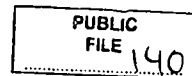




**Australian Government**

**Australian Customs and  
Border Protection Service**



Customs House  
5 Constitution Ave  
Canberra ACT 2601

Mr Daniel Moulis  
Principal, Moulis Legal  
1/2 Brindabella Circuit  
Brindabella Business Park  
Canberra International Airport  
ACT 2609

Sent via email: [Daniel.Moulis@moulislegal.com](mailto:Daniel.Moulis@moulislegal.com)

Dear Mr Moulis,

**INVESTIGATION INTO THE ALLEGED DUMPING AND SUBSIDISATION OF  
ALUMINIUM ROAD WHEELS (ARWs) EXPORTED FROM THE PEOPLE'S  
REPUBLIC OF CHINA (CHINA)**

Thank you for forwarding the response to the Chinese Government Questionnaire (GQ) for the above investigation on behalf of your client, the Government of China (GOC).

The Australian Customs and Border Protection Service (Customs and Border Protection) has reviewed the GOC's response to the GQ, and considers that further requests for information from the GOC are warranted to assist with ongoing investigations into allegations that:

- a particular market situation exists in China that renders domestic selling prices of ARWs unsuitable for determining normal values in accordance with section 269TAC(2)(a)(1) of the *Customs Act 1901*; and
- that ARWs exported to Australia from China have been in receipt of countervailable subsidies.

In addition, during its investigations of cooperating Chinese exporters of ARWs, Customs and Border Protection was provided with information that indicates that benefits have been received by exporters under several new subsidy programs that are not amongst the 40 alleged programs already being examined in the above investigation. Following an assessment of this information, Customs and Border Protection considers that these additional subsidy programs warrant further investigation.

Consequently, Customs and Border Protection has formulated a Supplementary Chinese Government Questionnaire (SGQ) for completion by the GOC (attached).

Customs and Border Protection would greatly appreciate the GOC's co-operation in completing the SGQ and returning it, and all requested documentation, by **COB Tuesday 10 April 2012.**

Should you have any questions concerning the SGQ, or the investigation into HSS generally, please do not hesitate to contact me directly on telephone number (02) 6275 6393 or via email at [tmops2@customs.gov.au](mailto:tmops2@customs.gov.au).

Yours sincerely

Joanne Reid  
Director Operations 3  
International Trade Remedies Branch  
Australian Customs and Border Protection

23 March 2012



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**International Trade Remedies Branch**

**SUPPLEMENTARY GOVERNMENT  
QUESTIONNAIRE - CHINA**

**PRODUCT CONCERNED:** ALUMINIUM ROAD WHEELS FROM THE  
PEOPLE'S REPUBLIC OF CHINA

**INVESTIGATION PERIOD:** 1 JULY 2010 TO 30 JUNE 2011

**RESPONSE DUE BY:** 10 APRIL 2012

**ADDRESS FOR RESPONSE:** International Trade Remedies Branch  
Australian Customs and Border  
Protection Service  
5 Constitution Avenue  
Canberra ACT 2601  
Australia  
Attention: Director Operations 2

**CASE MANAGER:** Arthur VLAHONASIOS  
**TELEPHONE:** +61-2-6275-8130  
**FAX:** +61-2-6275-6990  
**EMAIL:** [tmops2@customs.gov.au](mailto:tmops2@customs.gov.au)

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

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## ABBREVIATIONS

the Act	the <i>Customs Act 1901</i>
Aluminium	includes primary aluminium, electrolytic aluminium, secondary aluminium, scrap aluminium cast into an ingot or a billet, whether as an aluminium alloy, including aluminium alloy A356 and A356.2 or similar, or aluminium alone
Aluminium enterprises	Entities involved with the manufacture or processing of aluminium products
ARW	Aluminium Road Wheels
billet	means a bar of aluminium metal, including aluminium alloy A356 and A356.2 or similar
China	the People's Republic of China
Customs and Border Protection	Australian Customs and Border Protection Service
ESI	Enterprise with State Investment
EPZ	Export Processing Zones
FIE	foreign invested enterprise
GOC	Government of China
ingot	means an ingot of aluminium (including aluminium alloy A356 and A356.2 or similar) cast into a shape suitable for further processing
the goods	the goods the subject of the application (ARW)
the investigation period	1 July 2010 to 30 June 2011
SASAC	the State-owned Assets Supervision and Administration Commission of the State Council
SEZ	special economic zone
SOE	state-owned enterprise

**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 Aluminium Road Wheels (ARWs) from the People's Republic of China (China) 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 ARWs 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 the domestic Chinese ARW market that renders sales within that market unsuitable for determining normal values under s.269TAC(1) of the *Customs Act 1901* (the Act) (i.e. that a 'particular market situation' exists in that market).

