



GOVERNMENT QUESTIONNAIRE

The Socialist Republic of Viet Nam

Case number: 559

Product: Aluminium zinc coated steel (of a width less than 600 millimeters)

From: The Socialist Republic of Vietnam

Investigation period: 1 April 2019 to 31 March 2020

Response due by: Thursday 6 August 2020 (Extended to Monday 21 September 2020)

Return completed questionnaire to:
investigations4@adcommission.gov.au

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

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SECTION A BACKGROUND AND GENERAL INSTRUCTIONS

A1. Background

On 30 June 2020, following an application by BlueScope Steel Limited (BlueScope), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping and countervailing investigation in respect of aluminium zinc coated steel (of a width less than 600 millimeters) (the goods) exported to Australia from the People's Republic of China (China) and from the Socialist Republic of Vietnam (Vietnam).

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

Anti-Dumping Notice (ADN) No. 2020/068 outlining the details of the investigation and the procedures to be followed during the investigation was published on 30 June 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:

Flat rolled iron and steel products (whether or not containing alloys), of a width less than 600 millimeters ("mm"), plated or coated with aluminium-zinc alloys, not painted, and whether or not including resin coating.

Trade or further generic names often used to describe the subject goods include:

- ZINCALUME® steel;
- GALVALUME® steel;
- Aluzinc, Supalume, Superlume, ZAM, GALFAN;
- Zinc aluminium coated steel;
- Aluminium zinc coated steel;
- Aluminium zinc magnesium coated steel;
- Alu-Zinc Steel sheet in Coils;
- Al/Zn; and
- Hot Dipped 55% Aluminium-Zinc Alloy coated steel sheet in coil.

The imported goods the subject of this application covers aluminum zinc coated steel whether or not including any combination of surface treatment. For example, whether passivated (often referred to as chromated), resin coated or not resin coated (often referred to as Anti-Finger Print ("AFP") or not AFP), oiled or not oiled, skin-passed or not skin-passed.

Excluded from the goods description of this application is un-passivated (often referred to as unchromated) aluminium zinc coated steel.

The amount of aluminium zinc coating on the steel is described as its coating mass and is nominated in grams per meter squared (g/m²), with the prefix being AZ (Aluminium Zinc). Common coating masses used are: AZ200, AZ150, AZ100, and AZ70.

There are several relevant International Standards for aluminium zinc coated steel, covering the full range of products via specific grade designations, and including the recommended or guaranteed properties of each of those product grades.

These relevant standards are noted below in the table “Relevant International Standards for Aluminium Zinc Coated Steel”.

International Standards	Product Grades
<i>General and Commercial Grades</i>	
AS/NZS 1397	G1, G2
ASTM A792	CS, type A, B and C
EN 10346	DX51D, DX52D
JIS 3321	SGLCC
<i>Forming, Pressing & Drawing Grades</i>	
AS/NZS 1397	G3
ASTM A792	FS, DS
EN 10346	DX53D, DX53D
JIS 3321	SGLCD, SGLCDD
<i>Structural Grades</i>	
AS/NZS 1397	G250, G300, G350, G450, G550
ASTM A792	33 (230), 37(255), 40 (275), 50 (340), 55 (380), 80 (550)
EN 10346	S220GD, S250GD, S280GD, S320GD, S350GD, S550GD
JIS 3321	SGLC400, SGLC440, SGLC490, SGLC570

Tariff classification

The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 of the *Customs Tariff Act 1995*.

Tariff classification (Schedule 3 of the Customs Tariff Act 1995)
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Tariff Subheading	Statistical Code	Description
7212.50.00		FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm, CLAD, PLATED OR COATED
	66	Otherwise plated or coated
7226.99.00		FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF LESS THAN 600 mm
	71	Other

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).

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 Vietnam (GOV) it considers necessary for investigating the allegation that there is a particular market situation in the domestic market for the goods in Vietnam.

Any additional questions, if necessary, may be put to the GOV using supplementary questionnaires.

A separate questionnaire has been sent to exporters of the goods from Vietnam identified during the consideration of the application.

A5. Response to this questionnaire

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

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

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

If the GOV elects to respond to this questionnaire, the response is due by **Thursday 6 August 2020**.

A6. If you decide to respond

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

Confidential and non-confidential versions

If the GOV 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.

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 GOV’s response is complete and correct. You must return the signed declaration of an authorised GOV 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 GOV 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.

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

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

Provision of documents

Numerous documents are requested from the GOV 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 GOV 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 GOV 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 GOV, please provide this document.

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

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

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

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

Lodgement

You may lodge your response by 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.

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 GOV 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.

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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If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOV, the assessment of a particular market situation 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 GOV 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.

ANSWER:

The Government of Viet Nam ("GOV") provides below the contact information of the officials in charge of coordination in this case:

1. Mr. Luong Kim Thanh

Head of Trade Remedies Compliance Division, Trade Remedies Authority of Viet Nam, Ministry of Industry and Trade

Email: thanhhk@moit.gov.vn

2. Mr. Phung Gia Duc

Deputy Head of Trade Remedies Compliance Division, Trade Remedies Authority of Viet Nam, Ministry of Industry and Trade

Email: Ducpg@moit.gov.vn

3. Ms. Nguyen Trang Nhung

Official, Trade Remedies Compliance Division, Trade Remedies Authority of Viet Nam, Ministry of Industry and Trade

Email: Nhungntr@moit.gov.vn

- B2.** For the period 1 April 2019 to 31 March 2020, describe the nature and structure of the aluminium zinc coated steel (of a width less than 600 millimeters) industry and market sector in Vietnam.

Without limiting your response, include information concerning:

- any government involvement in upstream materials and inputs, i.e. hot rolled coil (HRC), 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.

ANSWER:

The aluminium zinc coated steel industry in Viet Nam is wholly owned by the private sector. The GOV does not have direct ownership or relation in any aluminium zinc coated steel products. Appendix A indicated the manufacturers/exporters of the subject merchandise in Viet Nam exported to Australia during the period of investigation (POI) and they are totally private enterprises. These companies are subject to the same set of laws and regulations as with other sectors of steel production and with other business sectors. According to Vietnam Steel Association analysis, the production of Aluminium zinc coated steel regardless of its width during the POI is about [REDACTED] tons. The input for manufacturing aluminium zinc coated steel are both hot-rolled coils (HRC) and cold-rolled coils (CRC). Being an aluminium zinc coated steel maker has never been a criterion for a producer to receive any benefit under laws and regulations of Viet Nam.

B3. Are any of the companies listed in **Appendix A** located in an area or economic zone³ which entitles them to preferential tax or other preferential policies provided by the GOV 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.

ANSWER:

Please refer to Exhibit 1 which identifies the location of the company listed in Appendix A and whether such location entitles it to preferential tax and duty policy by the GOV.

During the POI, there are two main types of region within Vietnam that encourage the operations of industries/enterprises located within and may entitle this entity to access different treatment, namely:

³ 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 GOV (including central, provincial, municipal or county Government) accrue to a company because of being located in such an area.

- Region of socio-economic difficulties;
- Region of exceptional socio-economic difficulties

As read from the title of these two regions, socio-economic conditions of an area including geographical location and features, natural resources, infrastructure, population or level of economic and education development, living and social benefit standards are decisive and objective criteria to classify such area into either the region of socio-economic difficulties or exceptional socio-economic difficulties. The intention behind this classification is to facilitate industrial, economic and social development of less advantaged regions, to avoid problems relating to overpopulation, environment or social benefit burden in big cities and thereby to create hubs for industrial and commercial activities which support the development of Viet Nam in a balanced way all over the country.

For the purpose of management and implementation of differential policies, the GOV identifies and informs which geographical areas are classified into regions of social economic difficulties and regions of exceptional socio-economic difficulties in its decree applicable during a certain period.

During the POI, the list of regions with a socio-economic difficulties and exceptional socio-economic difficulties is provided under Appendix II to Decree 118/2015/ND-CP dated November 12th, 2015 detailing the implementation of the Law on Investment. Exhibit 2 provides Appendix II to Decree 118.

It is noted that within Appendix II to Decree 118, industrial zones, export processing zones established by a decision of the Prime Minister are classified as regions of socio-economic difficulties while economic zones and high-technology zones are classified as regions of exceptional socio-economic difficulties.

The development of these zones is a key element to the country's overall development strategy and is desire to move into a more industrialized economy. Zoning is limited geographically since there are zones in virtually all provinces and cities in Viet Nam. In addition to promoting a broader objectives of economic development and providing employment, the zones serve several other purposes which are viewed as important to orderly and sustainable development. The most important of these purposes is to avoid environmental degradation in high density urban and residential areas. In effect, the use of industrial zones acts much the same as zoning ordinances operate throughout the world by designating certain areas for industrial use and other areas for commercial and residential use.

A second objective is to promote infrastructure development. Absent infrastructure, it is impossible to achieve development because the infrastructure is essential to supporting that development. While the State itself, often using official development assistance (ODA), is normally responsible for infrastructure such as highways, bridges, waste treatment plants, ports and other infrastructure, the ability of the state to finance massive infrastructure development is limited by

its resources. As a developing country, the GOV does not have the sufficient resources to develop infrastructure on the scales and in the timeframe required to achieve sustained high levels of economic growth. Zoning program shifts the financial burden of developing industrial infrastructure for manufacturing plants from the GOV to infrastructure development companies. In return, the infrastructure development companies are allowed to provide services to manufacturing plants in the zone and make money from those services. In addition, they are entitled to certain investment preferences such as income tax benefit, import duty preferences or non-agricultural tax benefits. Manufacturing companies who pay a higher cost of accessing utilities in those zones as opposed to the cost of locating outside those zones are also granted with similar preferences.

- B4.** Provide a list of all manufacturers/producers of the goods and Vietnam that produced the goods 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)⁴, private, co-operative or joint venture);
- (e) if the business is not an SIE, whether it is otherwise associated with the GOV;
- (f) whether the business is a manufacturer of the goods and whether it produces;

⁴ For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOV (either through direct ownership or through association).

- (g) total production quantity of the goods by the business during the investigation period;
- (h) is the GOV a shareholder in the business? If so, the percentage of GOV holdings;
- (i) if there is GOV 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 GOV during the investigation period.

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

ANSWER:

Please refer to Exhibit 3 which identifies the aluminium zinc coated steel (of a width less than 600mm) manufacturers who are known by the GOV.

In addition, the GOV confirms that during the POI, no state-owned companies operated in the field of producing and selling aluminium zinc coated steel products and the GOV has not had any association under any forms with aluminium zinc coated steel.

- 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 Vietnam.

ANSWER:

The majority of steel producers in Viet Nam are members of Viet Nam Steel Association. This association is not a governmental agency.

Information of Viet Nam Steel Association is as follows:

Address: Floor 3, 91 Lang Ha Street, Ha Noi, Viet Nam

Telephone: +84.24.3514.6230 or +84.24.3514.4056

Fax: +84.24.3514.5113

Website: www.vsa.com.vn

Email: vietnam.steel.association@gmail.com

- B6.** Specify and provide supporting documentation for the standard corporate tax rate during the investigation period for:

- (a) companies that manufacture the goods; and
- (b) companies that trade in the goods.

ANSWER:

During the POI, the standard corporate income tax is governed by the Law Amending and Supplementing a number of articles of Law on Corporate Income Tax 2008 (the Amended Law 2013) and Decree 218/2013/ND-CP dated December 26th, 2013 of the Government, detailing and guiding the implementation of the Law on Corporate Income Tax. Pursuant to the Article 1.6 of the Amended Law 2013 and Article 10 of Decree 218, the standard tax rate applicable during the POI is 20% applying from January 1st, 2016.

The standard tax rate applies to all enterprises regardless of whether they are manufacturers or traders and regardless of whether their products are aluminium zinc coated steel or not.

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

ANSWER:

Exhibit 4 provides the Law Amending and Supplementing a number of articles of Law on Corporate Income Tax 2008 (the Amended Law 2013) and Decree 218/2013/ND-CP dated December 26th, 2013.

SECTION C SUBSIDIES

Introduction

In the application, Bluescope alleged the existence of multiple subsidy programs applicable to aluminium zinc coated steel (of a width less than 600 millimeters), which influence the domestic selling prices for the goods in Vietnam and contribute to the presence of a particular market situation.

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
1	Preferential Import Tariff Rates contingent upon Localisation Ratios with respect to products and Parts of Mechanical-Electric-Electronic Industries (updating Programme II of Notification of Subsidies period 2003-2004)
2	Support for the Implementation of Projects Manufacturing Priority Industrial Products (Updating Programme III of 2003-2004)
3	Investment Incentives Contingent upon Export Performance For Domestic Businesses (Updating Programme IV of 2003-2004)
4	Other Investment Incentives for Domestic Businesses (Updating Program V of Period 2003-2004)
5	Investment Incentives Contingent upon Export Performance for Foreign Invested Enterprises (Updating Programme VI of the Period 2003-2004)
6	Other Investment Incentives for Foreign Invested Enterprises (Updating Programme VII for Period 2003-2004)
7	Preferential Investment Credit for Development Contingent upon Export Criteria (Updating Programme VIII of Period 2003-2004)
8	Preferential Development Credit for Investment Contingent Upon Localisation Ratios (Updating Programme IX of Period 2003-2004)
9	Other Preferential Investment Credit for Development (Updating Program X of Period 2003-2004)
10	Export Promotion
11	Trade Promotion (Updating of Programme XIII of Period 2003-2004)
12	Support for Mechanical Products (Updating Program XV of Period 2003-2004)
13	Support for Shipbuilding Industry (Updating of Programme XV of Period 2003-2004)
14	Assistance for Commercial Development in Mountainous, Island and Ethnic Minority Areas (Updating Programme XVI of Period 2003-2004)

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No.	Program name
15	Assistance to Enterprises Facing Difficulties due to Objective Reasons
16	Incentives for Investment Projects in Science and Technology (Updating Programme XVIII of Period 2003-2004)
17	Preferential Import Tariff Rates for enterprises investing in regions or sectors entitled to investment incentives
18	Incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives
19	Incentives on non-agricultural land use
20	Grants to Firms that Employ more than 50 Employees
21	Investment Support (consisting of two separate programs)
22	Acquisition of State Assets at Less Than Fair Market Value
23	Export & Import Support in the Form of Preferential Loans, Guarantees, and Factoring (consisting of five separate programs)
24	Export Support Loans at Preferential Rates
25	Interest Rate Support Program under the State Bank of Vietnam
26	Preferential Lending under the Viet Bank Export Loan Program
27	Accelerated Depreciation of Fixed Assets
28	Additional Income Tax Preferences for Exporters
29	Enterprise Income Tax Exemption/Reduction for Business Expansion and Intensive Investment Projects
30	Enterprise Income Tax Preferences, Exemptions, and Reductions (consisting of seven separate programs)
31	Establishments Dealing with Exported Goods
32	Exemption of Import Tax on Equipment and Machinery Imported to Create Fixed Assets
33	Exemptions/reductions of Land Rent, Tax, and Levies (consisting of five separate programs)
34	Land-Use Levy Exemptions/Reductions
35	Preferential Income Tax Rates for Enterprises within Economic Zones or Industrial Parks
36	Preferential Provisions for Carry-forward of Losses
37	Tax Exemptions and Reductions for Encouraged Sectors
38	Tax Exemptions and Reductions for Foreign-Invested Enterprises
39	Tax Exemptions and Reductions for Investment in Disadvantaged Regions
40	Tax Exemptions and Reductions for Investments in Economic Zones or High-Tech Industrial Parks
41	Tax Preferences for Investors Producing and/or Dealing in Export Goods
42	Excessive Duty Exemptions for Imported Raw Materials for Exported Goods
43	Exemptions of Import Duty (consisting of seven separate programs)
44	Refund of Import Duty

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 titles may not exactly reflect any official titles that the GOV has in place.

Any other program not previously addressed

If the GOV, 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 Vietnam, 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.

C1 – GENERAL QUESTIONS

For **each program** identified above, and any other additional programs that the GOV identifies, answer the following questions. If the alleged program has expired or is otherwise invalid please identify the program as such in your response and provide any supporting documentation to evidence its status.

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 GOV or the year that the benefit was received by the recipient company, as well as those further identified by the GOV, where the program benefits impact on the production and sale of the goods during the investigation period.

PROGRAM 1: PREFERENTIAL IMPORT TARIFF RATES CONTINGENT UPON LOCALIZATION RATIOS WITH RESPECT TO PRODUCTS AND PARTS OF MECHANICAL ELECTRIC ELECTRONIC INDUSTRIES

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;
- (f) Duration of the program;

- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Preferential import tariff rates contingent upon localization ratios were introduced in 1998 and terminated in 2006. Thus, this program is outside the POI.

The program was to encourage the domestic production and assembly of products and parts of mechanical – electric – electronic industries. Aluminium zinc coated steel product does not fall into the scope of mechanical – electric – electronic industries. The preferential import tariff rate schedule was provided under Decision 1944/1998/QD-BTC dated December 25th, 1998 promulgating the regulation on preferential import tariff rates contingent upon localization ratios with respect to parts of mechanical-electric-electronic industries. The program benefit is the difference between the standard import duty rate and the preferential duty rate which corresponds to the localization ratio.

The program was further implemented under Joint Circular 176/1998/TTLT-BTC-BCN-TCHQ dated December 25th, 1998, which was amended by Joint Circular 120/2000/TTLT-BTC-BCN-TCHQ dated December 25th, 2000 guiding the implementation of tariff imposition contingent upon localization ratios with respect to products and parts of mechanical-electric-electronic industries.

As part of Vietnam's commitments to accede to the WTO, this program was terminated on October 1st, 2006 under Decision 43/2006/QD-BTC abolishing the localization rate-based tax policy for mechanical electrical and electronic products and spare parts.

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.

ANSWER:

Please refer to Exhibit 5 for:

- Decision 1944/1998/QD-BTC dated December 25th, 1998
- Joint Circular 176/1998/TTLT-BTC-BCN-TCHQ dated December 25th, 1998
- Joint Circular 120/2000/TTLT- BTC-BCN-TCHQ dated December 25th, 2000
- Decision 43/2006/QD-BTC dated August 29th, 2006

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

ANSWER:

Please refer to Exhibit 5.

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

ANSWER:

Ministry of Finance issued the preferential tariff rate schedule. Ministry of Industry issued the certification to enterprises qualified for fulfilling the localizing ratio. Provincial custom authorities approved the application of the preferential tariff for each specific import transaction.

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.

ANSWER:

The provincial customs authority maintained import declaration and registration files submitted by companies applied for the preferential import duty rate.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 1st, 2006 which is long before the POI. In addition, this program does not apply to aluminium zinc coated steel. As such, no producer or exporter of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

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

ANSWER:

Pursuant to Article 7 of Joint Circular 176/1998/TTLT- BTC-BCN-TCHQ and Section IV of Joint Circular 120/2000/TTLT-BTC-BCN-TCHQ, enterprises of these sectors were required to obtain the certification by the Ministry of Industry on their manufacturing technology and ability to satisfy the localization ratio they registered for its investment project. The Ministry of Industry would coordinate with the Ministry of Science, Technology and Environment and the Ministry of Communication and Transport to inspect the registered localization ratio and issue a certificate of localization ratio for those enterprises.

They then were required to submit to the provincial custom authority where they conducted import procedures with a registration file for paying the import duty at preferential rates corresponding to the certified localization ratios. This file includes:

- A Certificate issued by the Ministry of Industry on the technical conditions, production technology capacity and localization rates of products and spare parts of the enterprise.
- A list of semi-finished products, details, detail groups and components constituting a product or spare part and their consumption norms. This list must be divided into a list of imported semi-finished products, details, detail groups and parts together with their import prices (CIF) and a list of home-made semi-finished products, details, detail groups and parts (for details, detail groups, parts, and spare parts made by the unit itself or purchased from domestic production and assembly).
- A written registration for application of VAT calculation according to the tax deduction method with the approval opinion of the customs office where the enterprise has registered for tax payment.

Provincial custom authorities relied on the certified localization ratio to identify and the norm of using components or spare parts to identify which imported item should be subject to preferential import tariff under this program. By the end of each year, the importing enterprises were required to submit a report of actually using the imported items to implement the localization ratio for the custom's inspection and recalculation of the actual payable import duty.

There was no approval or refusal document for granting the preferential import duty tariff. Provincial custom authorities levied the preferential import tariff at the time of importation on the basis of certified localization ratio to identify and the norm of using components or spare parts registered by the enterprises. If provincial custom authorities determined that an imported item should not be subject to the preferential import tariff, they would levy the standard import tariff.

For this investigation, the GOV notes that no producer or exporter of aluminium zinc coated steel to Australia received any benefit from this program.

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.

ANSWER:

The program is contingent of the localization ratio, which encouraged the use of domestic over imported goods. However, this program was terminated on October 1st, 2006.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 calendar years 2017, 2018 and 2019 up until 31 March 2020.

ANSWER:

This program was terminated on October 1st, 2006. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 calendar years 2017, 2018 and 2019 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on October 1st, 2006. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on October 1st, 2006 as provided under Decision 43/2006/QD-BTC dated August 29th, 2006. As such, September 30th, 2006 was the last date for a company to receive a benefit under the program. Exhibit 5 provides Decision 43/2006/QD-BTC.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was terminated on October 1st, 2006 as provided under Decision 43/2006/QD-BTC.

PROGRAM 2: SUPPORT FOR THE IMPLEMENTATION OF PROJECTS MANUFACTURING PRIORITY INDUSTRIAL PRODUCTS

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;

- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

This program provided support for the implementation of manufacturing projects of priority industrial products including shipbuilding, combustion engines, colour television sets and computers for purpose of boosting the development of these sectors in Viet Nam as provided under Decision 37/2000/QD-TTg dated March 24th, 2000 and Decision 19/2001/QD-TTg dated February 20th, 2001. As such, aluminium zinc coated steel products were not entitled to benefits under this program.

Support under this program includes the following:

- Import duty exemption until the end of December 31st, 2003 as provided under Point 1, Section II of Appendix 1, 2 and 3 of Decision 37/2000/QD-TTg and Point 1, Section II of Appendix to Decision 19/2001/QD-TTg.
- Preferential corporate income tax rate of 25%, income tax payment exemption for 2 years and 50% reduction of income tax payment for the next 2 years as provided under Point 1, Section II of Appendix 1, 2 and 3 of Decision 37/2000/QD-TTg and Point 1, Section II of Appendix to Decision 19/2001/QD-TTg.
- Investment credit from the Assistance Development Fund with the term of no more than 10 years as provided under Point 2 Section II of Appendix 1, 2 and 3 of Decision 37/2000/QD-TTg and Point 2, Section II of Appendix to Decision 19/2001/QD-TTg.
- 50% reduction of land rent payment for the whole project as provided under Point 3, Section II of Appendix 1, 2 and 3 of Decision 37/2000/QD-TTg and Point 2, Section II of Appendix to Decision 19/2001/QD-TTg.

The Ministry of Finance and the Ministry of Industry administered this program. In particular, the Ministry of Industry issued Circular 03/2000/TT-BCN dated May 31st, 2000 and Circular 04/2001/TT-BCN dated June 6th, 2001 which identifies certain enterprises of these above sectors that were entitled to the support. The Ministry of Finance issued Circular 86/2000/TT-BTC dated August 16th, 2000 further elaborated the implementation of the support. No aluminium zinc coated steel producer was included in these circulars.

As of January 4th, 2007, benefits under this program were no longer available as they were annulled under various regulations as follows:

- Circular 04/2001/TT-BCN identifying enterprises subject to this program was annulled by Decision 43/2006/QĐ-BCN dated December 7th, 2006.
 - Import duty exemption was terminated after December 31st, 2003 as provided under Point 1, Section II of Appendix 1, 2 and 3 of Decision 37/2000/QĐ-TTg and Point 1, Section II of Appendix to Decision 19/2001/QĐ-TTg.
 - Corporate income tax benefits were annulled by Article 31 of the Law on Corporate Income Tax No 09/2003/QH11 dated June 17th, 2003. Under this Law and implementing Decrees⁵, manufacturing priority industrial products was no longer a criterion or condition to receive any income tax benefits.
 - Investment credit benefits were annulled by Article 42 of Decree 106/2004/ND-CP dated April 1st, 2004 on the State's investment credits. The GOV notes that under this Decree, manufacturing priority industrial products was no longer a criterion or condition to receive the state's investment credit.
 - Land rent benefits were annulled by Article 27 of Decree 142/2005/ND-CP dated November 14th, 2005 on the collection of land rents and water surface rents. The GOV notes that under this Decree, manufacturing priority industrial products was no longer a criterion or condition to receive land rent exemption or reduction.
- 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.

ANSWER:

Please refer to Exhibit 6 for:

- Decision 37/2000/QĐ-TTg dated March 24th, 2000
- Decision 19/2001/QĐ-TTg dated February 20th, 2001
- Circular 03/2000/TT-BCN dated May 31st, 2000
- Circular 04/2001/TT-BCN dated June 6th, 2001
- Circular 86/2000/TT-BTC dated August 16th, 2000

⁵ Implementing Decrees include Decree 164/2003/ND-CP, Decree 152/2004/ND-CP and Decree 24/2007/ND-CP.

