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38 PROGRAM 38: "VENTURE INVESTMENT FUND FOR HI-TECH INDUSTRY"

Venture Investment Fund of Hi-Tech Industry of Chongqing.

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

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

To encourage the development of high and new technology industry in Chongqing.

(b) Legislation under which the subsidy is granted.

Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing Attachment 122

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

31 March 2005.

(e) Duration of the program.

2005 to present

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

The Venture Investment Co., Ltd is responsible for the general investment decisions of the fund, including the amounts and other related matters.

Venture Investment Co., Ltd. collaborates with the Innovation Service Centre of the Hi-tech Zone and the City Development Investment Co., Ltd.

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

High-tech programs of the venture investment fund must be located in the High-Tech

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Zone or the High-Tech Park of the new Northern District. In addition, the program must meet the following conditions:

- (a) have a leading technological position in its field, and sufficient experience to enter the industrialisation development phase (industrialisation programs with intellectual property rights are given priority);
- (b) the product must be of high quality and have potential economic benefit to the collective development of the Chongqing High-Tech Industry Zone;
- (c) the department supporting the program must have good credit, excellent operation mechanisms and strong innovation abilities;
- (d) the enterprise must have good legal standing; and
- (e) the total investment must be RMB100 million or more.

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

Please see Response to D1.1 (g).

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.

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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: Chongqing Municipal Government
Address: 232 Renmin Road, Yuzhong District, Chongqing 400025

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 maintains the payment document.

- 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 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 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 the responding companies were in receipt of 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).

Prior to submitting an application a proposed venture investment fund project must be registered or approved by the relevant authorities. Following registration the department responsible for undertaking the project then applies to Venture Investment Co., Ltd., or may be recommended to Venture Investment Co., Ltd by the project supervision department.

There is no standard application form for this program.

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

Venture Investment Co. Ltd. will conduct a preliminary examination of the project and then entrust it to an expert panel for a feasibility study of the investment.

If the project is approved by the experts, Venture Investment Co. Ltd. makes an investment proposal for approval in a joint meeting organised by the city government and includes representatives from the Municipal Development and Reform Committee, Municipal Science and Technology Committee, Municipal Economic Committee, Municipal Finance Bureau, Municipal Industry Information Bureau, Municipal State Asset Committee, Management Committee of the New Northern District, Management Committee of the High-tech Zone and the City Development Investment Co., Ltd. The joint meeting assesses the investment proposal and makes

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a final determination as to approval.

(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.

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

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 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 in Chongqing.

(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.

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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.

The size of the benefit is determined by direct reference to the relevant regulations and laws which provide that the venture investment fund is capped at 30% of the total project investment and 50% of the total project capital.

(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 eligibility criteria as listed in the applicable law, regulation or other official documents are met, the applicant will generally 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?

The amount of the benefit provided is exclusively determined by established criteria found in the law.

(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. Pursuant to Article 21 of the *Circular of*

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Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing Venture Investment Co., Ltd. is charged with regularly evaluating, analysing and reporting on the project. Chapter 5 of the Circular details the project and financial reporting requirements of the successful enterprises.

- 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 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

- D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 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.

- D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC does not anticipate any changes in the program.

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39 PROGRAM 39: SUPERSTAR ENTERPRISE GRANT

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

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

To encourage enterprises to achieve exceptional business performance.

(b) Legislation under which the subsidy is granted.

Measures for Assessment and Encouragement for Superstar Enterprises and Excellent Enterprises Attachment 123

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

2008

(e) Duration of the program.

2008 to present

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

This program is administrated by the Huzhou Economic Committee, which is responsible for interpretation of this measures and participate in the assessment in accordance with the *Measures for Assessment and Encouragement for Superstar Enterprises and Excellent Enterprises*.

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

An enterprise located in Huzhou city that satisfies following criteria may apply for this program:

- (a) The output scale of the enterprise must meet one of the following criteria:
- business income of the current year not exceeding CNY3.5 billion and sales

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revenue within the city exceeding CNY2 billion;

- sales revenue within the city exceeding CNY2.5 billion;
 - sales revenue within the city exceeding CNY1.5 billion where the increase of sales revenue between 2007 and 2008 was more than 30% and the increased paid up tax between 2007 and 2008 was more than CNY10 million; or
 - revenue from self-export of current year is more than USD150 million.
- (b) The enterprises accumulated industrial input between 2006 to 2008 must have exceeded RMB150 million.
- (c) The enterprise must be profitable, and its paid up VAT, consumption tax, income tax, business tax, city construction tax and education supplementary tax must exceed RMB30 million.
- (d) The enterprise must not have suffered environmental or unsafe production accidents (or other illegal incidents) in the current year.
- (e) If the enterprise is not a State-invested enterprise, it must have passed the "Five- Good Enterprises" assessment conducted by county or district.

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

Please see above response to D1.1(g).

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.

Measures for Assessment and Encouragement for Superstar Enterprises and Excellent Enterprises Attachment 123

Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises Attachment 124

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.

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

Authority: Huzhou Economic Committee
Address: Jingwei Building, 18 Longfen Road, Huzhou, 313000

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 maintains the 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 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 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 the responding companies were in receipt of 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).

Any enterprise meeting the criteria can apply for this program.

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

After an application is submitted, the assessment group for Superstar Enterprises will examine and assess the application documents. Once successful applicants have been selected the city government will announce the successful applicants.

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

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If the application is approved, it means that the applicant has satisfied the eligibility criteria listed in the response to D1.1 (g).

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

If the application was not approved, it means that the applicant has not satisfied the eligibility criteria listed in the response to D1.1 (g).

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.

No. Eligibility for this program is based on business performance generally which is determined with reference to the sales volumes of applicants. Applicable sales volumes are broken down with reference to the market and the year/s in which they are made. Export sales volume is one eligibility criteria, but is only one of four sales volume criteria. A business without exports is also eligible to apply.

(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 available to companies within Huzhou city that meet the specified eligibility requirements.

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

No, 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.

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.

(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 2006 to 30 June 2011.

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The GOC does not keep such data.

D1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 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.

D1.12 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC does not anticipate any changes to the program at this time.

40 PROGRAM 40: ONE-TIME AWARDS TO ENTERPRISES WHOSE PRODUCTS QUALIFY FOR "WELL-KNOWN TRADEMARKS OF CHINA" OR "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.**(a) 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".

(b) 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 Attachment 125*
- (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 Attachment 126 [CONFIDENTIAL ATTACHMENT]

(c) Nature or form of the subsidy.

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

(d) When the program was established.

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

(e) Duration of the program.

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

(f) 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.

(g) 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".

(h) 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

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"China famous trademark" first time received a one-time award of RMB 1 million per title.

- 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) *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*
Attachment 125
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 126**
- (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"* **Attachment 127 [CONFIDENTIAL ATTACHMENT]**

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

- 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.

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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 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 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 the responding companies were in receipt of 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).

- (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 refused.

- (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 refused, provide the refusal documents together with the reasons for refusal.

- (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.

(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.

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 2006 to 30 June 2011.

The GOC does not keep such data.

D1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 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.

D1.12 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

- (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 126*
- (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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SECTION D2 - ENTERPRISES WITH STATE INVESTMENT**General questions**

D2.1 It is Customs and Border Protection's understanding that GOC groups SOEs in China into the following categories:

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

Customs and Border Protection has also observed that SOEs in China categorised as:

- wholly state-owned enterprise
- wholly state-owned company
- majority holding company
- minority state-holding company

(a) Confirm whether these categories and definitions are still in use. If not, provide an explanation of the current definitions and structure of SOEs in China.

According to Article 5 of the *Law of the People's Republic of China on State-Owned Assets in Enterprises* ("Law on State-Owned Assets", Attachment 76) an "SOE" in China can be categorised as:

- (a) a wholly State-owned enterprise,
- (b) a wholly State-owned company,
- (c) a majority State-holding company, and
- (d) a minority State-holding company.

"State-owned assets" is not a category of "SOEs". However, it is a concept in the *Law on State-Owned Assets*, which refers to "the rights and interests formed by the various forms of investment of the State in enterprises" (see Article 2).

"Enterprises with State investment" or "State-invested enterprises" cover various enterprises with State investment, i.e. wholly State-owned enterprises, wholly State-owned companies, majority State-holding companies and minority State-holding companies.

The normal expression of "enterprises under the supervision of SASAC" refers to the "SIEs" for which SASAC directly performs the contributor's functions on behalf of the government of corresponding level.

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In this Government Questionnaire response the GOC will use the more correct description of "State-invested enterprises" to describe all four categories of SOEs ("SIEs").

(b) For each category of SOE, provide an explanation of the characteristics of these types of SOEs, including level of government ownership, influence and control.

The four categories of State-invested enterprises are governed and regulated by different laws.

The main difference among the categories of State-invested enterprises lies in the different levels shareholdings or interests owned by the State. Specifically, in a wholly State-owned company or enterprise, all the shares and associated rights and interests belong to the State; in a majority State-invested company, the State-owned capital takes a controlling position; and for a minority State-invested company, the State holds shares but the State-owned capital does not have a controlling position.

The institutions performing the contributor's functions must perform these functions for the State-invested enterprises only in its capacity as a capital contributor of that enterprise.

(c) Explain the differences between each category of SOE.

Please refer to the response above to (a) and (b).

D2.2 Is there any legislation, guidelines, decrees, circulars, directives or other government-issued documents concerning the GOC's role or involvement with respect to SOEs. Provide copies of these documents.

The legislation concerning GOC's role or involvement with respect to SIEs is the *Law on State Owned Assets of Enterprise*. Please also refer to the response to D2.6-D2.20.

The GOC submits that SIEs are entities which are independent from their shareholders ("capital contributor/s"). This is part of the rationale behind the *Law of State-owned Assets in Enterprise*. By setting up SASACs at various levels, and by the implementing the *Law of State-owned Assets in Enterprise*, the GOC has established an institutional arrangement to ensure, police and instruct the separation of government functions. Effectively, the role of SASACs at various levels – if there is a SASAC involvement at all – is to be an agency to perform the legal obligations of the GOC as a capital contributor.

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State Council SASACs, and their provincial and local equivalents, do issue guidelines or opinions for governance purposes. These instruments serve as internal guidance on the performance by the GOC of its capital contributor's function.

Operational matters such as investment decision review, and assessment of business performance, are overseen through the exercise by SASAC of its rights as capital contributor. Fund holders, investment custodians, and institutional investors in Western countries also constantly review compliance and performance of the companies in which they hold or control capital.

D2.3 Provide all relevant legislation, guidelines, decrees, circulars, directives or other government-issued documents which provide for the existence, guidance, or administration of SOEs involved in the aluminium industry.

There are no documents which specifically provide for the existence, guidance, or administration of State-invested enterprises involved in the aluminium industry.

The GOC has provided in previous cases, and does so again in this case, many documents which constitute "legislation, guidelines, decrees, circulars, directives or other government-issued documents" relevant to the establishment, governance, and legal compliance of legal entities.