As part of its investigation, Customs and Border Protection provided the Government of China (GOC) a Government Questionnaire (GQ) that included questions and requested documents that it was considered would be useful in addressing the above-mentioned market situation and subsidy claims in relation to Chinese ARWs.

A confidential response to this GQ was received on 1 February 2012. A non-confidential response was received on 17 February 2012.

This Supplementary Government Questionnaire (SGQ) has been developed by the Australian Customs and Border Protection Service (Customs and Border Protection) after considering the GOC's response to the GQ to this investigation. It contains further questions and requests for information that Customs and Border Protection may be useful in assessing the allegations in relation to Chinese ARWs.

It should be noted that any reference below to an Attachment refers to the Attachments submitted by the GOC in response to the GQ.

**2. Product concerned****Description**

The goods the subject of the application (the goods) are described as follows:

*aluminium road wheels ("ARWs") for motor vehicles of HTISC heading 8708.70.91/78, in diameters ranging from 13" to 22".*

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For clarification, the goods INCLUDE finished or semi-finished ARWs whether un-painted, painted, chrome plated or forged and EXCLUDE aluminium wheels for go-carts and All-Terrain Vehicles ("ATVs").

### **Tariff classification**

The application stated that the goods are classified to tariff subheading 8708.70.91 (statistical code 78) in Schedule 3 to the Customs Tariff Act 1995.

Tariff subheading 8708.70.91/78 covers "road wheels for passenger motor vehicles including wheels used for caravans and trailers, unfinished wheels and wheels with tyres." This sub-heading does not cover parts of wheels.

The applicable rate of Customs Duty is 5%.

There are no 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 ARW 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 2006 for injury analysis purposes.

### **4. Response to this questionnaire**

The GOC may elect not to respond to and complete the supplementary questionnaire.

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 may be in the GOC's interests, and the interest of Chinese exporters of ARWs, to provide a complete response.

If the GOC elects to respond to this questionnaire, the response is due by **close-of-business 10 April 2012**.

### **5. If you decide to respond**

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

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### Confidential and non-confidential versions

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

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

All information provided to 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

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.

### 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



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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.

### 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 the included CD-ROM.

### General matters

Responses to questions should:

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

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<sup>1</sup> 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.

### 6. 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).

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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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**SECTION B: SUPPLEMENTARY QUESTIONS - GENERAL**

1. Question B2 of the GQ requested the GOC to describe the nature and structure of
- (i) the ARW industry and market sector in China; and
  - (ii) the aluminium (including primary aluminium, electrolytic aluminium, secondary aluminium, scrap aluminium) industry and market sector in China.

Please provide the following additional information in relation to this question:

- (i) ARW production value and volume during the investigation period (1 July 2010 to 30 June 2011) is required. In the response only the quantity for 2010 is provided.
  - (ii) For the state invested enterprises - actual percentage of ownership is required. In the response the GOC only mentions "Majority state-invested enterprise".
  - (iii) Under the heading "Openness to international markets" - the data provided for ARWs is in Metric Tonnes (MT). The import and export of ARW from China quantity in pieces and corresponding values from 2006 to June 2011 is requested.
  - (iv) In response to B2(ii) under the heading "Foreign investment and openness to international markets" the GOC has provided import statistics for bauxite, alumina and aluminium. Please provide export statistics for these materials in the same format.
2. In its response to Question B3 of the GQ, the GOC has provided a listing of the 13 identified ARWs producers and/or exporters that have produced and/or exported ARW destined for Australia during the investigation period.
- (i) Identify within Attachment 1 ARW producers by volume and value, and detail their total production of ARWs, during the investigation period 1 July 2010 to 30 June 2011
  - (ii) The list of 13 ARW producers that exported ARWs to Australia during the investigation period is a much smaller number of exporters than that recorded in Customs and Border Protection's import database. Please advise the method by which the GOC gathered the data in response to this question.
  - (iii) What is meant by the phrase "Respondent" in the "Category" column of Attachment 1?
  - (iv) What is meant by the phrase "Top ARW exporter" in the "Category" column of Attachment 1?
3. In its response to Question B4 of the GQ, the GOC has provided a listing of manufacturers/producers of aluminium in China that produced aluminium during the investigation period.
- (i) What is meant by the phrase "responding suppliers" in the title of Attachment 2?
  - (ii) What is meant by "N/A" in the "Nature of enterprise" column?