- Decision 43/2006/QD-BCN dated December 7th, 2006
- Decree 106/2004/ND-CP dated April 1st, 2004
- Decree 142/2005/ND-CP dated November 14th, 2005

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

ANSWER:

Please refer to Exhibit 6.

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

ANSWER:

The Ministry of Finance and the Ministry of Industry administered this program. In particular, the Ministry of Industry issued Circular 03/2000/TT-BCN dated May 31st, 2000 and Circular 04/2001/TT-BCN dated June 6th, 2001 which identifies certain enterprises of these above sectors that were entitled to the support. The Ministry of Finance issued Circular 86/2000/TT-BTC dated August 16th, 2000 further elaborated the implementation of the support. No aluminium zinc coated steel producer was included in these circulars.

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.

ANSWER:

Provincial customs authorities maintained import declaration and registration file submitted by companies applied for the preferential import duty rate. Provincial tax authorities maintained income tax returns and notice on land rents or water surface rents.

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.

ANSWER:

The GOV notes that benefits under this program were actually no longer available since January 4th, 2007 – long before the POI. In addition, this program did not apply to aluminium zinc coated steel product. As such, no producer or exporter of aluminium zinc coated steel products to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, enterprises investing in the production of shipbuilding, combustion engines, colour television sets and computers applied for their investment certificates which identified benefits relating to import duty, corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities.

There is no approval or refusal document. If an enterprise did not invest in the production of shipbuilding, combustion engines, colour television sets and computers, the investment certificate did not list all the benefits under this program.

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.

ANSWER:

The eligible enterprises and industries under this program were limited to the designated enterprises having manufacturing projects of priority industrial products including shipbuilding, combustion, engines, colour television sets and computers as identified in Appendix I, II, III issued with Decision 37/2000/QD-TTg dated March 24th, 2000 and Decision 19/2001/QD-TTg. As such, aluminium zinc coated steel products were not entitled to benefit under this program.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program. The GOV notes that the eligible enterprises and industries under this program are limited to the designated enterprises having manufacturing projects of priority industrial products including shipbuilding, combustion, engines, colour television sets and computers as identified in Appendix I, II, III issued with Decision 37/2000/QD-TTg dated March 24th, 2000 and Decision 19/2001/QD-TTg. As such, aluminium zinc coated steel products were not entitled to benefit under this program.

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 up until 31 March 2020.

ANSWER:

This program was in fact terminated as of January 4th, 2007. Thus, no benefit was received by any company under this program in 2017, 2018, 2019 and up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was in fact terminated as of January 4th, 2007. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020. Thus, this question is not applicable.

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 a benefit under the program?

ANSWER:

This program was in fact terminated as of January 4th, 2007. The last date of receiving the benefits under this program is January 3rd, 2007.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 3: INVESTMENT INCENTIVES CONTINGENT UPON EXPORT PERFORMANCE FOR DOMESTIC BUSINESSES

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

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

ANSWER:

Investment incentives for domestic exporting enterprises were triggered in 1998 and terminated in October 2006. Therefore, this program is outside POI in this case.

The program was aimed at encouraging the domestic investment in manufacturing and trading goods for export purposes. Incentives under this program were contingent on export performance of domestic enterprises. These incentives included the followings:

PUBLIC RECORD

- Corporate income tax preferences included preferential tax rate, tax exemption and reduction as provided under:
 - Article 20 and 21 of Decree 51/1999/ND-CP dated July 8th, 1999 for domestic exporters with at least 30% revenue from export. These incentives were valid during July 23rd, 1999 and January 6th, 2004 as they were terminated by Article 50 of Decree 164/2003/ND-CP dated December 22nd, 2004 and came into effect from January 7th, 2004.
 - Article 39 of Decree 164/2003/ND-CP dated December 22nd, 2003 for domestic exporters with at least 50% revenue from export. These incentives were valid from January 7th, 2004 to October 24th, 2006, then was replaced by Article 88 of Decree 108/2006/ND-CP which came into effect on October 25th, 2006.
 - Decree 164/2003/ND-CP was replaced by Decree 24/2007/ND-CP dated February 14th, 2007 and came into effect on March 21st, 2007 which eliminates all benefits relating to export performance or ratio.
 - Point 1, Article 46 of Decree 24/2007/ND-CP provided that “Business establishments newly founded under investment projects and getting business registration certificates or investment certificates as from the effective date of the Government's Decree No. 108/2006/ND-CP of September 22, 2006, detailing and guiding the implementation of a number of articles of the Investment Law, shall pay enterprise income tax under this Decree.” Therefore, corporate income tax incentives were provided by Decree 108/2006/ND-CP during from October 25th, 2006 to March 20th, 2007 before Decree 24/2007/ND-CP took effect.

Import duty exemption for imported equipment and machinery to create fixed assets as provided under Article 26 of Decree 51/1999/ND-CP. These incentives were terminated on December 31st, 2005 when this Article was annulled by Article 27 of Decree 149/2005/ND-CP effective since January 1st, 2006. Since then, export performance was no longer a criterion for receiving the import duty exemption.

- Land rent exemption and reduction as provided under Article 18 of Decree 51/1999/ND-CP. These incentives were terminated on October 25th, 2006 when this Decree was replaced by Decree 108/2006/ND-CP. Since October 25th, 2006, export performance was no longer a criterion for receiving land rent exemption and reduction. Land use tax exemption and reduction as provided under Article 19 of Decree 51/1999/ND-CP. These incentives were terminated on October 25th, 2006 when this Decree was replaced by Decree 108/2006/ND-CP. Since October 25th, 2006, export performance was no longer a criterion for receiving land use tax exemption and reduction

The Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing

authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

The GOV notes that no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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.

ANSWER:

Please refer to Exhibit 7 for:

- Decree 51/1999/ND-CP dated May 20th, 1999
- Decree 164/2003/ND-CP dated December 22nd, 2003
- Decree 108/2006/ND-CP dated September 22nd, 2006
- Decree 149/2005/ND-CP dated December 8th, 2005
- Decree 24/2007/ND-CP dated February 14th, 2007

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

ANSWER:

Please refer to Exhibit 7.

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

ANSWER:

The Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing authority or tax and customs authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Investment certificates, Income tax returns, land use tax returns, import declaration and land rent documents are among records maintained by the provincial authority.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 25th, 2006 which is long before the POI. As such, no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, exporting enterprises with investment projects applied for their investment certificates which identified benefits relating to import duty, corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities.

There is no approval or refusal document. If an enterprise was not eligible for the benefits under this program, those benefits would not be identified in the investment certificate of that enterprise.

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.

ANSWER:

The condition of this program was contingent upon the export performance. However, this program was terminated on October 25th, 2006.

- 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.
 - (b) Provide a copy of any law, regulation or other official document detailing these criteria.
 - (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
 - (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
 - (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until 31 March 2020.

ANSWER:

This program was terminated on October 25th, 2006. There was no benefit received by any exporter under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on October 25th, 2006. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on October 25th, 2006 as provided under Decree 108/2006/ND-CP and Decree 149/2005/ND-CP. As such, October 24th, 2006 was the last date for a company to receive a benefit under the program. Exhibit 7 provides Decree 108/2006/ND-CP and Decree 149/2005/ND-CP.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was eliminated on October 25th, 2006 under Decree 108/2006/ND-CP and Decree 149/2005/ND-CP.

**PROGRAM 4: OTHER INVESTMENT INCENTIVES FOR DOMESTIC BUSINESS
(UPDATING PROGRAM V OF PERIOD 2003-2004)**

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

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

ANSWER:

Investment incentives for domestic enterprises were triggered in 1998 and terminated on October 25th, 2006. Therefore, this program is outside the period of investigation in this case.

The program was aimed at encouraging domestic investment in industries, business sectors and geographical areas where investments were beneficial to the country. As such, being a domestic enterprise was not sufficient to receive a benefit under this program. Rather, such enterprise must invest either in the sectors of investment preferences or in the areas of investment preferences in order to obtain the benefit. Since July 1st, 2006, the Law on Investment 2005 made no difference in terms of treatment towards domestic and foreign enterprises.

Incentives under this program include the following:

- Corporate income tax preferences include preferential tax rate, tax exemption and reduction as provided under:
 - Article 20 and 21 of Decree 51/1999/ND-CP dated May 20th, 1999 for domestic enterprises which invested in sectors and areas of investment preferences.⁶
 - Articles 35-39 of Decree 164/2003/ND-CP dated December 22nd, 2003 for domestic exporters which invested in sectors and areas of investment preferences. These incentives were valid from 7 January 2004 to October 24th, 2006. Since October 25th, 2006, these incentives were terminated as provided under Decree 108/2006/ND-CP⁷
- Import duty exemption for imported equipment and machinery to create fixed assets as provided under Article 26 of Decree 51/1999/ND-CP. These incentives were terminated on December 31st, 2005 when this Article was annulled by Article 27 of Decree 149/2005/ND-CP effective since January 1st, 2006 which made no differences in terms of treatment towards domestic and foreign invested enterprises.
- Land rent exemption and reduction as provided under Article 18 of Decree 51/1999/ND-CP. These incentives were terminated on October 25th, 2006 when this Decree was replaced by Decree 108/2006/ND-CP which made no

⁶ The GOV identified different list of sectors and areas of investment preferences for different time periods. In details, Appendix A and B to Decree 51/1999/ND-CP identified list of sectors and areas subject to investment preferences and were later amended and supplemented by Appendix A and B to Decree 35/2002/ND-CP. In terms of income tax preferences, these appendices were valid until 6 January 2004 when they were replaced by Appendix A and B to Decree 164/2003/ND-CP

⁷ Since 25 October 2006, Appendix 1 to Decree 108/2006/ND-CP replaced Appendix A of Decree 164/2003/ND-CP. Accordingly, export performance was no longer considered as a sector of investment preferences.

difference in terms of treatment towards domestic and foreign invested enterprises.

- Land use tax exemption and reduction as provided under Article 19 of Decree 51/1999/ND-CP. These incentives were terminated on October 25th, 2006 when this Decree was replaced by Decree 108/2006/ND-CP which made no difference in terms of treatment towards domestic and foreign invested enterprises.

The Ministry of Finance was in charge of issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

The GOV notes that no producer or exporter of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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.

ANSWER:

Please refer to Exhibit 8 for:

- Decree 51/1999/ND-CP dated May 20th, 1999
- Decree 164/2003/ND-CP dated December 22nd, 2003
- Decree 108/2006/ND-CP dated September 22nd, 2006
- Decree 149/2005/ND-CP dated December 8th, 2005

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

ANSWER:

Please refer to Exhibit 8.

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

ANSWER:

The Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Investment certificates, Income tax returns, land use tax returns, import declaration and land rent documents are among records maintained by the provincial authority.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 25th, 2006 which is long before the POI. As such, no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, domestic enterprises with eligible investment projects applied for their investment certificates which identified benefits relating to import duty, corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities.

There is no approval or refusal document. If an enterprise was not eligible for the benefits under this program, those benefits would not be identified in the investment certificate of that enterprise.

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.

ANSWER:

The program was limited to domestic enterprises who invested in sectors and/or areas of investment preferences. However, this program was terminated on October 25th, 2006.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until 31 March 2020.

ANSWER:

This program was terminated on October 25th, 2006. There was no benefit received by any exporter or producer under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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.

ANSWER:

This program was terminated on October 25th, 2006. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on October 25th, 2006 when Decree 108/2006/ND-CP came into effect. Thus, October 24th, 2006 was the last date for a company to receive a benefit under the program.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was eliminated on October 25th, 2006.

PROGRAM 5: INVESTMENT INCENTIVES CONTIGENT UPON EXPORT PERFORMANCE FOR FOREIGN INVESTED ENTERPRISES

PROGRAM 6: OTHER INVESTMENT INCENTIVES FOR FOREIGN INVESTED ENTERPRISES

The GOV notes that these programs provide incentives for [foreign invested enterprises](#) and thus, the GOV combines one response for these two programs

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

- (a) Title of the program;

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

ANSWER:

Investment incentives for foreign invested enterprises upon export performance was triggered in 2000 and terminated on October 25th, 2006. Therefore, this program is outside the period of investigation in this case.

The program was aimed at encouraging foreign direct investment in export production sector. Incentives under this program were contingent on export performance of foreign enterprises. Incentives under this program included the followings:

- Corporate income tax preferences include preferential tax rate, tax exemption and reduction as provided under:
 - Article 46 and 48 of Decree 24/2000/ND-CP dated July 31st, 2000 effective from August 1st, 2000 to January 6th, 2004.
 - Article 35-39 of Decree 164/2003/ND-CP dated December 22nd, 2003 effective from January 7th, 2004 to October 24th, 2006. Decree 164/2003/ND-CP was replaced by Decree 24/2007/ND-CP dated February 14th, 2007 which eliminates all benefits relating to export performance or ratio.
- Import duty exemption for imported equipment and machinery to create fixed assets as provided under Article 57 of Decree 24/2000/ND-CP. These incentives were terminated when this Article was annulled by Article 27 of Decree 149/2005/ND-CP effective since January 1st, 2006. Since then, export performance was no longer a criterion for receiving the import duty exemption.

The Ministry of Finance was in charge of issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

The GOV notes that no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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.

ANSWER:

Please refer to Exhibit 9 for:

- Decree 24/2000/ND-CP dated July 31st, 2000
- Decree 164/2003/ND-CP dated December 22nd, 2003
- Decree 108/2006/ND-CP dated September 22nd, 2006
- Decree 149/2005/ND-CP dated December 8th, 2005
- Decree 24/2007/ND-CP dated February 14th, 2007

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

ANSWER:

Please refer to Exhibit 9.

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

ANSWER:

The Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authorities including the licensing authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Investment certificates, Income tax returns and import declaration are among records maintained by the provincial authority.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 25th, 2006 which is long before the POI. As such, no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, foreign invested enterprises with eligible investment projects applied for their investment certificates which identified benefits relating to import duty, corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities.

There is no approval or refusal document. If an enterprise was not eligible for the benefits under this program, those benefits would not be identified in the investment certificate of that enterprise.

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.

ANSWER:

The program was limited to foreign enterprises who invested in sectors and/or areas of investment preferences. However, this program was terminated on October 25th, 2006.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until 31 March 2020.

ANSWER:

This program was terminated on October 25th, 2006. There were no benefits received by any exporter under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on October 25th, 2006. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on October 25th, 2006. Thus, October 24th, 2006 was the last date for a company to receive a benefit under the program.

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:

PUBLIC RECORD

- (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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was eliminated on October 25th, 2006.

PROGRAM 7: PREFERENTIAL INVESTMENT CREDIT FOR DEVELOPMENT CONTINGENT UP ON EXPORT CRITERIA

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

- (a) Title of the program;

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

ANSWER:

Preferential investment credit for development contingent upon export criteria was triggered in 2001 and terminated on January 16th, 2007. Therefore, this program is outside the period of investigation in this case.

The program was aimed at encouraging enterprises, economic entities and individuals in the production and trading which produce export goods. As such, the program was contingent upon export performance. As part of Vietnam's commitments to accede the WTO, this program was terminated on January 16th, 2007 as provided under Decree 151/2006/ND-CP. Under this Decree, state investment credits are not dependent on any export performance or export criteria.

Preferential investment credits under this program included the followings:

- Medium and long term investment loans for investment projects of producing, manufacturing or processing export goods with export revenue accounting for at least 30% total annual revenue and at least 80% of total revenue if the project is a joint-venture as provided under Article 6 of Decision 133/2001/QD-TTg.
- Post investment interest rate support for investment projects (i) of producing, manufacturing or processing export goods with export revenue accounting for at least 30% total annual revenue and (ii) not receiving medium and long term investment loans, as provided under Article 3 of Decision 133/2001/QD-TTg. The interest rate support amount is equal to the difference between the interest rate of credit institutions and that of the state investment credit at the time of receiving the credit.
- Investment credit guarantee for enterprises of producing, manufacturing or processing export goods with export revenue accounting for at least 30% total annual revenue as provided under Article 6 of Decision 133/2001/QD-TTg.

The Ministry of Finance issued circulars to provide guidelines for the implementation of the above incentives. The Development Assistance Fund provided investment credits to eligible entities and individuals in accordance with the above regulation.

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.

ANSWER:

Please refer to Exhibit 10 for:

- Decision 133/2001/QD-TTg dated September 10th, 2001
- Decree 151/2006/ND-CP dated December 20th, 2006

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

ANSWER:

Please refer to Exhibit 10.

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

ANSWER:

The Ministry of Finance and the Development Assistance Fund administered this program.

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.

ANSWER:

Investment loan records and all the documents relating to post investment interest rate support and investment loan guaranty are among documents maintained by the Development Assistance Fund.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on January 16th, 2007 which is long before the POI. As such, no exporter or producer of aluminium zinc coated steel to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Eligible exporters wishing to receive the preferential investment credit were required to follow the Assistance Development Fund's regulation and procedure of providing investment loan, or post-investment interest rate support or investment credit guaranty.

The Assistance Development Fund conducted appraisal of loan or credit proposals submitted by eligible exporters. This served as the basis for decision to approve or disapprove the provisions of the credit.

There is no separate approval or refusal document. If the Fund approved an investment credit to an exporter, it would conclude an investment credit contract with that exporter. Otherwise, no such contract was concluded.

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.

ANSWER:

The program was limited to domestic enterprise who satisfied certain export criteria. However, this program was terminated on January 16th, 2007.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The Assistance Development Fund conducted appraisal of loan or credit proposals submitted by eligible exporters on the basis of criteria set in Decision 133/2001/QD-TTg.

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 up until 31 March 2020.

ANSWER:

This program was terminated on January 16th, 2007. There was no benefit received by any exporter under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on January 16th, 2007. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on January 16th, 2007. Thus, January 15th, 2007 was the last date for a company to receive a benefit under the program.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was eliminated on January 16th, 2007.

**PROGRAM 8: PREFERENTIAL INVESTMENT CREDIT FOR DEVELOPMENT
CONTINGENT UP ON LOCALIZATION RATIOS**

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;
- (f) Duration of the program;
- (g) How the program is administered and how it operates;

- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Preferential development credit contingent upon localization ratios was triggered in 2004 and terminated on January 16, 2007. Therefore, this program is outside the period of investigation in this case.

The program was provided under Point 09 of Appendix to Decree 106/2004/ND-CP dated April 1st, 2004 and Article 2 of this Decree. Accordingly, it was available only for investment projects of manufacturing passenger vehicles of 25 seats or more with the minimum localization ratio of 40%. Clearly, producing aluminium zinc coated steel is not eligible for the benefits under this program.

The benefits include:

- Medium- and long-term investment loans
- Post investment interest rate support which is equal to the difference between the interest rate of credit institutions and that of the state investment credit.
- Investment credit guarantee

The Ministry of Finance issued circulars to provide guidelines for the implementation of the above benefits. The Development Assistance Fund provided investment credits to eligible entities and individuals in accordance with the above regulation.

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.

ANSWER:

Please refer to Exhibit 11 for:

- Decree 106/2004/ND-CP dated April 1st, 2004
- Decree 151/2006/ND-CP dated December 20th, 2006.

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

ANSWER:

Please refer to Exhibit 11.

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

ANSWER:

The Ministry of Finance and the Development Assistance Fund administered this program.

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.

ANSWER:

Investment loan records and all the documents relating to post investment interest rate support and investment credit guaranty are among documents maintained by the Development Assistance Fund.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on January 16th, 2007 which is long before the POI. As such, no exporter or producer of aluminium zinc coated steel product to Australia received any benefit under this program during the POI.

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

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

ANSWER:

Manufacturers of passenger vehicles of 25 seats or more with the minimum localization ratio of 40% wishing to receive the benefits under this program were required to follow the Assistance Development Fund's regulation and procedure of providing investment loan, or post-investment interest rate support or investment credit guaranty.

The Assistance Development Fund conducted appraisal of loan or credit proposals submitted by eligible borrowers. This served as the basis for decision to approve or disapprove the provisions of the credit.

There is no separate approval or refusal document. If the Fund approved an investment credit to a manufacturer, it would conclude an investment credit contract with that manufacturer. Otherwise, no such contract was concluded.

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.

ANSWER:

The program was limited to manufacturer of passenger vehicles of 25 seats or more with the minimum localization ratio of 40%. However, this program was terminated on January 16th, 2007.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The Assistance Development Fund conducted appraisal of loan or credit proposals submitted by eligible borrowers on the basis of criteria set in Decree 106/2004/ND-CP.

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 up until 31 March 2020.

ANSWER:

This program was terminated on January 16th, 2007. There was no benefit received by any exporter under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on January 16th, 2007. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on January 16th, 2007. Thus, January 15th, 2007 was the last date for a company to receive a benefit under the program.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that this program was eliminated on January 16th, 2007.

PROGRAM 9: OTHER PREFERENTIAL INVESTMENT CREDIT FOR DEVELOPMENT

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

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

ANSWER:

Other preferential investment credit refers to investment credit of which the provision is not contingent upon export criteria or localization ratio.

During the POI, preferential investment credits were provided by Viet Nam Development Bank – the only policy bank of the Government of Viet Nam in accordance with Decree 32/2017/ND-CP dated March 31st, 2017 and came into effect on May 15th, 2017 on state investment credit. According to Article 2 of this Decree, enterprises with investment projects falling within the list of projects eligible for state investment loans issued together with this Decree are eligible borrowers of state investment credit. Export performance or localization is not included in this list. Likewise, producing aluminium zinc coated steel is not included in this list.

The Ministry of Finance issues circulars to provide guidelines for the implementation of the program. The Viet Nam Development Bank provides investment credits to eligible entities in accordance with the above regulations and its own regulations on credit provision.

However, during the period of 2017-March 2020, the Viet Nam Development Bank did not generate any loan and only disbursed the remain loans during this period which were not relevant to aluminum zinc coated steel manufacturing.

This program is still in effect.

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.

ANSWER:

Please refer to Exhibit 12 for Decree 32/2017/ND-CP dated March 31st, 2017

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

ANSWER:

Please refer to Exhibit 12.

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

ANSWER:

The Ministry of Finance and the Viet Nam Development Bank administer this program.

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.

ANSWER:

Investment loan records are among documents maintained by the Viet Nam Development Bank.

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.

ANSWER:

As indicated in the response to Question C1.1 of this program, producing aluminium zinc coated steel is not included in the list of projects eligible for the state investment credits. Thus, no exporter or producer of aluminium zinc coated steel to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Eligible borrowers wishing to receive the benefits under this program are required to follow the Viet Nam Development Bank's regulations and procedures of providing investment loan.

The bank conducted appraisal of loan or credit proposals submitted by eligible exporters as well as other conditions as provided under Article 6 of Decree 32. This serves as the basis for decision to approve or disapprove the provisions of the credit.

There is no separate approval or refusal document. If the bank approves an investment credit to an eligible borrower, it will conclude an investment credit contract with that borrower. Otherwise, no such contract is concluded.

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.

ANSWER:

The program is limited to certain investment projects which are identified in the List of investment projects eligible for state investment credits issued with Decree 32/2017/ND-CP. However, the GOV notes that aluminium zinc coated steel does not fall within this List.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The Vietnam Development Bank conducted appraisal of loan or credit proposals submitted by eligible borrowers on the basis of criteria set in Decree 32/2017/ND-CP and its own procedures.

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 up until 31 March 2020.

ANSWER:

Please refer to Exhibit 12 for the List of projects eligible for state investment credit which was attached to Decree 32/2017/ND-CP dated March 31st, 2017.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

The GOV does not have any available statistics on the companies that received benefits under this program and thus is unable to answer this question to all of them. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to exporters of aluminium zinc coated steel to Australia during the POI. No exporter or producer of aluminium zinc coated steel to Australia during the POI received any benefit under this program because they were not eligible for those benefits.

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 a benefit under the program?

ANSWER:

The program is still in effect.

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.
- (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.

ANSWER:

The program was provided by the Viet Nam Development Bank ("VDB"). VDB is 100% owned by the state and aimed at performing state policy lending. There are only 02 banks in Viet Nam that are operating on this purpose. The other bank is Bank for Social Policy which provides policy lending for social purposes (i.e. poverty reduction).

VDB was established by Decision 108/2006/QĐ-TTg dated May 19th, 2006 of the Prime Minister on the establishment of the Vietnam Development Bank. Simultaneously, the Prime Minister also issued Decision 110/2006/QĐ-TTg on the approval of the Charter of organization and operation of the Vietnam Development Bank. State policy lending including state investment credits (in the form of investment loan or post-investment

support or investment credit guarantees) and export credits (in the form of an export loan, export credit guarantees).

Until May 14th, 2017, VDB performed both investment and export credits under various Decrees such as Decree 151/2006/ND-CP dated December 20th, 2006, Decree 106/2008/ND-CP dated September 19th, 2008, Decree 75/2011/ND-CP dated August 30th, 2011 and Decree 54/2013/ND-CP dated May 22nd, 2013. However, effectively since May 15th, 2017, with the effectiveness of Decree 32/2017/ND-CP, VDB has no longer provided export credits.

