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## Government Questionnaire The People's Republic of China

**Product:** Steel shelving

**From:** People's Republic of China

**Period of Investigation:** 1 April 2015 to 31 March 2016

**Response due by:** 10 August 2016

**Extended to 7 September 2016**

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**Return completed questionnaire to:** Anti-Dumping Commission  
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**Attention: Director Operations 4**

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**ABBREVIATIONS**

|                          |                                                                                   |
|--------------------------|-----------------------------------------------------------------------------------|
| the Act                  | the <i>Customs Act 1901</i>                                                       |
| the Applicant or Summit  | Summit Select Pty Ltd                                                             |
| China                    | the People's Republic of China                                                    |
| CIF                      | Cost, Insurance & Freight                                                         |
| the Commission           | Anti-Dumping Commission                                                           |
| EPZ                      | Export Processing Zones                                                           |
| FOB                      | Free On Board                                                                     |
| GOC                      | Government of China                                                               |
| HRC                      | Hot rolled coil steel                                                             |
| the goods                | the goods the subject of the application (steel shelving)                         |
| the investigation period | 1 April 2015 to 31 March 2016                                                     |
| SAT                      | State Administration of Taxation                                                  |
| SASAC                    | State-owned Assets Supervision and Administration Commission of the State Council |
| SEZ                      | Special economic zone                                                             |
| SIE                      | State-invested enterprise                                                         |

## **BACKGROUND AND GENERAL INSTRUCTIONS**

### **1. Background**

On 4 July 2016, following an application by Summit Select Pty Ltd (Summit), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping investigation in respect of steel shelves exported to Australia from the People's Republic of China (China).

Summit alleged that the Australian industry has suffered material injury caused by steel shelves exported to Australia from China at dumped and subsidised prices.

The dumping investigation involves allegations that there is a situation within the domestic Chinese steel shelves market that renders sales within this market unsuitable for determining normal values under s.269TAC(1) of the *Customs Act 1901* (the Act) (i.e. that a 'particular market situation' exists in this market).

A notice advising initiation of the investigation was published on the Commission's website on 4 July 2016. Anti-Dumping Notice (ADN) No. 2016/65 outlining the details of the investigation and the procedures to be followed during the investigation can be accessed on the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au)

### **2. Goods under consideration**

The goods under consideration (the goods) ie the goods exported to Australia, allegedly at dumped prices, are:

- Unassembled steel framed shelving or workbench units with 2,3,4,5 or 6 shelves; the frame of which is either partially or totally:
  - coated with paint or powder coated;
  - galvanised; or
  - made from colour bonded steel.
- Typically, the shelves of the units are made of medium density fibreboard (MDF), particle board, melamine or steel, however other materials may be used.
- Usually, the units are pre-packed for sale in a kit form, containing all or the majority of the components required to assemble the finished unit.

### **3. Tariff classification**

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

- Tariff subheading 9403.10.00 with statistical code 40

- Tariff subheading 9403.20.00 with statistical code 19

These goods, if imported from China under these tariff subheadings, are not subject to a duty.

#### **4. Investigation period**

The existence and amount of any dumping and countervailable subsidisation in relation to steel shelves exported to Australia from China will be determined on the basis of an investigation period of 1 April 2015 to 31 March 2016 (the investigation period).

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

#### **5. Purpose of this questionnaire**

The purpose of this questionnaire is to assist the Commission to obtain the information from the Government of China (GOC) it considers necessary for the countervailing investigation and investigating the allegation that there is a 'particular market situation' in the domestic market for steel shelves in China.

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

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

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

The Exporter Questionnaire also has a section requesting information on subsidies and market situation.

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

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

If the GOC chooses to respond to this questionnaire, the response is due by **10 August 2016**.

The time for the GOC to respond to this questionnaire was extended by the Commission to 7 September 2016.

**6. If you decide to respond**

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

**For official use only and public record**

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

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

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

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

**Declaration**

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

**Consultants/parties acting on your behalf**

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

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

The GOC confirms that Moulis Legal acts on behalf of the GOC in this matter.

**Provision of documents**

When providing documents, please indicate whether the documents:

- are currently in force;

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

Where the documents have been repealed, revised or superseded;

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

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents, even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

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

### **Lodgement**

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

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

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ROM or on a USB device.

**7. Future questions and verification**

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

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



**SECTION A: GENERAL QUESTIONS**

1. Identify the administration co-ordinating the response to this questionnaire and provide the name and contact details of the official(s) (including email address) who can be contacted in the future.

This person(s) should be the one(s) the Commission can contact in respect of any further inquiries the Commission may have concerning the questionnaire response and to arrange any verification visits the Commission may request.

**Please contact Charles Zhan at Moulis Legal for all investigation-level communications in this matter.**

2. Describe the nature and structure of the steel shelves industry in China. Without limiting your response include details of any government involvement in the steel shelves industry including upstream materials (i.e. hot rolled coil steel, galvanised steel etc.). The response should include details of:

**Steel shelving units do not by themselves constitute a separate and distinct “industry”, rather they are a specific subset of the wide-ranging furniture industry. The GOC does not have any special interest or involvement in the furniture industry, or in relation to “steel shelves” specifically.**

**The furniture industry in China covers a wide range of products, and is of significant size and scale. The industry has grown massively in the last twenty years, with this growth expected to continue in the near future. The primary driver of this growth has been the expansion of the “middle class” and the subsequent increase in consumer purchasing power and demand. China has become the world’s largest furniture production base and exporter.<sup>1</sup> The industry’s growth has been notable, with industrial output in 2010 reaching 770.3 million sets, 8.6 times the industrial output of 2000.<sup>2</sup>**

**National Bureau of Statistics (“NBS”) data shows that the total retail sales of furniture products has grown 16.1% year-on-year for 2015.<sup>3</sup> The industry is heavily populated, with 5,290 furniture enterprises above the reporting threshold.<sup>4</sup> The Pearl River Delta region has the highest concentration of the industry, with the highest production output. This is followed by the Fujian, Zhejiang, Jiangsu, Shandong and Shanghai areas.<sup>5</sup>**

**Furniture is classified as “light industry”. The GOC has produced the 12th Five-Year Plan for Light Industry<sup>6</sup> and Developing Plan for Light Industry<sup>7</sup> which discusses furniture at several points. Please refer to Attachment 1 and Attachment 2. We note that these documents merely provide a broad overview for development of light industry. They**

<sup>1</sup> <http://china-trade-research.hktdc.com/business-news/article/China-Consumer-Market/China-s-Furniture-Market/ccm/en/1/1X000000/1X002L63.htm>

<sup>2</sup> [https://www.researchgate.net/publication/273095377\\_China's\\_Wood\\_Furniture\\_Manufacturing\\_Industry\\_Industrial\\_Cluster\\_and\\_Export\\_Competitiveness](https://www.researchgate.net/publication/273095377_China's_Wood_Furniture_Manufacturing_Industry_Industrial_Cluster_and_Export_Competitiveness)

<sup>3</sup> By units above a certain scale.

<sup>4</sup> <http://china-trade-research.hktdc.com/business-news/article/China-Consumer-Market/China-s-Furniture-Market/ccm/en/1/1X000000/1X002L63.htm>

<sup>5</sup> <http://china-trade-research.hktdc.com/business-news/article/China-Consumer-Market/China-s-Furniture-Market/ccm/en/1/1X000000/1X002L63.htm>

<sup>6</sup> Valid from 2010 to 2015.

<sup>7</sup> Valid from 2016 to 2020.

explain increased demand and diversification within the industry, how enterprises can satisfy the demand by improving quality and how government can improve the operating environment for the industry. They are not legally binding documents, and no GOC entity is required or compelled to act in accordance with the plan.

There are no government policies that specifically relate to the furniture industry.<sup>8</sup>

The furniture industry can be sub-categorised by product type. Wooden furniture is the primary sub-category of the industry, accounting for around 60% of businesses.<sup>9</sup> This is followed by metal furniture, bamboo/rattan furniture, plastic furniture and miscellaneous furniture. The output value of the furniture market in 2014 was USD83.16 billion, with wooden furniture exports having a 14% year on year rise in value.<sup>10</sup> There is strong substitutability between different types of furniture – wooden shelving units can easily be substituted for steel shelving units, as can aluminium shelving units, plastic shelving units or shelving units produced from other material. This means that the market for furniture, as well as the market for shelving units specifically, is highly competitive.

Metal furniture is a significant component of China's furniture trade. In 2014, the volume of China's exports of metal office furniture was 76.7 thousand tonnes (with a value of USD545 million), an increase of 10% from 2013.<sup>11</sup> Metal furniture is primarily produced by private enterprises (whether foreign or domestically owned), which produced over 99% of the metal furniture output in 2015. Please refer to the NBS data at Attachment 3 [CONFIDENTIAL ATTACHMENT].

As discussed above, the Chinese shelving industry is a subset of the furniture manufacturing industry (industry classification no. 21), with steel shelving products being further classified under the heading of "metal furniture manufacturing" (industry classification no. 2130). For clarity, the goods subject to this investigation are not classified under "metal products" in China (industry classification no. 33). This is reflected in the HS code for the products 9403.20.00, which is within the code for furniture (chapter 94), not "iron ore steel product" (chapter 73) or "metal products" (chapter 83). The products do not form part of the "iron and steel" industry.

We note that steel shelving as a subset of the furniture industry is consistent with the classification of the goods in Australia. Under the Australian Bureau of Statistics ("ABS") industry classification system, the relevant classification is industrial code 2922 – "sheet metal furniture manufacturing" - which consists of "units mainly engaged in manufacturing furniture, storage structures, shelving, or parts of furniture predominantly of sheet metal". Further, the tariff codes for the GUC are 9401.10.00 (metal furniture of a kind used in offices) and 9403.20.00 (other metal furniture).

#### GOC industry involvement

As stated, there are no specific government policies on the "furniture industry" other than product-specific national standards relating to product quality, safe production, and hazardous substance prevention – similar can be found in Australia and countries around the world.

The furniture industry, within which these products are classified, does not face atypical government "involvement". The "involvement" of the GOC in the so called "steel shelves

<sup>8</sup> Noting that specific products within this industry may face requirements in relation to national standards, such as product quality, occupational health and safety, and hazardous substance prevention.

<sup>9</sup> <http://china-trade-research.hktdc.com/business-news/article/China-Consumer-Market/China-s-Furniture-Market/ccm/en/1/1X000000/1X002L63.htm>

<sup>10</sup> [http://en.hkfa.org/xwzxIO/info\\_21\\_itemid\\_517\\_lcid\\_4.html](http://en.hkfa.org/xwzxIO/info_21_itemid_517_lcid_4.html)

<sup>11</sup> <http://www.getnews.info/524973/global-metal-office-furniture-market-analysis-and-forecast-to-2020.html>

industry” is no different from its general involvement as a government in other industry sectors of the Chinese economy.

The GOC passes and enforces laws, makes policies, collects taxes, operates border and customs controls, enters into trade agreements with other countries, and carries out all of the other functions customarily associated with the running of a sovereign state.

#### Material inputs

The question above seeks information regarding the input materials for the GUC. Given the nature of the GUC, and the fact that each producer may produce GUC that differs in material ways, and presumably involve many different input materials, it is impracticable for the GUC to answer this question in relation to all input materials.

The GUC notes that the interest in input materials has likely been influenced by the allegations regarding a so-called “particular market situation”, and the provision of HRC and galvanised steel for “less than adequate remuneration”. The GOC will address these allegations in detail where appropriate in the GQ. However, given this context, and for the purposes of the current question, the GOC will focus on HRC and galvanised steel. Having said that, it is not apparent that these materials are directly used by all producers of steel shelves.

As a starting point, the GOC will discuss the steel industry broadly. However, please note that the GUC is not part of the steel industry, and the market for the GUC is not the market for steel products, but rather for shelving units. Any connection between the shelving units industry and the steel industry is remote at best.

China is the largest steel producer in the world, producing 803.8 million tonnes of crude steel, which accounted for more than half of global output in 2015.<sup>12</sup> Accordingly, it is neither surprising nor uncommon for the GOC to maintain oversight of the industry and set out its overarching visions and macro-economic objectives in relation to steel industries and sectors. For example, the GOC has previously published aspirational policy documents such as five year plans for the steel industry, and the National Steel Plan. We draw attention to the fact that no “13th Five Year Steel Plan” exists.

Taking into consideration the size and scale of steel manufacturing in China, its impact on the environment and its importance to the national and international economy, commercial steelmaking activities are naturally an important part of the GOC’s macro-economic policy. We note that this is no different to the treatment of major industries by the Australian Government, and governments around the world. There is nothing unusual or exceptional about the GOC’s consideration of the steel sector, in its most general sense, as a very important part, ie a “pillar”, of China’s economy. The importance of China’s steel sector is self-evident.