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- (iii) for all companies that are SOEs, indicate the percentage ownership held by the GOC during the investigation period.
4. With respect, the GOC's response to Question B6 of the GQ does not answer the question, which asked the GOC to indicate which of the enterprises listed in response to Question B3 (ARW producers) and Question B4 (aluminium manufacturers) are located in a region or zone listed at B5, and which region they are located in.

The GOC's response refers to Attachment 2, which includes aluminium manufacturers only, and does not specifically state which zone each is located in.

5. In its response to Question B8 of the GQ, the GOC indicated exports of ARW's to Australia from 1 July 2006 to 30 June 2011.

Customs and Border Protection considers the GOC's response to Question B8 is limited and does not fully address the question.

Please review your response to Question B8 and provide a fully complete response. For example:

- (i) The GOC's response does not provide any source for the data in attachment 4.
  - (ii) ARW volume is requested in pieces (not tonnes).
6. Question C1 of the GQ requested the GOC to describe the Organization of the Government and described the role of *industrial policy and guidance on the ARW and aluminium sectors*.
- (i) Customs and Border Protection requests GOC to identify all rules, policies, guidelines that have been formulated by Ministry of Industry and Information Technology ("MIIT") and the Bureau of Raw Material Industry between 2008 and 2011 in relation to alumina and aluminium industrial sectors in China.
  - (ii) How are these measures, rules, policies or guidelines intended to help alumina and aluminium industrial sectors in China?
7. Question C1 of the GQ requested the GOC to describe the Organization of the Government and described the role of *taxation - especially changes to export taxes and export tax rebates*.

The attachments provided do not specifically answer this question in relations to export tax rebates. Customs and Border Protection requests the GOC to provide a summary of the export tax rebate rates for the ARW and aluminium industry from 2006 to 2011.

8. In response to question C2.1 of the GQ, the GOC identified Ministry of Industry and Information Technology's (MIIT) involvement in the development of economic policy development, economic regulations and

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the general responsibilities of which in this regard are drafting and implementing of industry policy and of industrial blueprints.

Provide copies of "*Industrial Blue Prints*" in relation to Aluminium industry from Ministry of Industry and Information Technology (MIIT) that were drafted, coordinated and implemented from 2008 to 2011.

9. Question C2.7 (d) of the GQ requested the GOC to identify the zones or regions outlined in its response to Question B5 that provide concessions or benefits in electricity prices to manufacturing, including aluminium production

Please identify if any of the provincial and/or central NDRC or price bureaus outlined in your response to question B5 provide concessions or benefits in electricity prices to manufacturing, including aluminium production?

10. Question C2.9(e) of the GQ requested the GOC to explain how the National Development and Reform Commission communicates guidelines to the aluminium enterprises and motivates aluminium enterprises to implement and/or satisfy the guidelines of the Guidelines for accelerating the restructuring of the Aluminium Industry as outlined in Chapter II

Customs and Border Protection considers that other than parts C2.9 (e) (xi) and (Xii), all other parts of this question are relevant to this investigation.

Please review your response to Question C2.9 (e) and provide a fully complete response.

11. Question C2.9 (e) of the GQ requested the GOC to explain how the National Development and Reform Commission monitors the objectives outlined in Chapter II above.
- (i) Provide a copy of National Development and Reform Commission (NDRC) reports and analysis for the years 2008 to 2011 and explain where NDRC used information to analyse the relationship between the actual development situations of the aluminium industry.
  - (ii) Provide all guidelines, policies and/or any actions taken as a result of this analysis.
12. Question C2.9 (m) (page 45) of the GQ requested the GOC to identify any policies that banks established under the Policy Banks Law of 1994 authorised by the GOC to provide policy loans at discounted interest rates for entities within the Chinese aluminium industry? What are the criteria for providing any such loans? What discounts are provided?
- (i) Please identify in which year the "Policy Banks Law(?)" ended; and
  - (ii) Identify the industries and/or companies that took advantage of this scheme

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13. Question C2.9 (c) (i) (page 54) of the GQ requested the GOC in relation to "Article 28" of the Price Law of the People's Republic of China (the Price Law) 'price monitoring system'. GOC indicated that NDRC has established and improved four price monitoring systems since 2005.

- (i) Provide a copy of price monitoring report of "National Important Energy" from 2005 to 2011.
- (ii) Provide copies of any measures, policies or actions taken as a direct or indirect result of this monitoring process

14. Question C2.9 (C) (ii) of the GQ requested the GOC in relation to Article 28 of the Price Law of the People's Republic of China (the Price Law) 'price monitoring system' applied to aluminium, aluminium raw materials and aluminium products since July 2006. GOC indicated that at present aluminium is subject to price monitoring.