During the POI, VDB only provided investment credits under Decree 32/2017/ND-CP (Exhibit 12). Exhibit 12 also provides Decision 108/2006/QD-TTg and Decision 110/2006/QD-TTg.

PROGRAM 10: EXPORT PROMOTION

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

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

ANSWER:

This program is provided under Decision 195/1999/QD-TTg dated September 27th, 1999 on the establishment, use, and management of the Export Support Fund and was terminated under Decision 124/2008/QD-TTg on September 8th, 2008. As such, this program is outside the POI.

Decision 195/1999/QD-TTg introduced two export bonus programs for exporters of certain commodities: (i) bonus granted for special export performance and (ii) bonus granted for an increase of export volume (i.e. if export volume/value by an exporter in the year under consideration exceeds its export value/volume of the previous year. These programs were administered by the Ministry of Finance until 2002 and then by

the Ministry of Trade from 2002 till 2006. The Ministry of Trade issued Decision 02/2002/QD-BTM dated January 2nd, 2001 on Regulation on Export Award Approval, thereby establishing a Council Board of Bonus Approval Consideration (Article 8 of Regulation on Export Award Approval- issued along with Decision 02) to determine the criteria for receiving bonuses from the Export Support Fund.

Consistent with Vietnam's obligations to phase out all export subsidies under the terms of its Accession to the World Trade Organization, the export bonus programs were terminated for exports after 2005. The termination was affected by Decision 124/2008/QD-TTg on September 8th, 2008. Before this Decision was issued, however, all the export bonus programs had been terminated in fact because the Council Board was dissolved under Decision 1042/2007/QD-BTM dated June 29th, 2007. The last bonuses were granted in 2006 based on exports in 2005.

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.

ANSWER:

Please refer to Exhibit 13 for:

- Decision 195/1999/QD-TTg dated September 27th, 1999
- Decision 124/2008/QD-TTg on September 8th, 2008
- Decision 02/2002/QD-BTM dated January 2nd, 2001
- Decision 1042/2007/QD-BTM dated June 29th, 2007

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

ANSWER:

Please refer to Exhibit 13.

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

ANSWER:

The Ministry of Trade (then merged with the Ministry of Industry to form the Ministry of Industry and Trade in 2007) administered this program.

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.

ANSWER:

Export bonus application files submitted by exporters as well as the Ministry of Trade's decisions on the provision of the bonus issued during the operation of this program are types of records under this 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.

ANSWER:

The GOV notes that this program was in fact terminated on June 29th, 2007 in accordance with Viet Nam's commitments on eliminating export subsidies when the country acceded to the WTO. No company listed in Appendix A and Question B4 accrued or received benefits under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Exporters were required to file bonus applications to the Ministry of Trade which indicates their export performance and supporting documents for the export performance they claimed.

The Ministry of Trade established a council to review the applications against the custom authority's statistics on export and report to the Minister of Trade. If an application was approved, it would be listed in the Minister of Trade's decision on export bonus. Otherwise, there was no refusal document.

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.

ANSWER:

The program was limited to exporters that satisfy certain conditions on export performance. The GOV notes that this program was in fact terminated on June 29th, 2007 in accordance with Vietnam's commitments on eliminating export subsidies when the country acceded to the WTO.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The GOV notes that this program was in fact terminated on June 29th, 2007 in accordance with Vietnam's commitments on eliminating export subsidies.

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 up until 31 March 2020.

ANSWER:

The GOV notes that this program was terminated on June 29th, 2007 in accordance with Vietnam's commitments on eliminating export subsidies when the country acceded to the WTO. Thus, no benefits under this program were approved or received by any company during 2017 – 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

The GOV notes that this program was in fact terminated on June 29th, 2007 in accordance with Vietnam's commitments on eliminating export subsidies when the country acceded to the WTO. Thus, no benefits under this program were approved or received by any company during 2017 – 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The GOV notes that this program was in fact terminated on June 29th, 2007 in accordance with Viet Nam's commitments on eliminating export subsidies when the country acceded to the WTO.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 11: TRADE PROMOTION

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

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

ANSWER:

During the POI, the National Trade Promotion program was provided under Decision 72/2010/QĐ-TTg dated November 15th, 2010 and came into effect on January 1st, 2011 on promulgating the regulation on the establishment, management and implementation of the National Trade Promotion Program. This is a state-funded program of which the objectives are, among others, to enhance trade promotion activities and develop an export market. Section II of Decision 72 lists the activities for which trade promotion funds will be available and the support level for these activities.

The process of providing funds for trade promotion is overseen by the Evaluation Council, which is led by the Ministry of Industry and Trade ("MOIT"), but also includes the Ministry of Finance and other relevant ministries and agencies.

An eligible organization, usually a trade association (individual companies can only apply if there is no trade association in their industry) submits a proposal to the MOIT. The proposal is normally screened by the Program Administration and then presented to the Council. Normally, proposals for the following calendar year must be submitted in the previous year. Based on the Council's assessment, the Program Administration reports to the Minister of Industry and Trade for approval of such a proposal.

The National Trade Promotion program for 2019 is provided under Decision 5106/QĐ-BCT dated December 27th, 2018 and the National Trade Promotion program for 2020 is provided under Decision 3837/QĐ-BCT dated December 25th, 2019.

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.

ANSWER:

Please refer to Exhibit 14 for:

- Decision 5016/QD-BCT dated December 27th, 2018
- Decision 72/2010/QD-TTg dated November 15th, 2010
- Decision 3837/QD-BCT dated December 25th, 2019

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

ANSWER:

Please refer to Exhibit 14.

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

ANSWER:

The Ministry of Industry and Trade administers this program.

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.

ANSWER:

Proposals submitted by various trade associations and decisions to approve the trade promotion program are types of records under this 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.

ANSWER:

During the POI, no company in Appendix A and Question B4 is eligible for the Trade promotion program under Decision 5106/QD-BCT. Please refer to Exhibit 15 for the list of Vietnam Steel Association's delegation that participated in this project.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

An eligible organization, usually a trade association (individual companies can only apply if there is no trade association in their industry) submits a proposal to MOIT. The proposal is normally screened by the Program Administration and then presented to the Council. Normally, proposals for the following calendar year must be submitted in the previous year. Based on the Council's assessment, the Program Administration reports to the Minister of Industry and Trade for approval of such proposal.

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.

ANSWER:

The program is limited to projects approved by Decision 5106/QD-BCT dated December 27th, 2018 and Decision 3837/QD-BCT dated December 25th, 2019.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determines the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1.

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 up until 31 March 2020.

ANSWER:

Please refer to Exhibit 16 for the list of approved trade promotion programs for 2017, 2018, 2019 and 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to Exhibit 16 for the list of approved trade promotion programs for 2017, 2018, 2019 and 2020.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program is provided by the government.

PROGRAM 12: SUPPORT FOR MECHANICAL PRODUCTS

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

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

ANSWER:

Support for mechanical products was triggered in 2000 under Decision 67/2000/QD-BCN dated November 20th, 2000 and terminated on January 4th, 2007 as provided under Decision 43/2006/QD-BCN. As such, this program was outside the POI.

The support was limited to the List of sectors of producing and manufacturing mechanical products of Decision 67/2000/ND-CP. Aluminium zinc coated steel products did not fall into this List.

The support included preferential investment credit disbursed from June 1st, 2000 by the Assistance Development Fund with the preferential interest rate of 3.5% (half of the normal state investment credit) for 12 years, a 2-year grace period for interest rate payment and principal payment since the 5th year of lending, as provided under Resolution 11/2000/NQ-CP dated July 31st, 2000.

The Development Assistance Fund provided investment credits to eligible entities in accordance with the above regulations.

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.

ANSWER:

Please refer to Exhibit 17 for:

- Resolution 11/2000/NQ-CP dated July 31st, 2000
- Decision 43/2006/QD-BCN dated December 7th, 2006
- Decision 67/2000/QD-BCN dated November 20th, 2000

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

ANSWER:

Please refer to Exhibit 17.

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

ANSWER:

The Ministry of Industry and the Assistance Development Fund administered this program.

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.

ANSWER:

Loan applications and loan contracts are the type of records maintained by the Assistance Development Fund.

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.

ANSWER:

The GOV notes that the program was terminated on January 4th, 2007. No company received or accrued benefits under this program during the POI. In addition, we note that benefits were limited to a certain producer of mechanical products which do not include aluminium zinc coated steel. Thus, **no exporter or producer of aluminium zinc coated steel** to Australia received benefits under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Mechanical product producers wishing to receive the benefits under this program were required to follow the Assistance Development Fund's regulation and procedure of providing investment credit.

The Assistance Development Fund conducted an appraisal of loan or credit proposals submitted by the applicants. This served as the basis for the decision to approve or disapprove the provisions of the credit.

There is no separate approval or refusal document. If the Fund approved an investment credit to a mechanical product manufacturer, it would conclude an investment credit contract with that manufacturer. Otherwise, no such contract was concluded.

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 it.
- (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 it.
- (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.

ANSWER:

The program was limited to mechanical products manufacturer identified in the List of sectors of producing and manufacturing mechanical products of Decision 67/2000/ND-CP. The aluminium zinc coated steel did not fall into this List.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determines the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The GOV notes that the program was terminated on January 4th, 2007.

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 up until 31 March 2020.

ANSWER:

The GOV notes that the program was terminated on January 4th, 200 since Decision 43/2006/QD-BCN came into effect. Thus, no benefit under this program was approved or received by any company during 2017-2019 and up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

The GOV notes that the program was terminated on January 4th, 2007. Thus, no applicant was received and no benefit under this program was approved or received by any company during 2017 – 2019 and up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The GOV notes that the program was terminated on January 4th, 2007

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.
- (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.

ANSWER:

The program was provided by the Assistance Development Fund established by the Government.

PROGRAM 13: SUPPORT FOR THE IMPLEMENTATION OF PROJECTS MANUFACTURING PRIORITY INDUSTRIAL PRODUCTS

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;

- (d) Nature or form of the subsidy;
- (e) When the program was established;
- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Support for the shipbuilding industry was provided under Decision 117/2000/QD-TTg dated October 10th, 2000 and came into effect on October 25th, 2010. The support was limited to shipbuilding projects of domestic investors as identified in Article 1 of Decision 117/2000/QD-TTg. This decision was based on Decree 51/1999/ND-CP dated July 8th, 1999 detailing the implementation of the Law on Domestic Investment Promotion. Aluminium zinc coated steel products did not fall into shipbuilding sectors of this Article. In addition, with the issuance of the Law on Investment 2005 and implementing Decree 108/2006/ND-CP dated September 22nd, 2006, domestic and foreign investment have been subject to the same set of investment regulations and Decree 51/1999/ND-CP was also annulled on October 25th, 2006. Thus, in fact, since October 25th, 2006, benefits under Decision 117/2000/QD-TTg have no longer been available.

Benefits for the shipbuilding industry are specified in Article 2.1 of Decision 117/2000/QD-TTg, which include the followings:

- Export duty exemption for shipbuilding products and import duty exemption for machinery, equipment and transportation means which cannot be domestically produced
- Exemption and reduction in terms of land rent
- Exemption for 2 years and 50% reduction for the next 2 years in terms of corporate income tax
- In addition to all of the above benefits, state-owned shipbuilders were supported with capital to infrastructure work from the state and the Assistance Development Fund.

Article 2.2 of Decision 117/2000/QD-TTg also specifies the support for enterprises that purchase newly built ships.

Provincial authorities including the licensing authority or tax and customs authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations. The Development Assistance Fund provided investment credits to eligible entities in accordance with the above regulations

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.

ANSWER:

Please refer to Exhibit 18 for:

- Decision 117/2000/QD-TTg dated October 10th, 2000.
- Decree 51/1999/ND-CP dated July 8th, 1999
- Decree 108/2006/ND-CP dated September 22nd, 2006

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

ANSWER:

Please refer to Exhibit 18.

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

ANSWER:

Provincial authorities including the licensing authority or tax and custom authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations. The Development Assistance Fund provided investment credits to eligible entities in accordance with the above regulations

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.

ANSWER:

Investment certificates, income tax returns, import declaration and loan records are types of records maintained by different agencies under this program.

Provincial customs authorities maintained import declaration and registration file submitted by companies applied for the preferential import duty rate. Provincial tax authorities maintained income tax returns and notice on land rents or water surface rents.

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.

ANSWER:

The GOV notes that benefits under this program were only limited to shipbuilders. Thus, aluminum zinc coated steel producers were not eligible for these benefits. In addition, as these benefits have been no longer available since October 25th, 2006, **no exporter or producer of aluminium zinc coated steel product** to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, enterprises investing in the production of shipbuilding applied for their investment certificates which identified benefits relating to import duty, corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities or apply for credits from the Assistance Development Fund.

There is no approval or refusal document. If an enterprise did not invest in the production of shipbuilding, the investment certificate did not list all the benefits under this program.

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.

ANSWER:

Benefits under this program were limited to the shipbuilders as identified in Article 1 of Decision 117/2000/QD-TTg. As such, aluminium zinc coated steel product was not entitled to benefit under this program.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

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

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program. The GOV notes that the eligible enterprises and industries under this program were limited to the shipbuilders. As such, aluminium zinc coated steel product was not entitled to benefit under this program.

- 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 up until 31 March 2020.

ANSWER:

This program was in fact terminated as of October 25th, 2006. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020.

- 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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was in fact terminated as of October 25th, 2006. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020. Thus, this question is not applicable.

- 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 a benefit under the program?

ANSWER:

This program was in fact terminated as of October 25th, 2006. The last date of applying for the benefits under this program was October 24th, 2006.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 14: ASSISTANCE FOR COMMERCIAL DEVELOPMENT IN MOUNTAINOUS, ISLAND AND ETHNIC MINORITY AREAS

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

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

ANSWER:

Assistance for commercial development in mountainous, island and ethnic minority areas was provided under Decree 20/1998/ND-CP dated March 31st, 1998 which was amended and supplemented by Decree 02/2002/ND-CP dated January 3rd, 2002. The program was terminated in fact in 2012. As such, it is outside the POI.

Pursuant to Article 1 of Decree 20/1998/ND-CP, the program was limited to traders conducting commercial activities in mountainous areas, islands, and ethnic minority regions. Thus, this program was not available to any producer or manufacturer of any sector including aluminium zinc coated steel.

Assistance under this program includes the following:

- Land rent exemption and reduction as provided under Article 8 of Decree 20 and corporate income tax incentives under Article 9 of Decree 20 and Article 1.1 of Decree 02. These preferences are further elaborated by Circular 112/1998/TT-BTC dated August 4th, 1998, and Joint Circular 07/2002/TTLT/BTM-UBDTMN-BTC-BKHDT dated August 12th, 2002 which was annulled by Decision 517/QD-UBDT and thus led to the termination of these incentives on December 17th, 2010.
- Reduction in interest rate under Article 10 of Decree 20 and Article 1.2 of Decree 02. This incentive is further elaborated under Circular 04/2002/TT-NHNN dated July 3rd, 2002, and Decision 391/2003/QD-NHNN dated April 28th, 2003. These regulations ceased the effect on October 20th, 2012 as

replaced by Circular 25/2012/TT-NHNN, which led to the termination of this incentive.

Provincial authorities including the licensing authority or tax authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Please refer to Exhibit 19 for:

- Decree 20/1998/ND-CP dated March 31st, 1998
- Decree 02/2002/ND-CP dated January 3rd, 2002
- Circular 112/1998/TT- BTC dated August 4th, 1998
- Joint Circular 07/2002/TTLT/BTM-UBDTMN-BTC-BKHDT dated August 12th, 2002
- Decision 517/QD-UBDT dated December 17th, 2010
- Circular 04/2002/TT-NHNN dated July 3rd, 2002
- Decision 391/2003/QD-NHNN dated April 28th, 2003
- Circular 25/2012/TT-NHNN dated September 6th, 2012

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

ANSWER:

Please refer to Exhibit 19.

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

ANSWER:

Provincial authorities including the licensing authority or tax authority were in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Business registration certificates, income tax returns, and land lease documentation are types of records maintained by different agencies under this 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.

ANSWER:

The GOV notes that benefits under this program were only limited to traders conducting commercial activities in mountainous areas, islands, and ethnic minority regions. Thus, this program was not available to any producer or manufacturer of any sector including aluminium zinc coated steel. In addition, as these benefits have been no longer available since 2012, **no exporter or producer of aluminium zinc coated steel products** to Australia received benefits under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, traders conducting commercial activities in mountainous areas, islands and ethnic minority regions relied on its business sector identified on the registration certificates and the above-mentioned regulations to apply the benefits to their operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or customs authorities.

There is no approval or refusal document. If an enterprise did not conduct commercial activities in mountainous areas, islands, and ethnic minority regions, the investment certificate did not list all the benefits under this program.

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.

ANSWER:

The program was limited to traders which operate in the mountainous, island or ethnic minority areas. As such, the aluminium zinc coated steel product is not entitled to benefit under this program.

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

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program. The GOV notes that the eligible enterprises and industries under this program were limited to traders which operated in mountainous, island or ethnic minority areas. As such, aluminium zinc coated steel product was not entitled to benefit under this program.

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 up until 31 March 2020.

ANSWER:

This program was in fact terminated in 2012. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was in fact terminated in 2012. Thus, no benefit was received by any company under this program in 2017, 2018, and 2019 up until March 31st, 2020. Thus, this question is not applicable.

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 a benefit under the program?

ANSWER:

This program was in fact terminated as of October 20th, 2012. The last date of applying for the benefits under this program is October 19th, 2012.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 15: ASSISTANCE TO ENTERPRISES FACING DIFFICULTIES DUE TO OBJECTIVE REASONS

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

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

ANSWER:

Assistance to enterprises facing difficulties due to objective reasons was provided under Decision 172/2001/QĐ-TTg dated November 5th, 2001 and implemented by Circular 32/2002/TT-BTC dated April 10th, 2002. Benefits under this program were terminated on July 1st, 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect and annulled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annulled by Decision 53/2008/QĐ-BTC dated July 14th, 2008. As such, this program is outside the POI.

The program was aimed at assisting enterprises who faced difficulties due to objective reasons and applied to all types of business and geographical areas. Assistance includes the followings:

- Deferral or rescheduling of the payable tax for the duration between 6 and 12 months as provided under Section B.I of Circular 32/2002/TT-BTC.

- Freezing of payable tax and other payables to the State budget as provided under Section B.II of Circular 32/2002/TT-BTC
- Investment capital support for state enterprises as provided under Section B.III of Circular 32/2002/TT-BTC.
- Forgiveness of debts relating to tax and other payable to the state budget for state enterprises as provided under Section B.IV of Circular 32/2002/TT-BTC

The Ministry of Finance issued circulars to instruct the provincial tax authority to implement this program. The Ministry of Finance directly administered the capital support for state 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.

ANSWER:

Please refer to Exhibit 20 for:

- Decision 172/2001/QD-TTg dated November 5th, 2001
- Circular 32/2002/TT-BTC dated April 10th, 2002
- Law on Tax Administration No 78/2006/QH11 dated November 29th, 2006
- Decision 53/2008/QD-BTC dated July 14th, 2008

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

ANSWER:

Please refer to Exhibit 20.

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

ANSWER:

The Ministry of Finance issued circulars to instruct the provincial tax and customs authority to implement this program. The Ministry of Finance directly administered capital support for state enterprises.

- 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.

ANSWER:

Application documents submitted by eligible enterprises and corresponding decisions of the competent authority relating to the deferral, freezing, forgiveness and capital support are among records kept by the government.

- 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.

ANSWER:

The GOV notes that benefits under this program were terminated on July 1st, 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect and annulled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annulled by Decision 53/2008/QD-BTC dated July 14th, 2008. Thus, **no exporter or producer of aluminium zinc coated steel products to Australia** received any benefit under this program during the POI.

- 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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

With respect to the deferral of tax and other payables to the State budget, according to Section B.I.2, eligible enterprises were required to submit to the provincial tax or customs authority with a written request which indicated and demonstrated that late payment was due to difficulties caused by objective reasons (such as changes in the state tax policy or relocation of the business places or natural calamities). The request must be accompanied by tax declarations or notice of the tax authority or custom authority relating to overdue tax payable. The provincial tax or customs authority decided in the case where the amount of deferred tax was less than 500 million Viet Nam dong. Other cases were decided by the General Tax Authority or Custom Authority.

With respect to tax freezing, pursuant to Section B.II.2 of Circular 32, application file must be submitted to the provincial tax authority to explain the loss and the amount of tax and other payable subjects to proposed freezing which should be supported by financial statements or report on the business results. The provincial tax authority would report to the General Tax Authority for approval.

With respect to capital support, Section B.III.2 of Circular 32 requires the application to calculate the amount of overdue tax and other payables as of December 31st, 1999 which was used by a state enterprise to add to its capital and report on the use of such capital. This application must be subject to the approval of the Ministry of Finance.

With respect to tax forgiveness, Section B.IV.2 of Circular 32 required eligible state enterprises to submit an application file to apply and explain for the forgiveness and supporting documents. This application must be subject to the approval of the Ministry of Finance.

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.

ANSWER:

The program applied to all sectors of business and geographical areas. However, tax forgiveness and capital support were available for state enterprises only.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until 31 March 2020.

ANSWER:

The GOV notes that benefits under this program were terminated on July 1st, 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect and annulled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annulled by Decision 53/2008/QD-BTC dated July 14th, 2008. Thus, no benefit was received by any company under this program in 2017, 2018, and 2019 up until March 31st, 2020.

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.

ANSWER:

The GOV notes that benefits under this program were terminated on July 1st, 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect and annulled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annulled by Decision 53/2008/QD-BTC dated July 14th, 2008. Thus, no benefit was received by any company under this program in 2017, 2018, and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The GOV notes that benefits under this program were terminated on July 1st, 2007 when the Law on Tax Administration No 78/2006/QH11 came into effect and annulled all the assistance relating to tax under Decision 172 and Circular 32. In addition, Circular 32/2002/TT-BTC was also annulled by Decision 53/2008/QD-BTC dated July 14th, 2008. The last date of applying for the benefits under this program was June 30th, 2007.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 16: INCENTIVES FOR INVESTMENT PROJECTS IN SCIENCE AND TECHNOLOGY

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;

- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Incentives for investment in science and technology were provided under Decree 119/1999/ND-CP dated September 18th, 1999 in order to encourage investment in scientific and technological activities.

Article 1 of this Decree identified the scope of scientific and technical activities eligible for financial incentives. Aluminium zinc coated steel did not fall within this scope.

This program provided the following incentives:

- Corporate income tax preferences for enterprises as provided under Article 3 and 4 of Decree 119/1999/ND-CP. These preferences were different with regards to domestic enterprises and foreign-invested enterprises. However, since the effect of the Law on Corporate Income Tax 2003 on January 1st, 2004, corporate income tax preferences were not different in terms of domestic and foreign-invested enterprises, which led to the termination of these incentives.
- Preferences relating to land rent or land use fee as provided under Article 5 of Decree 119/1999/ND-CP. These preferences were available for domestic enterprises only. Since the effect of Decree 142/2005/ND-CP on December 10th, 2005, land rent preferences have been no longer different with regards to domestic and foreign-invested enterprises and thus land rent benefits for domestic enterprises investing in science and technology activities under this program were in fact annulled by Decree 142/2005/ND-CP.
- Import duty exemption under Article 6 of Decree 119. However, this Article was annulled by Article 27.2 of 149/2005/ND-CP effectively on January 1st, 2006.
- Investment credit as provided under Article 7 of Decree 119/1999/ND-CP. However, Investment credits under this program was replaced by the investment credit provision by the Viet Nam Development Bank as discussed in Program 9.
- Financial support for project of scientific and technology research and application as provided under Article 8 of Decree 119. This support was terminated on March 15th, 2014 as provided under Article 49 of Decree 08/2014/ND-CP.

The Ministry of Finance and the Ministry of Science and Technology issued joint circulars to instruct the provincial authorities in implementing this program.

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.

ANSWER:

Please refer to Exhibit 21 for:

- Decree 119/1999/ND-CP dated September 18th, 1999
- The Law on Corporate Income Tax 2003
- Decree 142/2005/ND-CP dated November 14th, 2005.
- Decree 149/2005/ND-CP dated December 8th, 2005
- Decree 08/2014/ND-CP dated January 27th, 2014

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

ANSWER:

Please refer to Exhibit 21.

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

ANSWER:

The Ministry of Finance issued circulars to instruct the provincial tax and customs authority to implement this program. The Ministry of Finance directly administered capital support for state enterprises.

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.

ANSWER:

Investment certificates, income tax returns, land lease documents, import declaration file are among records maintained by the government.

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.

ANSWER:

The GOV notes that benefits under this program were terminated in various years between 2004 and 2014 as indicated in the response to Question C1.1 of this program. In addition, investment in aluminium zinc coated steel never fell within the scope of Article 1 of Decree 119 as scientific and technical activities. Thus, **no exporter or producer of aluminium zinc coated steel products** to Australia received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, foreign-invested enterprises with eligible investment projects applied for their investment certificates which identified benefits relating to import duty, corporate income tax, and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax or customs authorities.

