WORLD TRADE ORGANIZATION

G/SCM/Q2/CHN/129

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Committee on Subsidies and Countervailing Measures

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SUBSIDIES

REPLIES TO QUESTIONS POSED BY THE UNITED KINGDOM[1] REGARDING THE NEW AND FULL NOTIFICATION OF CHINA[2]

The following communication, dated and received on 12 April 2024, is being circulated at the request of the delegation of China.

General Questions

We would like to thank China for its reply to the UK's question 16 on its 2021 notification. (G/SCM/N/372/CHN) In its answer, China stated that "... ***SOEs have been integrated with the market economy and become the main entity independently engaging in market competition. SOEs purchase and sell according to commercial considerations. SOEs are subject to the same laws and rules as other enterprises in terms of access to funds, bankruptcy and competition legislation and do not enjoy privileges.*****"[3]**

Question 1

Could China please confirm that its State-Owned banks do not constitute any of the following under Article 1.1(a)(1) of the Agreement on Subsidies and Countervailing Measures:

a) A public body which provides financial contributions? or

b) A funding mechanism which receives contributions from the government?

Reply:

It is confirmed.

Specific Questions

Preferential tax policies in the western regions

The notification states that imported products contained within the following catalogues do not qualify for preferential tax treatment: The Catalogue for Imported Products not Subject to Tax Exemption in Domestic Invested Projects; The Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects; and The Catalogue for Imported Major Technical Equipment and Products not Subject to Tax Exemption.

[1] G/SCM/Q2/CHN/125
[2] G/SCM/N/401/CHN
[3] G/SCM/Q2/CHN/111

Question 2

Could China please provide further information on the criteria used when preparing these three catalogues?

Question 3

Could China please clarify whether the lists of products contained within the three catalogues are periodically reviewed and updated?

Preferential tax treatment of additional calculation and deduction of research and development expenses

Replies to Questions 2 and 3:

1. Regarding the *Catalogue for Imported Products not Subject to Tax Exemption in Domestic Invested Projects* and the *Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects*

According to the *Notice of the State Council on Adjusting the Tax Policies for Imported Equipment* (GF [1997] No. 37) and the *Announcement of the Ministry of Finance, the General Administration of Customs and the State Taxation Administration on Corresponding Adjustments to Some Import Tax Preferential Policies* (No. 43 in 2008), domestic investment projects encouraged by the State and imported equipment for self-use by foreign investment projects are exempt from tariffs, except for the goods listed in the *Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects* and the *Catalogue for Imported Products not Subject to Tax Exemption in Domestic Invested Projects*.

In December 1997, the General Office of the State Council issued the *Reply of the General Office of the State Council to the National Development and Reform Commission Regarding the 'Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects' and the 'Catalogue for Imported Products not Subject to Tax Exemption in Domestic Invested Projects'* (GBH [1997] No. 68) and published the *Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects (Trial)* and the *Catalogue for Imported Products not Subject to Tax Exemption in Domestic Invested Projects (Trial)*. The *Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects* has been in effect since its issuance in 1997; the *Catalogue for Imported Products not Subject to Tax Exemption in Foreign Invested Projects (Adjusted in 2012)* is currently applicable after multiple adjustments.

2. Regarding the *Catalogue for Imported Major Technical Equipment and Products not Subject to Tax Exemption*

Since 2009, in order to promote the development of the equipment manufacturing industry, the Ministry of Finance and other departments have launched import tax policies on major technical equipment, of which tariffs and import VAT have been exempted for major technical equipment and products necessarily imported by eligible domestic enterprises for production of key components and raw materials encouraged by the State.

The above policies have been adjusted through dynamic catalogue adjustments. Currently, relevant catalogues issued by the *Notice on Adjusting the Catalogue of Import Tax Policies for Major Technical Equipment* (GXBLZZ [2021] No. 198) in 2021. For relevant information, please refer to: https://www.gov.cn/zhengce/zhengceku/2021-12/19/content_5661949.htm

Question 4

Could China please clarify whether the subsidy is available to only Chinese-owned enterprises, or whether foreign-invested enterprises operating in China are also able to apply?

