



Government Questionnaire

The People's Republic of China



中华人民共和国商务部
Ministry of Commerce of the People's Republic of China

Case Number: 553

Product: Painted steel strapping

From: People's Republic of China and the Socialist Republic of Vietnam

Investigation period: 1 April 2019 to 31 March 2020

Response due by: **Friday 3 July 2020**

Extended to 14 August 2020

Return completed questionnaire to: investigations3@adcommission.gov.au

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

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SECTION A

BACKGROUND AND GENERAL INSTRUCTIONS

A1. Background

On 27 May 2020, following an application by Signode Packaging Group Australia Pty Ltd (Signode), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping and countervailing investigation in respect of painted steel strapping exported to Australia from the People's Republic of China (China). On the same day, the Commissioner also initiated a dumping investigation in respect of painted steel strapping exported to Australia from the Socialist Republic of Vietnam (Vietnam).

Signode alleges that the Australian industry has suffered material injury caused by painted steel strapping exported to Australia from China and Vietnam (collectively, the subject countries) at dumped and subsidised prices.

Anti-Dumping Notice (ADN) No. 2020/50 outlining the details of the investigation and the procedures to be followed during the investigation was published on 27 May 2020 on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.

A2. Product concerned

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

Painted steel strapping, of carbon steel, whether or not in coils, whether or not waxed, with a nominal width of 12 mm to 32 mm, a nominal thickness of 0.5 mm to 1.5mm.

Stainless steel strapping and galvanised steel strapping are excluded from the goods.

Tariff Classification

The goods may be classified in Schedule 3 to the *Customs Tariff Act 1995* as follows:

Tariff Subheading	Statistical Code	Description
7212		FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, CLAD, PLATED OR COATED:
7212.40.00		Painted, varnished or coated with plastics:
	62	Of a width not exceeding 32 mm

A3. Investigation period

The existence and amount of any dumping and subsidisation in relation to the goods exported to Australia from the subject countries will be determined on the basis of an investigation period of 1 April 2019 to 31 March 2020 (the investigation period).

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The Commission will examine details of the Australian market from 1 April 2016 for injury analysis purposes.

A4. Purpose of this questionnaire

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

- (a) investigating the allegation that there is a particular market situation in the domestic market for the goods in China; and
- (b) the investigation into countervailable subsidies received by exporters of the goods from China.

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

Any additional questions, if necessary, will be put to the GOC using supplementary questionnaires.

A separate questionnaire has been sent to exporters of the goods from China identified during the consideration of the application. The exporter questionnaire also requests information on subsidies and the market situation.

A5. Response to this questionnaire

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

However, if the GOC does not respond, the Commission may be required to rely on information supplied by other parties, including information supplied by Signode.

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

If the GOC elects to respond to this questionnaire, the response is due by **Friday 3 July 2020**.

The due date for the Government of China ("the GOC") to respond to this questionnaire was extended by the Commission to 14 August 2020.

A6. If you decide to respond

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

Confidential and non-confidential versions

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

In submitting these versions, please ensure that each page of the information you provide is clearly marked either "**FOR OFFICIAL USE ONLY**" (for the confidential version) or "**PUBLIC RECORD**" (for the non-confidential version) in the header and footer.

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All information provided to the Commission in confidence will be treated accordingly. Your non-confidential submission must contain sufficient detail to allow a reasonable understanding of the substance of the confidential version. If, for some reason, you cannot produce a non-confidential summary, contact the Commission.

The non-confidential version of your submission will be placed on the Commission's Electronic Public Record¹, which all interested parties can access.

Declaration

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

Coordination of responses

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

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

Consultants/parties acting on your behalf

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

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

The GOC confirms that Moulis Legal (Australian legal counsel) and Dentons (Chinese legal counsel) have been appointed to act on behalf of the GOC in this matter.

Provision of documents

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

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

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

¹ <https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system/anti-dumping-commission-current-cases>

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

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

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

Lodgement

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

In completing any lists of names and addresses requested throughout this questionnaire, electronic responses in a Microsoft Excel spreadsheet would be preferred.

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,² even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

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

² This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

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

A7. Clarification

If you have any difficulties in completing the questionnaire, or require clarification on any questions asked, contact the Commission as soon as possible.

A8. Future questions and verification

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

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

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

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

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

SECTION B GENERAL QUESTIONS

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

The agency in charge of coordinating the GOC's response to the Commission's questionnaire is the Trade Remedy and Investigation Bureau within the Ministry of Commerce ("MOFCOM"). As advised in previous correspondence, MOFCOM has appointed Moulis Legal and Dentons (Beijing Office) as its legal representatives for this matter. Mr Charles Zhan of Moulis Legal will be the direct contact person. His contact details are charles.zhan@moulislegal.com.

- B2. For the period 1 April 2019 to 31 March 2020, describe the nature and structure of:
- (a) the hot rolled coil (HRC) industry and market sector in China; and

The GOC notes the purpose of the Government Questionnaire as stated in Section A:

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

- (a) *investigating the allegation that there is a particular market situation in the domestic market for the goods in China; and*
- (b) *the investigation into countervailable subsidies received by exporters of the goods from China.*

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

Therefore we assume that by raising the question relating to HRC, the Commission is interested in considering the main raw material used for the production of the GUC, in light of the Applicant's claim that the cost of production of the GUC and the prices of the GUC in China is somehow "artificially low". In this regard we also note the alleged "hot rolled steel provided by government at less than fair market value" program, identified as Program 20 in Section C of this questionnaire.

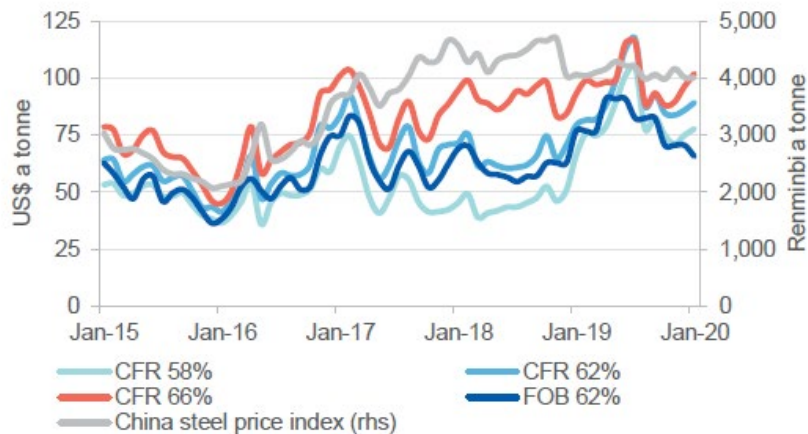
To be clear, the GOC categorically rejects the assertion that the costs concerned are "artificially low". The GOC advises as follows:

- a. The Chinese steel market is the most competitive market in the world. It is driven by dynamic supply and demand. It has the highest number of market participants of any country. Those market participants are extremely diverse. There is nothing "artificial" about costs in the Chinese steel market, whether that artificiality is alleged to be "low" or "high".
- b. Steelmaking in China is highly reliant on imported raw materials, especially iron ore. Production and sales of primary steel products such

as HRC are not subject to any price control. Nor do they benefit from any substantive subsidies– as has been proven over and over again in Australian-based investigations. HRC and other steel products produced and traded in China can only reflect fair market value. The notion that the Chinese Government or any “public body” is engaged in subsidising the purchase of HRC or other steel raw materials by way of selling such product at “less than fair value” or “less than adequate remuneration” is simply fanciful.

- c. For the period 1 April 2019 to 31 March 2020, the import volume of iron ore was [CONFIDENTIAL TEXT DELETED - number]MT, export volume was [CONFIDENTIAL TEXT DELETED - number]ton, and China’s production volume was [CONFIDENTIAL TEXT DELETED - number]ton. With regard to the apparent consumption volume, the apparent consumption of iron ore was [CONFIDENTIAL TEXT DELETED - number]MT in China during the POI, and the import volume accounted for [CONFIDENTIAL TEXT DELETED - number]% of the total consumption. The data indicates that the iron ore industry in China is import-oriented. As iron ore is one of the main raw materials of steel product, the price of its downstream product, including the GUC, is closely aligned to the prices of iron ore. That is to say, one of the most significant factors in a Chinese steel producer’s cost, and the steel price in China, is the price of iron ore from Australia. We respectfully request the Commission to conduct independent research and inquiries with the Australian iron ore industry to confirm this understanding.
- d. Steel prices in the Chinese market have trended in a similar fashion to the cost of the major raw material input, iron ore, in recent years, as noted by the Australian Government’s own research:³

Figure 4.3: Iron ore price by grade and China steel price index



Notes: The OCE forecasts the FOB (free on board) Australia iron ore price, not the benchmark CFR (cost and freight) North China iron ore price.
 Source: Bloomberg (2019) Metal Bulletin; Department of Industry, Science, Energy and Resources (2020)

³ Department of Industry, Science, Energy and Resources, Commonwealth of Australia, Resources and Energy Quarterly, March 2020.

Figure 4.4: Iron ore price vs China steel production growth



Notes: China import Iron ore fines 62% Fe spot (CFR Tianjin port)

Source: Bloomberg (2019) China import prices; World Steel Association (2019)

- e. As noted in the same report referred to in d, Chinese steel production and the Chinese steel market have been driven mostly by strong domestic consumption, supported by a strong property market and major infrastructure projects. The prices and costs of steel production, including HRC and other inputs used for the production of the GUC, are determined by the relevant economic factors and conditions in China, and are influenced by international costs. They are no more and no less “particular” than the economic factors and conditions that exist in other countries. It should not and cannot be expected that the economic conditions relevant to HRC, or other steel products in China, would be identical to the conditions in any other country, whether that be Australia, Korea, or Vietnam.
- f. Insofar as the GOC is aware, based on information provided by the Chinese exporter participating in this investigation, namely Qinhuangdao Jiashilun Packaging Materials Co., Ltd. (“QJPM”), it produced the GUC not from HRC, but from a form of cold rolled steel (“CRS”). The GOC expects that QJPM’s purchase of CRS as a production input was entirely based on the market conditions and commercial negotiations between QJPM and its suppliers. Accordingly, such purchase prices could not have been “artificially low” or “subsidised”.
- g. The GOC can advise that, unlike Australia, the Chinese steel making sector, including for HRC and CRS, is highly competitive. China’s steel production is spread out across hundreds of companies operating in all parts of the country. There is a low degree of concentration compared to many other jurisdictions. We refer the Commission to some relevant statistics from the National Bureau of Statistics of China, at Attachment B-2 [CONFIDENTIAL ATTACHMENT]. Indeed, the comparison is especially invidious with respect to Australia, where local steelmaking is monopolised along product lines, and where anti-competitive barriers to entry are high.
- h. Taking into consideration the size and scale of steel manufacturing in China, its impact on the environment and its importance to the national and international economy, commercial steelmaking activities are naturally an important part of the GOC’s macro-economic policy. There is nothing

unusual or exceptional about the GOC's consideration of the steel sector, in its most general sense, as a very important part, ie. a "pillar", of China's economy. The Chinese steel industry is subject to international commitments and to the GOC's national policies in relation to climate change, given the high-emission characteristics of the steel making sector. China has taken on an increasingly active role in promoting global solutions on climate change. This has seen the GOC taking measures to ensure the steel companies operating in China comply with applicable environmental and carbon emission requirements, and to address the environmental issues associated with importation of waste materials. Such measures may have had the effect of limiting the output of steel producers, thereby increasing their cost of production. We note that this kind of environmental regulation is no different to the treatment of major industries by the Australian Government, and by governments around the world.

- i. China has been the largest steel production country in the world in recent years and continued to be so during the investigation period. This output is supported by the largest national steel consumption in the world. Most of China's steel production is for the domestic market. Moreover, despite the high production volume, China is also a significant steel importer. According to Comtrade, China's imports of hot rolled coil was [CONFIDENTIAL TEXT DELETED - number]metric tons between 2015 and 2018, China's import of cold rolled steel and coil was [CONFIDENTIAL TEXT DELETED - number]metric tons for the same period. According to Global Trade Flow, China was the single largest CRS importing country by value in 2019, at [CONFIDENTIAL TEXT DELETED - number]. In comparison, the total value of CRS imported by Australia was [CONFIDENTIAL TEXT DELETED - number]. In 2019, China was also the top exporting country for CRS by value, at USD[CONFIDENTIAL TEXT DELETED - number], comparable to USD[CONFIDENTIAL TEXT DELETED - number] billion by Korea, [CONFIDENTIAL TEXT DELETED - number]billion by Japan, and [CONFIDENTIAL TEXT DELETED - number]billion by Belgium. On the other hand, for HRS China was also one of the top importing country by value, recording import value at USD[CONFIDENTIAL TEXT DELETED - number], compared to export value of HRS at [CONFIDENTIAL TEXT DELETED - number]. Accordingly, China has been a net importing country of both CRS and HRS. These statistics further support the fact that China's domestic market of CRS or HRS cannot be "particular", in the sense of benefitting from "artificially low prices". If that were the case then there would be no imports whatsoever, because they would be uncompetitive in price.

The GOC maintains its serious concerns in relation to the distorted and basically illogical thinking on these issues which has preceded this case. This case presents another opportunity for the Commission to gain a better understanding of the competitive nature of the Chinese market, and to reverse its previous thinking. In that context, and in the spirit of cooperation, we now wish to provide relevant commentary about the product under investigation and about some of the raw material inputs as are mentioned in the questionnaire.

- (b) the painted steel strapping industry and market sector in China.

MOFCOM is informed that the GUC is a relatively new product in the Chinese market, widely used in construction, shipbuilding, automotive manufacturing, white goods, and electric appliances industry. The GUC provides an alternative to other strapping materials such as wood or plastic based products. The GUC has a wide and diverse market demand in the Chinese domestic economy.

MOFCOM reminds that competition in Chinese steel product markets, including the GUC, is generally very intense, and likely to be more fierce than “average”. This is mostly due to the large number of producers, and to the fact that China is the world’s largest domestic market for steel products. Such competition has been heightened in recent years, due to the slowing global economy.