There is no approval or refusal document. If an enterprise was not eligible for the benefits under this program, those benefits would not be identified in the investment certificate of that enterprise.

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.

ANSWER:

Benefits under this program were available to investment in scientific and technical activities identified in Article 1 of Decree 119/1999/ND-CP.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until 31 March 2020.

ANSWER:

The GOV notes that benefits under this program were terminated in various years between 2004 and 2014 as indicated in the response to Question C1.1. Thus, no benefit was received by any company under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until 31 March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

The GOV notes that benefits under this program were terminated in various years between 2004 and 2014 as indicated in the response to Question C1.1. Thus, there was no application for the benefits under this program in 2017, 2018, and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The GOV notes that benefits under this program were terminated in various years between 2004 and 2014 as indicated in the response to Question C1.1. In addition, investment in aluminium zinc coated steel never fell within the scope of Article 1 of

Decree 119/1999/ND-CP as scientific and technical activities. The last date of applying for the benefits under this program was March 14th, 2014.

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.
- (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.

ANSWER:

The program was provided by the government. However, the GOV notes that benefits under this program were terminated in various years between 2004 and 2014 as indicated in the response to Question C1.1.

PROGRAM 17: PREFERENTIAL IMPORT TARIFFS FOR ENTERPRISES INVESTING IN REGIONS OR SECTORS ENTITLED TO INVESTMENT INCENTIVES

PROGRAM 32: EXEMPTION OF IMPORT TAX ON EQUIPMENT AND MACHINERY IMPORTED TO CREATE FIXED ASSETS

PROGRAM 43: EXEMPTION OF IMPORT DUTY

The GOV notes that during the POI, import duty preferences are stipulated under the Law 107/2016/QH13 dated April 6, 2016, on export and import duties (Law 107) and Decree 134/2016/ND-CP dated September 1st, 2016 providing guidelines for the Law on export and import duties (Decree 134). In addition, the exemption of import duty on equipment and machinery to create fixed assets in program 32 is part of the preferences provided in program 17 and 43. Thus, the GOV combines one response for these 03 programs.

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

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

ANSWER:

Guidelines for the Law on Export and Import were provided under Decree 149/2005/ND-CP dated December 8th, 2005, Decree 87/2010/ND-CP dated August 13th, 2010 and Decree 134/2016/ND-CP dated September 1st, 2016. Accordingly, Decree 149/2005/ND-CP came into effect on January 1st, 2006 and was replaced by Decree 87/2010/ND-CP on October 1st, 2010. Decree 87/2010/ND-CP was terminated on September 1st, 2016 since Decree 134/2016/ND-CP came into effect.

During the POI, import duty preferences were provided under the Law 107/2016/QH13 dated April 6, 2016, on Export and Import Duties (Law 107) and Decree 134/2016/ND-CP dated September 1st, 2016 providing guidelines for the Law on Export and Import Duties (Decree 134). These regulations are still in effect.

Import duty preferences include (i) import duty exemption as stipulated in Articles 5-31 of Decree 134 and (ii) import duty reduction as stipulated in Article 32 of Decree 134.

With respect to import duty exemption, Article 14 of Decree 134 provides the exemption for equipment and machinery imported to create fixed assets of the investment project subject to investment preferences. Investment projects subject to investment preferences are provided in Appendices I and II to Decree 118/2015/ND-CP detailing the implementation of the Law on Investment 2014. Appendix I identifies sectors entitled to investment preferences while Appendix II identifies the location entitled to investment preferences. The GOV notes that producing aluminium zinc coated steel product does not fall within Appendix I – the List of investment sectors that are eligible for investment incentives.

With respect to duty reduction, pursuant to Article 32 of Decree 134, imported goods which are damaged or lost in the course of customs supervision, which is certified by competent assessment agencies or organizations, may be considered for duty reduction in proportion to their actual loss or damage. Duty reduction as such is not limited to and not conditional on any enterprise of any sector or any region.

This program is still in effect.

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.

ANSWER:

- Please refer to Exhibit 21 for Decree 149/2005/ND-CP dated December 8th, 2005
- Please refer to Exhibit 22 for Law 107/2016/QH13 dated April 6th, 2016, Decree 87/2010/ND-CP dated August 13th, 2010 and Decree 134/2016/ND-CP dated September 1st, 2016
- Please refer to Exhibit 23 for Decree 118/2015/ND-CP dated November 12th, 2015

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

ANSWER:

Please refer to Exhibit 21, Exhibit 22 and Exhibit 23.

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

ANSWER:

The Ministry of Finance administers this program. Provincial customs authorities approve the application for registration of the import duty exemption list submitted by companies.

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.

ANSWER:

Investment certificates and import declaration files are among records maintained by the government.

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.

ANSWER:

The GOV notes that producing aluminium zinc coated steel does not fall within Appendix I – the List of investment sectors that are eligible for investment incentives. With respect to investment locations, the GOV notes that all companies in Appendix A was constructed in several industrial parks established by the Decisions of the Prime Minister, which have been considered as regions of a socio-economic difficulty in accordance with item 53, Appendix I of Decree 108/2006/ND-CP⁸ and item 55, Appendix II of Decree 118/2015/ND-CP. Based on the first investment certificates of all companies, both [REDACTED]

⁸ As provided under Article 88.2 of Decree 108/2006/ND-CP, this Decree annulled the 02 appendices to Decree 149/2005/ND-CP on the List of investment sector and List of investment locations subject to investment preferences.

[REDACTED], so import duty exemption for the machinery and equipment to create fixed assets of the investment projects eligible for investment incentives was stipulated under [REDACTED] of Decree 149/2005/ND-CP dated December 8th, 2005 and investment sectors and locations subject to investment incentives were provided under Decree 108/2006/ND-CP. The other companies including [REDACTED] were established during the effective time of Decree 87/2010/ND-CP dated August 13th, 2010, so they are eligible for import duty exemption for the machinery and equipment to create fixed assets of the investment projects eligible for investment incentives was stipulated under [REDACTED] of Decree 87/2010/ND-CP and investment sectors and locations subject to investment incentives were provided under Appendix I of Decree 108/2006/ND-CP.

However, during the POI, this program did not grant all the companies any benefit because the MFN import tariff rates of the imported machinery and equipment are 0%. Please refer to the company's response for details of what it imported during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

During the POI, pursuant to Article 30 and Article 31 of Decree 134, eligible enterprises are required to register with the provincial custom authorities with a list of machinery and equipment to be imported for their investment project and for import duty exemption purpose. This registration must be completed before the first import declaration of such machinery or equipment.

A registration file for the import duty exemption list consists of:

- A written request of import duty exemption list which specifies the basis for identification of goods exempted from import duty according to Form 05 in Appendix VII of this Decree. A blank form for this request is provided at Exhibit 24.
- List of goods to be imported for the creation of fixed assets for purpose of import duty exemption.

- A certified true copy of the investment registration certificate, certificate of enterprise registration or an equivalent document;
- A certified true copy of the economic-technical thesis or technical documents or investment project description;
- A certified true copy of the certificate of high-tech enterprise or science and technology enterprise or science and technology organization issued by a competent authority if the applicant is a high-tech enterprise or science and technology enterprise or science and technology organization;
- A certified true copy of the sale contract or goods supply contract according to the bidding result, export or import mandate contract or finance lease contract if the taxpayer and the person that registers the list of goods exempted from import duty are not the same.

Upon reviewing the registration file, the custom authority will certify on the registered list of imported goods for purpose of duty exemption and maintain this list to monitor the importation and exemption of that enterprise. Thus, there is no separate approval or refusal document.

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.

ANSWER:

During the POI, import duty exemption for machinery and equipment to create fixed assets is only available to investment sectors identified in Appendix I and investment locations identified in Appendix II of Decree 118/2015/ND-CP.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 and up until March 31, 2020.

ANSWER:

As long as the importer's investment project falls within Appendix I or Appendix II of Decree 118/2015/ND-CP, it is eligible for the import duty exemption on the imported machinery and equipment to create fixed assets. Please refer to Appendix I and Appendix II of Decree 118/2015/ND-CP for a list by industry and by region that is eligible for the exemption. However, whether the importer actually benefits from its eligibility depends on whether the import tariff rate in the absence of exemption would be 0% or not. In addition, as the eligibility is either Appendix I (which identifies sectors of duty exemption) or the Appendix II (which identifies regions of duty exemption), it would be possible that all enterprises of a sector can be eligible regardless their

location and all enterprises in a certain region can be eligible regardless of their sectors.

The GOV does not have available statistics of sectors or regions that actually benefited from this program during 2017 – March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to exporters of aluminium zinc coated steel product to Australia during the POI.

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 up until March 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.

- (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.

ANSWER:

The program is provided by the government.

PROGRAM 18: INCENTIVES ON CORPORATE INCOME TAX FOR ENTERPRISES OPERATING IN REGIONS OR SECTORS ENTITLED TO INCENTIVES

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

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

ANSWER:

Incentives on corporate income tax for enterprises operating in regions or sectors entitled to incentives have been regulated in Decree 24/2007/ND-CP, Decree 124/2008/ND-CP, Decree 218/2013/ND-CP, and Decree 12/2015/ND-CP.

Decree 24/2007/ND-CP dated February 14th, 2007 came into effect on March 21st, 2007 and was terminated on January 1st, 2009 by Decree 124/2008/ND-CP dated December 11th, 2008. Articles 34, 35 and 36 of Decree 24 provided preferential income tax and income tax exemption and reduction respectively. The preferential income tax rates include 20%, 15% and 10% as opposed to the standard tax rate of 28%. Article 34 also identified certain investment sectors of income tax incentives and investment locations of investment incentives. Investment sectors and geographical areas eligible for investment incentives are provided in Appendix I and II to Decree 108/2006/ND-CP detailing the implementation of the Law on Investment 2005.

With respect to income tax exemption and reduction, Article 35 provides incentives for only newly founded business establishments while Article 36 provides incentives for new expanded projects as follows:

“Article 35:

...4. Business establishments newly founded under investment projects in branches, business lines or sectors on the List of sectors entitled to investment preferences and executed in geographical areas on the List of geographical areas with difficult socio-economic conditions enjoy tax exemption for 3 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 7 subsequent years;

...

6. The preferential tax rates specified in Clauses 1, 2 and 3, Article 34 of this Decree and the tax exemption and reduction provided in this Article apply only to newly founded business establishments that conduct independent cost-accounting and register to pay enterprise income tax according to their declarations.”

Article 36:

...4. Investment projects in branches, business lines or sectors on the List of sectors entitled to investment preferences and executed in geographical areas on the List of geographical areas with difficult socio-economic conditions enjoy tax exemption for 3 years and a 50% reduction of the payable tax amount for 5 subsequent years.

...

The Ministry of Finance shall guide the methods of determining increased income portions brought about by investment which are entitled to tax exemption and reduction provided in this Article.”

However, Decree 24/2007/ND-CP was terminated on January 01st, 2009 by Decree 124/2008/ND-CP. Article 15 of Decree 124 provided preferential income tax with the

rates of 10%, 20% as opposed to the standard income tax rate of 25%. Article 16 provided income tax exemption and reduction in the following:

“...3. Tax exemption for 2 years and 50% reduction of payable tax amounts for 4 subsequent years are applicable to new enterprises established under investment projects in geographical areas with socio-economic difficulties specified in the Appendix to this Decree.

4. The tax exemption or reduction duration specified in this Article is counted consecutively from the first year an enterprise has taxable income from an investment project; in case an enterprise has no taxable income during the first three years, counting from the first year it has turnover from an investment project, the tax exemption or reduction duration is counted from the fourth year.”

However, point 2, Article 20 of Decree 124 provided the incentives on income tax for the projects operating before the effective date of Decree 124 (January 01st, 2009) as follow: “2. Enterprises enjoying enterprise income tax incentives under Enterprise Income Tax Law No. 09/2003/QH11, the Petroleum Law and the Governments legal documents promulgated before the effective date of this Decree may continue to enjoy such incentives for the remaining duration; in case enterprise income tax incentives (including tax rate incentives and tax exemption or reduction) are lower than incentives specified in this Decree, enterprises are entitled to tax incentives under this Decree for the remaining duration.

During the POI, income tax preferences were provided under Decree 218/2013/ND-CP dated December 26th, 2013 and came into effect on February 15th, 2014 which substituted for Decree 124/2008/ND-CP, on detailing and guiding the implementation of law on corporate income tax and Decree 12/2015/ND-CP dated February 12, 2015, on elaborating of the Law on Amendments to Tax Law. These preferences include preferential income tax rate as provided in Article 15 of Decree 218 and Article 1 of Decree 12/2015/ND-CP, income tax exemption and reduction as provided in Article 16 of Decree 218.

According to Article 15 of Decree 218, preferential income tax rates includes 10%⁹ and 17%¹⁰ as opposed to the standard tax rate of 20%. These locations include economic zones, hi-tech zones and industrial parks as well as areas of socio-economic difficulties identified in Appendix II to Decree 118/2015/ND-CP¹¹.

With respect to income tax exemption and reduction, the GOV notes that Article 16 of Decree 218 provides the following:

⁹ Article 15.1 and 2 of Decree 218

¹⁰ Article 15.3 and 4 of Decree 218

¹¹ When Decree 118/2015/ND-CP was issued in 2015, Article 66.2(a) of this Decree stipulates that this Decree replaced the appendix of regions of difficult or exceptionally difficult socio-economic conditions to Decree 218.

“1. Tax exemption for 4 years, reduction of 50% of tax payable for the next 9 years for:

a) Income of enterprise from performing new investment projects is specified in Clause 1, Article 15 of this Decree;

b) Income of enterprise from performing new investment projects in the field of socialization shall comply in difficult or exceptional difficult socio-economic conditions specified in the Appendix to this Decree.

2. Tax exemption for 4 years, reduction of 50% of tax payable for the next 5 years for enterprise's income from performing new investment projects in the field of socialization in the areas not in the list of difficult or exceptionally difficult socio-economic conditions specified in the Appendix to this Decree.

3. Tax exemption for 2 years, reduction of 50% of tax payable for the next 4 years for incomes from performing new investment projects specified in Clause 3, Article 15 of this Decree and enterprise's income from performing new investment projects in industrial parks (except for industrial parks located in the areas with advantageous socio-economic conditions).”

However, point 2, Article 20 of Decree 218 provided the incentives on income tax for the projects operating before the effective date of this Decree (February 15th, 2014) as follow: “Enterprises having investment projects and by the end of tax period of 2013 still in the time of being entitled to the incentives of corporate income tax, including the case where the investment projects are issued with the Investment License or Investment Certificate or enterprise registration Certificate (for domestic investment project associated with the establishment of new enterprises having investment capital of less than 15 billion dong and not in the list of fields of conditional investment) but not having enjoyed the incentives as prescribed by the legal normative documents on corporate income tax before the effective date of this Decree, they shall continue to be entitled to the incentives for the remaining time as prescribed by these documents...”

Tax exemption or reduction is calculated continuously from the first year of taxable income.

Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

The Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payers.

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.

ANSWER:

Please refer to:

- Exhibit 9 for Decree 24/2007/ND-CP dated February 14th, 2007 and Decree 108/2006/ND-CP dated September 22nd, 2006.
- Exhibit 32 for Decree 124/2008/ND-CP dated December 11th, 2008.
- Exhibit 4 for Decree 218/2013/ND-CP CP dated December 26th, 2013
- Exhibit 23 for Decree 118/2015/ND-CP of November 12th, 2015
- Exhibit 25 for Decree 12/2015/ND-CP dated February 12th, 2015

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

ANSWER:

Please refer to Exhibit 4, 9, 23, 25 and 32.

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

ANSWER:

The Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payers.

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.

ANSWER:

Investment certificates and income tax returns are among records maintained by the government.

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.

ANSWER:

Based on the first investment certificate of all companies in Appendix A, they were located in several industrial parks which established by the Decisions of the Prime Minister, so all the companies received income tax benefits under this program because their investments fall within item 53, Appendix I of Decree 108/2006/ND-CP¹² and item 55, Appendix II of Decree 118/2015/ND-CP. Thus, please refer to Exhibit 26 for the details of corporate income tax and incentives that the companies are eligible for.

However, the GOV would like to note that [REDACTED] did not generate taxable income during the POI, so this company did not receive any benefits of corporate income tax program. Please refer to Exhibit 26 for more details.

Article 11 of Circular 78/2014/TT-BTC dated June 18th, 2014, and came into effect on August 2nd, 2014 provided that: since January 1st, 2016, the standard corporate income tax rate is 20%. Please refer to Exhibit 4 for Circular 78/2014/TT-BTC dated June 18th, 2014.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

¹² As provided under Article 88.2 of Decree 108/2006/ND-CP, this Decree annulled the 02 appendices to Decree 149/2005/ND-CP on the List of investment sector and List of investment locations subject to investment preferences.

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

Income tax preferences are only available to certain sectors identified in Article 15 of Decree 218 as well as certain locations identified in Article 15 of Decree 218 and Appendix II to Decree 118/2015/ND-CP.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final

approval contingent upon the Government agency or authority that administers the program?

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 and up until March 31, 2020.

ANSWER:

As long as the tax payers' investment project falls within certain sectors identified in Article 15 of Decree 218 as well as certain locations identified in Article 15 of Decree 218 and Appendix II to Decree 118/2015/ND-CP, it is eligible for the income tax preferences. Please refer to Article 15 of Decree 218/2013/ND-CP and Appendix II of Decree 118/2015/ND-CP for a list by industry and by region that is eligible for the preferences. However, as the eligibility is either by sector or location, it would be possible that all enterprises of a sector can be eligible regardless their location and all enterprises in a certain region can be eligible regardless of their sectors.

The Government of Viet Nam does not have accurate statistics of sector or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to the exporters of aluminium zinc coated steel to Australia during the POI as identified in Appendix A.

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 up until March 31? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program was provided by the government.

PROGRAM 19: INCENTIVES ON NON-AGRICULTURAL LAND USE TAX TO ENCOURAGE ENTERPRISES TO INVEST IN SECTORS OR REGIONS WHICH REQUIRE INVESTMENT

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

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

ANSWER:

During the POI, non-agricultural land use tax is provided under the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP implementing this Law. This program is still in effect.

Non-agricultural land use tax benefits including tax exemption and reduction are provided under Article 9 and 10 of the Law and Article 8 of Decree 53.

With respect to tax exemption, eligibility for the exemption includes:

- Land of investment projects in sector of exceptional investment preferences

- Land of investment projects in regions of exceptional socio-economic difficulties
- Land of investment projects of investment preferences and in regions of socio-economic difficulties
- Land of projects with more than 50% employees being war invalids and soldiers
- Land of projects in the field of socialization, education, vocational training, healthcare, culture, sports or environment
- Land of projects for public and social interest such as construction of memorial house, nurturing facility for aged people, ...
- Certain type of residential land
- Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for over 50% of the taxable price

With respect to tax reduction, 50% reduction of non- agricultural land use tax is granted to:

- Land of investment projects in sectors of investment preferences
- Land of investment projects in regions of socio-economic difficulties
- Land of projects with 20- 50% employees being war invalids and veterans
- Certain residential land
- Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for between 20% and 50% of the taxable price

Pursuant to Article 8 of Decree 53/2011/ND-CP, sectors of investment preferences and of exceptional investment preferences and regions of socio-economic difficulties and regions of exceptional socio-economic difficulties must be in accordance with the law and regulations on investment. Accordingly, Appendix I to Decree 118/2015/ND-CP identifies sectors of investment preferences and sectors of exceptional investment preferences. Appendix II to this Decree identifies regions of socio-economic difficulties and regions of exceptional socio – economic difficulties.

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining non-agricultural land use tax declarations of the payers.

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.

ANSWER:

Please refer to:

PUBLIC RECORD

- Exhibit 23 for Decree 118/2015/ND-CP of 12 November 2015
- Exhibit 27 for Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP dated 7 November 2011

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

ANSWER:

Please refer to:

- Exhibit 23 for Decree 118/2015/ND-CP of 12 November 2015
- Exhibit 27 for Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP dated 7 November 2011

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

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining non-agricultural land use tax declarations of the payers.

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.

ANSWER:

The tax authority in the province where the land is located maintained the tax declarations filed by the payer.

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.

ANSWER:

The GOV provides information relating to benefits under this program received by the companies listed in Appendix A during the POI as follows:

According to Articles 9 and 10 of the Law on Non-Agricultural Land Use Tax 48/2010/QH12, Article 8 of Decree 53/2011/ND-CP and Appendices I and II of Decree 118/2015/ND-CP effective from December 27, 2015, none of those companies

received exemption or reduction of non-agricultural tax and they already paid non-agricultural tax for 2019. According to the land subleasing contracts of all the companies, they have not rented the land from the State, so none of these companies applied for, received, claimed, accrued or used assistance under this program during the POI.

Please refer to Exhibit 26 for Land Subleasing Contracts between the companies and other third parties.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax declarations and pay the tax in accordance with the tax declarations. Taxpayers must take responsibility for the accuracy and completeness of the tax declarations. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

Eligibility for the benefits of the program is provided in Article 9 and 10 of the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and two Appendices to Decree 118/2015/ND-CP effective from December 27, 2015.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations.

There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until March 31, 2020.

ANSWER:

Please refer to Appendix I and Appendix II to Decree 118/2015/ND-CP for the lists by industry and by region that are eligible for the preferences under this program. However, as the eligibility is either by sector or location, it would be possible that all enterprises of a sector can be eligible regardless their location and all enterprises in a certain region can be eligible regardless of their sectors.

The GOV does not have available statistics of sector or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answers this question with regards to all of the companies listed in Appendix A.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 20: GRANTS TO FIRM THAT EMPLOY MORE THAN 50 EMPLOYEES

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

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

ANSWER:

At the outset, the GOV notes that there has been no program that ever provided grants to enterprise with more than 50 employees. The only program relates to the use of 50 employees is investment incentives provided under Chapter 3 of Decree 51/1999/ND-CP dated May 20th, 1999 detailing the implementation of the Law on Domestic Investment Promotion. This program was terminated on October 25th, 2006 by Decree 108/2006/ND-CP. Therefore, this program is outside the POI in this case. According to Article 15.2 (c) of Decree 51, an investment project of any production and business sectors that has an average number of employees of at least 50 people is eligible for investment incentives. These incentives include the following:

- 3-year exemption of land rent as provided under Article 18.1 (a) of Decree 51
- 2-year exemption of income tax and 50% reduction for the 02 subsequent years as provided under Article 21.1 of Decree 51

Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authority including the licensing authority or tax authority are in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Please refer to Exhibit 7 for:

- Decree 51/1999/ND-CP dated May 20th, 1999
- Decree 108/2006/ND-CP dated September 22nd, 2006

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

ANSWER:

Please refer to Exhibit 7.

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

ANSWER:

Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authority including the licensing authority or tax authority are in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Investment certificates, income tax returns, and land rent documents are among records maintained by the provincial authority.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 25th, 2006 which is long before the POI. As such, none of the companies in Appendix A received any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There was no separate application process for the benefits under this program. Rather, eligible enterprises with investment projects applied for their investment certificates which identified benefits relating to corporate income tax and land rents. These enterprises relied on the investment certificates and the above-mentioned regulations to apply the benefits to their own operations and took legal responsibility for the accuracy of such application upon the inspection of the tax authorities.

There is no approval or refusal document. If an enterprise was not eligible for the benefits under this program, those benefits would not be identified in the investment certificate of that enterprise.

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.

ANSWER:

The condition of this program is contingent upon the number of employees per year used in an investment project. However, this program was terminated on October 25th, 2006.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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.

ANSWER:

This program was terminated on October 25th, 2006. There were no benefits received by any exporters under this program in 2017, 2018, 2019 and up until March 31st, 2020.

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.

ANSWER:

This program was terminated on October 25th, 2006. There was no application for the benefits under this program in 2017, 2018 and 2019 and up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

The program was terminated on October 25th, 2006 as provided under Decree 108/2006/ND-CP. As such, October 24th, 2006 is the last date for a company to receive a benefit under the program.

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.
- (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.

ANSWER:

The program was provided by the GOV. However, the GOV notes that this program was eliminated on October 25th, 2006 under Decree 108/2006/ND-CP.