- (i) Provide a copy of price monitoring report for aluminium and alumina from 2005 to 2011 and;
- (ii) Provide a copy of any measures, policies or actions taken as a direct or indirect result of this monitoring process.

15. The following questions relate to the GOC's response to part C3.12 of the GQ and related attachment(s).

(a) The GOC's response to Question C3.12 (a) is unclear. While the GOC claims that it does not know any "Changjiang River Exchange" in the first paragraph, later in the paragraph the GOC confirms that "Changjiang River Exchange" is a nonferrous metal spot market.

In its response GOC also referred to "Shanghai Yangtsi Non-ferrous Metal Network" ([www.ssccl.com](http://www.ssccl.com)). Please confirm:

- (i) If both the Changjiang River Exchange and Shanghai Yangtsi Non-ferrous Metal Network markets/exchanges exist, independently of each other;
- (ii) If so, whether the "Shanghai Yangtsi Non-ferrous Metal Network" is a stock exchange, futures exchange (or similar). If not, please explain the role of "Shanghai Yangtsi Non-ferrous Metal Network"; and
- (iii) Whether aluminium (including pre-alloy aluminium A356 and/or A356.2 or similar) traded on Shanghai Yangtsi Non-ferrous Metal Network.

(b) Explain in detail, the GOC's oversight of the Changjiang River Exchange and /or Shanghai Yangtze Non-ferrous Metal Network, including an explanation of the role and functions of the government body that is responsible for establishing securities market regulations with respect to the Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network.

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(c) Provide the annual reports for the Changjiang River Exchange and /or Shanghai Yangtze Non-ferrous Metal Network for the two year period prior to 30 June 2011.

(d) Provide the requirements, guidelines or rules for trading membership on the Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network.

(e) Provide the trading rules of the Changjiang River Exchange and /or Shanghai Yangtze Non-ferrous Metal Network.

(f) Can foreign, non-Chinese domestic companies, trade on the Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network? If not, explain the purpose of this limitation.

(g) Provide a list of the Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network member companies that had aluminium trading rights during the investigation period:

Indicate which companies are SOEs and which companies are otherwise associated with the GOC, as per the definition of associated persons found in the glossary. Also, indicate which companies are involved in the production or selling of aluminium and/or ARWs.

(h) Are there any restrictions or limitations preventing Chinese companies from trading in foreign commodity exchange? If so, please explain.

(i) Do the Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network also trade pre-alloy aluminium A356 and/or A356.2 or similar?

(j) For Changjiang River Exchange and/or Shanghai Yangtze Non-ferrous Metal Network, provide the monthly trading volume and average spot settlement prices for aluminium (including pre-alloy aluminium A356 and/or A356.2 or similar) for every month in the investigation period (1 July 2010 to 30 June 2011).

(k) For the Changjiang River Exchange and/or the Shanghai Yangtze Non-ferrous Metal Network provide the following information from 2006 to 2011:

- full names OF the top 20 traders by volume and value (including pre-alloy aluminium A356 and/or A356.2 or similar)
- Indicate which traders are SOEs and which traders are otherwise associated with the GOC, as per the definition of associated persons found in the glossary.
- Also, indicate which companies are involved in the production or selling of aluminium and/or ARWs

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### SECTION C: SUBSIDIES

#### Guidance note:

The request has been categorised by your responses to those programs requiring further and better information. In formulating your response, please identify by subsidy program number and sub-paragraph identifier (i.e. (a), (b)... etc.).

#### **Program 1 - Aluminium provided by government at less than fair market value**

##### *Observations*

It is reported that the *Fuzhou Development Zone Development and Reform Bureau* helped at least one aluminium product manufacturer procure low-priced aluminium ingot during 2009 (see reference *Mawei District Government*, "Fuzhou Development Zone 'Bites' on Scientific Development Tightly" (May 4, 2009)).

##### *Further information required*

- (a) Please provide details on the manufacturer and the particular intervention/s, as well as any other cases relating to the Fuzhou Development Zone Development and Reform Bureau's assistance in procuring low-priced aluminium ingot for aluminium product manufacturers.

#### **Program 2 – Transitional preferential tax policies – Tax resident enterprises**

##### *Further information required*

- (a) Please explain the status of the *State Administration of Taxation circular to further clarify* that the enterprise income tax preferential policies for the implementation of the transition period calibre issues (Guo Shui Han No. 157 of 2010) claimed to support this program in the applicant's application? If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?