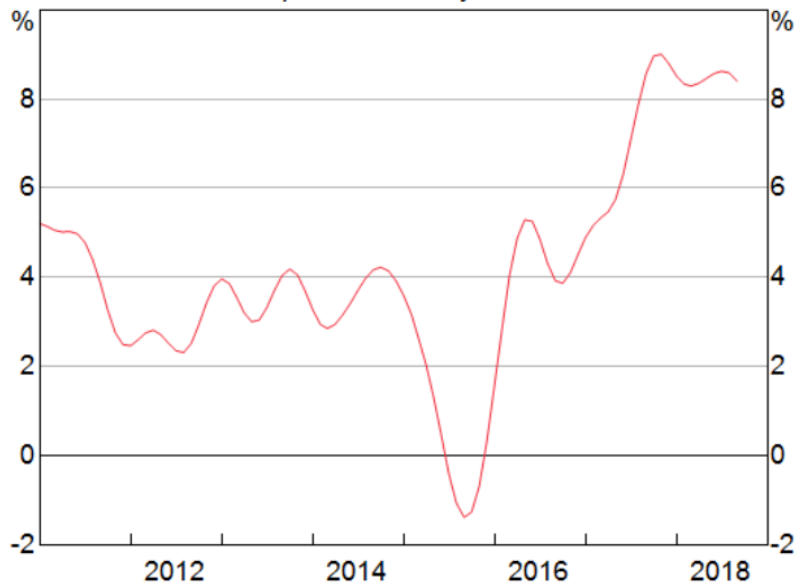
The GOC is committed to ensuring that steel industry development adheres to strict environmental standards, and is consistent with China’s commitment to emissions reduction under the Paris Agreement. China has also been actively implementing its Supply Side Structural Reform (“SSSR”) in a range of sectors, including steel. Under the SSSR, it is the GOC’s policy to focus on reducing steelmaking capacity, and to address over-competition in the sector. As observed by the Reserve Bank of Australia:⁴

In the steel industry, the removal of capacity gave remaining, larger firms more pricing power partly because they were no longer being undercut by unregulated and illegal producers. The price of steel products rose and profitability of remaining steel producers increased (Graph 4).

Graph 4

China – Steel Sector Profit Margins*

Calculated profit divided by revenue, trend



* Ferrous metal smelting and pressing
Sources: CEIC Data; RBA

The GOC has no policy incentive to suppress the market prices of steel products

4 <https://www.rba.gov.au/publications/bulletin/2018/dec/chinas-supply-side-structural-reform.html>

in China. Nor does the GOC have any means of or interest in establishing and implementing a subsidy program involving the provision of steel inputs, such as HRC, “at less than adequate remuneration”. To the contrary, the GOC’s policy focus has been on strengthening environmental and safety standard compliances, whilst supporting healthy and strong domestic demand and national economy via investment in infrastructure projects and further opening of the economy to both domestic and foreign investment. The attainment of those objectives will obviously counter over-development in the steel industry, but that is not in any sense a form of control over production, cost or price. How Chinese markets deal with macro-economic forces and the achievement of environmental goals does not render them in any way unsuitable for the purpose of price determination.

In relation to the GUC, painted steel strapping does not by itself constitute a separate and distinct “industry”. Painted steel strapping competes in a market which is far downstream of the overall base metal products industry, and which is not limited to base metal products. The industrial packaging materials industry and market does not only include steel packaging. For instance, MOFCOM expects that there might be suitable non-steel alternatives, such as plastic or wood based strapping materials.

The GOC does not have any special interest or involvement in relation to the GUC other than governing the application of national standards to the product, being GB/T12754-2019. This standard relates to product quality, safe production, and hazardous substance prevention. The GOC expects that similar national standards can be found in Australia and in countries around the world.

Based on information available to MOFCOM, the production volume of the GUC in China during 2019 was approximately [CONFIDENTIAL TEXT DELETED - number]MT. It is estimated that major SIEs accounted for just over [CONFIDENTIAL TEXT DELETED - number]% of the total volume of production. It is estimated that China’s import volume of the GUC (based on HS code 72124000) during 2019 was [CONFIDENTIAL TEXT DELETED - number]MT, and the export volume was [CONFIDENTIAL TEXT DELETED - number]ton. This indicates that around [CONFIDENTIAL TEXT DELETED - number]% of the GUC produced in China were for domestic consumption.

MOFCOM understands that the market entry threshold for the painted steel strapping industry is relatively low. There are a large number of producers servicing the industrial packaging materials market. It is a diverse and dynamically competitive market, not limited to metal strapping, but also including plastic and other alternatives.

MOFCOM understands that the GUC is produced from CRS, which is itself processed from HRS. Producers of GUC may be integrated producers that manufacture the steel input from iron ore, and then produce the GUC using their own self-produced HRS/CRS. Alternatively, they may manufacture the GUC from CRS/HRS sourced from an integrated steelmaker. MOFCOM cannot see any reason why an integrated steelmaker would supply its own production to a GUC producer at an artificially low price or at a price that is “inadequate” based on its own commercial considerations.

MOFCOM kindly reminds the Commission that China is the largest iron ore

importing country in the world.⁵ Notably, the Chinese iron ore market is well penetrated by imports from a number of countries, to name a few, Australia and Brazil. For example, Australian Government's 2018-2019 budget stated that China accounted for more than 80% of Australia's iron ore exports.⁶ Thus MOFCOM expects, and the graphical information establishes, that the GUC's cost of production and prices closely reflect the key cost factors of production for such steel products, such as the prices of iron ore, coking coal, energy, labour and relevant overheads, as further impacted by the prevailing market conditions of supply and demand.

Without limiting your response, include information concerning:

- any government involvement in upstream materials and inputs, i.e. hot rolled coil, electricity, natural gas, etc.
- the size and output (value and quantity) of the industry;
- the extent of vertical integration in the industry;
- the extent of the reliance on imported raw material inputs;
- the extent of any restrictions, quotas or limits for the production volumes in the industry; and
- any Government involvement at each level of the industry.

Please refer to separate responses in relation to HRC and the GUC above.

- B3.** Are any of the companies listed in **Appendix A** located in an area or economic zone⁷ which entitles them to preferential tax or other preferential policies provided by the GOC including those provided by regional, provincial or municipal authorities?

If so, please provide:

- a listing of the names of all such zones, areas, or other regions;
- an explanation of each such type of zone, area or other region;
- a listing and explanation of what location in each zone makes businesses eligible for (including any Government assistance or differential treatment); and
- which companies listed in **Appendix A** are located within each area, zone or region.

Based on the information available to MOFCOM, none of the companies listed in Appendix A are located in a special, hi-tech or export processing zone, that

⁵ *World Steel in Figures 2020*, <https://www.worldsteel.org/steel-by-topic/statistics/World-Steel-in-Figures.html>

⁶ Budget 2018-2019, <https://archive.budget.gov.au/>

⁷ Refers to a Special Economic Area, Economic and Technical Development Zone, Bonded Zone, Export Processing Zone, High Technology Industrial Development Zone, or any other designated area where benefits from the GOC (including central, provincial, municipal or county Government) accrue to a company because of being located in such an area.

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would make the company eligible for special preferential tax or other preferential policies.

We provide a table of information pertaining to the Appendix A companies at Attachment B3 [CONFIDENTIAL ATTACHMENT]. We note that the Appendix A companies, in so far as MOFCOM could identify, are all private companies.

- B4.** Provide a list of all manufacturers/producers of the goods and HRC in China that produced the goods or HRC during the investigation period not included in **Appendix A**. If possible, please provide this listing in Microsoft Excel format in the attached spreadsheet provided with this questionnaire at Worksheet B-4.

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

Within this list, indicate the following:

- (a) the business name;
- (b) the business address (including the city/town and province);
- (c) the function and type of business (e.g. manufacturer, trader or exporter);
- (d) the ownership structure of the business, including indirect ownership through associated companies (i.e. State Invested Enterprises (SIE)⁸, private, co-operative or joint venture);
- (e) if the business is not a SIE, whether it is otherwise associated with the GOC;
- (f) whether the business is a manufacturer of the goods and whether it produces HRC;
- (g) total production quantity of the goods by the business during the investigation period;
- (h) is the GOC a shareholder in the business? If so, the percentage of GOC holdings;
- (i) if there is GOC representation in the business; and
- (j) the value of total benefit received annually.

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

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

Please refer to Attachment B4 [CONFIDENTIAL ATTACHMENT].

- B5.** Provide the names and addresses of all national, provincial and regional producer organisations that represent the interests of manufacturers and traders of the goods in China.

MOFCOM notes that the China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters (CCCMC) may have members who are producer or traders of the GUC.

⁸ For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOC (either through direct ownership or through association).

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- B6.** Specify and provide supporting documentation for the standard corporate tax rate during the investigation period for:
- (a) companies that manufacture the goods;
 - (b) companies that trade in the goods;
 - (c) companies that manufacture HRC; and
 - (d) companies that trade in HRC.

The standard corporate tax rate is the same between companies of any nature in any place. As in Australia, China has a flat corporate tax rate. The standard corporate tax rate in China is 25% as is prescribed in Article 4 of Corporate Income Tax Law of the People's Republic of China. The standard corporate tax rate applies, regardless of the type of products produced/traded by the company. Please refer to the law in Attachment B6.

- B7.** Specify and provide supporting documentation for the corporate tax rates applicable in all provincial or local jurisdictions in China for those types of companies listed in (a) to (d) of Question B6 above.

Please refer to the GOC's response to B6 above.

SECTION C SUBSIDIES

Introduction

In the application, Signode alleged the existence of multiple subsidy programs applicable to painted steel strapping.

Based on available information, the Commission will examine as part of its investigation the programs listed in the table below. If further information comes to hand during the course of the investigation, the Commission may choose to investigate further programs. In this event, the Commission may issue a supplementary questionnaire.

The following are programs that the Commission is currently investigating:

No.	Program name	Type
1	Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in Economic and Technological Development Zones	Tax
2	One-time Awards to Enterprises Whose Products Qualify for 'Well-Known Trademarks of China' and 'Famous Brands of China'	Grant
5	Matching Funds for International Market Development for Small and Medium size Enterprises (SME)	Grant
6	Superstar Enterprise Grant	Grant
7	Research & Development (R&D) Assistance Grant	Grant
8	Patent Award of Guangdong Province	Grant
10	Preferential Tax Policies for Foreign Invested Enterprises– Reduced Tax Rate for Productive Foreign Invested Enterprises scheduled to operate for a period of not less than 10 years	Tax
11	Preferential Tax Policies for Enterprises with Foreign Investment Established in Special Economic Zones (excluding Shanghai Pudong area)	Tax
12	Preferential Tax Policies for Enterprises with Foreign Investment Established in Pudong area of Shanghai	Tax
13	Preferential Tax Policies in the Western Regions Exemption of Tariff and Import VAT for Imported Technologies and Equipment	Tax

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No.	Program name	Type
14	Tariff and VAT Exemptions for Imported Materials and Equipment Reduction in Land Use Fees	Tax
15	Innovative Experimental Enterprise Grant	Grant
16	Special Support Fund for Non State-Owned Enterprises	Grant
17	Venture Investment Fund of Hi-Tech Industry	Grant
18	Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment	Grant
19	Grant for key enterprises in equipment manufacturing industry of Zhongshan	Grant
20	Hot rolled steel provided by government at less than fair market value	Less than adequate remuneration (LTAR)
21	Water Conservancy Fund Deduction	Grant
22	Wuxing District Freight Assistance	Grant
23	Huzhou City Public Listing Grant	Grant
27	Huzhou City Quality Award	Grant
28	Huzhou Industry Enterprise Transformation & Upgrade Development Fund	Grant
29	Land Use Tax Deduction	Tax
30	Wuxing District Public Listing Grant	Grant
31	Anti-dumping Respondent Assistance	Grant
32	Technology Project Assistance	Grant
34	Balidian Town Public Listing Award	Grant
35	Preferential Tax Policies for High and New Technology Enterprises	Tax

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No.	Program name	Type
36	Local Tax Bureau Refund	Tax
37	Return of Farmland Use Tax	Tax
38	Return of Land Transfer Fee	Tax
39	Return of Land Transfer Fee From Shiyou	Tax
40	Dining lampblack governance subsidy of Jinghai County Environmental Protection Bureau	Grant
41	Discount interest fund for technological innovation	Grant
42	Energy conservation and emission reduction special fund project in 2015	Grant
43	Enterprise famous brand reward of Fengnan Finance Bureau	Grant
44	Government subsidy for construction	Grant
45	Infrastructure Construction Costs Of Road In Front Of No.5 Factory	Grant
46	New Type Entrepreneur Cultivation Engineering Training Fee Of Jinghai County Science And Technology Commission	Grant
47	Subsidy for Coal-Fired Boiler of Fengnan Sub-treasury	Grant
48	Subsidy for Coal-Fired Boiler Rectification	Grant
49	Subsidy for District Level Technological Project	Grant
50	Subsidy For Pollution Control Of Fengnan Environmental Protection Bureau	Grant
51	Subsidy from Science and Technology Bureau of Jinghai County	Grant
52	Subsidy of Environment Bureau transferred from Shiyou	Grant

Note: the above titles of programs are to the best of the Commission's knowledge and in some cases may simply be descriptions of the program. Consequently, the below titles may not exactly reflect any official titles that the GOC has in place.

Any other program not previously addressed

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

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

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

Consistent with MOFCOM's practices in relation to its government questionnaire responses in Australian investigations in the past, MOFCOM has collected information concerning subsidies based on the information available from responding Chinese exporter/s. In this investigation, the only responding exporter from China is QJPM. To MOFCOM's knowledge, QJPM did not apply for, use, or benefit from any program identified in the list above during the investigation period.

The GOC will respond the questions in relation to Program 20 by way of rebuttal.

As to the requirement for the GOC to identify "any other assistance programs not previously addressed [...] to manufacturers of the goods in China", the GOC objects to such open question style investigation. MOFCOM considers that the investigation can only be properly conducted in relation to the programs alleged by the Applicant and consulted with the GOC prior to the initiation.

Nonetheless, in the spirit of cooperation, MOFCOM can confirm that QJPM advises that it had received small amount of grants from local government in Qinhuangdao city. These grants are identified in Attachment C1 – other grants [CONFIDENTIAL ATTACHMENT]. Further, MOFCOM understands that QJPM also benefited under a tax relief program designated for small and low profit enterprises. Further details of this program are provided below under C1.

The following responses relate to Program 20

As noted above, the responding exporter advises that it produced the GUC from CRS purchased at market prices, and did not use HRC as the input material.

In any case, the GOC advises that the so-called "Program 20" does not exist.

The GOC expressly advises that there is no government "program" for the provision of goods or services to the painted steel strapping producers at less than adequate remuneration ("LTAR"). MOFCOM is advised that the responding exporter's suppliers are a mixture of SIEs and non-SIEs. The relevant materials were supplied to the GUC producer at market prices based on commercial negotiation between those parties. None of the input suppliers are "public bodies" within the meaning of the WTO Agreement on Subsidies and Countervailing Measures ("SCM"). They are commercial business entities engaged in the production and sale of steel products. The GOC expects all of the commercial companies in China, regardless of their ownership structure, to operate on a commercial basis and to be guided by the market conditions and their own independent commercial judgment in negotiating prices. To be clear,

the GOC does not in any way control individual steel companies' day-to-day commercial operations, including their production, contract signing, price-setting, and commercial negotiations.