PROGRAM 21: INVESTMENT SUPPORT (COMBINED FROM INVESTMENT SUPPORT AND INFRASTRUCTURE DEVELOPMENT SUPPORT)

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;

- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

The Commission's clarification on this program refers to finding of Canada Border Services Agency (CBSA) in their investigation into Corrosion Resistant Steel Sheet in 2019. In this case, the CBSA linked this program to Decree 108/2006/ND-CP. This Decree was annulled by Decree 118/2015/ND-CP dated November 12th, 2015 (Exhibit 23). Both decrees provide the legal framework for investment into Viet Nam. They also identify sectors eligible for investment incentives (e.g. Appendix I to Decree 118) and investment location eligible for investment incentives (e.g. Appendix II to Decree 118). However, this identification does not provide the specific incentives to eligible enterprise. Rather, these appendices only provide eligibility criteria for different amount of financial incentives such as income tax preferences, import duty, land rent or land use tax provided in income tax regulations, import duty regulation, land law or land use tax regulations. This has been demonstrated in the GOV's response to the Commission's questions on various alleged subsidy programs mentioned above. With regards to investment support and infrastructure development support, the GOV notes that investment in the infrastructure development of industrial zones, economic zones, export-processing zones or hi-tech zones is considered as a sector eligible for exceptional investment incentives under point 2, Section A.III of Appendix I to Decree 118/2015/ND-CP dated November 12th, 2015. Accordingly, it is entitled to the following incentives:

- 10% preferential tax rate within 15 years¹³
- 4 year-exemption of income tax rate and 50% reduction for 09 subsequent years¹⁴
- Import duty exemption for machinery and equipment to create fixed assets¹⁵
- Land rent exemption for at least 11 years¹⁶

This program is still in effect.

¹³ Article 15.1 of Decree 218/2013/ND-CP

¹⁴ Article 16.1 of Decree 218/2013/ND-CP

¹⁵ Article 14 of Decree 134/2016/ND-CP

¹⁶ Article 19.3 of Decree 46/2014/ND-CP

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.

ANSWER:

Please refer to:

- Exhibit 23 for Decree 118/2015/ND-CP of November 12th, 2015
- Exhibit 4 for Decree 218/2013/ND-CP dated December 26th, 2013

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

ANSWER:

Please refer to:

- Exhibit 23 for Decree 118/2015/ND-CP of November 12th, 2015
- Exhibit 4 for Decree 218/2013/ND-CP dated December 26th, 2013

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

ANSWER:

Ministry of Finance issues circulars for implementation instructions.

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.

ANSWER:

Investment certificates, income tax returns, import declarations or land lease contract are records maintained by the government.

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.

ANSWER:

The GOV notes that none of the companies in Appendix A was applied for, accrued, or received benefits under the program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Infrastructure development companies in the industrial zones or economic zones apply for investment certificates. These companies rely on investment certificates and various regulations on tax, duty, land,...to apply the benefits to their own operations and to take legal responsibility for the accuracy of such application upon the inspection of the tax or custom authorities.

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.

ANSWER:

This program is specific to the infrastructure development companies for industrial zones and economic zones.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.)

ANSWER:

Please refer to the response to Question C1.1 of this program.

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 up until March 30, 2020.

ANSWER:

This program applies to the infrastructure development companies for industrial zones and economic zones and thus, infrastructure development is the only sector benefitting from this program.

In addition, the GOV notes that none of the companies in Appendix A was applied for, accrued, or received benefits under the program during the POI.

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 up until March 30, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 22: ACQUISITION OF STATE ASSETS AT LESS THAN FAIR MARKET VALUE

The GOV notes that state assets are subject to public auction and thus there is no case of acquisition of state assets at less than fair market value as alleged by the petitioner.

According to Article 4 of the Law on Property Auction dated November 17, 2016, state assets and property, public property (i.e. property over which ownership is established in accordance with the law) or land use rights are among property that is required to be auctioned by the law.

According to Article 6 of this law, property auction is conducted in a manner that assures the independence, honesty, publicity, transparency, equality and objectivity.

The Law on Property Auction dated November 17, 2016 is still in effect.

Exhibit 28 provides the Law on Property Auction dated November 17, 2016.

Thus, the GOV does not provide the answer to the remaining questions under this program

PROGRAM 23: EXPORT & IMPORT SUPPORT IN THE FORM OF PREFERENTIAL LOANS, GUARANTEES, AND FACTORING

PROGRAM 26: PREFERENTIAL LENDING UNDER THE VIET BANK EXPORT LOAN PROGRAM

According to the Commission's clarification, this program is combined from 05 following programs:

1. **INTEREST RATE SUPPORT PROGRAM UNDER THE STATE BANK OF VIETNAM (PROGRAM 25)**
2. **PREFERENTIAL LENDING TO EXPORTERS**
3. **EXPORT FACTORING**

4. **FINANCIAL GUARANTEES BY VIETINBANK AND VIETCOMBANK FOR EXPORT ACTIVITY**
5. **EXPORT & IMPORT SUPPORT IN THE FORM OF PREFERENTIAL LOANS, GUARANTEES, AND FACTORING**

Regarding these programs, the GOV notes that following:

- Programs in items 2, 3 and 5 above relate to the provision of credit to exporters by Vietnam Development Bank. Program 24 - Export Support Loans at Preferential Rates and Program 26 – Preferential Lending under the Viet Bank Export Loan Program are also provided by Vietnam Development Bank for exporters. Thus, the GOV provides one combined response for these programs under Program 23: export & import support in the form of preferential loans, guarantees, and factoring.
- Program in item 1 is a separate program by the State Bank of Vietnam and the GOV provides the response under Program 25.
- Program in item 4 is not a program provided by the GOV or any public body in Vietnam. Vietinbank, Vietcombank and BIDV are commercial joint stock banks in Vietnam and are subject to the Law on Credit Institution 2010 and the Law on Amendments to Some Articles of the Law on Credit Institutions 2017 (“the amended Law”) (Exhibit 29) as with joint venture banks or foreign banks. In particular, Article 7 of this law recognizes the autonomy of these banks in their operation:

“Article 7. Autonomy in operation

1. Credit institutions and foreign bank branches have autonomy in their business activities and take accountability for their business results. No organizations or individuals may illegally intervene in business activities of credit institutions and foreign bank branches.

2. Credit institutions and foreign bank branches may refuse to extend credit or provide other services when finding that they do not fully meet the conditions to do so or such credit extension or service provision is inefficient or incompliant with law.

Vietcombank Vietinbank and BIDV are not policy banks like the Vietnam Development Bank (i.e. which is subject to the state policy as explained in the GOV’s response in Program 23) and the GOV does not control or interfere in the operation of these banks. As the companies in Appendix A provided, the companies had loans with Vietcombank, Vietinbank and BIDV during the POI with the interest rate which has been driven by market interest rate and they did not receive any preferences for these loans. Moreover, the provisions of guarantees by the banks including Vietcombank, Vietinbank, and BIDV are normal banking service which is also available in the range of services of any banks in Vietnam or in the world. Thus, the GOV does not provide a response with respect to this program.

PROGRAM 23: EXPORT & IMPORT SUPPORT IN THE FORM OF PREFERENTIAL LOANS, GUARANTEES, AND FACTORING
PROGRAM 24: EXPORT SUPPORT LOANS AT PREFERENTIAL RATES

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

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

ANSWER:

Export credit or preferential lending for exporter was provided under Decree 75/2011/ND-CP dated August 30th, 2011 and was terminated on May 15th, 2017 under Decree 32/2017/ND-CP dated March 31st, 2017. Thus, this program is outside the POI. Article 16 of Decree 75 identifies certain exporting sectors that are eligible for lending from the Vietnam Development Bank. These sectors are provided under Appendix II of Decree 75. The GOV notes that producing aluminium zinc coated steel for export does not fall within this Appendix. Eligible borrowers can be supplied with export credit amount up to 85% of the value of the export contract and interest rates are informed in circulars of the Ministry of Finance.

Decree 75/2011/ND-CP was replaced by Decree 32/2017/ND-CP dated March 31st, 2017 as provided under Article 28 of Decree 32. Decree 32 came into effect on May 15th, 2017 and VDB has no longer provided export credits.

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.

ANSWER:

Please refer to Exhibit 28 for

- Decree 75/2011/ND-CP dated August 30th, 2011
- Decree 32/2017/ND-CP dated March 31st, 2017

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

ANSWER:

Please refer to Exhibit 28.

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

ANSWER:

The Ministry of Finance and the Vietnam Development Bank administer this program.

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.

ANSWER:

Investment loan records are among documents maintained by Vietnam Development Bank.

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.

ANSWER:

As indicated in the response to Question C1.1, producing aluminium zinc coated steel is not included in the list of projects eligible for the state investment credits. The GOV notes that no company listed in Appendix A or Question B4 response applied for, accrued, or received benefits under the program during the investigation period.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Eligible borrowers wishing to receive the benefits under this program are required to follow Vietnam Development Bank's regulations and procedures of providing investment loan.

The bank conducted appraisal of loan or credit proposals submitted by eligible exporters as well as other conditions as provided under Decree 75. This serves as the basis for decision to approve or disapprove the provisions of the credit.

There is no separate approval or refusal document. If the bank approves an export credit to an eligible exporter, it will conclude an export credit contract with that manufacturer. Otherwise, no such contract is concluded.

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.

ANSWER:

The program is limited to certain investment projects which are identified in the Appendix II to Decree 75. However, the GOV notes that producing aluminium zinc coated steel does not fall within this List.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. Vietnam Development Bank conducted appraisal of loan or credit proposals submitted by eligible borrowers on the basis of criteria set in Decree 75 and its own procedures.

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 and up until March 31, 2020.

ANSWER:

Please refer to Appendix II of Decree 75/2011/ND-CP at Exhibit 28 for the List of projects eligible for state export credit. The GOV notes that this program was terminated on May 15th, 2017 since Decree 32/2017/ND-CP came into effect as provided in Article 28 of Decree 32/2017. Thus, no benefit under this program has been granted since May 15th, 2017.

In addition, the GOV notes that none of the companies in Appendix A benefited from this program during 2017-March 2020.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program was terminated on May 15th, 2017. Thus, the last date of receiving benefit is May 14th, 2017.

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.

- (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.

ANSWER:

The program was provided by the Vietnam Development Bank (“VDB”). VDB is 100% owned by the state and aimed at performing the state policy lending. There are only 02 banks in Viet Nam that are operating on this purpose. The other bank is Bank for Social Policy which provides policy lending for social purpose (i.e. poverty reduction). VDB was established by Decision 108/2006/QĐ-TTg of the Prime Minister on the establishment of Vietnam Development Bank. Simultaneously, the Prime Minister also issued Decision 110/2006/QĐ-TTg on the approval of the Charter of organization and operation of Vietnam Development Bank. State policy lending including state investment credits (in the form of investment loan or post-investment support or investment credit guarantees) and export credits (in the form of export loan, export credit guarantees).

Until May 14th, 2017, VDB performed both investment and export credits under various Decrees such as Decree 151/2006/ND-CP dated December 20th, 2006, Decree 106/2008/ND-CP dated September 19th, 2008, Decree 75/2011/ND-CP dated August 30th, 2011 and Decree 54/2013/ND-CP dated May 22nd, 2013. However, effectively since May 15th, 2017, with the issuance of Decree 32/2017/ND-CP, VDB has no longer provided export credits.

During the POI, VDB only provided investment credits in accordance with Decree 32/2017/ND-CP (Exhibit 12).

PROGRAM 25: INTEREST RATE SUPPORT PROGRAM UNDER THE STATE BANK OF VIETNAM

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

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

ANSWER:

The interest rate support program was initiated by the Prime Minister to provide interest rate support to individuals and organizations borrowing capital from banks to carry out production-related businesses. The purpose of this program was to reduce production costs, to maintain production and business activity, and to create jobs. It was created in 2009, under circumstances where the economy was affected by the global financial crisis and economic recession. This program was available to enterprises of all manufacturing sectors.

The support provided was as follows:

- 4% support on interest payments for short-term loans of up to an 8-month-term disbursed by credit institutions between February 1 and December 31st, 2009, as provided under Article 3 of Decision 131/QD-TTg, dated January 23rd, 2009 and Article 2 of Circular 02/2009/TT-NHNN dated February 3rd, 2009. Thus, the last date of receiving 4% support is December 31st, 2009 and the interest rate support for short-term loans was not available during the POI.
- 4% support on interest payments for medium- to long-term loans of up to a 24-month-term disbursed by credit institutions between April 1st, 2009 and December 31st, 2009 as provided under Article 3 of Decision 443/QD TTg, dated April 4th, 2009 and Article 3 of Circular 05/2009/TT-NHNN dated April 7th, 2009. Thus, the last date that a company may receive a 4% support is December 31st, 2011 (i.e.: for the 24-month term loans that were disbursed on December 31st, 2009) and the interest rate support for medium- to long-term loans was not available during the POI.
- 2% support on interest payments for medium- to long-term loans of up to a 24-month term disbursed between January 1st, 2010 and December 31st,

2010 as provided under Article 3 of Decision 2072/QD-TTg, dated December 11th, 2009 and Article 3 of Circular 27/2009/TT-NHNN dated December 31st, 2009. Thus, the last date that a company may receive a 2% support is December 31st, 2012 (i.e.: for the loans that were disbursed on December 31st, 2010). Therefore, the interest rate support for medium-long term loans was not available during the POI.

The State Bank of Vietnam issued circulars to implement the support

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.

ANSWER:

Please refer to Exhibit 29 for

- Decision 131/QD-TTg, dated January 23rd, 2009
- Decision 443/QD-TTg, dated April 4th, 2009
- Decision 2072/QD-TTg, dated December 11th, 2009
- Circular 02/2009/TT-NHNN dated February 3rd, 2009
- Circular 05/2009/TT-NHNN dated April 7th, 2009
- Circular 27/2009/TT-NHNN dated December 31st, 2009

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

ANSWER:

Please refer to Exhibit 29.

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

ANSWER:

The State Bank of Vietnam issued circulars to implement the support.

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.

ANSWER:

Interest support records are among documents maintained by the State Banks of Vietnam.

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.

ANSWER:

As indicated in the response to Question C1.1, the benefits under this program was available until December 31st, 2012 – a long time before the POI. The GOV notes that none of the companies in Appendix A applied for, accrued, or received benefits under the program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Circular 05/2009/TT-NHNN dated April 7th, 2009, Circular 02/2009/TT-NHN dated February 3rd and Circular 27/2009/TT-NHN dated December 31st, 2009 were issued by the State Bank of Vietnam to implement the interest support.

Accordingly, borrowers who are approved by a lending bank to be provided with a loan is required to file an application for the interest support (2% or 4%) so that this support can be implemented to that borrower's loan. Please refer to the Question C1.1 for details.

When the term of collecting loan interests becomes due, commercial banks, financing companies or the Vietnam Development Bank would deduct the amount of payable

interest of borrower by an amount equal to the corresponding interest rate support (i.e: 2% or 4%). Based on the report on the amount of interest rate support submitted the lending banks, The State Bank of Vietnam would transfer the amount of support to the lending banks.

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.

ANSWER:

The program available to enterprises of all manufacturing sectors.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

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

ANSWER:

Please refer to the response to Question C1.1 of this program.

- 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 and up until March 31, 2020.

ANSWER:

The GOV notes that the last date to benefit from this program was December 31st, 2012. Thus, no benefits under this program have been granted during 2017-March 2020.

- 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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

- 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 a benefit under the program?

ANSWER:

This program was terminated. The last date that a company may receive a benefit under the program is December 31st, 2012.

- 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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 27: ACCERLERATED DEPRECIATION OF FIXED ASSETS

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;

- (e) When the program was established;
- (f) Duration of the program;
 - (g) How the program is administered and how it operates;
 - (h) To whom and how the program is provided; and
 - (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Accelerated Depreciation of Fixed Assets is aimed at supporting enterprises to recover their capital quickly in order to innovate technology to increase business efficiency. The program is currently specified under Circular 45/2013/TT-BTC dated April 25th, 2013, on guiding the regime of management, use and depreciation of fixed assets. According to Article 1 of Circular 45/2013/TT-BTC, this program applies to all enterprises established and operating in Vietnam. In particular, according to Article 13.2 of Circular 45/2013/TT-BTC, based on the capacity to meet the applicable conditions specified for each method of depreciation of fixed assets, enterprises may choose method of depreciation appropriate with each type of enterprises' fixed asset as well as period of depreciation of fixed assets. The enterprises operating with high economic efficiency may accelerate their depreciation, but not more than 2 times of the depreciation rate by the straight-line method for rapid technological innovation. The fixed assets involved in business activities and accelerated their depreciation are machinery and equipment, experimental and measuring instruments, equipment and means of transport, management tools, animals, perennial orchards. When performing accelerated depreciation, the enterprises must ensure profitable business. In case the enterprises accelerate their depreciation exceeding 2 times of the rate specified in time frame for use of fixed assets provided for in Appendix 1 attached to Circular 45/2013/TT-BTC, the excess of accelerated depreciation (over 2 times) is not included in the reasonable costs upon calculation income tax in the period.

- 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.

ANSWER:

Please refer to Exhibit 30 for Circular 45/2013/TT-BTC dated April 25th, 2013

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

ANSWER:

Please refer to Exhibit 30.

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

ANSWER:

The Ministry of Finance administers this program.

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.

ANSWER:

Notice of the selection of depreciation method file by enterprises and income tax returns are among documents maintained by the government

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.

ANSWER:

None of the companies in Appendix A use accelerated depreciation of fixed assets during the POI.

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

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

ANSWER:

There is no application process. As indicated in the response to Question C1.1, based on the capacity to meet the applicable conditions specified for each method of depreciation of fixed assets, enterprises may choose method of depreciation appropriate with each type of enterprises' fixed asset as well as period of depreciation of fixed assets. The enterprises operating with high economic efficiency may accelerate their depreciation, but not more than 2 times of the depreciation rate by the straight-line method for rapid technological innovation. Enterprises inform in writing to the tax authority on the method of depreciation that they select.

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.

ANSWER:

The program available to enterprises of all manufacturing sectors and locations.

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.

- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program.

- 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 up until March 31, 2020.

ANSWER:

The GOV does not have available statistics of the companies using accelerated depreciation of fixed assets for 2017, 2018, 2019 and up until March 31st, 2020. In an attempt to assist the Commission, the GOV answered this questions for the company identified in Appendix A.

- 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, 2019 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

- 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 a benefit under the program?

ANSWER:

This program is still in effects.

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 28: ADDITIONAL INCOME TAX PREFERENCES FOR EXPORTERS
PROGRAM 31: ESTABLISHMENTS DEALING WITH EXPORTED GOODS
PROGRAM 41: TAX PREFERENCES FOR INVESTORS PRODUCING AND/OR DEALING IN EXPORT GOODS

The GOV notes that these programs refer to income tax preferences for exporters and thus, the GOV combine one response for these 03 programs.

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

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

ANSWER:

Income tax preferences for exporters as provided under Chapter 5 of Decree 164/2003/ND-CP dated December 22nd, 2003, detailing the implementation of the Law on Corporate Income Tax.

Annex A to Decree 164/2003/ND-CP recognized the production of exported goods as a sector of investment incentives if the export revenue accounts for more than 50% of the value of goods produced. Income tax preferences include the following:

- 20% preferential tax rate within 10 years as opposed to the standard tax rate of 28% at that time under Article 35
- 2-year exemption of income tax preferences and 50% reduction for 3 subsequent years under Article 36
- Additional income tax preferences under Article 39

Annex A of Decree 164/2003/ND-CP was annulled on October 25th, 2006 by Appendix 1 of Decree 108/2006/ND-CP. Appendix 1 of Decree 108/2006/ND-CP does not recognize the production of exported goods or export performance. Thus, since October 25th, 2006, being an exporter or export performance has no longer been a criterion for receiving any income tax benefits under Decree 164 or any subsequent regulations on income tax preferences.

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.

ANSWER:

Please refer to Exhibit 31 for:

- Decree 164/2003/ND-CP of December 22nd, 2003
- Decree 108/2006/ND-CP dated September 22nd, 2006

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

ANSWER:

Please refer to Exhibit 31

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

ANSWER:

The Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authority including the licensing authority or tax and custom authority are in charge of granting incentives to eligible enterprises in accordance with the above regulations.

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.

ANSWER:

Investment certificates and income tax returns are records maintained by the government.

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.

ANSWER:

Regarding this program, the GOV notes that it was terminated on October 25th, 2006 which is long before the POI. Thus, all of the companies listed in Appendix A did not receive any benefit under this program during the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

The benefits under this program were limited to sectors identified in Annex A of Decree 164/2003/ND-CP including the export sector with export value of more than 50% of the total production value.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program

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 up until March 31, 2020.

ANSWER:

This program was terminated on October 25th, 2006. Thus, no benefits were received by any companies under this program in 2017, 2018, 2019 and up until March 31st, 2020.

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, 2019 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated on October 25th, 2006. There was no application for the benefits under this program in 2017, 2018, 2019 and up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

This program was terminated. October 24th, 2006 is the last date for a company to receive a benefit under the program.

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 29: ENTERPRISE INCOME TAX EXEMPTION/REDUCTION FOR BUSINESS EXPANSION AND INTENSIVE INVESTMENT PROJECTS

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

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

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

ANSWER:

Income tax preferences for business expansion and intensive investment projects are provided under Article 16.5 Decree 218/2013/ND-CP dated December 26th, 2013, on detailing and guiding the implementation of law on corporate income tax.

Article 16.5 provides:

Article 16. Tax exemption and reduction

...

5. Enterprises having development investment projects operating in the fields and areas with the incentives of corporate income tax under the provisions of this Decree and expanding scale of production, raising capacity and innovating if meeting one of three criteria specified in this Clause shall be entitled to tax incentives of projects under operation for the remaining time (if any) or be exempted from or reduced in tax for the income additionally increased from the investment and expansion. The time for tax exemption or reduction for the income additionally increased from the investment and expansion specified in this Clause is equal to the time for tax exemption or reduction applied to the new investment project in the same area and fields entitle to the incentives of corporate income tax.

The expansion investment projects specified in this Clause must meet one of the following criteria:

- The prime cost of fixed assets increases when the investment project completed and put into operation reaches a minimum of 20 billion dong for the expansion investment project in the fields entitled to the incentives of corporate income tax under the provisions of this Decree or from 10 billion dong for expansion investment projects implemented in the areas with difficult or extremely difficult socio-economic conditions under the regulations of law on corporate income tax;
- The proportion of prime cost of fixed assets reaches a minimum increase of 20% compared to the total prime cost of fixed assets prior to the investment
- The design capacity has increased at least 20% compared to the design capacity prior to investment.

Where the enterprises in operation upgrade, replace or innovate the technology of projects in operation in the areas and fields entitle to the tax incentives under the provisions of this Decree without meeting one of three criteria specified at this Point, then the tax incentives shall comply with the projects in operation for the remaining time (if any);

Where the enterprises are entitled to the tax incentives under the status of expansion investment, the income increased from expansion investment shall be separately accounted. In case of failure of separate accounting, the income from expansion investment is determined by the ratio between the prime cost of fixed assets newly invested and put into use for production and business on the total prime cost of enterprise's fixed assets;

The time for tax exemption or reduction specified in this Clause is calculated from the year when the expansion investment project has been completed and put into production and put into production and business with revenue. Where there is no assessable income in the first three years, from the first year of revenue from the expansion investment project, then the time for tax exemption or reduction is calculated from the fourth year.

The tax incentives specified in this Clause do not apply to the expansion investment from merger or acquisition of enterprise or investment project in operation;"

Accordingly, the preferences for business expansion and intensive investment projects are available to the investment projects of encouraged sectors or of encourage locations which is discussed in the GOV's response under Program 18.

This program is still in effect.

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.

ANSWER:

Please refer to Exhibit 2 for Decree 218/2013/ND-CP dated December 26th, 2013.

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

ANSWER:

Please refer to Exhibit 2.

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

ANSWER:

Ministry of Finance was in charge in issuing circulars to provide guidelines for the implementation of the above incentives. Provincial authority including the licensing authority or tax authority are in charge of granting incentives to eligible enterprises in accordance with the above regulations

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.

ANSWER:

Investment certificates and income tax returns are records maintained by the government.

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.

ANSWER:

Some exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A were benefitted under this program. Particularly, [REDACTED] were eligible for benefits under this program due to their increase in production capacity [REDACTED] was not benefit any incentives under this program. However, the benefits shall be applied for to the enterprises in all regions and sectors who is eligible for.

The GOV would like to note that [REDACTED] did not generate taxable income during the POI, so this company did not receive any benefits of corporate income tax program. Please refer to Exhibit 26 for more details.

In addition, the GOV notes that regarding aluminium zinc coated steel, the companies are entitled to the incentives under several decrees such as Decree 24/2007/ND-CP, Decree 124/2008/ND-CP and Decree 218/2013/ND-CP. Please refer to the answer of the GOV for Program 18 for further references.

Please refer to Exhibit 26 for 2019 income tax returns of these exporters.

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).

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the taxpayer.

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.

ANSWER:

Income tax preferences are only available to certain sectors (i) identified in Article 15 of Decree 218 as well as certain locations identified in Article 15 of Decree 218 and Appendix II to Decree 118/2015/ND-CP and (ii) satisfying conditions relating to the expansion or intensive investment under Article 16.5 of Decree 218.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until March 31, 2020.

ANSWER:

The Government of Viet Nam does not have available statistics of sectors or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. However, the GOV answered this question with respect to all the exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A.

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, 2019 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program is provided by the GOV.

