

**MARKET ECONOMY QUESTIONNAIRE**  
**(FOR CLAIMING MET)**

**1. GENERAL INFORMATION**

**A. Company details**

Supply the following details about your company;

Name:

Address:

Telephone:

Telefax:

E-mail:

Website:

And indicate the names of the people to contact and their functions within the company.

Indicate also the address where the accounting records of the company are located. If they are maintained in different locations, indicate which records are kept at each location.

**B. Legal representative(s)**

If you have appointed a legal representative, an accounting firm or any other consultant to assist you in this proceeding, provide the following details for each of them:

Name of the legal representative:

Address:

Telephone:

Fax:

E-mail:

**C. Scope of the investigation**

Indicate the product under consideration in the country of export and if any variation with the product under investigation:

**2. CORPORATE STRUCTURE AND AFFILIATION**

**A.** Provide an Organizational chart and description of the company's operating structure.

B. Provide an organizational chart and description of company's legal structure. Include any parent companies and subsidiaries of the company and all other persons affiliated with the company and provide the functional and structural description of all such persons. Provide legal form of the company and specify whether the company is a

- A foreign (co-operative or equity) joint venture,
- A wholly-owned foreign enterprise,
- A branch of a company established outside the country,
- A fully limited liability company,
- A state-owned enterprise (or owned by all people),
- A company limited by shares,
- A collectively owned enterprise,
- A company in transition from State ownership to privatization
- Any other legal form .

C. Provide a copy of business license of the company. Also, provide a copy of all the approvals company has obtained from various Government agencies before start of the business.

D. List all shareholders or owners of the company holding at least 5% of the shares of the company. State for each of these shareholders or owners whether it is a private person, a company, the State or a local/regional authority. In addition:

I. if it is a private person, state whether this person has its own nationality or any other nationality (-ies);

II. if it is a company, please identify its legal status and state whether it is a company formed by locals, a foreign-owned company, or a joint-venture with a foreign-owned company.

III. if it is a company formed by the locals, state whether it is a privately owned company, a State-owned company or a company owned by local/regional authorities.

IV. If it is a company part-owned by the State or local/regional authorities, specify to what extent State or local/regional authorities are involved;

V. If it is a local, or regional authority provide details;

VI. If it is a company in transformation from State or local bodies to privatization, provide all relevant details relating to (a) original status; (b) each stage of transformation till period of investigation (POI).

Provide a copy of business license of the company (with an English translation).

- E. Please describe and explain:
- (i) Who owns your company?
  - (ii) Who controls your company?
  - (iii) Your company's relationship with the national, provincial, and local governments, including ministries or offices of those governments;
  - (iv) Your company's relationship with other producers or exporters of the subject merchandise. Do you share any owners or managers?
- F. Does the entity, which owns or controls the company also own or control other producers/exporters of the subject merchandise? If so, provide complete details thereof.
- G. Provide a copy of the Articles of Association and the Memorandum of Association (with an English translation).
- H. List all members of the Board of Directors and Board of Shareholders. For each of the members, state who they represent, what their function is and what their voting rights are.
- I. If any of the shareholder or director of the company is of local nationality, specify the *quorum* and what majority is required for taking decisions in Shareholders' meetings and in meetings of the Board of Directors. Are these rules set out in the Articles of Association or other documents? If so, provide a copy of such documents (with an English translation)
- J. If the company is a subsidiary of another company or the parent company is itself a subsidiary of another company, provide list of ten largest shareholders of its parent company.
- K. State whether the company is a part of a Group. If yes then explain all business or operational relationship affecting development, production, sale or distribution of the merchandise.
- L. State whether the company is under "common control" with another person by a third person (e.g., a family group or investor group) and/or whether the company and another person commonly control a third person (e.g., a joint venture). Control exists where a person is legally or operationally in a position to exercise restraint or direction over another person. Some factors, individually or in aggregate, which may influence whether or not control may exist include, for example, ownership (with power to vote) of the voting stock of a company, substantial borrowings, business operations, and common officers, directors, or managers. If there is any

such relationship, describe the nature of the relationship (e.g., ownership percentage, common officers/directors).

- M. Provide any legislative enactments or other formal measures by the government that centralize or decentralize control of the export activities of the company (with an English translation).
- N. Provide copies of business licenses and all government approvals required by the company for conducting business and specify,
- (i) Which governmental agency or office is responsible for issuing the licenses?
  - (ii) Describe the purpose of the licenses.
  - (iii) Do the licenses impose any limitations on the operations of the company? Do the licenses create any entitlements for the company? Describe and explain these limitations and entitlements.
  - (iv) Under what circumstances could the licenses be revoked, and by whom?
  - (v) Will these licenses need to be renewed? What actions the company must take to obtain renewal?
- O. Describe any controls on exports of the subject merchandise to India and other countries and specify,
- (i) Does the subject merchandise appear on any government list regarding export provisions or export licensing? If so, provide details thereof.
  - (ii) Do export quotas apply to the subject merchandise? If so, describe the process by which company received its quota. Does the quota allocation process involve any government participation in the setting of export volumes and prices? Explain the quota allocation process.
- P. Identify supplier, (sub) contractor, lender, exporter, distributor, reseller, and any other person involved in development, production, sale or distribution of the merchandise. Whether the company acquires a significant amount of a major input from only a single supplier, the length of time the company has had a relationship with a supplier, (sub) contractor, distributor, exporter or reseller, the exclusivity of the relationship, all business relationships company has or had with these persons, and other relationships between the company and other person (e.g., director/manager relationships).
- Q. List major suppliers of main raw materials and if the supplier is affiliated, and provide the details thereof.