With respect to the question of whether suppliers to the responding exporter answer the description of what is a "public body" at law or in fact, the GOC wishes to note the following WTO jurisprudence:

- the key question in determining whether an entity is a public body is whether that entity possesses, exercises or has been vested with government authority;⁹
- the exercise of functions by an entity that may also be undertaken by a government body will not serve as evidence that that entity is a public body, other than the power to regulate, control, or supervise individuals, or otherwise restrain their conduct through the exercise of lawful authority;¹⁰ and
- the existence of mere formal links between government and the entity, such as government ownership, does not establish that an entity is a public body.¹¹

WTO jurisprudence confirms that the percentage of government shareholding in a SIE does not mandate a finding that such entities are or are not public bodies. It cannot and must not be assumed that a SIE is, by definition, a public body, and the suppliers to the responding exporter do not have government authority nor do they exercise same.

In *United States – Definitive Antidumping and Countervailing Duties on Certain Products from China*,¹² the WTO Appellate Body *disagreed* with the panel's finding that interpreting "public body" to mean any entity that is controlled by the government "*best serves the object and purpose of the SCM Agreement*". The Appellate Body further indicated that "*that control of an entity by a government, in itself, is not sufficient to establish that an entity is a public body*".¹³

In *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*¹⁴ the WTO Appellate Body ruled that:

...the terminology advocated by the United States – "a public body may also include an entity controlled by the government... such that the government may use the entity's resources as its own" - is difficult to

⁹ See Appellate Body Report, *US – Anti-Dumping and Countervailing Duties (China)* ("WT/DS379/AB/R") paras 310, 317 and 318, Panel Report, *US – Countervailing Measures on Certain Products (China)* ("WT/DS437/R"), para 7.66; and Appellate Body Report, *US – Countervailing Measures on Certain Hot-Rolled Carbon Flat Steel Products (India)* ("WT/DS436/AB/R"), para 4.9.

¹⁰ WT/DS437/R, para 7.71.

¹¹ WT/DS379/AB/R, para 318.

¹² WT/DS379/AB/R (March 11, 2011), para 303.

¹³ *Ibid.*, at para 320

¹⁴ WT/DS436/AB/R (8 December 2014),

*reconcile with that used by the Appellate Body in US – Anti-Dumping and Countervailing Duties (China).*¹⁵

The Appellate Body went on to explain that in its consideration of evidence, an investigating authority must avoid focusing exclusively or unduly on any single characteristic. An investigating authority must afford due consideration to the entity's other characteristics, and must not take the view that government ownership alone is sufficient to establish that a company is a public body. Put simply:

*The question of whether the conduct of an entity is that of a public body must in each case be determined on its own merits, with due regard being had to the core characteristics and functions of the relevant entity, its relationship with the government, and the legal and economic environment prevailing in the country in which the investigated entity operates.*¹⁶

This “public body” standard is best understood in the Appellate Body's summation of the deficiencies in the analysis of same by the US Department of Commerce in that case:

*In sum, the USDOC did not evaluate the relationship between the [alleged public body, or “NMDC”] and the [Government of India, or “GOI”] within the Indian legal order, and the extent to which the GOI in fact “exercised” meaningful control over the NMDC and over its conduct in order to conclude properly that the NMDC is a public body within the meaning of Article 1.1(a)(1) of the SCM Agreement. Instead, the USDOC examined evidence which, in our view, would be seen more appropriately as evidence of “formal indicia of control” such as the GOI's ownership interest in the NMDC and the GOI's power to appoint or nominate directors. These factors are certainly relevant but do not provide a sufficient basis for a determination that an entity is a public body that possesses, exercises, or is vested with governmental authority.*¹⁷

The GOC also wishes to emphasise that its position on public bodies has been officially supported by the Australian Anti-Dumping Review Panel (“ADRP”) and its predecessor the Trade Measures Review Officer (“TMRO”) time and time again. The legal system and decision-making hierarchy of the Australian anti-dumping system has repeatedly ruled, at the review level, that there is no evidence that the Chinese steel suppliers – especially suppliers of HRC, whether SIEs or non SIEs - are “public bodies”.

Whether or not a SIE is also a “public body” is a matter that must be factually determined in the context of the applicable law. It cannot be presumed to be the case. To be clear, there are two elements to this test. The first is that the government exercises “meaningful control” over the entity. The second is that, as a consequence, the entity itself possesses and exercises governmental authority. WTO jurisprudence makes clear that “meaningful control” of an entity

15 *Ibid*, para. 4.19. See also *United States – Countervailing Duty Measures on Certain Products from China*, WT/DS437/R (14 July 2014) at para. 7.5.5.3 (rejecting the “rebuttable presumption” that majority government ownership renders a company a public body).

16 *Ibid*. at 4.43.

17 *Ibid*, para 4.54.

by government is not sufficient to establish that an entity is a public body, unless that control properly evidences that the entity possesses, exercises or is vested with governmental authority.¹⁸ Thus, there are two elements, and both must exist and be proven to establish the “public body” proposition.

The GOC takes note of the Commission’s most recent findings concerning Chinese SIEs supplying coking coal and coke in Investigation 466. In that case, the Commission appears to rely, in its finding, on the WTO panel report in *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*.¹⁹ Specifically, the Commission claims to apply the principles that “[g]overnmental control of the entity is relevant if that control is ‘meaningful’”.²⁰ In the GOC’s view, such reliance is misplaced and incorrectly applied. In particular, it should be noted that the *Panel* report was reversed by the Appellate Body. This includes the meaning of “meaningful” control. As the Appellate Body report states:

Although the Panel quoted extensively from the Appellate Body report in US – Anti-Dumping and Countervailing Duties (China), it appears to have blurred the distinction drawn by the Appellate Body in that report between the existence of control by a government over an entity, on the one hand, and “meaningful control”, on the other hand. Thus, the Panel did not analyse, in our view, the question of whether the GOI in fact exercised control over the NMDC and its conduct. Nor did the Panel assess whether the USDOC had properly established that the NMDC “possesses, exercises or is vested with governmental authority”, and is therefore a public body.²¹

Citing previous decisions, the Appellate Body goes on to reinforce the need for an investigating authority to conduct a thorough examination of the evidence and to determine each case on its merits:

...The Appellate Body stressed, however, that “the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority”. Instead, “[a]n investigating authority must, in making its determination, evaluate and give due consideration to all relevant characteristics of the entity and, in reaching its ultimate determination as to how that entity should be characterised, avoid focusing exclusively or unduly on any single characteristic without affording due consideration to others that may be relevant”. Thus, the mere ownership or control over an entity by a government, without more, is not sufficient to establish that the entity is a public body.²² [footnotes removed]

¹⁸ WT/DS436/AB/R, para 4.36.

¹⁹ WT/DS436/R

²⁰ Investigation 466, Doc 80 – Termination Report 466 at a page 30.

²¹ WT/DS436/AB/R, para 4.37.

²² Ibid at 4.10.

Further, the Appellate Body articulated a key principle for this position, stating:

... As the Appellate Body saw it, however, "too broad an interpretation of the term 'public body' could... risk upsetting the delicate balance embodied in the SCM Agreement because it could serve as a license for investigating authorities to dispense with an analysis of entrustment and direction [under subparagraph (iv)] and instead find entities with any connection to government to be public bodies."²³

The Commission's approach to public body determination in Investigation 466 appears to suffer from such flaw as identified by the Appellate Body. In INV 466, the Commission's decision was heavily reliant on its own historical investigations in relation to different products and a European Commission working document on possible distortions in the broader steel market. Neither were capable or suitable of directly informing the Commission about the specific SIEs concerned in that investigation. As such, the Commission dispensed with the necessary analytical rigour to consider the specificities of the facts that the Appellate Body report considered necessary. The result was a public body finding based on a tenuous and broad leveled connection between the GOC and SIEs.

The position of the Appellate Body in DS436 was reaffirmed in the 2019 recourse to Article 21.5 of the DSU proceeding in the same dispute.²⁴ In that proceeding, the Panel pronounced that:

[i]n view of these remarks [of the Appellate Body report], we recognize that it is not sufficient for an investigating authority to show that an entity is "meaningfully controlled" by a government for the purposes of a "public body" finding. Rather, it must also be shown that the entity is performing a governmental function, such that the entity is vested with, exercises, or possesses governmental authority. Such determinations are necessarily case-by-case. In terms of the process for identifying "governmental functions", we agree with the Appellate Body that "it may be relevant to consider 'whether the functions or conduct are of a kind that are ordinarily classified as governmental in the legal order of the relevant Member'" and "the classification and functions of entities within WTO Members generally".²⁵ [footnotes removed]

Once again, applied to the present investigation, there is no evidence that any SIEs in China carrying out the function of the production and sale of steel products, whether it be HRC or other steel materials, were performing any government function in the POI or do so today. None of the production facilities, or the raw materials, or the intermediate goods, or the finished products, are public assets. The prices are not determined by the GOC or any arm of the GOC, and no government authority is vested in the entities that sell those products or in the sale of the products themselves. The production of such steel materials is highly reliant on imported raw materials such as iron ore, mostly imported from

²³ Ibid at 4.28.

²⁴ WT/DS436/AB/RW.

²⁵ Ibid at 7.22.

Australia, and were supplied onto the market in a commercially open and transparent manner.

Finally, no specificity can exist in the provision of the alleged inputs. There are a vast and virtually unlimited number of industrial uses for the alleged inputs. The types of consumers that may purchase HRS or CRS are highly varied within the economy, and the producers of the GUC in China are not a disproportionate or predominant consumer of the alleged inputs. As noted above, MOFCOM understands that the GUC is a relatively new product in the Chinese market, widely used in construction, shipbuilding, automotive manufacturing, white goods, and electric appliances industry. The GUC provides an alternative to other strapping materials such as wood or plastic based products. The GUC has a wide and diverse market demand in the Chinese domestic economy. The GUC is not a regulated industry. The Commission is requested to conduct its own inquiry and research with the market participants to gain a real world understanding of the relevant Chinese industry and market.

In conclusion, the GOC urges the Commission to conduct the investigation based on the specific facts and circumstances applicable to the Chinese steel companies concerned, and to fully comply with its international legal obligations, taking into account the jurisprudence and interpretations contained in the relevant WTO Appellate Body reports, as mentioned above.

C1 – GENERAL QUESTIONS

For **each program** identified above, and any other additional programs that the GOC identifies, answer the following questions.

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

The following responses relate to the tax relief program identified by QJPM, namely, *Income Tax Relief for Small Low-profit Enterprises*.

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

(a) Title of the program;

Income Tax Relief for Small Low-profit Enterprises

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

Reduce the cost of entrepreneurship and innovation, stimulate the development of small and micro businesses, and promote the expansion of employment.

(c) Legislation under which the subsidy is granted;

Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises “*State Administration of Taxation Announcement [2019] No. 2*”. See *Attachment C1.1 - Announcement of Income Tax Relief Policy for Small Low-profit Enterprises*.

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(d) Nature or form of the subsidy;

Reduction in the tax rate.

(e) When the program was established;

18 January 2019.

(f) Duration of the program;

The duration is three years from 1 January 2019 to 31 December 2021.

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

The authority of this program is local tax authorities in charge. When a small low-profit enterprise makes prepayment, computation and settlement of enterprise income tax, it may enjoy income tax relief policy for small low-profit enterprises, through completing the relevant contents in the tax declaration form. And after the company completing the relevant contents in the tax declaration form, the portion of annual taxable income amount of a small low-profit enterprise which does not exceed RMB1 million shall be computed at a reduced rate of 25% as taxable income amount, and be subject to enterprise income tax at 20% tax rate; the portion of annual taxable income amount which exceeds RMB1 million but does not exceed RMB3 million shall be computed at a reduced rate of 50% as taxable income amount, and be subject to enterprise income tax at 20% tax rate.

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

The program is offered to small low-profit enterprise engaging in non-restricted and non-prohibited businesses, that meets three criteria. The three criteria being, annual taxable income under RMB3 million, with no more than 300 employees and a total asset of less than RMB50 million.

The program is a provided through reduction of tax rate to eligible companies upon approval.

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

The applicant should satisfy the criteria for small low-profit enterprises pursuant to the provisions of Article 3 of the Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises, and the applicant shall complete the relevant contents in the tax declaration form and submit it to the tax authorities in charge. Please refer to *Attachment C1.1 - Announcement of Income Tax Relief Policy for Small Low-profit Enterprises*.

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

Please refer to refer to *Attachment C1.1 - Announcement of Income Tax Relief Policy for Small Low-profit Enterprises*.

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Also see, Attachment C1.2 - Corporate Income Tax Law of the People's Republic of China, at Article 4.

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

Please refer to the answers under C1.2.

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

The local tax authority administers the programs.

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

The local tax authority keeps the income tax return regarding the program.

C1.6. Indicate which of the companies listed in Appendix A or your response to Question B4 applied for, accrued, or received benefits under the program during the investigation period.

As noted above, MOFCOM can only confirm the information as pertaining to the responding exporter. We respectfully refer to the eligibility criteria for such program as explained in C1.1(h) above.

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

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

The company should complete the relevant contents in the tax declaration form to enjoy income tax relief policy for small low-profit enterprises.

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

At the time of prepayment of enterprise income tax, the total assets amount, staff headcount and annual taxable income amount of the small low-profit enterprise shall be determined to confirm eligibility.

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

Approval of application will be reflected via the tax return assessment outcome.

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

If the application is refused, the company concerned will not enjoy the reduction of tax rate and this reduction is without formal refusal documents

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C1.8. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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

No, the eligibility for and actual use of the benefits provided under this program is not related to the factors identified above.

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

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

The size of the benefit is related to the taxable income amount. The portion of the applicant's annual taxable income amount within RMB1 million shall be computed as taxable income amount based on 25% of the actual income, with a tax rate of 20%. That is, a 5% tax rate applies. For the portion of annual taxable income amount which exceeds RMB1 million but does not exceed RMB3 million shall be computed as taxable income amount with a 50% reduction, and subject to a reduced income tax rate of 20%. That is, a 10% tax rate applies.

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

Please refer to *Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises* in Attachment C1.1.

- (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?

Eligible applicant meeting the relevant requirements will always receive the 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, regulation or other official document.

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- (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.).

The company receives the benefit through completing the relevant contents in the tax declaration form without any contractual agreements

- C1.10.** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2017, 2018 and 2019.

The program is designated to assist all micro sized low profit companies, and is not industry or region dependent. As there is no centralised approval procedure and all enterprises dispersed across legal jurisdictions and geographic regions may qualify for the program, it is impossible to compile this data in response to this question.

- C1.11.** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018 and 2019? Provide the main reasons why applicants have been rejected.

Due to its localised administration and the fact that no stand-alone approval process is required for this tax treatment, it is neither practical nor possible for MOFCOM to prepare such statistics. If the applicant is rejected, it is due to its failure to meet the requirement established by the law.

- C1.12.** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

As the duration of this program is three years from 1 January 2019 to 31 December 2021, the program will be terminated on 31 December 2021. Please refer to *Announcement of the State Administration of Taxation on Issues Relating to Implementation of Inclusive Income Tax Relief Policy for Small Low-profit Enterprises* in Attachment C1.1.