##### *Observations*

Otherwise, thank you for your response to *Program 2*. We have noted the difference between Tax-resident Enterprises and Non Tax-resident Enterprises.

##### *Further information required*

- (b) However, for the purpose of this questionnaire, please provide information (in detail) for the following in respect to preferential tax

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policies for tax resident enterprises with reference to the document referred to in (a):

- i. Identify the policies that existed during the period 1 January 20120 to 31 December 2011;
- ii. For any policies listed in your response to (i) above, please answer questions D1.1 to D1.12 in the original questionnaire.

### Program 3 – Preferential policies – Enterprise Income Tax

#### *Further information required*

- (a) Please explain the status of the *Circular on some issues concerning execution of preferential policies on Enterprise Income Tax* (Cau Shui No. 69 of 2009) claimed to support this program in the applicant's application? If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?
- (b) Also, with reference to the *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of the Enterprise Income Tax* please provide substantive responses for the questions relating to this program listed in the original questionnaire in respect to each of the policies listed in the table on page 2 of the document

### Program 4 – Preferential income tax for hi-tech enterprises

#### *Further information required*

- (a) Please explain the status of the *Circular of the State Administration of Taxation on the issues concerning implementation of the preferential income tax for hi-tech enterprises* (Guo Shui Han No. 203 of 2009) claimed to support this program in the applicant's application? If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?
- (b) What document/instrument/regulation establishes the eligibility criteria established under section D1.1(g)? Please identify the industries and geographical areas to which the "qualified industries" belong.
- (c) With reference to Article 93 of the *Regulation on the Implementation of the Enterprise Income Tax Law*, please provide (in detail) information on additional criteria used by departments and State Council to determine the eligibility of a high and new technology enterprise.
- (d) With reference to the conditions outlined in the questionnaire for eligibility for this program, please identify the cities/provinces that are considered the "Key State Supported High and New Technology Areas", and provide details on the measures that are used to determine these areas.

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- (e) In response to D1.6 please provide the confirmation of the quantum of benefit received (as originally requested).

**Program 5 - "Go West" strategy**

*Further information required*

- (a) Please explain the status of the *Reply of the State Administration of Taxation on issues concerning applicable catalogues to the Enterprise Income Tax preference policies for western development* (Guo Shui Han No. 399 of 2009 claimed to support this program in the applicant's application?
- (b) If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?
- (c) Please confirm that both domestic projects concerning non-ferrous metals, namely aluminium and alloy quick casting, and foreign investment enterprises belonging to the aluminium industry in the western regions, are encouraged by the State.

**Program 6 – Preferential tax policies – FIEs – Coastal Economic Open Areas & Economic and Technological Development Zones**

*Further information required*

- (a) Please explain the status of the *State Council Circular* (Guo Fa No. 37 of 2000) claimed to support this program in the applicant's application?
- (b) If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?

**Program 7 – Reduced Tax rate - Two years of exemption – Three years at fifty per cent reduction**

- (a) In response to D1.6 please provide the quantum of benefit received (as originally requested).

**Program 8 – Preferential tax policies – FIE export enterprises**

*Further information required*

- (a) In response to section D.1.1(g), please identify the document(s) setting out the eligibility criteria identified.
- (b) In relations to section D1.7 (a), please identify the document(s) terminating the program.
- (c) If the terminating document is identical to the one described in section D1.12, please provide a copy.

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### **Program 9 – Preferential tax policies – FIE export enterprises**

*Further information required*

- (a) Please explain the status of the *State Administration of Taxation Circular* (Guo Shui Fa, No. 135 of 2003) claimed to support this program in the applicant's application?
- (b) If this instrument remains current, please explain why it has not been treated as a relevant document in your response to questionnaire?
- (c) In response to subsections D.1.1(g) and (h) please identify the document(s) setting out the eligibility criteria identified, and provide copies.
- (d) Please provide a list naming the designated zones and regions listed in section D1.8(c), and identify whether any of the companies listed in your response to section B3 are located within these zones or regions.

### **Program 10 – Preferential tax policies – Enterprises providing employment to the unemployed**

*Further information required*

- (a) Please provide copy of instrument repealing the said *Interim Regulation of Enterprise Income Tax* (1994).