PROGRAM 30: ENTERPRISE INCOME TAX PREFERENCES, EXEMPTIONS, AND REDUCTIONS

The GOV notes that according to the Commission's clarification, program 30 consists of 7 following programs:

1. Enterprise Income Tax Preferences, exemptions and reductions
2. Enterprise income tax exemptions and reductions for business and intensive investment
3. Enterprise income tax and import duty preferences
4. Tax preferences for investors producing and/or dealing in export goods
5. Income tax preferences under Chapter V of Decree 24
6. Income tax preferences under Chapter IV of Decree 124
7. Tax exemption and reductions for foreign-invested enterprises

With respect to the 07 programs items, the GOV notes the following:

- The program in item (1) shares the same nature with Program 18 and thus, the GOV refer to its response to Program 18 for the response to this program
- The program in item (2) is the same with Program 29 and thus, the GOV refers to its response to Program 29 for this item.
- The program in item (3) mentions 02 different issues: income tax and import duty. The income tax part is the same with Program 18 and thus the GOV refers to its response to Program 18. The import duty part includes (i) import duty for goods to create fixed assets which is discussed in Program 32 and (ii) import duty for raw materials imported for the production of exported goods which is discussed in Program 42 and 44. Thus, the GOV refers to its response to those programs.
- The program in item (4) is the same with Program 28, 31 and 41. Thus, the GOV refers to its response to these programs for item (4).
- The program in item (5) refers to Chapter V of Decree 24/2007/ND-CP and will be discussed below.

- The program in item (6) refers to Chapter V of Decree 124/2008/ND-CP and will be discussed below.
- The program in item (7) is the same with Program 38. The GOV refers to its response to Program 38 for this item.

Income tax preferences under Chapter V of Decree 24

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

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

ANSWER:

Income tax preferences under Chapter V of Decree 24/2007/ND-CP dated February 14th, 2007 came into effect on March 21st, 2007 and were terminated on January 1st, 2009 by Decree 124/2008/ND-CP dated December 11th, 2008.

According to Article 33 of Decree 24, income tax preferences are provided to investment projects of sectors eligible for investment incentives and of geographical areas eligible for investment incentives. Investment sectors and geographical areas eligible for investment incentives are provided in Appendix I and II to Decree 108/2006/ND-CP detailing the implementation of the Law on Investment 2005.

Income tax preferences include preferential income tax rate as provided in Article 34 of Decree 24, income tax exemption and reduction as provided in Article 35 of Decree 24.

According to Article 34 of Decree 24, preferential income tax rates includes 20%, 15% and 10% as opposed to the standard tax rate of 20%.

With respect to income tax exemption and reduction, Article 35 of Decree 24 provides the following:

“1. Production establishments newly founded under investment projects and business establishments relocated out of urban centers under a planning approved by competent authorities enjoy tax exemption for 2 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 2 subsequent years.

2. Business establishments newly founded under investment projects in branches, business lines or sectors on the List of sectors entitled to investment preferences enjoy tax exemption for 2 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 3 subsequent years.

3. Business establishments newly founded under investment projects in geographical areas on the List of geographical areas with difficult socio-economic conditions and business establishments relocated to those geographical areas enjoy tax exemption for 2 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 6 subsequent years.

4. Business establishments newly founded under investment projects in branches, business lines or sectors on the List of sectors entitled to investment preferences and executed in geographical areas on the List of geographical areas with difficult socio-economic conditions enjoy tax exemption for 3 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 7 subsequent years;

5. Business establishments newly founded under investment projects in branches, business lines or sectors on the List of sectors entitled to exceptional investment preferences or executed in geographical areas on the List of geographical areas with exceptionally difficult socio-economic conditions enjoy tax exemption for 4 years after their taxable incomes are generated and a 50% reduction of their payable tax amounts for 9 subsequent years.

6. The preferential tax rates specified in Clauses 1, 2 and 3, Article 34 of this Decree and the tax exemption and reduction provided in this Article apply only to newly founded business establishments that conduct independent cost-accounting and register to pay enterprise income tax according to their declarations.

Business establishments newly founded under investment projects which enjoy tax exemption and reduction and are engaged in many business activities shall separately keep track of and account incomes from business activities entitled to tax exemption and reduction. If they are unable to do so, their tax exemption and reduction shall be determined based on the proportion of turnover from business activities entitled to tax exemption and reduction to total turnover.”

Tax exemption or reduction is calculated continuously from the first year of taxable income.

Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payers

- 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.

ANSWER:

Please refer to Exhibit 9 and Exhibit 32 for:

- Exhibit 9 for Decree 24/2007/ND-CP dated February 14th, 2007 and Decree 108/2006/ND-CP dated September 22nd, 2006
- Exhibit 32 for Decree 124/2008/ND-CP dated December 11th, 2008.

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

ANSWER:

Please refer to Exhibit 9 and 32.

- C1.4.** Identify the GOV department or agency administering the program.

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payer.

- 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.

ANSWER:

Investment certificates and income tax returns are among records maintained by the GOV.

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.

ANSWER:

Based on the first investment certificate of all companies in Appendix A, they were constructed in several industrial parks which established by the Decisions of the Prime Minister, so all of the companies received income tax benefits under this program because their investments fall within item 53, Appendix I of Decree 108/2006/ND-CP¹⁷ and item 55, Appendix II of Decree 118/2015/ND-CP. Thus, please refer to Exhibit 26 for the details of corporate income tax and incentives that the companies are eligible for.

However, the GOV would like to note that [REDACTED] did not generate taxable income during the POI, so this company did not receive any benefits of corporate income tax program. Please refer to Exhibit 26 for more details.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness

¹⁷ As provided under Article 88.2 of Decree 108/2006/ND-CP, this Decree annulled the 02 appendices to Decree 149/2005/ND-CP on the List of investment sector and List of investment locations subject to investment preferences.

of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

Income tax preferences are only available to certain sectors and geographical areas eligible for investment incentives are provided in Appendix I and II to Decree 108/2006/ND-CP detailing the implementation of the Law on Investment 2005.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

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 up until March 31,2020.

ANSWER:

As long as the tax payers' investment project falls within certain sectors and geographical areas eligible for investment incentives are provided in Appendix I and II to Decree 108/2006/ND-CP detailing the implementation of the Law on Investment 2005, it is eligible for the income tax preferences. However, as the eligibility is either by sector or location, it would be possible that all enterprises of a sector can be eligible regardless their location and all enterprises in a certain region can be eligible regardless of their sectors.

The Government of Viet Nam does not have accurate statistics of sector or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to all exporters of aluminium zinc coated steel products to Australia from Viet Nam during the POI as identified in Appendix A.

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 up until March 31,2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program was terminated. This program only applies to investment projects established before January 1st, 2009 when Decree 124/2008/ND-CP came into effect. Article 20 of Decree 124 is a grandfather clause which allows enterprises who benefit from this program before January 1st, 2009 to continue enjoying the benefits if these benefits are higher than the benefits provided in Decree 124/2008/ND-CP. Among the companies in Appendix A, only [REDACTED] are eligible for incentives under Decree 24/2007/ND-CP because [REDACTED]. This explains why [REDACTED] received the benefits under this program although the program was terminated in 2009. However, they did not receive any benefits under this program during the POI.

Please refer to Exhibit 26 for the details of corporate income tax incentives.

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.
- (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.

ANSWER:

The program was provided by the GOV.

Income tax preferences under Chapter IV of Decree 124

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted.
- (d) Nature or form of the subsidy.
- (e) When the program was established.
- (f) Duration of the program.
- (g) How the program is administered and how it operates.

- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Income tax preferences under Chapter IV of Decree 124/2008/ND-CP dated December 11th, 2008 came into effect on January 1st, 2009 and were terminated on February 15th, 2014 by Decree 218/2013/ND-CP dated December 26th, 2013. The program under Decree 218 was effective during the POI and is discussed in Program 18.

Income tax preferences include preferential income tax rate as provided in Article 15 of Decree 124, income tax exemption and reduction as provided in Article 16 of Decree 124. These articles identify sectors subject to income tax preference by themselves and rely on the List of geographical areas of difficult socio-economic conditions and of exceptionally difficult socio-economic conditions to Decree 124 for areas subject to income tax preferences.

According to Article 15 of Decree 124, preferential income tax rates includes 20%, and 10% as opposed to the standard tax rate of 25%.

With respect to income tax exemption and reduction, Article 16 of Decree 124 provides the following:

“1. Tax exemption for 4 years and 50% reduction of payable tax amounts for 9 subsequent years are applicable to:

a/ New enterprises established under investment projects specified in Clause 1, Article 15 of this Decree.

b/ New enterprises operating in socialized domains in geographical areas with socio-economic difficulties or extreme socio-economic difficulties specified in the Appendix to this Decree.

2. Tax exemption for 4 years and 50% reduction of payable tax amounts for 5 subsequent years are applicable to new enterprises operating in socialized domains in geographical areas outside the list of those with socio-economic difficulties or extreme socio-economic difficulties specified in the Appendix to this Decree.

3. Tax exemption for 2 years and 50% reduction of payable tax amounts for 4 subsequent years are applicable to new enterprises established under investment projects in geographical areas with socio-economic difficulties specified in the Appendix to this Decree.

4. The tax exemption or reduction duration specified in this Article is counted consecutively from the first year an enterprise has taxable income from an investment project; in case an enterprise has no taxable income during the first three years, counting from the first year it has turnover from an investment project, the tax exemption or reduction duration is counted from the fourth year.

In the first tax year, if an enterprises production and business duration eligible for tax exemption or reduction is less than 12 (twelve) months, the enterprise is entitled to tax

exemption or reduction right in that year or may register with the tax agency for enjoyment of tax exemption or reduction from the subsequent tax year.”

Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payers

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.

ANSWER:

Please refer to:

- Exhibit 32 for Decree 124/2008/ND-CP dated December 11th, 2008.
- Exhibit 2 for Decree 218/2013/ND-CP dated December 26th, 2013.

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

ANSWER:

Please refer to Exhibit 32 and 2

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

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees. Provincial tax departments are in charge of receiving and examining tax declarations of the payer.

- 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.

ANSWER:

Investment certificates and income tax returns are among records maintained by the government.

- 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.

ANSWER:

Among the companies identified in Appendix A, [REDACTED] is eligible for the benefits under this program. Please refer to Exhibit 26 for the details of corporate income tax incentives.

- 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).
 - (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
 - (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
 - (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Taxpayers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates

to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

Income tax preferences are only available to certain sectors and geographical areas eligible for income tax preferences identified in Decree 124/2008/ND-CP.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?

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

ANSWER:

Please refer to the response to Question C1.1 of this program for the description of the benefits under this program including the size of the benefit, specific governmental regulations detailing the eligibility criteria. The amount of the benefits provided under this program were exclusively determined by the criteria set in the legal regulations. There were no contractual agreements between the GOV and the companies that are receiving the benefits under the program.

- 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 up until March 31,2020.

ANSWER:

The Government of Viet Nam does not have accurate statistics of sectors or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to the exporters of aluminium zinc coated steel to Australia during the POI as identified in Appendix A.

- 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 up until March 31,2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

- 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 a benefit under the program?

ANSWER:

This program was terminated. This program only applies to investment projects established before February 15th, 2014.

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 37: TAX EXEMPTION AND REDUCTION FOR ENCOURAGED SECTORS

The GOV notes that this program refers to the income tax exemption and reduction for encouraged sectors provided by Decree 218/2013/ND-CP, which is discussed in the GOV's response to Program 18. Thus, the GOV refers to its response to Program 18 for this program.

PROGRAM 39: TAX EXEMPTION AND REDUCTION FOR INVESTMENT IN DISADVANTAGED REGIONS

The GOV notes that this program refers to the income tax exemption and reduction provided under Decree 218/2013/ND-CP for investment projects identified in Appendix II to Decree 118/2015/ND-CP, which is discussed in the GOV's response to Program 18. Thus, the GOV refers to its response to Program 18 for this program.

PROGRAM 35: PREFERENTIAL INCOME TAX RATES FOR ENTERPRISES WITHIN ECONOMIC ZONES OR INDUSTRIAL PARKS

PROGRAM 40: TAX EXEMPTION AND REDUCTIONS FOR INVESTMENT IN ECONOMIC ZONES OR HIGH-TECH INDUSTRIAL PARKS

The GOV notes that these two programs share the same nature with Program 18 because industrial parks, economic zones and high-tech zones fall within Appendix II to Decree 118/2015/ND-CP.

With respect to Program 35:

- According to Article 15.1(a) of Decree 218, investment in economic zones is eligible for preferential tax rate of 10% within 15 year-period.
- According to Article 15.3 of Decree 218 and item 55 of Appendix II to Decree 118/2015/ND-CP, investment in industrial parks established by a decision of the Prime Minister is subject to 17%.

With respect to program 40:

- According to Article 16.1(a) of Decree 218, investment in economic zones or high-tech zones is eligible for 4-year exemption and 50% reduction for the 9 subsequent years.
- According to Article 16.3 of Decree 218 and Article 1.6 of Decree 91/2014/ND-CP dated October 1st, 2014, investment in industrial parks is eligible for 2-year exemption and 50% reduction for the 4 subsequent years. Exhibit 25 provides Decree 91/2014/ND-CP dated October 1st, 2014.

Thus, the GOV refers to its response to Program 18 for the two programs.

PROGRAM 36: PREFERENTIAL PROVISIONS FOR CARRY - FORWARD LOSSES

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

- (a) Title of the program;

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

ANSWER:

At the outset, the GOV notes that there is no preferential provision for carry-forward losses in the legal system of Vietnam. Loss carry-forward is provided under Article 1.10 of the Law on the amendments to the Law on enterprise income tax No. 32/2013/QH13 as follows:

“Article 16. Carry-forward loss

1. An enterprise may transfer its loss to the next year; this loss is deducted from assessable income. The period of loss transfer must not exceed 5 years from the year succeeding the year in which the loss is incurred.

2. Any enterprise which is still at a loss after offsetting its loss on transfers of real estate, transfers of projects of investment, transfers of the right to participate in project of investment, according to Clause 3 Article 7 of this Law, and any enterprise which makes a loss from transfers of the right to explore and extract minerals may transfer the loss to the next year and offset it against the assessable incomes from such activities. The period of loss transfer shall comply with Clause 1 of this Article.”

Thus, carry-forward loss is available to companies of all sectors and all locations. There is no preferential provision applying to one sector over the other or one location over the other.

The program is still effects.

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.

ANSWER:

Please refer to Exhibit 33 for Law 32/2013/QH13 of June 19th, 2013.

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

ANSWER:

Please refer to Exhibit 33.

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

ANSWER:

Ministry of Finance administers this program by issuing guiding circulars for implementation of the program. Tax agencies shall maintain tax declaration submitted by enterprises.

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.

ANSWER:

The provincial tax authorities shall maintain tax declaration submitted by companies.

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.

ANSWER:

During the POI, none of the companies in Appendix A carried their forward loss to the POI.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

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

ANSWER:

There is no separate application process. Tax payers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, decide on the loss carry-forward, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

The program is available for enterprises of all sectors and all geographical locations.

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

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1.

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 up until March 31, 2020.

ANSWER:

The GOV does not have available statistics of companies by sectors and regions who carried loss forward during 2017-March 2020. However, the GOV answered this question for the exporters of aluminium zinc coated steel products to Australia from Viet Nam as identified in Appendix A.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

The program is still in effect and there is no anticipated change in the program.

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.
- (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.

ANSWER:

The program is provided by the GOV.

PROGRAM 38: TAX EXEMPTIONS AND REDUCTIONS FOR FOREIGN-INVESTED ENTERPRISES

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

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

ANSWER:

Income tax preferences for foreign-invested enterprises were provided under Decree 24/2000/ND-CP dated July 31st, 2000 detailing the implementation of Law on Foreign Investment 1996. These preferences were terminated by Decree 164/2003/ND-CP dated December 22nd, 2003 detailing the implementation of the Law on Corporate Income Tax 2003. Under Decree 164, there is no difference in terms of income tax preferences for domestic and foreign-invested enterprises. Thus, this program is outside the POI.

Preferences under this program include preferential income tax rates provided under Article 46, exemptions and/or reductions provided under Article 48 of Decree 24. The GOV notes that none of the companies in Appendix A received any benefits under this program during the POI.

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.

ANSWER:

Please refer to Exhibit 34 for Decree 24/2000/ND-CP dated July 31st, 2000 and Exhibit 7 for Decree 164/2003/ND-CP dated December 22nd, 2003.

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

ANSWER:

Please refer to Exhibit 34 for Decree 24/2000/ND-CP dated July 31st, 2000 and Exhibit 7 for Decree 164/2003/ND-CP dated December 22nd, 2003.

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

ANSWER:

Ministry of Finance administers this program by issuing guiding circulars for implementation of the program. Tax agencies shall maintain tax declaration submitted by enterprises.

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.

ANSWER:

The tax authorities-maintained tax settlement declaration annually submitted by companies. Investment license granting bodies maintained the registration dossiers submitted by companies applied for investment business licenses.

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.

ANSWER:

Regarding this program, the GOV notes that none of the companies in Appendix A received any benefits under this program during the POI.

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).

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no separate application process. Tax payers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, decide on the loss carry-forward, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Taxpayers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

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.

ANSWER:

The program was applied to all foreign – invested enterprises having investment projects in the lists of exceptionally encouraged investment sectors or investing in regions with exceptionally difficult socio-economic conditions as provided in the Appendices I and II to Decree 24. However, the GOV noted that this program was

terminated in 2004 – long before the POI. As such, no benefits were received by any company in Appendix A under this program during the POI.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response in Question C1.1 and Question C1.9.

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 up until March 31, 2020.

ANSWER:

This program was terminated in 2004. Thus, no benefits were received any company in Appendix A under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

This program was terminated in 2004. There was no application for the benefits under this program in 2017, 2018 and 2019 up until March 31st, 2020.

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 a benefit under the program?

ANSWER:

This program was terminated. Benefits under this program were granted to eligible foreign-invested enterprises which were established before January 7th, 2004.

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.
- (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.

ANSWER:

The program was provided by the GOV.

**PROGRAM 33: EXEMPTIONS/REDUCTIONS OF LAND RENT, TAX, AND LEVIES
(CONSISTING OF FIVE SEPARATE PROGRAMS)**

The GOV notes that according to the Commission's clarification, Program 33 consists of the 5 following programs:

1. Land rent reduction or exemption for exporters and land use fees or leases exemptions and reductions
2. Land-use levy exemption or reduction
3. Land-rent exemption or reduction
4. Land use tax exemptions or reductions; and
5. Preferences related to land use tax, land use levy and water surface rent

With respect to these 05 programs, the GOV notes that these 5 programs and Program 38 mentions 03 main issues: (i) land use rent or lease exemption or reduction, (ii) land use levy exemption or reduction and (iii) land use tax. Thus, the GOV would combine its response as follows:

- The program in item (1) contains 02 issues. First, land rent exemption and reduction for exporters is provided under Decree 51/1999/ND-CP and was discussed in the GOV's response to Program 3. Second, land use lease exemption and reductions are similar preferences with the program in item (3) and (5) and will be discussed under Program 33.
- The program in item (2) is similar to Program 34 and thus, will be discussed in the GOV's response to Program 34.
- The program in item (4) relates to land use tax is the same with Program 19 and thus the GOV refers to its response to Program 19.

Program 33: Land rent exemption or reduction

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;

- (d) Nature or form of the subsidy;
- (e) When the program was established;
- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and
- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Exemptions/reductions of land rent and water surface rent are provided under Decree 46/2014/ND-CP dated May 15th, 2014, regulations on collection of land rent and water surface rent (Decree 46), Decree 135/2016/ND-CP dated September 9th, 2016 amending and supplementing some articles of Decree 46 and Decree 123/2017/ND-CP dated November 14th, 2017 on amending, supplementing some Articles of decrees on land use levy, land rent and water surface rent.

Land rent exemption is provided under Article 19 of Decree 46/2014/ND-CP dated May 15th, 2014 and Article 3.6 of Decree 135. In this regard, we note the following points:

- Investment projects subject to exceptional investment incentives in Appendix I to Decree 118/2015/ND-CP) and implemented in areas of special socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP are eligible for land rent exemption for the whole period of the project¹⁸
- Investment projects subject to investment incentives in Appendix I to Decree 118/2015/ND-CP) is eligible for 3-year exemption¹⁹
 - Investment projects implemented in areas of socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP is eligible for 7-year exemption²⁰
 - Investment projects subject to investment incentives in Appendix I to Decree 118/2015/ND-CP) and implemented in areas of socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP is eligible for 11-year exemption. The same exemption duration applies if the investment project is subject to exceptional investment incentives in Appendix I to Decree 118/2015/ND-CP) or implemented in areas of special socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP²¹

¹⁸ Article 19.1(a) of Decree 46/2014/ND-CP

¹⁹ Article 19.3(a) of Decree 46

²⁰ Article 19.3(b) of Decree 46

²¹ Article 19.3(c) of Decree 46

- Investment projects subject to investment incentives in Appendix I to Decree 118/2015/ND-CP) and implemented in areas of special socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP is eligible for 15-year exemption. The same exemption duration applies to the investment project that is subject to exceptional investment incentives in Appendix I to Decree 118/2015/ND-CP) and implemented in areas of socio-economic difficulties in Appendix II to Decree 118/2015/ND-CP²²

Land rent reduction is provided under Article 20 of Decree 46 and Article 17.2 of Decree 35/2017/ND-CP as follows:

“Article 20. Reduction in land rent and water surface rent

1. The land rents and water surface rents shall be reduced in these following cases:

a) A land rent for the land leased by a cooperative to be used as business and production premises shall be reduced by 50%.

b) A rent for the land or water surface leased to serve the purposes of agricultural production, forestry, aquaculture and salt making shall be reduced by a corresponding rate if less than 40% of its yield is damaged by disaster or conflagration; exempted if 40% or more of its yield is damaged in such year.

b) A rent for the land or water surface leased to serve the purposes of production and business other than the agricultural production, forestry, aquaculture and salt making or the case prescribed in the Clause 2 this Article shall be reduced by 50% during the pause in production and business in case of disaster, conflagration or force majeure.

2. [deleted by Article 17.2 of Decree 135]

3. The land rent of the investment projects on the agriculture and rural areas shall be reduced under the regulations of the Government on the investment incentives for agriculture and rural areas.

4. With regard to the construction projects on the headquarters of the diplomatic missions, foreign consular offices and the representative agencies of international organizations in Vietnam according to the International Agreement to which Vietnam is a State Party, the land rent is reduced according to the Agreement or principle of reciprocity.

5. The Prime Minister shall consider and decide to offer the land rent reduction in other cases which are requested by the Minister of Finance according to the proposals of the Ministers, Heads of ministerial-level agencies, Governmental agencies and Presidents of the People’s Committees of provinces.”

This program is still in effect.

- 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.

²² Article 19.3(d) of Decree 46

ANSWER:

Please refer to Exhibit 35 for:

- Decree 46/2014/ND-CP dated May 15th, 2014
- Decree 135/2016/ND-CP dated September 9th, 2016
- Decree 35/2017/ND-CP dated April 3rd, 2017
- Decree 123/2017/ND-CP dated November 14th, 2017

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

ANSWER:

Please refer to Exhibit 35

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

ANSWER:

Ministry of Finance issues circular for guiding the implementation of this program and provincial tax authorities implement this program.

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.

ANSWER:

Land rent contracts, notice of tax authority on payable land rent are records maintained by provincial authorities.

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.

ANSWER:

- None of those companies received exemption or reduction of non-agricultural tax and they already paid non-agricultural tax for 2019. According to the land subleasing contracts of all the companies, they have not rented the land from

the State, so none of these companies applied for, received, claimed, accrued or used assistance under this program during the POI.

- Please refer to Exhibit 26 for Land Subleasing Contracts between the companies and other third parties.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Pursuant to Article 21 Decree 46, which amended by Article 2.7 of Decree 123/2017/ND-CP dated November 14th, 2017 amendments of Decrees on collection of land levy, land rent and water surface rent, enterprises shall submit the application document for exemption and reduction of land rents in tax authority. Based on the application document, tax authority shall determine and make decision on the exemption and/or reduction amounts for eligible enterprises.

The application document includes as follows:

- A written request specifying area of rented land, land lease term, reasons and duration of the exemptions and/or reductions. Exhibit 34 provides the form of such written request.
- A copy of either of the investment certificate, investment license, investment registration certificate or decision on investment (except for the cases where issuance of such documents is not required according to regulations of law on investment and levy-free land allocated by the State is now repurposed as rented land or land leased out by the State is now eligible for remission of land rent)
- A copy of the project approved in compliance with regulations of law on investment (except for the cases where the levy-free land allocated by the State is now repurposed as rented land or land leased out by the State is now eligible for remission of land rent)
- A copy of the decision on approval for investment project
- A copy of the decision on land lease made by a competent state authority

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

- (a) Describe the application process (including any application fees charged by the Government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Please refer to the GOV's response to Question C1.1

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the GOV's response to Question C1.1

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 up until March 31, 2020.