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

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

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

The program was provided by the local tax authority in charge, and it is government entity

C2 – SPECIFIC QUESTIONS PREFERENTIAL TAX POLICIES

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

If any of the companies listed in **Appendix A** or your response to Question B4 used any program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

The following responses are provided in relation to the tax relief program identified in C1.1 above.

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

The effect of the assistance is a reduction in the tax, calculated via a combination of deduction in taxable income and reduced tax rate.

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

Please see above at C1.9. A sample blank tax form is provided at Attachment C2.2.

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

Loss from prior years is not an applicable consideration under this program.

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

No, the program does not involve a deferral of taxes owed.

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

No, the tax assistance under this program will not result in negative income for tax purposes.

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

The program is related to company tax rate of small low-profit enterprises. Generally, the corporate income tax shall be at the rate of 25% as is prescribed in Article 3 of *Corporate Income Tax Law of the People's Republic of China*. Under this program, during the period from 1 January 2019 to 31 December 2021, the portion of annual taxable income amount of a small low-profit enterprise which does not exceed RMB1 million shall be computed at a reduced rate of 25% as taxable income amount, and be subject to enterprise income tax at 20% tax rate; the portion of annual taxable income amount which exceeds RMB1 million but does not exceed RMB3 million shall be computed at a reduced rate of 50% as taxable income amount, and be subject to enterprise income tax at 20% tax rate. Therefore, the respondent obtained a preferential income tax rate of 7% during 2019 and 5% from 31 January 2020 to 31 March 2020.

C3 – ENTERPRISES WITH STATE INVESTMENT

General questions

- C3.1. Have there been any changes to the arrangements governing the activities of SIEs since the GOC last responded to the Commission?

The have been no major changes to how the supervision and administration of SIEs is conducted. Please refer to *Attachment C3.1a - Provisional Regulations on the Supervision and Administration of State-owned Assets of Enterprises* for this plan. See article 7:

All levels of people's governments shall rigorously implement the laws and regulations on the administration of State-owned assets, separate the public administration function of government from that of investors of State-owned assets, maintain the separation of government and enterprise and implement the separation of ownership and right of operation.

State owned assets supervision and administration authorities shall not carry out the public administration function of government. Other government authorities and departments shall not perform the duties of investors of State-owned assets of enterprises.

On September 13, 2018, the State Council issued the Announcement of the general office of the CPC Central Committee and the general office of the State Council on adjusting the establishment of the responsible organs of the state owned assets supervision and Administration Commission of the State Council, by which the internal organisation of SASAC was adjusted to 19 branches, with 636 administrative members and 87 leading posts at the department and bureau level. Please refer to *Attachment C3.1b - Announcement of SASAC Establishment Adjustment* for this announcement.

- C3.2.** Is there any legislation, guidelines, decrees, circulars, directives or other government-issued documents concerning the GOC's role or involvement with respect to SIEs? Provide copies of these documents.

The legislation concerning the GOC's role or involvement with respect to SIEs is the *Law on State Owned Assets of Enterprise*.

The GOC again advises that SIEs are entities which are independent of their shareholders ("capital contributor/s"). This is 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 from those of shareholders. Effectively, the role of SASACs at various levels – if there is a SASAC involvement at all – is to be a capital contributor, as opposed to a market regulator.

Operational matters such as investment decision review, and assessment of business performance, are overseen through the exercise by SASAC of its rights as a 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.

To be clear, the GOC does not intervene or involve itself in the commercial and operational activities of any SIE in which it may have an investment, such as in its production, selling and pricing of steel products.

- C3.3.** Provide all relevant legislation, guidelines, decrees, circulars, directives or other government-issued documents which provide for the existence, guidance, or administration of SIEs involved in the painted steel strapping and HRC industries.

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

- *Company Law - Attachment C3.3a;*
- *Law on State-Owned Assets - Attachment C3.3b;*
- *Interim Regulations on the Board of Supervisors of the State-owned Enterprises - Attachment C3.3c; and*

- *Interim Measures for the Administration of Comprehensive Performance Evaluation of Central Enterprises - Attachment C3.3d.*

These regulate all kinds of SIEs, regardless of the industries or sectors in which they operate.

- C3.4.** Explain how relevant GOC laws, policies, opinions, guidelines, etc. are communicated to SIEs.

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* in Attachment C3.4 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:

- government publications, such as the government gazette, official newspapers issued by agencies entrusted to publish legal documents, and collections of legal documents edited by government agencies; and
- official websites.

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

- C3.5.** Provide an explanation of repercussions or penalties (if any) for a SIE if they do not adhere to the GOCs laws, policies, opinions, guidelines etc.

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

- C3.6.** What advantages, if any, do SIEs enjoy compared with private (non-state) enterprises in the painted steel strapping 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 enacted numerous laws and regulations to ensure 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 painted steel strapping sector in China enjoy any advantages compared with non-State-invested enterprises from a regulatory treatment perspective. On the other hand, given that SIEs are generally speaking larger in size and scale, and have stronger reputation, SIEs may be perceived to enjoy commercial advantages generally associated with larger enterprises, such as in terms of pricing powers and credit risks.

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

C3.7. The Commission understands SASAC has responsibility for the supervision and administration of all SIEs in China, at a national, provincial and local government level. Have there been any recent changes to the role, purpose, and operations of SASAC (and its equivalents at the national, provincial and local levels)?

Please refer to the response at C3.1.

Please confirm whether SASAC is still the body responsible for the supervision and administration of all SIEs in China and indicate if any other GOC entity has a role with respect to SIEs.

SASAC is still the body responsible for the supervision and administration of all SIEs in China

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

Pursuant to Article 11 of Law of the People's Republic of China on State-owned Assets in Enterprises, the State Council and local people's governments may, where necessary, authorise other departments and organs to perform investors' duties for state-invested enterprises on behalf of the government at the same level. As is prescribed in Article 12, such entity performs the duties of an investor and shall exercise investors' rights to state-invested enterprises, including the rights to derive a profit from their assets and to participate in significant decisions and the selection of managers, on behalf of the government at the same level.

Core features of SIEs in the steel sector in China

C3.8. For each entity identified in Appendix A or in the response to Question B4 that is a SIE, 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 the goods, HRC or any other steel product.

There are no SIEs in Appendix A. As regards the SIE in relation to Question B4, please refer to spreadsheet B-4.

- (b) Describe how the 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.

According to Article 5 of the Law of the People's Republic of China on State-Owned Assets in Enterprises:

The term "state-invested enterprises" as used in this Law refers to wholly state-owned enterprises, wholly state-owned companies, state-controlled companies and partly state-owned companies to which the state contributes capital.

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

Please refer to spreadsheet B-4.

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

In short, State share ownership does not confer any special rights on State shareholders other than the rights of an ordinary shareholder under the *Company Law*. For example, the *Company Law* provides:

- (a) in Article 4:

The shareholders of a company shall be entitled to enjoy the capital proceeds, participate in making important decisions, choose managers and enjoy other rights.

- (b) in Article 16:

If a company intends to provide guaranty to a shareholder or actual controller of the company, it shall make a resolution through the shareholder's meeting or shareholders' assembly.

The shareholder as mentioned in the preceding paragraph or the shareholder dominated by the actual controller as mentioned in the preceding paragraph shall not participate in voting on the matter as mentioned in the preceding paragraph. Such matter requires the affirmative votes of more than half of the other shareholders attending the meeting.

- (c) in Article 38:

The shareholders' meeting shall exercise the following functions:

- (1) *Determining the company's operational guidelines and investment plans;*
- (2) *Electing and changing the directors and supervisors assumed by non-representatives of the employees and deciding the matters relating to their remuneration;*
- (3) *Deliberating and approving reports of the board of directors;*
- (4) *Deliberating and approving reports of the board of supervisors or the supervisor;*
- (5) *Deliberating and approving annual financial budget plans and final account plans of the company;*
- (6) *Deliberating and approving company profit distribution plans and loss recovery plans;*
- (7) *Making resolutions about the increase or reduction of the company's registered capital;*
- (8) *Making resolutions about the issuance of corporate bonds;*
- (9) *Adopting resolutions about the assignment, split-up, change of company form, dissolution, liquidation of the company;*

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- (10) *Revising the articles of association of the company;***
- (11) *Other functions as specified in the articles of association.***

The GOC submits that it is abundantly clear that no government function of any kind has been or may have been bestowed on or authorised to a SIE simply by reason that part of its shares is held by a State capital contributor.

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

There are no special rules for share ownership in enterprises in the steel sector. Hence, it is necessary to refer to the Company Law to understand the rules applicable to all companies. For example, the Company Law provides, amongst other things:

- (a) in Article 24:

A limited liability company shall be established by no more than 50 shareholders that make capital contributions.

- (b) in Article 28:

Each shareholder shall make full payment for the capital contributions it has subscribed to according to the articles of association. If a shareholder makes his/its capital contribution in cash, he shall deposit the full amount of such cash capital contribution into a temporary bank account opened for the limited liability company. If any capital contributions are made in non-monetary properties, the appropriate transfer procedures for the property rights therein shall be followed in accordance with the law.

- (c) in Article 33:

A limited liability company shall prepare a register of shareholders.

The shareholders recorded in the register of shareholders may, pursuant to the register of shareholders, claim to and exercise the shareholder's rights.

A company shall register each shareholder's name and its amount of capital contributions in the company registration authority. Where any of the registered items is changed, it shall modify the registration. If the company fails to do so, it shall not, on the basis of the unregistered or un-modified registration item, stand up to any third party.

- (d) in Article 37:

The shareholders' meeting of a limited liability company shall be composed of all the shareholders. It is the authority of the company and shall exercise its powers in accordance this Law.

- (e) in Article 72:

All or some of the stock rights of the shareholders of a limited liability company may be transferred among the shareholders.

Where a shareholder intends to transfer his/its stock rights to any non-shareholder, he/it shall be subject to the consent of more than half of the other shareholders. The shareholder shall give the other

shareholders a written notice about the matters related to the transfer of stock rights for their consent. If any of the other shareholders fails to give it a reply within 30 days after it receives a written notice, it shall be deemed to have consented to the transfer. If half or more of the other shareholders disagree to the transfer, the shareholders who disagree to the transfer shall purchase the stock rights to be transferred. If they refuse to purchase these stock rights, they shall be deemed to have consented to the transfer. Under the same conditions, the other shareholders have a pre-emptive right to purchase the stock rights to be transferred upon their consent. If two or more shareholders claim the pre-emptive right, they shall determine their respective purchase percentage through negotiation. If they fail to reach an agreement during the negotiation, they shall exercise the pre-emptive right on the basis of their respective percentage of capital contributions.

Unless it is otherwise provided for the transfer of stock rights in the articles of association, the articles of association shall be followed.

The GOC submits that the evidence of the above-cited legal provisions proves that no special right has been bestowed to a State shareholder to enable it to perform any government function as a shareholder.

- (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.

C3.9. For each entity identified in Appendix A or in your response to Question B4 that is an SIE, 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.

SIEs identified in B4 are established and governed by the same laws that applies to any commercial corporations in China. Specific laws concerning SIEs have been identified above.

Further, MOFCOM provide the following comments with respect to the companies identified in Appendix A.

The business of the following companies does not involve the GUC:

- Qingdao Deyin Packing, which is a paper products packaging business;
- Bekaert Jiangyin Wire Products, which is a steel wire business.

The following are trading companies, not manufacturers:

- Shanghai Jxmec Import & Export Co., Ltd;
- Toolee Industrial Technical Inc;
- Tianjin Hongli Qiangsheng Import & Export Co., Ltd.

The following is not a Chinese company:

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- **Nogard Trading Pte Ltd (Singapore)**

- (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.

All limited liability companies and joint stock limited companies established within the territory of China are subject to the laws of China including, importantly, the *Company Law of the People's Republic of China*. Therefore, all input producers are bound by the *Company Law*. Decisions of companies in China must be made in conformity with the specific rules set forth in the *Company Law* and in the articles of association of the company, which must themselves comply with the *Company Law*. See *Attachment C3.3a* for the law.

The GOC reiterates that the critical provisions of the *Company Law* include:

- **Article 36 - that the shareholders' meeting of a limited liability company is under the authority of the company, and it shall exercise its powers according to this Law;**
- **Article 37 - that the shareholders' meeting shall determine all the significant operational issues and plans for the company;**
- **Article 46 - that the board of directors shall be responsible for the shareholders' meeting and shall implement the resolutions made at the shareholders' meetings, as well as manage daily business operations;**
- **Article 49 - that the manager shall be responsible for the board of directors and oversee the daily management of the company; and**
- **Article 147 - that "[t]he directors, supervisors and senior managers shall comply with the laws, administrative regulations, and bylaw" and that "[t]hey shall bear the obligations of fidelity and diligence to the company".**

The articles of association of a company in China, as formulated by its shareholders, establish the company's corporate governance structure. The articles of association must be compliant with the *Company Law*. In the event that the *Company Law* does not govern a particular matter, each company is able to address that matter, at its discretion, in its articles of association. The unique articles of association adopted by each company effectively governs the day to day operation of the company concerned.

Steel suppliers of the type referred to here are not told what to do by the Chinese government and do not exercise governmental authority. Any allegation to the contrary, must be substantiated with positive evidence on a company-by-company basis.

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

Please refer to *Attachment C3-9d - Organisation chart*

- (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 GOC will necessarily have some kind of representation in an enterprise in which it holds a substantial number of shares. Please refer to the GOC's responses to C3.1, C3.8(d) and (e) above.

On the other hand, for a wholly State-owned enterprise or company, ie. where the SASAC at a certain level government is the only capital contributor and shareholder, the SASAC or any wholly state-owned enterprise, has the right to designate some members of board of directors to exercise the shareholders' rights (see, for example, Article 61 of the Company Law), however there must also be some other directors that are designated by the congress of employees.

- (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.

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 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 by 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, say, the Australian Labor Party 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 the operation of all types of companies in China. If any CCP members happen to be members of a board of directors, they play their roles in their capacity as company executives, as opposed to their capacity as CCP members.

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- (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.

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

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 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 "private shareholder"-like relationship between the GOC and State-invested enterprises that is important for the 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 political control of the State.

The GOC has no information before it to suggest that the input producers in China are anything other than independent business entities, operating on a commercial basis, that make decisions independently with respect to their day-to-day commercial operations, including production, contract signing, price-setting, and commercial negotiations, without any interference or influence from any government agencies.

- (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.

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

The GOC wishes to emphasise that SASAC exercises its rights a shareholder in the exact same way as does every other shareholder. From the legal perspective, SASAC is required to perform its contributor's function consistently with Article 14 of the Law of the People's Republic of China on the State-Owned Assets of Enterprises:

Bodies performing the contributor's functions shall perform the contributor's functions according to laws, administrative regulations and enterprise bylaws, safeguard the contributor's rights and interests, and prevent the loss of state-owned assets.

