



Australian Government
Australian Customs and
Border Protection Service

International Trade Remedies Branch

GOVERNMENT QUESTIONNAIRE - CHINA

PRODUCT CONCERNED: HSS FROM THE PEOPLE'S REPUBLIC
OF CHINA, THE REPUBLIC OF KOREA,
MALAYSIA, TAIWAN AND THE KINGDOM
OF THAILAND

INVESTIGATION PERIOD: 1 JULY 2010 TO 30 JUNE 2011

RESPONSE DUE BY: 7 NOVEMBER 2011

EXTENDED TO 5 DECEMBER 2011

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Please note that a non-confidential version of the reply to this
questionnaire must also be provided.

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TABLE OF CONTENTS

TABLE OF CONTENTS	2
ABBREVIATIONS	4
GLOSSARY OF TERMS	5
SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS	10
SECTION B: GENERAL QUESTIONS	18
SECTION C: PARTICULAR MARKET SITUATION	27
PART C1 - ORGANISATION OF THE GOVERNMENT	29
PART C2 - GENERAL ECONOMIC ACTIVITIES WITH RESPECT TO THE STEEL AND HSS SECTORS	38
PART C3 - THE HSS AND STEEL SECTORS	61
SECTION D: SUBSIDIES	78
PART D1 - GENERAL QUESTIONS	79
1 PROGRAM 1: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WITH FOREIGN INVESTMENT ESTABLISHED IN THE COASTAL ECONOMIC OPEN AREAS AND IN ECONOMIC AND TECHNOLOGICAL DEVELOPMENT ZONES	80
2 PROGRAM 2: ONE-TIME AWARDS TO ENTERPRISES WHOSE PRODUCTS QUALIFY FOR "WELL-KNOWN TRADEMARKS OF CHINA" AND "FAMOUS BRANDS OF CHINA"	88
3 PROGRAM 3: PROVINCIAL SCIENTIFIC DEVELOPMENT PLAN FUND	95
4 PROGRAM 4: EXPORT BRAND DEVELOPMENT FUND	101
5 PROGRAM 5: MATCHING FUNDS FOR INTERNATIONAL MARKET DEVELOPMENT FOR SMALL AND MEDIUM ENTERPRISES	107
6 PROGRAM 6: SUPERSTAR ENTERPRISE GRANT	114
7 PROGRAM 7: RESEARCH & DEVELOPMENT (R&D) ASSISTANCE GRANT	120
8 PROGRAM 8: PATENT AWARD OF GUANGDONG PROVINCE	127
9 PROGRAM 9: TRAINING PROGRAM FOR RURAL SURPLUS LABOUR FORCE TRANSFER EMPLOYMENT	133

NON-CONFIDENTIAL-FOR PUBLIC FILE

10 PROGRAM 10: PREFERENTIAL TAX POLICIES FOR FOREIGN INVESTED ENTERPRISES - REDUCED TAX RATE FOR PRODUCTIVE FOREIGN INVESTED ENTERPRISES SCHEDULED TO OPERATE FOR A PERIOD NOT LESS THAN 10 YEARS	139
11 PROGRAM 11: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WITH FOREIGN INVESTMENT ESTABLISHED IN SPECIAL ECONOMIC ZONES (EXCLUDING SHANGHAI PUDONG AREA).....	146
12 PROGRAM 12: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WITH FOREIGN INVESTMENT ESTABLISHED IN PUDONG AREA OF SHANGHAI	153
13 PROGRAM 13: PREFERENTIAL TAX POLICIES IN THE WESTERN REGIONS EXEMPTION OF TARIFF AND IMPORT VAT FOR IMPORTED TECHNOLOGIES AND EQUIPMENT	160
14 PROGRAM 14: TARIFF AND VAT EXEMPTIONS FOR IMPORTED MATERIALS AND EQUIPMENT REDUCTION IN LAND USE FEES	170
15 PROGRAM 15: INNOVATIVE EXPERIMENTAL ENTERPRISE GRANT	171
16 PROGRAM 16: SPECIAL SUPPORT FOR NON STATE-OWNED ENTERPRISES	178
17 PROGRAM 17: VENTURE INVESTMENT FUND OF HI-TECH INDUSTRY	179
18 PROGRAM 18: GRANTS FOR ENCOURAGING THE ESTABLISHMENT OF HEADQUARTERS AND REGIONAL HEADQUARTERS WITH FOREIGN INVESTMENT.....	185
19 PROGRAM 19: GRANT FOR KEY ENTERPRISES IN EQUIPMENT MANUFACTURING INDUSTRY OF ZHONGSHAN.....	192
20 PROGRAM 20: HOT ROLLED STEEL PROVIDED BY GOVERNMENT AT LESS THAN FAIR VALUE	198
PART D2 – ENTERPRISES WITH STATE INVESTMENT	203
SECTION E - DECLARATION.....	238
LIST OF APPENDICES.....	239
APPENDIX A.....	240
APPENDIX B.....	246
APPENDIX C	249

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ABBREVIATIONS

the Act	the <i>Customs Act 1901</i>
China	the People's Republic of China
CISA	China Iron and Steel Association
CTMS	cost to make and sell
Customs and Border Protection	the Australian Customs and Border Protection Service
EPZ	Export Processing Zones
FIE*	foreign invested enterprise
GOC*	Government of China
the goods	the goods the subject of the application (HSS)
HRC	hot-rolled coil
HRS	hot-rolled steel (both HRC and narrow strip collectively)
HSS	certain hollow structural sections
the investigation period	1 July 2010 to 30 June 2011
Korea	the Republic of Korea
OneSteel ATM	OneSteel Australian Tube Mills Pty Ltd
SASAC	the State-owned Assets Supervision and Administration Commission of the State Council
SEZ*	special economic zone
SOE*	state-owned enterprise
Thailand	the Kingdom of Thailand

*Refer to this questionnaire's Glossary of Terms for a definition.

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GLOSSARY OF TERMS

Throughout this questionnaire, there are certain words and terminology used that require some clarification. The following are their definitions for purposes of this investigation.

Associated Persons and/or Companies

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

(a) both being natural persons:

- (i) they are connected by a blood relationship or by marriage or adoption; or
- (ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;

(b) both being bodies corporate:

- (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
- (ii) both of them together control, directly or indirectly, a third body corporate; or
- (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

(c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or

(d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or

(e) they are members of the same partnership.

Benefit

As further defined in relation to the definition of the term 'subsidy' below, 'benefit' may include:

- a direct transfer of funds;
- the acceptance of liabilities (e.g debts or other liabilities), whether actual or potential, of your enterprise;
- the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) that was otherwise due (e.g. reduced rate of income tax, waiving certain other taxes);
- the provision of goods or services otherwise than in the course of providing normal infrastructure; or
- the purchase of goods

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by any the GOC (at any level), a public body of the GOC, or a private body entrusted by the GOC to carry out GOC functions.

Enterprise

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

Financial Contribution

There is a "financial contribution" by a government where:

- (a) a government practice involves a direct transfer of funds (grants, loans, and equity infusion), potential direct transfer of funds or liabilities (e.g. loan guarantees);
- (b) government revenue that is otherwise foregone or not collected (e.g. fiscal incentives such as tax credits);
- (c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- (d) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (a) to (c) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by the government.

Foreign Invested Enterprise (FIE)

An FIE may be:

1. Chinese-foreign equity joint venture:

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

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

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

2. Chinese-foreign contractual joint venture:

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

3. Wholly foreign owned enterprises:

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

Government of China (GOC)

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

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

Particular market situation

Refers to a situation within the domestic market of exported goods that renders sales within that market of those goods unsuitable for determining normal values under s.269TAC(1) of the Act.

Program(s)

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

In this regard, the term "program" as used in this questionnaire should not be taken to necessarily refer to formal programs maintained by the GOC, nor should it be taken to refer to one specific subsidy. Rather, "program" as used in this questionnaire can refer to informal subsidies provided by the GOC, and can also refer to multiple individual, albeit similar, subsidies.

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Special Economic Zone (SEZ)

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

State Owned Enterprises (SOE)

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

In previous investigations and correspondence, the GOC has advised that the use of the term 'SOE' is declining in China, and that these enterprises are now referred to with terms such as:

- 'enterprises with state investment'
- 'state-owned assets'
- 'state-invested enterprises'
- 'enterprises under the supervision of SASAC'

of which there are several types.

For the purposes of this questionnaire, SOE refers to any and all of the above types of enterprises.

Subsidy

In relation to goods that are exported to Australia, means:

(a) a financial contribution:

- (i) by a government of the country or export or country of origin of those goods; or
- (ii) by a public body of that country or of which government is a member; or
- (iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that is made in connection with the production, manufacture or export of those goods and that involves:

- (iv) a direct transfer of funds from that government or body to the enterprise by whom the goods are produced, manufactured or exported; or
- (v) a direct transfer of funds from that government or body to that enterprise contingent upon particular circumstances occurring; or

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- (vi) the acceptance of liabilities, whether actual or potential, of that enterprise by that government body; or
- (vii) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body by that enterprise; or
- (viii) the provision by that government or body of goods or services to that enterprise otherwise than in the course of providing normal infrastructure; or
- (ix) the purchase by that government or body of goods provided by that enterprise; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement Tariffs and Trade 1994, that is received from such a government or body;

if that financial contribution or income or price support confers a benefit in relation to those goods.

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SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS**1. Background**

The Australian Customs and Border Protection Service (Customs and Border Protection) has initiated:

- an investigation into allegations that certain hollow structural sections (HSS) from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia, Taiwan and the Kingdom of Thailand (Thailand) have been exported to Australia at dumped prices, and because of that dumping, material injury has been caused to an Australian industry producing like goods; and
- an investigation into allegations that countervailable subsidies have been received in respect of HSS exported from China to Australia, and because of that subsidisation, material injury has been caused to an Australian industry producing like goods.

The abovementioned dumping investigation involves allegations that there is a situation within both the domestic Chinese and Thai HSS markets that renders sales within those markets 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 these markets).

2. Product concerned**Description**

The goods the subject of the application (the goods) are:

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21 mm up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556.

The application includes the following information to clarify the nature of the goods.

NON-CONFIDENTIAL-FOR PUBLIC FILE**Finishes**

All HSS regardless of finish is included in the application. Finish types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS. Non-galvanised HSS is typically of painted, black, lacquered or oiled finished coatings.

CHS with other than plain ends (such as threaded, swaged and shouldered) are also included in the application.

Standards

HSS is generally produced to either the British Standard BS 1387 or the Australian Standard AS 1163 or international equivalent standards (including ASTM/JIS and KS). HSS can also be categorised according to minimum yield strength. The most common classifications are 250 and 350 mega Pascals (MPa).

HSS may also be referred to as extra-light, light, medium or extra heavy according to its wall thickness.

Excluded goods

The following categories are excluded from the goods subject of the application:

- conveyor tube (made for high speed idler rolls on conveyor systems, with inner and outer fin protrusions removed by scarfing (not exceeding 0.1 mm on outer surface and 0.25 mm on inner surface), and out of round standards (i.e. ovality) which do not exceed 0.6 mm in order to maintain vibration free rotation and minimum wind noise during operation);
- precision RHS with a nominal thickness of less than 1.6mm (is not used in structural applications); and
- air heater tubes to AS 2556.

Tariff classification

The application stated that the goods are classified to the following tariff subheadings:

- 7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37)
- 7306.61.00 (statistical codes 21, 22 and 23)
- 7306.69.00 (statistical codes 26, 27 and 28)

The goods exported to Australia from Korea and Taiwan are subject to a 5% rate of duty.

For China and Malaysia the goods exported to Australia are subject to a 4% rate of duty.

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The goods exported to Australia from Thailand using Thailand Free Trade Agreement are free from duty as of 1 January 2010.

There are numerous Tariff Concession Orders applicable to the relevant tariff subheadings.

3. Investigation period

The existence and amount of any subsidy and/or dumping in relation to HSS exported to Australia from China will be determined on the basis of an investigation period from 1 July 2010 to 30 June 2011 (hereinafter referred to as 'the investigation period').

In order to permit the allocation of certain types of subsidy to the investigation period, information relating to earlier periods is also requested in certain sections of this questionnaire.

Customs and Border Protection will examine details of the Australian market from 1 July 2007 for injury analysis purposes.

4. Purpose of this questionnaire

The purpose of this questionnaire is to assist Customs and Border Protection to obtain the information from the Government of China (GOC) it considers necessary for:

- a. investigating the allegation that there is a particular market situation in the domestic market for HSS in China; and
- b. the countervailing investigation generally.

Please note that the subsidy/countervailing sections of this questionnaire focus on 20 identified programs that Customs and Border Protection is specifically investigating at this stage. However, Customs and Border Protection 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 (relating to either the investigation into alleged countervailable subsidies, or a particular market situation in China) will be posed to the GOC in the form of supplementary questionnaires.

A separate questionnaire will be sent to identified Chinese exporters of HSS that chose to cooperate with the investigation. This exporter questionnaire also has a section requesting information on subsidies and market situation.

5. Response to this questionnaire

The GOC does not have to complete the questionnaire.

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However, if the GOC does not respond Customs and Border Protection may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry – the applicant for anti-dumping and countervailing measures).

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

If the GOC chooses to respond to this questionnaire, the response is due by **COB 2 November 2011**.

The GOC notes that it was granted an extension to lodge its GQ response to 5 December 2011.

6. If you decide to respond

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

Confidential and non-confidential versions

If the GOC chooses to respond to this questionnaire, you are required to lodge a confidential and a non-confidential version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either "**IN-CONFIDENCE**" or "**NON-CONFIDENTIAL**" in the header and footer.

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

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

Declaration

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

Coordination of responses

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

However, it is the responsibility of the GOC to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of government, agencies and/or other applicable entities are collated and coordinated in the one response.

Consultants/parties acting on your behalf

If you intend to have another party acting on your behalf please advise Customs and Border Protection of the relevant details.

Customs and Border Protection will generally require a written authorisation from the GOC for any party acting on its behalf.

As per the previously provided written authorisation, Moulis Legal acts on behalf of the GOC in this matter, assisted by Grandall Law Firm of Beijing, China.

Provision of documents

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

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

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

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

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

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

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Customs and Border Protection recognises that, in previous responses to questionnaires, the GOC has provided numerous responses to questions and requested documents. It is noted that some of these questions are again posed, and documents requested again within this questionnaire.

This is in the interest of ensuring that the GOC's response to this questionnaire in relation to the current investigation is up-to-date and that all information from the GOC considered relevant to the current can be easily identified.

Where responses to specific questions and/or requested documents have previously been provided, and the GOC's response remains unaltered from previous responses or the previously-provided documents remain unaltered and current (noting where certain documents have been replaced or superseded, provide these documents instead), the GOC may make reference to previous responses to questionnaires provided to Customs and Border Protection where considered appropriate.

If the GOC chooses to reference previous questionnaire responses, ensure these references are clear and consistent throughout your response.

Lodgement

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

Alternatively you are welcome to lodge your response by email. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email you are still required to provide a confidential and a non-confidential version of your submission by the due date.

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

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,¹ even where not specifically requested in this questionnaire;

¹ This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes

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

Please note that references throughout this questionnaire to companies benefiting from a particular program should be read as including any parent and otherwise associated companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

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 Customs and Border Protection 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.

7. Clarification

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

8. Future questions and verification

Customs and Border Protection may seek to carry out a visit to the GOC to examine relevant records and to verify the information provided. It is common practice for Customs and Border Protection officers to visit government officials, exporters and manufacturer(s) of the subject goods in order to verify the information submitted. You will be contacted in advance of such a meeting to make arrangements as to the time and place of the verification meeting.