ANSWER:

Please refer to Appendices I and II of Decree 118/2015/ND-CP for sectors and regions eligible for benefits under this program. The GOV does not have available statistics for companies by sector and region that have received benefits under this program during 2017-March 2020. However, the GOV answered this question with respect to the exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the GOV's response to Question C1.10

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 a benefit under the program?

ANSWER:

This program is still in effects

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 34: LAND-USE LEVY EXEMPTIONS/REDUCTIONS

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

- (a) Title of the program;
- (b) Policy objective and/or purpose of the program;
- (c) Legislation under which the subsidy is granted;
- (d) Nature or form of the subsidy;
- (e) When the program was established;
- (f) Duration of the program;
- (g) How the program is administered and how it operates;
- (h) To whom and how the program is provided; and

- (i) The eligibility criteria in order to receive a benefit under the program.

ANSWER:

Exemptions/reductions of land use levy are provided under Decree 45/2014/ND-CP dated May 15th, 2014, regulations on collection of land use levy.

Land use levy exemption is provided under Article 11 of Decree 45/2014/ND-CP as follows:

“Article 11. Land use levy exemption

Land use levy shall be exempted in the following cases:

1. Land use levy shall be exempted for the land area within the allocation quota for residential land which is used for implementation of housing policies, residential land for people with meritorious services to the revolution who are eligible for land use levy exemption under regulations on people with meritorious services; poor households and ethnic minority households in areas with extremely difficult socio-economic conditions or in border areas or on islands; or land used for construction of social houses under the housing law; or houses for people who have to relocate due to natural disasters. Poor households shall be identified under the Prime Minister’s decision while ethnic minority households or individuals shall be identified under the Government’s regulations.
2. Land use levy shall be exempted for the land area within the allocation quota for residential land upon first-time grant of certificates for land changed from non-residential land to residential land as a result of separation of households for ethnic minority households or poor households in communes with extremely difficult socio-economic conditions in ethnic minority and mountainous areas on the Prime Minister-prescribed list of communes with extremely difficult socio-economic conditions.
3. Land use levy shall be exempted for the land area allocated within the allocation quota for residential land for fishing households or people living in river or lagoon areas that move to resettlement areas under approved master plans, plans or projects.
4. Land use levy shall be exempted for the land area allocated within the allocation quota for residential land for resettlement or allocated to households and individuals in flooded residential clusters and lines under approved projects.
5. The Prime Minister shall decide on land use levy exemption in other cases submitted by the Minister of Finance at the proposal of ministers, heads of ministerial-level agencies or government-attached agencies or chairpersons of provincial-level People’s Committees.
6. The Ministry of Finance shall detail this Article.”

Land use levy reduction is provided under Article 12 of Decree 45 as follows:

“Article 12. Land use levy reduction

1. A 50% reduction of land use levy for the land area within the allocation quota for residential land is applicable to ethnic minority households and poor households in localities not prescribed in Clause 2, Article 11 of this Decree upon issuance of a decision by a competent state agency on land allocation; first-time recognition (grant of certificates) of land use rights for currently used land or upon permission for change from non-residential land to residential land.

Poor households shall be identified under the Prime Minister's decision while ethnic minority households or individuals shall be identified under the Government's regulations.

2. Land use levy reduction for residential land within the allocation quota for residential land (including land allocation, change of land use purpose and grant of certificates for current land users) is applicable to people with meritorious service to revolution who are eligible for land use levy reduction under regulations on people with meritorious service.

3. The Prime Minister shall decide on land use levy reduction in other cases submitted by the Minister of Finance at the proposal of ministers, heads of ministerial-level agencies or government-attached agencies or chairpersons of provincial-level People's Committees.

4. The Ministry of Finance shall detail this Article."

This program is still in effect.

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.

ANSWER:

Please refer to Exhibit 36 for Decree 45/2014/ND-CP dated May 15th, 2014

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

ANSWER:

Please refer to Exhibit 36

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

ANSWER:

Ministry of Finance issues circular for guiding the implementation of this program and provincial tax authorities implement this program.

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.

ANSWER:

Land allocation document, notice of tax authority on payable land use levy are records maintained by the government

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.

ANSWER:

- None of those companies received benefits under this program. According to the land subleasing contracts of all the companies, they have not rented the land from the State, so none of these companies applied for, received, claimed, accrued or used assistance under this program during the POI.
- Please refer to Exhibit 26 for Land Subleasing Contracts between the companies and other third parties.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

Pursuant to Article 15 of Circular 76/2014/TT-BTC dated June 16th, 2014 guiding some articles of Decree 45/2014/ND-CP, an application for exemption or reduction is required to be submitted to the local tax authorities.

This application file includes:

“Article 15. Application for reduction in or exemption from land levies and agency in charge

1.1 An application form for reduction in or exemption from land levies; in which area, reasons for reduction or exemption shall be clarified.

1.2. Documentary evidence for reduction in or exemption from land levies (certified true copy), in particular:

- a) Regarding the people with meritorious services to the Revolution, documents on reduction in or exemption from land levies prescribed in Clause 1 Article 13 and Clause 2 Article 14 of this Circular are required.
 - b) Regarding the poor people, the Certification issued by competent agencies as prescribed in regulation of the Ministry of Labor, War Invalids and Social Affairs is required.
 - c) Regarding the ethnic minority household in the disadvantaged areas, severely disadvantaged areas, or border or island areas, their permanent residence or the Certification issued by the People's Committee of the commune is required.
 - d) Regarding the construction project on social housing prescribed in law on housing, the approval for the project and exemption from land levies issued by competent agencies is required.
 - dd) Regarding the piece of land which is used for housing construction for people moved by disaster, the Certification on the no compensation and support for movement issued by the competent agencies is required.
- 1.3. Other documents related to the land plot (if any)."

According to application for reduction in or exemption from land levies sent from the economic organization or the natural resource and environment agency, the tax authority shall determine and issue the Decision on reduction in or exemption from land levies within 15 working days

- 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.

ANSWER:

Eligibility of this program is provided under Article 11 and 12 of Decree 45. Please refer to the GOV's response to Question C1.1

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the GOV's response to Question C1.1

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 up until March 31, 2020.

ANSWER:

The GOV does not have available statistics for companies by sector and region that have received benefits under this program during 2017-March 2020. However, the GOV answered this question with respect to the exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the GOV's response to Question C1.10

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 a benefit under the program?

ANSWER:

This program is still in effects

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.
- (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.

ANSWER:

The program was provided by the GOV.

PROGRAM 42: EXCESSIVE DUTY EXEMPTIONS FOR IMPORTED RAW MATERIALS FOR EXPORTED GOODS

PROGRAM 44: REFUND OF IMPORT DUTY

The GOV notes that these programs address the issue of import duty for imported raw materials for the production of exported goods. Thus, the GOV combines one response for both programs.

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

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

ANSWER:

The import duty exemption on raw materials imported and consumed in the processing of exported goods is provided under Article 16.6 of the Law on Import and Export Duty 2016 dated April 6th, 2016 and Article 10 of Decree 134/2016/ND-CP dated September 1st, 2016. Accordingly, import duty exemptions are provided on imported raw materials that are incorporated in the exported goods or directly used in the processing of such goods. The amount of exemption is the amount of the duty corresponding to the value of imported materials actually used in the processing of the finished goods that are exported and is determined or declared at the time of reporting to the Customs authority on the use of imported raw materials for manufacture of exported goods in accordance with customs regulations.

In the event that the producer of exported goods already pays the import duty for the raw materials, they may apply for duty refund after they export the goods which are manufactured from the imported raw materials for which the import duty is paid. The

duty refund is provided in Article 36 of Decree 134/2016/ND-CP dated September 1st, 2016.

“Article 36. Refund of duties on goods initially imported for business operation but eventually used for manufacture of export goods

1. Paid import duties on goods that are initially imported for business operation but eventually used for manufacture of goods that have been exported into a foreign country or a free trade zone shall be refunded.

2. Import duties on the following imports are refundable:

a) Raw materials, supplies (including those for manufacture of packages of exports), components, semi-finished products imported incorporated into the exports or used during the manufacture of exports without being incorporated into the exports.

b) Imported finished products that are attached on exports or packed with exports as a whole.

c) Components and parts imported for repair of exports under warranty.

3. Basis for determination of eligibility for duty exemption:

a) The manufacturer of exports has a factory where exports are manufactured in Vietnam; owns or has the right to use machinery and equipment at the factory which is suitable for the raw materials, supplies and components imported for manufacture of exports;

b) The value or quantity of imported raw materials, supplies and components on which import duties are refundable is the actual value or quantity of raw materials, supplies and components used for the manufacture of the products that are exported in reality;

c) The exported products are declared as exports.

d) The manufacturer directly imports goods and exports the products or authorizes another entity to do so.

The taxpayer shall provide truthful information about the exports derived from the imported goods on the customs declaration.

4. Where a type of raw materials, supplies or components is used to manufacture more than one type of products but only one of them is exported, import duties shall be refunded according to the ratio of the quantity of raw materials, supplies or components incorporated into the exported products to the total value of products manufactured.

The total value of products manufactured is the total value of exported products and selling price of products sold domestically. The value of products exported products is exclusive of the value of domestically purchased raw materials, supplies or components that are incorporated into the exported products.

Refundable import duty is calculated as follows:

$$\text{Import duty on products exported in reality} = \frac{\text{Value of exported products}}{\text{Total value of products manufactured}} \times \text{Total import duties on imported raw materials, supplies and components}$$

The value of exported products equals (=) the quantity of exported products multiplied by (x) dutiable value of exported products.”

In this regard, the GOV has developed a customs mechanism to track (1) how much imported material is actually used for processing of exported products, including the portion of scrap and discarded products within the consumption norm recovered in the production of exports from imported materials and supplies; and (2) whether the exported products are actually exported. Applicable customs regulations are Decree 08/2015/ND-CP dated January 21st, 2015 and Circular 38/2015/TT-BTC dated March 25th, 2015. The GOV provides a brief description of the custom procedures as follows:

- *Obligations of Producers in Case of Imports Used for Manufacturing Exports (Article 37 of Decree 08):*
 - Prior to the first import of raw materials for exported goods processing, to inform the customs authority about its production facility including the location where to stock in imported materials, finished export goods, and to install manufacturing equipment and machinery (Article 56 of Circular 38).
 - To maintain record on norms of material consumption for each type of material, finished product design, or production process chart. According to Article 55 of Circular 38, norms for processing exported goods include the actual material and/or supply consumption to produce a unit of exported good and a rate of loss including the loss due to the formation of waste. Before manufacturing, the processor is required to estimate or construct the norms and rate of loss for each product code and maintain all the records associated with the norm construction or norm adjustment during the production process later. The processor takes the legal responsibility for the accuracy of the norm and rate of loss applied.
 - To prepare a report on the stock in, stock out for manufacturing and leftovers of imported materials and supplies for each finished product code. This report must be reconciled to the accounting documentation of the processor. The processor bases on this report and norms to determine the amount of import duty subject to exemption.

- Obligations of the Customs Authority (Article 38 of Decree 08):
 - Receive the written notification of production facilities of exports, or facilities used for storage of raw materials, machinery, equipment and exported products sent by producers.
 - Inspect facilities used for processing of export goods, capability of carrying out production activities, and use and inventory of raw materials, machinery, equipment and exports when such inspection is required.
 - Receive financial reports on current use of raw materials submitted by the export processor.
 - Depending on the result of customs information handling and criteria for risk management, customs authorities shall inspect reports submitted by the processor.
 - With regard to organizations or individuals suspected of trade frauds, customs authorities shall carry out customs post-clearance examination and handle such frauds as required by laws.
 - Impose duties, penalties for administrative violations against the law on customs and taxed in accordance with legal regulations on taxation and handling of administrative violations.
- Inspection by the Custom Authority (Article 39, 40 and Chapter VI of Decree 08):
 - Inspection of the processing facilities of exported goods if there are signals of inconstant operation of the processing facilities or unusual increase or decrease in the import as opposed to processing capacity (Article 39 of Decree 08).
 - Inspection on the use and stock of imported materials if:
 - The processor importing materials does not export its products within a standard cycle of producing such goods.
 - There are signals that the processor imports materials or export the goods with an unusual quantity as opposed to the processor capacity
 - The processor declares the export inconsistently with reality of export.
 - There is an unusual inconsistency between the processor's report of using materials as opposed to the data of the customs authority.

Inspection content includes paper examination (i.e., custom documentation, report on the stock in, stock out and leftovers, stock in and stock out notes), norm examination, and physical inspection (i.e. actual stock check on the materials and finished goods)

Post clearance inspection (per Article 97 and 98 of Decree 08), including paper and data inspection at the customs authority and physical inspection at the processor's premise.

It is obvious that the GOV maintains a strict monitoring system to prevent excessive duty exemption.

The GOV notes that the exemption of import duty on raw materials to produce exported goods is a practice adopted by almost all countries and should not be considered as a program to confer subsidy benefit to exporters.

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.

ANSWER:

Please refer to Exhibit 37 for:

- Decree 08/2015/ND-CP dated January 21st, 2015
- Circular 38/2015/TT-BTC dated March 25th, 2015
- Decree 134/2016/ND-CP dated September 1st, 2016

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

ANSWER:

Please refer to Exhibit 37.

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

ANSWER:

Ministry of Finance and provincial customs authorities administer the program.

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.

ANSWER:

The relevant records are Customs documentation (*i.e.*, import and export declaration and notification at the first time of importation), report on the stock in, stock out, and leftovers as filed by the producers, and inspection documents maintained by the Customs authority.

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.

ANSWER:

All companies which listed in Appendix A received import duty exemption on the raw material imported to produce the exported goods.

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).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

For import duty exemption, the producer of exported goods is required to notify the provincial customs authority about its production facility. The producer of exported goods relies on the import duty legal regulation to declare the exemption when conducting the importation of the raw materials and takes the responsibility for the accuracy of what they declared. By the end of the end, the producer is required to submit a report to the custom authority on its activities of importation, production and export during the year.

For duty refund, the producer of the exported goods is required to submit a dossier that consists:

- An application for refund. A blank form of this application is also provided in Exhibit 37

- 01 certified true copy of the document proving payment for the imports (if paid)
- 01 certified true copy of the export/import contract and invoices enclosed therein or the export/import mandate contract. The taxpayer shall write the number and date of the contract and the buyer's name on the export declaration
- A statement of duties on imported raw materials, supplies and components
- 01 certified true copy of the processing contract with the foreign hirer if raw materials, supplies, and components are imported for manufacture of products that are used for processing exports under a processing contract with a foreign entity
- 01 certified true copy of the document proving the existence of a factory in Vietnam, the right to ownership or enjoyment of machinery and equipment therein that are suitable for the raw materials, supplies and components imported for manufacture of export.

Upon checking and reviewing the application, the customs authority issues the decision of duty refund for the amount of import duties corresponding to the amount of imported raw materials actually used in the production of the exported goods.

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.

ANSWER:

Please refer to the response to Question C1.1 above. As long as the imported materials are used in the processing of exported goods, such materials are import duty exempt regardless of the sector, location, or size of the importing producers.

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.
- (b) Provide a copy of any law, regulation or other official document detailing these criteria.
- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the program?
- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the program determine the benefit amount?
- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

Please refer to the response to Question C1.1 of this program

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 up until March 31, 2020.

ANSWER:

The Government of Vietnam does not have available statistics of sector or regions that actually benefited from this program during 2017-March 2020 and thus cannot provide to the Commission. In an attempt to cooperate and response to the Commission's question, the GOV answered this question with regards to the exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A.

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 up until March 31, 2020? Provide the main reasons why applicants have been rejected.

ANSWER:

Please refer to the response to Question C1.10.

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 a benefit under the program?

ANSWER:

This program is still in effect.

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.
- (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.

ANSWER:

The program is provided by the GOV.

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.

ANSWER:

The GOV notes that as reported to the Commission that the following exporter of the subject merchandise received income tax preferences:

Based on the first investment certificate of all companies in Appendix A, they were constructed in several industrial parks which established by the Decisions of the Prime Minister, so all the companies received income tax benefits under this program because their investments fall within item 53, Appendix I of Decree 108/2006/ND-CP and item 55, Appendix II of Decree 118/2015/ND-CP. Thus, please refer to Exhibit 26 for the details of corporate income tax and incentives that the companies are eligible for.

However, the GOV would like to note that [REDACTED] did not generate taxable income during the POI, so this company did not receive any benefits of corporate income tax program. Please refer to Exhibit 26 for more details.

- 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.

ANSWER:

With respect to all companies identified in Appendix A, the benefits during the POI are a reduction in the tax rate (i.e preferential income tax rate of 15% or 17% as opposed to 20% standard tax rate in 2019) and 50% reduction of the taxes payable.

- 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.

ANSWER:

Please refer to the income tax returns of the exporter in Exhibit 26 for a table of benefit calculation.

- 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.

ANSWER:

This question is not applicable.

- 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.

ANSWER:

This question is not applicable.

- 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?

ANSWER:

This question is not applicable.

- 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.

ANSWER:

Please refer to Exhibit 26 for the details of income tax rate which the companies listed in Appendix A eligible for during the POI. The standard income tax rate is 20%.

C3 – ENTERPRISES WITH STATE INVESTMENT

The GOV notes that no exporters of the subject merchandise to Australia during the POI identified in Appendix A are SIE and thus these questions are not applicable.

General questions

- C3.1. Is there any legislation, guidelines, decrees, circulars, directives or other government-issued documents concerning the GOV's role or involvement with respect to SIEs? Provide copies of these documents.
- C3.2. 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 aluminium zinc coated steel industry.
- C3.3. Explain how relevant GOV laws, policies, opinions, guidelines, etc. are communicated to SIEs.
- C3.4. Provide an explanation of repercussions or penalties (if any) for a SIE if they do not adhere to the GOVs laws, policies, opinions, guidelines etc.
- C3.5. What advantages, if any, do SIEs enjoy compared with private (non-state) enterprises in the aluminium zinc coated steel sector in Vietnam (e.g. reduced income tax rates, easier access to capital, different reporting requirements, etc.).

Core features of SIEs in the steel sector in Vietnam

The GOV notes that to all exporters of the merchandise to Australia from Viet Nam during the POI as identified in Appendix A are not SIE and thus these questions are not applicable.

- C3.6. 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 GOV 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.

- (b) Describe how the GOV 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.
- (c) Explain what rights share ownership confers to shareholders, including any voting rights and debt liabilities.
- (d) Explain the rules for share ownership in the enterprise.
- (e) Does the GOV restrict the level of ownership by parties outside government? Provide details of any such limitations, and the reason for this.

C3.7. For each entity identified in **Appendix A** or in your response to Question B4 that is a 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.
- (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.
- (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.
- (d) Explain the requirements in law, and in practice, to have government representation at any level of the enterprise.
- (e) Who selects and/or approves the members of the Board of Directors (include the criteria for selection of members of the Board of Directors)?
- (f) Indicate whether any member of the Board of Directors is an employee or affiliate of the GOV.
- (g) Describe the roles and responsibilities of the Board of Directors.
- (h) Do any major management decisions/actions of the enterprise require approval from any government entity (for example, investment decisions)? Provide details.
- (i) Outline how each of the following are determined/set for the entity:

- suppliers of raw material inputs (including any restrictions as to what entities can supply raw materials);
- purchase prices of raw material inputs;
- allocation of inputs into production process, including raw materials, energy and labour costs;
- quality and safety standards;
- selling prices;
- customers (including restrictions on entities that can purchase goods produced from the enterprise);
- production output (detail any restrictions on production output);
- safety standards; and
- energy costs.

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

C3.8. For each entity identified **Appendix A** or in the response to Question B4 that is a SIE, answer the following questions regarding **performance and profits**.

- (a) How are the operations of the enterprise funded?
- (b) Provide details of any debts or other liabilities the enterprise has with any banks or financial institutions in which the GOV holds an interest.
- (c) How is the performance of the enterprise measured? For example, profitability, employment, output, social wellbeing, etc.
- (d) Provide details and explain how the government inspects or evaluates enterprise performance, including:
 - output and quality performance;
 - performance of employees/directors/managers; and
 - financial performance.
- (e) Provide details of any official reporting mechanisms that the enterprise must comply with.
- (f) Provide an explanation of the systems that exist for assessing the performance of administrators of SIEs.
- (g) How are profits of the enterprise distributed and to whom?
- (h) Are dividends/ other payments made to any GOV entity?
- (i) Outline what action, if any, is taken by the GOV if the enterprises makes a loss or under-performs.
- (j) Over the past 10 years, has the GOV 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.

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.

C3.9. 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.
- (b) Provide details of any government policies the enterprise administers or carries out on behalf of the GOV.
- (c) Indicate whether any of the enterprise's 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.
- (e) Indicate whether the enterprise has the authority or power to entrust or direct a private body to undertake responsibilities or functions; and
- (f) Explain whether the enterprise is in pursuit of or required to support governmental policies or interests.

**SECTION D
PARTICULAR MARKET SITUATION**

The investigation will seek to determine whether, during the investigation period, there was a situation in the Vietnamese 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 “aluminium zinc coated steel”.

The Australian industry applicant initiating this investigation has claimed that sales of the Goods in the Vietnamese market are not suitable for use in determining normal value in the Vietnamese market. The information sought from you below will assist the Commission to better understand the Vietnamese market and to assess whether sales in the Vietnamese 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.

Prior to responding to the Commission’s request for information below, the GOV would like to take the opportunity to express its concerns and disagreement with the applicant’s market situation claims and the Commission’s consideration of such claims in the context of the dumping investigation, and specifically the determination of normal values for Vietnamese exporters of aluminium zinc coated steel.

The applicant contends that the domestic prices are distorted as a result of the GOV’s influences and controls in the following areas:

- Electricity prices;
- The Steel Master Plans;
- Industrial Development Strategy;
- State Ownership of Aluminium zinc coated steel Producers;
- Domestic Price Stabilisation Initiatives;
- Steel Industry Construction Project and Investment Control; and
- Steel Industry Subsidisation

It is apparent that the applicant’s assertions of government influence and distortion rely predominantly on outdated information, or mere conjecture. As is evident from the GOV’s responses provided above and below, and submitted information contained within the response, there is no control or influence on the domestic market for aluminium zinc coated steel or the upstream materials used in the production of the

subject goods. That is, all the Vietnamese producers of aluminium zinc coated steel and the raw material inputs are private entities.

Likewise, the GOV has not introduced or implemented any policies or regulations which could be interpreted as impacting or exercising control over domestic market conditions for aluminium zinc coated steel in Vietnam. Likewise, the GOV has no controls or policies which impact on the supply of raw materials given that the vast majority of raw materials are imported.

Any national plans including the Master Steel Plan referenced by the applicant are not recognized as legal instruments of government to support a certain industry. The plans are merely tools to provide forecast and guidance for the future development of that industry. Such forecast and orientation serves as a reference source for steel producers and investors in sharpening their production and business plans and as an advisory source for other governmental agencies in building specific policies and actions which are reflected in a variety sets of law and regulations on investment, corporate income tax, export-import duty, value-added tax, land and environment and so on.

Finally, the GOV wishes to remind the Commission that the Australian Government granted Vietnam market economy status in 2009, which ensures that the Commission must apply the normal rules outlined in the Articles of the Anti-Dumping Agreement and corresponding provisions of the *Customs Act 1901* (the Act), for determining normal values. Likewise, and irrespective of the Commission's determination of the existence of a market situation, the GOV also reminds the Commission of its obligations to ensure that the costs as reasonably reflected in the records of the producers of aluminium zinc coated steel be used in assessing whether domestic sales were made in the ordinary course of trade and/or construction of normal values.

On this very issue, it is worth noting the relevant findings stemming from the recent WTO Panel Report DS529 ("DS529") involving imports into Australia of A4 copy paper from Indonesia. In particular, the Panel's interpretation of the presence of the word 'normally' in Article 2.2.1.1 of the WTO Anti-Dumping Agreement.

a. *As we already noted, the obligation to "normally" use the records kept by the exporter, becomes operative when both explicit conditions are satisfied: the "records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sales of the product under consideration".*

...

We conclude that in relying on "normally", the investigating authority should give meaning to the whole of the obligation in Article 2.2.1.1, first sentence, and should therefore examine whether the records satisfy the two explicit conditions and provide a satisfactory explanation as to why, nonetheless, it finds compelling reasons to disregard them.

The GOV considers the interpretation of the Panel to be directly relevant to the Commission's assessment of the market situation claims and determination of the costs of production of aluminium zinc coated steel in Vietnam by the exporter under investigation. That is, where the costs of the exporters are found to be in accordance with GAAP and reasonably reflect the costs associated with the production and sale of the goods, the Commission must find 'a compelling reason, distinct from the two explicit conditions, to disregard them.'

D1 – GENERAL QUESTIONS

D1.1. Identify and provide an explanation of the specific roles and responsibilities of government departments, agencies or institutions, which are either directly or indirectly involved in economic policy development, economic regulation and decision-making activities with respect to:

- (a) the aluminium zinc coated steel;
- (b) the HRC industry; and
- (c) the steel industry as a whole.