For example, and without limiting the documents which are relevant in this context, the GOC provides:

- (a) the *Company Law* Attachment 12
- (c) the *Law on State-Owned Assets of Enterprises* Attachment 76;
- (d) the *Interim Regulations on the Board of Supervisors of the State-owned Enterprises* Attachment 128
- (e) the *Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises* Attachment 129

The Company Law regulates all companies. That law and the other laws regulate all kinds of SIEs for the purposes of ensuring their lawful operation, and of maintaining and/or safeguarding the value of State-owned assets (shares or equities) therein, regardless of the industries or sectors in which they operate.

D2.4 Explain how relevant GOC laws, policies, opinions, guidelines, etc. are communicated to SOEs.

Provide an explanation of repercussions or penalties (if any) for an SOE if they do not adhere to the GOCs laws, policies, opinions, guidelines etc.

The GOC publishes all laws, policies, opinions, guidelines, and makes them available to the public. It does this as an open and responsible government, and in compliance with its WTO obligations.

Article 5.2 of the *Administrative Permission Law of the PRC* **Attachment 130** provides that no legal document may be taken as the basis for specific administrative permission except for those that are publicly available.

GOC laws, policies, opinions, guidelines, etc. are communicated to the public by the following means, amongst other means:

- (a) Government publications, such as the government gazette, official newspaper issued by government agencies entrusted to publish legal documents, and collections of legal documents edited by government agencies; and
- (b) official websites.

As a member of the public, State-invested enterprises receive and are informed about relevant laws, policies, opinions, guidelines, etc. and changes to them, in the same manner.

All Chinese enterprises must comply with laws and are subject to the appropriate penalties or repercussion, as provided by law, if they do not do so. SIEs are subject to the same legal conditions as other enterprises.

D2.5 What advantages, if any, do SOEs enjoy compared with private (non-state) enterprises in the aluminium sector in China (e.g. reduced income tax rates, easier access to capital, different reporting requirements, etc).

Since the beginning of the 1990s, the GOC has modelled its law-making process in the light of the demands of its developing market economy. Laws and regulations have been enacted for that purpose step by step. These laws and regulations are enacted to assure a market environment of fair competition for all commercial entities, regardless of their ownership structures, rather than to provide preferential treatment for any specific category of companies.

The GOC does not consider that State-invested enterprises in the aluminium sector in China enjoy any advantages compared with non-State-invested enterprises. In fact the GOC has been concerned to encourage and support non-State-invested enterprises.

The Law on State-Owned Assets

The following questions relate generally to the '*Law of the People's Republic of China on State-Owned Assets of Enterprises*'⁶ (hereafter referred to as the Law on State-Owned Assets).

Several questions relate specifically to certain Articles within the Law on State-Owned Assets.

In answering the following questions, if additional GOC regulations, policies, guidelines or other government-issued documents (as requested in D2.6(c) and (d) below) relate to the Articles in question, please indicate this in your response.

- D2.6** (a) Confirm whether this law is current and has not been superseded or supplemented by other laws.

This law is currently effective and has not been superseded or supplemented by other laws.

- (b) Provide any regulations, policies, guidelines or other government-issued documents which implement or relate to this law as well as any supplementary or superseding laws identified above.

The GOC suggests that this question is too broad.

State-owned assets may take tangible and intangible form. They may also be dealt with in transactions involving goods, shareholder rights, securities, and property assets.

Importantly, valuation laws apply to ensure that correct value is ascribed to State assets and equity, in both transactions and financial reporting. For example:

- (a) Article 57:2 of the *Property Law* sets out a general principle to guard against wrongly devaluing State-owned assets;
- (b) Article 145 of the *Company Law*, amongst others, ensures that valuation of State-owned shares in public companies are properly made by the market or investors, while Article 72:2 does the same for non-public companies;
- (c) the *Security Law* sets out provisions to guard against any misconduct (eg. insider trading) in evaluation of shares publicly traded on the exchanges, including State-owned shares; and

⁶ Accessed by Customs and Border Protection <http://www.lexish.com/law-of-the-peoples-republic-of-china-on-state-owned-assets-of-enterprises-en-cn/>

- (d) Chapter 9 (Articles 41-43) of the *General Principles of Enterprise Accounting* specify the approaches to evaluate assets in enterprises.

To facilitate a better and easier understanding of applicable Chinese law, the GOC has provided the *Property Law Attachment 64*, the *Company Law Attachment 12* and the *Security Law Attachment 61*

- (c) Provide any supplementary material (e.g. explanatory documents or secondary material) that relates to the law, as well as any such material relating to any supplementary or superseding law.

Please refer to the response to (b) above.

D2.7 In answering the following questions refer to Article 6 of the Law on State Owned Assets.

- (a) Explain the role of 'capital contributor' including the duties and responsibilities of the capital contributor.

"Capital contributor" is equivalent to the term "shareholder" of a company as used in the Company Law. Therefore "capital contributor" is a legal notion that indicates the shareholding body comprising the State. As such, the power of a "capital contributor" varies depending upon its degree of shareholding in a company. A capital contributor does not enjoy more rights than a normal shareholder.

The "capital contributor" as a government special entity must not carry out any administrative and public function embedded in other policy or regulatory government entities when performing its contributor's function. The State as capital contributor is prohibited from interfering with the business operations of State-invested enterprises other than as a shareholder in the performance of its legitimate contributor's functions.

According to Article 6 of the *Law on State Owned Assets*, the contributor's function must be carried out:

...based on the principles of separation of government bodies and enterprises, separation of the administrative functions of public affairs and the functions of the state-owned assets contributor, and non-intervention in the legitimate and independent business operations of enterprises.

The separation of ownership from management is further emphasized in Article 15, which requires the capital contributor to act in the interest of the business as a market participant:

Bodies performing the contributor's functions shall protect the rights legally

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

(b) Does the State-Owned Assets Supervision and Administration Commission and/or provincial or local equivalents perform the role of capital contributor on behalf of the State Council and local People's Government? If this function, or any other aspect of holding GOC ownership in SOEs, is performed by another or more than one entity, indicate the entity/entities that perform this role.

The State Council and local people's government perform the role of capital contributor respectively (see Article 4 of the *Law on State Owned Assets*). State-Owned Assets Supervision and Administration Commission under the State Council and/or the provincial or local equivalents perform the role of capital contributor on behalf of the State Council or local people's government respectively.

The number of enterprises in which the State SASAC actually does choose to actively and directly perform its capital contributor's role is limited. According to SAIC, by the end of 2008, there were about 568,000 SIEs in China. Of those, the State SASAC directly performed its capital contributor's role in less than 150 SIEs, or 0.026%. Local SASACs may perform the capital contributor's role where the State SASAC does not do so, however the GOC does not believe that the number of SIEs in which local SASAC's exercise this overview is large, and the number certainly would not have any significant effect on the percentage mentioned.

In other words, in most SIEs SASAC does not directly perform the role of capital contributor.

(c) Explain the principle of separation of government functions from enterprise management and separation of public administrative functions and the responsibilities of State-owned assets contributors. Provide any regulations, policies, guidelines, circulars or other government issued documents relating to these principles.

The principle of separation of government functions from enterprise management requires governmental departments not to interfere with the enterprise's normal business activities. Both the principle of separation of government functions from enterprise management and the principle of separation of public administrative functions and the responsibilities of State-owned assets contributors are to enable the enterprise to be independent commercial market participants.

(d) In performing the role of capital contributor, how does SASAC (or whatever GOC entity that performs this role) determine how it should act (e.g. directed by policy, regulations, guidelines from other GOC entities, etc)?

Please refer to the above responses under (a), (b) and (c).

The policies, regulations and guidelines issued by GOC entities as market regulators are communicated to the public through public channels. On the other hand, SASAC, when performing its shareholder's function, may encourage State-invested enterprises to pay attention to and comply with the regulations in order to protect the investors' interests (i.e. ensuring the safety of assets and profit-generating capacity etc.). It does this as and when it believes it to be necessary.

SASACs are special entities subordinated to the respective level of government. They involve themselves only to the extent of their rights according to the level of shareholding and within the limit of performing contributor's functions, as separated from governmental capacities and functions

D2.8 In answering the following questions refer to Article 8 of the Law on State Owned Assets.

(a) Provide a detailed explanation of the "system for the administration and supervision of State-owned assets".

Generally, the "system for the administration and supervision of state-owned assets" means the State-owned assets supervision institutions, for which the Law on State-Owned Assets is the institutional basis. The State-Owned Assets Supervision and Administration Commission of each level is the main implementation body. These are established by the State Council, provincial governments or municipal governments, and perform the contributor's functions on behalf of the government at the corresponding level. They oversee the use of State-owned assets in enterprises, in order to achieve the separation of government functions from enterprise management; the separation of public administrative functions; the responsibilities of State-owned assets contributors; and the separation of ownership from management.

(b) Explain the ways in which this system of administration "accommodates the requirements of the development of the socialist market economy".

Explain what are the requirements of the development of the socialist market economy and how these requirements are communicated to SOEs?

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The way that the system of administration and supervision "*accommodates the requirements of the development of the socialist market economy*" is a dynamic process.

Specifically, this requires deepening the market economy reform by establishing the system for the administration and supervision of State-owned assets. This must ensure the independent business management of the enterprises concerned; strict separation of government bodies and enterprises; and separation of the administrative functions of public affairs and the functions of the State-owned assets contributor. On the other hand, the system also requires the capital contributor to supervise the safety of State assets while requesting the enterprises with State investment to be responsible for their own profit and loss.

(c) Provide an explanation of the assessment system referred to in this Article.

Evaluation and/or measurement of performance of management of assets is an important and difficult aspect of any assets management, including that of State-owned assets. To show how this difficult and challenging task is dealt with, the GOC provides the *Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises* **Attachment 129**

D2.9 Provide details of the "specific measures" of the State Council to which Article 9 refers.

Provide copies of any documents containing specific measures of the State Council that relate to SOEs in the aluminium sector.

There are no specific measures of the State Council that relate to State-invested enterprises in the aluminium sector, in the sense of being targeted at or specifically related to that sector. In addition, the GOC provides the *Rules on the Management of Property Right Registration of the State Assets in Enterprises* **Attachment 131**

These Rules assist with the legal ascertainment and definition of property rights, such that those rights can then be properly recognised and protected.

D2.10 In answering the following questions refer to Article 12 of the Law on State Owned Assets.

(a) Do the capital contributor's rights differ in any way from those of an ordinary (non-State) shareholder with comparable shareholdings?

No.

(b) Provide an explanation of what are the "major matters" that must be submitted to the People's Government for approval.