In relation to the question of "other GOC entity" - if this refers to government entities that might perform SASAC's contributor's functions, the GOC confirms that only SASAC performs these functions. No "other GOC entity" is responsible for inspecting or evaluating enterprise performance.

- (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)?

Please refer to the GOC's responses to similar questions 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 companies with State investment are governed by the Company Law, including (but not limited to) the Articles quoted above. See *Attachment C3.3a* for the law.

- (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 non-civil servant, for example an employee of the enterprise rather than of the GOC.

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An affiliation can be very broad. Clearly, through knowing of and being appointed 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.

Please see GOC's response to (e) above.

(l) 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 46 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 of the company.*

Article 66 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, however, any merger, division, dissolution, increase or reduction in registered capital and issue of corporate bonds of the company shall be decided by the State-owned assets supervision and administration authorities; a merger, division, dissolution, bankruptcy application of significant State-owned wholly-funded companies shall be examined by the State-owned assets supervision and administration authorities and reported to the people's government of counterpart level.

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(m) How is the Board of Shareholders formed?

According to Article 36 of the Company Law, the board of shareholders of a limited liability company shall be composed of all the shareholders. A meeting of the shareholders for a limited company is convened and chaired by the board of directors. For most companies, the meeting of shareholders will be convened only once or twice a year, for major matters such as profit distribution, large investment decisions, and election of the board members, among others.

According to Article 66 of the Company law, wholly State-owned companies do not establish board of shareholders.

(n) 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;**
- (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.**

(o) 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.

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

The specific role of these representatives is to put forward proposals, present

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opinions and exercise the voting right under the instructions of the appointing body, and to report the performance of his or her duties and results to the appointing body thereafter.

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

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

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

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 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 53 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 demand 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.***

- (r) 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.

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

Pursuant to Article 13 of *Provisional Regulations on the Supervision and Administration of State-owned Assets of Enterprises (Amended in 2019)*, One of the main duties of State-owned assets supervision and administration

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authorities shall be to appoint supervisors to Funded Enterprises in accordance with regulations. Please refer to Attachment C3.1a for the law.

- (s) 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 refer to GOC's response to (q) above.

- (t) 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.

Pursuant to Article 20 of *Provisional Regulations on the Supervision and Administration of State-owned Assets of Enterprises (Amended in 2019)*, SASAC shall be responsible for guiding State-owned and State-controlled enterprises in the establishment of modern enterprise systems. They shall examine and approve plans for reorganisation and reform of the share system of the wholly State-owned enterprises and companies among their Funded Enterprises and the articles of association of the wholly State-owned companies among their Funded Enterprises.

Pursuant to Article 21, SASAC shall decide on major matters regarding wholly State-owned enterprises and companies among their Funded Enterprises such as division, merger, bankruptcy, dissolution, increase or decrease in capital and issue of corporate bonds. After SASAC has examined and approved important division, merger, bankruptcy or dissolution of wholly State-owned enterprises and companies, it shall report the same to the people's government at the same level for approval.

Pursuant to Article 23, SASAC shall decide on the assignment of State-owned equity in their Funded Enterprises. Where the assignment of all the State-owned equity or the assignment of part of the State-owned equity would result in the State no longer having the controlling interest in the enterprise, it shall be reported to the people's government at the same level for approval.

Pursuant to Article 24, in respect of major matters of major subsidiaries invested in and established by Funded Enterprises that must be reported by Funded Enterprises to the State-owned assets supervision and administration authority for approval, the procedures for administration thereof shall be formulated by the State-owned assets supervision and administration authority of the State Council separately and reported to the State Council for approval.

Please refer to Attachment C3.1a for the law.

- (u) 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.

"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 or in value of major items of the assets. For example, the

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Law of State-Owned Assets in Enterprise stipulates:

(a) in Article 34:

...merger, splitting, dissolution or petition for bankruptcy of an important wholly state-owned enterprise, wholly state-owned company or majority state-holding companies

(b) in Article 40:

...restructuring of an important wholly state-owned enterprise, wholly state-owned company or majority state-holding company

(c) in Article 53:

...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

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

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

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

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

- suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials);

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

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

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

Please refer to *Attachment C3-9v1 - Contract Law of the People's Republic of China*. Enterprises choose their suppliers of raw material inputs independently and without any interference from the GOC, regardless of their shareholding structure.

- purchase prices of raw material inputs;

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

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

- allocation of inputs into production process, including raw materials, energy and labour costs;

The GOC advises that there are no laws or regulations that explicitly specify any conditions or requirements as to how enterprises shall allocate inputs into their production processes. Enterprises independently determine the allocation of inputs for their production. Chinese enterprises independently make decisions to establish their own internal business administration organisation.

Article 46 of the Company Law provides that the board of directors shall exercise the functions of making decisions on the establishment of the company's internal management departments. Such decisions may be deemed as an indirect "allocation of inputs into production process".

The costs of inputs as recorded by Chinese exporters, so far as they are recorded in accordance with the generally accepted accounting principles of China, are not influenced by the GOC. Companies manufacturing the GUC or their raw materials are no different from companies manufacturing any other products in China, in that they are required to operate within the legal and market environment of China, and abide with the various laws of China concerning corporate governance, taxation, industrial relations, environment protections, etc.

The suggestion that a Chinese GUC or GUC related raw materials manufacturer's own cost of production can be disregarded in favour of a "surrogate cost" or "adjusted cost" based on the cost of production not reflective of the cost in China is plainly inconsistent with the WTO Anti-Dumping Agreement.

- quality and safety standards;

In so far as Chinese manufacturers of the GUC are concerned, the quality of its products is entirely determined by the enterprise/s themselves.

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

Production and business operation entities shall abide by this Law and other laws and regulations concerning work safety, strengthen work safety control, establish and improve the responsibility system and rules and regulations for work safety, improve the conditions for work

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safety, promote the standardization of work safety and improve the level of work safety so as to ensure work safety.

Product-specific national standards of GUC, the GB/T12754-2019.

- selling prices;

The GOC advises again that it does not participate in the setting, controlling or guiding of selling prices of the GUC concerned, so far as the goods are not listed in the catalogues of central government-set prices.

To the GOC's knowledge, the market in which the entities concerned belong in the ordinary course of trade, namely the markets for steel strapping and the input materials, are all competitive markets within China's market economy. The GOC therefore reiterates that selling prices are determined by the enterprise concerned according to their own business decisions based on market principles.

- customers (including restrictions on entities that can purchase goods produced from the enterprise);

From a legal point of view, Chinese enterprises are free to choose their customers under various laws. Again, we note that Article 4 of the *Contract Law of the People's Republic of China* protects and enshrines this freedom:

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

Therefore, the enterprises can choose customers independently without any interference from the GOC or any other parties. Please refer to *Attachment C3-9v1 - Contract Law of the People's Republic of China*.

In relation to "including restrictions on entities that can purchase goods produced from the enterprise", it is not clear what information is required for this part of the question. The GOC advises that for the enterprises and the goods concerned in this investigation, there are no laws, regulations or policies which impose restrictions on what enterprises can purchase the goods sold by other enterprises, or what enterprises from whom an enterprise must make its purchase. Of course there are laws which impose restrictions on transactions relating to dangerous articles, such as guns, ammunition, explosives and smuggled goods, However the GOC does not consider those to be relevant to this investigation.

- production output (detail any restrictions on production output);

From a legal point of view, enterprises are responsible for determining their production output both from their own commercial perspective and under various laws.

Pursuant to Article 46 of the *Company Law of the People's Republic of China*, the board of directors shall be responsible for the shareholders' meeting and determine the company's business and investment plans.

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Production output is determined by the board of directors of the enterprise, according to the market demand, market prices, capacity and other market factors.

As mentioned above, the GOC may impose production restrictions to curb air pollution and in accordance with the carbon emission requirements.

- safety standards; and

Please see response above concerning “quality and safety standards”

- energy costs.

The GOC understands that the cost of electricity and the cost of burning coal may be considered as “energy costs” for the enterprise concerned.

As already mentioned above, only the prices of certain goods or services are subject to legal requirements under the laws of China. According to Article 18 of the *Price Law of China*:

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

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

Please see Attachment C3.9v2 - *Pricing Law of the People's Republic of China*.

Electricity is an important public utility and has a significant influence on national welfare and the people's livelihood. For more details, please refer to the information already provided regarding electricity rates, both as to the method of market pricing and the catalogues.

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

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.

C3.10. For each entity identified Appendix A or in the response to Question B4 that is an SIE, answer the following questions regarding performance and profits.

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

The GOC is neither responsible nor authorised to hold and provide such detailed information about individual enterprises. Further, each enterprise will have different funding mechanisms and structures. The Commission is requested to contact the individual companies directly to acquire such information if it is considered necessary.

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.

As stated in the *Guiding Opinions of CPC Central Committee and State Council on Deepening Reforms of State-owned Enterprises*, at Attachment C3.10, it is imperative to give full play to the decisive role of the market in allocating resources, unblock the channels for flow of elements, guarantee equal access to production elements by different market players, and promote the maximisation of benefits and optimisation of efficiency of the allocation of elements according to market rules, market prices and market competition.

- (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 neither responsible nor authorised to hold and provide such detailed information about individual enterprises. Therefore, the GOC is not in a position to advise the *“details of any debts or other liabilities the enterprise has with any banks or financial institutions in which the GOC holds an interest”*.

The Commission is requested to contact each of the individual companies directly to acquire such information if it is considered necessary. Further, for enterprises which are publicly listed companies, such information can be accessed from the relevant information filed with the stock exchange.

In addition, the GOC would like to emphasise that the question is totally beyond its capacity, for the following reasons. First, the range of "other liabilities" mentioned in this question is too broad and too complex. Commercial banks can carry out various kinds of commercial activities which may give rise to a variety of "liabilities" with the relevant enterprises.

For example, from a legal perspective, a commercial bank may have the following businesses in part or in whole:

- absorbing public deposits;
- offering short-term, medium-term and long-term loans;
- arranging settlement of both domestic and overseas accounts;
- handling acceptance and discount of negotiable instruments;
- issuing financial bonds;
- issuing, cashing and undertaking the sale of government bonds as agents;
- buying and selling government bonds or financial bonds;

- undertaking inter-bank borrowing or lending;
- buying and selling foreign exchange by itself or as agents;
- engaging in bank card business;
- offering L/C services and guarantee;
- handling receipts and payments and insurance business as agents;
- providing safe boxes services; and
- other businesses as approved by the banking regulatory organ of the State Council.

Secondly, the scope of the word "interest" mentioned in the question is very ambiguous. To the GOC's knowledge, holding shares in a company may be considered as holding an interest, but other conduct that may give rise to a legal or equitable claim in a company may also be deemed as "holding an interest".

Thirdly, the scope of the "GOC" mentioned in the question is also very complicated, as there are five levels of governments in China. Apart from the central government, each of the other level contains a large number of governments. Although the central government does not directly hold interests in a bank, it is possible that governments at other levels may hold an interest in the form of a shareholding in a bank or by investing by other means.

According to the statistics published by the China Banking Regulatory Commission, at the end of 2018 there were 4,588 banking institutions in China. Most of these can offer loans and carry out other kinds of financial business according to law. It is impossible for the GOC to consult with all of these entities to ascertain whether any of the SIEs have a loan or loans from any of the 4,588 banks or financial institutions where a government of China may or may not hold an interest.

The GOC suggests that inquiries be directed to cooperating enterprises, and to take into account the large volume of commercial information that the Commission has gathered from Chinese steel producers in recent inquiries, with the GOC being amenable to any reasonable supplemental inquiries the Commission may have.

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

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

As stated above, the relationship between the GOC and State-invested enterprises is that of a shareholder and the company in which it holds a share. From a legal perspective, according to Article 3 of the *Company Law*:

A company is an enterprise legal person, which has independent legal person, property and enjoys the right to legal person property. It shall bear the liabilities for its debts with all its property. For a limited liability company, a shareholder shall be liable for the company to the extent of the capital contributions it has paid. For a joint stock limited company, a

shareholder shall be liable for the company to the extent of the shares it has subscribed to.

From this it can be inferred that an enterprise measures its performance by the amount of "legal person property" it owns.

According to Article 4 of the *Company Law*:

The shareholders of a company shall be entitled to enjoy the capital proceeds, participate in making important decisions, choose managers and enjoy other rights.

Therefore, it can also be inferred that the shareholders measure the performance of the enterprise by the amount of "capital proceeds" they can receive.

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.

For more detail, please refer to the *Company Law of the People's Republic of China*.

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

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 GOC wishes to emphasise that SASAC exercises its rights a shareholder in the exact same way as does every other shareholder. Each shareholder has different considerations in mind when exercising his or her rights. The considerations which SASAC has in mind might very well be different to those of an ordinary private shareholder. This not change the fact that SASAC exercises the same rights as each other shareholder. From the legal perspective, SASAC is required to perform its contributor's function consistently with Article 14 of the *Law of the People's Republic of China on the State-Owned Assets of Enterprises*:

Bodies performing the contributor's functions shall perform the contributor's functions according to laws, administrative regulations and enterprise bylaws, safeguard the contributor's rights and interests, and prevent the loss of state-owned assets.

- performance of employees/directors/managers; and

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*

- financial performance.

As stated above, and on numerous occasions in previous investigations, the role of SASAC in a SIE is the same as that of any shareholder in any company. Therefore, SASAC may evaluate the performance of an SIE, in the same way that any shareholder would evaluate the performance of a company in which it has an interest. In essence, SASAC assesses the performance of an SIE based on its commercial and financial performance, in line with industry averages. There is no essential difference between the methods which SASAC adopts to inspect and evaluate enterprise performance and those adopted by other shareholders to inspect and evaluate business performance of private enterprises.

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

There is no substantial difference between the reporting mechanisms of a non-State invested enterprise and that of a SIE. The difference instead depends on whether a company is public listed.

According to Article 37 of the *Company Law*, examples of official reporting mechanisms by the enterprises to shareholders may include reporting during the course of shareholders' meetings, putting forward reports orally or in writing.

Among SIEs, the reporting requirement may be different according to the type of enterprise and the level of State investment, as well as whether the company is publicly listed. For example, see Articles 32, 33, 34 of the *Law on State Owned Assets of Enterprises*

The GOC wishes to clarify that SIEs – like other companies– do not report on every matter relating to their daily operation to their shareholder SASAC. They are not required, nor compelled, to do so.

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

Some, but not all, administrators of SIEs are assessed according to the *Law on State Owned Assets of Enterprises*, which provides the basic principles for such assessment (at Chapter IV).

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 performance of the enterprise.

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

The GOC is not authorised by law to govern or interfere with the business operations of enterprises, whether or not enterprises are State invested. In fact, the GOC is positively excluded from doing so.