The Chinese steel industry is also subject to international commitments and to the GOC’s national policies in relation to climate change, given the high-emission characteristics of the steel making sector. China has taken on an increasingly active role in promoting global solutions on climate change.<sup>13</sup>

The GUC are not downstream products of the HRC industry or the galvanised steel industry, because they are not part of the iron and steel industry. Investigation of the whole HRC industry or the galvanised steel industry in this manner is inappropriate and outside the scope of an anti-dumping and countervailing investigation relating to steel shelving units. The investigation should focus on the GUC, and the steel shelves industry, rather

<sup>12</sup> <https://www.worldsteel.org/statistics/crude-steel-production.html>

<sup>13</sup> [http://news.xinhuanet.com/english/2015-12/11/c\\_134907291.htm](http://news.xinhuanet.com/english/2015-12/11/c_134907291.htm)

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than making broad forays into claims about raw material inputs. Indeed, to the GOC's knowledge, HRC represents less than half of the costs associated with the production of the GUC.

Chinese SIEs have been unfairly accused of being arms of the State, and all exporters - whether SIEs or not - have been treated as if they operate under non-market economy conditions. The fact is that Australia has long recognised the full market economy status of China, including that of China's steel sectors.

Notwithstanding the serious concerns of the GOC in relation to the distorted thinking on these issues which has preceded this case, and in the spirit of cooperation, we now wish to provide relevant commentary about the product under investigation and some of the raw material inputs as are mentioned in the questionnaire, to allow the Commission to gain a better understanding of the competitive nature of the Chinese market.

(a) distribution channels;

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

In this regard we exclude consideration of regulations relating to corporate registration and reporting, environmental controls (including land use/zoning) and safety requirements (occupational and transport-related). These regulations are of a type that is customary in the economies of all WTO members, including Australia.

The GUC are normally traded as furniture product, and the input materials are normally traded as and with other iron and steel-related goods. Although traders or distributors may choose to focus on some products over others, that decision will be based upon their own commercial imperatives. Similarly, the producers of the GUC, as well as the producers of input materials, will decide what distribution channels they employ, based on their own circumstances and designs. They may distribute the relevant goods they produce via their own subsidiaries or by out-sourced channels (such as agents and buyers) in domestic or foreign markets, as they deem appropriate.

Companies in China make their own choices on product portfolio and distribution channels. The GOC places no restriction on these choices and the activities which flow from them.

(b) any vertical integration;

The GOC does not impose any special regulations on vertical integration for producers of steel shelves or the producers and sellers of the input materials used by such producers, whether to force or prevent such integration. Nor does the GOC measure the instances of such integration.

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

The GOC does not believe that the GUC has any distinctive vertical integration pattern. HRC production is normally integrated with other iron and steel-related goods. Galvanized steel is produced by integrated steel enterprises, and is also produced by separate processing enterprises.

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A manufacturer may choose to integrate the chain of supply for the relevant goods by establishing its own branch or subsidiaries or by using sales channels they control, or operate jointly with, or independently of, others in the domestic or foreign market as appropriate. There are no restrictions on an enterprises' choice of its business structure. A firm can choose any kind of business portfolio as long as the business is not prohibited from operation.

- (c) any changes over the last 5 years (such as mergers and acquisitions);  
and

The GOC does not impose any special regulations on mergers and acquisitions for the GUC, or HRC, or galvanized steel – whether to force or prevent such mergers and acquisitions.

There are numerous GUC, HRC and galvanized steel producers. They include SIEs and fully private-owned enterprises, of varying shareholdings. Enterprises, whether State-invested or not, can also be foreign invested, and some private enterprises are wholly foreign invested. We refer the Commission to Attachment 3 [CONFIDENTIAL ATTACHMENT] in this regard. Each enterprise is responsible for running its own business and will make decisions regarding mergers and acquisitions on the basis of its circumstances and plans.

- (d) any changes to the government laws and regulations after 1 January 2010

The GOC reiterates that there are no special laws or regulations regarding steel shelving units or the input materials as referred to by the Commission. The GOC's laws and policies demonstrate its vision, commitment and responsibility towards important issues at both the domestic and the international levels. In terms of general laws and regulations, the following are notable:

- 1 Amendments to the *Law of the People's Republic of China on Prevention and Control of Occupational Diseases* were adopted on 31 December 2011. Notably, Articles 8 and 21 were amended. These Articles explicitly regard "equipment" as one of the objects among "technologies", "processes", and "materials" that may be "restricted in use or eliminated" where they are found to have caused serious occupational disease hazards. This further clarifies the legal basis of some industry guidance catalogues that promote the elimination of particular types of unsafe and outmoded "equipment" and/or "processes".
- 2 The *Law of the People's Republic of China on Promotion of Cleaner Production* came into effect on 1 July 2012. The law improves the "cleaner production examination" system and makes provisions regarding the system's compulsoriness and its specific implementation procedure. It explains the concept of "duty of control", that is, "enterprises discharging pollutants beyond the national or local discharge limits shall control pollution in accordance with relevant laws regarding environmental protection" (Article 27, paragraph 3 of the new Law). In addition, the law further clarifies the legal basis of some industry guidance catalogues that curtail investment in unsustainable types of "equipment" and/or "processes".
- 3 The *Administrative Compulsion Law* (Attachment 4) came into force as of 1 January 2012. It provides that "administrative compulsion shall be set and implemented according to the statutory authority, extent, conditions and procedures" (see Article 4). It also provides that administrative compulsion without any basis in law

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or regulation cannot be implemented (or, if implemented, how it shall be corrected), and that the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions according to law (see Article 61). Importantly, this law makes it clear that “guiding” policies, which are not laws or regulations, do not have any administrative compulsory legal effect.

- 4 The *Company Law* was amended on 1 March 2014, further liberalising the regime governing the activities of all enterprises doing business in China, by way of replacing the “paid-up capital” regime for company registration, to a registered capital regime, and removing the requirement for phased payments of capital for foreign invested enterprises. See Attachment 5 for the new *Company Law*.
- 5 Through amendment of the *Regulation of Company Registration*, also taking effect from 1 March 2014, the GOC has refined the transparency of market entities by requiring registered legal person businesses, including both SIEs and non-SIEs, to disclose their annual reports. In this way markets can make better informed decisions about risk and investment. Please refer to Article 58 of the new *Regulation of Company Registration* at Attachment 6.
- 6 Businesses in China have been better positioned to defend their legitimate rights since the *Law of Administrative Procedures* was amended in 2014. The newly amended law broadens the scope of matters that may be brought to the courts against any government agency by explicitly listing 12 categories of matters (there were formerly only eight categories). The newly added controversies that enterprises may challenge include administrative decisions regarding appropriation, and compensation for such appropriation, and any abuse of administrative power to monopolize the market or to create monopolistic power in any market. Please refer Article 12 of the new *Law of Administrative Procedure*, provided at Attachment 7. These laws provide further legal protection for private enterprise, and emphasise the degree to which the State has distanced itself from business activities and how it wants to assure business that it does not intend to intrude into business activities.
- 7 The GOC has further advanced its policy of adjusting the structure of State capital and assets in the economy by welcoming and facilitating the investment of more private capital into SIEs, and by seeking to attract more private investment and involvement in the important and costly infrastructure and network industries.
- 8 The GOC has opened the Chinese market to foreign investment to an even greater extent than before. For example, in 2015 China signed free trade agreements with Australia and Korea, and upgraded its existing free trade agreement with ASEAN. These followed the signing of the China-Iceland and China-Switzerland Free Trade Agreements in 2014. The China-Australia Free Trade Agreement lowered the tariff rates of more than 80% of the goods traded between the two countries.
- 9 The GOC has also repealed a great number of licensing/approval processes for doing business in a range of sectors and business lines. For example, to obtain an official VAT invoice for sales and sales revenue, enterprises previously had to achieve taxation registration, which in turn was subject to an approval by the relevant taxation authority. However from late 2013, this prior approval requirement for taxation registration has been repealed. Enterprises may now register directly with the relevant taxation authority. Please refer to Attachment 8 - Shortlist of deregulations since 2011, for a list of certain licensing/approval requirements that have been repealed since 2012.
- 10 The *Environmental Protection Law of the People’s Republic of China* has been amended since 1 January 2015. The amended law has strengthened the power of

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law enforcement departments to seize and confiscate facilities and equipment of enterprises which violate the law, or even directly limit production or stop production for those enterprises that fail to observe statutory emission standards.

The Chinese steel shelves industry and the material inputs steel industry are highly competitive. There is no reason to ignore the market-based price and cost data of Chinese manufacturers, being prices and costs that are discovered by the forces of supply and demand within a framework of social, environmental and fiscal regulations which are unremarkable in an internationally comparative context.

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

3. It is the Commission’s understanding that within China 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).

The Commission notes it has observed these areas identified by various names, including special economic zones (SEZ), hi-tech zones and export processing zones (EPZ).

Please provide:

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

**None of the respondent exporters are located in a special, hi-tech or export processing zone.**

4. At all levels of government (central, provincial, regional, municipal, special economic zone, etc.) identify the names of the government departments, bureaus or agencies that are responsible for the administration of any GOC measures concerning the steel shelves.

The GOC draws the Commission’s attention to the fact that the various central government agencies, as identified in questions below, are not exclusively dedicated to the “administration” of measures which may impact on the steel shelves industry, or the broader furniture industry.

Additionally, local government authorities are not exclusively dedicated to the administration of “measures concerning the steel shelves”. In this context, the GOC

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submits that Articles 3.4 and 110.2 of the Constitution of China are relevant.

**Article 3.4 states:**

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

**Article 110.2 states:**

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

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

Include information relating to the following areas:

- (a) import licensing for hot rolled coil steel and galvanised steel used in steel shelves manufacture;

**Any import licenses required would be issued via the Ministry of Commerce. However, steel shelving units, HRC and galvanised steel are not subject to import license requirements.**

- (b) export regulations, export licensing, 'guidance prices', free trade export zones, etc.; and

**The GUC is not subject to export licensing requirements or "guidance prices" (whatever they may be). Further, there are no free trade export zones for the GUC.**

**The Ministry of Commerce is responsible for general export regulations.**

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

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

|                         |                                                  |
|-------------------------|--------------------------------------------------|
| <b>Department:</b>      | <b>General Administration of Customs</b>         |
| <b>Mailing address:</b> | <b>No.6 Jianguomennei Street, Beijing 410114</b> |
| <b>Phone number:</b>    | <b>86-10-65194114</b>                            |

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|                    |                       |
|--------------------|-----------------------|
| <b>Fax number:</b> | <b>86-10-65194114</b> |
|--------------------|-----------------------|

The Chinese taxation system is divided into two parts - the State taxation system and the local taxation system.

The central government is responsible for enactment and promulgation of tax policies, and regional governments are the bodies responsible for the implementation of these policies. Provincial and city state taxation bureaus have a vertical reporting relationship with the State Administration of Taxation (“SAT”) and are seen as local branches of the SAT. The local taxation system has no vertical reporting relationship with the SAT, but can seek advice and information assistance from the SAT.

We provide the following details of local tax authorities for the areas in which the respondent exporters are located.

|                         |                                                                  |
|-------------------------|------------------------------------------------------------------|
| <b>Department:</b>      | <b>Zhejiang Province Administration Bureau of State Taxation</b> |
| <b>Mailing address:</b> | <b>Guoshui Plaza, No.256, Huancheng North Road, 310003</b>       |
| <b>Phone number:</b>    | <b>86-571-8527 0842</b>                                          |
| <b>Fax number:</b>      | <b>86-571-8527 0842</b>                                          |

  

|                         |                                                                     |
|-------------------------|---------------------------------------------------------------------|
| <b>Department:</b>      | <b>Guangdong Provincial Administration Bureau of State Taxation</b> |
| <b>Mailing address:</b> | <b>No.19 Huacheng Road, Tianhe District, Guangzhou 510623</b>       |
| <b>Phone number:</b>    | <b>86-20-38358000</b>                                               |
| <b>Fax number:</b>      | <b>86-20-38358000</b>                                               |

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

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

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

|                                                                                               |
|-----------------------------------------------------------------------------------------------|
| <b>In 2015 there were 703 enterprises in the metal furniture industry. Of these, 77% were</b> |
|-----------------------------------------------------------------------------------------------|

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private companies, 8% were foreign invested enterprises and 0.85% were State-invested enterprises and the remainder were Hong Kong/Macao/Taiwan region, cooperatives and other entities.

We note that the NBS is unable to provide data specifically for “steel shelving” companies, as the industry is too narrow.

Please refer to NBS data at Attachment 3 [CONFIDENTIAL ATTACHMENT].

6. Complete the attached spreadsheet A-6 (using Microsoft Excel format) listing all manufactures/traders of steel shelves and upstream material (hot rolled coil steel, galvanised steel) providers in China including the following details:
- name of the business entity;
  - location of the business entity;
  - function of the business (e.g. manufacturer, trader, exporter);
  - type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise or other (please specify));
  - association with the GOC;
  - whether the business is a manufacturer of hot rolled coil steel or galvanised steel;
  - production quantity of hot rolled coil steel and galvanised steel;
  - whether GOC is a shareholder in the business, and if so the percentage of GOC holdings;
  - whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights); and
  - the value of total benefit received annually.