### **Program 11 – Preferential tax policies – FIEs – High or New Technology industrial development zones – Advanced technology enterprises invested in and operated by FIEs**

*Further information required*

- (a) Please explain the status of *State Council Circular* (Guo Shui Fa, No. 165 of 1991), and *State Council Circular* (Guo Fa, No. 37 of 2000) claimed to support this program in the applicant's application?
- (b) If these instruments remain current, please explain why they have not been treated as relevant documents in your response to questionnaire?
- (c) Please identify the regulations referred to in your answer to section D 1.7(b) and the relevant section/s, by which the competent authority assesses the application.

### **Program 12 – 100% refund of income tax paid – direct reinvestment**

*Further information required*

- (a) Please explain the status of *Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax* (Guo Fa No. 39 of 2007)?
- (b) Please provide a copy of the repealing instrument.

### **Program 14 – Preferential tax policies – Enterprises making 'little' profits**

*Further information required*

- (a) Please provide further explanation of your responses at subsections D1.1(d) and (e).

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- (b) Please define 'restricted or prohibited industries' as mentioned in section D1.1 (g) and provide any documents listing industries considered 'restricted or prohibited'.

### **Program 15 - Preferential tax policies – FIEs – Border cities**

#### *Further information required*

Please provide a copy of the repealing document/instrument.

### **Program 17 - Preferential tax policies – FIEs – Pudong Area – Shanghai**

#### *Further information required*

- (a) Please explain the status of *State Council Circular* (Guo Shui Fa, No. 165 of 1991), and *State Council Circular* (Guo Fa, No. 37 of 2000) claimed to support this program in the applicant's application?
- (b) If these instruments remain current, please explain why they have not been treated as relevant documents in your response to questionnaire?

### **Program 19 – Preferential tax policies – FIEs – Three Gorges of Yangtze River Economic Zone**

#### *Further information required*

- (a) Please provide a copy of the repealing document/instrument.

### **Program 20 – Preferential tax policies – Enterprises – Poverty stricken areas**

#### *Further information required*

- (a) Please provide a copy of the repealing document/instrument.

### **Program 21 – Grants – Headquarters – Foreign investment**

#### *Further information required*

- (a) In relation to your response to section D1.1(f), please explain the benefits referred to in the statement:  
"other benefits which would naturally or legally accrue from having Guangzhou as the location of headquarters, however these are not cash benefits"

### **Program 23 - Preferential policies – Industrial zones**

#### *Further information required*

- (a) Particulars of this program are provided in United Nations Conference on Trade and Development, *Tax Incentives and Foreign Direct Investment A Global Survey*, United Nations, Geneva, 2000 (UNCTAD/ITE/IPC/Misc.3) as follows:

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"Similar reduced rates [of income tax] are granted for foreign investments in economic and technological development zones (ETDZs), which include the following coastal cities: Beihai, Beijing, Dalian, Fuzhou, Guangzhou, Lianyungang, Nantong, Ningbo, Qingdao, Qinhuangdao, Shanghai, Tianjin, Wenzhou, Yantai, and Zhanjiang. Other regions are following the successful models of the SEZs and ETDZs. For example, the Pudong new development area, adjacent to the city of Shanghai, was approved in 1990 to offer incentives to foreign investors, and six free trade zones have been established, one each in Dalian, Guangzhou, Shanghai, and Tianjin and two in Shenzhen. Areas throughout China are being designated as high- or new-technology development zones. Zones similar to the ETDZs are to be created in the mid-western regions."

- (b) Please advise whether or not any of these programs are in existence.

### **Program 28 – Preferential tax rate – Guangzhou**

#### *Observations*

Your response notes that "preferential tax rates in Guangzhou would be the same as those of general application in China".

#### *Further information required*

- (a) Please list all preferential tax rates of general application in China, and provide copies of any relevant documents.

### **Program 31 – Exemption – Tariff and Import VAT – Imported Technologies and Equipments**

#### *Further information required*

- (a) Please provide further information about the eligibility of [REDACTED] to receive benefits under *Program 31*:
- (b) Please explain:
- on what grounds [REDACTED] were eligible to receive the benefits?
  - the total amount of benefit [REDACTED] was eligible to receive;
  - the period during which [REDACTED] were eligible to receive the benefit; and
  - when actions were taken by [REDACTED] which caused them to be eligible to receive the benefit.

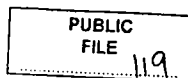
#### *Observations*

- (a) In section D1.9 (c), you state:

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

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"Upon presentation of an NDRC issued certificate [China] Customs will make a decision on whether the enterprises may receive the benefit."

*Further information required*

- (a) On what basis does China Customs make its decision?
- (b) How long after receiving an NDRC issued certificate is China Customs required to make a decision?
- (c) Who must be notified of the China Customs decision? Are appeals to decisions made by China Customs in relation to Program 31 allowable?
- (d) If so, please describe this process.

