to Australia from Malaysia and the Socialist Republic of Vietnam (Vietnam).

Capral alleges that the Australian industry has suffered material injury caused by aluminium extrusions exported to Australia from Malaysia and Vietnam at dumped and subsidised prices.

Anti-Dumping Notice (ADN) 2016/77 outlining the details of the investigation and the procedures to be followed during the investigation was published on 16 August 2016 on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.

2. Product concerned

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at dumped prices and/or in receipt of subsidies, are:

"Aluminium extrusions that:

- *are produced by an extrusion process;*
- *are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);*
- *have finishes being:*
 - *as extruded (mill);*
 - *mechanically worked*
 - *anodized; or*
 - *painted or otherwise coated, whether or not worked;*
- *have a wall thickness or diameter greater than 0.5 mm;*
- *have a maximum weight per metre of 27 kilograms; and*
- *have a profile or cross-section fitting within a circle having a diameter of 421 mm".*

The goods under consideration include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods under consideration do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

The following additional information assists in understanding the goods:

- Extrusion is the process of shaping heated material by forcing it through a shaped opening in a die with the material emerging as an elongated piece with the same profile as the die cavity. For greater clarity, the goods do not include goods made by the process of impact extrusion or cold extrusion.

- Alloys are metals composed of more than one metallic element. Alloys used in aluminium extrusions contain small amounts (usually less than five percent) of elements such as copper, manganese, silicon, magnesium, or zinc which enable characteristics such as corrosion resistance, increased strength or improved formability to be imparted to the major metallic element, aluminium.
- Aluminium alloys are produced to specifications in "International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys" published by The Aluminum Association. It includes all alloy designations - these specifications are known in the industry as "Teal Sheets"). These specifications have equivalent designations issued by other certifying bodies such as the International Standards Organization.

Effects of Alloying Elements

- The properties and characteristics of aluminium, such as density, conductivity, corrosion resistance, finish, mechanical properties, and thermal expansion, are modified by the addition of alloying elements. The resulting effect depends upon the principal alloying elements used, as detailed in the table below.

Wrought Alloy Designation	Major Alloying Elements and Typical Alloy Characteristics
1xxx Series	Minimum 99% aluminium High corrosion resistance. Excellent finishability. Easily joined by all methods. Low strength. Poor machinability. Excellent workability. High electrical and thermal conductivity.
2xxx Series	Copper High strength. Relatively low corrosion resistance. Excellent machinability. Heat treatable.
3xxx Series	Manganese Low to medium strength. Good corrosion resistance. Poor machinability. Good workability.
4xxx Series	Silicon Not available as extruded products.
5xxx Series	Magnesium Low to moderate strength. Excellent marine corrosion resistance. Very good weldability.
6xxx Series	Magnesium & Silicon Most popular extrusion alloy class. Good extrudability. Good strength. Good corrosion resistance. Good machinability. Good weldability. Good formability. Heat treatable.
7xxx Series	Zinc Very high strength. Good machinability. Heat treatable.

Source: The Aluminum Association (US)

Profiles and shapes - All aluminium extrusions are produced as either hollow or solid profiles. Hollow profile extrusions generally cost more to produce and obtain higher prices than solid profile extrusions. Extrusions are often produced in standard shapes

such as bars, rods, pipes and tubes, angles, channels and tees but they are also produced in customised profiles.

Finishes - In addition to 'as extruded' or mill finish, extrusions can be finished mechanically by polishing, buffing or tumbling. Extrusions can have anodized finishes applied by means of an electro-chemical process that forms a durable, porous oxide film on the surface of the aluminium. Also, they can be finished by painting with liquid or powder coatings utilising an electrostatic application process.

For the purposes of this application, aluminium extrusions are further classified into four "finish" types:

- Mill Finish - Plain metal finish, uncoated (i.e. "as extruded from the die");
- Anodised - Surface converted to aluminium oxide (by electrolysis) and may be coloured by electrolytic or chemical dye means;
- Powder Coated - Charged powder particles are sprayed and adhere to electrically grounded surfaces, heated and fused into a smooth coating in a curing oven; and
- Painted or Other Finish - Painted or finished in other surface applications.

Size range - The ability to produce the full range of profiles is determined by the extrusion and ancillary equipment.

"Working" extrusions includes any operation performed other than mechanical, anodized, painted or other finishing, prior to utilisation of the extrusion in a finished product.

Standards - Aluminium extrusions are manufactured to a variety of Australian and International standards. Products exported to Australia are often claimed to comply with one or more of the following standards:

- ASTM B221M-88 (USA);
- BS 1474:1987 (UK); and
- GB 5237.1-2000 (China).

The most common Australian / New Zealand standard is AS/NZ 1866:1997, which specifies requirements for aluminium and aluminium alloy extruded rod, bar, solid and hollow products for general engineering purposes.