Please refer to:

- Attachment 9 – List of Steel Shelving Exporters [CONFIDENTIAL ATTACHMENT]; and
- Attachment 10 – List of HRC/Gal suppliers [CONFIDENTIAL ATTACHMENT].

As noted at the outset of this section, both the steel shelving industry and the iron and steel industry in China are massive. It is not practicable for the GOC to provide information relating to every entity operating in those industries. Indeed, the GOC does not have access to such information. Accordingly, the GOC has recorded information relating to

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**each of the responding exporters in this investigation in the abovementioned attachments.**

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

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

Your response to this question will be referred to as response to Question A6 throughout this questionnaire.

**None of the respondents are SIEs. Therefore the above questions are not applicable.**

**7. Which industry associations represent steel shelves manufacturers?**

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

**The relevant industry association is the China Furniture Association (“CFA”). Contact information for CFA is:**

|                   |                                                                                                                       |
|-------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Address:</b>   | <b>Room 1203, C Tower, No.5 Building<br/>Baiziyuan, No.16, Baiziwan Road<br/>Chaoyang District<br/>Beijing 100124</b> |
| <b>Telephone:</b> | <b>86-10-87766795</b>                                                                                                 |
| <b>Fax:</b>       | <b>86-10-87766675</b>                                                                                                 |
| <b>Website:</b>   | <b><a href="http://www.cnfa.com.cn">http://www.cnfa.com.cn</a></b>                                                    |

**SECTION B: MARKET SITUATION**

The GOC wants to emphasise that Section 269TAC(2)(a)(ii) of the Act requires, as a starting point, that:

*the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1).*

The GOC notes the following implications of this:

- a) The only market relevant to a “particular market situation” is the market relevant to Section 269TAC(1) of the Act, being the market for like goods sold in the ordinary course of trade for home consumption in the country of export.
- b) The only situation in the relevant market which can trigger the application of Section 269TAC(2)(a)(ii) is one that renders prices in that market not suitable for comparison with export price.

To date, the GOC has not seen any evidence to support the allegation that there is a situation (“PMS”) in the market for the goods under consideration with that implication of unsuitability. The application was based upon previous findings made by the Commission and the Commission’s regulatory predecessor in relation to markets for primary or intermediate steel products. The GOC disagreed with these findings when they were initially made, and disagrees with them still. Nonetheless, those findings are about the markets to which they applied. They are not findings that can dictate what the situation in the market for the goods under consideration is or might be. The GOC are consumer and business-related products sold in entirely different markets and, inevitably, are subject to different market conditions.

From the application, we interpret the allegation to be that the costs in producers/exporters books for steel inputs are somehow lower than they would otherwise be. While this would seem to the GOC to be a rather hypothetical assumption which has been made without the benefit (or conceivably, from the applicant’s perspective, the limitation) of positive evidence, the GOC again submits that it is not a sufficient basis to find there is a relevant situation.

This is clearly the case, because all that a PMS finding achieves is to require the Commission to construct normal values under Section 269TAC(2)(C), based upon:

*(i) such amount as the Minister determines to be the cost of production or manufacture of the goods in the country of export; [emphasis added]*

The GOC notes that the requirement that the costs of production or manufacture used to construct the normal value be those in the country of export, and that Section 269TAC(2)(c)(i) is based upon Article 2.2 of the Anti-Dumping Agreement. The GOC further notes the finding of the Panel in *European Union – Anti-Dumping Measures on Biodiesel from Argentina* to the effect that the specific requirement under Article 2.2 of the *Anti-Dumping Agreement* that a constructed normal value be based on the *cost of production in the country of origin...* means just that.<sup>14</sup> Costs of production, or manufacture used in the construction of a normal value must be those costs, as they are in the country of production. According to the WTO Panel, it is not permissible to use a cost that did not originate from the country of production.

<sup>14</sup> WT/DS437/R.

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The Applicant's position is that the cost to produce the GUC in China is "too low". This cannot be a PMS, because a PMS finding only allows the construction of a normal value on the basis of the cost of production in the country of export. Clearly, then a PMS is not designed to address "costs". As the wording of Section 269TAC(2)(c)(ii) suggests, it only relates to the suitability of the price in the domestic market for like goods, and is further elaborated by Article 2.2 of the Anti-Dumping Agreement by the requirement that the situation affect the comparison with the export price. If the claimed situation is an artificially low input price, then how can that have any implication whatsoever for the comparison with the export price? The situation – if there be one - equally impacts upon the domestic price and the export price.

Separately from these obvious legal difficulties faced by the proposition put by the Applicant, the GOC notes that the supply side of the market for metal furniture, including steel shelves, is dominated by private entities/foreign invested enterprises, with SIEs accounting for 1% of producers of steel furniture, and less than 1% of the steel furniture produced (as shown by Attachment 3 – NBS statistics [CONFIDENTIAL ATTACHMENT]). There are no policies or laws that target steel shelves or steel furniture. That is to say, there is no connection between the GOC and the producers of the GUC.

The furniture market and the steel shelves market are completely separate from the market for HRC and galvanised steel. There are many substitutes for steel shelves. There are many different purchases of steel shelves. The market is a competitive and dynamic market.

Finally, the GOC disagrees outright that any form of cost difference between steel shelving products produced in China, and the inputs used to manufacture or produce those products, are distorted, or not market derived. The simple fact is that prices differ between markets. China is the largest steel producer in the world and, therefore has a significant comparative advantage in the production of steel products. Prices of steel products in China are not "too low", nor are the prices of the GUC.

1. Identify and provide an explanation of the specific roles and responsibilities of government departments, agencies or institutions, which are either directly or indirectly involved in economic policy development, economic regulation and decision-making activities with respect to the steel shelves industries.

There are no specific government policies, economic or otherwise, economic regulation or even national standards, for the steel shelving industry.

Accordingly, the GOC does not have a central government, department, agency or institution that is exclusively assigned the task of administrating measures concerning the "steel shelves industry".

2. Identify any government departments, agencies or institutions that are involved in the manufacture, sale, purchase or acquisition of steel shelves, and explain the nature of their involvement.

There are no GOC departments, agencies or institutions that are involved in the manufacture or sale of steel shelves.

Some GOC departments, agencies or institutions may have purchased such products for internal office use, however there is no database the GOC can refer to in order to determine if this has been the case.

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3. Provide details of any GOC policies that require different corporate tax rates to be applied to producers within the steel shelves sector. For example, for producers in any of these specific sectors, do taxation rates differ due to sales revenue, location, export / domestic market orientation etc. Detail any industry specific tax exemptions or tax rebates such as R&D expenditures.

**The standard corporate income tax rate of 25% applies to all respondents.**

4. Provide a detailed description of the domestic Chinese steel shelves industry and the relevant upstream industries, including the steel industries. The response should include details of:

**Please refer to the response in Section A-2.**

- (a) distribution channels

**Please refer to the response to question A-2(a).**

- (b) any vertical integration

**Please refer to the response to question A-2(b).**

- (c) any changes over the last 5 years (such as mergers and acquisitions)

**Please refer to the response to A-2(c).**

- (d) any changes to the government laws and regulations after 1 January 2010.

**Please refer to the response to question A-2(d).**

5. Provide quarterly data (using Microsoft Excel format) over the last 5 calendar years of:
- (a) import quantity (by volume and value) of steel shelves, HRC and galvanised steel;
  - (b) export quantity (by volume and value) of steel shelves, HRC and galvanised steel;
  - (c) For export and import values, specify if the value is based on ex-factory, F.O.B. (port, shipping point, etc), C.I.F. or some other value.

**Please refer to Attachment 10 – steel shelves and input export and import data**

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**[CONFIDENTIAL ATTACHMENT].**

**Please note that all import values are CIF and all export values are FOB.**

6. Provide a schedule for the last 5 calendar years and provide supporting documentation of:
- (a) the corporate tax rate in relation to steel shelves, HRC and galvanised steel;
  - (b) import tariff rates and/or import quotas applicable to steel shelves, HRC and galvanised steel;
  - (c) export tariff rates and/or export quotas applicable to steel shelves, HRC and galvanised steel;
  - (d) value added tax (VAT) export rebates applicable to exports of steel shelves, HRC and galvanised steel.

**Please refer to Attachment 12 – tax and tariffs for steel shelves and inputs [CONFIDENTIAL ATTACHMENT].**

**The corporate tax rate of 25% does not differ for producers of steel shelves, HRC or galvanised steel.**

7. If export quotas applied to any of the items at Question 6(c) above, identify which agency of the GOC legislates and monitors the quotas.

**Not applicable. No export quotas applied to any of the items listed at Question 6(c) above.**

8. The following series of questions concern the Price Law of the People's Republic of China (the Price Law).

These questions are based on the text of the Price Law, as provided to the Commission by the GOC in the past.

- (a) For completeness, please provide a translated copy of the Price Law.
- (b) Have there been amendments to the Price Law since last being provided to the Commission (or its predecessors)? If so, in the copy provided of the current Price Law, highlight all such amendments.

**Please refer to Attachment 13 - Price Law for a copy of the *Price Law of the People's Republic of China* ("the Price Law").**

**The Price Law has not been amended since 1998.**

- (c) Article 27 of the Price Law states that the government shall '...establish a

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price regulation fund to control and stabilise the market’.

- (i) What form does the ‘price regulation fund’ take generally and what department of the GOC is responsible for the fund?
- (ii) What ‘price regulation fund’ regulations have applied to rod in coils or the iron and steel industry since 1 July 2006?
- (iii) What ‘price regulation fund’ regulations have applied to steel shelves since 1 July 2006?

**This is essentially a “price moderation fund”. The purpose of such a fund is to help vulnerable groups of people to survive sharp fluctuations in the market prices of daily necessities, such as might occur in a period of extreme inflation. This policy target is reflected in the fact that these Articles are found within Chapter Four of the Price Law, headed “Moderation of General Price Level”, which relates to attempts to avoid “spikes” for daily necessities where possible and appropriate.**

**There are presently no uniform specific collection and administration measures for any “price moderation fund” at the central government level. The GOC notes that some local governments have formulated their own local regulations in accordance with the Price Law.**

**There is no “price regulation fund” for steel shelving products, nor for HRC or galvanized steel, or the iron and steel industry generally.**

- (d) Article 28 states that ‘in order to better control prices government price departments shall establish a price monitoring system to monitor changes in the prices of major merchandises and services’.
  - (i) What price monitoring system has been established generally and what department is responsible?
  - (ii) What ‘price monitoring’ has applied to steel shelves, HRC and galvanized steel since 1 July 2006?

**The price monitoring system was established for a few important producer goods and consumer goods. Local price bureaus are responsible for collecting the prices as mentioned in the Price Law.**

**Steel shelves, HRC and galvanized steel are not subject to price monitoring, nor have they been at any point since 1 July 2006.**

9. Provide a list and copies of any specific laws, decrees, rules, promulgations, edicts, opinions, measures, regulations and/or directives regarding
  - (a) The regulation of the price of steel shelves, or any of the raw materials used to manufacture those products; and
  - (b) Investment in projects related to steel shelves, or any of the raw materials used to manufacture those products

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- (c) Identify the specific government department or institution responsible for the above-mentioned laws and regulations above.

**There are no laws or regulations that are specific to steel shelving prices, nor to any of the raw materials used to manufacture those products. The GOC provides the price catalogue promulgated by NDRC, and by Guangdong and Zhejiang provinces respectively (being the provinces where the respondents are located), at Attachments 14, 15 and 16.**

**Prices for steel shelves, HRC and galvanised steel are all determined commercially, in the transaction between the buyer and seller. These prices are competitive market prices.**

**In relation to investment regulation, please refer to the GOC's response to Section C below regarding each of the raw materials identified in that Section.**

10. Identify and document any financial assistance provided by the GOC since 2011 in support of the steel shelves, HRC and galvanised steel industry.

**Please refer to Section C for information on financial assistance provided by the GOC to respondents. None of the financial assistance provided was done so on the basis that the producers were producers of steel shelves. Similarly, there is no financial assistance provided specifically to the HRC or galvanised steel industry.**

11. Has the GOC (at any level of government) issued or participated in the issuance of any debt or equity instruments<sup>15</sup> in any business entity associated with the steel shelves, HRC or galvanised steel industries in the last 5 years? If so:

- (a) provide the names and address of the business entities
- (b) explain the reasons for using a particular financial instrument(s);
- (c) provide full details (such as number of shares and value of bonds), including the period of investments and the rate of return(s) (and/or expected yields)
- (d) are any of these instruments or securities listed in any securities exchange in China or overseas? If so:
  - i. provide the name(s) of the securities of exchange
  - ii. identify any trading restrictions by the business entity and/or the securities exchange

**The GOC does not understand what relevance this has to the price of the GUC in the Chinese market for those products, and therefore cannot see how this information would be relevant to the PMS allegation. The GOC also notes that the question itself is vague. How would the GOC "participate" in the issuance of any debt or equity instruments in any**

<sup>15</sup> Examples of such instruments include ordinary shares (including initial public offers), preferential shares, rights issue, bonds, quasi-government bonds warrants, debentures, sub-ordinate loans.