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

If such a verification is undertaken, it is preferable that the key government officials involved in preparing the response and who have knowledge of the source documentation and the information contained therein be available to meet with Customs and Border Protection officers and to provide additional clarification and explanation, as required.

mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

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If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOC, the assessment of a particular market situation and the assessment as to the receipt and/or countervailability of subsidy programs may be based on the facts available to Customs and Border Protection.

The purpose of the verification meeting is to verify information already provided to Customs and Border Protection in your submission prior to the meeting. It is not intended to be a second opportunity for the GOC to provide new or additional information. Accordingly, your original response should be complete and accurate.

SECTION B: GENERAL QUESTIONS

- B1** 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) Customs and Border Protection can contact in respect of any further inquiries Customs and Border Protection may have concerning the questionnaire response and to arrange any verification visits Customs and Border Protection may request.

The relevant contact persons within the GOC for the purposes of this investigation are as follows:

(Madam) Wu Dan
Bureau of Fair Trade
MOFCOM
Tel: 86-10-65198435
email: wudan@mofcom.gov.cn

However for the purposes of further inquiries and to arrange verification interests please contact Daniel Moulis and Alistair Bridges of Moulis Legal, in the first instance.

- B2** Describe the nature and structure of:

- (i) the HSS industry and market sector in China;
- (ii) the hot rolled steel (HRS – both HRC and narrow strip) industry and market sector in China.

Without limiting your response, include information concerning:

- the total size (value and quantity) of these industries for the period 1 July 2006 – 30 June 2011, indicating:
 - domestic production by type of enterprise (e.g. state-owned, foreign invested, domestic private)
 - total imports (including source of imports)
 - total exports
 - the identity of key domestic manufacturers

In the case of the HRS industry, please split this data to display separate information for HRC and narrow strip.

- growth indications;
- the extent of vertical integration in the industries;
- the extent of the reliance on imported steel and steel raw materials (including upstream raw materials such as coal); and

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- government involvement at each level of the industry including the extent of any restrictions, quotas or limits on the production volumes of these industries.

The GOC has investigated the information and data available to it, and has questioned relevant industry associations in order to do its best to answer this question as clearly and accurately as possible.

As already stated, the GOC's inquiries reveal that in China there is no exact counterpart to Australian Customs' liberal description of hollow structural section ("HSS"). In responding to this question, the GOC uses the term of "HSS" and its closest Chinese counterpart concept "welded pipe" interchangeably

In China, the vast majority of welded pipes are manufactured by non State-invested enterprises ("non-SOEs"). As illustrated by the following table, provided by the National Statistics Bureau of China ("NSB") the production of welded pipes by non-SOEs, including foreign controlled companies was about [CONFIDENTIAL TEXT DELETED] of the total:

Ownership Type of Above-Scale Welded Pipe Producers for 2010	Production(MT)	%
State-controlled company/enterprises	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
Collective-controlled companies	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
Private capital-controlled companies	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
Hong Kong, Macao or Taiwan capital-controlled companies	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
Foreign capital-controlled companies	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
Other capital-controlled companies	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]
TOTAL	[CONFIDENTIAL TEXT DELETED]	[CONFIDENTIAL TEXT DELETED]

(Information Source: National Statistics Bureau of China)

The welded pipe products are sold in the domestic market as well as in overseas markets. According to statistics maintained by NSB and by the General Administration of Customs, the

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total output of welded pipe in China in during the POI was [CONFIDENTIAL TEXT DELETED] and the export volume was [CONFIDENTIAL TEXT DELETED]

No government departments, agencies or offices, trade associations or chambers of commerce are involved in a company's decision-making process with respect to production, marketing or sale of the subject goods. There are no restrictions, quotas, limits on production volume or any state set or administrative guidance or controls on selling prices in the domestic or export markets for the subject goods. The structure of the welded pipes sector in China is marked by the following significant characteristics:

(a) Size and output

According to the data from the NSB and General Administration of Customs, there are around [CONFIDENTIAL TEXT DELETED] welded pipe producers in China (noting that NSB only accounts for above-scale enterprises, ie those having a value of production above RMB 5 million). During the investigation period, the domestic output of welded pipe was [CONFIDENTIAL TEXT DELETED] the import volume was [CONFIDENTIAL TEXT DELETED] and the export volume was [CONFIDENTIAL TEXT DELETED]

(b) Growth indications

According to the statistics of NSB and General Administration of Customs, the production output of welded pipe increased by [CONFIDENTIAL TEXT DELETED] for the POI, compared to that for the period from July 2009 to June 2010. The export volume of welded pipe for the POI increased by [CONFIDENTIAL TEXT DELETED] compared to that for the period from July 2009 to June 2010. The import volume [CONFIDENTIAL TEXT DELETED] for the POI, compared to that for the period from July 2009 to June 2010.

(c) Vertical integration

The level of downward vertical integration by HRS producers in China's HSS industry is fairly low. The welded pipe sector is not particularly capital intensive, and over recent years has been marked by the entry of many new private entrepreneurs, either through FIE structures or domestically invested enterprises.

(d) Extent of reliance on imported HRS

Based on the import of hot rolled steel for the POI and the production output of welded pipe, the GOC advises that the imported hot roll steel stands for [CONFIDENTIAL TEXT DELETED] of total HRS production, and [CONFIDENTIAL TEXT DELETED] of total production of welded pipe. In addition, according to the Chinese Customs, during 2010 China imported around [CONFIDENTIAL TEXT DELETED] of iron ore, while according to the Statistical Bureau, the total pig iron production during 2010 was about [CONFIDENTIAL TEXT DELETED].

(e) Extent of government involvement at each level of this industry

The GOC advises that the extent of government "involvement" in the HSS industry is very low. The HSS industry is subject to normal regulation in the form of corporate registration, pricing mechanism (observance of market pricing and competition laws), environmental and safety supervision and land planning, and the application of other general laws. The GOC does not have an involvement in the industry, in terms of control, financial support or profit-seeking. The rapid development of the industry in recent years has been driven by

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private sector investment, both domestic and foreign. The day-to-day business activities of enterprises within this industry do not call for any government intervention, and are not subject to such intervention. Business decisions such as those involving the establishment of new facilities, the purchase of raw materials, price setting and marketing strategies are within the discretion of individual companies motivated by financial gain. For more specific information, please refer to our responses to Section D.

(f) Other GOC comments

The GOC would describe the level of competition amongst HSS producers as very intense. There are minimum market entry barriers, and the market is highly contestable. The high number of welded pipe producers in China, manufacturing HSS products of different specifications and in different ranges for the many different applications of such pipes, results in a high level of fragmentation, segmentation and specialisation. Small companies can involve themselves in production and sale of specialised products, and can trade in local and regional markets in order to gain distribution advantages over other manufacturers.

To maintain safety and construction standards, the production of some pipes is subject to production licensing requirements under the supervision of the General Administration of Quality Supervision, Inspection and Quarantine of the PRC. The issuing of production licences in these cases is based entirely on compliance with facility and employees safety standards, and is unrelated to market dynamics.

The GOC submits that the welded pipe sector is closely connected to the international market, and operates as an integral part of world supply and demand. Prices paid for products and services in the HSS sector are determined by individual buyers and sellers in the market place. In price negotiation, parties will take into account supply, demand, availability, quality, reliability of service, time of delivery, and other contractual terms. Prices on these markets are not subject to government controls. Furthermore, HSS faces competition from other pipes, such as plastic pipe and cast iron pipes, and accordingly HSS prices are also impacted by competition from these substitutable products.

It also must not be forgotten that the steel which is used to manufacture HSS is also subject to strong domestic competition, and that the major raw material in steel – iron ore – is mostly imported into China.

- B3** Provide a list of all Chinese HSS producers and/or exporters that have produced and/or exported HSS destined for Australia during the investigation period. If possible, please provide this listing in Microsoft Excel format.

This listing will be referred to as 'your response to Question B3' throughout this questionnaire.

Within this list, indicate the following:

- the business' address (including the city/town and province);
- whether the business is a producer, producer/exporter or trader of HSS;

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- the ownership structure of the business, including indirect ownership through associated companies (i.e. SOE, private, co-operative, FIE or joint venture); and
- if the business is not an SOE, whether it is otherwise associated with the GOC.

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

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

The HSS industry is diverse and geographically expansive. Unfortunately, the GOC does not collect and cannot provide the comprehensive information sought by Australian Customs in this regard.

The GOC refers to its letter to Australian Customs of 17 November 2011. The information provided below is the information that the GOC could reasonably gather, in light of the records which are maintained and the time available.

Please refer to:

- (a) **Attachment 1** – Top 50 HSS Producers: **[CONFIDENTIAL ATTACHMENT]**
- (b) **Attachment 2** – Top 11 HSS Exporters: **[CONFIDENTIAL ATTACHMENT]**
- (c) **Attachment 3** – Provisions Concerning the Classification of Enterprise Registration Types; and
- (d) **Attachment 4** – Administration Regulation concerning Corporate Legal Person Registration.

B4 Provide a list of all manufacturers/producers of HRS² (either in the form of hot-rolled coil (HRC) or narrow strip) in China that produced HRS during the investigation period. If possible, please provide this listing in Microsoft Excel format.

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

Within this list, indicate the following:

- the business' address (including the city/town and province);

² Throughout this questionnaire, 'HRS' or hot-rolled strip has been used to collectively refer to HRC and narrow strip steel.

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- the ownership structure of the business, including indirect ownership through associated companies (i.e. SOE, private, co-operative, FIE or joint venture);
- if the business is not an SOE, whether it is otherwise associated with the GOC;
- whether the entity produces HRC, narrow strip, or both.

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

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

Like the HSS industry, the "HRS" industry is diverse and geographically expansive. The comprehensive amount of information sought by Australian Customs is not collected by the GOC and cannot be provided for the purposes of this investigation.

The GOC refers to its letter to Australian Customs of 17 November 2011. The information that the GOC has provided is what it could reasonably be expected to gather, in light of the records which are maintained and the time available.

Please refer to **Attachment 5** – List of main HRS suppliers. **[CONFIDENTIAL ATTACHMENT]**

B5 It is Customs and Border Protection'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).

Customs and Border Protection notes it has observed these areas identified by various names, including special economic zones (SEZs), hi-tech zones and export processing zones (EPZ).

Provide:

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

Generally, there are six types of National "zones" in China:

- (a) National Economic and Technological Development Zone
- (b) National Hi-Tech Zone;

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- (c) National Bonded Zone;
- (d) National Border Economic Cooperation Zone;
- (e) National Export Processing Zone; and
- (f) other national zones

Please refer to **Attachment 6 – List of Various National “Zones”**. In this Attachment the GOC provides lists of national “zones” in the provinces where the respondent enterprises are located, to the best of the GOC’s knowledge. The GOC notes that there is nothing unusual about having Zones dedicated to business activities and that no inference of preferential treatment can be drawn simply from the existence of such a zone or its name. The GOC notes that zones which are promoted for certain business uses are commonplace. The GOC refers Australian Customs to:

- the Australian Technology Park, an area wholly owned by the New South Wales Government’s Redfern Waterloo Authority (<http://www.atp.com.au/>);
- the Technology Park Bentley, which is administered by the Department of Commerce of the Western Australian Government (<http://www.techparkwa.org.au/index.shtml>); and
- to the Fern Hill Technology Park, in Canberra, where land use is controlled by Commonwealth/ACT Government lease purpose clauses.

No inference of the application of preferential policies amounting to subsidies can be drawn from the mere existence of these government-owned and government-promoted technology parks.

Similarly for China, the GOC would like to point out that the existence of a “Zone”, and the presence of an HSS producer in that Zone, does not mean that differential or preferential treatment will exist for it or for other entities which operate within that Zone. The GOC refers Australian Customs to its responses in Section D in relation to Programs 1, 10, 11 and 12 in relation to “benefits” which may have been derived from the location of a producer in Zones.

B6 Are any of the entities listed in your response to Question B3 or your response to Question B4 located in an area, zone or other region listed in your response to B5 above? If so identify which entities and which particular zone or area the entity is located in.

The best of the GOC’s knowledge, the following HSS exporters are located in one or other of the Zones listed in **Attachment 6**:

[CONFIDENTIAL TEXT DELETED]

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- B7** Provide the names and addresses of all national, provincial and regional producer organisations that represent the interests of HSS and HRS manufacturers and traders in China.

The GOC advises that the producer organisation representing the industry at the national level is the China Iron & Steel Association ("CISA"). CISA is a non-profit, independent, self-governed organisation comprising industry members nationwide.

The main responsibilities of the CISA are to provide consultancy services to its members and to promote fair competition in the market place and the sound development of the wider iron and steel industry.

The GOC wishes to indicate that CISA is not a government authority; does not belong to any government instrumentalities; and is not answerable to any government instrumentalities.

Organisation: China Iron & Steel Association
Address: 46 West Dongsu Street, Beijing

The GOC does not have a list of producer organisations which might have been established at the provincial level.

- B8** Provide total volume and value of the following (sourced from official government statistics) for the period **1 July 2006 to 30 June 2011**, in domestic currency and Australian dollars.

Indicate the source of the information.

- (a) Exports of HSS to Australia
- (b) Exports of HSS to Australia, by company.
- (c) All exports of coke, coal and iron ore
- (d) All imports of coke, coal and iron ore

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 7 – Import/Export Data of HSS and other products**. [CONFIDENTIAL ATTACHMENT]

- B9** Specify and provide supporting documentation for the standard corporate tax rate during the investigation period for:

- (a) companies that manufacture HSS;
- (b) companies that trade in HSS;
- (c) companies that manufacture HRS;
- (d) companies that trade in HRS.

The GOC advises that there is no differential tax treatment between companies which produce HSS or HRS or trade in HSS or HRS. Indeed the standard corporate tax rate is the

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same between companies of any nature. As in Australia, China has a flat corporate tax rate. The standard corporate tax rate in China is 25 per cent.

Please refer to **Attachment 8** – Enterprise Income Tax Law.

B10 Specify and provide supporting documentation for the corporate tax rates applicable in all provincial or local jurisdictions in China for those types of companies listed in (a) to (d) of Question B9 above.

Please refer to the GOC's response to Question B9 above.

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SECTION C: PARTICULAR MARKET SITUATION

The applicants claim that a 'particular market situation' exists in respect of HSS from China due to government influence on both the prices of the goods and the major raw material inputs (HRC and/or narrow strip – collectively referred to as hot rolled steel or HRS) used in the manufacture of the goods.

Information requested in this section will assist Customs and Border Protection in assessing these claims.

The GOC notes the operation of the *Customs Act 1901* in relation to "market situation".

According to Section 269TAC(1) the normal value of goods is:

...the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

Under Section 269TAC(2)(a)(ii), the Minister must use the "price paid or payable for goods" in China to determine the normal value of the like exported goods, unless the Minister is satisfied 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 that in Australian Customs' previous investigation concerning aluminium extrusions exported from the People's Republic of China, Australian Customs came to a preliminary affirmative determination that a "particular market situation" existed based on the alleged "intervention" of the GOC in the market for primary aluminium. This finding was correctly abandoned before the final determination was made.

However Australian Customs instead found that the costs of primary aluminium did not reflect "competitive market" costs for the purposes of Regulation 180 of the *Customs*

Regulations. 1926 on the basis of:

The degree to which the Government of China (GOC) was willing to intervene in the domestic aluminium market...

At the outset the GOC would like to emphasise that it does not "intervene" in the domestic steel or HSS markets in ways which are different to any other government in the world. That GOC policies might have an impact on the market for HSS should not be sufficient to render the sales in that market as "unsuitable" for the investigation, nor that steel prices are not "competitive" in terms of Regulation 180.

The GOC is aware of many Australian Government policies which have direct and meaningful impacts on the Australian economy, including:

- (a) Carbon Pricing Mechanism - this scheme, in its current form places a price of AUD23

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per tonne on carbon produced by the "Top 500" carbon emitters. The goal of a carbon pricing mechanism such as this is to include the price of a negative externality (pollution) in the cost of production. This cost is then passed on to consumers throughout the Australian economy. The scheme is therefore a "government intervention", writ large, designed to change industry behaviour and consumer and producer purchasing habits..