The table below provides examples of the coverage of the goods and like goods (and intended end-use applications) and will be used for this investigation. Examples of the goods and like goods are outlined in columns 1-4 and non-subject goods are outlined in columns 5 to 7.

The goods are normally classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

< GUC >				< Non GUC >		
	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Exam les >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	1 Carpet liner, fence posts, heatsinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Tariff classification (<i>Schedule 3 of the Customs Tariff Act 1995</i>)			
Tariff code	Statistical code	Unit	Description
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Non alloyed aluminium tubes and pipes
7608.20.00	10	Kg	Aluminium alloy tubes and pipes
7610.10.00	12	Kg	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other

3. Investigation period

The existence and amount of any dumping and subsidisation in relation to aluminium extrusions exported to Australia from Malaysia and Vietnam will be determined on the basis of an investigation period of **1 July 2015 to 30 June 2016** (the investigation period).

The Commission will examine details of the Australian market from 1 July 2012 for injury analysis purposes.

4. Purpose of this questionnaire

The purpose of this questionnaire is to assist the Commission to obtain information from the Government of Malaysia (GOM) it considers necessary for the investigation into countervailable subsidies received by Malaysian aluminium extrusion exporters.

Please note that the subsidy/countervailing sections of this questionnaire focus on the 2 programs alleged in the application. The Commission may also investigate any additional subsidy program(s) if additional information becomes available.

Any additional questions will be posed to the GOM using supplementary questionnaires.

A separate questionnaire has been sent to identified Malaysian exporters of aluminium extrusions. The exporter questionnaire also requests information on subsidies.

5. Response to this questionnaire

The GOM may elect not to respond to and complete the questionnaire.

However, if the GOM does not respond the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry).

Therefore, it may be in the GOM's interests, and the interest of Malaysian exporters of aluminium extrusions, to provide a complete response.

If the GOM elects to respond to this questionnaire, the response is due by **22 September 2016**.

6. If you decide to respond

Should the GOM elect to provide a response to this questionnaire, please note the following.

Confidential and non-confidential versions

If the GOM elects to respond to this questionnaire, you are required to lodge a confidential and a non-confidential 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 "**IN-CONFIDENCE**" or "**NON-CONFIDENTIAL**" in the header and footer.

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the Public Record, which all interested parties can access.

Your non-confidential submission must contain sufficient detail to allow a reasonable understanding of the substance of the confidential version. If, for some reason, you cannot produce a non-confidential summary, contact the investigation case officer (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the GOM's response is complete and correct. You must return the signed declaration of an authorised GOM official at Section D of this questionnaire with the GOM's response.

Coordination of responses

In completing the questionnaire, if a question requires information from other authorities (e.g. provincial or local Governments, state owned entities, etc.) please forward the questions to the correct source.

However, it is the responsibility of the GOM to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of Government, agencies and/or other applicable entities are collated and coordinated in the one 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 generally require a written authorisation from the GOM for any party acting on its behalf.

Provision of documents

Numerous documents are requested from the GOM throughout this questionnaire. In many cases, the titles or description of these documents within the questionnaire may not correlate to the official title that the GOM has granted each document, but is rather a descriptor of the document to the best of the Commission's knowledge.

If the listed title is unknown to the GOM but a document that appears to be similar to the requested document, relates to a similar topic area, or otherwise would be considered to contain useful information is identified by the GOM, please provide this document.

Further, when providing requested documents, please indicate whether the documents:

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

Where the documents have been repealed, revised or superseded, where applicable:

- 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.

Lodgement

You may lodge your response by mailing it to the address for lodgement shown on the front cover of this questionnaire.

Alternatively you are welcome to lodge your response by email. 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 confidential and a non-confidential version of your submission by the due date.

In completing any lists of names and addresses requested throughout this questionnaire, electronic responses in a Microsoft Excel spreadsheet would be preferred. If lodging your response in hard copy, please include these lists in electronic format.

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents¹, even where not specifically requested in this questionnaire;
- 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 references throughout this questionnaire to companies benefiting from a particular program should be read as including any parent and associated companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

¹ This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

Please note that answers such as "Not Applicable", or an answer that only refers to an exhibit or an attachment without any explanation, may be considered to be inadequate by the Commission. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, and not merely refer to supporting documents the relevance and reliability of which has not been explained in your answer.

7. Clarification

If you have any difficulties in completing the questionnaire, or require clarification on any questions asked, contact the case manager as soon as possible (contact details are provided on Page 1 of this questionnaire).

8. Future questions and verification

The Commission may decide to visit the GOM to examine records and to verify the information provided. It is common practice for Commission officers to visit Government officials, exporters and manufacturers of the subject goods, in order to verify the information submitted. You will be contacted in advance of such a meeting in order to make arrangements.

A complete response, including all of the documentation requested, must be submitted to the Commission before a verification meeting will be considered.