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business? Also, where is the borderline of entities associated with steel shelves, HRC or galvanised steel?

Nonetheless the GOC can advise that its only “involvement” in the issuance of debt or equity instruments by business entities, if any, would be in the form of its share ownership in the limited number of State-invested enterprises in the sector. Business financing activities of the type described in this question in relation to any business entity associated with the steel shelves, HRC or galvanised steel industries would need to be carried out in a normal commercial manner and would be subject to the same legal and regulatory requirements and market conditions as applicable to any other business category operating in China.

The GOC does not take a special interest nor does it have any special involvement in the financing of the steel shelves, HRC or galvanised steel industries.

12. Provide details (quantify the value) of any government guarantee provided for any commercial loans by a business entity associated with steel shelves, HRC and galvanised steel industries in the last 5 years.

None of the respondents received a government guarantee for their commercial loans in the last five years.

13. Do enterprises need to be verified by the GOC prior to being approved entry to steel shelves, HRC and galvanised steel industries?

There is no requirement for steel shelf producers to be verified by the GOC before entry to the industry. Further, they are not subject to any approval requirements.

In relation to the HRC and galvanized steel industries, since October 2013 the GOC has prohibited any further increases of steel production capacity in order to address industrial sustainability and environmental problems that are exacerbated by overcapacity.

14. Are steel shelves, HRC and galvanised steel producers in China required to hold any types of licences for production? If so, provide details and documentary evidence.

Producers of steel shelves, HRC or galvanized steel in China are not required to hold any license for production.

15. Are there any production limits and/or export limits placed on steel shelves, HRC and galvanised steel producers? If so, provide documentary evidence.

There are no production or export limits placed on steel shelves, HRC or galvanized steel producers.

16. Are there any price restrictions on steel shelves, HRC and galvanised steel domestic sales? If so, provide details.

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**There are no price restrictions on steel shelves, HRC or galvanized steel domestic sales.**

**17.** Identify any GOC initiatives and/or policies that affect the steel shelves, HRC and galvanized steel industries, including raw materials. Provide all documentary evidence.

**Please refer to the response to Section B.20.**

**18.** Have there been any changes to GOC policies and practices that impact the steel shelves, HRC and galvanized steel industries since June 2012 that support the view that the factors leading to the Australian Customs and Border Protection Service's (ACBPS) finding in INV 177 of a particular market situation in the Chinese steel industry as outlined in REP 177 no longer exists. For example, have there been:

- (a) changes to the text or implementation of the National Steel Policy, National or State Five-Year Plans relating to iron and steel industries, or the Blueprint for Steel Industry Adjustment and Revitalization; or
- (b) the various measures identified by ACBPS as implementing the goals and aims of the GOC plans and policies?

If so, provide details and relevant evidence.

**The GOC notes that Investigation 177 took place over four years ago, and related to "certain hollow structural sections" ("HSS"). The relevance of such an investigation to the allegation that there was a situation in the Chinese market for steel shelves between May 2015 and April 2016, such that prices derived from this market, during this period, are not suitable for comparison with export price, would be entirely unclear to any fair-minded person and is entirely unclear to the GOC.**

**The GOC also wants to remind the Commission that the PMS finding in Investigation 177 was overturned by the Trade Measures Review Officer ("TMRO"). The GOC reiterates its position that Reinvestigation 203 was incorrect in its failure to follow the TMRO's finding in that regard. Nonetheless, the GOC notes that Reinvestigation 203 refined and refocused the broad, and according to the TMRO, incorrect findings of Investigation 177. In doing so, Customs identified three factors that were said to contribute to the PMS finding in Reinvestigation 203:**

- a) exports measures on coke;**
- b) subsidies to HSS producers; and**
- c) consideration of GOC policies, plans, notices and guidelines.**

**It is to these factors that the GOC will direct its response:**

**Export Measures on Coke**

**Reinvestigation 203 found the following factors had resulted in *lower prices for inputs that***

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*represent a significant cost of producing hot rolled coil:*<sup>16</sup>

- *an increase in export tariffs on coke to 40% and elimination of duty on imported coke;*
- *the introduction of export quotas and licencing conditions that restricted which enterprises could apply for an export quota of coke, and*
- *an increase in export tariffs on coking coal to 10% and elimination of duty on imported coking coal.*<sup>17</sup>

The situation in the POI for the current investigation is substantially different:

- the export tariff on coke was 3%, as was the import tariff;
- there were no export quotas applicable to coke or coking coal; and
- there was no export tariff on coking coal, nor was there an import tariff on coking coal.

During the POI for the current investigation, “export measures on coke” were different to those considered in Investigation 203. They were hugely reduced, minimal and restrained. They would now have no impact on the price of steel shelves, nor the inputs used for steel shelves, to form the basis for a PMS conclusion in the policy terms that the Commission has previously issued.

#### Subsidies for HSS producers

As a starting point, the GOC notes that this investigation relates to steel shelving units, not hollow structural sections (“HSS”). Any subsidies that were found to have been provided to producers of HSS cannot be considered to be relevant to producers of shelving units.

The GOC notes that the major subsidy cited in Reinvestigation 203 was a subsidy labelled as the “provision of HRC for less than adequate remuneration”. A similar claim was made by the Applicant in this case, and has been addressed in the relevant situation of this GQ. Suffice it to say, for current purposes, that the GOC does not accept that such a subsidy exists.

However, the GOC is also compelled to note that the finding of such a subsidy in Reinvestigation 203 was found to be unlawful by the Federal Court of Australia in 2015.

Additionally, according to NBS data, SIEs produce less than half the coated steel produced in China, less than a third of hot rolled steel products produced in China, and less than 1% of the metal furniture produced in China. To the extent that galvanised steel and HRC may be used as input material for the GUC – and the GOC notes that this extent is not clear – it is not apparent that SIEs would have any significant price power. That is to say, irrespective of the Commission’s opinion as to whether such entities are “public bodies” (which they are not), they do not wield significant market share such as might allow them to drive prices. The prices are, at all times, market based.

Accordingly, the GOC submits that “subsidies to HSS producers” are not relevant to, and could not have impacted the price of, steel shelving units, nor the price of inputs for the

<sup>16</sup> Page 23.

<sup>17</sup> *Ibid.*

production of those units.

Consideration of government of China policies, plans, notices and guidelines

As an initial point, the GOC wishes to once again point out that the documents mentioned above – the National Steel Policy, National or State Five-Year Plans relating to iron and steel industries, and the Blueprint for Steel Industry Adjustment and Revitalization documents as abovementioned - are merely policy documents.

As Article 11 of the *Administrative Compulsion Law Of the People's Republic of China* states:

*No regulatory documents other than laws and regulations may set administrative compulsory measures.*

As the GOC has noted, time and time again, these documents do not have any impact or effect, either directly or indirectly, on the price of HRC or other steel products. The same is true for steel shelves which, as noted already, do not form part of the iron and steel industry. This is precisely because these documents have no effect generally, as they are not laws or regulations.

Government policies are not laws and are not enforceable as such. For example, where the Ministry of Industry and Information Technology may issue a Guiding Opinions document to other government agencies this is merely a policy document. It is not a “directive” by the government to Chinese companies. We note that this is consistent with Australian practices in relation to department policies.

The GOC notes that the *National Steel Policy* was published in 2005, almost a decade before the period of investigation. It was an aspirational document, which set out options through which the steel industry could modernise its operations, and remain competitive and efficient in the future. The *National Steel Policy* has not been amended at any time between the date of lodgement of this EQ, and its date of publication in 2005. It is irrelevant to the current investigation.

Similarly, the purpose of “*A Blueprint for Steel Industry Adjustment and Revitalization*” was to discuss methods to stabilize the steel industry following the immediate fallout from the global financial crisis. Again, it was non-binding, non-legal and was never “implemented”. It was only applicable between 2009 and 2011.

The GOC notes that it is not uncommon for WTO members to publish such documents in relation to unprecedented economic conditions. For example, the Australian Government recently published the *Smarter Manufacturing for a Smarter Australia* report, in response to various economic pressures, such as the fall-out from the global financial crisis and the high Australian dollar.<sup>18</sup>

Finally, the 11th Five Year Plan for the Steel Industry covered the period until 2010. The 12th Five-Year Plan for Steel Industry covered the period until 2015. There is no new general planning or policy document issued for the steel industry.

19. Describe and explain whether the national, provincial or local governments (including ministries or offices of those governments, or any quasi-governmental organisation identified) explicitly or implicitly recognises the industries that produces grinding balls, steel billet, and/or the iron and steel

<sup>18</sup> [http://www.innovation.gov.au/Industry/Manufacturing/Taskforce/Documents/Smarter\\_Manufacturing.pdf](http://www.innovation.gov.au/Industry/Manufacturing/Taskforce/Documents/Smarter_Manufacturing.pdf)

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more generally, as a national provincial and/or local development objective, or otherwise directs the development of any of those industries.

**There are no official documents issued by any of the above organizations that either explicitly or implicitly recognise the steel shelves, HRC or galvanized steel industries as a development objective or which otherwise direct the development of any of these industries.**

**20. Provide copies of the following documents:**

- (a) Directory Catalogue on Readjustment of Industrial Structure
- (b) China Nonferrous Metals Yearbooks for the years 2011, 2012, 2013 and 2014
- (c) 12<sup>th</sup> Five-Year plans including:
  - 12<sup>th</sup> Five-Year Plan for the Raw Materials Industry;
  - 12<sup>th</sup> Five-Year Plan for Further Promoting the Economy of the Western Regions; and
  - the two most recent five-year plans at **all levels** of the GOC (including, central, regional, provincial and for any special zones, areas or other such regions), as well as the original Chinese versions.

**The Directory Catalogue on Readjustment of Industrial Structure does not mention the steel shelves industry or its products. Certain HRC and galvanized steel products are mentioned as restricted or eliminated products or equipment. The relevant part regarding HRC and galvanized steel is provided in Attachment 17.**

**There are no officially released China Nonferrous Metals Yearbooks.**

**A 12th Five-Year Plan for Steel Industry was drafted. The relevant part regarding HRC and galvanized steel is provided in Attachment 18. As noted, no 13th Five Year Plan for the Steel Industry has been drafted.**

**There is no 12th Five-Year Plan for Further Promoting the Economy of the Western Regions. There is only a 12th Five-Year Plan for Opening Up of Western China but this plan has no content regarding the steel shelves, HRC or galvanized steel industries at all.**

**Additionally, the GOC has extracted the relevant portions of the following documents, for the Commission's information:**

- **Attachment 18 - 12th Five-Year Plan for Steel Industry;**
- **Attachment 19 - GOC central 12th Five Year Plan;**
- **Attachment 20 - GOC central 13th Five Year Plan;**
- **Attachment 21 - Guangdong Provincial 12th Five-Year Plan;**
- **Attachment 22 - Guangdong Provincial 13th Five-Year Plan;**
- **Attachment 23 - Zhejiang Provincial 12th Five-Year Plan; and**
- **Attachment 24 - Zhejiang Provincial 13th Five-Year Plan.**

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| <b>SECTION C: SUBSIDIES</b> |
|-----------------------------|

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

**INVESTIGATED PROGRAMS**

Table 1 below lists all the alleged countervailable subsidy programs that are being investigated for steel shelves. Table 1 provides the corresponding program number that was used for CON 355.