Reply:

Except for tobacco manufacturing, accommodation and catering, wholesale and retail, real estate, leasing and business services, and entertainment, the enterprises in other industries can enjoy the policy on additional deduction of R&D expenses, regardless of whether they are Chinese-owned enterprises or foreign-invested enterprises in China.

Preferential tax policies for enterprises transferring technology

Question 5

Could China please provide further information on:

a) **The purpose and functioning of the tax incentives for scheme, including how "resident enterprises" are defined and whether the "transfer of technology" can occur between enterprises of any nationality?**

b) **The level of "transfer of technology" which is required for an enterprise to qualify for the scheme?**

Reply:

a) The purpose and functioning of preferential tax policies for enterprises transferring technology is to activate R&D innovation activities and stimulate the transformation of scientific and technological innovation achievements. "Resident enterprises" refer to enterprises established within the territory of China in accordance with Chinese law, or enterprises established in accordance with the laws of foreign countries (regions) but with actual management institutions within the territory of China. The technology transferor is a resident enterprise (including Chinese and foreign-invested enterprises in China) as stipulated in the Enterprise Income Tax Law. The technology transfer income obtained by the resident enterprise from its affiliated parties who directly or indirectly hold 100% of total equity thereof is not eligible for the preferential policy of enterprise income tax exemption on technology transfer.

b) The current policy has no restrictions on the amount of technology transfer income eligible for preferential treatment. However, different preferential policies are applicable according to the amount: generally speaking, the technology transfer income portion less than or equal to RMB 5 million is exempt from corporate income tax; the portion higher than RMB 5 million is subject to a 50% reduction in corporate income tax.

Preferential tax treatment for enterprises with comprehensive utilization of resources

Question 6

Could China please provide further information on the scheme, including what is meant by "comprehensive utilisation of resources" and what sectors and activities can qualify for the scheme?

Reply:

"Comprehensive utilization of resources" refers to the production of products not restricted or prohibited by the State and complying with relevant national and industry standards by the enterprises with main raw materials of the resources specified in the Catalogue of Comprehensive Use of Resources for Preferential Enterprise Income Tax Treatment. When the above-mentioned preferential tax is applied, the proportion of resources listed in the Catalogue to total raw materials of the products shall comply with the technical standards specified in the Catalogue.

The non-resource comprehensive utilization income obtained by the enterprises from other projects simultaneously shall be accounted for separately from the resource comprehensive utilization income. All enterprises that meet the above conditions can enjoy the preferential tax treatment for enterprises with comprehensive utilization of resources.

We note that this scheme and China's "Preferential tax treatment for projects for environmental protection, water and energy conservation" scheme have similar objectives.

Question 7

Could China please clarify:

a) **What the differences are between the two schemes?**

b) **Whether enterprises can apply for, and receive, preferential tax treatment under both schemes at the same time?**

Reply:

There are several main differences between the preferential tax treatment for enterprises with comprehensive utilization of resources and the preferential tax treatment for projects for environmental protection, water and energy conservation:

(1) The focus and priority of policies are different. Although main purpose of both preferential policies is to cultivate and strengthen the energy-saving and environmental protection industry and promote resource conservation and efficient utilization, the former mainly focuses on optimizing the allocation and sustainable use of resources, while the latter focuses more on environmental protection and energy conservation.

(2) Preferential contents are different. The former means that, when taxable income is calculated, 90% of the income from producing products meeting national industrial policies is included in the total annual income of the enterprise; the latter means that the exemption and halving of corporate income tax are implemented by stages on the income of enterprises from eligible environmental protection, energy conservation and water conservation projects.

(3) Time duration to enjoy tax preference is different. The former has no time limit and can be enjoyed as long as the conditions are satisfied; the latter starts from the tax year in which the first production and operation income is obtained from the project, and the enterprise income tax shall be exempted from the first year to the third year and halved from the fourth year to the sixth year.

Eligible enterprises can simultaneously enjoy both preferential tax treatments.

Preferential tax treatment for energy-saving and new energy vehicles and vessels

The notification states that new energy vehicles listed in the "Catalogue of the Models of New Energy Vehicles Exempted from Vehicle Purchase Tax" are eligible for preferential tax treatment.