- (b) Steel Transformation Plan – this plan is related to the legislation for the Carbon Pricing Mechanism, although it is stated that the Steel Transformation Plan has been initiated to assist the industry with factors "other than the carbon price" (see **Attachment 9**). Under the plan Australian industry will be provided \$300 million over four years.
- (c) Automotive Competitiveness and Investment Scheme, Automotive Transformation Scheme and the "green car innovation fund – these schemes are targeted at Australian automobile producers.
- (d) Certain Inputs to Manufacture Scheme - this scheme seeks to "improve the competitiveness of Australian industry by providing import duty concessions on certain imported raw materials, and intermediate goods such as plastics, or paper goods". In so doing the Australian Government is favouring aspects of the "Australian industry" over other Australian importers, thus distorting the Australian market.

We do not imagine that these interventions are thought to be such as to render the markets to which they apply as being "unsuitable" or the prices which arise in the markets to which they relate as being other than "competitive". The GOC does not make any such allegations against them at this time, as they appear to be examples of ways that the Australian Government wishes to pursue Australia's environmental goals, industry development and other social policy.

Investigations in other countries, and the recent aluminium extrusions investigation in Australia, have interpreted China's social and environmental policies, and the means by which they are pursued, in a negative and unfavourable light for anti-dumping and countervailing purposes. The GOC submits that this is both incorrect and unfair. The GOC can think of no reasonable characteristic for such differentiations to be made between the GOC's policies and the way in which they are carried out, and those of the Australian Government.

The GOC submits that Australian Customs should not and cannot find that prices of HSS are "unsuitable" or that the steel used to manufacture HSS is not "competitive", on the basis of the GOC's laws and policies. If it does so, then all markets around the world, including those in Australia, would run the risk of being similarly categorized. The GOC does not believe that this can be the case, and respectfully requests that Australian Customs follows logic in this matter and finds that there is no particular market situation in the market for HSS and that

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costs of manufacturing HSS are competitive market costs.

PART C1 - ORGANISATION OF THE GOVERNMENT

At all levels of government (central, provincial, regional, municipal, SEZ, etc.) identify the names of the government departments, bureaus or agencies that are responsible for the administration of any GOC measures concerning the HSS and steel sectors.

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

The GOC does not have any central government agency that is exclusively assigned the task of administering "measures" concerning either the HSS or the steel industry.

The GOC wishes to draw Australian Customs' attention to the fact that local government authorities are not exclusively dedicated to the administration of "measures concerning the steel industry" either.

In this context, the GOC submits that Articles 3.4 and 110.2 of the *Constitution of China* **Attachment 10** are relevant.

Article 3.4 states:

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

Article 110.2 states:

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

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

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

Include information relating to the following areas:

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- supervision of steel SOE senior management and administration;

With respect, the GOC does not understand this question. The GOC, as a whole, supervises all entities, both real and legal, within China, to ensure they comply with the laws of China. This is true of every government.

If Australian Customs is specifically referring to the Board of Supervisors which are sometimes appointed within State-invested enterprises, then the GOC respectfully requests that attention be paid to the GOC's responses in Section D of this questionnaire.

There are no agencies whose specific role it is to supervise the senior management and administration of State-invested enterprises. The GOC notes that wholly-owned enterprises (the term "enterprise" is used in the specific legal sense, not in the all-inclusive sense of the definition of SOE provided by Australian Customs) will have a Board of Supervisors appointed by SASAC or other capital contributor.

Such Boards of Supervisors are not required to be made up of GOC officials and cannot be said to be a department, bureau or agency of the GOC. Their interest and involvement in the affairs of the company to which they are appointed to is delineated by company rules and by law.

- consolidation of domestic steel producers;

The GOC thinks it is likely that Australian Customs is referring to the text of Article 11 of the National Steel Policy. Greater explanation of Article 11 of the National Steel Policy is provided in response to Question C2.9(r), however for the sake of this answer the GOC would like to emphasise that it is not involved in the consolidation of domestic steel producers.

- industrial policy and guidance on the HSS and steel sectors;

Central Government

Department:	National Development and Reform Commission ("NDRC")
Mailing address:	38 South Yuetan Street, Xicheng District, Beijing 100824
Phone number:	86-10-6850 1428
Fax number:	86-10-6850 2999
Department:	Ministry of Industry and Information Technology ("MIIT")
Mailing address:	13 West Changan Street, Xicheng District, Beijing 100804
Phone number:	86-10-6601 1228
Fax number:	86-10-6601 1228

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Provincial Government Authorities

Department: Hebei Province Development and Reform Commission

Mailing address: 55 Zhiqiang Road, Shijiazhuang 050011

Phone number: 86-311-8860 0017

Fax number: 86-311-8860 0017

Department: Zhejiang Province Development and Reform Commission

Mailing address: First Floor, Provincial Government Building of Hangzhou 310025

Phone number: 86-571-8705 2543

Fax number: 86-571-8705 2507

Department: Shandong Province Development and Reform Commission

Mailing address: 1 Shen Fu Qian Street, Jinan 250011

Phone number: 86-531-869 15719

Fax number: 86-531-8691 5719

Department: Liaoning Province Development and Reform Commission

Mailing address: 45-2 Beiling Street, Huanggu Street, Shenyang, Liaoning 110032

Phone number: 86-24-8689 3851

Fax number: 86-24-8689 3567

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

MIIT is a central government agency with the general responsibilities of drafting and coordinating the implementation of industry policy and of industrial blueprints; proposing and optimising the industrial location and structure; and introducing appropriate consultation and approval processes and instruments.

- market entry criteria for the HSS and steel sectors

Central Government

Department: NDRC

Mailing address: 38 South Yuetan Street, Xicheng District, Beijing 100824

Phone number: 86-10-6850 1428

Fax number: 86-10-6850 2999

Department: MIIT

Mailing address: 13 West Changan Street, Xicheng District, Beijing 100804

Phone number: 86-10-6601 1228

Fax number: 86-10-6601 1228

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

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

The GOC does not set up "market entry criteria" for the steel industry. Investment plans are subjected to an approval process, which is unrelated to market intervention, for the same reasons and with the same objectives that a government has in any other country when assessing major industrial investment.

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

How this is done is by way of a process of examination and approval by NDRC/MIIT, or local branches, or by recording (without requiring approval). Whether there is a requirement to consult with NDRC/MIIT in one of these ways depends on the size and significance of the project concerned, and how it is financed. For example entirely privately financed proposals may be recorded only

The proponent company will inform NDRC/MIIT of matters relating to its overall plan, including the proponent's company profile; the construction site and land use plan; an analysis of resource consumption; a social economic analysis; an environmental impact statement; etc. This information will be considered in order for NDRC to then indicate whether the plan can go ahead.

Once a regulatory approval has been obtained, the proponent is then in a position to proceed with individual projects within its plan. Further approvals for carrying out individual projects are not required from NDRC/MIIT. At the plan and project implementation level the proponent will be required to obtain its own regulatory approvals, enter into its financial commitments, and move to the detailed roll out and construction of its project, and its integration into the infrastructure of the locality in which it is situated.

- environmental enforcement for the HSS and steel sectors;

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Central Government

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

Responsibilities: MEP is responsible for China's environment protection administration. It does not specifically promote or regulate the steel industry. The industry is subject to the general application of environmental laws, regulations and policies.

Provincial/Municipal Government Authorities

Department: Tianjin Municipal Environmental Protection Administration Bureau
 Mailing address: 17 Fukang Road, Nankai District, Tianjin 300191
 Phone number: 86-22-2305 1500
 Fax number: 86-22-2305 1500

Department: Hebei Province Environmental Protection Administration Bureau
 Mailing address: 106 West Yuhua Road, Shijiazhuang 050051
 Phone number: 86-311-8790 8300
 Fax number: 86-311-8790 8300

Department: Zhejiang Province Environmental Protection Administration Bureau
 Mailing address: 306 Wenyi Road, Hangzhou City, Zhejiang Province 310012
 Phone number: 86-571-2886 9114
 Fax number: 86-571-2886 9161

Department: Shandong Province Environmental Protection Admin Bureau
 Mailing address: 12 Zhijingshi Street, Jinan 250012
 Phone number: 86-531-8610 6112
 Fax number: 86-531-8610 6112

Department: Beijing Municipal Environmental Protection Administration
 Mailing address: 14, West Chegongzhuang Road, Haidian District, Beijing 100044
 Phone number: 86-10-6846 1267
 Fax number: 86-10-6841 3836

Department: Shanghai Municipal Environmental Protection Administration
 Mailing address: 100 Dagu Road, Shanghai 200003
 Phone number: 86-21-2311 5605
 Fax number: 86-21-6355 5603

Department: Liaoning Province Environmental Protection Administration
 Mailing address: 34 East Chongshan Road, Yuhong District, Shenyang 110033

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Phone number:	86-24-8662 5021
Fax number:	86-24-8662 5021

- management of land utilization;

Central Government

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

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

Provincial/Municipal Government Authorities

Department: Tianjin Municipal Land, Resources and Building Admin Bureau
 Mailing address: 84 Qvfu Road, Heping District, Tianjin 300042
 Phone number: 86-21-2319 1884
 Fax number: 86-21-2319 1884

Department: Hebei Province Office of Land and Resources
 Mailing address: 80 Hongqi Avenue, Shijiazhuang 050051
 Phone number: 86-311- 8399 0746
 Fax number: 86-311- 8399 0746

Department: Zhejiang Province Office of Land and Resources
 Mailing address: 118 Xixi Road, Hangzhou 310007
 Phone number: 86-571-8705 6408

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

Department: Beijing Municipal Office of Land and Resources
 Mailing address: 2 North Hepingli Street, Dongcheng District, Beijing 100013
 Phone number: 86-10-6440 9669
 Fax number: 86-10-6440 9999

Department: Shanghai Municipal Office of Land and Resources
 Mailing address: 99 West Beijing Road, Shanghai 200003
 Phone number: 86-21-6319 3188
 Fax number: 86-21-6319 3137

Department: Liaoning Province Office of Land and Resources

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Mailing address: 29 Beiling Street, Huanggu District, Shenyang 110032
 Phone number: 86-24-8686 0237

- the China Banking Regulatory Commission for the HSS and steel sectors;

Central Government

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

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

- investigation and inspection of steel facilities;

Central/Provincial/Municipal Government Authorities

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

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

- the section in the National Development and Reform Commission that is responsible for steel;

Central Government

Department: Industrial Department, NDRC
 Mailing address: 38 South Yuetan Street, Xicheng District, Beijing 100824
 Phone number: 86-10-6850 1428
 Fax number: 86-10-6850 2999
 Department: MIIT
 Mailing address: 13 West Changan Street, Xicheng District, Beijing 100804

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Phone number: 86-10-6601 1228

Fax number: 86-10-6601 1228

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

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

The policy situation in the GOC is consistently becoming more streamlined and sophisticated in its operation. Quite properly, and accurately, Australia has recognised China's market economy status, in both political and legal terms. China's process of liberalisation and modernisation is continuing. Unfavourable findings by other investigating authorities in countervailing cases similar to this have been based on policies and laws which are prejudicial towards Chinese exporters, and are very different to those of Australia. Adverse "facts" available have been employed in those findings. Moreover, the situation in China is rapidly changing, and information relied upon in old investigations quickly becomes outdated and irrelevant.

Provincial/Municipal Government Authorities

The GOC notes that the shift of responsibilities from NDRC to MIIT is not yet reflected at the provincial levels, however the process is ongoing.

Department: Tianjin Municipal Development and Reform Commission

Mailing address: 157 North Dagou Road, Tianjin 300040

Phone number: 86-22-2314 2195

Fax number: 86-22-2314 2195

Department: Hebei Province Development and Reform Commission

Mailing address: 55 Zhiqiang Road, Shijiazhuang 050011

Phone number: 86-311-8860 0017

Fax number: 86-311-8860 0017

Department: Zhejiang Province Development and Reform Commission

Mailing address: First Floor, Provincial Government Building of Hangzhou 310025

Phone number: 86-571-87052543

Fax number: 86-571-87052507

Department: Shandong Province Development and Reform Commission

Mailing address: 1 Shen Fu Qian Street, Jinan 250011

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Phone number:	86-531-86915719
Fax number:	86-531-86915719

- import licensing for raw materials used in steel sectors;

Central Government

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

Responsibilities: administration of import licensing for raw materials such as iron ore (noting that iron ore is automatically licensed for entry).

Provincial/Municipal Government Authorities

Import licensing is centrally administered by the Department of Foreign Trade of the Ministry of Commerce ("MOFCOM"). Regional or local governments have no role in this aspect.

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

Local Government Authorities

There is no export licensing of steel exports. For the purpose of collecting macro-level statistics, there is a framework in place for reporting on exports for statistical purposes.

Statistical collection of information in this way neither limits quantity nor does it influence steel prices. The legal status or qualification of companies to export is not examined in this process.

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

- taxation - especially changes to export taxes and export tax rebates.

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

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Administration of Taxation ("SAT") and are seen as local branches of the SAT.

The local taxation system has no vertical reporting relationship with the SAT, but can seek advice and information assistances from the SAT.

Department:	Tianjin Municipal Administration Bureau of State Taxation
Mailing address:	16 Mingzhu Road, Hebei District, Tianjin 300010
Phone number:	86-22-2711 0304
Fax number:	86-22-2711 0304
Department:	Hebei Province Administration Bureau of State Taxation
Mailing address:	35 South Pingan Road, Shijiazhuang 050011
Phone number:	86-311-8862 5239
Fax number:	86-311-8862 5239
Department:	Zhejiang Province Administration Bureau of State Taxation
Mailing address:	5 Huazhe Square, Hangzhou, Zhejiang 310006
Phone number:	86-571-8527 0962
Department:	Shandong Province Administration Bureau of State Taxation
Mailing address:	155 Yingxiongshan Road, Shizhong District, Jinan 250021
Phone number:	86-531-8565 6000
Fax number:	86-531-8565 6000
Department:	Beijing Administration Bureau of State Taxation
Mailing address:	10 Chegongzhuang Street, Xicheng District, Beijing 100044
Phone number:	86-10-8837 2266
Department:	Shanghai Administration Bureau of State Taxation
Mailing address:	800 Zhaojiabang Road, Shanghai 200030
Phone number:	86-21-5467 9568
Fax number:	86-21-5467 9568-12096
Department:	Liaoning Provincial Administration Bureau of State Taxation
Mailing address:	256 Qingnian Street, Shenhe District, Shenyang 110016
Phone number:	86-24-2318 5023
Fax number:	86-24-2318 5003

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 and fax numbers.

PART C2 - GENERAL ECONOMIC ACTIVITIES WITH RESPECT TO THE STEEL AND HSS SECTORS

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The information requested in this part will provide a better understanding of economic activities with respect to the Chinese HSS and steel sectors undertaken by the GOC.

- C2.1** Identify and provide an explanation of the specific roles and responsibilities of government departments, agencies or institutions, which are directly or indirectly involved in economic policy development, economic regulation and decision-making activities with respect to the HSS and steel sectors.

The Department of Industry of the NDRC is responsible for economic analysis and policy-making with respect to a range of industrial sectors. This policy making extends to horizontal aspects of industry activities, and to the sustainability and efficiency of specific industries. The main functions of this Department are as follows (noting that this is a summary only of a more detailed explanation that can be found at <http://en.ndrc.gov.cn/mfndrc/default.htm>):

- (a) analysing major issues concerning the development of industry and service industry;
- (b) drafting comprehensive industrial policies;
- (c) studying and proposing comprehensive policy recommendations;
- (d) coordinating and harmonizing the industry and service industry development plans with national economic and social development plans and programs;
- (e) coordinating the dissemination and use of major technical equipments as well as building of major industrial bases;
- (f) drafting the development strategies and key policies of service industry in cooperation with relevant agencies; and
- (g) co-ordinating key issues of service industry development, etc.