*Note: the 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 above titles may not exactly reflect any official titles that the GOC has in place. In responding to this questionnaire, if the GOC is unfamiliar with the title given to a program, but is aware of the existence of a similar program or one that it appears is being referred to, please identify this (including providing the official title of any such program) and respond to the questionnaire in relation to that program.*

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

| Program Number | Program Name                                                                                                                                   | Program Type |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 3              | Income Tax Benefits for FIEs based on Geographic Location                                                                                      | Tax          |
| 5              | Income Tax Reduction for High or New Technology Enterprises                                                                                    | Tax          |
| 8              | Import Tariff and Value-Added Tax (VAT) Reductions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries | Tax          |
| 10             | Tax Rebates Based on Location in Shiqiao Town Industrial Cluster Zone                                                                          | Tax          |
| 13             | GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands                                             | Grant        |
| 14             | Special Fund for Energy Savings Technology Reform                                                                                              | Grant        |
| 15             | International Market Exploration (SME) Fund                                                                                                    | Grant        |
| 16             | Export Assistance/Outward Expansion Grants in Guangdong Province                                                                               | Grant        |

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|    |                                                                                             |       |
|----|---------------------------------------------------------------------------------------------|-------|
| 17 | Guangdong Province Funds to Support the Adoption of E-Commerce by Foreign Trade Enterprises | Grant |
| 18 | Technology to Improve Trade Research and Development Fund                                   | Grant |
| 19 | Rental/Purchase Assistance in Ningbo Municipality Yinzhou District Southern Commercial Zone | Grant |
| 20 | Exhibition Subsidy                                                                          | Grant |
| 21 | Foreign Trade Bureau Award                                                                  | Grant |
| 22 | Export Credit Insurance Subsidy                                                             | Grant |
| 23 | Export Subsidy for High-tech Merchandise                                                    | Grant |
| 24 | Clean Energy Measure Subsidy                                                                | Grant |
| 25 | Innovative Growth Grant                                                                     | Grant |
| 26 | Provision of Hot Rolled Coil Steel for Less Than Adequate Remuneration                      | LTAR  |
| 27 | Provision of Electricity for Less Than Adequate Remuneration                                | LTAR  |
| 28 | Provision of Galvanised Steel For Less Than Adequate Remuneration                           | LTAR  |

**Table 1: alleged countervailable subsidies being investigated**

**ANY OTHER PROGRAM NOT PREVIOUSLY ADDRESSED**

If the GOC, any of its agencies, or any other authorised non-governmental body provides any other assistance programs not previously addressed (including market development assistance programs or any domestic support programs related to the manufacture of subject goods) to manufacturers of steel shelves in China, identify these program(s).

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 D-1 for each program identified above and any additional programs you have identified

**PART 1 - GENERAL QUESTIONS**

For **each of the 20 programs** identified above, and any applicable additional programs the GOC 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*

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*by the GOC or the year that the benefit was received by the recipient company, as well as those further identified by the GOC, where the program benefits impact on the production and sale of steel shelves and/or galvanised steel and/or HRC during the investigation period.*

Provide a copy of the laws, regulations, circulars, notice or other documents identified in Appendix B to this questionnaire.

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

The GOC will respond to the questions in relation to Programs 26, 27 and 28 by way of rebuttal, and in relation to other “programs” only if the Chinese exporters of steel shelves participating in this investigation (hereinafter “Respondent/s”) have reported usage of them.

### **The following questions relate to Programs 26 and 28**

The GOC notes that the Applicant’s allegations with regard to the existence of these subsidies are based only on prior findings of the Commission. The GOC strongly disagrees with these prior findings – they have been based on a misunderstanding of fact and a misapplication of WTO jurisprudence.

Furthermore, the basis of the Applicant’s allegation is not clear. Specifically, both the Application and the Consideration Report fail to identify under which elements of the definition of “subsidy” the alleged subsidies are meant to fall under. This is a legal question, and the allegation needs to be defined with legal exactitude. If the Applicant has failed to make out any elements of an alleged subsidy, at least on a preliminary basis, then the Commission should not be in a position to initiate the investigation with regard to that alleged subsidy.

Based on the context of the questions below, we take it that the allegation is that SIEs are providing the allegedly subsidised goods. We take it also that there has been some conflation of the term “SIE”, with the term “public body”. Again, the basis for this conflation is unclear. It cannot be assumed that an SIE is a “public body”; there must be evidence of this.

In this regard, we note the following WTO jurisprudence is relevant:

- the key question in determining whether an entity is a public body is whether that entity possesses, exercises or has been vested with *government authority*;<sup>19</sup>
- the exercise of functions by an entity that may also be undertaken by a government body will not serve as evidence that that entity is a public body, other than the power to regulate, control, or supervise individuals, or otherwise restrain their conduct through the exercise of lawful authority;<sup>20</sup>

<sup>19</sup> See Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)* (“WT/DS379/AB/R”) paras 310, 317 and 318, Panel Report, *US – Countervailing Measures on Certain Products (China)* (“WT/DS437/R”), para 7.66; and Appellate Body Report, *US – Countervailing Measures on Certain Hot-Rolled Carbon Flat Steel Products (India)* (“WT/DS436/AB/R”), para 4.9.

<sup>20</sup> WT/DS437/R, para 7.71. The GOC notes this accords with the finding of the TMRO’s review of

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- to determine whether an entity is a public body, the investigating authority must evaluate the core features of that entity and its relationship to government<sup>21</sup> - this, by necessity, requires an individual examination of each entity alleged to be a public body;
- the existence of *mere formal links* between government and the entity, such as government ownership, does not establish that an entity is a public body; and<sup>22</sup>
- “meaningful control” of entity by government is not sufficient to establish that an entity is a public body, unless that control properly evidences that the entity possesses, exercises or is vested with governmental authority.<sup>23</sup>

The Application and the Consideration Report appear to operate from the presumption that all SIEs are public bodies. Given that the only defining feature of an SIE is a degree of government ownership, this is tantamount to an assumption that ownership is sufficient to find an entity to be a public body. This is expressly against WTO jurisprudence. There has been no case-by-case analysis of every SIE operating in the HRC and galvanised steel industries – this too is against WTO jurisprudence. There has not even been an attempt at articulating exactly what government authority these entities are alleged to be exercising. This is the key requirement according to WTO jurisprudence.

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

Some Chinese laws actively prohibit below cost selling behaviour – conduct which is referred to as “predatory pricing” in some jurisdictions. For example, Article 14 of the Price Law prohibits business operators from engaging in the making of sales (except the cases of sales of fresh and live merchandises, seasonal merchandises and stockpiled merchandises at discount) at below cost prices in order to obtain an upper hand over rivals or to dominate the market and disrupt normal production and market operation. Please refer to Attachment 13 – Price Law of the People’s Republic of China. The GOC has further liberalised the regime governing the activities of all enterprises doing business in China. This has protected the rights of SIEs and private enterprises to an even greater extent than before, and facilitated greater competition between all companies in all sectors.

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

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*Investigation 177 – Certain Hollow Structural Sections Exported from the People’s Republic of China, the republic of Korea, Malaysia., Taiwan and the Kingdom of Thailand*, in which he specifically overturned the finding that SIEs producing HRC were public bodies, as well as the finding of the ADRP in his review of the *Decision Regarding Dumping Duties and Countervailing Duties for Zinc Coated Steel Exported from the People’s Republic of China*.

<sup>21</sup> WT/DS379/AB/R, para 345.

<sup>22</sup> WT/DS379/AB/R, para 318.

<sup>23</sup> WT/DS436/AB/R, paras 4.36 – 4.3

These subsidies simply do not exist.

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

The ‘*Law of the People’s Republic of China on State-Owned Assets of Enterprises*’ (“State-Owned Assets Law”) law has not been superseded or supplemented by other laws.

The GOC notes that the State Owned Assets Law was misinterpreted and misapplied in Investigation 177. Specifically, Article 36 of this law was misinterpreted by Australian Customs as evidence that the GOC directs SIEs to carry out a government function.

As the TMRO pointed out in its review of Australian Customs finding in Investigation 177:

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

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

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

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

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

*...the TMRO considered that active compliance with governmental policies and/or regulation does not equate to the exercise of governmental functions or authority. I agree with this view... it does not evidence the essential element of exercising a power of government over third persons.<sup>24</sup> [underlining supplied]*

*...Compliance with government policy does not of itself evidence that an entity possesses, exercises or is vested with government authority. This is the overriding test established by the Appellate Body.<sup>25</sup>*

Accordingly, the GOC does not consider that the State-Owned Assets Law can be used to paint SIEs to be public bodies.

<sup>24</sup> ADRP report re Report 193, at page 21, HSS TMRO report, para 245.

<sup>25</sup> ADRP report re Report 193, at page 22

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- 1.3** Outline how each of the following is determined for the entities identified in Section A, Question 6 above and for manufacturers of hot rolled coil steel and galvanised steel in China (where this differs across enterprise or type (e.g. SIEs, FIEs), describe this differently):
- (a) suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials) by completing attached spreadsheet C-1.3;
  - (b) purchase prices of raw material inputs;
  - (c) allocation of inputs into production process, including raw materials and labour costs;
  - (d) quality by volume and value;
  - (e) selling prices;
  - (f) customers (including restrictions on entities that can purchase goods produced from the enterprise);
  - (g) production output (detail any restrictions on production output);
  - (h) safety standards; and
  - (i) electricity/energy costs.

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

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

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

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

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

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

***...parties have the right to lawfully enter into a contract of their own free will in***

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*accordance with the law, and no unit or individual may illegally interfere therewith.*

Please refer to Attachment 25 - Contract Law of the People's Republic of China. Therefore, enterprises choose their suppliers of raw material inputs independently and without any interference from the GOC, whether they are SIEs or not.

Purchase prices of raw material inputs

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

The GOC advises that there are no specific laws or regulations (regardless of nomenclature) in China relating to the pricing of the raw material inputs concerned (ie. HRC and galvanized steel). These raw materials are not subject to any price controls.

Please refer to the *Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council* in Attachment 26. As can be seen from this official instrument, none of the raw material inputs concerned are subject to any price controls or guidelines. The GOC notes that it has already provided this explanation and the Catalogue in its response to the Government Questionnaires in Investigation 177, Investigation 180, Investigation 190, Investigation 193, Investigation 198 and Review 263.

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

Allocation of inputs for production processes is a matter for each producer. The GOC does not play any role in determining how inputs are allocated.

Quality by volume and value

This question is not clearly understood by the GOC. In any case, so far as Chinese steel shelving units, galvanised steel and HRC manufacturers are concerned, the quality/quantity/volume/value of their products are entirely determined by the enterprise/s themselves.

Selling prices

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

To the GOC's knowledge, the markets in which the entities concerned, being the markets for steel shelves, HRC and galvanized steel respectively, are all competitive markets within China's market economy. The GOC therefore states that the selling prices are determined by the enterprises concerned according to their own business decisions based on market principles.

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

From a legal point of view, Chinese enterprises are free to choose their customers under

various laws. According to Article 4 of the *Contract Law of the People's Republic of China*:

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

Please refer to Attachment 25 - Contract Law of the People's Republic of China. Therefore, the enterprises can choose customers independently and without any interference from the GOC or any other parties.

The reference to “*restrictions on entities that can purchase goods produced from the enterprise*” is unclear. We take it to mean that the GOC is to indicate whether the GOC places any restrictions on which entities can purchase products from manufacturers of the GUC? The GOC can advise that there are no laws, regulations or policies which impose restrictions on who an enterprise may purchase steel shelving units from or, for that matter, who an entity can purchase HRC or galvanised steel from. Of course there are laws which impose restrictions on transactions relating to dangerous articles, such as guns, ammunition, explosives and smuggled goods. However the GOC does not consider those to be relevant for this investigation.

Production output (detail any restrictions on production output)

From a legal point of view, enterprises are responsible for determining their production output both from their own commercial perspective and under various laws. Pursuant to Article 46 of the *Company Law of the People's Republic of China*, the board of directors shall be responsible for the shareholders' meeting and determines the company's business and investment plans. Please refer to Attachment 5 - Company Law of the People's Republic of China. Production output is determined by the board of directors of the enterprise, according to the market demand, market prices, capacity and other market factors. The GOC does not impose any restrictions on their production output

Safety standards

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

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

Energy costs

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

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

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

*The government shall issue government-set or guided prices for the following*

*merchandises and services if necessary:*

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

Please see Attachment 13 - Price Law of the People's Republic of China.

Electricity is an important public utility and has a significant influence on national welfare and the people's livelihood. For more details, please refer to Attachment 14 – NDRC Price Catalogue and Attachment 26 - Catalogue of Regulated Prices, noting that the former replaced the latter on 1 January 2016.

However, as advised in other places in this Government Questionnaire, electricity prices for the industries concerned are the same as that applicable to other general industries. In addition, electricity price regulation is not relevant to controlling or guiding prices of steel shelving units and the raw material inputs in the sectors concerned by any level of government. As advised, selling prices in the industries concerned, whether raw material inputs or finished goods, are not subject to any government control or guidance.

**The following questions relate to Program 27**

- 1.4** Complete the attached spreadsheet C-1.4 (using Microsoft Excel format) listing all electricity providers who service those entities identified in question A-4 including the following details:
- (a) name of the business entity
  - (b) location of the business entity
  - (c) function of the business
  - (d) type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise or other (please specify))
  - (e) whether GOC is a shareholder in the business, and if so the percentage of GOC holdings
  - (f) the company to which the electricity provider supplied
  - (g) the percentage of GOC holding if the GOC is a shareholder
  - (h) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights)

There is no such subsidy program.

The GOC rejects the claims:

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

The evidence referred to by the Applicant in relation to the “less than adequate remuneration” and “specificity” elements of the claim are clearly flawed. We note that similar allegations have been made on a number of occasions, including Investigation 316, 322 and 31 and Review 248, and in each case, no such subsidy has been found to exist.