If a verification visit is undertaken the key Government officials involved in preparing the response, and those who have knowledge of the source documentation and the information contained therein, should be available to meet with Commission officers and to provide additional clarification and explanation, as required.

If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOM, the assessment of a particular market situation and the assessment as to the amount of countervailable subsidy may be based on the facts available to the Commission.

The purpose of the verification meeting will be to verify the information provided in your questionnaire response. It is not intended to be a second opportunity for the GOM to provide new or additional information. Accordingly, it is important that your response be as complete and accurate as possible.

SECTION B: GENERAL QUESTIONS

- B1** Identify the administration co-ordinating the response to this questionnaire and provide the names and contact details of the official(s) (including email addresses). Please note that the Commission may have further inquiries concerning the questionnaire response and a contact must be available to respond to any further information requests.

MS. MASTURA AHMAD MUSTAFA
DIRECTOR
TRADE PRACTICES SECTION
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY
LEVEL 9, MITI TOWER
NO 7 JALAN SULTAN HAJI AHMAD SHAH
50480 KUALA LUMPUR
Email : alltps@miti.gov.my
Phone: +603-6208 4632
Fax : +603-6211 4429

- B2** Describe the nature and structure of the aluminium extrusions industry and market sector in Malaysia. Also describe the nature and structure of the aluminium industry and market sector in Malaysia.

Without limiting your response, include information concerning the size and output (value and quantity) of these industries, the extent of vertical integration in the industries, the extent of the reliance on imported aluminium, and Government involvement at each level of the industry, the extent of any restrictions, quotas or limits for the production volumes in these industries.

To date there are ■ aluminium extrusion licensed manufacturers. For the period of 1 July 2015 – 30 June 2016, there were ■ companies approved with manufacturing license without the tax incentive. ■

In Malaysia, the aluminium extrusion products such as profiles, frames, panels and etc. are mainly used for construction and general industrial applications.

- B3** Are any of the companies listed in **Appendix A** located in an area or economic zone which entitles them to preferential tax or other preferential policies provided by the GOM² including those provided by regional, provincial or municipal authorities?
 If so identify which particular zone or area the company under investigation is located in.
NONE

² Refer to this questionnaire's Glossary of Terms for a definition of the GOM.

- B4** Provide a list of all manufacturers/producers of aluminium³ in Malaysia that produced aluminium during the investigation period. If possible, please provide this listing in Microsoft Excel format. Please see the GOM Questionnaire spreadsheet provided with this questionnaire.

This listing will be referred to as 'your response to Question B4' throughout this questionnaire.

Within this list, indicate the following:

- the business' address (including the city/town and province);
- the function and type of business;
- the ownership structure of the business, including indirect ownership through associated companies (i.e. State Invested Enterprises (SIE), private, co-operative, Foreign Invested Enterprise (FIE) or joint venture);
- if the business is not an SIE, whether it is otherwise associated with the GOM;
- whether the business is a manufacturer of aluminium extrusions and whether it produces ingot, billet, or both;
- total production quantity of aluminium extrusions by the business during the investigation period;
- Is the GOM a shareholder in the business? If so, the percentage of GOM holdings;
- If there is GOV representation in the business; and
- The value of total benefit received annually.

For all companies that are SIEs, indicate the percentage ownership held by the GOM during the investigation period.

For all companies that are otherwise associated with the GOM, explain this association as it was during the investigation period.

- B5** It is the Commission's understanding that within Malaysia there are various zones, areas, or other regions that encourage the operations of industries/enterprises located within that region and/or entitle/facilitate entities to access differential treatment (this may include preferential tax programs or other preferential policies).

Provide:

³ Throughout this questionnaire, aluminium has been used to refer to including primary aluminium, electrolytic aluminium, secondary aluminium, scrap aluminium, and aluminium cast into billets of aluminium alloy or alone.

- a listing of the names of all such zones, areas, or other regions in Malaysia;
- an explanation of each such type of zone, area or other region in Malaysia; and
- a listing and explanation of what location in each zone makes businesses eligible for (including any GOM assistance or differential treatment).

NOT APPLICABLE

- B6** Are any of the entities listed in **Appendix A** located in an area, zone or other region listed in your response to B5 above? If so identify which entities and which particular zone or area the entity is located in.

NOT APPLICABLE

- B7** Provide the names and addresses of all national, provincial and regional producer organisations that represent the interests of aluminium extrusions and aluminium manufacturers and traders in Malaysia.

**Federation of Malaysian Manufacturer
Aluminium Manufacturers Group Malaysia (FMM-AMGM)
Wisma FMM, No 3 Persiaran Dagang, PJU 9
Bandar Sri Damansara, 52200 Kuala Lumpur.
Tel: +603-62867200
Fax: +603-62741266/7288
E-mail: webmaster@fmm.org.my**

- B8** Specify and provide supporting documentation for the standard corporate tax rate during the investigation period for:

- (a) companies that manufacture aluminium extrusions;
- (b) companies that trade in aluminium extrusions;
- (c) companies that manufacture aluminium;
- (d) companies that trade in aluminium.