ANSWER:

The GOV notes that there is no governmental agency at central or provincial level established or involved with the policy development, economic regulation with respect to the aluminium zinc coated steel industry or HRC industry or the steel industry specifically. The operation of the governmental agencies, it is governed by the Law on Government Organization 76/2015/QH13 dated 19 June 2015 as a whole. Functions, tasks, power and structure of each ministry are provided in the specific governmental decree which identifies its scope of jurisdiction. For example, during the POI, one function of the Ministry and Industry and Trade ("MOIT") as indicated in Decree 95/2012/ND-CP dated 12 November 2012²³ defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade is to perform state management of industry which include all sectors of industry. Steel including aluminum zinc coated steel is merely one of those sectors. That is to demonstrate that as with the government of other countries, the structure of the GOV and functions of GOV agencies are classified by subject matters under the jurisdiction of each agency (i.e. industry and trade are among subject matters of jurisdiction governed by the MOIT), instead of by a specific economic sector.

The MOIT is in charge of performing the state management of industry and trade, including the sectors and fields of mechanical engineering, metallurgy including iron

²³ This Decree was replaced by Decree 98/2017/NĐ-CP dated August 18, 2017 which came into effect since August 18, 2017. However, MOIT's function to perform the state management of industry including steel section remains the same.

and steel, electricity, new energy, renewable energy, oil and gas, chemicals, industrial explosives, mineral mining and processing industry, consumer industry, food industry and other processing industries, domestic trade and market; import and export, border trade, overseas market development, market management, trade promotion, e-commerce, trade in services, international economic integration, competition management, application of safeguard, anti-dumping and anti-subsidy measures, protection of consumer interests; and state management of public services in the sectors and fields under its state management. In this capacity, MOIT 's responsibilities relate to all industry sectors, including the iron and steel industry which aluminium zinc coated steel is a part of. The MOIT also coordinate with other ministries and provincial agencies to advise the Government in building policy and regulations relating to investment, tax and duties, environment, banking and finance, or land for purpose of boosting the whole country's industry and trade on a sustainable basis. The MOIT also administers measures relating to import and export quota and licensing. Aluminum zinc coated steel is not a conditional sector in Vietnam and thus, there is no restriction or interference from any governmental agency in the decision-making process of aluminium zinc coated steel producers regarding production and business as long as they comply with relevant legal obligations under the Vietnamese law which applies to all sectors of business.

D1.2. Identify any government departments, agencies or institutions that are involved in the manufacture, sale, purchase or acquisition of aluminium zinc coated steel, and explain the nature of their involvement.

ANSWER:

There are no governmental departments, agencies or institutions that are involved in the manufacture, sale, purchase or acquisition of aluminium zinc coated steel.

D1.3. Provide details of any GOV policies that require different corporate tax rates to be applied to producers within the aluminium zinc coated steel 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.

ANSWER:

There are no GOV policies that require different corporate tax rates to be applied to producers within the aluminium zinc coated steel sector.

During the POI, corporate income tax and tax benefits are governed by the Law on Corporate Income Tax 2008 and the Law Amending and Supplementing a number of articles of the Law on Corporate Income Tax 2008 ("the Amending Law 2013), the Law on Amendments to Tax Law No 71/2014/QH13 (the Amending Law 2014). These laws are implemented in Decree 218/2013/ND-CP effective from February 15th, 2014, Decree 91/2014/ND-CP effective from November 15th, 2014, and Decree 12/2015/ND-

CP effective from 1 January 2015.

According to Article 1.6 of the Amending Law 2013, producers of within the aluminium zinc coated steel sector, like other sectors and businesses are subject to the standard tax rate of 20% during the POI. The law provides preferential tax rates of 10%, 17%, 20% applicable to certain sectors as indicated in Article 15 of Decree 218/2013/ND-CP and Article 1 of Decree 12/2015/ND-CP as follows:

- Tax rate of 10% within 15 years applicable to taxable income of the followings:
 - New investment projects in sectors of scientific research and technological development; application of high technology in the list of hi-tech invested and developed with priority as prescribed by the high-tech Law; high-tech incubation, high-tech enterprise incubation; venture capital for high-tech development in the list of high-tech developed with priority as prescribed by high-tech law; construction investment and business of high-tech incubator, high-tech enterprise incubator; investment and development of the state's important infrastructure, production of software products; production of composite materials, light building materials, rare materials, production of renewable energy, clean energy, energy from waste destruction and biotechnology development and environmental protection.
 - High technology applying enterprises or high agricultural technology enterprises in accordance with the Law on High Technology
 - Manufacturers (except for projects of producing goods subject to special consumption tax and of mineral exploitation) satisfying certain conditions of investment capital scale or labour intensity. These conditions do not depend on the type of product manufactured or sold by the manufacturer and thus are not sector specific.
- Enterprises of all sectors with new investment in the geographical regions of special socio-economic difficulties identified in Decree 118/2015/ND-CP detailing the implementation of the Law on Investment 2014.²⁴
 - Tax rate of 17% within 10 years applicable to taxable income of:
- Enterprises of all sectors with new investment in the geographical regions of socio-economic difficulties identified in Decree 118/2015/ND-CP detailing the implementation of the Law on Investment 2014.
- Manufacturing enterprises of producing high-quality steels, energy saving products, machinery and equipment for agriculture, forestry, fishery and salt industry; production of irrigation and drainage equipment; production, refining of cattle, poultry and aquatic animal feed, development of traditional industries. High-quality steels do not include aluminium zinc coated steel and any steel related inputs to produce aluminium zinc coated steel.

²⁴ Prior to December 27, 2015, regions of socio-economic difficulties and regions of special socio-economic difficulties are identified in the Appendix to Decree 218/2013/ND-CP. Since December 27, 2015, this Appendix was replaced by Appendix II to Decree 118/2015/ND-CP.

Other corporate income tax benefits including tax exemption and tax reduction are governed by Article 16 of Decree 218/2013/ND-CP for enterprises entitled to preferential tax rates as described above and enterprises with investment in the field of socialization.

Therefore, manufacturing or trading within the sector are not criteria for receiving preferential tax rates and/or tax benefits. Further, the GOV would note that being an exporter has been no longer a criterion to receive any tax, investment or import duty preferences since Viet Nam's accession to the WTO in 2007.

D1.4. Provide a detailed description of the domestic Vietnamese aluminium zinc coated steel industry and the relevant upstream industries, including the HRC, energy and steel industries. The response should include details of:

- (a) distribution channels;
- (b) any vertical integration;
- (c) any changes over the last 5 years (such as mergers and acquisitions); and
- (d) any changes to the government laws and regulations over the last 5 years.

ANSWER:

The aluminium zinc coated steel industry in Vietnam includes (i) the producers which import or domestically buy the cold-rolled coils then coat aluminium-zinc to manufacture aluminium zinc coated steel; (ii) the producers which import or domestically buy the hot-rolled coils then further process hot-rolled coils to get cold-rolled steel, and then coat aluminium-zinc to manufacture aluminium zinc coated steel;

Since 2003, there have been more than 100 steel producers but the number of aluminium zinc coated steel makers only accounts for around 15%. Cold-rolled coils and hot-rolled coils are major inputs for the production of aluminium zinc coated steel in Vietnam. According to the Vietnam Steel Association's statistics, the 2019 total production volume of aluminium zinc coated steel regardless of its width is [REDACTED] tons and this figure for the POI is [REDACTED] tons. Besides, only [REDACTED] tons were destined for export markets including Australia, the majority of production was used for domestic consumption. Figure 1 will show the fluctuation of the production of subject good during the 2015-2019 period as follow:

²⁵ This is an estimated number for the POI as reported by Vietnam Steel Association to the South East Asia Iron and Steel Institute.

The aluminium zinc coated steel industry in Vietnam is subject to the same set of laws and regulations as with other sectors of production and business. In addition, there is no restriction in the number of producers/traders or in the private or foreign ownership in this sector. Being an aluminium zinc coated steel maker/trader has never been a criterion for such producer/trader to receive any benefit under the Vietnam law.

The GOV does not categorize the aluminium zinc coated steel according to its width is equal to or greater than 600 millimeters (Case 558) and less than 600 millimeters (Case 559) but assesses the development of this industry in a broader context of the general aluminium zinc coated steel industry. During 2015-2019, the aluminium zinc coated steel industry has increased its production by [REDACTED] which is largely due to the increase in the market demand while the volume of aluminium zinc coated steel produced in the first quarter of 2020 decreased by [REDACTED] in comparison with that of the same period in 2019. Figure 2 will compare the production of subject goods between first quarters of 2019 and 2020 as follows:

The aluminium zinc coated steel producers in Viet Nam are free to sell their products via any distribution channel in Viet Nam and abroad without any limitation or restriction, and, to the best knowledge of the GOV, they sell these products to users, traders, retailers, and wholesalers in Viet Nam and abroad.

The GOV has not issued or implemented any law or regulations that exclusively address the aluminium zinc coated steel industry. Since January 1st, 2015, several changes have been made to regulations on investment, tax, and import-export duty which are discussed in the GOV's response to various alleged subsidy programs in Section C. However, it is important to note that all of these changes apply to all production and business sectors.

D1.5. Provide quarterly data (using Microsoft Excel format) over the last 5 calendar years of:

- (a) import quantity (by volume and value) of aluminium zinc coated steel;
- (b) export quantity (by volume and value) of aluminium zinc coated steel; and
- (c) For export and import values, specify if the value is based on ex-factory, F.O.B. (port, shipping point, etc.), C.I.F. or some other value.

ANSWER:

Please refer to Exhibit 38.

D1.6. Provide a schedule for the last 5 calendar years and provide supporting documentation of:

- (a) the corporate tax rate in relation to aluminium zinc coated steel;

ANSWER:

From January 1st, 2014, to December 31st, 2015, the standard corporate income tax rate is 22%. Since January 1st, 2016, the standard corporate income tax rate is 20%.

- (b) import tariff rates and/or import quotas applicable to aluminium zinc coated steel;

ANSWER:

Please refer to Exhibit 39.

- (c) export tariff rates and/or export quotas applicable to aluminium zinc coated steel; and

ANSWER:

Please refer to Exhibit 39.

- (d) value added tax (VAT) export rebates applicable to exports of aluminium zinc coated steel.

ANSWER:

During 2015-2019, exported goods including aluminium zinc coated steel are subject to the VAT tax rate of 0% as provided in Article 8 of the Law on Valued Added Tax No

13/2008/QH12 and Article 1.3 of the Law on Amendments to the Law on Value Added Tax No 31/2013/QH13 dated June 19, 2013

Vietnam's VAT law and regulation do not provide any VAT export rebate rates. Refund of VAT on exported goods and services is provided under Article 1.3 of Circular 130/2016/TT-BTC dated August 12, 2016 guiding Decree 100/2016/ND-CP on the implementation of the Law on Amendments to some articles of the Law on Value Added Tax, the Law on Special Excise duty and the Law on Tax administration No 106/2016/QH2013 dated April 6, 2016.

Exhibit 40 provides:

- Law on Valued Added Tax No 13/2008/QH12 dated June 3rd, 2008
- Law on Amendments to the Law on Value Added Tax No 31/2013/QH13 dated June 19th, 2013
- Circular 130/2016/TT-BTC dated August 12th, 2016

D1.7. If export quotas applied to any of the items at Question 6(c) above, identify which agency of the GOV legislates and monitors the quotas.

ANSWER:

This question is not applicable as no export quotas are applied.

D1.8. 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 aluminium zinc coated steel, or any of the raw materials used to manufacture those products;

ANSWER:

There is no regulation on the price of aluminium zinc coated steel or any of the raw materials used to manufacture those products.

Please refer to Exhibit 41 for the Law on Prices No 11/2012/QH13 dated June 20th, 2012. According to Article 11 of the Law on Prices, enterprises have the right to self-determine the prices of goods or services which they manufacture except for the goods subject to price determination by the GOV. Article 19 of this Law identifies goods subject to price determination by the GOV which include (i) goods or services under the monopoly supply by the state and (ii) important resources, and (iii) National reserve goods; products, services for public interest and service of public career using state budget. Aluminium zinc coated steel and all the upstream raw materials used to manufacture these products do not fall within three types of goods subject to the GOV's determination of price. In addition, aluminium zinc coated steel and all the upstream raw materials used to manufacture these products do not fall into the list of goods subject to price stabilization by the GOV as provided under Article 15 of this Law.

- (b) Investment in projects related to aluminium zinc coated steel, or any of the raw materials used to manufacture those products; and

ANSWER:

Investment projects related to aluminium zinc coated steel or any of the upstream raw materials used to manufacture these products are subject to the same investment regulations with investment in other sectors as follows:

- Law on Investment 67/2014/QH13 dated November 26th, 2014 (“Law on Investment 2014”)
- Decree 118/2015/ND-CP dated November 12th, 2015 detailing and guiding the implementation of a number of articles of the Law on Investment 2014

Ministry of Planning and Investment issued circulars to instruct the implementation of the above regulations in general and to provide investment procedures in Vietnam in particular.

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

ANSWER:

Please refer to the response in question a and b above.

- D1.9.** Identify and document any financial assistance provided by the GOV in the previous 5 years in support of the aluminium zinc coated steel industry.

ANSWER:

Since 2015, there has been no financial assistance or investment incentives provided by the GOV in support of the aluminium zinc coated steel industry.

Exhibit 46 provides the Law on Investment 67/2014/QH13 dated November 26th, 2014 (“Law on Investment 2014”) and Exhibit 23 provides Decree 118/2015/ND-CP dated November 12th, 2015 detailing and guiding the implementation of a number of articles of the Law on Investment 2014.

D1.10. Has the GOV (at any level of government) issued or participated in the issuance of any debt or equity instruments²⁷ in any business entity associated with the aluminium zinc coated steel industry in the last 5 years? If so:

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

ANSWER:

The Government has not directly issued or participated in the issuance of any debt or equity instruments to any producers of aluminium zinc coated steel.

D1.11. Provide details (quantify the value) of any government guarantee provided for any commercial loans by a business entity associated with aluminium zinc coated steel industry in the last 5 years.

ANSWER:

The GOV has not provided any guarantee for any commercial loans by a business entity associated with aluminium zinc coated steel in the last 5 years.

D1.12. Do enterprises need to be verified by the GOV prior to being approved entry to aluminium zinc coated steel industries?

ANSWER:

²⁷ Examples of such instruments include ordinary shares (including initial public offers), preferential shares, rights issue, bonds, quasi-government bonds warrants, debentures, sub-ordinate loans.

Manufacturing aluminium zinc coated steel is not a conditional investment sector and thus, enterprises do not need to be verified by the GOV prior to being approved entry to the industry. Rather, as with other sectors, they are required to fulfil procedures to obtain the business registration certificates.

D1.13. Are aluminium zinc coated steel producers in Vietnam required to hold any types of licences for production? If so, provide details and documentary evidence.

ANSWER:

Rather than business registration certificates, aluminium zinc coated steel producers in Vietnam are not required to hold any types of license for production.

D1.14. Are there any production limits and/or export limits placed on aluminium zinc coated steel producers? If so, provide documentary evidence.

ANSWER:

There are no production limits and/or export limits placed on aluminium zinc coated steel producers.

D1.15. Are there any price restrictions on aluminium zinc coated steel domestic sales? If so, provide details.

ANSWER:

There are no price restrictions on aluminium zinc coated steel domestic sales

D1.16. Identify any GOV initiatives and/or policies that affect the aluminium zinc coated steel industry, including raw materials (such as HRC, electricity or natural gas). Provide all documentary evidence.

ANSWER:

The GOV has imposed antidumping duties of 3.17% - 38.34% against galvanized steel products imported from China PRC and of 7.02% - 19% against galvanized steel products imported from the Republic of Korea since April 14th, 2017.

Exhibit 42 provides Decision 1105/QD-BCT dated March 30th, 2017 on the application of antidumping duties.

The GOV also notes that it also initiated another antidumping investigation against cold-rolled steel products imported from China PRC on September 3rd, 2019 and is under the process of investigation.

This antidumping measure as described above against imported galvanized steels and cold-rolled steel demonstrate an obvious fact that the GOV does not design its import and export policy to place a downward effect on the price of raw material inputs into the production of aluminium zinc coated steel as alleged by the petitioners.

D1.17. 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 aluminium zinc coated steel 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.

ANSWER:

There is no national or provincial plan of the GOV that explicitly or implicitly recognises the aluminium zinc coated steel industry as a national or provincial development objective and directs the development of that industry. As mentioned in the TRAV's consultation letter dated June 26th, 2020, the Steel Master Plan 2007-2015 complied with Decision No. 145/2007/QD-TTg which was terminated and replaced by Decision No. 694/QD-BCT dated January 31st, 2013. However, according to Law on Planning No. 21/2017/QH14 dated November 24, 2017, manufacturing industries, including the steel industry, have no longer considered as the subject of master plans developed by the GOV. Consequently, the Ministry of Industry and Trade promulgated Decision No. 4977/QD-BCT dated December 27th, 2018 to repeal specific products planning under the provisions on Law on Planning No. 21/2017/QH14, including Decision No. 694/QD-BCT. Therefore, *The Steel Master Plans* are invalid from the beginning of the year of 2019.

As with many other countries including Australia, Viet Nam's governmental system is based on rules (law, decree, decisions, and resolutions) which govern both the authority and actions of individual government agencies and of economic activities within Vietnam. The Law on the Organization of the Government No 76/2015/QH13 dated June 19th, 2015 defines the functions, tasks, powers and organization of each ministry within the government as indicated in the response to Question 2 Section A. Accordingly, any national plan including the Master Steel Plan is not recognized as a legal instrument to provide any government action to support a certain industry. Rather, planning is a tool to provide forecast and orientation for the future development of that industry. Such forecast and orientation serves as a reference source for steel producers and investors in sharpening their production and business plans and as an advisory source for other governmental agencies in building specific policies and actions which are reflected in a variety sets of law and regulations on investment, corporate income tax, export-import duty, value-added tax, land and environment and so on.

The plan itself is not recognized as a legal instrument to enact any specific governmental action. Rather, in order for a sector to receive any benefit, it must be written so in the law. For example, in order for steel billet production to benefit from corporate income tax preferences, it must be included in the list of sectors of corporate income tax benefits under the Law on Corporate Income Tax. This does not happen to aluminium zinc coated steel.

D2 – ELECTRICITY PRICES

D2.1. Complete the attached spreadsheet at worksheets D2.1 (using Microsoft Excel format) listing all electricity providers who service those entities identified in **Appendix A** or your response to Question B4, including the following details:

- (a) Name of the business entity.
- (b) Location of the business entity.
- (c) Type of business (e.g. State invested enterprise (SIE), private enterprise or other (please specify)).
- (d) Whether GOV is a shareholder in the business, and if so the percentage of GOV holdings.
- (e) Whether there is GOV representation in the business, and if so the type of representation (e.g. on the Board of Directors), the authority responsible, and indicate any special rights provided to the representative (e.g. veto rights).

ANSWER:

Please refer to Exhibit 43.

D2.2. How does the government regulate electricity prices at national, provincial or local levels?

- (a) Provide names of all the agencies in each region, province or special economic zone responsible for electricity price regulation.
- (b) How does the government's policy apply to or promote the aluminium zinc coated steel or HRC industry?

ANSWER:

As noted in the response to Question D1.8, Article 19 of the Law on Prices No 11/2012/QH13 dated June 20th, 2012 identifies goods subject to price determination by the GOV which include goods or services under the monopoly supply by the state. Electricity is one of those goods as identified in Article 19.3 (a) of this Law. Vietnam Electricity Corporation is the state-owned company that supplies the majority of electricity volume to the whole country via its subsidiary companies. Minister of Industry and Trade issued the electricity tariffs which are implemented by Vietnam Electricity Corporation and its subsidiaries. The electricity tariff includes the wholesaling price and

retailing price. Vietnam Electricity Corporation via subsidiaries to sell not only retail electricity to end-users but also wholesale to other electricity retailers with the wholesale price. However, the electricity tariff charged to end-users is the same retailing price regardless of buying from a retailer.

According to Article 3 of Decision 28/2014/QD-TTg of the Prime Minister on regulating the structure of electricity retail tariff dated April 7th, 2014, four price categories are applying to four groups of purchasers namely: manufacturing sector, administrative and governmental sector, trading sector and household. For the manufacturing sector and trading sector, the price varies by normal, low, and peak times of using of retailing prices rather than they are provided electricity by a retailer. Thus, there is no preferential price charging the producers of aluminium zinc coated steel or both HRC and CRC industries over other manufacturing sectors.

The Ministry of Industry and Trade is responsible for calculating and adjusting electricity retail tariffs for groups of customers as prescribed in Article 5 of Decision 28/2014/QD-TTg. For the retailing price during the POI, Ministry of Industry and Trade promulgated Decision 648/QD-BCT dated March 20, 2019 on the adjustment of the average retailing price of electricity and regulation on the electricity price.

During the POI, all exporters of the merchandise to Australia from Viet Nam as identified in Appendix A was subject to the same level of electricity price for the manufacturing sector.

Please refer to Exhibit 44 for Decision 28/2014/QD-TTg dated April 7th, 2014 and Decision 648/QD-BCT dated March 20, 2019.

D2.3. Provide full details of any program in respect of electricity provision to those entities identified in **Appendix A** or your response to Question B4, including the following:

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

ANSWER:

The GOV notes that although electricity price is regulated by the GOV, such regulation does not create any countervailable subsidy to the aluminium zinc coated steel. As

discussed in the response to Question D2.2 and demonstrated in Exhibit 44, all manufacturing companies are subject to the same group of price tariff in which the price varies by normal, low and peak times for each electricity voltage.

Thus, there is no preferential price charging the producer of aluminium zinc coated steel or both the HRC and CRC industries over other manufacturing sectors.

Please refer to Exhibit 44 for Decision 648/QD-BCT dated March 20th, 2019 on the adjustment of the average retailing price of electricity and regulation on the electricity price. During the POI, all exporters of the merchandise to Australia from Viet Nam as identified in Appendix A were subject to the same level of electricity price for manufacturing sector.

D2.4. Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports published since 1 January 2016 pertaining to the programs.

ANSWER:

Please refer to:

Exhibit 45 for electricity tariffs applicable for 2016, 2017 and 2018

Exhibit 44 for Decision 648/QD-BCT which provided electricity tariffs applicable since March 20th, 2019 including the POI.

D3 – GOVERNMENT POLICIES AND DIRECTIVES

D3.1. Does the government regulate or otherwise exercise control over the steel industry through any policies, legislation, decrees, proclamations, etc. including through any of the following?

- encouragement of investment in particular steel industries.
- Steel Master Plans.
- Industrial Development Strategy.
- price controls/management for steel and any steel product.
- import or export restrictions on steel and any steel products; or
- any other policy, legislation, decree, proclamation, etc. which may impact the Vietnamese steel industry.

If so, provide full details of the policy, including the following:

- (a) nature or form of the policy.

- (b) any relevant legislation.
- (c) when the policy was established.
- (d) duration of the policy.
- (e) how the program is administered and explain how it operates; and
- (f) what entities are impacted by the policy and whether any of those entities identified in **Appendix A** or your response to Question B4 are impacted.

ANSWER:

The GOV notes that it does not regulate or exercise control over the steel industry as a whole and for the aluminium zinc coated steel sector in particular. The GOV has no ownership or any involvement with the aluminium zinc coated steel sector. It has not issued or implemented any measures to support or stimulate this sector.

Any national plan including the Master Steel Plan is not recognized as a legal instrument to provide any government action to support a certain industry. Rather, planning is a tool to provide forecast and orientation for the future development of that industry. Such forecast and orientation serves as a reference source for steel producers and investors in sharpening their production and business plans and as an advisory source for other governmental agencies in building specific policies and actions which are reflected in a variety sets of law and regulations on investment, corporate income tax, export-import duty, value-added tax, land and environment and so on.

In order for a sector to receive any benefit, it must be written so in the law. For example, in order for steel billet production to benefit from corporate income tax preferences, it must be included in the list of sectors of corporate income tax benefits under Decree 218/2013/ND-CP (Exhibit 2). This does not happen to aluminium zinc coated steel.

D3.2. Provide translated copies in English of the policies, legislation, decrees, proclamations, etc. referred to in your answer to D3.1 as well as any relevant reports published since January 1, 2016.

ANSWER:

This question is not applicable as the GOV has not issued or implemented any measures to support and stimulate the aluminium zinc coated steel sector.

List of Exhibits

Please refer to the Excel file “List of Exhibits”.



SECTION E
DECLARATION

DECLARATION

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



Date

September 21st, 2020

Signature of authorised official

MR. CHU THANG TRUNG

Deputy Director General

Trade Remedy Authority of Viet Nam

Ministry of Industry and Trade

The Socialist Republic of Viet Nam

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 Vietnam (GOV)

For the purposes of this questionnaire, GOV 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)

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 GOV, 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 GOV and can also refer to multiple individuals, 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 GOV (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’; and
- ‘state-invested enterprises.

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

(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

**Aluminium zinc coated steel (of a width less than 600mm)
manufacturers/exporters**