- R. List major suppliers of utilities and if the supplier is affiliated, and provide the details thereof.
- S. Identify all business transactions that may directly or indirectly affect the development, production, sale or distribution of the merchandise.
- T. Specify and give the references of the following laws to the extent they are applicable to the company:
- Company law
  - Labor law
  - Joint Venture law
  - Accounting rules or law

Provide a copy of the relevant laws.

### 3. BUSINESS DECISIONS AND COSTS

- (a) How the raw materials and other relevant inputs for manufacturing the product concerned are procured (short or long term contracts, spot market, number of suppliers for the various raw materials, purchased locally or abroad etc.).
- (b) For each of the raw materials, provide information about the names and addresses of the suppliers. Whether the supplier is a private person, a company, the State or State enterprise /a local/regional authority.
- I. If it is a private person, whether this person has local nationality or any other nationality;
- II. If it is a company, whether it is a local company, a foreign-owned company or a joint venture with a foreign-owned company;
- III. If it is a local company, whether it is a privately owned company, a State-owned company or a company owned by local/regional authorities. If it is a company part-owned by the State or local/regional authorities; specify to what extent State or local/regional authorities are involved;
- IV. If it is a local/regional authority, provide the details.
- (c) For each item of utility i.e. coal, electricity, water and oil, provide the names and addresses of the suppliers. Whether these utilities are charged at normal rates or whether any special or subsidized rate is charged. Provide evidence in support of your claim. What are the rates charged for each of the utility?

- (d) Whether there are any restrictions or conditions, either direct or indirect, on imports of raw materials used by the producer. If so, these restrictions or conditions may be described. Provide a copy of the documents (with an English translation) in which those restrictions or condition are described and indicate the relevant provision.

#### 4. SALES

- (a) Explain any local/regional authority or State involvement in setting prices/ quantities. Provide a copy of the documents (together with an English translation) containing such involvement and indicate the relevant provisions.
- (b) Describe how company sets the prices of the merchandise it exports to India and other countries. Does your company negotiate prices directly with customers? Are these prices subject to review or guidance from any governmental organization/ bodies? Provide evidence of price negotiations.
- (c) Does Company coordinates with other exporters in setting prices or in determining markets being serviced? What role does the Chamber of Commerce play in coordinating the export activities of the company?
- (d) Describe how company negotiates sales to India and other countries. Who in the company has the authority to contractually bind the company to sell merchandise? Does any organization outside the company review or approve any aspect of the sales transaction (e.g., the price, the product to be sold, the customer)? If so, identify the organization and explain the organization's role.

Explain any local/regional authority or State involvement in setting prices/ quantities. Provide a copy of the documents (together with an English translation) setting those involvements and indicate the relevant provisions.

#### 5. INDUSTRIAL PROPERTY RIGHTS AND LEGAL REQUIREMENTS

- (a) Specify contractual links, including joint ventures, with any other company, authority or with the government (national, regional or local) concerning R&D, production, sales, licensing, technical and patent agreements for the product concerned. Provide copies of the agreements accompanied by an English translation.
- (b) Provide a list of any royalties or other payments made in respect of any of the above, and state their amount.
- (c) List and explain all authorizations the company needs in order to produce, to sell or to export the product concerned. Is the company subjected to any direct or indirect quantitative or other restriction for any of these activities? Provide a copy of

business licence, registration and relevant permits. Please describe under what circumstances such a licence and/or registration can be withdrawn.

- (d) Describe how the management of the company is selected. If the company is required to notify any governmental authorities about appointment of directors/managers, provide details thereof including purpose of such notification.
- (e) Identify the people who currently manage the company and explain how they were selected for these positions. Also identify the position that each held prior to assuming their current management role in the company.
- (f) Are there any restrictions on the use of company's export revenues? If so, explain when export earnings are deposited into a bank account:
  - (i) In whose name(s) is the account held?
  - (ii) Who controls of the account?
  - (iii) Who has the access to the account?
- (g) Explain how company's export profits are calculated. What is the disposition of these profits and who decides how the profits will be used?
- (h) Has the company suffered a loss on export sales in the past five years? If yes, how was that loss financed? If company obtained loans from a bank, or attempted to obtain loans from a bank, describe the loan application process.