Corporate Tax Rate for all companies resident in Malaysia:

- Year of Assessment 2015 – 25%
- Year of Assessment 2016 – 24%

- B9** Specify and provide supporting documentation for the corporate tax rates applicable in all provincial or local jurisdictions in Malaysia for those types of companies listed in (a) to (d) of Question B8 above.

Refer to Paragraph 2 Schedule 1 Income Tax Act 1967 (Attachment B-2)

SECTION C: SUBSIDIES

INVESTIGATED PROGRAMS

The following are programs that the Commission is currently investigating:

Program number	Program name	Program type
1	Income Tax Reductions	Tax
2	Investment Tax Allowance	Tax

Note: the above 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 GOM has in place.

ANY OTHER PROGRAM NOT PREVIOUSLY ADDRESSED

If the GOM, 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 aluminium extrusions in Malaysia, identify these programs.

Such assistance programs are those that constitute a subsidy as defined in the Glossary of Terms.

Please provide the information requested in the following Section C-1 for each program identified above and any additional programs you have identified. In addition, please respond to the program-specific information requested.

PART CI - GENERAL QUESTIONS

For each of the 2 programs identified above, and any other additional programs the GOM identifies, answer the following questions.

Note: In responding to the questions in this part you are required to provide information on each program, regardless of the year the benefit was granted by the GOM or the year that the benefit was received by the recipient company, as well as those further identified by the GOM, where the program benefits impact on the production and sale of aluminium extrusions and aluminium during the investigation period.

PROGRAM 1: INCOME TAX REDUCTIONS

C1.1 Provide details of the program including the following.

- (a) Title of the program.

Exemptions of Income

- (b) Policy objective and/or purpose of the program.

To encourage high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

- (c) Legislation under which the subsidy is granted.

Please see Income Tax Exemption Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

- (d) Nature or form of the subsidy.

The assistance is an exemption of statutory income.

- (e) When the program was established.

2006

- (f) Duration of the program.

This is an on-going program.

- (g) How the program is administered and how it operates.

Companies are required to submit the applications for the program to the Malaysian Investment Development Authority (MIDA), an agency under Ministry of International Trade and Industry (MITI). This is to ensure that the company has complied with the conditions imposed. After MIDA is satisfied that the company has complied with the conditions, MIDA will determine the production date for the company and determine the start and ending date of the program. Later, companies approved with the program submit their claims to the Inland Revenue Board together with their annual tax returns containing the calculation of claim for the tax exemptions. Please see Attachment C-2 for the application form.

- (h) To whom and how the program is provided.

This program may be granted to any company intending to participate in high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

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

- 1. Value added;**
- 2. Level of technology measured based on number of management and technical employees in the company; and**
- 3. Compliance with a specific amount of fixed asset investment (excluding land cost) by specific time period.**

- C1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

Please see Income Tax Exemption Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

- C1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see Income Tax Exemption Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

- C1.4** Identify the GOM department or agency administering the program.

Granting authorities:

- 1) Secretary General of Treasury**
Ministry of Finance Complex,
Precint 2, 62592 Putrajaya, Malaysia
- 2) Secretary General**
Ministry of International Trade Industry
MITI Tower No.7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur Malaysia

Administrative authority:

- 1) Chief Executive Officer**
Malaysian Investment Development Authority (MIDA)
Level 30, MIDA Sentral
No. 5, Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur Malaysia

**2) Chief Executive Officer/Director General
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia.**

C1.5 Identify and explain the types of records maintained by the relevant Government or Agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

The Inland Revenue Board maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

This information is available with individual companies

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Companies are required to submit the applications for the program to the Malaysian Investment Development Authority (MIDA), an agency under Ministry of International Trade and Industry (MITI). Please see Attachment C-2 for the application form.

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

MIDA will evaluate the application based on information submitted by company and will ask for additional information if needed. Upon completion of the evaluation, the recommendation for approval or rejection will be deliberated at the National Committee on Investment meeting for final decision.

- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Refer to Attachment C-3 (Example of Approval letter)

- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Refer to Attachment C-4 (Example of Rejection letter)

C1.8 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

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

- C1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

The information is available with the companies.

- C1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

Out of the total [REDACTED] applications received for the period 2013 – 2015 and January - March 2016, [REDACTED] companies were approved with tax incentive. [REDACTED]

- C1.12** 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 are no anticipated changes to the program.

- C1.13** If assistance under the program was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

NONE

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.

- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).
- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?
- (i) Explain why the assistance under this program was provided by this entity rather than directly by the Government.