Question 8

Could China please provide further information on the criteria used when preparing this catalogue, including:

a) **Whether foreign vehicle models can qualify for listing within the catalogue?**

b) **Whether the list of vehicle models is periodically reviewed and updated?**

Reply:

Reply to A-B: The Ministry of Industry and Information Technology and the State Taxation Administration have implemented management by issuing the *Catalogue of the Models of New Energy Vehicles Exempted from Vehicle Purchase Tax*. Foreign vehicle models can be included in the Catalogue according to regulations. The list of vehicle models is periodically reviewed and updated. According to preliminary statistics, nearly 100 imported foreign brands, such as Audi, BMW, Porsche, Volkswagen, Chrysler, Tesla and Cherokee, had been included in the *Catalogue of the Models of New Energy Vehicles Exempted from Vehicle Purchase Tax* as of the end of 2023.

Question 9

Could China please provide information on the number of enterprises which received preferential tax treatment under the scheme during the reporting period?

Reply:

No relevant statistics are available.

Preferential tax treatment for the public buses and trolleybuses purchased by urban public transportation enterprises

Question 10

Could China please provide further information on the eligibility criteria for the scheme, including whether preferential tax treatment is also extended to the purchase of foreign-made public buses and trolleybuses?

Question 11

Could China please provide information on the number of buses and trolleybuses that were purchased by urban public transportation enterprises during the reporting period?

Replies to Questions 10 and 11:

According to the *Announcement of the Ministry of Finance and the State Taxation Administration on Specific Policies Related to Vehicle Purchase Tax* (No. 71 of 2019), urban public transportation enterprises exempted from vehicle purchase tax for buses and trolleybuses purchased by them refer to the enterprises that have been recognized by the transportation department of the people's government at or above the county level (inclusive), have obtained the qualification for urban public transportation operation in accordance with the law, provide public transportation services to the masses and have been included in the *Catalogue of Urban Public Transportation Management Departments and Urban Public Transportation Enterprises*. The buses and trolleybuses are vehicles designed and manufactured for transportation of passengers, operated according to prescribed routes, stations and ticket prices and used for rendering public transportation services, including buses, trolleybuses and tramways. According to the *Announcement of the Ministry of Transport of the State Taxation Administration on Exemption of Vehicle Purchase Tax for Public Buses Purchased by Urban Public Transport Enterprises* (No. 22 of 2019), the transportation authorities at or above the county level (inclusive) where urban public transport enterprises are located shall issue the *Public Bus Certification Form* for public buses, trolleybuses and tramways purchased by urban public transport enterprises meeting the standards of the *Type Dividing and Class Rating of Public Buses* in accordance with relevant provisions of the Announcement (No. 71 of 2019) of the Ministry of Finance and the State Taxation Administration. According to the *Public Bus Certification Form* and other materials required for declaration of vehicle purchase tax, the tax authority shall handle the vehicle purchase tax exemption procedures for public buses purchased by urban public transportation enterprises listed in the *Catalogue*. No relevant statistics on the number of buses and trolleybuses are available.

Preferential tax policies for farming, forest, animal husbandry and fishery product projects

Question 12

Could China please provide further information on the eligibility criteria for farming, forestry, animal husbandry and fishery projects to be able to qualify for preferential tax treatment under the scheme?

Reply:

Unless otherwise specified, the enterprises enjoying the preferential tax policies for farming, forest, animal husbandry and fishery product projects shall follow the standards specified in the *National Economic Industry Classification*. In addition, the enterprises engaged in agricultural, forestry, animal husbandry and fishery projects, which fall into the scope of restricted or eliminated projects in the *Catalogue for Guiding Industry Restructuring*, must not enjoy such preferential policies.

Preferential VAT for large passenger aircraft and new regional aircraft

The notification states that only "taxpayers" are eligible for preferential tax treatment under the scheme.

Question 13

Could China please clarify whether foreign enterprises operating in China can also qualify for the scheme?

The notification states that the objective of the scheme is to "encourage R&D in aircraft manufacturing industry", but also states that "taxpayers" that are already producing and selling aircraft (regional and civil jet aircraft) are also eligible for support".

Question 14

Could China please provide further information on what R&D activities are eligible for preferential tax treatment under the scheme?