- C2.2** Identify any government departments, agencies or institutions that are involved in the manufacture, sale, purchase or acquisition of steel products, and explain the nature of their involvement.

The GOC advises that there are no government departments, agencies or institutions involved in the manufacture, sale, purchase or acquisition of steel products.

- C2.3** Provide a list and copies of any specific laws, decrees, rules, promulgations, edicts, opinions, measures, regulations and directives regarding:

- (a) the regulation of steel prices;

The GOC advises that there are no specific laws or regulations (regardless of nomenclature) in China relating to steel pricing, and/or HSS products. Steel prices in China are decided by

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the supply and demand situation in the market. The GOC does not control or interfere with steel prices determined by any individual companies in their negotiations with prospective customers.

The free rein of the market system in China, and the protection of competition, is underpinned by many laws. The GOC refers Australian Customs to its responses to questions 2.6 and 2.9 (the second 2.9, which will be referred to in the GOC's responses as Question 2.10 for the sake of clarity) for a detailed explanation of the operation of *Pricing Law of China*.

(b) the regulation of HSS prices;

As noted above, there are no specific laws or regulations (regardless of nomenclature) in China relating to pricing of HSS products.

Once again, the GOC refers Australian Customs to its responses to questions 2.6 and 2.10 for a detailed explanation of the operation of *Pricing Law of China*.

(c) investment in iron smelting, steel smelting and steel rolling projects;

Please refer to **Attachment 11** – *Decision of the State Council on Reforming the Investment System* and its annex *Catalogue of Investment Projects Approved by the Government* (2004).

(d) each type of corporate and business structure including state-owned enterprises, private enterprises, co-operatives, foreign-owned firms and joint ventures (where not included above); and

Please refer to the following attachments:

- (a) **Attachment 12** - *Company Law*;
- (b) **Attachment 13** - *Implementation of the Law of Foreign-funded Enterprises*;
- (c) **Attachment 14** - *Law of Chinese-Foreign Contractual Joint Ventures*;
- (d) **Attachment 15** - *Law of Industrial Enterprises Owned by the Whole People*;
- (e) **Attachment 16** - *Law of Chinese-foreign equity joint ventures*;
- (f) **Attachment 17** - *Law of Foreign-funded Enterprises*; and
- (g) **Attachment 18** - *Decision of the Standing Committee of the National People's Congress on Amending Some Laws*.

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- (e) sectors of the economy deemed to be "strategically important"³ sectors for purposes of economic stability.

The GOC advises that there are no specific laws, decrees, rules, promulgations, edicts, opinions, measures, regulations or directives regarding the definition of what is a "strategically important" sector in China. The term of "pillar industry" or "important basic industry" do not have a specific legal definition either. These words are used in their customary sense.

C2.4 Identify the specific government department or institution responsible for the above-mentioned laws and regulations in Question C2.3.

Under the Chinese Constitution, the National People's Congress ("NPC") and its Standing Committee have the power to enact and amend national-level legislation. It is the top legislative body in China.

The State Council is China's Cabinet. It has the power to enact and amend administrative regulations at the national-level pursuant to national legislation. In areas where there is no legislation enacted by the NPC, the State Council also has powers to enact or amend administrative regulations in any other aspects of economic and social affairs under the Constitution.

In China there is no established practice where a specific government department or institution is responsible for administering the above mentioned laws and regulations. In this respect, the GOC wishes to refer Australian Customs to the *Law of Legislation* ("Law-making Law") which is set out in **Attachment 19**. However it is reiterated that there are no such "laws" of the type that Question C2.3 refers to.

C2.5 If not already provided in response to Question C2.4 or elsewhere throughout this questionnaire, provide the documents listed at Appendix B of this questionnaire (supply the documents are fully translated, along with the original Chinese version).

If the requested documents are provided elsewhere throughout this questionnaire, identify the question they have been provided in response to.

In addition, if any of these documents have been superseded or replaced, please provide updated versions of the documents.

The GOC notes this instruction. Please refer to **Appendix B** for comment.

³ Also referred to as an important basic industry for the national economy or a pillar industry for industrialization.

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- C2.6** (a) Identify any goods and services in the steel sector (including steel raw materials) whose prices are currently controlled or guided by the GOC, or were controlled or guided by the GOC during the period 1 July 2006 – 30 June 2011.

Fully explain the nature of and rationale for these price controls or guidelines. Your response should identify any prices in the steel sector that are controlled or guided by any level of government (provincial, municipal or local).

As answered above, the GOC does not control or guide the prices of any goods and services in the steel sector. Therefore, this question is not applicable.

Please refer to the *Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council (Attachment 20)*. As can be seen from this official instrument, neither steel nor HSS is subject to any "price controls or guidelines".

(b) Customs and Border Protection understands that information on pricing in China are published via the China Economic Herald, the National Development and Reform Commission (NDRC) website and the China Price Information Network website.

Please provide translated and original copies of the information published by each of the above entities relating to steel and HSS in the investigation period.

Are there any other websites or information sources, which provide information on government price controls or guidelines?

The official websites of the NDRC (<http://www.ndrc.gov.cn/>) and *China Economic Herald* (<http://www.ceh.com.cn/>) allow access to price information promulgated by the price administration department of NDRC. The price information published through these websites, however, cannot cover all the price information; nor can all of the published information be regarded as official price information.

The GOC draws Australian Customs' attention to the *Catalogue of Set Prices 2001* regulated by the State Development Planning Commission and Other Department under the State Council, however, notes that HSS and steel are not subject to any pricing controls.

For these reasons, the GOC submits that this question is not relevant to the investigation.

- C2.7** Customs and Border Protection understands that China's National Development and Reform Council regulate prices for electricity.

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

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The GOC refers Customs to the *Catalogue of Set Prices 2001 (Attachment 21)* ("the Catalogue").

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. However, Customs must interpret the Catalogue by considering it in its proper context, as an instrument made subject to the terms and limitations of the Price Law.

The Price Law protects market pricing, except in exceptional and limited circumstances.

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:

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.*

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.

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

Article 18 is more than reasonable in the context of the powers held by responsible governments throughout the world. For example, Australia implements its own price controls and regulation, especially in relation to gas and electricity prices.

The GOC also draws Customs attention to provisions under the *Competition and Consumer Act 2010* ("the CCA") whereby the Minister or the Australian Competition and Consumer Commission ("the ACCC") may undertake price monitoring and investigations in relation to specific industries and persons. As a result of such investigations, the Minister or the ACCC may declare certain goods, services and/or persons under the CCA. Subsequently, if a declared person supplies goods or services for a price that exceeds the amount provided for

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under the CCA, the person is guilty of an offence.

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

The GOC also points out that many Chinese companies self-produce their own electricity. This is something that will be well within the knowledge of Customs' officers, from their many verifications in China.

The GOC submits that Customs should have regard to its own *Termination of an Investigation report - Alleged dumping of sodium tripolyphosphate exported from the People's Republic of China* (Report Number 121, 11 May 2007). In that Report Customs found no evidence that anything other than standard industrial rates were paid for electricity and rail freight. The GOC especially draws Customs attention to the following statement in that report:

Customs understands that the Government determines electricity and rail freight prices in China. Each of the exporters visited by Customs claimed that it paid the standard industrial rates for electricity and rail freight... Customs has no evidence to suggest that this is not the case. Customs has also had regard to its findings in the sodium bicarbonate review where, in response to similar suggestions by Australian industry, Customs concluded that there was no evidence that electricity and rail freight rates available in China were sold at other than market conditions or were subsidised.

The GOC submits that Customs should reach the same conclusion as was made in the sodium bicarbonate review, viz that electricity is sold at market rates and is not subsidised. The same finding should be applied to natural gas. As explained below the GOC does have a role in relation to electricity and natural gas pricing, however there are no price control mechanisms in place designed to dictate prices for the benefit of any of the identified companies or for the steel industry generally.

The GOC submits that no "particular market situation" relating to HSS, nor any "competitive market price" issue related to steel, can conceivably arise in relation to the identified companies or the steel industry generally, in circumstances where electric power and natural gas is consumed for production purposes. Pricing is consistent for all industries in any particular area or region. Steel or HSS companies are not "preferred" or "favoured".

The Catalogue has limited scope, and is further limited by the terms of Article 18 of the Price Law. This does not affect market conditions, and such pricing is neither unusual nor remarkable when compared to the practice in other countries, such as Australia's own pricing controls for electricity and natural gas.

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- (b) Provide the 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

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

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

- (d) Do any of the zones or regions outlined in your response to Question B5 provide concessions or benefits in electricity prices to manufacturing, including steel production?

There is no statutory ability for Zone administrators to decide or set electricity tariffs. These are decided by provincial and central NDRC or price bureaus. Zone administrations have no authority to set electricity prices.

C2.8 Provide a fully translated copy of the 2 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.

Please refer to the 11th 5 Year Plan and the 10th 5 Year Plan (**Attachments 22 and 23** respectively).

C2.9 The following series of questions concern the *GOC's National Steel Policy*.

These questions are based on the text of the *National Steel Policy*, as provided to Customs and Border Protection by the GOC in the past (most recently as Attachment 1 to the GOC's response to the government questionnaire made in March 2009 during the previous investigation into HSS from China).

For completeness, a copy of the National Steel Policy has again been requested in Appendix A of this questionnaire (see Question C2.5).

- (a) Why does the GOC have a National Steel Policy? What is its purpose?

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The National Steel Policy is an aspirational document, not a legal document. It sets out the means by which the steel industry can modernize its operation and remain competitive and efficient in the future.

As such, the objectives of the National Steel Policy are to elevate the levels of technology used in the iron and steel industry; to promote structural adjustment; to improve the industry layout; to promote recycling and to minimize the industry's environmental impact; and generally to guide the sound development of the iron and steel industry.

- (b) Provide a list and copies of any laws, decrees, rules, promulgations, edicts, opinions, measures, regulations and directives that were developed and implemented as part of the National Steel Policy.

There are no additional laws, decrees, rules, promulgations, edicts, opinions, measures, regulations or directives developed or implemented *"as part of the National Steel Policy"*. The National Steel policy is an isolated instrument. In this context, the GOC will make submissions in relation to the relevant issues surrounding the National Steel Policy as may be requested by Customs.

- (c) In developing the National Steel Policy what was the rationale used in order to establish the policy objectives (goals) as outlined in Chapter 1 of the policy?

The policy objectives were developed based on a comprehensive survey of the iron and steel industry in China. Based on this information and in light of the development of the international steel and iron industry, the policy objectives of the National Steel Policy were framed to address the needs of China's economic and social development and the issues of resources management, energy efficiency and environmental protection.

- (d) Have there been amendments to the National Steel Policy since its publication? If so, provide a copy of the current National Steel Policy incorporating and highlighting all such amendments.

No.

- (e) Identify the office and the officials who are responsible for the administration and delivery of the National Steel Policy, including officials at the central, provincial, regional and/or special economic zone levels.

The NDRC was responsible for the issuance of the National Steel Policy. In so far as concerns "administration", it is to be noted that a more proper characterisation of NDRC's

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continuing role would be monitoring and information gathering.

- (f) Explain how the National Development and Reform Commission communicates guidelines to the steel enterprises and motivates steel enterprises to implement and/or satisfy the guidelines of the National Steel Policy as outlined in Chapter 1, namely:
- (i) Maintain steel production at a reasonable level;
 - (ii) Change the product mix by 2010 to higher value products;
 - (iii) Increase the size of the key steel enterprises, so that 2010 the top ten will account for more than 50% of production, and 70% by 2020;
 - (iv) Improve the current unreasonable general structure of the steel industry;
 - (v) Encourage the steel enterprises to recycle and generate surplus power; and
 - (vi) Ensure that the steel enterprises meet the guidelines for energy and water consumption, by 2010 and 2020.

The National Steel Policy has been made available and accessible to the general public. In other words, the "communication" is made in a public and transparent manner. The NDRC does not have any specific measures in place to "communicate" the guidelines to the steel enterprises or "motivate" steel enterprises to implement the guidance of the National Steel Policy. As noted, the Policy is an aspirational document.

There are no monitoring mechanisms in place which specifically relate to the realisation of the objectives outline in Chapter 1 of the National Steel Policy. The State Statistic Bureau may collect basic information on input and output of iron and steel industry (such as total production volume) and the Ministry of Environmental Protection may collect information as well (relating to environment impacts of steel and iron producers). However, this is not to ensure compliance with the National Steel Policy. Rather, this is a function of these agencies acting within their portfolio responsibilities.

As the overall coordinating department, the NDRC, may analyse such information and judge the relationship between actual development situations of iron and steel industry and the objectives of the National Steel Policy.

Explain how the National Development and Reform Commission monitors the objectives outlined in Chapter 1, of the National Steel Policy for each of the above.

- (g) Provide a list of any other GOC departments that work with the National Development and Reform Commission on the implementation and monitoring of the National Steel Policy. Provide a summary of what the other related departments' roles and responsibilities will be in this process.

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As answered above, there is no specific implementation and monitoring mechanism of the National Steel Policy. Please also refer to the response to question 2.9(f) for full details.

- (h) Explain the procedures that an existing steel enterprise should or must follow in order to implement and/or satisfy the objectives of the National Steel Policy.

Are these procedures the same for SOEs as it is for other enterprises? If different, provide a detailed explanation of the differences.

Article 8 of the policy document explains the procedure that an existing major steel enterprise (an enterprise group with a production capacity of more than 5 million tons in 2003) should follow. Other steel enterprises are only required to comply with general provisions of that policy. The procedures are the same for State-invested enterprises as they are for other enterprises.

- (i) Provide a list of the types of reports and/or information along with examples of such reports and/or information that the existing steel enterprises have or will be submitting to the National Development and Reform Commission or the other related departments.

Not applicable. As explained above, other than Article 22 of the National Steel Policy which deals with examination and approval, there are no specific procedures that a steel enterprise must follow in order to satisfy the objectives of the policy.

- (j) Explain the procedures that a new steel enterprise should follow in order to implement and/or satisfy the objectives of the National Steel Policy.

Provide a list of the types of reports and/or information that new steel enterprises will be submitting to the National Development and Reform Commission or the other related departments.

Please refer to Article 22 of the National Steel Policy. A new steel enterprise is required to lodge a project application to the NDRC. At the same time, other relevant materials required by laws and regulations on land, environment protection, energy conservation etc. also need to be submitted.

- (k) Article 7 of the National Steel Policy specifically references the Steel Industry Development Blueprint and National Mid-term and Long-term Development Blueprint for the steel industry. Provide a fully

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translated copy of the most recent blueprints with the original Chinese version.

The GOC confirms that a document intended to be titled the *National Mid-Term and Long-Term Development Plan* for the iron and steel industry has not been formulated or issued yet.

- (l) Article 8 of the National Steel Policy states that steel enterprises with production capacity exceeding 5 million tons (2003 base year) shall draft their plans on the basis of the mid and long term development plans, in addition to the general plans of the cities where they are located.

Provide an explanation of what is meant by "general plans of the cities".

The general plans relate to the GOC's direction and objectives for economic development, as well as the balance between economic development and social development. For instance, they deal with the issues of sustainable development and of environmental protection, which are of great concern to the cities.

"Plan" may be a misnomer. Today it refers to the overarching policies of the GOC. This might be said to be comparative to the response the Australian Government might make to Productivity Commission recommendations, or how the directions and goals in a major policy area might be conveyed to the public in an Australian Government report.

- (m) Article 8 of the National Steel Policy states that steel enterprises are required to have their plans reviewed for land use, environmental protection and financing (credit) before they can be implemented. Further, these projects must be reported (filed) to the National Development and Reform Commission for registration according to the applicable regulations.