PART C2 – SPECIFIC QUESTIONS –

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

- C2.1** Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

The assistance is an exemption of statutory income.

- C2.2** How do companies using this program calculate the tax benefit they claim?
Please be specific and provide a sample calculation using a blank tax form.

[REDACTED]

Chargeable income

NIL

Taxable income

=====

0

- C2.3** If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

The assistance is an exemption of statutory income. Therefore, if the company experience losses, no exemption is given and the losses will be carried forward until it is fully utilized from the statutory income.

- C2.4** If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

NOT APPLICABLE

- C2.5** If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

NOT APPLICABLE

- C2.6** For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

NOT APPLICABLE

PROGRAM 2: EXEMPTION OF INCOME EQUIVALENT TO CAPITAL EXPENDITURE INCURRED⁴

C1.1 Provide details of the program including the following.

(a) Title of the program.

Exemption of Income Equivalent to Capital Expenditure Incurred

(b) Policy objective and/or purpose of the program.

To encourage high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

(c) Legislation under which the subsidy is granted.

Please see Income Tax Exemption Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-6).

(d) Nature or form of the subsidy.

The exemption of income equivalent to capital expenditure incurred is an allowance deducted from statutory income.

(e) When the program was established.

2006

(f) Duration of the program.

This is an on-going programme.

(g) How the program is administered and how it operates.

Companies are required to submit the applications for the exemption of income equivalent to capital expenditure incurred program to Malaysian Industrial Development Authority (MIDA), an agency under MITI. The company will then be required to establish the commencement of this program period which is on the incurrence of the first capital expenditure duly certified by MIDA. Later, companies approved with the program submit their claims to the Inland Revenue Board (IRB) together with their annual tax returns containing the calculation of claim for the tax allowance. Please see Attachment C-2 for the application form.

⁴ The alleged companies do not enjoy Investment Tax Allowance but granted Exemption of Income Equivalent to Capital Expenditure Incurred

- (h) To whom and how the program is provided.

This program may be granted to any company intending to participate in high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy. The allowance is only given on capital expenditure incurred on industrial buildings, plant and machinery directly used.

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

- 1. Value added;**
- 2. Level of technology measured based on number of management and technical employees in the company; and**
- 3. Compliance with a specific amount of fixed asset investment (excluding land cost) by specific time period.**

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

Please see Income Tax Exemption Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-6).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see Income Tax Exemption Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-6).

C1.4 Identify the GOM department or agency administering the program.

Granting authorities:

- 1) Secretary General of Treasury
Ministry of Finance Complex,
Precint 2, 62592 Putrajaya, Malaysia**
- 2) Secretary General
Ministry of International Trade Industry
MITI Tower No.7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur Malaysia**

Administrative authority:

- 1) Chief Executive Officer
Malaysian Investment Development Authority (MIDA)
Level 30, MIDA Sentral
No. 5, Jalan Stesen Sentral 5**

Kuala Lumpur Sentral
50470 Kuala Lumpur Malaysia

- 2) Chief Executive Officer/Director General
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

- C1.5** Identify and explain the types of records maintained by the relevant Government or Agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

The Inland Revenue Board maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

- C1.6** Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

This information is available with individual companies

- C1.7** Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Companies are required to submit the applications for the program to Malaysian Industrial Development Authority (MIDA), an agency under MITI. The company will then be required to establish the commencement period which is on the incurrence of the first capital expenditure duly certified by MIDA. Please see Attachment C-2 for the application form.

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

MIDA will evaluate the application based on information submitted by company and will ask for additional information if needed. Upon completion of the evaluation, the recommendation for approval or rejection will be deliberated at the National Committee on Investment meeting for final decision.

- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Refer to Attachment C-3 (Example of Approval letter)

- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Refer to Attachment C-4 (Example of Rejection Letter)

C1.8 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

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

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

No contractual agreements between the GOM and the companies.

- C1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

The information is available with the companies.

- C1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

Out of the total [REDACTED] applications received for the period 2013 – 2015 and January - March 2016, [REDACTED] companies were approved with tax incentive. Please refer to Attachment C-5.

- C1.12** 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 are no anticipated changes to the program.

- C1.13** If assistance under the program was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

NONE

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such

direct or indirect funding for the purpose of providing assistance under this program.

- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).
- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?
- (i) Explain why the assistance under this program was provided by this entity rather than directly by the Government.

PART C2 – SPECIFIC QUESTIONS -

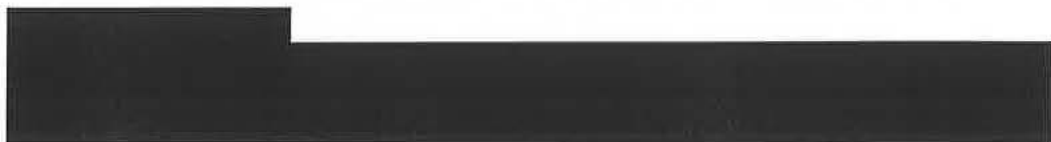
In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

- C2.1** Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

The program is a deduction of statutory income. Qualifying capital expenditure incurred in the basis period for a year of assessment which is deducted from the statutory income. The amount of allowance is either 60% or 100% of qualifying capital expenditure incurred. The amount of allowance can be off-set either 70% or 100% of statutory income.