**Program 32 – Full refund of VAT to FIEs – Purchasing unused domestic equipment with currency in China**

*Further information required*

(a) Please confirm that [REDACTED] received the benefit of the subsidy under Program 32 and if so, please explain the following:

- On what grounds was [REDACTED] eligible to receive the benefits?
- The total amount of benefit [REDACTED] was eligible to receive and actually received?
- When and what actions were taken by [REDACTED] which caused them to be eligible to receive the benefit?
- Why [REDACTED] continued to receive benefits during the period of 2009 when the program, according to the response in section D1.1(e) was terminated in 2008?
- Were there any other enterprises that continued to receive the benefits after 2008? If so, please identify and provide details of those enterprises, and the date on which the provision of benefits was terminated?

*Observations*

In section D1.7(a), you state:

"enterprises shall first apply for a 'Letter of Confirmation for Foreign-funded Project Conforming to State Industrial Policies' from the relevant Development and Reform Commission"

*Further information required*

- (b) According to what eligibility criteria does the Development and Reform Commission's base their decision upon to confirm an enterprise's status as a foreign-funded project conforming to State industrial policies?

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### *Observations*

Also referring to your response in section D1.7 (a), you advise that applications are submitted to the local competent tax refund authority.

### *Further information required*

- (c) Please provide information on the type of assessment measures employed by the various tax refund authorities, and how consistency relating to assessment outcomes is achieved.

### *Observations*

In section D1.7(b), you identify that applications from enterprises in the following industries will not be approved unless the information on the VAT invoices is accurate and the tax returns for the goods listed have been filed according to the relevant provisions:

- Foreign-funded enterprises engaging in transport or common dwelling house development
- Chinese-foreign cooperative enterprises engaging in marine petroleum exploration and exploitation.

### *Further information required*

- (d) Please explain why you have specifically identified these industries in your response when you have stated in D1.8 (d) that:

"this program is not limited to any enterprises or group of enterprises, or to any industry or group of industries".

### *Observations*

In subsection D1.7(b), you also state that "an on-site investigation to verify the purchase of equipment and determine the tax amount indicated on the VAT invoices" is conducted.

### *Further information required*

- (e) Please identify who conducts the investigation and provide details on the criteria used during the process.

## **Program 33 – Preferential tax treatment for casting and forging products**

### *Observations*

You have confirmed in your response that this program was established in 2003 under the 'Interim Regulation of Enterprise Income Tax'.

### *Further information required*

- (a) Please provide a copy of this document.

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### *Observations*

You have also stated that this program "was repealed on 31 December 2005, without there being any transitional period".

### *Further information required*

- (b) Please provide a copy of the documents repealing for Program 33.

### **Program 34 – Preferential tax treatment – Dies**

### *Observations*

You have confirmed in your response that this program was "initiated in 1997 under a series of notices of the State Administration of Taxation".

### *Further information required*

- (a) Please provide a copy for each of the notices relating to this program, as well as identify the eligibility criteria for the program.
- (b) Referring to the 'Circular of Stopping Implementation of Some Expired Taxation Regulatory Document' provided in your response, please explain why Articles 1 through to 16 and Articles 17 onwards have been omitted, and identify what the omitted Articles are in relation to.
- (c) Please advise the relevance of the following documents to the program:
- Ministry of Finance Circular (Cai Shui No. 139 of 1998); and
  - Ministry of Finance Circular (Cai Shui No. 95 of 2003).

### **Program 35 – Matching funds for International Market Development for SMEs**

### *Observations*

You have stated in section D1.1(b) that the following legislation was substituted in 2010 by: *Measure for Administration of International Market Developing Funds of Small and Medium Sized Enterprises (Market Developing Funds Measure)*:

- Circular of the Ministry of Finance; and
- 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 (**Detailed Rules**)

### *Further information required*

- (a) Please clarify if the substitution of legislations was applicable in 2010 only or from 2010 to present.

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- (b) Following this, please provide in detail any changes to the eligibility criteria for the program as a result of the legislation substitution.
- (c) Please confirm if the companies identified in the response [REDACTED] received benefits under this program?
- (d) If so, please provide further information on the following in respect to each company:
- (i) On what grounds the company was eligible to receive the benefits, including details on the application type for the company, as referred to in your response for section D1.7(a);
  - (ii) The total amount of benefit the company was eligible to receive and actually received;
  - (iii) The period during which the company received the benefit;
  - (iv) When actions were taken by the company which caused them to be eligible to receive the benefit;
  - (v) Referring to the previous question, please provide details on any changes to the type and amount of benefit provided to the companies that received benefits during the period of substitution of legislations (for example, 2010 or 2011 to present).