- (i) Explain the reporting process that must be followed by the steel enterprises;

For the steel enterprises filing for approval, the requirements set forth by laws and regulations for land use, environment protection, safety and energy conservation etc. must first be met before the project is registered with the NDRC. These are development-style conditions which must be met before development approval is granted. An apt Australian analogy is the requirement for a development proposal to be subject to an environmental impact assessment before it can be approved.

These specific matters are handled by the relevant agencies as part of their normal approval process. They are required for all major development, not just steel development. These requirements do not form part of the National Steel Policy.

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- (ii) Provide a fully translated copy of the applicable regulations with the original Chinese version; and

This would require the GOC to provide many of its statutes covering areas such as corporate law, foreign investment, the environment, land use, building safety, product quality, customs administration, foreign trade, banking/finance, competition/anti-trust, etc. Many of these laws have been made available to Australian Customs throughout the GOC's response to the GQ. The GOC wishes to ask whether there is a specifically relevant issue that Australian Customs would like it to respond to.

- (iii) Provide examples of such reports.

Since the filing documents (reports) involve enterprises' commercial secrets of production, technology, techniques, equipments etc., the GOC is constrained in its ability to make examples available.

- (n) As per Article 8 of the National Steel Policy, explain and provide details of the process and the requirement criteria for the GOC to:

- (i) approve the construction of new steel making facilities; or
- (ii) approve the expansion of existing facilities.

Provide a fully translated copy of the application form used by the steel enterprise for this process with the original Chinese version.

Please refer to the response above.

Please see *Guidelines for a Project Application (Attachment 24)*.

- (o) Identify any steel enterprises and specific projects that:

- (i) have not been approved in accordance with the guidelines in the National Steel Policy since July 2006; and

The GOC advises that confidentiality applies to any such communications between the GOC's agencies and enterprises concerning their business proposals. The GOC expects that the situation would be no different should a similar request be made to an Australian agency, such as say the Foreign Investment Review Board, about commercial proposals and the business affairs of third parties.

The GOC's officials have no power to provide the requested company specific information. Under Article 53(1) of the *Civil Servants Law (Attachment 25)*, GOC officials must not disclose "work-related secrets". The company specific information requested by Customs is in the nature of "work-related secrets". Comparison to the constraints placed on Australian Government officials under the *Customs Administration Act 1985* is invited.

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- (ii) have been approved in accordance with the guidelines in Industrial Development Policy since July 2006.

Please refer to the response to question (i).

The GOC notes that in recent years, the production capacity of China's iron and steel industry has increased. The GOC refers Australian Customs to the document *Introduction of Steel Industry of China (Attachment 26)*.

- (p) It is noted in Article 8 that either the State Council or the National Development and Reform Commission will coordinate and approve projects before implementation. What are the criteria for determining whether approval is required by the State Council or the National Development and Reform Commission? Is approval required by both entities?

Explain the differences between the procedures used by the State Council and the national Development and reform Commission when they approve the projects before implementation.

There are no criteria for determining whether approval is required by the State Council or the NDRC other than the criteria publicly set forth by the National Steel Policy. In practice, the NDRC usually consults with the State Council for major proposals such as those involving more than one province. Such kind of consultation within government bureaucracy takes place on an *ad hoc* basis and is conducted without defined procedures.

- (q) As noted under Chapter 3 of the National Steel Policy, adjustments of the industrial structure will take into consideration the mineral resources, energy resources, water resources, transportation, environment, market distribution and utilisation of international resources.

- (i) Explain how the criteria in Article 11 were established for the various regions noted in Article 11.

The various regions identified under Article 11 are all customary references where such "short-form" language is quite common in China. There are no "criteria" as may be widely perceived in the western context.

The "criteria" are formulated in light of national and provincial five year goals. They are mainly based on evaluations of techno-economic issues relating to the environment and accompanying infrastructure demands. These include an evaluation of mineral resources, energy resources, water resources, transportation, environment, market distribution and utilisation of international resources, and demand and supply factors.

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- (ii) Did the regions affected by Article 11 have any input into its development? If so provide a summary of the input provided.

Like various regions in Australia, every region in China has some input for its own development.

- (iii) Can the adjustment of the industrial structure as described in Article 11 be appealed? If so, describe the appeal process that must be followed by the steel enterprise.

Decisions are not made by NDRC in respect of the activities of individual steel companies under this Article. Therefore, the question of an "appeal" mechanism does not arise. In the case of Shougang, for example, environmental concerns were a paramount consideration. Shougang was a very large polluter at a time when Beijing's air quality regulations were being tightened before the holding of the Beijing Olympics. Certainly, in accordance with the administrative law framework in China, administrative decisions can be challenged under the *Administrative Procedure Law* and the *Administrative Reconsideration Law*.

- (r) Article 11 of the National Steel Policy sets out the guidelines for the rationalisation of the steel industry in China through a combination of closures and consolidations of steel making assets accordingly to various regional designations.

- (i) Describe to what extent, if any, the GOC has encouraged or requested mergers or consolidations of operations between one or several other steel producers in various areas either through the NDRC or any other steel authority or association in China.

The National Steel Policy sets out the vision for the future landscape of the steel industry, consistent with the macro-economic goals of sustainability, resource efficiency and land use. The GOC does not request mergers or consolidations at the commercial level. In fact, the GOC has an interest in the maintenance of commercially desirable conditions in the industry, from the point of view of sustainability, social objectives, infrastructure costs, and welfare costs to the community. The government itself does not determine the situations of market for the purchase and sales of steel or HSS. The GOC does not play a "commanding" role. Instead, the GOC's role is at the coordination level. Any mergers or consolidations would take place at the corporate level, because the enterprises involved consider for themselves that the policy environment that the government seeks is conducive to their development in that way.

- (ii) Detail any companies or steel making facilities that have been identified as a candidate for closure since July 2005. Explain how the GOC delivered the communication to the steel enterprise.

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Article 11 does not state that the GOC would identify "candidate[s] for closure". Thus the question of how the GOC "communicated" closure to a company does not arise.

A list of companies that have closed since 2005 is provided in **Attachment 27 [CONFIDENTIAL ATTACHMENT]** and **28 [CONFIDENTIAL ATTACHMENT]**. This has been produced based on information obtained from public sources. Closure of these companies can be due to any one of a number of factors, or to a combination of factors. These factors would include bankruptcy, increasing competition, old equipment, inability to invest, local protectionism, increasing overheads, enforcement of environmental regulations. Their closure was not forced on them by any decision made by the GOC outside China's legal framework of laws and regulations.

- (iii) Provide a list, by region, of all the steel mergers that have taken place since July 2006.

Please refer to **Attachment 29 [CONFIDENTIAL ATTACHMENT]** for a list produced based on information obtained from public sources. However, it is neither an exhaustive list nor an official one. The GOC is not aware of all mergers and acquisitions, as these are commercial decisions made by the entities.

- (iv) Provide a list, by region, of all the pending steel mergers that are currently being reviewed or have been reviewed and have yet to be implemented.

There is no such list. Mergers are a matter for the entities involved, the GOC plays no role in the making of such decisions. The steel industry in China is large and mergers can be achieved in many ways.

- (s) Article 16 notes that the state shall grant tax support, interest subsidisation support, scientific research funding support and other policy support to key steel projects.

- (i) Explain the criteria used to determine what is considered to be a "key steel project".

The term "key steel project" identified under Article 16 is a customary reference where such "short-form" language usage is quite common in China. There are no specific "criteria" to determine what is considered to be a "key steel project".

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- (ii) Provide the name of the organisation that approves this designation and provides the state funding.

The National Steel Policy is not a "program". The Article does not refer to or mandate State funding. It simply refers to policy support of these types of "funding" initiatives.

- (iii) Provide examples of the tax support and interest subsidisation support that has been provided to "key steel projects".

Please refer to the GOC's response above.

- (t) Article 20 states that by 2010 there will be two large scale and several medium scale steel enterprise groups.
- (v) Have these groups been identified and if so how will they be encouraged to meet this objective? Provide details.

This Article signals the GOC's vision about the future shape of the steel industry. The statement in Article 20 must be understood in the context of the overall National Steel Policy, which is to indicate the ideal "landscape" for the industry and its place in the national economy, and to encourage development which is consistent with that vision. The development of China's steel industry is subject to many market factors and economic factors, which include international market and international economic factors. For this reason, the actual development does not necessarily proceed in line with the aspirational development envisaged by the document.

- (vi) Provide the criteria used to determine which companies are supported and encouraged under this Article.

The GOC refers Australian Customs to its above answer. The GOC does not identify steel makers for the purposes of Article 20, nor does it encourage, or intervene in, the industry so that it develops towards the vision set out by Article 20. There are no such criteria.

- (u) As noted under Article 24 of the National Steel Policy, projects that do not meet the development policy, violate the regulations or have not been approved will not be able to get their:

- (i) Right of land use;
- (ii) Business registered;
- (iii) Contracts and regulations approved
- (iv) Financing or other forms of credit support from banks;
- (v) Duty-free imports for equipment;

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- (vi) Manufacturing licence; or
- (vii) Pollution discharge permits.

Provide an explanation on how the GOC ensures that projects that do not meet the development policy, or violate the regulations, or have not been approved, cannot get the required resources listed above to start the project.

Please refer to Articles 24 and 39 of the National Steel Policy.

It is well established in China that for certain projects (whether a new project or an expansion project) the applicant is required to notify NDRC/MIIT and to seek either an approval, a verification notice or a filing notice from NDRC (collectively referred to as "NDRC notice"). Normally, the NDRC notice goes first, except for land programming and pollution scrutiny permissions. The nature of the requirement depends on the type and degree of the project. NDRC's involvement is a necessary precondition to the process of obtaining records of filing, approvals or acknowledgments from other authorities (such as land use authorities, State Administration of Industry and Commerce ("SAIC") or its local branches, taxation authorities, Customs, etc.) before commencing construction or business operation.

In the usual context of regulatory administration, it is inevitable for government authorities to check whether the applicant or its business counterpart has been legally established, and to consider the regulatory risks to which its business could be exposed. Government authorities will ask to see evidence of an NDRC notice before engaging in their own licensing procedures and otherwise exercising their administrative powers as relevant to the proposal concerned. Accordingly, obtaining a NDRC notice for a new project or an expansion project is an important step.

For example, a business intending to commence operations in China must obtain a business registration certificate from the SIAC or its local branch. The Company Law provides that where a business is required to obtain a regulatory approval before it can apply for registration, the business must obtain that approval before filing application for registration (Article 6, paragraph 2). Therefore, Article 24 serves as a "reminder" and "repetition" to other government authorities to pay attention to the legislation requirements.

Similarly, whilst Article 39 of the National Steel Policy document does not literally make references to violation of laws, what the document means to convey is that the various government agencies referred to in Article 39 shall apply the particular laws (ie, statutes) applicable to particular issues concerned against the violators. It is not the case that government agencies apply the National Steel Policy *per se* against the violators. Environmental protection can provide an example of what is meant in this context by the GOC.

Under Article 13 of the *Environmental Protection Law of the PRC* ("the EPL") (**Attachment 30**), a construction entity that may cause pollution to the environment must observe the

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relevant statutory provisions concerning environmental protection for its construction projects. The entity must prepare an environmental impact statement on the construction project. The statement must assess the pollution the project is likely to produce, and its impact on the environment, and stipulate the preventative and curative measures intended to be adopted. The statement shall, after initial examination by the authorities in charge of the construction project, be submitted through specified procedures to the competent department of environment protection administration for approval. The department of planning shall not ratify the design plan descriptions of the construction projects until the environmental impact statement on the construction project is approved. In other words, the approved environmental impact statement is a prerequisite for the construction project to go ahead.

Therefore, the relevant environmental protection authority, as the government authority with the statutory power to administer the EPL (see Article 7 of the EPL), shall exercise its administrative power in the real world by applying Article 13 of the EPL to deal with environmental impact statement approval issues. It is true that Articles 13, 24 and 39 of the National Steel Policy all touch upon the environmental protection authority's administration of environmental protection issues (such as the approval of environmental impact statements); however all of these references simply reiterate EPL requirements. They serve as the inter-governmental reminder that the environmental protection authority is to properly apply the EPL.

- (v) Regarding financing of steel projects, are there regulations or guidelines issued to the banking sector concerning the management of credit terms, loans requirements and approvals for steel making facility construction projects?

If not, how would the banking sector know when not to provide loans for steel projects that did not meet the Industrial Development Policy as per Article 24?

No.

There are no regulations or guidelines issued to the banking sector concerning the management of credit terms, loans requirements or approvals for steel making facility construction projects. It is up to commercial banks to decide whether to provide financing to steel projects, in view of their own credit and risk management strategies and the profit return prospects of specific projects.

- (w) Regarding financing of steel projects, are there regulations or guidelines issued to the banking sector concerning the management of credit terms, loans requirements and approvals for steel making facility construction projects?

NON-CONFIDENTIAL-FOR PUBLIC FILE

If not, how would the banking sector know when not to provide loans for steel projects that did not meet the Industrial Development Policy as per Article 24?

Are there any Policy Banks in China authorised by the GOC to provide policy loans at discounted interest rates for entities within the Chinese steel industry? What are the criteria for providing any such loans? What discounts are provided?

No.

It is up to commercial banks to decide whether to provide financing to steel projects, in view of their own credit and risk management strategies and the profit return prospects of specific projects.

(x) Article 25 notes that loans for middle and long term fixed assets that are granted by financial institutions shall be in accordance with the regulations on the Steel Industry Development Policy.

(i) Provide a fully translated copy of these regulations along with the original Chinese version.

There is no reference to a Steel Industry Development Policy in this Article. The Article refers to "development policies for the iron and steel industry". Also, there is no reference to "regulations" in this Article.

(ii) The article further states that for risk control reasons loans for new construction steel projects will require corresponding project approval, examination of and registration of documents issued by the National Development and Reform Commission. Provide a description of the project approvals required and the Government Departments or organisations involved in the approvals. And

Article 25 indicates that financial institutions need to assure themselves of government approval of any proposal for an enterprise to expand its existing iron-smelting, steel smelting or steel-rolling capacity. These projects involve a substantial commitment of resources by a city or area, and NDRC/MIIT should indicate its opinion on whether the project can be supported. The approval for the project also involves the detailed approvals handled by other agencies. The enterprise and its investors need to obtain approval from land, environment protection, safety, water conservation and other relevant agencies.

(iii) Provide a fully translated copy of these project approval guidelines and/or regulations along with the original Chinese versions.

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There are no project approval guidelines and/or regulations. The NDRC essentially interprets the National Steel Policy in its consideration of the proposal concerned. In many project review processes, the NDRC will require a third party evaluation by a professional engineering consultancy in order to be satisfied of all aspects]

- (iv) Provide a detailed list of the documents issued by the National Development and Reform Commission. This should include the official title of the document and a brief explanation of the information contained in the document.

Again, the GOC advises that the National Steel Policy is an isolated instrument. There is no "package" of documents as requested by Australian Customs.

- (y) Article 30 states that the steel associations shall focus on industrial self-discipline and coordination so as to stabilise domestic and foreign raw materials markets.

- (i) Provide the definition of what is meant by the term "coordination" and examples of such coordination; and

There is no legal definition of "coordination" in the context of the National Steel Policy. In literal terms, in both China and in Western countries, "coordination" means to make people (or things) work together, especially so as to increase effectiveness and efficiency and to achieve desired results.

Essentially, Article 30 is aimed encouraging efficient and competitive practices in the market for raw materials, and warning-off market participants from engaging in things such as predatory pricing, restraint of sale or abuse of market power.

The GOC notes that Part IV of the *Competition and Consumer Act 2010* of Australia deals with similar issues.

- (ii) Provide the name of the "steel association(s)" referenced in this article.