"Major matters" relate to changes of ownership or transfer of assets which result in changing the State-invested enterprise concerned into a non State-invested enterprise. For example:

- (a) "...merger, splitting, dissolution or petition for bankruptcy of an important wholly state-owned enterprise, wholly state-owned company or majority state-holding companies" (see Article 34);
- (b) "...restructuring of an important wholly state-owned enterprise, wholly state-owned company or majority state-holding company" (see Article 40).
- (c) "...transfer of whole state-owned assets or transfer of partial state-owned assets which will cause the state to lose the controlling position over the enterprise" (see Article 53).

D2.11 In answering the following questions refer to Article 13 of the Law on State Owned Assets.

(a) Explain the role of the shareholder representative.

As stated before, the institutions performing contributors' functions are "shareholders" in the normal sense. As an institution (non-natural person) the State cannot attend shareholders' meeting or a general assembly of shareholders convened by a company (majority State-invested company or minority State-invested company). To efficiently perform its "contributors" functions, the State must appoint a representative to attend these meetings. The specific role of these representatives is to put forward proposals, present opinions and exercise the voting rights of the contributor under the instructions of the appointing body, and to report the performance of his duties and results thereof to the appointing body promptly.

(b) Who selects and/or approves the shareholder representative (include the criteria for selection of the shareholder representative)?

As clearly stipulated by this provision and by the *Company Law*, the shareholder selects its shareholders representative.

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(c) Indicate whether the shareholder representative is an employee or otherwise affiliated with SASAC or has any other affiliation with the GOC and explain the nature of this affiliation.

SASAC and its sub-central equivalents are the institutions performing the capital contributor's functions. "Capital contributor" is equivalent to the term "shareholder" of a company as used in the Company Law. Therefore, there is no substantial difference between the relationships of SASAC and its shareholder representative, and that of an ordinary institutional shareholder and its representative.

For SIEs, no law in China has specifically set any restriction on the source of shareholder representatives.

(c) How much influence does the shareholder representative have in the SOE's management and operational decisions? Is this influence commensurate with the State's shareholding?

A shareholder's influence for any company is commensurate with its shareholding or the right to cast votes, regardless of whether the shareholder is the State or a private party.

(d) When exercising the rights as the shareholder representative, what considerations does the shareholder representative take into account?

Please refer to the response to D2.8(c).

Financial performance and corporate governance performance will be taken into account.

(e) Is the shareholder representative bound by the interests of the GOC? If so, provided an explanation of how these interests are communicated to the shareholder representative.

A shareholder representative is similar to those representing other shareholders, as governed by the *Company Law* and by contract law (eg, the law of principal and agent). The interests of the GOC in State-invested enterprises have been laid down in the *Law on State-owned Assets*, namely to have the State-owned assets value maintained and appreciated. These are commercial interests. They are well known to the representatives.

D2.12 In answering the following question refer to Article 15 of the Law on State Owned Assets.

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(a) In accepting "the supervision and assessment by the corresponding people's government" is the agency performing the capital contributor's role, instructed by any other part of the GOC to exercise its ownership rights in any particular manner? Does the agency take into account GOC policies, directives, circulars or any other such GOC issued documents, when exercising these rights?

Both the SASAC, its local equivalents, and any other "agencies performing the capital contributor's role" are obliged to exercise their ownership rights in a manner as instructed or provided by the law, instead of by any part of the GOC. No other parts of the GOC have any authority to intervene other than in the manner as instructed by the law.

SASAC and agencies can be expected to take into account GOC policies, directives, circulars and other GOC-issued documents, when exercising these rights, in the same way as any other shareholder would consider them. Investors will always take into account commercial, legal, political ("sovereign") and social risks in managing their investments. In the cases of SASAC or agency representatives, simply taking a policy into account is not untoward, especially where the law is clear as to the primary or ruling considerations to be considered in asset management.

D2.13 In answering the following questions refer to Article 17 of the Law on State Owned Assets.

(a) Provide examples of the social responsibilities a SOE may assume.

The social responsibilities of a State-invested enterprise include:

- (a) compliance with law, generally and strictly;
- (b) operating the business in an environmentally friendly manner and avoid environmental pollution or harming the ecosystem;
- (c) according with workplace and production safety laws;
- (d) participating in charitable affairs, etc.

The GOC observes that social responsibility is an important aspect of modern day corporate culture, across all jurisdictions, whether State-invested or not.

(b) Provide an explanation of the administration and supervision by government and relevant governmental departments and agencies referred to in this Article.

This is a reflection of a similar provision in the context of China's *Company Law* (at

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Article 5 paragraph 1), which reads:

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

This is stated under the qualification of paragraph 2 of the same Article, which is as follows:

"The legitimate rights and interests of a company shall be protected by law and may not be trespassed."

"[S]upervision of the government and general public" applies to all enterprises in China. It is entirely unrelated to carrying out government functions.

The law describes a situation which is no different in concept from that which applies in any regulated economy. For example, in Australia the operation of companies takes place under the supervision of ASIC, in its exercise of powers and duties under the *Corporations Act*. Other government agencies also have monitoring, supervision, and enforcement powers (such as the Australian Taxation Office and the Australian Competition and Consumer Commission).

(c) Provide an explanation of 'public supervision' of SOEs and provide examples.

Please refer to the response to sub-paragraph (b) above.

(d) Explain how the administration and supervision of SOEs differs from non-state invested enterprises.

There is no substantial difference. Please refer to response to the sub-question (b) above.

D2.14 In answering the following questions refer to Article 19 of the Law on State Owned Assets.

(a) For each type of SOE (as outlined in your response to question D2.1) provide a detailed explanation of the role and functions of a Board of Supervisors, including involvement in the decision making processes or operational decisions of SOEs.

The function of a Board of Supervisors in any type of company, whether with or without State investment is in the nature of scrutiny and supervision. Boards of

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Supervisors generally are not allowed nor authorised to become involved in the business decision making processes or operational decisions of the companies to which they are appointed.

A summary of the functions of Boards of Supervisors is stated under Article 54 of the *Company Law* as follows:

The board of supervisors or supervisor of a company with no board of supervisors may exercise the following powers:

- (1) *To check the financial affairs of the company;*
- (2) *To supervise the duty-related acts of the directors and senior managers, to put forward proposals on the removal of any director or senior manager who violates any law, administrative regulation, the bylaw or any resolution of the shareholders' meeting;*
- (3) *To request any director or senior manager to make corrections if his act has injured the interests of the company;*
- (4) *To propose to call interim shareholders' meetings, to call and preside over shareholders' meetings when the board of directors does not exercise the function of calling and presiding over shareholders' meetings as prescribed in this Law;*
- (5) *To put forward proposals at shareholders' meetings;*
- (6) *To initiate actions against directors or senior managers according to Article 152 of this Law; and*
- (7) *Other duties as provided for by the bylaw.*

(b) For each type of SOE (as outlined in your response to question D2.1) provide an explanation as to how each Board of Supervisors is appointed.

Not all State-invested enterprises have Boards of Supervisors. According to Article 19, only wholly State-owned enterprises need to have a Board of Supervisors appointed by the agency performing the contributor's function.

For all other types of State-invested enterprises - ie. majority State-holding and minority State-holding enterprises, the appointment of a Board of Supervisors may take place, and if it does then it happens in the same manner as for non State-invested enterprises according to the general rules under the *Company Law*.

Under Article 52 of the *Company Law*:

"A limited liability company may set up a board of supervisors, which shall be

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composed of at least 3 persons... The board of supervisors shall include shareholders' representatives and representatives of the employees of the company..."

(c) Explain how the role of the Board of Supervisors differs to the role of the shareholder representative appointed by the agency performing capital contributor's duties and responsibilities (refer to Article 13).

As provided in the *Company Law*, a shareholder's representative appointed by the agency performing the capital contributor's function is to perform the rights of shareholder, and to realise the maintenance and appreciation of the assets of the company in the interests of the shareholder it represents. These functions are exercised through shareholder's meeting.

On the other hand, a Board of Supervisors is established to monitor senior management in the performance of their company duties from technical, financial and legal perspectives. Please refer to above response to question 2.14(a) for the role of Boards of Supervisors.

The "Board of Supervisors" is a company law notion and does not convey different duties and responsibilities for State-invested enterprises as compared to non State-invested enterprises.

(d) Explain the distinction between a 'Board of Supervisors' and a 'Supervisory Panel'.

They are the same thing. This is merely a result of inconsistent translation.

(e) What supervision, guidance or direction does SASAC (or other similar GOC entity) have over these Supervisory Boards or Panels?

As we explained above, not all State-invested enterprises have their Boards of Supervisors appointed by SASAC or by any other body performing the capital contributor's function.

SASAC oversees Boards of Supervisors as a shareholder to the appropriate extent under the laws. Company officers have duties under the law. Companies have legal obligations under the law. SASAC in its role as capital contributor - effectively, as a shareholder - wants to be assured that these laws are complied with. Otherwise, the value and propriety of State investments will be compromised.

We do not intend to "point fingers" at other jurisdictions, however it is often suggested that many of the public assets and investments of the Russian Government were

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misused in the process of rapid corporatisation and commercialisation that took place in that country from 1992 to 1995. During this time private "oligarchs" became possessed of resource and industrial assets, often at an under value and without proper monitoring.

China's approach has been more measured, and better regulated in corporate governance terms. It is a complete misapprehension and mistake to suggest that SASAC invests companies with government functions or in some way serves as a bridge whereby industrial policies or aspirations are forced on to commercial enterprises. That is not SASAC's function at all.

(f) Describe the contact if any between SASAC (or other similar GOC entity) and these Supervisory Boards or Panels.

Please refer to the GOC's response to question D2.14(e) above.

(g) Are members of Chinese SOE's Board of Supervisors or Supervisory Panels, GOC officials, or in any way affiliated with the GOC? Provide details.

This varies. Members of Board of Supervisors appointed to State-invested enterprises may or may not be GOC officials or former officials.

D2.15 In answering the following question refer to Article 21 of the Law on State Owned Assets.

(a) Are the capital contributor rights commensurate with that of an ordinary (non-State) share-holder? If the capital contributor enjoys additional privileges, influence or rights provide details.

Please refer to the GOC's response to question D2.11.

D2.16 In answering the following questions refer to Article 22 of the Law on State Owned Assets.

(a) Describe the criteria the agency performing capital contributor's duties and responsibilities uses to appoint or remove or suggest the appointment or removal of the various employees noted in Article 22.

Article 22 confirms that the capital contributor has the same rights as an ordinary shareholder, in that the agency performing the capital contributor's function can appoint and remove the senior executives and directors of an enterprise in which it has a 100% shareholding (ie wholly State-owned enterprises). The agency

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performing the contributor's function can also nominate director and supervisor candidates to the shareholder's meeting of a company which has State investment but is not wholly State-owned.

The *Company Law* specifies criteria for a shareholder to appoint or remove, or to propose the appointment or removal, of company personnel such as a member of the board of directors, a member of the board of supervisors, or a member of senior management.