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

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

Steel shelves production does not fall under any “silicon” or “ferroalloy” tariff category, nor under any other electricity tariff categories which specify a lower tariff rate than for “general industry”. Based on the information provided by the respondent exporters, steel shelves producers are not subject to any “preferential” electricity tariff rate, when compared with the applicable “general industry/commerce” or “large scale industry” rate in the relevant region.

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

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

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

Further, in DS436, the Appellate Body stated:

*...that “the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority”. Instead, “[a]n investigating authority must, in making its determination, evaluate and give due consideration to all relevant characteristics of*



*the entity and, in reaching its ultimate determination as to how that entity should be characterized, avoid focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant". Thus, the mere ownership or control over an entity by a government, without more, is not sufficient to establish that the entity is a public body. [footnotes omitted]*

The percentage of GOC shareholding in an electricity provider on its own does not mandate a finding that such entities are public bodies. Nonetheless, on the same basis as before, the GOC does intend to respond to this question.

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

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

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

For the purposes of full cooperation, GOC provides the information requested in relation to the electricity suppliers for the respondent at Attachment 27 [CONFIDENTIAL ATTACHMENT]. The GOC also provides the electricity tariff schedules for Zhongshan City, Foshan City of Guangdong Province and Zhejiang Province, at Attachments 28, 29 and 30 [CONFIDENTIAL ATTACHMENTS]. As can be seen in the tariff schedules, the normal "general industry/commerce" or "large scale industry" rate would be applicable to steel shelves manufacturers.

**1.5** The Commission understands that China's National Development and Reform Council regulate prices for electricity.

(a) How does the government regulate electricity prices at national, provincial or local levels?

Electricity is an important public utility and has a significant influence on national welfare and the people's livelihood. Electricity rates are mainly subject to government price settings. The GOC refers the Commission to the Attachment 26 - Catalogue of Regulated Prices. Prices for electricity are basically composed of the actual cost of electricity generation and distribution, expense, tax and reasonable amount of profit. The primary basis on which prices for electricity are adjusted is the changes on coal prices, cost of transmission and distribution of electricity and the operation position of power generation enterprises. For example, because much of the electricity in China is produced by burning

coal, the price for electricity tends to correlate with the price of coal. Where hydro-electricity is the main power source, the electricity price may also be affected by seasons and weather.

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

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

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

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

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

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

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

Article 18 is unremarkable in the context of similar powers held and exercised by responsible governments throughout the world. For example, reference is made to the regulation of electricity in Australia by the Australian Energy Regulator.<sup>26</sup> We also note that electricity utilities in Australian jurisdictions such as the Australian Capital Territory must seek government approvals for price increases.

The GOC notes that the Australian Government's *Energy White Paper* refers to the following

<sup>26</sup> <http://www.aer.gov.au>

examples of electricity pricing and policy support that will be implemented by the Australian Government:<sup>27</sup>

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

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

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

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

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

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

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

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

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

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

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

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

**Department:**

**Guangdong Province Development and Reform**

<sup>27</sup> <http://ewp.industry.gov.au/>

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|                         |                                                                     |
|-------------------------|---------------------------------------------------------------------|
|                         | <b>Commission</b>                                                   |
| <b>Mailing address:</b> | <b>No.5 Building, No.35, Dongfeng Middle Road, Guangzhou 510031</b> |
| <b>Phone number:</b>    | <b>+86 20 8313 8687</b>                                             |
| <b>Fax number:</b>      | <b>+86 20 8313 4195</b>                                             |
|                         |                                                                     |
| <b>Department:</b>      | <b>Zhejiang Province Development and Reform Commission</b>          |
| <b>Mailing address:</b> | <b>No.1 Building, No.8 Shengfu Road, Hangzhou 310025</b>            |
| <b>Phone number:</b>    | <b>+86 571 8705 2748</b>                                            |
| <b>Email:</b>           | <b>sfgw@zj.gov.cn</b>                                               |

(c) How does the government's electricity policy apply to or promote the silicon metal industry?

**The electricity tariff for the steel shelves industry does not differ from any other general /commercial industry.**

**1.6** Provide full details of Program 27 including the following:

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

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**Not applicable. As the GOC has already stated – Program 27 does not exist.**

- 1.7** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports published since 1 January 2011 pertaining to Program 27.

**There is no such program.**

**Based on the information provided by the respondents, steel shelving producers are not subject to any “preferential” electricity tariff rate, when compared with the applicable “general industry/commerce” or “large scale industry” rate for the relevant region.**

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

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

**There is no such program.**

**Based on the information provided by the respondents, steel shelving producers are not subject to any “preferential” electricity tariff rate, when compared with the applicable “general industry/commerce” or “large scale industry” rate for the relevant region.**

- 1.9** Identify which of the companies in your response to Section A - Question 6 applied for, accrued or received benefits under program 27 during the investigation period.

Provide, on an annual basis, the value and/or nature of the benefit or concession granted (monetary and/or non-monetary) under program 27.

**There is no such program.**

**Based on the information provided by the respondents, steel shelving producers are not subject to any “preferential” electricity tariff rate, when compared with the applicable “general industry/commerce” or “large scale industry” rate for the relevant region.**

**The following questions relate to Programs 3 - 25 identified above**

**To the best knowledge of the GOC, the Respondents may have received grants from the following investigated programs, according to the list in this questionnaire and the limited information provided in the Consideration Report for this investigation. The GOC will provide program specific answer for these programs, one by one.**

- **Program 13: GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands**
- **Program 15: International Market Exploration (SME) Fund**

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- Program 20: Exhibition Subsidy
- Program 22: Export Credit Insurance Subsidy

Furthermore, the GOC notes that Questions 1.20 and 1.21 below comprise many specific questions regarding performance measurement and profit distribution of SIEs and any possible performance of the GOC's governmental function by an enterprise, no matter whether the enterprise is an SIE, FIE or private company. In the GOC's view, these questions are not related to any specific subsidy programs under investigation. Furthermore, the GOC also notes that none of the respondents are SIEs. Nonetheless, the GOC will respond briefly to questions regarding the "functions" of the entities.

As to the requirement that the GOC needs to identify "any other assistance programs not previously addressed to manufacturers of steel shelves in China", the GOC objects to such open question style investigation - the GOC believes that the investigation can only be properly conducted in relation to the programs alleged by the Applicant and consulted with the GOC prior to the initiation.

**1.10** Provide details of the program including the following:

- (a) Policy objective and/or purpose of the program.
- (b) Legislation under which the subsidy is granted.
- (c) Nature or form of the subsidy.
- (d) When the program was established.
- (e) Duration of the program.
- (f) How the program is administered and explain how it operates.
- (g) To whom and how is the program provided.
- (h) The eligibility criteria in order to receive benefits under the program.

**1.11** 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.

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

**1.13** Identify the GOC department or agency administering the program.

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

**1.15** Indicate which of the companies listed in your response to Question A6 applied for, accrued, or received benefits under the program for 1 January 2011 to 30 June 2016.

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**1.16** Provide, on an annual basis by calendar year the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

**1.17** 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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

**1.18** 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.
- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

**1.19** 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

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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 GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

**1.20** 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 during the investigation period. Include the following details in the spreadsheet provided as C-1.18 (or in a Microsoft Excel compatible format):

- (a) the business' name;
- (b) the business' address (including the city, province and region);
- (c) the function of the business (e.g. manufacturer, trader, exporter);
- (d) the type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise, joint venture, co-operative, FIE or other);
- (e) whether they are a manufacturer of steel shelves;
- (f) the production quantity of steel shelves in the last Financial Year;
- (g) the value of total benefit received annually;
- (h) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (i) the percentage of GOC holdings if GOC is a shareholder; and
- (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

**1.21** For each of the companies listed in spreadsheet C-1.18, provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2016.

**1.22** For each of the companies listed in spreadsheet C-1.18 above that is an SIE, answer the following questions regarding their performance and profits

- (a) How are the operations of the enterprise funded?
- (b) Provide details of any debts or other liabilities the enterprise has with any banks or financial institutions in which the GOC holds an interest.
- (c) How is the performance of the enterprise measured? For example,

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profitability, employment, output, social wellbeing, etc.

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

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

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

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

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

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

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

(i) Over the past 10 years, has the GOC provided any payment or made any injection of funds to the enterprise, including but not limited to:

- grants;
- prizes;
- awards;
- stimulus payments and rescue type payments;
- injected capital funds;
- purchasing of shares.

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

**None of the respondents were SIEs, so this question is not applicable.**

**1.23** For each of the companies listed in spreadsheet C-1.18 above, answer the following questions regarding enterprise functions:

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

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

As indicated in the above responses to questions A2 there are hundreds and thousands of enterprises involved in the production and supply of relevant products identified by this questionnaire. The functions of the enterprises are commercial business, and each as producer/supplier of the products in relation to which they are identified.

Enterprises may perform a significant number of functions. It is not practicable for the GOC to list all of those functions. The Commission may as well ask the GOC to name and alphabetically order every grain of sand in the Gobi desert.

In any event, the GOC can advise that it has not allocated any special or governmental function to any of those enterprises whether they are enterprises with State-investment or not. Government powers are not shared or bestowed or vested on or in commercial entities.

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

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

Further, Article 14 of the law provides:

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

This is the law. It is clear in its intent and operation. SIEs do not exercise government functions.

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

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

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

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

The enterprises may carry out business decision which reflect or are in line with governmental policies. Likewise, governmental policies are often designed to promote

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further economic growth and commercial development which the enterprises/market participants share a common interest in the broad sense. For example, a governmental policy to encourage market competition, or to encourage “innovation”, does not make every business which also engages in market competition or which strives to be innovative an administrator of the government policy.

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

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

**No enterprise functions are considered to be governmental in nature.**

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

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

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

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

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

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

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

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

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

**On the other hand, it is clearly every government’s desire for its policies to be supported and that the goals set out in the policies to be achieved – which is why the policies are issued at the first place. Further, we note that the notion of “governmental interests” is very broad – for example, it is almost every government’s interest to have a crime-free society**

and those persons and companies are certainly required to not commit a crime. It is also a governmental interest to increase revenue by collecting income taxes, and every enterprise is required to pay tax according to tax laws.

Further, the GOC is also not in the position to advise whether enterprises are “in pursuit of” governmental policies or interests. This is because that the GOC cannot and does not interfere with the every-day business operation of enterprises, due to the fact that it is simply not the GOC’s interest or desire, as reflected in the legal principle which requires the separation of government and enterprises. The GOC expects that the majority of, if not all, businesses primarily make decisions based on their own commercial interests and, to that end, will pursue their own goals.

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

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

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

Further, performing social responsibilities by the enterprises may also be in line with government policies or interests. Nowadays, social responsibilities of enterprises are well recognised as a key element of corporate management. For example, please refer to Attachment 31 - OECD Guidelines for Multinational Enterprises. The GOC notes that more and more enterprises in China are willing to undertake social responsibilities as an act of goodwill and to “give back” to the society in which they operate and prosper.

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

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

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

*when conducting business operations, a company shall comply with the laws and administrative regulations, social morality, and business morality. It shall act in*

*good faith, abide the supervision of the government and general public, and bear social responsibilities.*

Please refer to Attachment 5 - Company Law of the People's Republic of China.

*However, these are aspirational provisions and are not enforceable. Chinese companies are free to choose to undertake any type of social responsibility as part of their social participation as a legal person.*

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

As an example, we refer to a brief introduction on the engagement of Airland, a private company in household articles, in social responsibility. Please see Attachment 32 [CONFIDENTIAL ATTACHMENT].

- 1.24 How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 January 2011 to 30 June 2016?
- 1.25 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 1 January 2011 to 30 June 2016? Provide the main reasons why applicants have been rejected.
- 1.26 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

**The following questions relate to Programs 3–25 identified above.**

### **Program 3: Income Tax Benefits for FIEs based on Geographic Location**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

### **Program 5: Income Tax Reduction for High or New Technology Enterprises**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

### **Program 8: Import Tariff and Value-Added Tax (VAT) Reductions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

**Program 10: Tax Rebates Based on Location in Shiqiao Town Industrial Cluster Zone**

None of the respondents in the current investigation are located in Ningbo Municipality, therefore none of them received any benefit under this program.

**Program 13: GOC and Sub-Central Government Subsidies for the Development of Famous Brands and World Top Brands**

The legal basis referred to in the Application, Notice concerning the promulgation of the *'Guiding opinions on supporting the development of famous export brands'* (Shang Mao Fa 2005, No. 124) has been abolished since 2 April 2009.

However, during the period of investigation [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grant] received grants for famous brands from local governments which is similar to this program in [CONFIDENTIAL TEXT DELETED – years]. As these grants are one-off grants from local governments of a similar nature, the GOC provides answers to program specific questions for one of these grants below which was received for two instalments in [CONFIDENTIAL TEXT DELETED – years] respectively.

**1.10** Provide details of the program including the following:

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

To encourage the implementation of a brand strategy and to enhance the county's industrial economic strength.