The major steel association representing the interests of Chinese steel producers is the China Iron and Steel Association ("CISA").

- (iii) Further, the article notes that where "several domestic enterprises engage in cut-throat competition of overseas resources the state may exercise executive power.....to avoid cut-throat competition". Provide a definition of "cut-throat competition" and "executive power"; and

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There is no legal definition of "cut-throat competition", nor is there any institutional arrangement or other mechanism in place by which "executive power" would be exerted in cases of such competition.

Moreover, no issue of "cut-throat competition" has presented itself. The customary methods of major resource supply negotiations, which are undertaken by other East Asian countries such as Japan and Korea as well, create security of supply and benchmarking which supports orderly competition between buyers and sellers.

- (iv) Identify the government organisation(s) or relevant authority that is authorised to exercise executive power.

No specific authority is identified as being responsible for the exercise of any "power" under this Article.

C2.9 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 Customs and Border Protection by the GOC in the past (most recently as Attachment 35 to the GOC's response to the government questionnaire during Customs and Border Protection's investigation into aluminium extrusions from China).

For completeness, a copy of the Price Law has again been requested in Appendix A of this questionnaire (see Question C2.5).

- (a) Have there been amendments to the Price Law since last being provided to Customs and Border Protection? If so, provide a copy of the current Price Law incorporating and highlighting all such amendments.

There has been no amendment the Price Law since it was last provided to Australian Customs.

- (b) Article 27 of the price law states that the government shall "... establish a 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?

The GOC wishes to clarify the meaning of the two Articles. The present translation is not as

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precise as it needs to be to cater for the different nuances of English and Chinese.

Article 27 is best translated as follows:

The government may (using pinyin, the word used is "keyi", whereas the pinyin words for "shall" are "yingdang" or "ying") set up reserve system for some key commodities, and may establish price moderation (again, using pinyin, the word in the text is "tiaojie", and not "guanzhi/guizhi/guanli", which mean "regulation") fund to moderate ("tiaokong" is the word in the text, which is used to refer to "moderate", instead of "kongzhi" meaning "control") price (fluctuation) and stabilise market.

Regarding Article 28:

To facilitate price moderation and regulation (here "guanli" is used, instead of "tiaojie"), price administration shall (here "yingdang" is used to mean "shall") establish price monitoring system to follow changes in prices of key merchandises and services.

A more appropriate translation for any fund of this kind would be 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 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.

- (ii) What "price regulation fund" regulations have applied to steel, steel raw materials and steel products since 1 July 2006?

There is no "price regulation fund" specifically levied on steel, steel raw materials and steel products in China. Nor has any "price regulation fund" been applied to the aforementioned industries as subsidy so far.

- (c) 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?

NDRC has established and improved the following four price monitoring since 2005:

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- (a) Monitoring Report System for Price of National Important Consumption Goods and Service;
- (b) Monitoring Report System for Price of National Important Energy;
- (c) Monitoring Report System for Price of National Important Means of Production; and
- (d) Monitoring Report System for Price of National Important Cash Crops.

In addition, some specific monitoring report systems have also been established, such as "Specific Monitoring Report System on National Steel Market".

The GOC notes that price monitoring is neither price administration nor administrative intervention. Instead, the purpose for price monitoring is to allow the GOC to understand the price changes in the markets for important goods and service, based on which the government can analyse and judge economic situations which are presented by those changes.

NDRC is responsible for price monitoring. The GOC understands that the Reserve Bank of Australia, the Australian Bureau of Statistics and the Australian Competition and Consumer Commission all have price monitoring roles. The GOC is also reminded of the Australian Government's Fuel Watch and Grocery Watch policies, which by their very nature required the monitoring of prices.

(ii) What "price monitoring" has applied to steel, steel raw materials and steel products since 1 July 2006?

At present, steel, steel raw materials and steel products are subject to price monitoring. For example:

- (a) "Monitoring Report System for Price of National Important Consumption Goods and Service" promulgated by NDRC stipulates the monitoring of the price of iron ore; and
- (b) "Specific Monitoring Report System on National Steel Market" stipulates the monitoring of steel and steel products including building materials, plates, sections, pipes and bars.

PART C3 - THE HSS AND STEEL SECTORS

C3.1 (a) Provide a detailed explanation with respect to the government approval process for adding capacity in the steel sector (including HSS).

Please refer to the GOC's response to question C2.9(m) dealing with the approval process.

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There are no unique or odd features pertinent to the HSS and HRC sector in this regard.

(b) Does the government have the right to request modifications in terms of adding or reducing capacity concerning HSS production? Provide a detailed explanation.

The GOC confirms that it does not have the power to impose a modification requirement on adding capacity concerning proposals in the HSS and HRS sectors. This would be an independent commercial decision to be made by the companies concerned themselves.

(c) Has State-owned Assets Supervision and Administration Commission (SASAC), the Ministry of Commerce or NDRC approved the addition or reduction of capacity with respect to steel or HSS since 1 July 2006?

If yes, provide a list of these projects.

The GOC confirms that no such enterprise or project can be identified, in the sense of "approval". Projects are verified to determine that they can be authorised within the regulatory framework. There has been no government investment in steel projects since the release of the Policy in 2005.

C3.2 (a) Have there been any changes to the value-added tax (VAT) rebate applicable to exports of the following since 1 July 2006:

(i) HRS

Yes.

(ii) HSS

Yes.

(iii) Iron ore

No.

(iv) Coal

No.

(v) Coke

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No.

If yes, provide fully translated copies of any GOC laws, notices or other documents regarding these changes, including the relevant appendices.

The GOC refers Customs to the following Attachments:

- (a) **Attachment 31** – Cai Shui Circular [2007] Number 90
- (b) **Attachment 32** – Cai Shui Circular [2007] Number 90 – Appendix 1: List of Commodities with export rebate cancelled
- (c) **Attachment 33** – Cai Shui Circular [2007] Number 90 – Appendix 2: List of commodity export rebates lowered
- (d) **Attachment 34** – Cai Shui Circular [2007] Number 90 – Appendix 3: list of duty free commodities; and
- (e) **Attachment 35** – Cai Shui Circular [2009] Number 88.

(b) Provide a schedule showing the VAT rebate rates that have been in effect for all products listed in C3.2(a)(i) to (v) above from 1 July 2006 to 30 June 2011, by tariff classification.

The information should show:

- the products that were affected
- the applicable rebate rates
- the effective dates of rate changes
- the GOC law, notice or other document that implemented these changes.

Please refer to **Attachment 36**.

(c) Are there any VAT rebate changes being planned that would impact the steel or HSS sectors in the future (including raw materials)?

There are no VAT rebates changes planned at the time of writing.

(d) Provide a fully translated copy of Cai Shui [2007] No. 90 Circular of Ministry of Finance and State Administration of Taxation on Adjusting Export Rebate Rate of Some Commodities along with the original Chinese version. This should also include the appendices of this circular namely Appendix 1, Appendix 2 and Appendix 3.

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Please refer to **Attachments 31, 32, 33, and 34.**

C3.3 (a) Provide fully translated copies of any GOC notices, circulars or other documents regarding any changes in export tax rates for all products listed in C3.2(a)(i) to (v) above since 1 July 2006.

Please refer to **Attachments 37, 38, 39, 40 and 41** for copies of the Tariff Plans between 2007 and 2011.

(b) Provide a schedule showing the export tariff rates that have been in effect for all products listed in C3.2(a)(i) to (v) above from 1 July 2006 to 30 June 2011, by tariff classification.

The information should show:

- the products that were affected
- the applicable rebate rates
- the effective dates of rate changes
- the GOC law, notice or other document that implemented these changes.

Please refer to **Attachment 42.**

(c) Are there any export tax changes being planned that would impact the steel or HSS sectors in the future (including raw materials)?

There are no export tax changes planned at the time of writing.

C3.4 (a) Provide fully translated copies of any GOC notices, circulars or other documents regarding any changes in import tax rates for all products listed in C3.2(a)(i) to (v) above since 1 July 2006.

Please refer to Attachments provided in response to Question C.3.3(a).

(b) Provide a schedule showing the import tax rates that have been in effect for all products listed in C3.2(a)(i) to (v) above from 1 July 2006 to 30 June 2011, by tariff classification.

The information should show:

- the products that were affected
- the applicable rebate rates
- the effective dates of rate changes

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- the GOC law, notice or other document that implemented these changes.

Please refer to **Attachment 43**.

(c) Are there any import tax changes being planned that would impact the steel or HSS sectors in the future (including raw materials)?

There are no import tax changes planned at the time of writing.

C3.5 Are there (or have there been) any **export** restrictions (quantity, price or restricted access to certain enterprises) placed on all products listed in C3.2(a)(i) to (v) above since 1 July 2006? If so, provide details.

An export quota was placed on coke between 2008 and 2010. All other products listed in C3.2(a) have not been subject to any export restrictions.

Both production and distribution enterprises may apply for export quotas. Applications are made on an annual basis.

In relation to the export quotas on coke, please refer to the following attachments:

- (a) **Attachment 44** MOFCOM Notice (2008) No. 76 - Notice Regarding Declaration Conditions and Procedure of 2009 Trade Coke Export Quota;
- (b) **Attachment 45** Shangzihan Notice (2008) No. 92 - Export Quota of manufactured goods for Foreign Invested Enterprises of Ministry of Commerce;
- (c) **Attachment 46** Shangzihan Notice (2009) No. 73 - Notice Regarding Passing Down the 2009 Second Batch Export Quota of Coke and Rare Earth for Foreign Invested Enterprises of Ministry of Commerce;
- (d) **Attachment 47** MOFCOM Notice (2009) No. 95 - Notice Regarding Declaration Conditions and Procedure of 2010 Trade Coke Export Quota;
- (e) **Attachment 48** MOFCOM Notice (2009) 29 December 2009 - Notice Regarding Passing Down the 2010 First Batch Regular Trade Coke Export Quota

C3.6 Are there (or have there been) any **import** restrictions (quantity, price, or restricted access to certain enterprises) placed on of the products listed in C3.2(a)(i) to (v) above since 1 July 2006? If so, provide details.

There are no import restrictions on the goods listed in question C3.2(a), nor have there been in the period 2006-2011.

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C3.7 Provide the necessary laws, circulars and regulations, and an explanation of processing trade as it relates to steel and HSS.

Is steel currently on the list of products prohibited from processing trade? If so, provide the effective date of this prohibition and the related notice announcing the prohibition.

Please refer to:

- (a) **Attachment 49** – Schedule of Prohibited Commodities in Processing Trade
- (b) **Attachment 50** – Catalogue of Prohibited Commodities in Processing Trade 2007;
- (c) **Attachment 51** – Catalogue of Prohibited Commodities in Processing Trade 2008;
- (d) **Attachment 52** – Catalogue of Prohibited Commodities in Processing Trade 2009;
- (e) **Attachment 53** – Catalogue of Prohibited Commodities in Processing Trade 2010.

The GOC notes that the Catalogue for 2010 is only supplemental to the Catalogue for 2009, so in 2010 those products listed in the 2009 Catalogue still remained prohibited.

HSS, or welded pipe, has been prohibited between 2008 and 2010. Steel is not currently on the list of prohibited products.

C3.8 Are there (or have there been) any **export license** restrictions on any of the products listed in C3.2(a)(i) to (v) above since 1 July 2006? If so, provide details.

Provide a translation of the applicable circular along with the original Chinese version.

Yes. Between 2006 and 2011, certain types of coal and coke were subject to export license restrictions. However, in the case of coke, these restrictions only arose insofar as coke was subject to export quotas.

Please refer to the following Attachments for further detail:

- (a) **Attachment 54** – Schedule of Goods Subject to Export Licensing;
- (b) **Attachment 55** – Export Licenses 2006;
- (b) **Attachment 56** – Export Licenses 2007;
- (c) **Attachment 57** – Export Licenses 2008;
- (d) **Attachment 58** – Export Licenses 2009;
- (e) **Attachment 59** – Export Licenses 2010;
- (f) **Attachment 60** – Export Licenses 2011.

In 2007 certain hot-rolled iron or alloy steel narrow plate was subject to export licensing for a

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period of three-months. This practice has not been continued. Please refer to **Attachment 61** – MOFCOM Notice (2007) No. 41 for details.

Otherwise there have been no export license requirements on HSS, HRS or iron ore.

C3.9 (a) Are there (or have there been) any **import license** restrictions on any of the products listed in C3.2(a)(i) to (v) above since 1 July 2006? If so, provide details.

There have been no import licence requirements for imports of HSS, HRS, iron ore, coal or coke between 2006 and 2011. Please refer to **Attachment 62** - Schedule of Goods Subject to Import Licensing for details.

(b) Provide a translation of the applicable circular along with the original Chinese version.

Please refer to the following attachments for the requested information:

- (a) **Attachment 63** – Import License 2006
- (b) **Attachment 64** – Import License 2007
- (c) **Attachment 65** – Import License 2008
- (d) **Attachment 66** – Import License 2009
- (e) **Attachment 67** – Import License 2010
- (f) **Attachment 68** – Import License 2011

C3.10 Are there any price restrictions on steel or HSS for domestic sales? If so, provide details.

No. Prices of steel and HSS in domestic sales are derived through the operation of the market.

C3.11 The following questions ask for more specific information regarding certain steel SOEs. These questions pertain to the following list of companies believed to be SOEs:

- Heibei Iron and Steel
- Baosteel Group Corporation
- Wuhan Iron and Steel (Group) Co.
- Shandong Iron and Steel
- Ansteel
- Maanshan Iron and Steel
- Shougang Corporation

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- Sinosteel Corporation
- China Iron & Steel Research Institute Group
- China Minmetals Corporation.
- Anshan Iron and Steel Group Corporation

For each of the above listed companies, provide:

- (a) full details on GOC ownership and control;
- (b) each company's complete organizational structure for all subsidiaries and associated companies;
- (c) indicate if they, or any of their subsidiary or associated companies are involved in the production or sale of HSS and/or other steel products;
- (d) the company's full name and address; and
- (e) a copy of the enterprise's 2009 and 2010 annual reports

The GOC notes the request of Australian Customs. However, the GOC respectfully draws Australian Customs' attention to Articles 7 and 10 of the *Interim Measures for the Supervision of and Administration of the Assets of State-Owned Enterprises*, which note the separation between the GOC and any entities in which it has an investment. The GOC does not collect much of the information requested by Australian Customs, and has researched what publicly available information there might be. Because it was gathered from publicly available information, the GOC does not guarantee that this information reflects every details of the named businesses. However the GOC would trust that the information is accurate, given laws in many countries about financial reporting and accuracy in announcements (eg continuous disclosure).

The GOC does not believe that any imputations can be made about non-commercial operation of State invested enterprises simply because of their ownership. This proposition has been confirmed, in a different context, by WTO authority, and has been applied in Australia. The GOC believes that Australian Customs will not find that any steel-producing "public bodies" exist, as they do not possess or exercise governmental authority in any way shape or form, and are not vested with governmental authority.

The GOC hopes the following explanations will be satisfactory for Australian Customs purposes.

Heibei Iron and Steel

Full Name

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Iron & Steel Company Ltd

Address

No.40 West Yuhua Road, Shijiazhuang City, Hebei Province, 050000 China.

Subsidiary Companies:

Tangshan Iron and Steel Company

HanGang Company

XuanGang Company

ChengGang Company

WuGang Company

KuangYe Company

ShiGang Company

Hengban Company

Xuanhua Machinery

Yanshan Hotel

GuoMao Company

JingGang Company

Caida Securities

Hengshui Strip Rolling Co Ltd

Organisational Structure

Thirteen departments including Integrated Management, Planning and Development, Legal Department, Securities and Stock Trading Department.