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The GOC expects that profits of enterprises are distributed in light of its Articles of Association and Part VIII of the *Company Law*. There are no special rules on how a SIE is to distribute its profit.

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

As is the case in any jurisdiction, shareholders of a company shall be entitled to gains on assets, including SASAC.

Pursuant to Article 59 of Law of the People's Republic of China on State-owned Assets in Enterprises, an operating budget for state-owned capital shall be prepared for the profits derived from state-invested enterprises. And specific measures and implementation procedures for the administration of operating budgets for state-owned capital shall be formulated by the State Council and reported to the Standing Committee of the National People's Congress for the record.

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

As is the case in any jurisdiction, the performance of an enterprise is taken into account by its shareholders, including SASAC, when making decisions about the company or making proposals regarding the future management of the enterprise.

If the enterprise makes a loss or under-performs, senior members of the management, such as the directors and senior managers of the enterprise may be held liable in terms of remuneration and promotion.

(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; and or
- the purchase of shares.

We respectfully submit that it is neither possible nor appropriate for the GOC to respond to such broad and open-ended question in such investigation. The Commission is kindly required to refer to information requested and provided in this questionnaire with respect to the specific subsidy programs subject to investigation.

(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.

Please refer to the GOC's response to the alleged "subsidies" in C1 above.

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C3.11. For each entity identified Appendix A or in the response to Question B4 that is a SIE, answer the following questions regarding enterprise functions:

- (a) Provide a list of functions the enterprise performs;

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

The Commission has requested information on a significant number of programs and a significant number of enterprises may perform a significant number of functions. It is not practicable for the GOC to list all of those functions.

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

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

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

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

Further, Article 14 of the law provides:

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

This is the law. SIEs do not exercise government functions.

The GOC would like to reiterate that government policies are not legal instruments. They are not enforceable, and are aspirational in nature. No government policies are administered or carried out on behalf of GOC by any enterprises, nor are they expected to be carried out. The *Law on State Owned Assets* explicitly requires a strict separation of government function from the operation of business.

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

Enterprises might make commercial decisions which reflect or are in line with government policies. Likewise, government policies are often designed to promote further economic growth and commercial development. Enterprises and market participants share this common interest in the broad sense. For example, a government policy to encourage market competition, or to

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encourage innovation, does not make every business which also engages in market competition or which strives to be innovative an administrator of the government policy.

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

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

No enterprise functions are considered to be governmental in nature.

- (d) Indicate whether the enterprise has been trusted, tasked, vested with any government authority (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 relevant to this investigation has been so "trusted", "tasked" or "vested" with any government authority.

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

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

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

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

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

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

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

On the other hand, it is clearly every government's desire for its policies to be supported and that the goals set out in the policies to be achieved – which is why the policies are issued at the first place. Further, we note that the notion of "governmental interests" is very broad – for example, it is almost every

government's interest to have a crime-free society. Therefore, enterprises are required by law to refrain from criminal acts. It is also a governmental interest to increase revenue by collecting income taxes. Therefore, enterprises are required to pay tax according to tax laws.

The GOC is not in any position to advise whether enterprises act "in pursuit of" governmental policies or interests. This is because that the GOC cannot and does not interfere with the every-day business operation of enterprises. The GOC has no desire to do so, and in any case the law requires the separation of government and enterprises.

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

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

For example, to follow policies on environmental protection and energy conservation may also help increase productivity and profits of the enterprises. The fact that law permits enterprises to support some governmental policies does not mean that the enterprises *must* support governmental policies. Voluntary behaviour is ultimately driven by each enterprise's commercial interest.

Further, performing social responsibilities by the enterprises may also be in line with government policies or interests. Over the last decade, social responsibilities of enterprises are well recognised as a key element of corporate management. For example, please refer to Attachment C3.11 - *OECD Guidelines for Multinational Enterprises*. The GOC notes that more and more enterprises in China are willing to undertake social responsibilities as an act of goodwill and to "give back" to the society in which they operate and prosper.

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

From a legal point of view, *the Company Law* encourages all Chinese companies to undertake social responsibilities. In other words, all enterprises are encouraged to engage in community acts. The law does not, however, *require* enterprises to do so.

Please refer to *Company Law of the People's Republic of China*. In particular,

Article 5 of the *Company Law* provides that:

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

This is an aspirational provision and is not enforceable. Chinese companies are free to undertake any type of social responsibility as part of their social participation as a legal person.

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

As an example, we refer the Commission to BlueScope China’s statement concerning its social responsibility:

During FY2016, BlueScope undertook a careful review of a potential closure of our primary steelmaking operations at Port Kembla Steelworks. Such a move would have significantly reduced the Company’s emissions. However, it would also have meant that we would need to procure feedstock from foreign steel suppliers, quite possibly from facilities with higher emissions intensity. Moreover, such a closure would have led to the loss of an estimated 4,500 job and resultant severe disruption to the local community. Instead, employees, the community and the NSW Government rallied around the cause of delivering productivity improvements and cost reductions and we have been able to continue steelmaking at Port Kembla. BlueScope’s view is that the objective of reducing Australia’s greenhouse gas emissions must be considered in a global context, and balanced against the need to maintain employment, economic activity and social cohesion. ²⁶

²⁶ BlueScope Global. “Sustainability”. Published on http://www.bluescope.com.cn/english/globals/develop/nav_id/30.html, accessed 13/08/2020.

SECTION D PARTICULAR MARKET SITUATION

The investigation will seek to determine whether, during the investigation period, there was a situation in the Chinese market for the Goods Under Consideration. The Goods Under Consideration are set out and defined in part A2 of this Questionnaire and referred to throughout Section D as “painted steel strapping”.

The Australian industry applicant initiating this investigation has claimed that sales of the Goods in the Chinese market are not suitable for use in determining normal value in the Chinese market. The information sought from you below will assist the Commission to better understand the Chinese market and to assess whether sales in the Chinese market are suitable for determining a normal value in accordance with Australian law, including section 269TAC(1) of the Customs Act 1901.

This assessment is also relevant in making recommendations to the Australian Minister regarding the lesser duty rule, should the measures continue.

Before responding directly to the questions in this section, the GOC would like to make the following observations for the assistance and understanding of the Commission.

- 1. The Commission should bring its approach and understanding of “particular market situation” in line with international law**

The GOC advises that the basis upon which the Commission approached the question of a “situation in the market” in the past (which, if found, might then rule out domestic selling prices for normal value purposes) has been incorrect. Further, because there can be no evidence of anything untoward or unrealistic about the formation of prices for steel strapping, the Applicant’s argument that those prices cannot be used for normal value purposes must be dismissed.

A so-called “particular market situation” (or “PMS”) does not exist in relation to the sale of steel strapping in China. There is nothing exceptional about the Chinese steel strapping market that would make the domestic sales not suitable for “proper comparison” with the export price for the purpose of determining the existence of dumping.

The GOC observes that the Commission’s approach to a finding of a PMS was recently scrutinised by a WTO Panel in the *Australia – A4 Copy Paper* case.²⁷ The Panel considered that a PMS must be something:

...distinct, individual, single, specific but that does not necessarily make it unusual or out of the ordinary — i.e. exceptional.²⁸

Further, the Panel considered that the Commission failed, in the A4 copy paper investigation that was the subject of the WTO case, to complete the determination envisaged by Article 2.2. This, said the Panel, was because the Commission did not consider whether, despite the PMS, domestic sales still

²⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, WTO Doc. WT/DS529/R (27 January 2020).

²⁸ *Australia – A4 Copy Paper*, at [7.22]

“permitted a proper comparison” with the export prices, before deciding to reject the use of such prices and proceed to calculate a constructed normal value.²⁹ Specifically, the WTO Panel stated:

In our assessment, the phrases “particular market situation” and “permit a proper comparison” function together to establish a condition for disregarding domestic market sales as the basis for normal value. Specifically, that domestic sales “do not permit a proper comparison” must be “because of the particular market situation”. If domestic sales do permit a proper comparison, then they cannot be disregarded as the basis for normal value, regardless of the existence of the particular market situation and its effects, whatever those may be. We find no functional purpose is served by incorporating into the meaning of “particular market situation” part of the function that will necessarily be served by the terms “because of” and “not permit a proper comparison”. Accordingly, we find that “capable of preventing a proper comparison” is not a necessary qualification for a situation to constitute the “particular market situation”.³⁰

and:

We find a deficiency in the [IA]’s examination in this case because it focused exclusively on the domestic sales and domestic prices, without taking into account the export prices with which the domestic prices would be compared. In particular, the examination does not address the question whether the domestic prices could be properly compared with the export prices despite the effects of the particular market situation.³¹

The GOC does not consider that there is anything in the market for the GUC which renders the market exceptional. If anything, it is likely to be a market that is exceptionally *competitive* in comparison to the market conditions in Australia. However, this does not make the Chinese domestic market an “improper” basis of comparison. It simply shows that the Australian market has its particularity, and so does the Chinese market. If the Chinese domestic market is too competitive, whereas the Australian market is too uncompetitive, then it is possible that the prices in the Australian market are more inflated, thereby attracting imports. In such scenario, it is more likely that the Chinese domestic prices would be lower than the export price to Australia. This does not give rise to a PMS. Rather, this would show that the goods exported by Chinese producers are not dumped.

On the other hand, if Chinese domestic market prices are inflated for some reason – such as strong demand, or higher cost of production, whereas the prices in the Australian market were more suppressed – perhaps due to a dominant supplier’s desire to restrain competition, then it might be more likely for any export prices from China to Australia to be at dumped levels. This also would not give rise to a PMS. Rather, if the price in the Chinese market was more

29 *Australia – A4 Copy Paper* [7.87].

30 *Ibid*, at [7.22].

31 *Ibid*, at [7.87].

than the price into the Australian market, this would simply be found to be “dumping”.

The key point is this: simply because two markets subject to examination are influenced by different market factors does not mean that the prices in one (home country) and into the other (foreign country) cannot be compared for dumping margin determination purposes. If an investigating authority holds the opposite view, then sales in no two markets would ever permit a proper comparison – because no two markets would be exactly the same.

In any event, the GOC sees no reason why it would not be thought that the overall conditions of competition, and the relationship between price and cost, in the Chinese and Australian markets for the GUC are comparable. In particular the GOC points to the following:

- As stated above, Chinese industry uses relevant raw materials, such as iron ore, HRC and CRS, that are procured from both local and import sources. The Australian market for the GUC would be influenced by similar factors such as iron ore prices and prices of HRC/CRS procured from both local and import sources;
- The Chinese market for the GUC is highly competitive. The Australian market is supplied by a single domestic producer, which would suggest that the market is less competitive. However it would be ludicrous to suggest that such a contrast could disqualify the prices in sales in the more competitive Chinese market from being used for normal value purposes.
- The Chinese steel market including the market for the GUC is an open market, with a strong presence of foreign companies, including Australian companies. For example, the GOC notes that BlueScope Corporate operates six steelmaking facilities in China, and specialises in painted steel products.³² Presumably, these companies may have sourced HRC from both Chinese local suppliers as well as other companies within the BlueScope group, including the operation in Australia.
- The GOC understands there to be a considerable presence and scope of substitutable packing and strapping products that are available as an alternative to painted steel strapping, in both the Chinese and Australian markets. Such substitutable products would have additional influences to the market prices, in addition to the cost, supply and demand factors for the GUC itself. This further highlights the market forces at play with respect to the market for the GUC.
- The GOC understands that the Australian HRC market is dominated by a domestic supplier, with a small proportion of imports sourced from the Asian region, such as from Taiwan, Korea, Japan and Malaysia, also present in the market. Thus, the Australian HRC market is influenced by the same country and regional markets as the Chinese market, being those that are in the same geographical proximity, and that are more

32 http://www.bluescope.com.cn/english/contact/index/nav_id/26.html

reasonably accessible, to both countries.

2. An exporter's actual costs in the country of export must be used for normal value determination.

Regardless of the Commission's view of "PMS", MOFCOM urges the Commission to pay attention to the clear message emerging from the various WTO Appellate Body reports on the subject of an exporter's cost of production. It is abundantly clear that these costs must be determined in accordance with Article 2.2 of the WTO Anti-Dumping Agreement. This means that the Commission is obliged to determine costs of production in the country of origin in a manner that correctly and truthfully reflects the cost of production of the goods in that country.

The Appellate Body has said that the costs in the country of origin that are to be used for normal value determination are the actual costs recorded in the financial records of the exporter concerned. The first sentence of Article 2.2.1.1 of the WTO Anti-Dumping Agreement requires that the records kept by the exporter or producer under investigation be used for normal value determination if they *"are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration"*.

This condition, according to the Appellate Body in the key decision of *European Union - Anti-Dumping Measures on Biodiesel from Argentina ("EU - Biodiesel (Argentina))"*:³³

*...relates to whether the records kept by the exporter or producer under investigation suitably and sufficiently correspond to or reproduce those costs incurred by the investigated exporter or producer that have a genuine relationship with the production and sale of the specific product under consideration.*³⁴

More recently, in *Ukraine – Ammonium Nitrate*,³⁵ the WTO Appellate Body confirmed that the conditions set out in Article 2.2.1.1, particularly the phrase *"reasonably reflect the costs associated with..."*, are not to be read as imposing an additional "reasonableness" standard on the cost record being examined. That is to say, the exporter's cost record should be used as long as it properly reflects the actual costs incurred, and the record is kept in accordance with the applicable generally accepted accounting principles ("GAAP") of the country. Thus, whether an investigating authority thinks that a cost looks too low, or too high, or is "unreasonable" is irrelevant in determining if the two explicit conditions under Article 2.2.1.1 have been met.

Therefore, Article 2.2.1.1 of the Anti-Dumping Agreement mandates the usage of the costs as they appear in the records of the exporter concerned for normal value determination, as long as they suitably and sufficiently correspond to or reproduce the actually incurred costs. This does not admit of the use of a cost,

³³ WT/DS473/AB/R (6 October 2016).

³⁴ *Ibid*, at para 6.56.

³⁵ Appellate Body Report, *Ukraine, Anti-Dumping Measures on Ammonium Nitrate*, WTO Doc WT/DS493/AB/R (12 September 2019).

whether real or hypothetical, that is not the cost incurred by the exporter. On this basis the practice known as cost “surrogation” is impermissible.

Of further relevance, it is to be noted that the Appellate Body also found that:

*...the EU authorities' determination that domestic prices of soybeans in Argentina were lower than international prices due to the Argentine export tax system was not, in itself, a sufficient basis for concluding that the producers' records did not reasonably reflect the costs of soybeans associated with the production and sale of biodiesel, or for disregarding the relevant costs in those records when constructing the normal value of biodiesel.*³⁶

That is to say, the existence of a distortion in the market as a result of a government measure is not a basis for an investigating authority to disregard the cost records of the exporter subject to investigation. This is a further and very direct contradiction of the practice of alleging that costs are distorted simply because of the different market conditions that exist in one country compared to another. “Parachuting in” a cost that has been borrowed from elsewhere, or has been imputed, being a cost that in previous investigations conducted by the Commission has been invariably higher than the exporter’s actual cost, is not WTO-compliant.