(b) Legislation under which the subsidy is granted.

*Notice on Disbursing Financial Assistance Fund for Domestic and Foreign Exhibition Participation Expense, Credit Insurance Premium and Famous Brand Exports for 2011 (second group) (Yan Cai Qi [2012] No.258)*

*Notice on Disbursing Financial Assistance Fund for Provincial Famous Brand Exports for 2012 (Yan Cai Qi [2013] No.194)*

(c) Nature or form of the subsidy.

Direct payment.

(d) When the program was established.

April 12, 2012.

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(e) Duration of the program.

**The program was valid from Jan. 1, 2012 till Dec. 31, 2012.**

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

**The People's Government of Haiyan County established this program. The Commercial Bureau of Haiyan County received applications. The People's Government of Haiyan County was responsible to reviewed and approve the applications. The Finance Bureau of Haiyan Country was responsible to disburse the grants.**

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

**The grants are provided to enterprise in Haiyan County which are awarded Famous Brand Product of Zhejiang, Famous Brand for Exports of Zhejiang Province or Famous Trademark of Zhejiang Province. The grant is one-off direct payment.**

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

**The grants are provided to enterprise in Haiyan County which are awarded Famous Brand Product of Zhejiang, Famous Brand for Exports of Zhejiang Province or Famous Trademark of Zhejiang Province.**

**1.11** 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.

**Please refer to:**

- **Attachment 33 - Notice on Disbursing Financial Assistance Fund for Domestic and Foreign Exhibition Participation Expense, Credit Insurance Premium and Famous Brand Exports for 2011 (second group) (Yan Cai Qi [2012] No.258) [CONFIDENTIAL ATTACHMENT].**
- **Attachment 34 - Notice on Disbursing Financial Assistance Fund for Provincial Famous Brand Exports for 2012 (Yan Cai Qi [2013] No.194) [CONFIDENTIAL ATTACHMENT].**

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

**Please refer to Attachment 33 and 34 [CONFIDENTIAL ATTACHMENTS].**

**1.13** Identify the GOC department or agency administering the program.

**The People's Government of Haiyan County established this program. Please see the response to (f) above.**

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

**The local authorities retain the applications and disbursement notices.**

Indicate which of the companies listed in your response to Question A6 applied for, accrued, or received benefits under the program for 1 January 2011 to 30 June 2016.

Provide, on an annual basis by calendar year the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

**During the above period, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grant] received grants from local government in different years but of similar nature. The total amount is [CONFIDENTIAL TEXT DELETED – amount]. The amounts were received in [CONFIDENTIAL TEXT DELETED – years].**

- 1.15** 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).

**The enterprises awarded Famous Brand Product of Zhejiang, Famous Brand for Exports of Zhejiang Province or Famous Trademark of Zhejiang Province submit relevant certificate to Commercial Bureau of Haiyan County with a filled application form.**

**Attachment 35 [CONFIDENTIAL ATTACHMENT] provides a blank copy of application form for this purpose.**

**There are no application fees charged by the authority.**

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

**After receiving an application, the Commerce Bureau of Haiyan County examined the filled application form and relevant certificate. If the application meets the criteria as above mentioned, the Commerce Bureau of Haiyan County will ask for approval of the People's Government of Haiyan County for the disbursement of the grants. If the application does not meet the relevant criteria, the application will be rejected.**

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

**Please refer to Attachment 33 and 34 [CONFIDENTIAL ATTACHMENT].**

- (d) If the application is not approved, provide the disapproval documents

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together with the reasons for disapproval.

**There are only a small number of enterprises in Haiyan County awarded Famous Brand Product of Zhejiang, Famous Brand for Exports of Zhejiang Province or Famous Trademark of Zhejiang Province. The Commerce Bureau of Haiyan has not received any application which did not meet the criteria.**

**1.16** 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.

**All enterprises located in Haiyan County which meet the objective criteria are eligible for the program.**

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

**This program is not limited to particular enterprises.**

**1.17** 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.

**A one-off grant is awarded for each famous brand among Famous Brand Product of Zhejiang, Famous Brand for Exports of Zhejiang Province or Famous Trademark of Zhejiang Province.**

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

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**The official documentation issued by the People's Government of Haiyan County provides relevant criteria relevant to the program. Please refer to Attachments 33 and 34 [CONFIDENTIAL ATTACHMENTS].**

- (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?

**Yes.**

- (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 [CONFIDENTIAL TEXT DELETED – amount] is set by official document issued by the People's Government of Haiyan County.**

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

**There is no need to sign contract between the GOC and the companies under this program.**

**1.18** 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 during the investigation period. Include the following details in the spreadsheet provided as C-1.18 (or in a Microsoft Excel compatible format):

- (a) the business' name;
- (b) the business' address (including the city, province and region);
- (c) the function of the business (e.g. manufacturer, trader, exporter);
- (d) the type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise, joint venture, co-operative, FIE or other);
- (e) whether they are a manufacturer of steel shelves;
- (f) the production quantity of steel shelves in the last Financial Year;
- (g) the value of total benefit received annually;
- (h) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (i) the percentage of GOC holdings if GOC is a shareholder; and

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- (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

**During the above period, [CONFIDENTIAL TEXT DELETED –Recipient(s) of the grants], received grants from local government in different years but of similar nature. The total amount is [CONFIDENTIAL TEXT DELETED – Amount received by the recipient(s)]. The amounts were received in [CONFIDENTIAL TEXT DELETED – years] respectively.**

**This company is not an SIE.**

- 1.19** For each of the companies listed in spreadsheet C-1.18, provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2016.

**The local authorities do not keep such records.**

- 1.20** How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 January 2011 to 30 June 2016?

**During the above period, [CONFIDENTIAL TEXT DELETED –Recipient(s) of the grants] received grants from local government in different years but of similar nature. The total amount [CONFIDENTIAL TEXT DELETED – Amount received by the recipient(s)]. The amounts were received in [CONFIDENTIAL TEXT DELETED – years] respectively.**

- 1.21** 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 1 January 2011 to 30 June 2016? Provide the main reasons why applicants have been rejected.

**The GOC does not have this information.**

- 1.22** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

**The program is valid till Dec. 31, 2014. The last date for the company to apply grants under this program is March. 31, 2015 (usually to apply in the next year). The last date for the company to receive such grants is around June 30, 2015.**

**Program 14: Special Fund for Energy Savings Technology Reform**

**None of the respondents in the current investigation enjoyed any benefit under this**

program.

### **Program 15: International Market Exploration (SME) Fund**

[CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants]. This benefit took the form of a direct payment in [CONFIDENTIAL TEXT DELETED –years]. These grants are one-off payments, however they are similar in nature. Below the GOC provides answer to program specific questions for the grant which is received in [CONFIDENTIAL TEXT DELETED – year].

**1.10** Provide details of the program including the following:

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

**To optimize the foreign trade structure.**

(a) Legislation under which the subsidy is granted.

***Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises (Cai Qi [2010] No.87)***

(b) Nature or form of the subsidy.

**Direct payment.**

(c) When the program was established.

**May 24, 2010.**

(d) Duration of the program.

**The program is valid from May 24, 2010 till April 9, 2014.**

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

**The Ministry of Finance and Ministry of Commerce of China established this program. The Commercial Bureau of Haiyan County receives applications for the program. The Department of Commerce of Zhejiang Province is responsible for reviewing and assessing applications. The Department of Finance of Zhejiang Province is responsible to disburse the grants.**

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

**The grants are provided to small and medium sized enterprises meeting relevant requirements for opening up the international market.**

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

**The grants are provided to small and medium sized enterprises meeting the following requirements:**

- 1. Enterprises registered within the territory of China, which undertake import and export operations or which have been registered and filed as foreign trade dealers, and, which had export volumes of a value of 45,000,000 dollars or less;**
- 2. Having not committed any offenses in the aspects of foreign business and economic operational control, financial management, tax administration, foreign exchange control, and custom supervision in the last two years;**
- 3. Possessing professionals who specialize in international market development, having definite work arrangement and market development plans for developing international markets;**
- 4. No default on financial funds that need to be repaid.**

**The market developing funds are to support: overseas exhibitions, certification of enterprise administrative system, certification of various products; publicity and recommendation to international markets; electronic business; overseas advertisement and trademark registration; the international market investigation; overseas bidding (bid negotiation); enterprise training; acquisition of technology and brands, etc.**

**1.11** 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.

**Please refer to Attachment 36 - Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises (Cai Qi [2010] No.87) [CONFIDENTIAL ATTACHMENT].**

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

**Please refer to Attachment 36 [CONFIDENTIAL ATTACHMENT].**

**1.13** Identify the GOC department or agency administering the program.

**Please refer to (e) above.**

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

**The local authorities retain applications and disbursement notices.**

Indicate which of the companies listed in your response to Question A6 applied

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for, accrued, or received benefits under the program for 1 January 2011 to 30 June 2016.

Provide, on an annual basis by calendar year the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

**During the above period, [CONFIDENTIAL TEXT DELETED – Respondent(s) name] received grants under this program in [CONFIDENTIAL TEXT DELETED – year]. The total amount [CONFIDENTIAL TEXT DELETED – Amount received by the recipient(s)].**

**1.15** 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).

**The enterprises fills an application form in the electronic administration system for the fund under this program with relevant supporting documents, such as contract for exhibition participation, payment proof, expenses list and visa page etc, to Commercial Bureau of Haiyan County for preliminary approval. After the preliminary approval, the application will be filed to Zhejiang Provincial Commerce Department for final approval.**

**Attachment 37 [CONFIDENTIAL ATTACHMENT] provides a blank copy of application form for this purpose.**

**There are no application fees charged by the authority.**

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

**The Commerce Bureau of Haiyan County examines the filled application forms and relevant supporting documents. If the application meets the criteria as set in the Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises (Cai Qi [2010] No.87), the Commerce Bureau of Haiyan County will file the application to Zhejiang Provincial Commerce Department for final approval. If the application does not meet the relevant criteria, the application will be rejected.**

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

**Please refer to Attachment 38 [CONFIDENTIAL ATTACHMENT] for the approval/disbursement notice for the grants to respondent in this investigation.**

**Please refer to our answer to Question 1.10 (h) for the criteria for approval.**

- (d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

**If the criteria were not met, the application will be rejected and returned, without disapproval**

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documents.

**1.16** 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.

**The program is applicable to all small and medium sized enterprises in China which meet the objective criteria.**

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

**This program places no limitation on who can apply, other than the fact they must be small and medium sized enterprises engaging in activities of opening up international markets.**

**1.17** 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.

**This program provides support not exceeding 50% of the amount needed for the supported project.**

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

**Please refer to Attachment 36. [CONFIDENTIAL ATTACHMENT]**

- (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

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administers the program?

**Yes.**

- (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 support amount at 50% of the amount needed for the supported project is set by official document provided in Attachment 3 [CONFIDENTIAL ATTACHMENT].**

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

**There is no need to sign contract between the GOC and the companies under this program.**

**1.18** 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 during the investigation period. Include the following details in the spreadsheet provided as C-1.18 (or in a Microsoft Excel compatible format):

- (a) the business' name;
- (b) the business' address (including the city, province and region);
- (c) the function of the business (e.g. manufacturer, trader, exporter);
- (d) the type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise, joint venture, co-operative, FIE or other);
- (e) whether they are a manufacturer of steel shelves;
- (f) the production quantity of steel shelves in the last Financial Year;
- (g) the value of total benefit received annually;
- (h) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (i) the percentage of GOC holdings if GOC is a shareholder; and
- (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

**During the above period, only one respondent [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] received grants under this program in [CONFIDENTIAL TEXT**

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DELETED – year]. The total amount is [CONFIDENTIAL TEXT DELETED – value].

[CONFIDENTIAL TEXT DELETED –Recipient(s) of the grants] not an SIE.

**1.19** For each of the companies listed in spreadsheet C-1.18, provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2016.

**The local authorities do not keep such records.**

**1.20** How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 January 2011 to 30 June 2016?

**During the above period, among all respondents in this investigation, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] Ltd applied and received grants under this program in [CONFIDENTIAL TEXT DELETED – years].**

**1.21** 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 1 January 2011 to 30 June 2016? Provide the main reasons why applicants have been rejected.

**If the application does not meet the relevant criteria, the application will be rejected.**

**1.22** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

**The program is valid from May 24, 2010 till April 9, 2014. The last date for the company to apply for grants under this program was 28 February of 2014. The last date for the company to receive such grants depends on the approval process at Zhejiang Provincial Department of Commerce.**

**Program 16: Export Assistance/Outward Expansion Grants in Guangdong Province**

**The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.**

**Program 17: Guangdong Province Funds to Support the Adoption of E-Commerce by Foreign Trade Enterprises**

**The GOC does not believe that any of the respondents received a benefit under any program**

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meeting this, or similar, description.