## 6. BANKRUPTCY AND PROPERTY LAWS

- (a) Describe the bankruptcy and property laws applicable to the company. Describe any special derogation or exemption the company or the business sector avail under these laws.
- (b) State whether company is subjected to any restrictions on the distribution/repatriation of profits and repatriation of capital invested. If so, provide details along with the copy of the documents (with English translation) where such restrictions are set and indicate the relevant provisions.

## 7. LABOUR

- (a) Describe how labour is organized for production purposes. How many skilled workers, unskilled workers, managers etc. are employed? What is the average wage paid to each of these categories in the POI?

- (b) How company employees are remunerated (i.e. indicating in detail all elements of remuneration including salary, overtime pay, company car, holiday allowances etc.).
- (c) What is the frequency of the remuneration? Which legal entity is the final payer? Do the employees of the company or their families benefit from other facilities such as housing, medical care, pension education etc.? It may be specified who pays for these facilities.
- (d) If the company employs foreign staff, where the final payer is located.
- (e) Describe in detail the procedure for hiring or dismissing employees. Indicate who is responsible for the final decision

## 8. ACCOUNTS

### (a) Financial statements

- I. State the financial year followed by the company.
- II. Which accounting documentation has to be registered for official purposes each year? Which authorities are involved in the official registration of these documents?
- III. Provide the complete financial statements (balance sheet, profit and loss statement, supporting schedules, notes to the financial statements and auditor's opinion) both in the original language and its english translation. Provide the name and address of the auditors (if any).
- IV. If the financial statements of the company have not been audited, explain with justification. Is there any legal requirement that accounts should be audited in full or in part?
- V. List all qualifications made by auditors and explain why these are not material qualifications.
- VI. If the company is filing tax returns with respect to VAT, provide details.

## 9. ACCOUNTING PRINCIPLES AND PRACTICE

- (a) Statutory requirements and fundamental accounting principles
  - I. Books and records

Describe briefly, specifying the reference, the essential statutory requirements such as the language and currency in which the accounts are to be kept and the period for which accounting records and other documents (e.g. important contracts, agreements, articles of association, minutes of board meetings, financial statements and audit reports) have to be kept.

## **II. Methods and general principles of accounting**

Describe briefly the general accounting principles and practices of the company in case the same have not been mentioned in the financial statements. Elaborate how the accounts address issues such as consistency of valuation methods, separate identification of assets and liabilities, prudence of valuation, going concern principles.

### **(a) Sources of accounting principles**

Please specify who has set the accounting rules, which the company has to comply with, such as accounting regulations and standards of regulatory bodies (e.g. the Ministry of Finance, the tax authorities, securities regulations etc.). Please list these rules.

### **(b) Specific accounting principles and practices**

Describe briefly the accounting principles and practices regarding the items listed below if these are not covered by the financial accounts:

## **III. Asset valuation**

Explain the methods of depreciation and amortizations used for the main fixed and intangible assets and specify the acquisition value and the current book value. Explain in each case how the asset was obtained (e.g. bought on the open market, transferred to the company by a shareholder, given for free or at a discount by the State or a third company). If the valuation of the above-mentioned assets has been changed, please explain on what basis and give the reasons for the change in valuation. Quantify impact on the current book value.

List all facilities used for the production and/or commercial purposes that are not owned by the company (land, buildings, and machines). Provide copies of contracts for lease or rent.

## **IV. Loans and subsidies**

Provide a list of current loans held by the company till the end of the period of investigation. Give details of the amounts, repayment installments and interest

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rates. Explain whether the company benefits from special loan or subsidy schemes (e.g. preferential interest rates and extended payback periods, subsidized energy supply, etc.).

**V. Foreign currency transactions**

- (a) Who sets foreign exchange rate(s) used for purchase of inputs, conversion of the proceeds of export sales and repatriation of profits? Is there only one rate, which can be used? If not so, how the rate differs for various purposes:
- (b) Explain if there are any limits applicable to the company for the use/conversion of foreign currencies. If your company has a foreign exchange account, provide a copy of the approval of the application (with an English translation) by the relevant authority.
- (c) What does the company do with the foreign currency it earns on sales of the subject merchandise to India and other countries?
  - (i) If the foreign currency earned (or some portion of it) must be sold to the government, what exchange rate is applied?
  - (ii) If the foreign currency earned (or some portion of it) is retained by the company, describe any restrictions on the use of that foreign currency.

**VI. Barter-Trade / Counter Trade**

Has the company been involved in barter-trade or counter-trade at any time involving the exchange of goods or commodities for (foreign) equipment, services or commodities? Provide details and explain the accounting methods used.

**VII. Compensation-Trade / Product Buy-back**

Explain whether the company has been involved in compensation trade (also known as product buy-back) at any time whereby a (foreign) company provides machinery and equipment for which it receives payment-in-kind, usually in the form of goods produced. Explain if such payments were structured as loans or as installment sales. Explain the accounting methods used.

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