Question 15

Could China please provide information on the number of "taxpayers" which received preferential tax treatment under the scheme during the reporting period, including the number of beneficiaries that were undertaking only R&D activities?

Replies to Questions 13, 14 and 15:

In August 2023, China continuously optimized the preferential VAT for large passenger aircraft and new regional aircraft. The *Announcement of the Ministry of Finance and the State Taxation Administration on Tax Policies for Civil Aviation Engines and Civil Aircraft* (No. 27 of 2023, hereinafter referred to as the *Announcement No. 27*) clarifies specific provisions for enjoying VAT preferential policies. Specific contents of R&D projects consulted by UK can be found in the *Announcement No. 27*. Please refer to: https://www.gov.cn/zhengce/zhengceku/202309/content_6902897.htm

For the "taxpayer" mentioned in the *Announcement No. 27*, eligible VAT taxpayers, whether foreign-invested enterprises or Chinese enterprises, can enjoy the above-mentioned VAT preferential policies in accordance with current policies and regulations.

At the moment, no specific data is currently available regarding the number of taxpayers enjoying this policy or the number of beneficiaries engaged in R&D activities.

Policies on house property tax and urban land use tax for enterprises designing and manufacturing large passenger aircraft and its engine

The notification states that only "taxpayers" are eligible for preferential tax treatment under the scheme.

Question 16

Could China please clarify whether foreign enterprises operating in China can also qualify for the scheme?

The notification states that "Taxpayers and their wholly-owned subsidiaries engaged in development projects of large passenger aircraft" are eligible for preferential tax treatment under the scheme.

Question 17

Could China please clarify whether both the "Taxpayers" and their wholly-owned subsidiaries can apply for, and receive, preferential tax treatment under the scheme at the same time?

We note that this scheme and China's "Preferential VAT for large passenger aircraft and new regional aircraft" share the same policy objective.

Question 18

Could China please clarify whether "Taxpayers" are able to apply for, and receive, preferential tax treatment under both schemes at the same time?

<u>Replies to Questions 16, 17 and18</u>:

According to the *Announcement of the Ministry of Finance and the State Taxation Administration on Taxation Policies for Civil Aviation Engines, New Regional Airplanes and Large Passenger Airplanes* (No. 88 of 2019), the research, production and office properties and land used by the taxpayers and their wholly-owned subsidiaries for large civil aircraft engine and medium and high-power civil turboprop engine development projects are exempted from house property tax and urban land use tax; the research, production and office properties and land used by the taxpayers and their wholly-owned subsidiaries for large-scale aircraft development projects are also exempted from house property tax and urban land use tax.

For both Chinese and foreign-invested enterprises, eligible taxpayers can enjoy the aforementioned policies on house property tax and urban land use tax. Eligible taxpayers and their wholly-owned subsidiaries can also apply for and enjoy this tax preferential treatment. All eligible taxpayers can apply for and enjoy preferential treatment for VAT, house property tax and urban land use tax simultaneously.

Preferential treatment policy for some passenger vehicles

Question 19

Could China please provide further information on the eligibility criteria for the scheme, including whether preferential tax treatment is also extended to the purchase of foreign-made vehicles?

<u>Reply</u>:

According to the *Announcement of the Ministry of Finance and the State Taxation Administration on Reducing the Purchase Tax on Some Passenger Vehicles* (No. 20, 2022) (https://www.gov.cn/zhengce/zhengceku/2022-05/31/content_5693233.htm), the vehicle purchase tax shall be reduced by half for 2.0L and below displacement passenger cars purchased between June 1, 2022 and December 31, 2022, with a single vehicle price (excluding VAT) not exceeding RMB 300,000. This policy does not set requirements or restrictions on the manufacturing origin of the vehicles.

Special fund for the development of clean energy

Question 20

Could China please provide further information on the eligibility criteria for the scheme, including whether foreign enterprises operating in China can also apply?

Reply:

Please refer to the *Interim Measures for the Management of Special Funds for Clean Energy Development* (http://jjs.mof.gov.cn/zhengcefagui/202006/t20200630_3540905.htm). All eligible enterprises can apply for it according to relevant procedures.