Further, Article 23 of the *Law on State Owned Assets* states:

Any of the directors, supervisors and senior managers appointed or proposed for appointment by a body performing the contributor's functions shall meet the following requirements:

- (1) *Having good moral character;*
- (2) *Having the expertise and working capability as required by the position;*
- (3) *Being in a health condition enabling him to normally perform his duties; and*
- (4) *Meeting other requirements of laws and administrative regulations.*

(b) Does the GOC provide any directives, requirements or guidance on the selection of the various employees noted in Article 22. Provide any documents that contain these directives, requirements or guidance.

Please refer to the GOC's response to question D2.16(a) above.

D2.17 In answering the following question refer to Article 24 of the *Law on State Owned Assets*.

(a) Detail the criteria used to determine if a candidate for the position of director, inspector or senior personnel passes the inspection.

Please refer to the GOC's response to question D2.16(a) above.

D2.18 In answering the following questions refer to Article 27 of the *Law on State Owned Assets*.

(a) Provide an explanation of the systems that exist for assessing the performance of administrators of SOEs.

The systems for assessing the performance of administrators of SIEs refers to a set

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of assessment criteria and systems for evaluation of an enterprise's performance during a certain period, based on which the assessment of administrators and the corresponding incentives or disincentives are made.

(b) What actions can be taken if SOE administrators are not performing to the required standard?

Business performance indicators serve as an important criteria for making decisions on setting remuneration, and on proposals for the appointment or removal of administrators of State-invested enterprises.

D2.19 In answering the following questions refer to Article 34 of the Law on State Owned Assets.

(a) Are any of the SOEs in the aluminium sector in China, 'important' wholly State-invested enterprises, wholly State-invested companies or State-invested holding companies as decided by the State Council?

Yes.

[CONFIDENTIAL TEXT DELETED] are considered to be of the status of important SIEs.

(b) What defines whether an entity is "important"?

There is no legal definition of "important", and it is only an indicative adjective.

c

(c) Provide a detailed explanation of the matters important State-invested enterprises, wholly State-invested companies or State-invested holding companies must report to the corresponding people's government.

Please refer to the GOC's response to question D2.19(d) below.

(d) Provided a detailed explanation of the matters that 'important' State-invested enterprises, wholly State-invested companies or State-invested holding companies must receive approval for from the corresponding people's government.

Matters that must receive approval from the corresponding people's government, for some types of State-invested enterprises, include merger, separation, dissolution and bankruptcy, and transfer of State-owned shares whereby the State would lose its

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controlling shareholding status.

D2.20 Provide an explanation of the relationship between the agency performing capital contributors duties and responsibility and the State Council (including what role the State Council has in the administration, policy-setting, review and assessment of this agency), as outlined in Article 64 of the Law on State-Owned Assets.

The agency performing the capital contributor's function reports directly to the State Council. The State Council supervises the agency in terms of the legality and effectiveness of its performance according to the law.

The State-owned Assets Supervision and Administration Commission (SASAC)

D2.21 The following questions relate to the role, purpose, and operations of SASAC (and its equivalents at the national, provincial and local levels), which Customs and Border Protections understands has responsibility for the supervision and administration of all SOEs in China, at a national, provincial and local government level.

Please confirm whether this is still the case, and indicate if any other GOC entity has a role with respect to SOEs.

If any other GOC entity plays such a role, provide a detailed explanation of this entity, and the role it plays with regard to SOEs and answer the following questions in relation to these entities as well.

(a) Provide all relevant legislation, guidelines, decrees, circulars, directives or other government-issued documents which provide for the existence and/or administration of SASAC.

The GOC considers this question to be too broad, and that it may well have already provided many documents which are relevant to this inquiry in its responses to some other questions. Therefore please refer to documents referred to in this section in relation to State-owned assets and the relevant *Company Law* and regulations.

The GOC will continue to cooperate with Australian Customs Service and Border Protection to provide further documents which may be necessary for making a fair determination in this investigation.

(b) Is SASAC instructed by the State Council or any other part of the GOC to exercise its ownership rights in any particular manner? Does it take into account GOC policies, directives, circulars or any other such GOC issued position, when exercising these rights?

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Please see the relevant GOC responses to questions D2.6 to D2.20.

(c) How are SASAC's policies and activities developed or guided?

SASAC's policies and activities are developed or guided under the Law of State owned Assets in Enterprises, and other relevant laws and regulations.

(d) Does SASAC, or any affiliated agency or SASAC-administered board or panel, in any way influence, guide or direct the activities, structure or operations of SOEs (both when formally exercising its rights as the capital contributor/member of the Board of ~~Shareholders~~, or at any other stage)? If so, describe the nature of this.

Please see the relevant GOC responses to questions D2.1 to D2.20.

(e) Does SASAC play a role in evaluating the performance of SOE's? Explain in detail what form any such evaluation takes and the outcome of this evaluation (e.g. can it result in dismissal of employees, change of business operations etc). Include what action is taken, if any, where the SOE makes a loss.

Please see the relevant GOC responses to questions D2.1 to D2.20.

(f) On SASAC's webpage⁷, it is stated that:

'SASAC guides and pushes forward the reform and restructuring of state-owned enterprises, advances the establishment of modern enterprise system in SOEs, improves corporate governance, and propels the strategic adjustment of the layout and structure of the state economy'

(i) Has SASAC led any such "reform and restructuring" of SOEs in the Chinese aluminium sector (including 'upstream' industries/sector) in the last 10 years? Provide details.

The GOC understands that this series of question D2 are related mainly to program 1, for which the POI is limited to 1 July 2010 to 30 June 2011. Therefore, it is submitted that the most part of this question is not relevant to this proceeding.

⁷ <http://www.sasac.gov.cn/n2963340/index.html>

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(ii) What is meant by “advances the establishment of modern enterprise system in SOEs” and has any such action for advancement been led by SASAC in the Chinese aluminium sector in the last 10 years? Provide details.

“[A]dvanc[ing] the establishment of modern enterprise system in SOEs” has been an important policy of the GOC, and is applicable to State-invested enterprises in all sectors. These words capture the policy whereby the GOC explores and formulates a set of enterprise systems fitting to the Chinese contemporary economy based on experiences and best practices by those in the developed economies around the world. This includes but is not limited to good corporate governance; **reasonable** incentives for management; and risk management and “check and balance” mechanisms.

The GOC understands that this series of question D2 ~~are related~~ mainly to program 1, for which the POI is limited to 1 July 2010 to 30 June 2011. Therefore, it is submitted that the most part of this question is not relevant to this proceeding.

(iii) Has SASAC ~~taken~~ any action to “improve corporate governance” in the Chinese aluminium sector during the last 10 years. Provide details.

Please refer to the GOC’s responses to questions (i) to (ii).

(iv) What is meant by “propels the strategic adjustment of the layout and structure of the state economy” and has any such action to achieve this been undertaken by SASAC in the Chinese aluminium sector in the last 10 years?

Please see the GOC’s responses to questions (i) to (ii). More specifically, this in many cases refers to privatisation reforms and to the withdrawal of State investment and asset ownership from most industrial sectors.

(h) SASAC’s webpage states that SASAC “undertakes other tasks assigned by the State Council”. Provide details of these “other tasks”. Has any such “other task”, over the past 5 years, related to the Chinese aluminium industry? Provide details.

The GOC does not have information regarding “other tasks” that would be relevant to this investigation.

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- D2.22** Describe the GOC's policy of 'zhengqi fenkai' (政企分开) that formally separates government functions from business operations and provide any related documents.

The principle of separation of government functions from enterprise management requests strict separation of government from the enterprise, to ensure that the enterprises themselves are the market players. The principle of separation of public administrative functions and the responsibilities of State-owned assets contributors requests that public administrative functions of government at any level be separated from the responsibilities of State-owned assets contributors of government at all levels. Both of the two principles of "separation" request GOC entities not to interfere with the normal business activities of enterprises.

The *Company Law Attachment 12* and the *Law of Civil Servant Attachment 132* are two of the major legal documents in this regard.

- D2.23** Provide a detailed explanation of the functions and responsibilities of the National Development and Reform Commission (NDRC). In your answer, outline the relationship between NDRC and SASAC, also include the role (if any) NDRC has with respect to SOEs in China.

NDRC has nothing to do with supervision of State-owned assets, while SASAC is not allowed to intervene with industrial policy issues. Please refer to the GOC's response to question D2.7(c).

For NDRC's functions and responsibilities, please also see the GOC's response to question C.1. NDRC does not have any functions and responsibilities solely and specifically with respect to State-invested enterprises in China.

NDRC and SASAC perform their functions independently of each other and under different laws.

- D2.24** Outline the relationship between SASAC and the China Nonferrous Metals Industry Association (CNIA) including;

(a) Whether SASAC in any way guides, directs or influences the policies, practices or standards of the CNIA.

SASAC has no function or responsibility to guide, direct or influence the policies, practices or standards of CNIA. For its part, CNIA is an industrial organization of the non-ferrous metals sectors, and does not itself have any government function.

(b) Provide any documents that contain any such guidance. Provide fully translated copies of these.

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Not applicable

(c) Describe the nature and frequency of contact between SASAC and CNIA.

Please refer to the GOC's response to question D2.24 (a) above.

Core features of SOEs in the aluminium sector in China

D2.25 For each entity identified in your response to Question B3 and your response to Question B4 that is an SOE, answer the following questions regarding **ownership**.

- (a) Describe the legal structure of the enterprise showing the percentage of ownership by the GOC and other entities; the ownership of all entities including subsidiaries and parent companies, and the ownership of these entities (also indicate the functions and roles of each associated entity including whether they are involved in the production of ARWs, aluminium or any other aluminium product)

As stated earlier, the ARW and aluminium sectors are diversified and dynamic, with a low concentration ratio. Unfortunately the GOC has no systematic and comprehensive statistical data to respond to the level of detail required by this question.

However, based on calculations of statistical data provided by the State Statistics Bureau, which is considered to be reliable, the GOC can at least advise the following:

- (a) there were about [CONFIDENTIAL TEXT DELETED] manufacturers of aluminium alloy in 2010;
- (b) the total production volume in the POI was around [CONFIDENTIAL TEXT DELETED]; and
- (c) it is believed that around [CONFIDENTIAL TEXT DELETED] of the total production volume was produced by majority State-invested enterprises.

For the ARW sector, please refer to response to question B2(i) above.

- (b) Describe how GOC categorises the enterprise (for example, wholly state-owned enterprise, wholly state-owned company, majority holding company, minority state-holding company, important state invested asset or other category).

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Please refer to the GOC's response to question (a) above. The GOC provides a list of publicly listed aluminum enterprises in **Attachment 133**, based on the publicly available information.

- (c) Indicate which GOC agency or entity plays the role of 'capital contributor' for this enterprise.

Please refer to the GOC's response to question (a) above. The GOC provides a list of publicly listed aluminum enterprises in **Attachment 133**, based on the publicly available information.