The GOC wishes to again emphasise its clear opinion that the Commission cannot adopt the approach of “parachuting in” an out-of-country cost into the cost construction for the normal values for Chinese exporters. The grounds to do so do not exist. To adopt such an approach would amount to a clear contravention of the WTO Anti-Dumping Agreement, and of the rulings of the panels and the Appellate Body with respect to the relevant Articles of that Agreement. The adjudicative arm of the WTO’s Dispute Settlement Body has made clear in *EU - Biodiesel (Argentina)* and *EU – Biodiesel (Indonesia)* that, no matter how it is achieved (whether through adaptation or otherwise), an investigating authority must ensure that it arrives at the actual “*cost of production [of the exporter] in the country of origin*”. The GOC submits that it is now crystal-clear that an investigating authority cannot rely upon what it deems to be an external “benchmark” cost in an exporter’s constructed normal value. As per the Panel report in *EU – Biodiesel (Indonesia)*:

*...it is not sufficient to simply substitute the costs from outside the country of origin for the ‘cost of production in the country of origin.’*³⁷

The GOC respectfully submits that the Commission cannot, legally or in good conscience, surrogate costs which are unrelated to the cost of production in China to be used as the cost of production in China. That would be both factually and legally incorrect.

Lastly, the GOC would like point out that, if the Commission, for any reason, considers that the Chinese producer’s cost of production can be rejected on the basis of “abnormality” caused by any cost “distortion” in the Chinese steel market, the Commission must properly identify and specify the effect of the “distortion”. GOC would consider it to be unacceptable, and an act of bad faith,

36 *Ibid.*

37 *EU – Biodiesel (Indonesia)*, para 7.30.

if the Commission were to simply come to the conclusion that the Chinese steel market is “distorted” with “artificially low” prices/costs simply because it is able to find a foreign market with higher prices/costs. That would be inconsistent with the rules and principles of the WTO agreements and consequently unlawful.

The GOC respectfully reminds the Commission to consider the likely consequences if it were to adopt such an unprincipled approach, and of the need to respect and adhere to the applicable international law.

D1. Identify and provide an explanation of the specific roles and responsibilities of government departments, agencies or institutions, which are either directly or indirectly involved in economic policy development, economic regulation and decision-making activities with respect to:

- (a) the painted steel strapping industry;
- (b) the HRC industry; and
- (c) the steel industry as a whole.

As noted above, MOFCOM understands that the GUC is a relatively new product in the Chinese market, widely used in construction, shipbuilding, automotive manufacturing, white goods, and electric appliances industry. The GUC provides an alternative to other strapping materials such as wood or plastic based products. The GUC has a wide and diverse market demand in the Chinese domestic economy. The GUC is not a regulated industry. The Commission is requested to conduct its own inquiry and research with the market participants to gain a real world understanding of the relevant Chinese industry and market.

There are no specific government policies, economic or otherwise, or economic regulation, for the painted steel strapping or HRC industry.

Accordingly, the GOC does not have a central government, department, agency or institution that is exclusively assigned the task of administrating measures concerning the “painted steel strapping industry” or “HRC industry” or “steel industry as a whole”.

Please refer to the response to question B-1 for answers to the Commission’s inquiries about government interactions with the steel industry.

D2. Identify any government departments, agencies or institutions that are involved in the manufacture, sale, purchase or acquisition of painted steel strapping, and explain the nature of their involvement.

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

D3. Provide details of any GOC policies that require different corporate tax rates to be applied to producers within the painted steel strapping sector. For example, for producers in any of these specific sectors, do taxation rates differ due to sales revenue, location, export / domestic market orientation etc.? Detail any industry specific tax exemptions or tax rebates such as R&D expenditures.

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

D4. Provide a detailed description of the domestic Chinese painted steel strapping industry and the relevant upstream industries, including the HRC and steel industries. The response should include details of:

(a) distribution channels;

The GOC does not impose any special regulations on the distribution channels or commercial direction of manufacturers of the GUC, whether of steel strapping, its input materials, or substitutable products.

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

Similarly, the producers of the GUC, as well as the producers of input materials, will decide what distribution channels they employ, based on their own circumstances and designs. They may distribute the relevant goods they produce via their own subsidiaries or by out-sourced channels (such as agents and buyers) in domestic or foreign markets, as they deem appropriate.

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

(b) any vertical integration;

The GOC does not control, direct or dictate vertical integration of steel strapping, HRC or input producers

The GOC does not impose any special regulations on vertical integration for producers of steel strapping or the producers and sellers of the input materials used by such producers, whether to force or prevent such integration. Nor does the GOC measure the instances of such integration. Nonetheless, on the same basis as before, the GOC does intend to respond to this question as fully as it can.

The GOC does not believe that the production and sale of the GUC has any distinctive vertical integration pattern. The input materials are normally integrated with other iron and steel-related goods. This could mean that a steel strapping manufacturer is fully integrated itself, in the sense that it is also a steelmaker, and therefore buys raw material inputs, or that it is not integrated, such that it buys steel billet for the purpose of then manufacturing steel strapping.

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

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

On September 22, 2016, SASAC approved the merger between Baosteel Group Corporation and Wuhan Iron and Steel (Group) Corporation, and these two Groups were merged to establish Baowu Steel Group.

On May 31, 2019, the state owned assets supervision and Administration Commission of Anhui Province, which holds 100% equity of Masteel group, signed the agreement on the free transfer of equity of Masteel Group with China Baowu iron and Steel Group, which is wholly owned by the SASAC and this agreement was then approved by SASAC.

The GOC does not impose any special regulations on mergers and acquisitions of companies that manufacture the GUC, or for any of the companies that manufacture the transformative steel billet products or produce or sell the raw materials mentioned above, whether to force or to prevent such mergers and acquisitions.

With respect to the input materials, there are of course numerous producers. They include fully private-owned enterprises, of varying shareholdings, and SIEs. For clarity, of the producers of crude steel, iron ore, raw coal and coke less than [CONFIDENTIAL TEXT DELETED – number]% are SOEs.³⁸ A summary of this data is provided in Attachment D4(c)(1) [CONFIDENTIAL ATTACHMENT]. The GOC is unable to provide details of each individual producer as, according to Article 25 of the *Statistics Law of the People's Republic of China* located in Attachment D4(c)(2):

No entity or individual may provide, disclose or use for any purpose other than statistical activities any information obtained via a statistical investigation, and in which the identity of any individual respondent in the statistical investigation can be recognized or deduced. Therefore, the GOC is legally prohibited from providing the list of the companies requested by this question.

³⁸ For the purposes of this particular usage of the acronym “SOE”, SIEs are included. In the statistical context, “SOE” means State-Owned Equity Controlled Company, which is defined by the National Bureau of Statistics as:

- a company in which the percentage accounted for by the paid-in capital (shares) of the governmental investor in the total paid-in capital (shares) is more than 50%;
- a company in which the percentage accounted for by the paid-in capital (shares) of the governmental investor in the total paid-in capital (shares) is less than 50%, but is more than that of any other investors;
- a company in which the percentage accounted for by the paid-in capital (shares) of the governmental investor in the total paid-in capital (shares) is less than 50%, but the governmental investor maintains a controlling management interest on contractual basis; and
- a company in which the percentage accounted for by the paid-in capital (shares) of the governmental investor in the total paid-in capital (shares) is equal to 50% without specifying which party maintains a controlling management interest.

A “Governmental investor” is interpreted by the NBS to include only government authority as investor. For the purpose of establishing the above standards, the ownership of governmental investor includes the ownership held by the government authorities directly and/or indirectly. If the total ownership percentage held by the government authority (directly and indirectly) in a company does not meet the standard stated above, such company is not classified as a “State-Owned Equity Controlled Company” in the NBS’s statistics.

Each enterprise is responsible for running its own business and will make decisions regarding mergers and acquisitions on the basis of its circumstances and plans.

(d) any changes to the government laws and regulations over the last 5 years.

The GOC is not clear about what is sought by the Commission in this question. However, the GOC can answer in a generic way, by saying that there have been no “changes to the government laws and regulations”, in the context of “the nature and structure of the sector of the steel industry manufacturing steel strapping and HRC in China”, because it is not the GOC’s habit nor function to control or direct what that industry does and how it organises itself.

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

- The *Company Law* was amended on 1 March 2014, further liberalising the regime governing the activities of all enterprises doing business in China, by way of replacing the “paid-up capital” regime for company registration, to a registered capital regime, and removing the requirement for phased payments of capital for foreign invested enterprises. See Attachment D4(d)(1) for the new *Company Law*.
- Article 37 of the *Company Law* further states that a shareholder is to be responsible for making decisions regarding the operational guideline and investments of a company.
- Through amendment of the *Regulation of Company Registration*, also taking effect from 1 March 2014, the GOC has refined the transparency of market entities by requiring registered legal person businesses, including both SIEs and non-SIEs, to disclose their annual reports. In this way markets can make better informed decisions about risk and investment. This has since been amended again. Please refer to Article 57 of the new *Regulation of Company Registration* at Attachment D4(d)(2).
- Businesses in China have been better positioned to defend their legitimate rights since the *Law of Administrative Procedures* was amended in 2014. The newly amended law broadens the scope of matters that may be brought to the courts against any government agency by explicitly listing 12 categories of matters (there were formerly only eight categories). The newly added controversies that enterprises may challenge include administrative decisions regarding appropriation, and compensation for such appropriation, and any abuse of administrative power to monopolise the market or to create monopolistic power in any market. Please refer to Article 12 of the new *Administrative Procedure Law of the PRC*, provided at Attachment D4(d)(3). These laws provide further legal protection for private enterprise, and emphasise the degree to which the State has distanced itself from business activities and how it wants to assure business that it does not intend to intrude into business activities.
- The GOC has further advanced its policy of adjusting the structure of State capital and assets in the economy by welcoming and facilitating the

investment of more private capital into SOEs, such that more can graduate towards the status of other limited liability commercial ownership models such as SIEs, Sino-foreign joint ventures, wholly-owned foreign enterprises, and the like. These efforts have successfully attracted more private investment and involvement in the important and costly infrastructure and network industries in line with public-private partnership modes (“PPP”).

- The GOC has opened the Chinese market to foreign investment to an even greater extent than before.³⁹ In 2015 China signed free trade agreements with Australia and South Korea, and upgraded its existing free trade agreement with ASEAN. These followed the signing of the China-Iceland and China-Switzerland Free Trade Agreements in 2014. The China-Australia Free Trade Agreement lowered the tariff rates of more than 80% of the goods traded between the two countries. Further liberalisation was achieved when, on 3 September 2016, the GOC abolished the existing approval requirement for foreign invested enterprises. The requirement for MOFCOM approval for establishment of enterprises with foreign investment was removed.⁴⁰ This has been further expanded upon in 2017.
- The GOC has also repealed a great number of licensing/approval processes for doing business in a range of sectors and business lines. For example, to obtain an official VAT invoice for sales and sales revenue, enterprises previously had to achieve taxation registration, which in turn was subject to an approval by the relevant taxation authority. However from late 2013, this prior approval requirement for taxation registration has been repealed. Enterprises may now register directly with the relevant taxation authority. Please refer to Attachment D4(d)(4), which contains examples of important deregulations with respect to Chinese business formation and operation. The list sets out certain licensing/approval requirements that have been repealed or reformed since 2012.
- Since 2015, the GOC has pro-actively promoted electricity market reform. The main aspects of the reform include the enhancement of a more competitive and effective structure and system for the electricity market, as well as the better articulation of the applicable market pricing mechanisms. Pursuant to the *Notice of the NDRC on Completing Price Linkage Mechanism Between Coal and Electricity* (NDRC 2015-3169), which is set out in Attachment D4(d)(5), electricity price adjustments since 1 January 2016 are linked to the market fluctuation of thermal coal prices. This has enhanced the commerciality of electricity pricing. As such, electricity prices in China are based on market mechanisms that reflect market supply and demand.
- The *Environmental Protection Law of the People’s Republic of China* has been amended since 1 January 2015. The amended law has strengthened the power of law enforcement departments to seize and confiscate facilities and equipment of enterprises which violate the law, or even

39 <https://www.lexology.com/library/detail.aspx?g=6d2fd085-1c5d-4102-bdbc-0bcc92110d6a>

40 <https://www.lexology.com/library/detail.aspx?g=8ed7f607-9a74-4a69-bb1d-f30e29540cdd>

directly limit production or stop production for those enterprises that fail to observe statutory emission standards.

- *The Law of the People's Republic of China on the Coal Industry (Revision 2016)* has been amended in a way that further liberalises investment in this industry. The original Articles 18 and 19, setting out the criteria and the procedure to establish a coal enterprise, have been removed from the Law.

The raw material inputs industries and the industry that transforms those raw materials are highly competitive in their market behaviour. Through their competition with each other and their interaction with customers, they have created and continue to operate in highly competitive markets. painted steel strapping industry itself is highly specialised and engages in competition for its products both internationally and nationally.

There is no reason to ignore the market-based price and cost data of Chinese manufacturers. They are prices and costs that are discovered by the forces of supply and demand within the relevant Chinese markets. These activities are supported by a framework of social, environmental and fiscal regulations which are unremarkable in an internationally comparative context.

The GOC rejects attempts to label purchases by its manufacturers as being at “less than adequate remuneration” and to “surrogate” the prices and costs recorded in the financial records of Chinese exporters with external “benchmarks”. These practices are not justified by the facts, and are not permitted by the WTO agreements to which China is a party. The GOC does not somehow “control” or directly “influence” prices or costs in any distortive or non-market sense.

- D5.** Provide quarterly data (using Microsoft Excel format) over the last 5 calendar years of:
- import quantity (by volume and value) of painted steel strapping and HRC;
 - export quantity (by volume and value) of painted steel strapping and HRC; and
 - For export and import values, specify if the value is based on ex-factory, F.O.B. (port, shipping point, etc.), C.I.F. or some other value.

Please refer to [CONFIDENTIAL ATTACHMENTS]:

- Attachment D5(a) – Import quantity of painted steel strapping;
- Attachment D5(b) – Export quantity of painted steel strapping;
- Attachment D5(c) – Export quantity of HRC; and
- Attachment D5(d) – Export quantity of CRC.

- D6.** Provide a schedule for the last 5 calendar years and provide supporting documentation of:
- the corporate tax rate in relation to of painted steel strapping and HRC;
 - import tariff rates and/or import quotas applicable to of painted steel strapping and HRC;
 - export tariff rates and/or export quotas applicable to painted steel strapping and HRC; and
 - value added tax (VAT) export rebates applicable to exports of painted steel strapping and HRC.