Business Scope

Principally engages in smelting and processing iron and steel products. It primarily provides twisted steel bars, wire rods, hot-rolled steel sheets, cold-rolled steel sheets, and medium and thick boards. The company also offers aluminium zinc alloys, coated sheets, wide and heavy plates, lime, coke, and coal tar products

State-invested Enterprise

Yes.

Annual Report:

Please see **Attachments 69** and **70**. Unfortunately only Chinese versions of

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the annual report were available.

Baosteel Group Corporation

Full Name

Baosteel Group Corporation

Address

Baosteel Tower, Pu Dian Road 370, Pudong New District, Shanghai, 200122, China

Subsidiaries

Baoshan Iron & Steel Co Ltd

Guangzhou Iron & Steel Enterprises Group

Baosteel Group Xinjiang Bayi Iron & Steel Co Ltd

Ningbo Iron & Steel Co Ltd

Baosteel Resources Co Ltd

Baosteel Metal Co Ltd

Baosteel Engineering & Technology Group Co Ltd

Shanghai Baosight Software Co Ltd

Shanghai Baosteel Equipment Maintenance Co Ltd

Shanghai Baohua International Tendering Co Ltd

Baoshan Iron & Steel Co Ltd – Chemical Branch

Huabao Investment Co Ltd

Huabao Trust Co Ltd

Fortune SG Fund Management Co Ltd

Huabao Securities Co Ltd

Baosteel Developing Co Ltd

Baosteel Group Shanghai Meishan Co Ltd

Baosteel Group Shanghai No.1 Iron & Steel Co. Ltd

Baosteel Group Shanghai No.5 Iron & Steel Co. Ltd

Organisational Structure

There are 18 departments including Energy & Environment Department.

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Development and Reform Department, Audit Department and Operating Finance Department.

Business Scope

Major product series, namely straight carbon steels, stainless steels and special steels, are widely used in industries such as automobile, home appliances, petrochemical, machine building, energy and transportation, construction and decoration, metalwork, aerospace and aviation, nuclear energy and electronic devices, etc

State invested Enterprise

Yes

Annual Reports

Please refer to Attachments 71 and 72

Wuhan Iron and Steel (Group) Co

Full name

Wuhan Iron and Steel (Group) Corporation (WISCO)

Address

Changqian, Qingshan District, Wuhan City, Hubei Province

Subsidiaries

No information available

Organisational Structure

WISCO has 14 departments including Planning & Development Department, Security & Environmental Protection Department, Science and Technology Innovation Department (IP Management) and the Audit Department.

Business Scope

WISCO's main steel products are hot rolled coils/sheets, hot rolled section steel, hot rolled heavy-duty rails, medium plates, cold rolled coils/sheets, galvanized sheets, tinned sheets, cold rolled oriented and non-oriented silicon sheets, colour coated sheets, high speed rolled wires. Also produces by-products such as coke, refractory material, chemical products, ferroalloy, mechanical and electrical equipment, powder metallurgical products, copper-sulphur- cobalt concentrated ores, granulated slag, oxygen and rare gases

State invested Enterprise

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Yes. WISCO is a state-owned major enterprise for which the State-owned Assets Supervision & Administration Commission under the State Council performs the duty of investor on behalf of the State Council.

Annual Reports

Please see attachment **Attachments 73 and 74.**

Shandong Iron and Steel

Full name

Shandong Iron and Steel Group Co. Ltd

Address

No.134 Lishan Road Jinan, 250001

Subsidiaries

Jinan Iron and Steel Group Co

Laiwu Steel Group Corp

Organisational Structure

No Information available

Business Scope

No Information available

State invested Enterprise

Yes.

Annual Reports

The GOC has been unable to access any publicly available annual reports for this company.

Maanshan Iron and Steel

Full name

Maashan Iron & Steel Co. Ltd

Address

Jiu Hua Xi Road, Maanshan City, Anhui Province, the PRC, 243003

Parent Company

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Magang (Group) Holding Company Ltd ("Masteel")

Related Companies

Magang Holding Company

Organisational Structure

Magang (Group) Holding has 14 departments, including Enterprise Management, Human Resources, Energy and Environmental Protection and a Legal Affairs Department.

Business Scope

Magang (Group) Holdings' principle business is focussed on iron-making, steel-making and steel rolling projects. The principal products produced by Magang (Group) are steel plates, section steel, wire rods and train wheels.

State Invested Enterprise

Yes.

Annual Reports

Please see attachment **Attachments 75 and 76.**

Shougang Corporation

Full name

Shougang Corporation Ltd.

Address

33, Xi Zhi MenWai XiaoCun Beijing 100088, China

Subsidiary Companies

Concord Century Holdings: Iron ore and other minerals

Shougang Concord International Enterprises- electronic and steel products

Shougang Concord Grand – property investment, development and management

Shougang Concord Technology – phone cords, power cords and plugs

Organisational Structure

Shougang Corporation has 21 departments, including New Industries Development, Planning and Finance, Equipment division and Production.

Business Scope

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Iron Ore, Steel products, mechanical products, electrical products, metallurgical materials, equipment and spare parts, iron mineral products

State invested Enterprise

Yes.

Annual Reports

Please see attachment **Attachment 77**.

Sinosteel Corporation**Full name**

Sinosteel Corporation

Address

Sinosteel Plaza, 8 Haidian St, Beijing PR China 100080

Subsidiary Companies

Sinosteel has 86 subsidiaries. 63 are in China and 23 are based outside of China abroad. Australian Customs should not assume that all subsidiaries operate or are related to the Steel industry.

Organisational Structure

Sinosteel Corporation has 15 departments, including Risk Management, Information Management, Corporate Culture Department and Overseas Operation Department.

Business Scope

Sinosteel's business involves developing and processing metallurgical mineral resources, trading and logistics of metallurgical raw materials and products, and related engineering technical service and equipment manufacture. Its scope is not limited to the steel industry.

State invested Enterprise

Yes.

Annual Reports

No annual report could be obtained at this time.

China Iron & Steel Research Institute Group

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Full name

China Iron & Steel Research Institute Group (CISRI)

Address

No.76 Xueyuan Nanlu, Haidian, Beijing 100081, China

Subsidiary Companies

CISRI has initiated two listed enterprises, namely Advanced Technology and Materials Co., Ltd. and Beijing AriTime Intelligent Control Co., Ltd., as well as a number of high-tech enterprises such as New Metallurgy Hi-tech Group Co., Ltd. and Gaona Materials & Technology Co., Ltd.

Organisational Structure

CISRI has 15 departments, including Financial Dept, Marketing Dept, Capital Construction Dept. and Scientific Quality Dept.

Business Scope

New metals and materials industry, automation technology, engineering technology and analysis and testing equipment industry. CISRI does not have a particular focus on the HSS or HRS products, it is more involved research and development.

State invested Enterprise

Yes.

Annual Reports

The GOC has been unable to access any annual reports for this company at this time.

China Minmetals Corporation.**Full name**

China Minmetals Corporation

Address

5 Sanlihe Rd., Haidian District, Beijing, P.R.China, 100044

Subsidiary Companies

China Minmetals has 66 subsidiaries in China, 6 in Asia, 8 in Europe, 8 in America, 2 in "Oceania" and 1 in Africa. The GOC would note that China Minmetals activities are not solely focused on steel.

Organisational Structure

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China Minmetals has six business centres, including non-ferrous metals business centre, iron ore and steel business centre, ferrous mining business centre, finance business centre, real estate business centre, as well as science and technology business centre.

Business Scope

China Minmetals primarily engages in exploration, mining, smelting, processing and trading for metals and minerals, and is also engaged in finance, real estate, and mining and metallurgic technology, with business scope covering 26 nations and regions in the world.

State invested Enterprise

Yes.

Annual Reports

The GOC has been unable to access any annual reports for this company at this time.

Anshan Iron and Steel Group Corporation (also known as "Anshan")

Full name

Anshan Iron and Steel Group Corporation

Address

Tiexi District, Anshan City, Liaoning Province

Subsidiary Companies

16 wholly owned subsidiaries, 11 minority holding companies.

Organisational Structure

Anshan has 21 departments, including Strategy Development Department, Technology Reform Development, Plan & Finance Department and Legal Affairs Department etc

Business Scope

Iron mine, manganese mine, refractory clay and stone, ferrous metal, Steel rolling products, metal products, etc.

State invested Enterprise

Yes.

Annual Reports

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Please see Attachments 78 and 79.

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SECTION D: SUBSIDIES

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

INVESTIGATED PROGRAMS

The following programs are currently being investigated by Customs and Border Protection:

Program 1: Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in Economic and Technological Development Zones

Program 2: One-time Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" and "Famous Brands of China"

Program 3: Provincial Scientific Development Plan Fund

Program 4: Export Brand Development Fund

Program 5: Matching Funds for International Market Development for Small and Medium Enterprises

Program 6: Superstar Enterprise Grant

Program 7: Research & Development (R&D) Assistance Grant

Program 8: Patent Award of Guangdong Province

Program 9: Training Program for Rural Surplus Labour Force Transfer Employment

Program 10: Preferential Tax Policies for Foreign Invested Enterprises - Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period not less than 10 years

Program 11: Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)

Program 12: Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai

Program 13: Preferential Tax Policies in the Western Regions Exemption of Tariff and Import VAT for Imported Technologies and Equipment

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Program 14: Tariff and VAT Exemptions for Imported Materials and Equipment Reduction in Land Use Fees

Program 15: Innovative Experimental Enterprise Grant

Program 16: Special Support for Non State-Owned Enterprises

Program 17: Venture Investment Fund of Hi-Tech Industry

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

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

Program 20: Hot Rolled Steel Provided by Government at Less than Fair Value

Note: the above titles of programs are to the best of Customs and Border Protection'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.

PART D1 - 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 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 HSS and HRC during the investigation period.

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

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1 PROGRAM 1: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WITH FOREIGN INVESTMENT ESTABLISHED IN THE COASTAL ECONOMIC OPEN AREAS AND IN ECONOMIC AND TECHNOLOGICAL DEVELOPMENT ZONES

D1.1 Provide details of the program including the following.

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

To encourage foreign investment in and to enhance development of coastal economic open areas and economic and technological development zones.

(b) Legislation under which the subsidy is granted.

This program was previously granted under the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise* ("the Foreign Enterprise Tax Law"), the *Rules for the Implementation of the Foreign Enterprise Tax Law* and the *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax*.

(c) Nature or form of the subsidy

Preferential tax treatment

(d) When the program was established.

1984

(e) Duration of the program.

The program was in operation from 1984 through to 31 December 2007. Transitional provisions are now in operation until 2012.

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

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax

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reduction do so in the normal course of their income tax assessment.

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

The income tax on production enterprises with foreign investment that are established in the economic and technological development zones may be levied at the reduced rate of fifteen percent.

The income tax on production enterprises with foreign investment established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located may be levied at the reduced rate of twenty-four percent.

The income tax on the production enterprises with foreign investment established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located and which are engaged technology-intensive or knowledge-intensive projects; projects with foreign investments of over US\$30 million and long term outlooks for return on investment; or energy resource, transportation and port construction projects may be levied at the reduced rate of fifteen percent

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

Enterprises will receive benefits under the program if they satisfy the requirements outlined in Article 7 of the *Foreign Enterprise Income Tax Law* and Article 73 of the *Rules for the Implementation of the Foreign Enterprise Tax Law*. Please see above response to E. 1.1(h) for an explanation of these criteria.

D1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax **Attachment 80**

Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed) **Attachment 81**

Rules for the Implementation of the Foreign Enterprise Tax Law **Attachment 82**

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- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority: Ministry of Finance of the People's Republic of China
Address: No 3, South Three Alley of Sanli River, Xicheng District, Beijing, People's Republic of China, 100820

Authority: State Administration of Taxation
Address: No 5, Yangfangdian West Road, Haidian District, Beijing, People's Republic of China, 100038

Authority: Ministry of Commerce of the People's Republic of China
Address: No.2 Dong Chang'an Avenue Beijing, People's Republic of China, 100731

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local authority keeps record of payment of tax.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

There are more than 150 companies, however the GOC can only provide information relating to companies who have responded to the investigation.

None of the responding companies were in receipt of benefits under the program during the POI.

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D1.7 Answer the following questions regarding the application process:

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

There is no specific application form.

An enterprise's eligibility is assessed on the basis of their standard annual income tax reporting. Enterprises indicate on standard reporting documents whether they are seeking to be considered under this program and quote the figure they expect to be reduced or exempted.

Copies of the standard income tax assessment forms have been provided in **Attachment 83**.

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

Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

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

If the enterprise meets the eligibility criteria outlined in D1.1(h) the enterprise will receive the legislated reduction or exemption.

There are no specific approval documents, successful enterprises simply receive the reduction or exemption as a matter of course.

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

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not enjoy the reduction or exemption.

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There is no specific, single-purpose disapproval document or form.

D1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

This program is not contingent on export performance.

(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.

This program is not contingent on the use of domestic over imported goods

(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.

This program is available to enterprises located within economic and technological development zones, coastal economic open areas, and old urban districts of cities where the economic and technological development zones are located.

(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.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

D1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

Please see above response to D1.1(h) for an explanation of the criteria determining the size of the benefit.

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

Please see above response to D1.2. No further legal instruments govern the application of this program.

(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?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

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

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(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 are no contractual agreements between the Government of China and companies benefiting from this program

D1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

The GOC does not keep such data

D1.11 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 July 2007 to 30 June 2011.

This information is not available. Please see above response to D1.10.

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D1.12 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 July 2007 to 30 June 2011?

This information is not available. Please see above response to D1.10.

D1.13 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 from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

D1.14 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 *Enterprise Income Tax Law Attachment 8* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect on 1 January 2008. This program is not included in the law.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 80* as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.

In particular the enterprises that enjoyed a tax rate of 15% are subject to the following increases:

- 18% in 2008;
- 20% in 2009;
- 22% in 2010;
- 24% in 2011; and
- 25% in 2012.

Enterprises that previously enjoyed tax rate of 24% were immediately subject to a 25% rate as of 2008.

The program will be completely terminated at the expiration of transitional period in

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2012.

NON-CONFIDENTIAL-FOR PUBLIC FILE

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2 PROGRAM 2: ONE-TIME AWARDS TO ENTERPRISES WHOSE PRODUCTS QUALIFY FOR "WELL-KNOWN TRADEMARKS OF CHINA" AND "FAMOUS BRANDS OF CHINA"

The GOC notes that neither the applicant nor Customs have suggested what the legal basis is for this program. The GOC is not aware of such a program. However, there are two provincial level programs that meet this description. These are:

- (a) *One-time Awards to Enterprises Whose Products Qualify for "Well Known Trademarks of China" or "Famous Brands of China" of Guangxi Zhuang Autonomous Region; and*
- (b) *One-time Awards to Enterprises Whose Products Qualify for "Well Known Trademarks of China" or "Famous Brands of China" of Guangdong province.*

The GOC has responded to the standard questions on the assumption that these are the intended programs (referred to as "(a)" and "(b)" respectively).

D1.1 Provide details of the program including the following.

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

- (a) The purpose of the program was to support industrial enterprises in the Autonomous Region to establish brands, and to accelerate the development of those brands.
- (b) The purpose of the program is to foster scientific development and encourage investment by enterprises in branding and marketing. The program was essentially an ad-hoc program established to recognise a couple of provincial enterprises that had achieved the titles of "China Worldwide Famous Brand" and "China Well-known Brand".

(c) Legislation under which the subsidy is granted.

- (a) *Notice Concerning Printing and Distributing the Implementation Measures of Commending and/or Awarding to Industrial Enterprises of Guangxi Zhuang Autonomous Region Whose Products are Famous or Well-known*
- (b) *Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of "China Worldwide Famous Brand", "China Famous Brand", or "China Well-known Brand"*

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(d) Nature or form of the subsidy.

- (a) This program was terminated in 2009.
- (b) This program is provided by way of grant.

(e) When the program was established.