- (d) Explain what rights share ownership confers to shareholders, including any voting rights and debt liabilities

Please refer to the GOC's responses to questions D2.10 and D2.11 above. In short, State share ownership does not confer to State shareholders any special rights other than the rights of an ordinary shareholder under the *Company Law*.

- (e) Explain the rules for share ownership in the enterprise.

There are no special rules for share ownership in the enterprises in the aluminium and ARW sectors. Hence, it would be necessary to refer to the *Company Law* to understand the rules applicable to all companies.

- (f) Does the GOC restrict the level of ownership by parties outside government? Provide details of any such limitations, and the reason for this.

No.

D2.26 For each entity identified in your response to Question B3 and your response to Question B4 that is an SOE, answer the following questions regarding **governance**.

- (a) Provide the relevant statute, law, regulation, direction, letter of incorporation or other instrument which creates, authorises or provides for the existence of the enterprise.

The GOC provides the *Regulation for Business Registration of Company Attachment 134*, the *Regulation for Business Registration of Enterprise Legal Entity*

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Attachment 135, and Form of Business Registration Attachment 136.

Please also refer to the *Company Law*.

- (b) Provide all statutes, laws, regulations, directions, circulars or other government issued documents which guide, administer or otherwise relate to the operations of the enterprise.

There are no special statutes, laws, regulations, directions, circulars or other government issued documents which guide, administer or otherwise relate to the operations of the enterprises in the ARW and aluminium sectors.

- (c) Provide an organisation chart showing the reporting hierarchy of the enterprise. Detail who directs, manages and controls different operations of the entity.

In relation to those companies identified as enterprises with State investment in B3 and B4, the GOC advises that their corporate governance structure will principally be governed by the *Company Law*. The direction, management and control of the operations of those entities are governed by Chapter II Section 2 of the *Company Law*. The GOC cannot provide information relating to companies with no State investment.

The GOC draws Australian Customs' attention to the fact that the companies identified in B3 and B4 are all limited liability companies. Therefore any assumption that there is a "reporting hierarchy" involving the GOC would be groundless, in view of the strict implementation of the *Company Law* in China.

The GOC can address any technical issues involved, and explain and articulate any similarities or differences between the corporate governance legal framework of China and Australia, as may be necessary.

For an example, Aluminium Corporation of China Limited (Chalco) adopts a reporting hierarchy as provided in the *Code on Corporate Governance* of the Hong Kong Stock Exchange's *Listing Rules*. Please see **Attachment 137** for a copy of the Code.

- (d) Explain the requirements in law, and in practice, to have government representation at any level of the enterprise.

There are no such requirements in law or in practice. The government will necessarily have some kind of representation in an enterprise in which it is a shareholder. Please refer to the GOC's responses to D2.7 above.

- (e) Explain the role of Chinese Communist Party government representatives (CCP representatives) at any level of the enterprise, including, how these representatives are selected, areas of responsibility and involvement in decision making processes and operational decisions of the enterprise.

The GOC submits that incorrect assumptions which might underlie the words "CCP government representatives", as used in this question, would not be helpful for this investigation.

In China, any adult person is entitled to pursue his or her political belief by applying for membership of a legitimate political party. It is not a requirement of any public or private sector that a person be a member of the CCP. Many GOC officials, including senior ministerial officials, are not CCP members at all. They may be members of the eight democratic parties, or might not hold any party membership at all. When it comes to companies (including State-owned companies), the situation remains the same. That is, company executives may or may not be CCP members.

They are not differentiated and therefore no "process of how these representatives are selected" exists.

In situations where CCP members are also members of a board of directors or board of shareholders, it is because that they meet the criteria of the law to hold those positions and have been duly appointed by the company. They are not such a member simply because they have a particular political belief or being CCP members. The GOC understands that many company executives in Australia are political party members, and that such membership certainly does not preclude them from being involved in company management, regardless of which political party has formed government at the time. It would be entirely inappropriate to address Australian company executives who were also members of the ALP as "government representatives".

The GOC submits that any role played by directors in companies (including State-owned companies), who also happen to be CCP members, must be performed in accordance with the Company Law, which is the most powerful statute governing operation of all types of company in China. If any CCP members happen to be members of the board of directors, they play their roles in their capacity as company executives, as opposed to their capacity as CCP members.

- (f) Indicate whether the enterprise is under the supervision, administration, monitoring or guidance of SASAC or a provincial or local equivalent, or any other government entity.

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If so, provide contact information for the SASAC division or other government entity responsible for the enterprise.

There are no special rules for share ownership in the enterprises in the aluminium and ARW sectors.

For information relating to the type of involvement of SASAC as a body performing the capital contributor's function in enterprises with State investment, please see the GOC's other responses.

MOFCOM is the coordinating agency for this investigation and requests that information requests be handled via it and its legal representatives in the first instance.

- (g) Identify and provide details of any guidance, control, influence or power of approval/rejection that SASAC or any other GOC entity has on any of the activities of the enterprise.

Please refer to the GOC's responses to questions D2.6 through D2.24 above.

As we think has been made plain by the GOC's answers, and to clear up any misapprehensions, SASAC differs from other GOC departments with industry policy functions in the sense that it is a shareholder representative body. It does not have the function of regulating an industry or of "directing" any activities of the enterprises in that industry.

By establishing SASAC the GOC has actually created the "quasi-private shareholder"-like relationship between the GOC and State-invested enterprises that is important for the socialist market economy system enshrined in China's Constitution, and which other WTO Members have insisted upon in order to segregate State-invested enterprises from the administrative control of the State.

- (h) Is the agency performing the role of capital contributor for this enterprise instructed by any other part of the GOC to exercise its ownership rights in any particular manner? If so, describe the mechanism or systems used to communicate these instructions.

Please refer to the GOC's responses to questions D2.6 through D2.24 above.

- (i) Who selects and/or approves the members of the Board of Directors (include the criteria for selection of members of the Board of Directors)?

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Please refer to the GOC's responses to questions D2.6 through D2.24 above.

Chapter II Section 4 of the *Company Law* contains special provisions governing wholly State-owned companies. Under Article 68, the members of the board of directors shall be appointed by the State-owned assets supervision and administration institutions, and will sit on the board with representatives of the employees elected through the assembly of the representatives of the employees of the company.

Pursuant to Article 45 of the *Company Law*, if a limited liability company is established by two or more State-owned enterprises or other State-owned investors, the board of directors shall include representatives of the employees of the company. The board of directors of any other limited liability company may also include representatives of the employees of the company concerned. The employees' representatives who are to serve as members of the board of directors shall be democratically elected by the employees of the company through the general assembly of the representatives of employees, employees' assembly of the company or in any other way.

The board of directors shall have one chair and may have one or more deputy chairman. The appointment of the chairman and deputy chair shall be specified in the articles of association.

The GOC confirms that all wholly State-owned companies and companies with State investment as identified in B3 and B4 are governed by the *Company Law*, including (but not limited to) the Articles quoted above.

- (j) Indicate whether any member of the Board of Directors is an employee or affiliate of SASAC or has any other affiliation with the GOC.

Government officials or civil servants cannot also be members of the Board of Directors of any enterprise. Therefore a member of such a Board can only be a non-government official or civil servant, for example an employee of the enterprise rather than of the GOC.

Could Customs please clarify what is meant by the word "affiliate". An affiliation can be very broad. Clearly, through knowing of and being appointed by SASAC or any SIE with majority share-holding by SASAC, an affiliation in the broad sense will obviously exist.

- (k) Indicate whether any member of the Board of Directors is a member of the CCP.

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Please see above response to D2.26(e)

(I) Describe the roles and responsibilities of the Board of Directors.

The roles and responsibilities of Boards of Directors are provided for under the *Company Law*.

Article 47 provides as follows:

The board of directors shall be responsible for the shareholders' meeting and exercise the following functions:

- (1) *Convening shareholders' meetings and presenting reports thereto;*
- (2) *Implementing the resolutions made at the shareholders' meetings;*
- (3) *Determining the company's business and investment plans;*
- (4) *Working out the company's annual financial budget plans and final account plans;*
- (5) *Working out the company's profit distribution plans and loss recovery plans;*
- (6) *Working out the company's plans on the increase or reduction of registered capital, as well as on the issuance of corporate bonds;*
- (7) *Working out the company's plans on merger, split, change of the company form, or dissolution, etc.;*
- (8) *Making decisions on the establishment of the company's internal management departments;*
- (9) *Making decisions on hiring or dismissing the company's manager and his salary and compensation, and, according to the nomination of the manager, deciding on the hiring or dismissal of vice manager(s) and the persons in charge of finance as well as their salaries and compensations;*
- (10) *Working out the company's basic management system; and*
- (11) *Other functions as specified in the bylaw.*

Article 67 provides as follows, in the case of a wholly State-owned company:

"The state-owned assets supervision and administration institution may authorize the company's board of directors to exercise some of the functions of the shareholders' meeting and decide on the important matters of the company, excluding those that must be decided by the state-owned assets

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supervision and administration, such as merger, split-up, dissolution of the company, increase or reduction of registered capital as well as the issuance of corporate bonds."

(m) How is the Board of Shareholders formed?

According to Article 37 of the *Company Law*, shareholders meeting of a limited liability company shall be composed of all the shareholders.

(n) Indicate whether any member of the Board of Shareholders is an employee or affiliate of SASAC or has any other affiliation with the GOC.

Please refer to the GOC's responses to questions D2.6 through D2.24 above.

(o) Describe the roles and responsibilities of the Board of Shareholders.

Unlike the situation in Australia and the UK, in China the shareholder's meeting of a limited liability company (including limited liability companies that are partially State-owned) is the supreme decision-making mechanism with the ultimate power in relation to all the matters of a company (Article 37 of the *Company Law*).

It exercises the following functions:

- (a) determining the company's operational guidelines and investment plans;
- (b) electing and re-electing the directors and supervisors except those elected by representatives of the employees, and deciding the matters relating to their remuneration;
- (c) deliberating and approving reports of the board of directors;
- (d) deliberating and approving reports of the board of supervisors or the supervisor;
- (e) deliberating and approving annual financial budget plans and final account plans of the company;
- (f) deliberating and approving company profit distribution plans and loss recovery plans;
- (g) making resolutions about the increase or reduction of the company's registered capital;
- (h) making resolutions about the issuance of corporate bonds;

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- (i) adopting resolutions about the assignment, split-up, change of company form, dissolution, liquidation of the company;
- (j) revising the articles of association of the company;
- (k) other functions as specified in the articles of association.

(p) Indicate whether the entity has a 'shareholder representative' (refer to Article 13 of the Law on State Owned Assets). Explain the role and responsibilities of the shareholder representative and who appoints this representative.

Please refer to the GOC's responses to question D2.11.

(q) Indicate whether the enterprise has a Board of Supervisors or Supervisory Panel.

Please refer to the GOC's response to question D2.25 (a) above.

Under the *Company Law*, a limited liability company is required to have a board of supervisors.

(r) Describe the role and responsibilities of the Supervisory Panel and/or Board of Supervisors.