- C2.2** How do companies using this program calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.



[REDACTED]

[REDACTED]

- C2.3** If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

The assistance is an allowance deducted from statutory income. Therefore, if the company experience losses, no deduction is given and the allowance will be carried forward until it is fully utilised from the statutory income.

- C2.4** If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

NOT APPLICABLE

- C2.5** If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

NOT APPLICABLE

- C2.6** For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

NOT APPLICABLE

OTHER SUBSIDY PROGRAMMES

PROGRAM 3: DOUBLE DEDUCTIONS FOR EXPORT CREDIT INSURANCE

C1.1 Provide details of the program including the following.

- (a) Title of the program.

Double Deductions for Export Credit Insurance

- (b) Policy objective and/or purpose of the program.

The double deduction of export credit insurance premiums aims to encourage Malaysia's exporters.

- (c) Legislation under which the subsidy is granted.

Please see Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-7).

- (d) Nature or form of the subsidy.

The double deduction to arrive at adjusted income.

- (e) When the program was established.

1985

- (f) Duration of the program.

This is an on-going program.

- (g) How the program is administered and how it operates.

Premium paid is in respect of export credit insurance insured with a company approved by the Minister of Finance. During the period of investigation, Export Import Bank of Malaysia Berhad (EXIM) is the only approved insurance company under this program. This program is effective from year of assessment 1986 and subsequent years of assessment. Any person is eligible to this deduction.

Upon request by policyholder, EXIM will issue a certificate under Income Tax (Deduction for Export Credit Insurance) Rules 1985 for policyholders to claim for double deduction. Policyholder has to retain the above mentioned certificate along with all official receipt issued by EXIM to the Inland Revenue Board for audit purposes.

- (h) To whom and how the program is provided.

This program is available to all Malaysian incorporated companies.

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

- 1. A person conducting business activity; and**
- 2. The insurance company must be approved by the Minister of Finance.**

- C1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

Please see Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-7).

- C1.3** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-7).

- C1.4** Identify the GOM department or agency administering the program.

Granting authorities:

**Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia**

Administrative authority:

**Chief Executive Officer/Director General
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor Malaysia**

- C1.5** Identify and explain the types of records maintained by the relevant Government or Agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

The Inland Revenue Board maintains a database of approved companies (based on companies' declaration) and softcopies of

companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

This information is available with individual companies

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no application process for this program. The claims are made during submission of annual income tax return (self-assessment).

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

NOT APPLICABLE

- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

NOT APPLICABLE

- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

NOT APPLICABLE

C1.8 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

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria.

- (b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-7).

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?

The applicant will claim when the eligibility criteria are met and IRBM will ensure that the claims are in order during tax audits.

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967.

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

No contractual agreements between the GOM and the companies.

- C1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

DATA IS NOT AVAILABLE

- C1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

DATA IS NOT AVAILABLE

- C1.12** 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 are no anticipated changes to the program.

- C1.13** If assistance under the program was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

NONE

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?
- (i) Explain why the assistance under this program was provided by this entity rather than directly by the Government.

PART C2 – SPECIFIC QUESTIONS -

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

- C2.1** Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income.

- C2.2** How do companies using this program calculate the tax benefit they claim?
Please be specific and provide a sample calculation using a blank tax form.

[illegible]

- C2.3** If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

The loss making company can carry forward the deduction until it is fully utilised.

- C2.4** If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

NOT APPLICABLE

- C2.5** If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

NOT APPLICABLE

- C2.6** For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

NOT APPLICABLE.

PROGRAM 4: DOUBLE DEDUCTION FOR FREIGHT CHARGES FROM SABAH OR SARAWAK

C1.1 Provide details of the program including the following.

(a) Title of the program.

Double Deduction for Freight Charges from Sabah or Sarawak

(b) Policy objective and/or purpose of the program.

To encourage products from Sabah and Sarawak to be shipped to Peninsular Malaysia.

(c) Legislation under which the subsidy is granted.

The Income Tax (Deductions For Freight Charges From Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-8)

(d) Nature or form of the subsidy.

Deduction to ascertain adjusted income.

(e) When the program was established.

2000

(f) Duration of the program.

This is an on-going programme.

(g) How the program is administered and how it operates.

The freight charges incurred by manufacturers for the shipment of their manufactured goods from Sabah or Sarawak to any ports in Peninsular Malaysia is given double deduction.

(h) To whom and how the program is provided.