**Program 18: Technology to Improve Trade Research and Development Fund**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

**Program 19: Rental/Purchase Assistance in Ningbo Municipality Yinzhou District Southern Commercial Zone**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

**Program 20: Exhibition Subsidy**

Three respondents, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] received grants under a similar program in [CONFIDENTIAL TEXT DELETED – years] Since all these grants are one-off grants from local governments of a similar nature, the GOC will provide details of the grants which were received during the POI in response to this question.

The GOC understands [CONFIDENTIAL TEXT DELETED – Respondent(s) circumstance].

**1.10** Provide details of the program including the following:

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

To encourage the enterprise to open up markets and to enhance the county's industrial economic strength.

(b) Legislation under which the subsidy is granted.

*Notice of Bureau of Finance of Haiyan County and Bureau of Commerce of Haiyan County on Disbursing Financial Assistance Fund for Domestic and Foreign Exhibition Participation Expense (Yan Cai Qi [2015] No.271)*

(c) Nature or form of the subsidy.

Direct payment.

(d) When the program was established.

April 12, 2012.

(e) Duration of the program.

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**The program is valid from Jan. 1, 2012 till Dec. 31, 2012.**

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

**The People's Government of Haiyan County established this program. The Commercial Bureau of Haiyan County receives applications. The People's Government of Haiyan County is responsible to approve the application. The Finance Bureau of Haiyan County is responsible for disbursing the grants.**

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

**The grants are provided to enterprises in Haiyan County which participated in key foreign exhibitions or domestic exhibitions. The grant is one-off direct payment.**

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

**The grants are provided to enterprise in Haiyan County which participated in key foreign exhibition or domestic exhibitions.**

**1.11** 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.

**Please refer to Attachment 40 - Notice of Bureau of Finance of Haiyan County and Bureau of Commerce of Haiyan County on Disbursing Financial Assistance Fund for Domestic and Foreign Exhibition Participation Expense (Yan Cai Qi [2015] No.271). [CONFIDENTIAL ATTACHMENT]**

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

**Please refer to Attachment 40 [CONFIDENTIAL ATTACHMENT].**

**1.13** Identify the GOC department or agency administering the program.

**Please see the response to (f) above.**

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

**The local authorities retain the applications of enterprise and disbursement notices.**

Indicate which of the companies listed in your response to Question A6 applied for, accrued, or received benefits under the program for 1 January 2011 to 30 June 2016.

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Provide, on an annual basis by calendar year the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

**During the above period, three respondents [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] received grants under this program in [CONFIDENTIAL TEXT DELETED – years] respectively. The total amounts received by each entity were:**

**[CONFIDENTIAL TEXT DELETED – Total amount received by the recipient(s) of the grants] During the POI, these entities received:**

- **[CONFIDENTIAL TEXT DELETED – Total amount received by the recipient(s) of the grants]**

**1.15** 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).

**The enterprises that participated in relevant exhibitions fill application forms and submit the form with relevant supporting materials, including contract for exhibition participation, payment proof, expense list and visa page, to Commercial Bureau of Haiyan County for examination.**

**Attachment 41 [CONFIDENTIAL ATTACHMENT] provides a blank copy of application form for this purpose.**

**There are no application fees charged by the authority.**

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

**After receiving application, the Commerce Bureau of Haiyan County examines the filled application form and the relevant supporting documents. If the application meets the relevant criteria, the Commerce Bureau of Haiyan County will ask for approval of the People's Government of Haiyan County for the disbursement of the grants. If the application does not meet the relevant criteria, the application will be rejected.**

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

**Please refer to Attachment 40 [CONFIDENTIAL ATTACHMENT].**

- (d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

**If the criteria were not met, the application will be rejected and returned, without disapproval documents.**

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**1.16** 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.

**The program is applicable to all enterprises located in Haiyan County which meet the objective criteria.**

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

**This program does not limit the applicant but only provides grants to enterprises that participated in key foreign exhibitions and domestic exhibitions.**

**1.17** 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.

**The booth fee for participating key foreign exhibition and domestic exhibition are provided in full amount. The upper limit for a single enterprise in one year is CNY 200,000.**

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

**Please refer to Attachment 40 [CONFIDENTIAL ATTACHMENT].**

- (a) 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?

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**Yes.**

- (c) 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 support is set by official document issued by the People's Government of Haiyan County.**

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

**There is no need to sign contract between the GOC and the companies under this program.**

**1.18** 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 during the investigation period. Include the following details in the spreadsheet provided as C-1.18 (or in a Microsoft Excel compatible format):

- (a) the business' name;
- (b) the business' address (including the city, province and region);
- (c) the function of the business (e.g. manufacturer, trader, exporter);
- (d) the type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise, joint venture, co-operative, FIE or other);
- (e) whether they are a manufacturer of steel shelves;
- (f) the production quantity of steel shelves in the last Financial Year;
- (g) the value of total benefit received annually;
- (h) if the business is not an SIE, whether it is otherwise associated with the GOC;
- (i) the percentage of GOC holdings if GOC is a shareholder; and
- (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

**During the above period, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] Ltd received grants under this program [CONFIDENTIAL TEXT DELETED – years] respectively. [CONFIDENTIAL TEXT DELETED – Total amount received by the recipient(s) of the grants]**

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**None of these companies is an SIE.**

**1.19** For each of the companies listed in spreadsheet C-1.18, provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2016.

**The local authorities do not keep such records.**

**1.20** How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 January 2011 to 30 June 2016?

**During the above period, three respondents [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] applied and received grants under this program in [CONFIDENTIAL TEXT DELETED – years] respectively.**

**1.21** 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 1 January 2011 to 30 June 2016? Provide the main reasons why applicants have been rejected.

**If the application does not meet the relevant criteria, the application will be rejected.**

**1.22** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

**The program was valid until Dec. 31, 2014. The last date for the company to apply grants under this program was March. 31, 2015. The last date for the company to receive such grants was around June 30, 2015.**

**Program 21: Foreign Trade Bureau Award**

**The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.**

**Program 22: Export Credit Insurance Subsidy**

**Three respondents, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants], received grants under a similar program in [CONFIDENTIAL TEXT DELETED – years].**

**As these grants are one-off grants from local governments of a similar nature, the GOC will provide answer to program specific questions for two of these grants which were received during the POI.**

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**1.10** Provide details of the program including the following:

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

**To encourage enterprises to open up markets and to enhance the county's industrial economic strength.**

(b) Legislation under which the subsidy is granted.

**Notice of Bureau of Finance of Haiyan County and Bureau of Commerce of Haiyan County on Disbursing Financial Assistance Fund for Credit Insurance Premium (Yan Cai Qi [2015] No.270)**

(c) Nature or form of the subsidy.

**Direct payment.**

(d) When the program was established.

**April 12, 2012.**

(e) Duration of the program.

**The program was valid from Jan. 1, 2012 till Dec. 31, 2012.**

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

**The People's Government of Haiyan County established this program. The Commercial Bureau of Haiyan County receives applications. The People's Government of Haiyan County reviews and assesses applications. The Finance Bureau of Haiyan Country is responsible to disburse the grants.**

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

**The grants are provided to enterprise in Haiyan County which participated in short term export credit insurance with the China Export & Credit Insurance Corporation or domestic credit insurance for accounts receivable and paid expense exceeding CNY 20,000.**

**Support is provided at 50% of the total premium with an upper limit of CNY 500,000. The grant is a one-off direct payment.**

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

**The grants are provided to enterprises in Haiyan County which participated in short term export credit insurance with China Export & Credit Insurance Corporation or domestic credit insurance for accounts receivable and paid expense exceeding CNY 20,000.**

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- 1.11 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.

**Attachment 42 provides the Notice of Bureau of Finance of Haiyan County and Bureau of Commerce of Haiyan County on Disbursing Financial Assistance Fund for Credit Insurance Premium (Yan Cai Qi [2015] No.270) [CONFIDENTIAL ATTACHMENT].**

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

**Please refer to Attachment 42 [CONFIDENTIAL ATTACHMENT].**

- 1.13 Identify the GOC department or agency administering the program.

**Please see (f) above.**

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

**The local authorities retain applications and disbursement notices.**

Indicate which of the companies listed in your response to Question A6 applied for, accrued, or received benefits under the program for 1 January 2011 to 30 June 2016.

Provide, on an annual basis by calendar year the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

**During the above period, three respondents, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants] received grants under this program [CONFIDENTIAL TEXT DELETED – years] respectively. The total amounts received were:**

**[CONFIDENTIAL TEXT DELETED – Recipient(s) and total amount received] During the POI, these entities received:**

- **[CONFIDENTIAL TEXT DELETED – Recipient(s) and total amount received]**

- 1.15 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).

**The enterprises which participated in domestic and foreign exhibition filled an application form and submitted the form with relevant supporting materials, including credit insurance**

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contract and premium payment proof, to the Commercial Bureau of Haiyan County for examination.

Attachment 41 [CONFIDENTIAL ATTACHMENT] provides a blank copy of application form for this purpose.

There are no application fees charged by the authority.

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

After receiving application, the Commerce Bureau of Haiyan County examines the filled application form and relevant supporting documents. If the application meets the relevant criteria, the Commerce Bureau of Haiyan County will ask for approval of the People's Government of Haiyan County for the disbursement of the grant. If the application does not meet the relevant criteria, the application will be rejected.

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

Please refer to Attachment 42 [CONFIDENTIAL ATTACHMENT].

- (d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

If the criteria were not met, the application would be rejected and returned, without disapproval documents.

**1.16** 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.

The program is applicable to all enterprises located in Haiyan County which meet the

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**objective criteria.**

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

**This program did not limit the applicant but only provided grants to enterprises that participated in short term export credit insurance with China Export & Credit Insurance Corporation or domestic credit insurance for accounts receivable and paid expenses exceeding CNY 20,000.**

**1.17** 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.

**The grants were provided to enterprises in Haiyan County which participated in short term export credit insurance with China Export & Credit Insurance Corporation or domestic credit insurance for accounts receivable and paid expense exceeding CNY 20,000.**

**Support is provided at 50% of the total premium with an upper limit of CNY 500,000.**

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

**Please refer to Attachment 42 [CONFIDENTIAL ATTACHMENT].**

- (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?

**Yes.**

- (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 support is set by the official document issued by the People's Government of Haiyan County.**

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

**There is no contract between the GOC and the companies under this program.**

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- 1.18** 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 during the investigation period. Include the following details in the spreadsheet provided as C-1.18 (or in a Microsoft Excel compatible format):
- (a) the business' name;
  - (b) the business' address (including the city, province and region);
  - (c) the function of the business (e.g. manufacturer, trader, exporter);
  - (d) the type of business (e.g. State invested enterprise (SIE), Foreign invested enterprise (FIE), private enterprise, joint venture, co-operative, FIE or other);
  - (e) whether they are a manufacturer of steel shelves;
  - (f) the production quantity of steel shelves in the last Financial Year;
  - (g) the value of total benefit received annually;
  - (h) if the business is not an SIE, whether it is otherwise associated with the GOC;
  - (i) the percentage of GOC holdings if GOC is a shareholder; and
  - (j) whether there is GOC representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

**During the above period three respondents, [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants], received grants under this program in [CONFIDENTIAL TEXT DELETED – years] respectively. The total amounts received were:**

- **[CONFIDENTIAL TEXT DELETED – Recipient(s) and total amount received]**

**None of these companies is a SIE.**

- 1.19** For each of the companies listed in spreadsheet C-1.18, provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the years from 1 January 2011 to 30 June 2016.

**The local authorities do not keep a record of this.**

- 1.20** How many companies have applied for benefits under this program in the year the financial assistance or benefit was approved and in each of year from 1 January 2011 to 30 June 2016?

**During the above period, three respondents applied and received grants under this program**

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in [CONFIDENTIAL TEXT DELETED – years] respectively.

These respondents were [CONFIDENTIAL TEXT DELETED – Recipient(s) of the grants]

**1.21** 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 1 January 2011 to 30 June 2016? Provide the main reasons why applicants have been rejected.

Between 2011 and 2014, there were [CONFIDENTIAL TEXT DELETED – number] applications, noting that the same entity may have applied in separate years. The majority of these applications were approved.

If the application does not meet the relevant criteria, the application will be rejected.

**1.22** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The program was valid until 31 December 2014.

The last date for a company to apply for grants under this program was 31 March 2015 (which usually to apply in the next year).

The last date for the company to receive such grants was around 30 June 2015.

### **Program 23: Export Subsidy for High-tech Merchandise**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

### **Program 24: Clean Energy Measure Subsidy**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

### **Program 25: Innovative Growth Grant**

The GOC does not believe that any of the respondents received a benefit under any program meeting this, or similar, description.

**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 knowledge and belief.

7 September 2016



**Signature of authorised official**

**(Mr) Wang Jianfeng**

**Deputy Director  
Bureau of Trade Remedy  
Investigation  
Ministry of Commerce  
People's Republic of China**