Please refer to the GOC's response to questions D2.14 above.

(s) Detail the membership of the Supervisory Panel or Board of Supervisors (including whether any members of this board are employees or otherwise affiliated with SASAC or have any other affiliation with the GOC and explain the nature of this affiliation).

Please see the GOC's response to question D2.25(a) above. The GOC is not responsible nor authorised to hold and provide such detailed information about individual enterprises.

(t) If the enterprise has a Board of Supervisors or Panels provide examples of the activities of the Board or Panel over the past 5 years in respect of the entity.

Please see the GOC's response to question D2.25(a) above.

- (u) Do any major management decisions/actions of the enterprise require approval from or reporting to SASAC or any other government entity (for example, investment decisions)? Provide details.

Enterprises with State investment have different reporting obligations according to their type. Please refer to the GOC's responses to D2.19 above.

- (v) Provide an explanation of what are the "major matters" that must be submitted to the people's government for approval for this enterprise (refer to Article 12 of the Law on State Owned Assets). Provide details of any major matters that have been put to the people's government for approval over the past 10 years by this enterprise.

Please refer to the GOC's response to question D2.10(b).

- (w) Outline how each of the following are determined/set for the entity:

- Suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials).
- Purchase prices of raw material inputs.
- Allocation of inputs into production process, including raw materials, energy and labour costs.
- Quality and safety standards.
- Selling prices.
- Customers (including restrictions on entities that can purchase goods produced from the enterprise).
- Production output (detail any restrictions on production output).
- Safety standards.
- Energy costs.

In your explanation outline the role of the Board of Directors, Board of Shareholders, Supervisory Panel and/or Supervisory Board, Shareholder Representative, any other management personnel and SASAC (or its regional equivalent) have.

Where the GOC in any form, influences, controls, guides or approves these decisions, provide details, including the mechanisms/systems used.

Please refer to the GOC's responses to questions D2.6 through D2.25 above. The GOC is not responsible nor authorised to hold and provide such detailed information

about individual enterprises.

The above mentioned matters, except for matters of quality or safety standard in some cases/products, are of the business operation of the enterprises. As a matter of principle and fact, the GOC adopt a separation of government function from the operation of business and non-interference approach. The GOC does not "determine" or "set" any of the above matters for enterprises.

D2.27 For each entity identified in your response to Question B3 and your response to Question B4 that is an SOE, answer the following questions regarding **performance and profits**.

(a) How are the operations of the enterprise funded?

The GOC is not responsible nor authorised to hold and provide such detailed information about individual enterprises.

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

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

The GOC is not responsible nor authorised to hold and provide such detailed information about individual enterprises.

In respect of this information it is also noted that it is not required to be communicated under International Financial Reporting Standards.

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

The GOC is not responsible nor authorised to hold and provide such detailed information about individual enterprises.

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

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(d) Provide details and explain how SASAC or any other government entity inspects or evaluates enterprise performance, including:

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

Please refer to the GOC's responses to questions D2.6 through D2.25 above.

More specifically, the GOC would advise that State-invested enterprise performance is normally evaluated in line with industry averages. In essence, SASAC will assess the performance of an enterprise with State investment based on its commercial and financial performance.

The performance of managers of State-invested enterprises is evaluated according to the *Law on State Owned Assets* and more specifically, the *Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises* Attachment 129

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

There is no substantial difference between the reporting mechanisms for a non State invested enterprise on the Chinese market and that for a State-invested enterprise.

The difference is more dependent upon whether the company is public listed.

For example, please see the Hong Kong Exchange listing rules, in particular, Appendix 14, Code on Corporate Governance Attachment 137 and the Guidelines of the Shanghai Stock Exchange for the Internal Control of Listed Companies.

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(f) Provide an explanation of the systems that exist for assessing the performance of administrators of SOEs. Provide examples of recent appraisals of SOE administrators of the enterprise (refer to Article 27 of the Law on State Owned Assets).

The GOC notes that not all administrators of State-invested enterprises are assessed according to the *Law on State Owned Assets*. Only the administrators of a wholly State-owned enterprise, or of an enterprise with majority State-holding, are subject to the performance assessment of the body performing the capital contributor's function.

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

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performance of the enterprise.

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

Profits of enterprises are distributed in light of its Articles of Association and Part VIII of the *Company Law*.

For example, in 2010 the Aluminium Corporation of China Limited had a total comprehensive income of RMB 1,008,816,000, of which RMB818,127,000 was attributable to the company's equity holder and RMB190,689,000 attributable to non-controlling interests.

The company reports that it considers the payment of dividends according to the Articles of Association of the company, which provide that the maximum limit of profit appropriation to its shareholders is the lower of:

- (a) the sum of current period net profit and opening retaining earnings in accordance with IFRS;
- (b) the sum of current period net profit and opening retaining earnings in accordance with China Accounting Standards, and
- (c) any amount as limited by the *Company Law*.

The amount as decided by the Board is then advised to shareholders at the Annual General Meeting, and endorsed if within these legal limits.

(h) Are dividends/ other payments made to SASAC or any other GOC entity?

Please refer to the GOC's response to question D2.26 (g) above.

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

Please refer to the GOC's responses to questions D2.6 through D2.25 above.

Performance of an enterprise is a critical aspect of its existence and of the directors, managers and employees of the enterprise. Therefore performance is taken into account by any shareholders - including that of the State via SASAC - in participating in decision making about the company or in making proposals regarding the future management of the enterprise.

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

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

The GOC is not responsible or authorised to hold and provide such detailed information about individual enterprises.

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

For information about alleged "subsidies", please refer to the GOC's response to section D.1.

D2.28 For each entity identified in your response to Question B3 and your response to Question B4 that is an SOE, answer the following questions regarding enterprise functions:

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

The GOC does not understand what information is required by this question.

The GOC is not responsible or authorised to hold and provide such detailed information about individual enterprises. In any case, no special function is allocated to State-invested enterprises.

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

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

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

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

No enterprise functions are considered to be governmental in nature.

- (d) Indicate whether the enterprise has been trusted, tasked, vested with any government authority (which includes the authority to execute, administer and oversee a policy, program, initiative or scheme of government). Provide details of this authority including how it is exercised or administered, as well as copies of relevant statutes or other legal instruments that vest this authority.

No enterprise has been so "trusted", "tasked" or "vested".

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

The GOC is not sure about what information is required by this question.

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

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

Enterprises are not required or expected to support governmental policies or interests.

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

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

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Please refer to the GOC's responses to questions D2.13.

Once again, the GOC notes that this is eventually a matter of the individual enterprises, about which the GOC cannot comment on their behalf.

For the purposes of best cooperation, the GOC refers to CHINALCO as an example of enterprises undertaking social responsibility.

CHINALCO adopts a principle of *"people first and stick to the scientific development"*, which means that in its pursuit of economic benefits, the enterprise should also be responsible for its stakeholders and the environments in which it operates, so as to eventually realise the coordinative and harmonic development of enterprises, society and those environment.

CHINALCO implements its social responsibility in the following areas:

- Citizen responsibility - to operate legally and abide by integrity scrupulously
- Economic responsibility - to create value and make profit
- Quality responsibility - to set up famous brands and supply with high quality
- Innovative responsibility - to innovate independently and be the pioneer in the industry
- Safety responsibility - to set employees first and ensure security
- Environmental responsibility - to save resources and protect environment
- Internal responsibility - to vindicate the rights and benefit the employees
- Public welfare responsibility - to take a return as the first priority and benefit all of society

An extract from CHINALCO's social responsibility report is at **Attachment 139**

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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.

January 31, 2012
Date

Gu Yu
Signature of authorized official

Gu Yu
Name of authorized official

First Secretary, Bureau of Fair Trade
MOFCOM
Title of authorized official

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List of Attachments

Legend	<i>BI - Bilingual Version</i> <i>CN - Chinese Version</i> <i>EN - English Version</i>		
Number	Name	Language	Section
Part B			
1.	List of Chinese ARW Companies [CONFIDENTIAL ATTACHMENT]	EN	B3
2.	List of Suppliers of Aluminium Alloy and Business Registration Sheets [CONFIDENTIAL ATTACHMENT]	EN	B4
3.	List of Various National Zones	EN	B5
4.	Import and Export Information [CONFIDENTIAL ATTACHMENT]	EN	B8
5.	New Enterprise Income Tax Law	BI	B9
Part C			
6.	Requirements of entry into the Aluminium Industry	BI	C1.1
7.	Import Data of Aluminium [CONFIDENTIAL ATTACHMENT]	EN	
8.	Notice of the General Office of the State Council on the Main Functions and the Adjustment of the Members of the Customs Tariff Commission of the State Council	BI	
9.	Regulations of the People's Republic of China on Import and Export Duties (2003)	BI	
10.	Interim Regulation of the People's Republic of China on Value Added Tax (2008)	BI	
11.	Catalogue of Investment Projects Reviewed by Government	BI	C2.3(c)
12.	The Company Law of the PRC	BI	C2.3(d)
13.	Rules for the Implementation of the Law of the PRC on Foreign-funded	BI	

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	<i>Enterprises</i>		
14.	<i>Detailed Rules on the Implementation of the Law of the PRC on Sino-Foreign Contractual Joint Ventures</i>	BI	
15.	<i>Law of the PRC on Chinese-Foreign Contractual Joint Ventures</i>	BI	
16.	<i>Law of the PRC on Chinese-Foreign Equity Joint Ventures</i>	BI	
17.	<i>Law of the PRC on Foreign-funded Enterprises</i>	BI	
18.	<i>Catalogue of Regulated Prices 2001</i>	BI	C2.6(a)
19.	<i>Catalogue of Set Prices 2001</i>	BI	C2.6(b)
20.	<i>11th 5 Year Plan</i>	BI	C2.8
21.	<i>12th 5 Year Plan</i>	EN	
22.	<i>Law of the People's Republic of China on Commercial Banks</i>	BI	C2.9(m)
23.	<i>Decision of State Council on Reforming the Investment System</i>	BI	C3.1
24.	<i>Circular of Ministry of Finance and the State Administration of Taxation concerning lowering the export rate for some commodities Cai Shu [2007] No. 90</i>	BI	C3.2(d)
25.	<i>Tariff Plan 2007</i>	BI	C3.3(a)
26.	<i>Tariff Plan 2008</i>	BI	
27.	<i>Tariff Plan 2009</i>	BI	
28.	<i>Tariff Plan 2010</i>	BI	
29.	<i>Tariff Plan 2011</i>	BI	
30.	<i>Summary of Changes to Export Tax for Products</i>	EN	C3.3(b)
31.	<i>Summary of Changes to Import Tax Rates</i>	EN	C3.4(b)
32.	<i>Summary of Changes to Export</i>	EN	C3.5