To any manufacturing companies located in Sabah or Sarawak.

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

Manufacturing companies located in Sabah or Sarawak.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

The Income Tax (Deductions For Freight Charges From Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-8)

- C1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

The Income Tax (Deductions For Freight Charges From Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-8)

- C1.4** Identify the GOM department or agency administering the program.

Granting authorities:

**Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia**

Administrative authority:

**Chief Executive Officer/Director General
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia**

- C1.5** Identify and explain the types of records maintained by the relevant Government or Agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

The Inland Revenue Board maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

- C1.6** Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

The information is available with the companies.

- C1.7** Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no application process for this program. The claims are made during submission of annual income tax return (self-assessment).

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

NOT APPLICABLE

- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

NOT APPLICABLE

- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

NOT APPLICABLE

C1.8 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.

Manufacturing companies located in Sabah or Sarawak.

- (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.

Manufacturing companies located in Sabah or Sarawak.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria

- (b) Provide a copy of any law, regulation or other official document detailing these criteria.

The Income Tax (Deductions For Freight Charges From Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-8)

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?

The applicant will claim when the eligibility criteria are met and IRBM will ensure that the claims are in order during tax audits.

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

NOT APPLICABLE

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

No contractual agreements between the GOM and the companies.

- C1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

DATA NOT AVAILABLE

- C1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

DATA NOT AVAILABLE

- C1.12** 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 are no anticipated changes to the program.

- C1.13** If assistance under the program was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

NONE

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).
- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?
- (i) Explain why the assistance under this program was provided by this entity rather than directly by the Government.

PART C2 – SPECIFIC QUESTIONS

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income

C2.2 How do companies using this program calculate the tax benefit they claim?
Please be specific and provide a sample calculation using a blank tax form.

[illegible]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

The loss making company can carry forward the deduction until it is fully utilized.

C.2.4 If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

NOT APPLICABLE

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

NOT APPLICABLE

C2.6 For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

NOT APPLICABLE

PROGRAM 5: DOUBLE DEDUCTIONS FOR INSURANCE PREMIUMS FOR EXPORTERS AND IMPORTERS

C1.1 Provide details of the program including the following.

(a) Title of the program.

Double Deductions for Insurance Premiums for Exporters and Importers

(b) Policy objective and/or purpose of the program.

The double deduction of this program aims to encourage companies to take insurance in order to secure the risks of doing business.

(c) Legislation under which the subsidy is granted.

1) The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995/[P.U(A) 79/1995] (Attachment C-9)

2) Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-10)

3) The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982/[P.U(A) 72/1982] (Attachment C-11)

4) Income Tax (Deductions Of Insurance Premiums For Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-12)

(d) Nature or form of the subsidy.

Deduction to ascertain adjusted income.

(d) When the program was established.

1) Double deduction of Insurance Premiums for exporters - 1995

2) Double deduction of Insurance Premiums for importers - 1982

(e) Duration of the program.

Double deduction of insurance premiums for exporters and importers were revoked in 2012 effective for the year of Assessment 2016 onwards.

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

Insurance premium paid in respect of cargo exported by a person, provided the risks are insured with any insurance company incorporated in Malaysia. Any person is eligible for this deduction. The company makes the claim in the annual tax return for the respective fiscal year (basis period). The company has to retain all supporting receipts and documents for audit purposes by the Inland Revenue Board.

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

Any person is eligible for this deduction.

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

Any person who conducts business in Malaysia is eligible for this deduction and the risks are insured with any insurance company incorporated in Malaysia.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

- (1) The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995/[P.U(A) 79/1995] (Attachment C-9)**
- (2) Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-10)**
- (3) The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982/[P.U(A) 72/1982] (Attachment C-11)**
- (4) Income Tax (Deductions Of Insurance Premiums For Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-12)**

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

- (1) The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995/[P.U(A) 79/1995] (Attachment C-9)**
- (2) Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-10)**

- (3) **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982/[P.U(A) 72/1982] (Attachment C-11)**
- (4) **Income Tax (Deductions Of Insurance Premiums For Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-12)**

C1.4 Identify the GOM department or agency administering the program.

Granting authorities:

**Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia**

Administrative authority:

**Chief Executive Officer/Director General
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia**

C1.5 Identify and explain the types of records maintained by the relevant Government or Agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

The Inland Revenue Board maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

This information is available with individual companies.

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no application process for this program. The claims are made during submission of annual income tax return (self-assessment).

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

NOT APPLICABLE

- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

NOT APPLICABLE

- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

NOT APPLICABLE

C1.8 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

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria.

- (b) Provide a copy of any law, regulation or other official document detailing these criteria.

- 1) **The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995/[P.U(A) 79/1995] (Attachment C-9)**
- 2) **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-10)**
- 3) **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982/[P.U(A) 72/1982] (Attachment C-11)**
- 4) **Income Tax (Deductions Of Insurance Premiums For Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-12)**

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?