Please refer to Attachment D6 in relation to HS code, tariff rates, VAT export rebates of GUC, HRC and related products. Additionally, the export quotas did not apply to these products.

With regard to corporate tax rate, the standard corporate tax rate is the same between companies of any nature in any place. As in Australia, China has a flat corporate tax rate. The standard corporate tax rate in China is 25% as is prescribed in Article 4 of Corporate Income Tax Law of the People's Republic of China. The standard corporate tax rate is the same between companies of any nature. Please refer to the law in Attachment B6.

- D7. If export quotas applied to any of the items at Question 6(c) above, identify which agency of the GOC legislates and monitors the quotas.

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

- D8. The following series of questions concern the *Price Law of the People's Republic of China* (the Price Law). These questions are based on the text of the Price Law, as provided to the Commission by the GOC in the past.

- (a) For completeness, please provide a translated copy of the Price Law.
- (b) Have there been amendments to the Price Law since last being provided to the Commission (or its predecessors)? If so, in the copy provided of the current Price Law, highlight all such amendments.
- (c) Article 27 of the Price Law states that the government shall '...establish a price regulation fund to control and stabilise the market';
 - What form does the 'price regulation fund' take generally and what department of the GOC is responsible for the fund?
 - What 'price regulation fund' regulations have applied to the steel industry since 1 July 2006?
What 'price regulation fund' regulations have applied to painted steel strapping and HRC since 1 July 2006?

This is essentially a "price moderation fund". The purpose of such a fund is to help vulnerable groups of people to survive sharp fluctuations in the market prices of daily necessities, such as might occur in a period of extreme inflation. This policy target is reflected in the fact that these Articles are found within Chapter Four of the *Price Law* (see Attachment D8), headed "Moderation of General Price Level", which relates to attempts to avoid "spikes" for daily necessities where possible and appropriate.

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

- (d) Article 28 states that 'in order to better control prices government price departments shall establish a price monitoring system to monitor changes in the prices of major merchandises and services'.

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- What price monitoring system has been established generally and what department is responsible?
- What 'price monitoring' has applied to painted steel strapping and HRC since 1 July 2006?

The price monitoring system was established for a few important producer goods and consumer goods. Local price bureaus are responsible for collecting the prices as mentioned in the Price Law. This is not a price fixing or setting process. It is simply a way to collect price information for important products. Painted steel strapping, HRC and any substitutable strapping products are not subject to price monitoring, nor have they been at any point since 1 July 2006.

- D9.** Provide a list and copies of any specific laws, decrees, rules, promulgations, edicts, opinions, measures, regulations and/or directives regarding:
- (a) The regulation of the price of painted steel strapping, or any of the raw materials used to manufacture those products;
 - (b) Investment in projects related to painted steel strapping, or any of the raw materials used to manufacture those products; and
 - (c) Identify the specific government department or institution responsible for the above-mentioned laws and regulations above.

The GOC does not regulate the prices of goods and materials that the Commission has made the subject of this investigation.

The GOC does not regulate the pricing of painted steel strapping and/or HRC.

Rather, prices for painted steel strapping and HRC are all determined commercially, in the market place, in transaction between buyers and sellers. These prices are competitive market prices. There are no laws or regulations that are specific to painted steel strapping and HRC prices, nor to any of the raw materials used to manufacture those products.

The GOC provides the Pricing Catalogue Initiated by the Central Government) at Attachment D9 . The GOC notes that the Catalogue of Set Prices does not include the above products.

- D10.** Identify and document any financial assistance provided by the GOC since 2011 in support of the painted steel strapping and HRC steel industry.

Please refer to Section C for information on any financial assistance provided by the GOC to the responding exporter QJMP.

- D11.** Has the GOC (at any level of government) issued or participated in the issuance of any debt or equity instruments⁴¹ in any business entity associated with the painted steel strapping and HRC steel industries in the last 5 years? If so:

⁴¹ Examples of such instruments include ordinary shares (including initial public offers), preferential shares, rights issue, bonds, quasi-government bonds warrants, debentures, sub-ordinate loans.

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

The GOC does not understand what relevance this has to the price of the GUC in the Chinese market for those products, and therefore cannot see how this information would be relevant to the PMS allegation. The GOC also notes that the question itself is vague. How would the GOC “participate” in the issuance of any debt or equity instruments in any business? Also, where is the borderline of entities associated with painted steel strapping, or iron and steel industry?

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

- D12.** Provide details (quantify the value) of any government guarantee provided for any commercial loans by a business entity associated with painted steel strapping and HRC steel industries in the last 5 years.

The GOC has been informed by the responding exporter that it has not received a “government guarantee” for any commercial loans in the last five years.

- D13.** Do enterprises need to be verified by the GOC prior to being approved entry to painted steel strapping and HRC steel industries?

Businesses intended to “enter” the painted steel strapping or other steel production business would be subject to the applicable rules pertaining to any business registration, urban planning, safety and environmental standards, as well as other tax and corporate regulations, as applicable to all other steel and business development in China.

- D14.** Are painted steel strapping and HRC steel producers in China required to hold any types of licences for production? If so, provide details and documentary evidence.

No licenses are required for production of GUC and HRC. Both GUC and HRC belong to “permitted industries” as is prescribed in The Catalogue for Guiding Industry Restructuring. The catalogue consists of three categories – “encouraged”, “restricted”, and “obsolete” industries. With regard to industries that do not belong to the Catalogue, they are “permitted” industries. As both

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GUC and HRC are permitted industries, they do not need to be need to be phased out. or reformed and no production limits and export limits is placed. Please refer to Attachment D14 for this catalogue.

D15. Are there any production limits and/or export limits placed on painted steel strapping and HRC steel producers? If so, provide documentary evidence.

No production limits and/or export limits are placed on GUC or HRC steel producers. Both GUC and HRC belong to permitted industries as is prescribed in The Catalogue for Guiding Industry Restructuring. The catalogue consists of three categories – “encouraged”, “restricted”, and “obsolete” industries. With regard to industries that do not belong to the Catalogue, they are “permitted” industries. As both GUC and HRC are permitted industries, they do not need to be need to be phased out. or reformed and no production limits and export limits is placed. Please refer to Attachment D14 for this catalogue.

D16. Are there any price restrictions on painted steel strapping and HRC domestic sales? If so, provide details.

There are no price restrictions on domestic painted steel strapping and HRC sales.

D17. Identify any GOC initiatives and/or policies that affect the painted steel strapping and HRC steel industries, including raw materials. Provide all documentary evidence.

Please refer to the response to B1 above.

D18. Have there been any changes to GOC policies and practices that impact the painted steel strapping and HRC steel industries since June 2012 that support the view that the factors leading to the finding in INV 177 of a particular market situation in the Chinese steel industry as outlined in REP 177 no longer exists. For example, have there been:

- changes to the text or implementation of the National Steel Policy, National or State Five-Year Plans relating to iron and steel industries, or the Blueprint for Steel Industry Adjustment and Revitalization; or
- the various measures identified in INV 177 as implementing the goals and aims of the GOC plans and policies?

If so, provide details and relevant evidence.

MOFCOM notes that period of investigation for INV 177 took is now more than 9 years old. The relevance of such an investigation to the allegation that there was a situation in the Chinese market for steel strapping between April 2019 and March 2020, such that prices derived from this market, during this period, are not suitable for comparison with export price, would be entirely unclear to any fair-minded person and is entirely unclear to the GOC.

We refer the Commission to responses at B1 above with respect to latest conditions of the Chinese steel industry and the GOC’s policies.

The GOC also wants to remind the Commission that the PMS finding in Investigation 177 was overturned by the Trade Measures Review Officer (“TMRO”). The GOC reiterates its position that Reinvestigation 203 was

incorrect in its failure to follow the TMRO's finding in that regard. Nonetheless, the GOC notes that Reinvestigation 203 refined and refocused the broad, and according to the TMRO, incorrect findings of Investigation 177. In doing so, Customs identified three factors that were said to contribute to the PMS finding in Reinvestigation 203:

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

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

Export Measures on Coke

Reinvestigation 203 found the following factors had resulted in lower prices for inputs that represent a significant cost of producing hot rolled coil:

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

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

- the export tariff on coke was 0%, as was the import tariff;
- there were no export quotas applicable to coke; and
- the export tariff on coking coal was 3%, as was the import tariff.

During the POI for the current investigation, "export measures on coke" were different to those considered in Investigation 177. They were hugely reduced, minimal and restrained.

Subsidies for HSS producers

As a starting point, the GOC notes that this investigation relates to painted steel strapping, not hollow structural sections ("HSS"). The responding exporter did not make the GUC from the same raw materials as HSS producers. Any subsidies that were found to have been provided to producers of HSS almost 10 years ago cannot be considered to be relevant to producers of the GUC.

The GOC notes that the major subsidy cited in Reinvestigation 203 was a subsidy labelled as the "provision of HRC for less than adequate remuneration". A similar claim was made by the Applicant in this case, and has been addressed in the relevant situation of this GQ.

Suffice it to say, for current purposes, that the GOC does not accept that such a subsidy exists.

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

In the most recently completed variable factors review concerning the AD/CV

measures against Chinese exporters of HSS in Review 419, the Commission found that the cooperating exporters' subsidy margin was negligible, at 1.3%.

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

The Chinese steel industry and the GOC's policy focus concerning the development of the steel industry have changed significantly since INV177.

As an initial point, the GOC wishes to once again point out that the documents mentioned above – the National Steel Policy, National or State Five-Year Plans relating to iron and steel industries, and the Blueprint for Steel Industry Adjustment and Revitalization documents as abovementioned - are merely policy documents. The National Steel Policy was published in 2005, nearly 15 years before the period of investigation. It was an aspirational document, which set out options through which the steel industry could modernise its operations, and remain competitive and efficient in the future. The National Steel Policy has not been amended at any time between the date of lodgement of this EQ, and its date of publication in 2005. It is irrelevant to the current investigation.

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

The Commission's approach to a finding of PMS

The GOC recalls that the Commission's approach to a finding of a PMS was recently scrutinised by the World Trade Organisation (“WTO”) Panel in the Australia – A4 Copy Paper case.⁴² The Panel considered that a PMS must be something:

*distinct, individual, single, specific but that does not necessarily make it unusual or out of the ordinary — i.e. exceptional.*⁴³

The GOC takes this opportunity to remind the Commission that an analysis which simply regurgitates the Commission's previous determinations of a PMS does not meet the threshold required. Namely, it does not establish that the PMS is “exceptional”. In this respect, the question is whether a PMS presently exists, not simply determine whether it “no longer exists”. Therefore the Commission is required to conduct the analysis anew in each relevant investigation.

⁴² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, WTO Doc. WT/DS529/R (27 January 2020).

⁴³ *Australia – A4 Copy Paper*, at [7.22]

D19. Describe and explain whether the national, provincial or local governments (including ministries or offices of those governments, or any quasi-governmental organisation identified) explicitly or implicitly recognises the industries that produces painted steel strapping and HRC, and/or the steel industry more generally, as a national provincial and/or local development objective, or otherwise directs the development of any of those industries.

Both GUC and HRC are not encouraged projects with a national provincial and/or local development objective, and they belong to permitted industries as is prescribed in The Catalogue for Guiding Industry Restructuring. The catalogue consists of three categories – “encouraged”, “restricted”, and “obsolete” industries. With regard to industries that do not belong to the Catalogue, they are “permitted” industries. As both GUC and HRC are permitted industries, they are not possibly be provided with special fiscal, tax, land, and credit support. Please refer to Attachment D1 for this catalogue.

D20. Provide copies of the following documents:

(a) Directory Catalogue on Readjustment of Industrial Structure;

Please refer to Attachment D14.

(b) China Nonferrous Metals Yearbooks for the years 2016, 2017, 2017 and 2018;

The GOC believes that the requested China Nonferrous Metals Yearbooks for the years 2016, 2017, 2018 and 2019 are not relevant to this investigation. Neither the GUC nor its inputs are attributed to nonferrous metals.

(c) 13th Five-Year plans including the two most recent five-year plans at all levels of the GOC (including, central, regional, provincial and for any special zones, areas or other such regions), as well as the original Chinese versions.

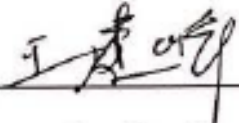
Please refer to:

- **Attachment D20(c)(1) 13th Five-Year plans (nation)**
- **Attachment D20(c)(2) 12th Five-Year plans (nation)**
- **Attachment D20(c)(3) 11th Five-Year plans (nation)**
- **Attachment D20(c)(4) 13th Five-Year plans (Hebei)**
- **Attachment D20(c)(5) 12th Five-Year plans (Hebei)**
- **Attachment D20(c)(6) 11th Five-Year plans (Hebei)**

**SECTION E
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.

Aug. 14, 2020
Date


Signature of authorised official

Wong Kaifeng
Name of authorised official

Deputy Director.
Title of authorised official

GLOSSARY OF TERMS

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

Associated Persons and/or Companies

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

(a) both being natural persons:

(i) they are connected by a blood relationship or by marriage or adoption; or

(ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;

(b) both being bodies corporate:

(i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or

(ii) both of them together control, directly or indirectly, a third body corporate; or

(iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

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

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

(e) they are members of the same partnership.

Enterprise

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

Government of China (GOC)

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

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

Program(s)

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

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

State Invested Enterprises (SIE)

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

This includes (but is not limited to) any enterprises referred to as:

- ‘state owned enterprises’ (SOEs);
- ‘enterprises with state investment’ (ESIs);
- ‘state-owned assets’;
- ‘state-invested enterprises’; and
- ‘enterprises under the supervision of SASAC’.

Subsidy

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

(a) a financial contribution:

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

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

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

that involves:

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

(v) the acceptance of liabilities, whether actual or potential, by that Government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that Government or body; or

(vii) the provision by that Government or body of goods or services otherwise than in the course of providing normal infrastructure; or

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(viii) the purchase by that Government or body of goods or services; or

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

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia

APPENDIX A

Painted steel strapping manufacturers/exporters

- LINGYUN STEEL STRAPPING LIMITED
- LUCK LEE STEEL STRAPPING LIMITED
- TANGSHAN JASON METAL MATERIALS CO. LTD.
- TANGSHAN JASON TRADE CO.,LTD
- LINYI QIANGSHENG TOOLS CO LTD
- SHANGHAI JXMEC IMPORT & EXPORT CO.LTD.
- NOGARD TRADING PTE LTD
- TIANJIN HONGLI QIANGSHENG IMPORT & EXPORT CO LTD.
- TOOLEE INDUSTRIAL TECHNICAL INC
- HEBEI RICON WIRE MESH LTD
- QINGDAO DEYIN PACKING
- TIANJIN XINHEHUA IRON AND STEEL CO LTD
- BEKAERT JIANGYIN WIRE PRODUCTS
- SHENZHEN UNITOP LOGISTICS