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	<i>Restrictions</i>		
33.	<i>Summary of Changes to Import Restrictions</i>	EN	C3.6
34.	<i>Summary of Changes to Processing Trade</i>	EN	C3.7
35.	<i>Prohibited Commodity Directory in Processing Trade 2007</i>	BI	
36.	<i>Prohibited Commodity Directory in Processing Trade 2008</i>	BI	
37.	<i>Prohibited Commodity Directory in Processing Trade 2009</i>	BI	
38.	<i>Prohibited Commodity Directory in Processing Trade 2010</i>	BI	
39.	<i>Ministry of Commerce, General Customs Notice [2008] Number 121</i>	BI	
40.	<i>Summary of changes to Export License Restrictions</i>	EN	C3.8
41.	<i>Export Licensing Management Commodities List 2006</i>	BI	
42.	<i>Export Licensing Management Commodities List 2007</i>	BI	
43.	<i>Export Licensing Management Commodities List 2008</i>	BI	
44.	<i>Export Licensing Management Commodities List 2009</i>	BI	
45.	<i>Export Licensing Management Commodities List 2010</i>	BI	
46.	<i>Export Licensing Management Commodities List 2011</i>	BI	
47.	<i>Summary of Changes to Import License Restrictions</i>	EN	C3.9
48.	<i>Notice to WTO on import license 2006</i>	EN	
49.	<i>Measures on the administration of automatic import license of goods</i>	EN	
50.	<i>CHALCO Annual Report 2009</i>	CN	C3.11

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51.	CHALCO Annual Report 2010	EN	
52.	CITIC Group Annual Report 2009	EN	
53.	CITIC Group Annual Report 2010	EN	
54.	Zhejiang Wanfeng Auto Wheel Co., Ltd Annual Reports 2009	CN	
55.	Zhejiang Wanfeng Auto Wheel Co., Ltd Annual Reports 2010	CN	
56.	Lizhong Wheel Group Limited Annual Report 2009	EN	
57.	Lizhong Wheel Group Limited Annual report 2010	EN	
58.	Regulation on the Administration of Futures Trading	BI	
Part D			
59.	Contract Law	BI	Program 1
60.	Regulation on the Administration of Company Registration	BI	
61.	Security Law	BI	
62.	Negotiable Instrument Law	BI	
63.	General Principles of the Civil Law	BI	
64.	Property Law	BI	
65.	Law on Enterprise Bankruptcy	BI	
66.	Guarantee Law	BI	
67.	Anti-Monopoly Law	BI	
68.	Labour Law	BI	
69.	Anti-Unfair Competition Law	BI	
70.	Patent Law	BI	
71.	Trademark Law	BI	

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72.	<i>Accounting Standards on Business Enterprises</i>	BI	
73.	<i>Arbitration Law of China</i>	BI	
74.	<i>Civil Procedure Law</i>	BI	
75.	<i>The Constitution of China</i>	BI	
76.	<i>Law of China on the State-Owned Assets in Enterprises</i>	BI	
77.	<i>Budget Law of China</i>	BI	
78.	<i>Law on Supervision by the Standing Committee of People's Congress</i>	CN	
79.	<i>The Enterprise Income Tax Law</i>	BI	Program 4
80.	<i>Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council</i>	BI	
81.	<i>Circular of the State Council Concerning Several Policies on Carrying out the Development of China's Vast Western Regions ("Circular on Development of China's Western Regions")</i>	BI	Program 5
82.	<i>Implementing Some Policies and Measures for the Development of Western Regions, General Office of State Council ("Circular on Development of Western Regions")</i>	BI	
83.	<i>Circular of the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs on Issues of Incentive Policies on Taxation for the Strategy of the Development in the Western Areas (Cai Shui (2001) No. 202</i>	BI	
84.	<i>Circular on Deepening the</i>	BI	

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	<i>Implementation of Tax Policy concerning Development of Western Regions(Cai Shui[2011]No.58)</i>		
85.	<i>Catalogue of the Industries, Products and Technologies Particularly Encouraged by the State</i>	BI	
86.	<i>Catalogue of Industrial Restructuring ("New Catalogue")</i>	BI	
87.	<i>Catalogue for the Guidance of the Foreign Investment Industries 2007</i>	BI	
88.	<i>Catalogue of Guidance of Advantageous Industries in Central and West for Foreign Investment (2008)</i>	BI	
89.	<i>Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects (2008)</i>	BI	
90.	<i>Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects (2008)</i>	CN	
91.	<i>Application for Reduction or Exemption of Income Tax</i>	EN	
92.	<i>Application and Approval for Tax Reduction and Exemption</i>	BI	
93.	<i>Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed)</i>	BI	Program 6
94.	<i>Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax</i>	BI	
95.	<i>Rules for the Implementation of the Foreign Enterprise Tax Law</i>	BI	
96.	<i>standard income tax assessment forms</i>	BI	

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97.	<i>Circular of the State Administration of Taxation Concerning Enjoying the Preferential Taxation Policy of "the Two Intensive Enterprises" by Enterprises with Foreign Investment</i>	BI	Program 9
98.	<i>Circular of the State Administration of Taxation Concerning the Tax Preferential Policy Applicable to Enterprises with Foreign Investment with Regard to Technology-Intensive and Knowledge-Intensive Projects</i>	BI	
99.	<i>Notice of the Ministry of Finance and State Administration of Taxation about the Policies on Enterprise Income Tax on Small Meagre-profit Enterprises</i>	BI	Program 14
100.	<i>Circular on the Continuous Implementation of the Preferential Policy on the Corporate Income Tax of Small-Scale and Low-Profit Enterprises (Cai Shui [2011] No. 4)</i>	BI	
101.	<i>Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters</i>	BI	Program 21
102.	<i>2009 Guangdong Patent Award Implementation Proposal</i>	BI	Program 29
103.	<i>Stopping Implementation of the Policy of Enterprises Income Tax Deduction and Exemption for Investment by Purchasing Domestically Produced Equipment</i>	BI	Program 30
104.	<i>Circular of the State Council on Adjustment of Imported Equipment Taxation Policies</i>	BI	Program 31
105.	<i>Catalogue for the Guidance of the Foreign Investment Industries 2004</i>	BI	
106.	<i>Directory of Imported Commodities</i>	BI	

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	<i>of Non-Tax-Exemption to be Used in Domestic Invested Projects (2002)</i>		
107.	<i>Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects (2002)</i>	BI	
108.	<i>Tariff and VAT Exemption Application Form</i>	BI	
109.	<i>Notification of Cancellation of VAT Exemption</i>	BI	
110.	<i>Notice of the State Administration of Taxation and the National Development and Reform Commission on Printing and Distributing the "Trial Implementation Measures on Tax Refund Administration for the Purchase of Home-made Equipment for Foreign-funded Projects"</i>	BI	Program 32
111.	<i>Catalogue of Central Western Region Priority Industries</i>	BI	
112.	<i>Notice of the Ministry of Finance and the State Administration of Taxation on Stopping the Implementation of the Policy of Refunding Tax to Foreign-funded Enterprises for Their Purchase of Home-made Equipment</i>	BI	
113.	<i>Notice of the State Administration of Taxation and the National Development and Reform Commission on the Relevant Tax Refund Policies for Foreign-funded Projects that Purchase Home-made Equipment</i>	BI	
114.	<i>standard form application</i>	BI	
115.	<i>Circular of the Ministry of Finance and the State Administration of Taxation on Issue of stopping</i>	BI	Program 34

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	<i>implementation of some expired taxation regulatory document</i>		
116.	<i>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</i>	BI	Program 35
117.	<i>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</i>	BI	
118.	<i>Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises</i>	BI	
119.	<i>International Market Development Application for Project Funds</i>	BI	
120.	<i>International Market Development Application for Project Implementation</i>	BI	
121.	<i>Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprise</i>	BI	Program 36
122.	<i>Circular of Chongqing People's Government Office on Temporary Administration Measures on Venture Investment Fund of Hi-tech Industry in Chongqing</i>	BI	Program 38
123.	<i>Measures for Assessment and Encouragement for Superstar Enterprises and Excellent Enterprises</i>	BI	Program 39
124.	<i>Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises,</i>	BI	

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	<i>Excellent Enterprises and Backbone Enterprises</i>		
125.	<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>	BI	Program 40
126.	<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> [CONFIDENTIAL ATTACHMENT]	BI	
127.	<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> [CONFIDENTIAL ATTACHMENT]	BI	
128.	<i>Interim Regulations on the Board of Supervisors of the State-owned Enterprises</i>	EN	D2.3
129.	<i>Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises</i>	BI	
130.	<i>Administrative Permission Law</i>	BI	D2.4
131.	<i>Rules on the Management of Property Right Registration of the State Assets of Enterprises</i>	BI	D2.9
132.	<i>Law of Civil Servant</i>	BI	D2.22
133.	<i>List of publicly listed aluminium enterprises</i>	EN	D2.25

	[CONFIDENTIAL ATTACHMENT]		
134.	<i>Regulations on Company Registration</i>	BI	D2.26
135.	<i>Regulations for the Registration of Legal Corporation</i>	BI	
136.	<i>blank application form of registration</i>	EN	
137.	<i>HKEX Code on Corporate Governance Appendix_14</i>	EN	
138.	<i>Shanghai Stock exchange Guidelines</i>	EN	D2.27
139.	<i>CHINALCO 2007 Social Responsibility Report</i>	EN	D2.28

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APPENDIX A

LIST OF REQUESTED DOCUMENTS – PART C (QUESTION C2.5)

Provide copies of the following documents. In doing so 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.

When providing and referring to the below-requested documents, please refer to the document number as identified in the below table.

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

NUMBER	DOCUMENT TITLE OR DESCRIPTION	AVAILABILITY	COMMENT
A1	<i>Guidelines for accelerating the restructuring of the Aluminium Industry</i>	Provided	This is an aspirational document. It cannot be "effective".
A2	<i>11th Five-Year Plan</i>	Provided	The GOC notes that the 11th Five-Year Plan was only effective between 2006–2010. Please refer to Attachment 20.

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A3	<i>12th Five-Year Plan</i>	Provided	The GOC notes that the 12th Five-Year Plan was only passed on 14 March 2011. Therefore it was only effective for a portion of the POI. Please refer to Attachment 21 .
A4	<i>Industrial Development Policy of Aluminium Industry</i>	Not available	The GOC could not identify a document matching this description.
A5	<i>Special Planning for Aluminium Industry Development</i>	Not available	The GOC could not identify a document matching this description.
A6	<i>Policy Banks Law</i>	Not available	This item does not exist.
A7	<i>Price Law of the People's Republic of China</i>	Provided	Effective during the POI.
A8	<i>Circular of Ministry of Finance and State Administration of Taxation on Adjusting Export Rebate Rate of Some Commodities Cai Shui [2007] No. 90</i>	Provided	Please refer to Attachment 24 .
A9	<i>Government-set Price List 2001</i>	Provided	Please refer to Attachment 19.
A10	<i>Three-year plan to stimulate the non-ferrous metal industry</i>	Provided	This is the same document as A47 .
A11	<i>Decision of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"</i>	Provided	This document was terminated in 2011.