*Observations*

Referring to your response in section D1.7(a), you advise that applications are submitted to the *Small and Medium-Sized Enterprise (SME) Office* or the local foreign trade and economic departments.

*Further information required*

- (e) Please provide detailed information on the assessment measures employed by the assessing Office and departments, and how consistency relating to assessment outcomes is achieved.

*Observations*

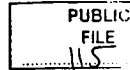
In section D1.9(a) you have stated that:

"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".

*Further information required*

- (f) Please explain in detail how this program is not limited to particular designated regions as you have stated in your response in D1.8(a) when the above response is targeted at SMEs in Western regions.

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### **Program 36 – Innovative experimental enterprise grant**

#### *Further information required*

- (a) Identify the *statute or other legal instrument* under which Venture Investment (**Venture**) Co. Ltd was established, incorporated or otherwise mandated as a legal entity.
- (b) Identify any statute or other legal instrument relevant to the operation and regulation of Venture (including but not limited to the *Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech industry in Chongqing Venture Investment Co., Ltd.*).
- (c) Provide details of the officeholders and shareholders of Venture and whether or not they are officers of the Government of China.
- (d) Identify and provide copies of all reports within the Government of China's possession or control relevant to the operation and functions of Venture (including, but not limited to the reporting requirements under Article 21 of the *Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech industry in Chongqing Venture Investment Co., Ltd.*

### **Program 40 – One-time awards – “Well-known trademarks of China” or “Famous Brands of China”**

#### *Further information required*

- (a) Please provide copies of the documents/instruments terminating this program.

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### SECTION D: ADDITIONAL SUBSIDY PROGRAMS

The following programs will be further investigated by Customs and Border Protection:

- **Program 41:** Technology assist
- **Program 42:** Export subsidies
- **Program 43:** SME assist
- **Program 44:** Environmental subsidies
- **Program 45:** New Products
- **Program 46:** Government Incentives for the Top Taxpayer of the Year-Qinhuangdao City
- **Program 47:** Financial Support from China Postdoctoral Science Foundation
- **Program 48:** Foreign Trade Public Service Platform Development Fund
- **Program 49:** SME International marketing project funds
- **Program 50:** Patent Application Fee Subsidy
- **Program 51:** Enterprise Development
- **Program 52:** Economic Development Zone
- **Program 53:** New Product Trial Production
- **Program 54:** Patent Special Funds
- **Program 55:** Technological innovation products funded
- **Program 56:** Patent grants

*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. A description of each program as provided by the visited companies is below to assist you in their recognition.*

*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.*

#### **Subsidy/Grant Information obtained at Verification Visits**

The following information regarding benefits received by ARW exporters was obtained at verification visits conducted by Customs and Border Protection visit teams. These grants/subsidies require further investigation. Some of the programs described below may fall into one of the 40 categories of subsidies previously listed, however each company advised that the payments described below were made in addition to the programs previously listed.

[Details of company specific subsidy/grant information confidential at this time]

For **each of the programs** identified above, 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*

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*was granted by the GOC or the year that the benefit was received by the recipient company, where the program benefits impact on the production and sale of ARWs and aluminium during the investigation period.*

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

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

**D2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published prior to, during or since the investigation period.

**D3** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

**D4** Identify the GOC department or agency administering the program.

**D5** 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.

**D6** Identify all Chinese ARW producers and/or exporters that have produced and/or exported ARW destined for Australia during the investigation period that accrued or received benefits under the program during the period 1 July 2001 – 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.

**D7** Answer the following questions regarding the application process:

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

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

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

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

**D8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

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

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

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

**D9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

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

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

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

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

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

**D10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of

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benefits was approved and in each of the years from 1 July 2007 to 30 June 2011.

- D11** 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.
- D12** 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?
- D13** 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.
- D14** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

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### SECTION E: DECLARATION

#### DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

Date

Signature of authorised  
official

Name of authorised official

Title of authorised official

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### LIST OF ATTACHMENTS

- |                     |  |
|---------------------|--|
| <b>Attachment A</b> | Supporting document – Government Incentives for the Top Taxpayer of the Year       |
| <b>Attachment B</b> | Supporting document – Financial Support from China Postdoctoral Science Foundation |
| <b>Attachment C</b> | Supporting document – Foreign Trade Public Service Platform Development Fund       |

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