The applicant will claim when the eligibility criteria are met and IRBM will ensure that the claims are in order during tax audits.

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

NOT APPLICABLE

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

No contractual agreements between the GOM and the companies.

- C1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

DATA IS NOT AVAILABLE

- C1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

DATA IS NOT AVAILABLE

- C1.12** 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?

Double deduction of insurance premiums for exporters and importers were revoked in 2012 effective for the year of Assessment 2016 onwards.

- C1.13** If assistance under the program was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

NONE

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).
- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?

- (i) Explain why the assistance under this program was provided by this entity rather than directly by the Government.

PART C2 – SPECIFIC QUESTIONS -

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

- C2.1** Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income.

- C2.2** How do companies using this program calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- C2.3** If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

The loss making company can carry forward the deduction until it is fully utilised.

C2.4 If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

NOT APPLICABLE

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

NOT APPLICABLE

C2.6 For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

NOT APPLICABLE

SECTION D - 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.

Date5/10/2016**Signature of authorised official**dyf**Name of authorised official**Mastura Ahmad MustafaPengarah**Title of authorised official**
Sekretari
Kementerian Perdagangan Antarabangsa & Industri
Malaysia

GLOSSARY OF TERMS

Throughout this questionnaire certain words and terminology have been used and they have the following meanings:

Associated Persons and/or Companies

Persons shall be deemed to be associates of each other if:

- (a) both being natural persons:
 - (i) they are connected by a blood relationship or by marriage or adoption; or
 - (ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;
- (b) both being bodies corporate:
 - (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
 - (ii) both of them together control, directly or indirectly, a third body corporate; or
 - (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or
- (c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or
- (d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or
- (e) they are members of the same partnership.

Enterprise

"Enterprise" includes a group of enterprises, an industry and a group of industries.

Foreign Invested Enterprise (FIE)

An FIE may be:

1. Malaysian-foreign equity joint venture:

Joint venture between a Malaysian company, enterprise, or other business organisation and a foreign company, enterprise, business organisation or individual set up in the form of a Malaysian limited liability company.

The characteristics of a Malaysian-foreign equity joint venture are joint investment, joint operation, and the participants share profits, risks and losses in proportion to their respective contributions to the registered capital of the joint venture.

The proportion of the investment by the foreign party is no less than 25% in the registered capital of equity joint venture.

2. Malaysian-foreign contractual joint venture:

A joint venture established between foreign enterprises and other economic organisations or individuals, and Malaysian enterprises or other economic organisations within the territory of Malaysia. The rights and obligations of each party are determined in accordance with the agreement specified in the contractual joint venture contract. The investment or conditions for cooperation contributed by the Malaysian and foreign parties may be provided in cash or in kind, or may include the right to the use of

land, industrial property rights, non-patent technology or other property rights.

3. Wholly foreign owned enterprises:

A wholly foreign owned enterprise is established by foreign enterprises and other economic organisations or by individuals pursuant to the Malaysian laws within the territory of Malaysia. All of the wholly foreign owned enterprise's capital is invested by foreign investors. It may also be referred to as a Foreign Enterprise (FE).

Government of Malaysia (GOM)

For the purposes of this questionnaire, GOM refers to all levels of Government, i.e., central, provincial, regional, city, special economic zone, municipal, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed.

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the

Government of that country or that provincial, state or municipal or other local or regional Government.

Program(s)

The term "program", as used throughout this questionnaire in reference to alleged subsidies, refers to broad categories of subsidies that the Commission has reason to believe may be available to exporters of the goods.

In this regard, the term "program" as used in this questionnaire should not be taken to necessarily refer to formal programs maintained by the GOM, nor should it be taken to refer to one specific subsidy. Rather, "program"

as used in this questionnaire can refer to informal subsidies provided by the GOM, and can also refer to multiple individual, albeit similar, subsidies.

Economic Zone

Refers to a Special Economic Area, Economic and Technical Development Zone, Bonded Zone, Export Processing Zone, High Technology Industrial Development Zone, or any other designated area where benefits from the GOM (including central, provincial, municipal or county Government) accrue to a company because of being located in such an area.

State Invested Enterprises (SIE)

For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOM as defined above (either through direct ownership or through association).

Subsidy

Subsidy, in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a Government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that Government is a member; or

(iii) by a private body entrusted or directed by that Government or public body to carry out a Governmental function; that involves:

(iv) a direct transfer of funds from that Government or body; or

- (v) the acceptance of liabilities, whether actual or potential, by that Government or body; or
- (vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that Government or body; or
- (vii) the provision by that Government or body of goods or services otherwise than in the course of providing normal infrastructure; or
- (viii) the purchase by that Government or body of goods or services; or
- (b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a Government or body;
if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia

APPENDIX A
COMPANY