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A12	<i>Circular of the State Council on Accelerating the Structure Adjustment of the Industries With Capacity Redundancy</i>	Provided	Effective during the POI.
A13	<i>Circular of the General Office of the State Council on Liquidating Fixed Asset Investment Projects</i>	Provided	Effective during the POI.
A14	<i>Notice of the State Council on Adjusting the Proportions of Registered Capital in Fixed Asset Investment Projects of Some Industries</i>	Provided	Effective during the POI.
A15	<i>Circular of the State Economic and Trade Commission on the Promulgation of the Guidance of Recent Development in the Industrial Sector</i>	Provided	Effective during the POI.
A16	<i>Notice Concerning Relevant Questions on Further Implementing Differential Power Pricing Policies</i>	Provided	Effective during the POI.
A17	<i>Guiding Opinion on Promoting the Adjustment of State-Owned Capital and the Re-organization of the State-Owned Enterprises</i>	Provided	Effective during the POI.
A18	<i>Circular Concerning the Measures to Control the Export of Products of High Energy Consumption, High Pollution and Resource</i>	Provided	Effective during the POI.
A19	<i>Catalogue of Price Regulated by the State Development Planning Commission and Other Department under the State Council</i>	Provided	Please refer to Attachment 18.
A20	<i>Catalogue of prohibited commodities in processing trade</i>	Provided	Attachments 35 – 38 comprise the Catalogues of prohibited commodities in processing trade from 2006 - 2010

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A21	<i>Foreign Trade Law of the People's Republic of China</i>	Provided	Effective during the POI.
A22	<i>Customs Law of the People's Republic of China</i>	Provided	Effective during the POI.
A23	<i>2002 Notice for the Adjustment of the Catalogue of Export Products Subject to Price Review by Customs</i>	Provided	This document has been terminated.
A24	<i>Measures for the Administration of License for Export of Goods⁸</i>	Provided	The requested document was revised in 2008. The revised version is attached.
A25	<i>"State Will Adjust Tariff Rates from June 1 to Control the Export of High-Energy Consumption Products" (22 May 2007)</i>	Not available	The operation of this document relates to a period outside the POI (2001 – 2005). The GOC considers it is not relevant to this matter.
A26	<i>2007 General Work Plan for Energy Conservation and Pollutant Discharge Reduction</i>	Provided	Effective during the POI.
A27	<i>Measures for the Administration of Licence for the Export of Goods</i>	Provided	Effective during the POI.
A28	<i>Notice "2009 Export Licensing Management Commodities List"</i>	Provided	This document was only effective during 2009.
A29	<i>Notice Regarding Passing Down the 2009 First Batch Regular Trade Coke Export Quota</i>	Not available	This document relates to export quotas on Coke. It is not relevant to the current investigation.

⁸ Order No.28

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A30	<i>Ministry of Commerce Notice to Foreign-Invested Enterprises Regarding Amounts for the 2009 Industrial Products Export Quotas (2008) No. 92, January 1, 2009</i>	Provided	This document was only effective during 2009.
A31	<i>"State will further adjust Customs import and export tariffs as of January 1, 2009" (17 December 2008)</i>	Not available	This document is not a GOC document.
A32	<i>Notice on Announcement of the 2010 Export Quota Amounts for Agricultural and Industrial Products⁹</i>	Provided	This document was effective during POI.
A33	<i>Announcement of the 2010 List of Enterprises Subject to Elimination of Outdated capacity in Industry Sector¹⁰</i>	Provided	This document relates to export quotas on coke. It is not relevant to the current investigation.
A34	<i>Energy Conservation Law of the People's Republic of China</i>	Provided	This document was effective during POI.
A35	<i>Interim Regulations of the Ministry of Foreign Trade and Economic Cooperation on Punishment for Conduct at Exporting at Lower-than-Normal Price</i>	Provided	This document was effective until September 2010.
A36	<i>Guidance for Enhancing the Management of Raw Materials Industries</i>	Not available	This document is not relevant to the investigation.
A37	<i>Guidelines of the Eleventh and Twelfth Five-Year Plan for National Economic and Social Development</i>	Provided	Please refer to Attachments 19 and 21 .

⁹ Notice No. 88 of 2009

¹⁰ Gong Chan Ye (2010) No. 111

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A38	<i>Directory Catalogue on Readjustment of Industrial Structure</i>	Provided	This is the same document as Attachment A42.
A39	<i>Report on the Outline of the Tenth Five-Year Plan for National Economic and Social Development</i>	Not available	This is not a GOC document.
A40	<i>10 industries reform programme</i>	Not available	No such document as this exists.
A41	<i>Current Catalogue of Key Industries, Products and Technologies the Development of Which is Encouraged by the State</i>	Not available	Abolished in 2005. Please refer to Attachment A42 for replacement document.
A42	<i>Directory Catalogue on Readjustment of Industrial Structure</i>	Provided	This document was updated in 2011. Please find the most recent copy attached.
A43	<i>Electric Power Law</i>	Provided	This document was effective during the POI.
A44	<i>Go Out Policy</i>	Not available	The GOC could not identify a document matching this description.
A45	<i>Provisional Procedures for the Pilot Project in Direct Purchase of Electricity By Customers From Electricity Companies</i>	Provided	This document was effective during the POI.
A46	<i>Circular of the Ministry of Land and Resources and the National Development and Reform Commission on Promulgating and Implementing the Catalogue of Restricted Use of Land and Catalogue of Prohibited Uses of Land</i>	Provided	This document had a supplement added in 2009. Please find it attached as Attachment A46.2.

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A47	<i>Nonferrous Metal Industry Adjustment and Revitalisation Plan</i>	Provided	This document was effective during the POI. Please find it attached.
A48	<i>Policy on the Development of the Automotive Industry 2004</i>	Provided	This document was revised in 2009. Please find the most up-to- date version attached.
A49	<i>Restructuring and Revitalization Plan of Auto Industry</i>	Provided	This document was effective during the POI. Please find it attached

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APPENDIX B

LIST OF REQUESTED DOCUMENTS – PART D

Provide copies of the following documents. In doing so 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.

When providing and referring to the below-requested documents, please refer to the document number as identified in the below table.

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

NUMBER	DOCUMENT TITLE OR DESCRIPTION	AVAILABILITY	COMMENT
B1	<i>Plan for the Division of Labor of Departments on Implementing Several Opinions of the State Council on further handling well the Utilization of Foreign Investment</i>	Provided	This document was effective during the POI.
B2	<i>Several opinions of the State Council on further utilizing foreign capital</i>	Provided	This document was effective during the POI.
B3	<i>Enterprise Income Tax Law of the People's Republic of China</i>	Provided	Please refer to Attachment 5.

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B4	<i>Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises</i>	Provided	This document has been terminated.
B5	<i>Circular of the State Council on Implementation of the Transitional Preferential Policies on Enterprise Income Tax</i>	Provided	This document was effective during the POI.
B6	<i>Circular for the clarification of the enterprise income tax preferential policies for the implementation of the transition period calibre issues</i>	Provided	This document was effective during the POI.
B7	<i>Circular on some issues concerning execution of preferential policies on enterprise income tax</i>	Provided	This document was effective during the POI.
B8	<i>Circular of the State Administration of Taxation on the issues concerning implementation of the preferential income tax for hi-tech enterprises</i>	Provided	This document was effective during the POI.
B9	<i>Corporate Income Tax Law</i>	Provided	Please refer to Attachment 5.
B10	<i>Catalogue of foreign investment advantageous industries in central and western China</i>	Provided	This document was replaced by in 2008. Please refer to Attachment B10.2.
B11	<i>Foreign Investment Industrial Guidance Catalogue</i>	Provided	This document was replaced in 2007. Please refer to Attachment B11.2.
B12	<i>Reply of the State Administration of Taxation on Issues concerning applicable catalogues</i>	Provided	This document was effective during the POI.
B13	<i>Notification of the State Council on Providing Transitional Preferential Tax Treatments to High-tech Enterprises newly set-up in Special Economic Zones and in Pudong New District of</i>	Provided	This document was effective during the POI.

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	<i>Shanghai</i>		
B14	<i>Circular of the Ministry of Finance, the State Administration of Taxation and the General Administration of Customs on the Issues Concerning the Tax Preferential Policies for the West Development</i>	Provided	This document was terminated prior to the POI.
B15	<i>Rules for the implementation of the Income Tax Law of the People's republic of China on Enterprises with foreign investment and foreign enterprises</i>	Provided	This document was terminated prior to the POI.
B16	<i>Circular on terminating tax refund policies on purchase of domestically-manufactured equipment by foreign-invested enterprises</i>	Provided	This document was effective during the POI.
B17	<i>Circular of the General Administration of Customs and National Development and reform Commission on issues concerning examination and approval of Tax Exemption confirmation for domestic and foreign-invested projects under encouragement</i>	Provided	This document was effective during the POI.
B18	<i>Interim Regulations of the People's Republic of China on Value Added Tax</i>	Provided	This document was effective during the POI.
B19	<i>Circular of the General Administration Customs on Import Taxation Policy for further encouraging foreign investment</i>	Provided	This document was effective during the POI.
B20	<i>Circular of State Administration of Taxation on disseminating the export tax refund rate library of 2007</i>	Provided	This document was only effective during 2007.
B21	<i>Circular on Carrying Out Evaluation of Products to Be</i>	Provided	This document has been terminated. Please refer to

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	<i>Recognized as China World Top Brand</i>		Attachment B21 notice of repeal.
B22	<i>Suggestions on Accelerating the Implementation of Brand Strategy;</i>	Not available	The GOC considers that this document is not relevant to the current investigation.
B23	<i>Notice of Issuing the Directive on Supporting the Development of Name Brands for Export</i>	Provided	This document was effective during the POI.
B24	<i>Circular of The State Council Concerning the Adjustment in the Taxation Policy of Import Equipment</i>	Provided	This document was effective during the POI.
B25	<i>Circular of the General Office of the State Bureau of Quality Supervision, Inspection and Quarantine for Issuing the "Measures for the Control of Evaluation of Chinese Famous Brand Products (for Trial Implementation)"</i>	Provided	This document was terminated prior to the POI.
B26	<i>Notice of General Office of Ministry of Commerce Concerning Recommending Candidates of "Chinese Export Famous Brands"</i>	Provided	This document was only effective during 2007.
B27	<i>Notice of Issuing the Directive on Supporting the Development of Name Brands for Export</i>	Provided	This is the same document as Attachment B23 .
B28	<i>Circular on Printing and Distributing the Policy Opinions for Accelerating Innovative Development of Industrial Economy</i>	Not available	The GOC considers that this document is not relevant to the current investigation.
B29	<i>Notice Concerning the Issuing of Opinions on Promoting the Brand-Driven Strategy & Its Incentive Measures</i>	Not available	The GOC considers that this document is not relevant to the current investigation.