- (a) 9 April 2007
- (b) 20 October 2006

(f) Duration of the program.

- (a) 2007 to 2009.
- (b) Operation of this program is reviewed annually.

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

- (a) This program was terminated in 2009.
- (b) The government of Guangdong province is responsible for the administration and management of this program.

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

- (a) This program was terminated in 2009.
- (b) This program is for enterprises in Guangdong province whose products qualified for "China Worldwide Famous Brand", "China Famous Brand" and/or "China Well-known Brand".

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

- (a) This program was terminated in 2009.
- (b) Enterprises who had been awarded the title of "China Worldwide Famous Brand" received a one-time award of RMB 3 million per title. Enterprises whose products had qualified for the title of "China well-known Brand" and/or "China famous trademark" first time received a one-time award of RMB 1 million per title.

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- D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

- | | |
|-----|---|
| (a) | <p><i>Notice Concerning Printing and Distributing the Implementation Measures of Commending and/or Awarding to Industrial Enterprises of Guangxi Zhuang Autonomous Region Whose Products are Famous or Well-known</i></p> <p>Attachment 85</p> <p><i>Notice of terminating Implementation Measures of Commending and/or Awarding to Industrial Enterprises of Guangxi Zhuang Autonomous Region Whose Products are Famous or Well-known</i></p> <p>Attachment 86</p> |
| (b) | <p><i>Decision Concerning Commending and/or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of "China Worldwide Famous Brand", "China Famous Brand", or "China Well-known Brand"</i></p> <p>Attachment 87</p> |

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

- | | |
|-----|---|
| (a) | <p>Authority: General office of the government of Guangxi Zhuang Autonomous Region</p> <p>Address: No. 1 Min Le Lu, Nanning, 530012</p> |
| (b) | <p>Authority: General office of the government of Guangdong province</p> <p>Address: 305 Dong Feng Zhong Lu, Guangzhou, 510031</p> |

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local authority keeps such record.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2001 to 30 June 2011.

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Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

The GOC notes that no responding companies applied, accrued, or received benefits under either program during the POI.

The GOC does not have information concerning the application of the programs to the responding companies for the period prior to the POI.

D1.7 Answer the following questions regarding the application process:

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

- (a) This program was terminated in 2009.
- (b) No application is required for this program as it is simply further recognition by the Guangdong Provincial Government of enterprises that were awarded titles by the General Administration of Quality Supervision, Inspection and Quarantine.

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

- (a) This program was terminated in 2009.
- (b) Please see above response to D1.7(a) at point 2.

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

- (a) This program was terminated in 2009.
- (b) There are no specific approval documents however the successful enterprises are notified by their respective Governments and their names published. No further criteria are required to be met than have already been outlined in previous responses.

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

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- (a) This program was terminated in 2009.
- (b) If an enterprise did not receive the grant it is because they were not awarded the relevant titles. There are no specific disapproval documents.

D1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

These programs were/are not contingent upon export performance.

(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.

These programs were/are not contingent upon the use of domestic goods over imported goods.

(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.

- (a) This program was terminated in 2009.
- (b) This program is limited to enterprises in Guangxi Zhuang Autonomous Region.

(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.

- (a) This program was terminated in 2009.
- (b) The program is limited by geographical location as detailed in the above response to D1.8(c) and the general eligibility criteria. Specifically, eligibility is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

D1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

- (a) This program was terminated in 2009.
- (b) The size of the benefit is determined by direct reference to the relevant regulations and laws. Please see above response to D1.1(h) for a detailed explanation of the size of benefits provided.

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

Please see above response to D1.2, no further legal instruments govern/ed the application of the program/s.

(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?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit, no further discretion is exercised by the administering agency.

(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?

- (a) This program was terminated in 2009.
- (b) In the case of this program the size of the benefit is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(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.).

- (a) This program was terminated in 2009.
- (b) There are no contractual agreements between the Government of China and companies benefiting from this program.

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- D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

The GOC does not keep such data.

- D1.11** 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 July 2007 to 30 June 2011.

This information is not available. Please see above response to D1.10.

- D1.12** 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 July 2007 to 30 June 2011?

This information is not available. Please see above response to D1.10.

- D1.13** 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 from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

- D1.14** 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?

- (a) This program was terminated in 2009. Please refer to *Notice of terminating Implementation Measures of Commending and/or Awarding to Industrial Enterprises of Guangxi Zhuang Autonomous Region Whose Products are Famous or Well-known Attachment 86*
- (b) This program is reviewed and decided annually, therefore the GOC cannot advise whether any changes will be made by the Guangdong provincial government.

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3 PROGRAM 3: PROVINCIAL SCIENTIFIC DEVELOPMENT PLAN FUND

The GOC notes that neither the applicant nor Customs have suggested what the legal basis is for this program. The GOC is not aware of such a program.

There was a provincial program called the *Special Fund for Developing Trade Through Science and Technology of Guangdong Province* which appears to meet the description.

The GOC has responded to the standard questions on the assumption that this is in fact the intended program.

D1.1 Provide details of the program including the following.

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

This policy is intended to strengthen the management of the special fund for developing trade in science and technology-based goods and to improve the management and administration of enterprise's export activities.

(b) Legislation under which the subsidy is granted.

Administrative Measures on Special Fund for Developing Trade Through Science and Technology of Guangdong Province.

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

1 January 2002.

(e) Duration of the program.

2002 to April 2009.

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

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This program was terminated in April 2009.

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

This program was terminated in April 2009.

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

This program was terminated in April 2009.

- D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Administrative measures on special fund for developing trade through science and technology of Guangdong Province **Attachment 88**

Catalogue of Chinese New and High-tech Export Products **Attachment 89**

Notice of terminating Administrative measures on special fund for developing trade through science and technology of Guangdong Province **Attachment 90**

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority: Department of Foreign Trade and Economic Cooperation of Guangdong Province

Address: 11th floor, No.774, Dongfeng East Road, Guangzhou City, China, 510087

- D1.5** 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.

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The local authority keeps the relevant records.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2001 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

No respondent companies have applied for, accrued, or received benefits under this program during the POI.

- D1.7** Answer the following questions regarding the application process:

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

In making an application an enterprise must submit a written application report (no standard form required), the enterprise's business licence, the export information relating to high-tech products and technology for the previous year, an Approval Certificate of Technology Export Contract, relevant approval and certification documents for enterprises that have International Quality System Certification or international patents and a study of technology trade. This application is submitted to the provincial Department of Foreign Trade and Economic Cooperation and the provincial Department of Finance.

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

Municipal departments of foreign trade and economic cooperation and finance jointly assess the application documents.

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

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There are no specific approval documents.

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

If the application is denied it is because the applicant did not satisfy the relevant eligibility criteria.

There are no specific disapproval documents.

D1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

This program is contingent upon export performance as outlined in the above responses to D1.1 (g) and (h).

(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.

This program is not contingent upon the use of domestic over imported goods.

(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.

This program is limited to enterprises located within the Guangdong region.

(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.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries. Provided the enterprise engages in export or high technology products it is eligible to apply for the program. High technology products are broadly defined and can be found across a wide range of industries and enterprises.

D1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

The size of the benefit is determined by direct reference to the relevant regulations and laws.

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

Please see above response to D1.2, no further legal instruments govern the application of this program.

(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?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit, no further discretion is exercised by the administering agency.

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

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(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 are no contractual agreements between the Government of China and companies benefiting from this program.

D1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

The GOC does not keep such data.

NON-CONFIDENTIAL-FOR PUBLIC FILE

- D1.11** 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 July 2007 to 30 June 2011.

This information is not available. Please see above response to D1.10.

- D1.12** 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 July 2007 to 30 June 2011?

This information is not available. Please see above response to D1.10.

- D1.13** 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 from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

- D1.14** 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 GOC advises that this program has ceased to be effective.

No anticipated changes. This program has been terminated since April 2009. Please refer to *Notice of terminating Administrative measures on special fund for developing trade through science and technology of Guangdong Province* **Attachment 90**

4 PROGRAM 4: EXPORT BRAND DEVELOPMENT FUND

The GOC notes that neither the applicant nor Customs have suggested what the legal basis is for this program. The GOC is not aware of such a program. However the program *Supporting the Development of Exporting Famous Brands* appears to meet the description.

The GOC has responded to the standard questions on the assumption that this is the intended program.

D1.1 Provide details of the program including the following.

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

The purpose of the program is to promote the creation and development worldwide famous brands by enterprises.

(b) Legislation under which the subsidy is granted.

Circular on Guiding Suggestions on Supporting the Development of Exporting Famous Brands Attachment P4-1

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

30 May 2005

(e) Duration of the program.

2005 to April 2009

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

This named program has ended from 2 April 2009.

This program was coordinated by governments and departments at the local level

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and provided cash grants to partially offset the costs of brand development to successful applicants.

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

This named program has ended from 2 April 2009.

The relevant legal documents do not provide specific details on the administration of this program.

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

This named program has ended from 2 April 2009.

The relevant legal documents do not provide specific details on the administration of this program.

D1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Circular on Guiding Suggestions on Supporting the Development of Exporting Famous Brands **Attachment 91**

This named program has ended from 2 April 2009.

D1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

D1.4 Identify the GOC department or agency administering the program.

Authority: Ministry of Commerce

Address: No.2 Dong Chang An Jie, Beijing, China, 100731

D1.5 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.

NON-CONFIDENTIAL-FOR PUBLIC FILE

Record of payment.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: July 2001 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of respondents had applied for, accrued, or received benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

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

This information is not available as the GOC is not aware of the particular details of the local government programs. Please see above response to D1.1(f).

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

This information is not available as the GOC is not aware of the particular details of the local government programs. Please see above response to D1.1(f).

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

This information is not available as the GOC is not aware of the particular details of the local government programs. Please see above response to D1.1(f).

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

This information is not available as the GOC is not aware of the particular details of the local government programs. Please see above response to D1.1(f).

NON-CONFIDENTIAL-FOR PUBLIC FILE

D1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

This information is not available. Please see above response to D1.1(f).

(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.

This information is not available. Please see above response to D1.1(f).

(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.

This information is not available. Please see above response to D1.1(f).

(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 information is not available. Please see above response to D1.1(f).

D1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

This information is not available. Please see above response to D1.1(f). The GOC presumes that the size of the benefit granted was decided by the relevant departments based on the relevant regulations and laws.

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

Please see above response to D1.2, no further legal instruments govern the application of this program.

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(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?

This information is not available. Please see above response to D1.1(f). The GOC presumes that if the eligibility criteria as listed in the applicable law, regulation or other official documents were met, the applicant was eligible to receive a benefit.

(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?

See response to c above.

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

This information is not available. Please see above response to D1.1 (f).

D1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

The GOC does not keep such data.

D1.11 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 July 2007 to 30 June 2011.

This information is not available. Please see above response to D1.10.

D1.12 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 July 2007 to 30 June 2011?

This information is not available. Please see above response to D1.10.

D1.13 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial

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assistance/benefit was approved and in each of the years from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

- D1.14** 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?

Pursuant to *Guiding Suggestion on Supporting the Development of International Famous Brands Attachment 92* this named program has ended from 2 April 2009.

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5 PROGRAM 5: MATCHING FUNDS FOR INTERNATIONAL MARKET DEVELOPMENT FOR SMALL AND MEDIUM ENTERPRISES

D1.1 Provide details of the program including the following.

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

To support the development of SMEs and encourage their export-readiness through capacity building to reduce the risks confronted by SMEs.

(b) Legislation under which the subsidy is granted.

Circular of the Ministry of Finance, the Ministry of Foreign Trade and Economic Cooperation Concerning Printing and Distributing the Measures for the Administration of International Market Developing Funds of Small-and Medium-Sized Enterprises for Trial Implementation **Attachment 93**

Detailed Rules for the Implementation of the Measures for Administration of International Market Developing Funds of Small-and Medium-Sized Enterprises C for provisional implementation ("the Detailed Rules") **Attachment 94**

The above legislations have been substituted in 2010 by: *Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises ("the Market Developing Funds Measure")* **Attachment 95**

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

2000

(e) Duration of the program.

2000 to the present.

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

NON-CONFIDENTIAL-FOR PUBLIC FILE

The program is administered by Ministry of Finance and Ministry of Commerce with the assistance of other competent authorities, and is implemented by the local finance and foreign trade authorities within their respective jurisdictions.

Enterprises that apply for market development funds file their application and supporting documentation with the foreign trade authority for examination. If the application is approved the applicant receives the benefits.

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

Pursuant to Article 6 of the *Market Development Fund Measure* the program is available to small-and medium-sized enterprises that are independent legal persons with capacity to manage an import or export business.

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

Pursuant to Article 6 of the *Market Development Fund Measure* an applicant must meet the following requirements in order to receive the grant:

- (a) have legal personality according to law;
- (b) have the capacity to manage an import or export business;
- (c) have exports in the previous year of 15 millions (before 2010) or 45 millions (after 2010) 45,000,000 US dollars or less;
- (d) have sound financial management systems and records;
- (e) have employees who specialise in foreign trade and economic business who possess the basic skills of foreign trade and economics; and
- (f) have a solid market development plan.

D1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Please see D1.1(b)

D1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.1(b).

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D1.4 Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance
Address:	3 South Three Alley of Sanli River, Xicheng District, Beijing 100820
Authority:	Ministry of Commerce
Address:	2 Dong Chang'an Avenue, Beijing, 100731

D1.5 Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local authorities keep the payment document.
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D1.6 Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2001 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2001 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

D1.7 Answer the following questions regarding the application process:

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

There are two types of application that can be made: an application for approval of project funding or an application for project implementation.

For a project funding application eligible enterprises submit the relevant application form Attachment 96 and supporting documentation to the Small and Medium-Sized Enterprise Office or the local foreign trade and economic departments requesting funding under the following years project funding plan.
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For a project implementation application eligible enterprises must, according to the approved annual project funding plan, submit the relevant application form Attachment 97 and supporting documentation to the Small and Medium-Sized Enterprise Office or to the local foreign trade and economic departments for project
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implementation 30 days before the project is set to begin.

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

In analyzing and approving project funding applications, relevant authorities may hire engineering, financial, accounting and/or appraisal advisers to take part. After assessment of applicants the Ministry of Finance and the Ministry of Foreign Trade and Economic Cooperation provide a written reply to the applicant detailing the project funding plan of the following year. The Ministry of Foreign Trade and Economic Cooperation then makes a public announcement on the specific contents of the project funding plan. After this announcement eligible applicants must make relevant preparations according to the project funding plan.

With respect to project implementation applications, the Ministry of Foreign Trade and Economic Cooperation or the local foreign trade and economic departments directly examine and reply to applications which are included in the annual project fund plan within 10 days.

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

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There is no specific form that approvals are to take rather the *Detailed Rules* simply provide that the Ministry "reply in an appropriate manner" (see Articles 30 and 33).

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

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There is no specific form that disapprovals are to take rather the *Detailed Rules* simply provide that the Ministry is required to "reply in an appropriate manner" (see Articles 30 and 33)

D1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

Program eligibility does not demand a minimum level of export performance by an enterprise rather eligibility is limited to enterprise that exported USD45,000,000 or less of merchandise in the previous year. This figure represents a high export turnover and in practical effect captures the majority of exporters.

Provided the applicant satisfies this criterion, eligibility does not depend on the enterprise achieving any particular level of export performance.

(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.

This program is not contingent on the use of domestic over imported goods.

(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.

This program is not limited to particular 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.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries. The eligibility criteria relating to export activities do not limit are applied across the industrial spectrum.

D1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

Pursuant to Article 12 of the *Measure*, funds advanced under this program must not exceed 50% of the total project cost.

For SMEs in the western regions and for marketing activities carried out in accordance with the market diversity strategy outlined in Article 12 of the *Measure*, program funding may be as high as 70% of total project expenditure.